



**Land Policy and the Maasai in Tanzania: The Demise of
Pastoralism?**

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Dedication

This paper is dedicated to my family and to the entire Maasai community in Tanzania who need my full commitment and determination to serve them as long as I live.

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List of Acronyms

ASDP	Agriculture Sector Development Project
AWF	African Wildlife Foundation
CCRO	Customary Certificate Right of Occupancy
CORDS	Community Research and Development Services
CPRs	Common Pool Resources
EAC	East Africa Community
FAO	Food and Agriculture Organization
GoT	Government of Tanzania
ISS	Institute of Social Studies
LHRC	Legal and Human Rights Centre
MKUKUTA	Mkakati wa Kukuza na Kupunguza Umaskini Tanzania
MKURABITA	Mpango wa Kurasimisha Rasilimali na Biashara za Wanyonge Tanzania
NALAF	National Land Forum
NBS	National Bureau Statistics
NCA	Ngorongoro Conservation Area
NLP	National Livestock Policy
NSGRP	National Strategy for Growth and Reduction of Poverty
NGOs	Non-Governmental Organizations
PBFP	Property Business Formalization Programme
PINGOs	Pastoralist Non-Governmental Organization
REPOA	Research on Poverty Alleviation
SAGCOT	Southern Agricultural Growth Corridor of Tanzania
SPILL	Strategic Plan for Implementation of Land Laws
UNDP	United Nations Development Programme
U-CRT	Ujamaa Community Resource Trust
URT	United Republic of Tanzania
WMAs	Wildlife Management Areas

Abstract

The pastoralists Maasai primarily depend on livestock keeping for their subsistence which requires access to grazing land and water for maintaining their traditional systems. Mobility is fundamental to control rangeland degradation and sustain pastoralism. The current land policy and increasing privatization of land within the rangelands in Tanzania are seen as quite contrary to the interests of the Maasai, and might lead to the demise of their pastoralism system in the future. Existing land related policies and legislations are suppressing the pastoralists Maasai rights to access, use and manage their common grazing land. The case study of Ewor-endeke village is affected considerably by the implementation of private property rights. Land privatization is not of any value to the Ewor-endeke people who are still depending on pastoralism rather than source of demise and extreme poverty.

Relevance to Development Studies

Pastoralism, the use of mobile grazing land for animal husbandry production, is one of the key production systems in arid and semi-arid land (ASAL), yet, pastoralism and its people have a long history of isolation and vulnerability. These are contributed by unfriendly policy framework that mostly is formulated by cultivators who have different priorities from of pastoralists. Despite of this, social-economic development theorists have continued to give attention to pastoralism on issues related to property rights which in different ways continued to frame a certain policy framework. Previously, accessing lands for grazing was less a problem; however shift in resource desires and demands have brought challenges to pastoralists particularly based on communal land system. Private property rights so far seem to override the philosophy of communal rights. Private property rights are inappropriate in the pastoralists' context this has been a huge obstacle in accessing pastures and other key resources. There is a need therefore to pay attention on these two frameworks (communal versus private property rights) particularly within the pastoralists communities in the future studies.

Keywords

Pastoralism, mobility, land policy, property rights, Maasai, Ewor-endeke, Tanzania

Chapter 1 Introduction

1.1. The pastoralists Maasai and land property rights

The contemporary land tenure and land administration structures within the areas where the pastoralists Maasai¹ are concentrated in Tanzania are as sensitive as they are complex (Ensminger and Rutten 1991). Ideas about overgrazing, environmental destruction, backwardness (Benjaminsen et al. 2009) and a “Tragedy of the Commons” concern with regards to degradation of communal lands pervade and, despite at times being contextually inaccurate, continue to underpin agricultural and livestock sectors’ policies debates over land tenure and natural resources management in Tanzania (Davies 2008, Nelson 2012). The Maasai are reliant upon access to communal grazing land to earn a living through livestock (Ayantunde et al. 2014, Homewood et al. 2001). Land, and, by default any land policy and/or land administration institution matter(s), and therefore is a resource that the Maasai care deeply about. The focus of this paper is on the power and influence of political-economic development on the land management (and informal institutions)² of pastoralists Maasai community land and their ‘key’ resources. It explores how Tanzania’s neoliberal economic and political demands fall short, and at times exclude and work directly against, the needs of the Maasai community.

The research topic is one that I can tackle not only from a formal knowledge base but also through my own tacit knowledge. I am a daughter and member of the Maasai community from the Monduli district in Tanzania, which Longido district was part before 2007, within which the fieldwork that underpins this research was conducted in the summer of 2014. I therefore provide insights within this research not only from a review of formal sources but also from a deep understanding of the Maasai community, being myself a member of it. Alongside other community members, we have experienced the transformation of the economy, and its consequences for the Maasai land. The study is therefore not only based upon observations and interviews, but also upon personal insights in the historical and current existing social, legal and economic issues that impact upon everyday life of the Maasai. These include exclusion, discrimination, displacement and conflicts over the Maasai land in many Maasai areas in the country (Benjaminsen et al. 2009, Tenga et al. 2008). Whilst these insights have proven invaluable for tackling this research question,

¹ The Maasai are traditional pastoralists, who are found in Northern Tanzania and Southern Kenya, their language is called ‘Maa’ but are divided into thirteen sub-groups and they are considered to be ‘Nilotic’ speaking people. The Maasai opposed colonial incursions into their culture and keep most of their language, values, and practices. The total population of the Maasai in Tanzania is difficult to formally ascertain however, it is by no means inconsequential (Arhem 1985, Biswas-Diener et al. 2006, Lane and Pretty 1990, Nahinda 2011).

² The Maasai are characterized by flexible and extensive social relationships that are accommodated to a mobile livelihood that can respond to a changing environment. There are important social institutions which maintain Maasai values and ways of life, including “age-based organization”, clanship and marriage (McPeak et al. 2012: 38).

I have been careful to employ reflexive techniques, to continuously review the context of the knowledge construction within this research.

The plight of the pastoralists (Maasai) is considered, even by the President of Tanzania Kikwete ‘uncivilized and lost’ people. That at a time he had to say:

“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)

Behind that statement remains the current state of the majority of the Maasai population who are continuously on the brink of survival, annually experiencing famine and forced to walk increasingly large distances in search for grazing resources (Benjaminsen et al. 2009, Tenga et al. 2008). The Maasai are considered by parts of the Tanzanian government to be a ‘rigid and backward’ community (Benjaminsen et al. 2009, Catley et al. 2013). This received wisdom underpins many decisions made with regard to natural resource governance with, at times, disastrous consequences not only for the Maasai but for the economic and environmental aspirations of Tanzania (Homewood et al. 2001, Lane and Pretty 1990). Many government officials view pastoralists as synonymous with the Maasai yet this assumption is inaccurate. There are other pastoralists within Tanzania whom are not members of the Maasai community (including Barabaig and agro-pastoralists like Sukuma, and Nyamwezi), just as there are some Maasai that do not exclusively draw a livelihood from pastoralism (Selemani et al. 2013).

Within Maasailand, pastoralism is concentrated in the northern plains and is practised in traditional grazing areas where climatic and soil conditions are unsuitable for crop production. The current geographical boundaries of the Maasai areas in Tanzania are spread from the northern savannah plains to the southern highlands (Tenga et al. 2008). The Maasai rely largely on cattle and small livestock (goats and sheep). Increasingly, Maasai households are supplementing livelihoods through small scale, subsistence farming although in some geographic areas cultivation is banned (not just in nationally identified areas, but also those identified by the Maasai governance structures) for ecological reasons including protection of wildlife but also as a means to prevent erosion and land degradation (Askew et al. 2013, McCabe 2003) .

It might be tricky to get a specific definition of what ‘real’ pastoralism (pastoralism/agro-pastoralism) means at this contemporary world. However, being part of a family of pastoralists and with support from literature, here pastoralism is analysed as a way of life depending primarily on livestock keeping or an extensive system of livestock production that involves different degrees of movements (mobility), and where families depend on livestock and their by-products for a substantial level of their subsistence and income by over 50 per cent (Rass 2006, Tenga et al. 2008). Markakis defines pastoralism as “a mode of production which depends on natural forage” (1993:1). Pastoralists are found in many parts of the African continent from north to south and from west to east and mostly they live in arid or semi-arid lands (Ensminger and Rutten 1991, Markakis 1993).

As already mentioned, the Maasai do not account for all pastoralists within Tanzania and East Africa. Other pastoralists’ groups in East Africa include

“agro-pastoral Karimojong in north-eastern Uganda, highly mobile Turkana, predominantly camel –rearing Somali and Rendile in arid north-eastern Kenya, as well as the highland Maasai in Ngorongoro...” (Hesse and MacGregor 2006: 5) and also the Barbaig from highlands of mount Hanang’ who are located in Tanzania (Lane and Pretty 1990). However, there are a number of key characteristics to these various pastoral communities have in common (see Table 1).

Table 1: Key characteristics common to different pastoral systems in East Africa

<ul style="list-style-type: none"> • Families rely on livestock for a substantial proportion for their livelihoods • Livestock are composed mostly of indigenous herds • Livestock are kept for a mix of subsistence (particularly milk) and market needs (e.g. livestock sales to other requirements including other food stuffs etc.) • Livestock have significant values beyond just economic assets including cultural and spiritual assets too. They define and provide social identity and security • Pastoralism relies on natural pastures as well as family members’ workforce and expertise contribution, that mostly divided based on gender and age. • Mobility and migration are key mitigate strategies • Land is more than physical resources but it also has family and livestock needs attachment • Pastures and water are mostly managed through a common property regime

Source: Hesse and MacGregor (2006: 5)

1.2. The political ideologies and the Maasai

Tanzania after its independence in 1961 became a socialist country within which all resources belonged to the public sector (with a theory to be shared by all in an equal manner). This included land. However, in reality things were different. Due to the sense of oneness, the government devised the program of ‘villagization’ for specified geographic areas which included Maasailand. In these designated areas, the government provided social services like education by building schools and dispensaries, providing food and infrastructures (Lane and Pretty 1990). In part, this investment in social service infrastructure including health care, transport, and particularly education facilities was much needed and beneficial (Benjaminsen et al. 2009). In the past, and unfortunately, still currently, the pastoral Maasai have been excluded from many developments and service provision due to the notion that the Maasai roam around and live in inaccessible areas (Benjaminsen et al. 2009, Catley et al. 2013, Davies 2008:182). This was true when the Maasai had the land available to practice their pastoralist existence, but increasing encroachments and reduction in permitted areas of land for grazing have increased pressure on the land, rendering pastoralism to become a form of livelihood that is no longer sustainable for the entire Maasai population (Lane and Pretty 1990, Nelson 2012). During this pe-

riod and even before independence, the Maasai started to experience extensive land loss³ as they were displaced from different lands by the government to establish either national parks or wheat farms which threatened their future (Ndahinda 2011, Nelson 2012, Tenga et al. 2008). In addition, the Maasai, like any other citizens of Tanzania, wish for their community to be able to access the benefits of ‘economic development’ and improvements to social service infrastructure.

Prior to the villagization programme, few boarding schools for ‘their’ [Maasai] children were in place, for example, in the district of Monduli, of which Longido was a part, only three schools were provided, the Manyara Ranch⁴, Engaruka and Ketumbeine primary boarding schools (Al-Samarrai & Peasgood, 1998). Pastoralists Maasai were reluctant to send away their children to boarding schools and for many reasons that was the only possible option as there were no schools within their area that children could feasibly walk to.

As the governments of Tanzania since the 1980s shifted towards a neoliberal economy, pressure on land increased and pastoralist lands increasingly were considered as opportunities for ‘investment’ or for protecting nature areas that underpinned economic development through increased tourism (Nelson 2012). For example, the Maasai, were removed from their land in northern Tanzania to create space for conservation of wildlife in “savannah ecosystems” (Askew et al. 2013, Benjaminsen et al. 2013, Nelson 2012:3, Tenga 1999), under the heading of the ‘green economy’ pressure (Fairhead et al. 2012). Land continue to be crucial since the resource demand legacy of the colonial period increased to both former colonial powers and local demands that required access to Tanzania’s valuable resources including land (McPeak et al. 2012, Obeng 2012). The traditional life of the pastoral communities, the way they use and manage their lands and resources thus started to be seen as a major blockage, an ‘*opportunity cost*’ to the contemporary economic development of Tanzania (Arhem 1985, Benjaminsen et al. 2009, Hesse and MacGregor 2006).

Economic development has placed an economic value on land that previously has intrinsic value to those who used it and increased intensification of land use changes which, in turn, challenges, the once, sustainable pastoralism. A consequence of development within Tanzania has been the great expansion of urban settlements and conservation areas (Wisner 2012), encroaching upon and reducing the land available for grazing. This has increased the likelihood of overgrazing, and many common grazing systems have consequently become less sustainable than they traditionally were. Whilst in the past decades such systems (include stock routes, grazing lands during dry or wet season) were regularly changed (through Maasai land governance) to avoid overgrazing (Ensminger and Rutten 1991, Selemani et al. 2013), the Maasai have lately been facing challenges in rearranging their common systems to ease the flow of their system due to land pressure surrounding them. The economic and political changes within Tanzania resulting from this process of rapid economic devel-

³ Serengeti National Park, Ngorongoro Conesevation Area and Mkomazi Game Reserve were established which led the Maasai to be shifted to other areas (Nelson 2012:2).

⁴ The primary school I studied.

opment have transformed ideas, practices, and power relations in a manner that has failed to take account of, and engage with, pastoralism.

As this brief introduction shows, there are inherent tensions and increasing difficulties in gaining consensus with regard to how economic development can be achieved without depriving the Maasai legal rights of accessing productive resources such as pastures and water resources (Benjaminsen et al. 2013). Increasing land demands for urban and conservation expansions are in conflict with the pastoralist communal grazing use of land (Benjaminsen et al. 2009). The situation has necessitated diversification within traditional pastoralist communities (Boone et al. 2006, McCabe 2003). Herein lies the heart of the conflict of encroachment of a capitalist system with indigenous ways of life. In many ways, by diversifying and entering into the capitalist economy, the Maasai are able to benefit from the services purchasing power yields (better healthcare, education and through education increased capacity to represent their interests within the country's decision making processes) (Wangui 2008). However it also causes conflict, creating divisions within the Maasai community between those who wish to continue to exist and enact the Maasai way of life and those that wish (or perhaps have no alternative) to have a new way of life. This creates groups that want different property rights within the Maasai community; those who prefer traditional system and those who opt for private land ownership.

Pastoralists Maasai land is crucial for pastures that allow the flexibility and accessibility of resources within an area of land while private property rights for land have become the backbone of the new Tanzanian political economy as a result of increasing pressure from domestic and foreign investors (Askew et al. 2013, Benjaminsen et al. 2009, Lane and Pretty 1990). Whilst land is required by local populations, it is considered a commodity by investors for conservation and growing crops to cater for both domestic and global market (Chachange and Baha 2010, Nelson 2012). Tanzania like many other developing countries has been engaged in Hernando De Soto idea who proposed formalizing property through registration as the way towards development. Tanzania has been influenced to create 'formalization programme' i.e. MKURABITA which is 'Property and Business Formalization Property (PBFP)' (URT- Program Management Unit 2009).

Other scholars and development institutions like the World Bank and the World Wildlife Fund (WWF) have been supporting 'private property rights' through the implementation of programmes (Manji 2006) like MKUKUTA i.e. 'The National Strategy for Growth and Reduction of Poverty (NSGRP)', and MKURABITA which received World Bank funding. Other organizations including African Wildlife Foundation (AWF) deal with formalizing the formation of Wildlife Management Areas (WMAs) that shape the governance of land bordering game reserves or national parks, which normally are occupied by pastoralists (Nelson 2012). Whilst the intentions are laudable, more often than not, these projects have resulted in increasing land tenure insecurity of the pastoral Maasai lands. This directly is affecting their livelihoods in a negative manner (Nelson 2012, Tenga et al. 2008).

The formation and implementation of agricultural and livestock sectors and land policies in Tanzania, reveals that many gaps exist with regard to catering for the rural dwellers who, including pastoralists, forms over 80% of Tan-

zania's population. This is particularly apparent when considering the livestock sector. For example, meat production annually during the last one decade (1995 – 2005) has increased from “244,000 tonnes to 378,500 tonnes (55% increases), milk production increased from 555 million to 1.38 billion litres”, of which the traditional sector contributed about “70 percent” (Tanzania Livestock Act 2010:3). Furthermore, contribution of ‘hides and skins’ increased from 1.3 million to 4.0 million pieces where by over 80 percent were traded (Tanzania Livestock Act 2010:3, URT 2006).

Discussions over land are heated all over the continent as well as in Tanzania (Benjaminsen et al. 2009, Manji 2006). At the local level, people have conflicts over land. Some are killed and properties are destroyed when the interests of different groups (e.g. pastoralists and farmers) collide. This is noticeable in the media, and through data from legal structures, such as court cases and different government officials' statements across the country (Askew et al. 2013, PINGOs et al. 2007). At the same time, there are tensions within the various pastoralist communities who have different ideas that contradict with the traditional systems including those who wish to have private property over land. This tension creates loopholes that can be taken advantage of by organisations outside of the pastoral communities who use it for land acquisition.

Land tenure insecurity of the Maasai involves land enclosures and displacement from their traditional lands that is initiated by the state, local and foreign businesses (Lane and Pretty 1990). Absence of legal protection is endangering the pastoral way of life of the Maasai as well as threatening their indigenous sustainability. A combination of detrimental environmental conditions and increasing pressure and desire to be part of the capitalist economy, have resulted in recent changes to traditional Maasai land use practices, with increasing prevalence of agro-pastoralism (Turner 2005). It is estimated that “around 40% of the 3.9 million agricultural households in Tanzania are involved in crops and livestock production” (URT-LSDP 2011: v). This includes both pastoralists and agro-pastoralists.

This research will review the shifting economic and political paradigms of common property systems within the pastoral Maasai, by using an in-depth case study analysis of the pastoral Maasai community in Ewor-endeke village, northern Tanzania, for which fieldwork was performed during the months of July/August 2014.

In order to understand the problem, it is critical to take political factors into account, including related governing policies to the agricultural and livestock sector. This paper limits its scope therefore to look at agricultural policies (a culmination of land policy and acts) in problematizing the Maasai livelihood system, one which is inseparable from land. Whilst ‘pastoralism’ has been given substantial scholarly attention regarding different issues including environmental challenges, conflicts, education, and culture little has been researched on the conflict between “modern” agricultural policies and the resulting exclusion of pastoralists, within the expanding system of private property rights, and the corresponding policies and legal frameworks.

1.3. Research question

1. How do agricultural and livestock sectors and land policies affect the Maasai pastoralists in Tanzania?

1.4. Organization of the paper

Chapter one introduces this paper by introducing the challenges that pastoral communities and the Maasai are facing, closely linked to land policies and the current land administration framework in Tanzania. Tanzania like many other countries such as South Africa or Uganda, has enacted land legislations with the aim of protecting land tenure for both urban and rural communities through formalising land property, although as we will see things are not taking place as it is expected.

Chapter two is the conceptual and theoretical framework that follows to analyse supporting factors to pastoralist resources and their livelihood by looking on land policy and acts processes that are drawn based on the political economy framework that helps to set boundaries of the arguments. In addition the analysis of “Governing the Commons” by Ostrom (1990) is used to support the findings of this research paper. Ostrom opposed Hardin’s idea that access and usage of resources commonly cause environmental degradation which he coined the “Tragedy of the Commons”. Her idea is supportive to the pastoralists’ systems, for which private property rights is not the solution of resource management problems.

An analysis of the politics of land reform in East Africa follows in the third chapter which reviews the transformation of property rights and how pastoralists have, or have not, been accommodated in different countries. This includes use of a few examples to illustrate the pastoralists’ situations. It also considers the vital role pastoral mobility plays in enabling sustainable use of land within pastoral communities.

Chapter four is closely related to chapter three but provides a more in-depth analysis of land policy and land administration regime(s) in Tanzania, while exploring possible alternative systems that could accommodate rural communities and pastoralists’ development. Lessons drawn from the continent are also used to understand broadly the pastoralists’ situation in the country.

Chapter five discusses the empirical findings from a case study in the Maasai village of Ewor-endeke in Longido District, northern Tanzania. Data was gathered from three groups, namely community members, NGOs and government officials. It is found that amongst the main concerns expressed is that the government has to respect the law. This is stated by both community and NGOs members from the experience that village land act seems not to be given enough respect by the central government. Community members in particular, expressed that their land was in the process to move to the urban land development category, although the village is demarcated and have village land certificate. Also it is being noted by respondents that the term ‘public’ needs to be defined or removed from the law to reduce controversy and overlapping of the clauses from one land law to another.

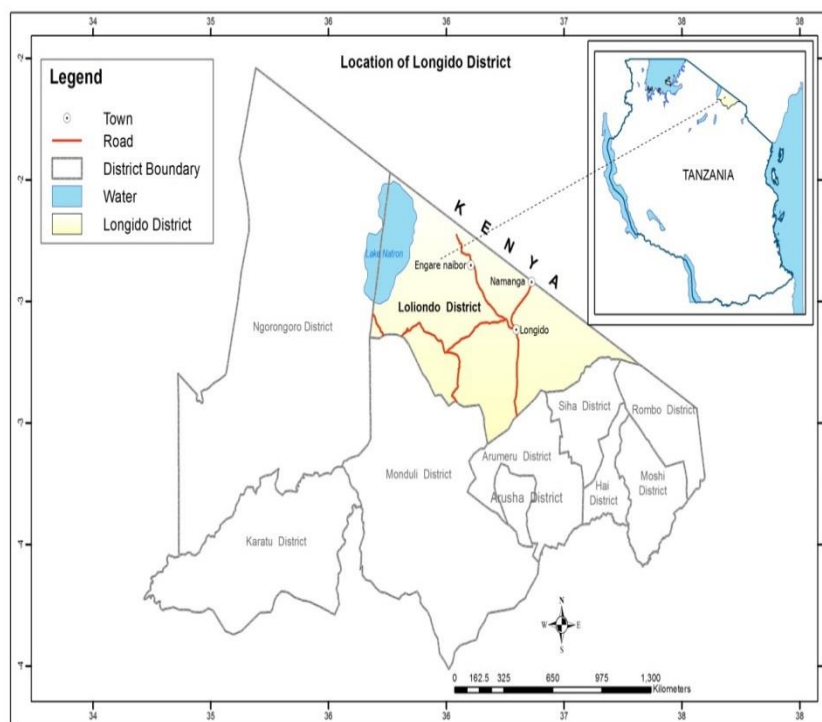
Chapter six draws conclusion of the paper. The conclusions make reference to the existing policy framework and its role in acting as a stimulus or de-

terrent to both social and economic growth in pastoral communities in Tanzania.

1.5. Study area description

Longido is part of Arusha region's six districts and is within district authority which Eworendeke is located. Longido has a "total area of 7,782 km² 82% of which for livestock grazing and wildlife conservation" (Benaminsen et al. 2013:1095). Longido is bordered by "Kenya to the North, Arumeru district in South East, Siha district in the East, Rombo district in North East, Monduli district to the South, and Ngorongoro district to the West" (see Map 1) (Odgaard and Maganga 2013:6).

Map 1: A map showing the location of the Longido District within Tanzania



Source: Odgaard and Maganga, 2013

The district politically is allocated into four divisions (Ketumbeine, Enduimet, Longido and Engaranaibor). Within those divisions there are 16 wards, 41 villages and 136 sub villages. The district has a total of 23,696 households out of which 22,512 (95%) are pastoralists Maasai (Odgaard and Maganga,

2013:6). Ewor-endeke village is situated in Longido division and in Namanga ward. The population of the ward which is comprised of two villages⁵ is “9,189” (URT, Census Report, 2013:33), there is no specific data on each village but relying on the village government information and village profile report done by CORDS in 2009, the village has a total population of 4800. The village has been demarcated and registered with number AR/KIJ/588 in 2006 with a total area of 23,085 hectares (CORDS Village profile report 2009). It is also important to note that still majority of the population live in rural areas where they practice their pastoralism.

Table 2: Population of Longido District Council by Sex, Number of Households, Average Household Size and Sex Ratio

Ward	Population (Number)			Number of Households	Average Household Size	Sex Ratio
	Both Sexes	Male	Female			
Ketumbeine	7,233	3,613	3,620	1,278	5.7	100
Engikaret	6,527	3,192	3,335	1,317	5	96
Eleng'ata Dapash	10,221	4,856	5,365	1,868	5.5	91
Ilorienito	5,571	2,565	3,006	1,157	4.8	85
Gelai Meirugoi	9,173	4,454	4,719	1,641	5.6	94
Gelai lumbwa	6,198	3,108	3,090	1,224	5.1	101
Matale	4,411	2,194	2,217	914	4.8	99
Engarenaibor	11,607	5,789	5,818	2,192	5.3	100
Mundarara	7,301	3,711	3,590	1,287	5.7	103
Kimokouwa	7,806	3,763	4,043	1,498	5.2	93
Namanga	9,189	4,464	4,725	2,527	3.6	94
Orbomba	7,900	3,901	3,999	1,670	4.7	98
Longido	2,285	1,155	1,130	565	4	102
Tingatinga	8,821	4,286	4,535	1,813	4.9	95
Olmolog	8,764	4,210	4,554	1,785	4.9	92
Kamwanga	10,146	4,938	5,208	2,060	4.9	95

Source: NBS Census Results

⁵ Namanga township and Ewor-endeke village

1.6. Methodology

The research study was conducted between July and August 2014. There were eight weeks of preparation, fieldwork, analysis and writing the report. Out of these weeks, three weeks were used for fieldwork. Secondary sources in the form of documents and through interviews were gathered in Dar es Salaam and Arusha regions in various institutions. Ewor-endeke village in Longido district in Arusha has been the case study area of this research and four days were spent in the village and one in the district. Oral and ‘face to face’ interviews were conducted and audio recording was also part of the means which facilitated the smooth interview process.

A related literature review has been also done in order to improve the understanding of the existing land rights and property tenure regime in Tanzania. The research approach used in the analysis of this study is based on ethnography that reflects on the Maasai cultural practices and the “modern” approaches. Secondary data used in this study include both published and unpublished materials including books, articles, conference papers, government documents, NGOs reports etc. Primary data include interviews conducted with key informants, NGOs, government, and community members

Although before leaving for data collection, the understanding of the land administration implication was still limited however, after talking with different people and hearing their views on the land policies and the existing land administration system and noticing the pressure on Ewor-endeke’s land, I realized that the issue of the demise of pastoralism as a consequence of the modernizing economy and wide introduction of private property-based land tenure systems is indeed a serious one. Details of these findings and observations are found in chapter five that show people’s desires, demands and worries.

1.7. Description of the respondents

During the data collection, fifteen days were spent for interviews and four days were spent reviewing relevant documents from different institutions. Three different groups were interviewed.

The first group comprised of government members and a few individuals of Ewor-endeke village. The village interviews involved 15 participants (11 men and 4 women) inhabitants and one day in the district headquarters interviewing district officials particularly land officers. It should be noted that very few women participated in these interviews because participants were identified and accessed via a village authority that is largely dominated by men. However, due to the nature of the study which focuses on land use, rights and management, these roles are, within Maasai culture, carried out by men, therefore the gender skewness in the distribution of participants is considered a reflection of existing governance practices within the Maasai community, rather than as a bias of the study.

The second group included four NGOs representatives namely CORDS, HAKIARDHI, PINGOs, U-CRT and REPOA research institution was involved in gathering relevant material related to land policy in Tanzania. These organizations are working on land related issues within the District and/or nationally (including implementation of village land act, popularizing the land

rights as well as advocating for proper land administration legislation in the national and international level).

The third group involved government officials from local and national level and four participated in the interviews of this study. It was useful to hear from them how they perceived problems regarding land, specifically in relation to pastoralists who are experiencing rapid land use and access change whilst still trying to maintain a pastoralist way of life. The participants were given the opportunity to state their opinions on potential for policy improvement that accommodates different groups' interests including pastoralists.

Data are presented anonymously as it was a condition of the participation of the village within this study. It should be noted that in discussions regarding involvement of the village in the research, the village leaders emphasised that their concerns/problems should be presented in a non-contentious, objective manner.

Most of the land policy implementers and interviewed during this research were not part of the land policy making process in 1995. Hence the respondents had no real experience of the land policy making processes. At the same time, Ewor-endeke village had no idea about policy making involvement other than the actual implementation of enacted legislations.

Chapter 2 Theoretical and Conceptual Analysis

2.1. Theory of property rights

The theory of property rights approach leads us to focus on the organization and governance of land resource. The following questions are central here “...as how land assets customarily held under corporate ownership get privatized in the sense being individually appropriated” and other puzzle is to what level the land can be “individualized” (Platteau 2000:74). Regarding whether the state has to intervene to providing “legal backing, formalizing the recognition or centralizing land titling” (Ibid: 74) while discussing pastoralists in this paper are critical.

The debate surrounding property rights has been long and contested (Hardin 1968, Ostrom 1990, Platteau 2000). The theory of ‘common property rights’ whether falls under “Governing the Commons” or “Tragedy of the Commons” still are vital in discussing the existing tenure systems. Addressing whether communal land ownership can be accommodated in the era of capitalism where there is capitalist accumulation is crucial. Yet where there is “shift in resource use” and demands tend to occur when there is “growing scarcity of land for cultivation purposes,” and up to now “non-agricultural” areas are individualized and allocated to other different usage (including turning to wildlife or urban areas). From such ideologies and experiences, pasture lands have been put under privatization through “partition” that ultimately grazing lands disappears. Also, other experience is when the “extensive” agricultural or huge territories land traditionally used by mobile pastoralists is gradually taken into private ownership for thorough exploitation (Platteau 2000:74-75). Experience shows that intensive use of land is understood widely while the extensive use of land by pastoralists is minimally known.

The theory of ‘commons property rights’ is very central in discussing pastoralism land tenure system. “Governing the Commons” by Ostrom explains that there is “long-enduring, self-organized, and self-governed CPRs⁶” (Ostrom 1990:58). Indeed, pastoralists have developed measures to govern their grazing land, stock-routes and water resources overtime. Pastoralists have survived long and severe droughts with minimal government support yet they are less visible in the policy framework (Ayantunde et al. 2014:1103, Davies 2008, Mattee and Shem 2006, Nelson 2012).

However, in discussing the subjects of land tenure system and policy frameworks, it is first necessary to discuss two historical debates in the literature on “Governing the Commons” versus the “Tragedy of the Commons” on property rights (Ostrom 1990, Hardin 1968). To start, the puzzle of whether or not pastoralists have governing structures is critical to determining what role, if any, pastoralists have in the economic development, and ecological conservation frameworks. Furthermore, there is a need to explore the possibility of

⁶ Common Pool Resources

whether pastoralism can exist outside the framework of capitalist accumulation to maintain their identity and access to key resources for their traditional pastoralism livelihood systems.

The pastoralists' resource management structures are well defined within their localities but these structures are less understood by many governments and policy makers that mostly lead to "prohibition" of accessing important resources (Catley et al. 2013:3). The pastoralist's way of managing land is much more of in relation to the 'territorial' base and how these structures managed is critical.

Despite of various studies and vast themes researched within pastoralists' societies for many years, there is mostly a definite lack of concern. Issues concerning "private versus communal ownership", "rights" to access of grazing land and water are remaining under-investigated and theoretical (Rigby 1985:123). This creates confusion of what "pastoral societies as opposed to non-pastoral societies or what pastoralism really is..." Oversimplification is made in "the political and jurisdictional level" that continues to affect the pastoralists at all levels (Ibid: 123-124).

The main problem is that the pastoralists receive less recognition as a productive system (Rigby 1985). But, it is explained that for the past 30 years, a number of scholars came up with new views highlighting the role of pastures management plans that pastoralists practice. These comprise "mobility, rotational pastures use through different wet and dry seasons" (Nelson 2012:4). Also, the sense that pastoralists keep different types and size of 'cattle' in this matter is a preventive impact mechanism of calamities especially during long drought periods in the dry areas pastoralists dwell on (McPeak et al. 2012, Nelson 2012, Salih et al. 2001).

The conceptual framework underpinning pastoralism in Africa by large include concepts such as the "mobility paradigm", and "rangeland use/management" versus "modernization paradigm", "livelihood and resource competition", and the changing political economy of pastoralism (Ayantunde et al. 2014:1103). These concepts help to understand the socio-economic debates regarding the pastoralists at large where the Maasai in Tanzania form part as well. However, there is no specific conceptual system that can be used to explain the whole system of pastoralism as it is rather complex and dynamic (Ibid). Concepts related to agricultural and livestock as well as land policies that highlight land use changes occurring widely are linked in the discussion. These policies are often not corresponding with social structures that mitigate economic changes within the pastoral community (Ayantunde et al. 2014, Catley et al. 2013, Hesse and MacGregor 2006). That remains a limitation.

2.2. Customary property rights versus privatization

"...private property is not a sacrosanct institution of absolute value as was conceived by the 18th-century philosophers and the Physiocrats (or so-called 'Economists'), but an arrangement which becomes optimal only in conditions of resource scarcity" (Platteau 2000:74).

The existing theoretical problem remains in the contestation of private/individual and communal property rights (Rigby 1985:123). As referred by Obeng (2012:162), property rights are much associated with "tangible objects" which facilitate ownership rights. This applies on what De Soto argued:

“...ownership rights are not adequately recorded, unincorporated businesses with undefined liability” (De Soto 2000:6). Communal ownership in the pastoralists’ context is therefore challenged from many sides.

When it comes to “land tenure then refers to the system of institutions or rules of land ownership, use, and management, obligations, responsibilities and constraints on how land is owned and used” (Obeng 2012:162). At the same time it is commonly said to be ‘secure’ if owners gets assurance that their rights will be free from expropriation, encroachment or forced eviction. The two polarized views, focusing on individualization and collectivization, are below discussed in turn.

Common property rights in the pastoralists’ context, involve accessing, managing and controlling resources including sources of water, grazing, that are commonly held by pastoralists. However, this is challenged by private property rights proponents as Hardin and Baden (1977) who stressed how private property rights are important. The theories behind private property rights therefore needs deeper analysis and reflect on the mode of production on the question of distribution of “who gets what?” (Bernstein 2010:22). Access to available resources particularly land is very bureaucratic and questionable (SAGCOT 2011:4) which do not fit into pastoralism system. Privatization is not a solution to pastoralists’ problems but it is the absence of resource investment that is not found in these areas (Benjaminsen et al. 2009). In some contexts including pastoralism privatization will not work well and this should be revisited. Already from literature (Ayantunde et al. 2014) pastoralism under privatisation is shown to create more problems than solutions.

Other scholars argued that common property rights preserve institution norms and values, while privatization destroys such institutions (Baland and Platteau 1996, Ostrom 1990). Such concern is relevant in many pastoralists’ areas where land privatization rights are being implemented but dismantling an important institution like “the economy of sharing” which has been accommodated for many years (Benjaminsen et al. 2009, Rigby 1985:48).

Privatization property rights are expected to increase land tenure security and also to attract investment, opportunities for loans borrowing and facilitate functioning land markets as emphasized by De Soto (2000). Privatization looks simple but it ignores the role of traditional institutions on land property rights that protect local norms of cooperation. These norms are important for “efficient community organization and management of common infrastructure” (Braaten 2014: 127) that including water, grazing land systems that are for all.

Discussions concerning the status of “land property rights” framework are everywhere and in the last thirty years, in terms of development, many governments in Africa started (re)formulating land policies to introduce privatization of traditional lands (Lane and Pretty 1990, Tenga 1999). Formalizing individual’s property rights through land titles was believed to reduce poverty. Unfortunately, privatization property rights is causing un/intended outcomes of not eliminate poverty but “spreading poverty” to many rural communities like pastoralists and small-scale farmers (Lane and Pretty 1990, Obeng 2012)

2.3. The discourse of pastoralism

The “pastoral policy discourse” has been shaping around a modernization ideology in which pastoralism is perceived to be less productive and an unfriendly practice to the environment (Mattee and Shem 2006). Specifically, traditional livestock husbandry is seen not in line (or in contradiction) with the “modern economy through permanent settlements, enclosure of common lands and other natural resources, as well as land formalization through land titling” (Benjaminsen et al. 2009:436). However, such practices are breakdown to pastoralism system.

Pastoralism is surrounded by challenges caused by “demands and opportunities of modernist development policies land tenure reforms, rapid urbanization or increased commercial investment in agriculture” (Borjeson et al. 2008:523). Pastoralism requires certain pillars which contribute to its sustainability including natural resources, livestock and people, its custodians’, whom are deemed central to pastoralism continuity. These pillars are all equally important in the enactment of a pastoralist way of life and once one is missing then pastoralism fails, which is synonymous with the demise of the pastoralists themselves. The issue of natural resources is beyond land including water and pastures as well as mobility and migration for a number of reasons including unpredictable weather, to avoid overgrazing, controlling diseases and so forth (Ayantunde et al. 2014:1105, Hesse and MacGregory 2006).

However, pastoralists as already mentioned live in harsh environment of resource scarcity. Historically, pastoralists have then developed mechanisms to handle such situation by putting in place resource management strategies. They have invisible knowledge on rainfall, diseases control, and access to available infrastructures including markets. Pastoralists have developed stock routes to access resources but in many cases such routes are disturbed by prolonged and severe droughts. The situation affect availability of pastures and water in particular therefore mobility plays a significant role in sustaining pastoralism (FAO, 2003).

2.4. Mobility and migration paradigms

Mobility is an essential “key risk management strategy for pastoralism” in African pastoralists’ communities (McPeak et al. 2012: 24). Mobility started to receive attention scholarly on its role in sustaining environment and grazing land resources. Efficient use of the limited pastures’ resources, in the dry areas where most pastoralists are located, usually requires more frequent and flexible mobility than sedentary livestock system (Swallow 1994:4) and that is the reason “migratory drift paradigm⁷” plays a very important role as has been observed and applied in the West African countries (Ayantunde et al. 2014:1103). For efficient use of pastures, facilitation of mobility is necessary; the region or a country needs land use plans that recognize requirements for pastoralism and

⁷ Migratory drift is the theory that builds on conceptualization of mobile pastoralism in the African region (Ayantunde et al. 2014:1105).

that is not just the lifestyle but also its particular forms of governance of natural pastures (Mattee and Shem 2006:3).

Clear land use plans that identify routes to access pastures are very crucial, both for shorter periods or longer migrations during which pastoralists move from one district, province or country to another (Ndahinda 2011, Swallow 1994). However, the significant role of mobility is less understood by government which creates tension and interference from decision makers, “development planners” and the states with aspiration to “modernize” pastoralism into intensive production (Mattee and Shem 2006:6). Tanzanian government’s policies therefore accommodate minimally only the existing pastoralists’ governance systems. This situation renders governance of pastoralists’ livelihoods extremely complex (Lane and Pretty 1990, Salih et al. 2001, Swallow 1994).

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Governments have been reinforcing policies that motivate crop cultivation and expansion of farms in order to increase food security (e.g. Tanzania has ‘*Kilimo Kwanza*’ policy i.e. ‘agriculture first’) while pastoralists are required to reduce their numbers of livestock in order to prevent ‘overgrazing’ and to attain ‘environmental preservation’ goals (Benjaminsen et al. 2009:136). Furthermore, pastoral mobility tends continuously to be viewed as “unproductive” (Ibid) despite of its ecological factor. This viewpoint has influenced land use policies and legislation to encourage different uses, alternatives to pastoralism, mostly in favor of conservation, cultivation and more recently urban expansion and/or development (Ayantunde et al. 2014, Benjaminsen et al. 2009, Catley et al. 2013, Lane and Pretty 1990, Nelson 2012).

Grazing land is used and accessed commonly by pastoralists. Common land enables the pastoralists to move their livestock and use the land in a rotational manner, as a response to environmental variability at specific times of the year for both economic and social needs. This rotational use of the land, surrounded by complex governance systems leads to the misunderstandings from governments and individuals that consider pastoralists’ land is empty and/or under-utilized, or there is a wasteful primitive practice that needs to be stopped (Mattee and Shem 2006:5, Ndahinda 2011, Wangui 2008). As a result, pastoralists have been perceived that do not need or make the best use of land, providing the justification of dispossession of land in many areas (Mattee and Shem 2006, Swallow 1994). However, in reality the land is given time to rejuvenate and is not over-utilized (Benjaminsen et al. 2009, Tenga et al. 2008, Lane and Pretty 1990).

2.5. Political economy of pastoralism

Private property rights frameworks proliferates changes to many traditional societies and individuals’ property rights through economic livelihood practices. The current ‘global’ political economy framework mostly opposes tradition-

al systems and dominates on power(s) relations (Ensminger and Rutten 1991). The main concern is around getting access to land in developing countries through implementation of 'modern' agricultural and land policies (Benjaminsen et al. 2009, Lane and Pretty 1990). Though, "modernization of livestock production is not synonymous with improvement of pastoral livelihoods" (Mattee and Shem 2006:16).

The push to privatization has been increasing in the pastoralists' areas with an idea of engaging pastoralists into development processes (Benjaminsen et al. 2009). The underlying assumption is placing private land ownership and other resources at the individual's hands will enhance development. In effect, "attempts at agricultural modernization have fostered an anti-pastoral environment in Tanzania" (Ibid: 423). However, this assumption is questionable. The decentralization in Tanzania, for example, is opening opportunities for a few individuals to acquire land from the poor rural communities and as a result the pastoralists groups are challenged with the disappearance of their livelihood system (Ndahinda 2011, Wangui 2008).

The political economy of pastoral communities is differentiated by the dependence on common property system. Hardin and others scholars do not accept that this kind of administration exists particularly under capitalism. Due to unawareness, pastoral communities have been, for the most part, considered as lacking a strong state which has caused problems (Lane and Pretty 1990, Rigby 1985). These problems commonly include individual's wishes to have a large herd on common property, failing to conserve land as a community, and thereby triggering a "tragedy of the commons" (Hardin 1968). The same ideology depicts that pastoralist's overuse land which leads to land degradation (Benjaminsen et al. 2009). According to theorists (De Soto 2000, Hardin 1968, Hardin and Baden 1977), pastoralists are lacking a strong formal administration that prevents the ability to implement any collective decisions, and consequently delays the development of 'appropriate' property rights (Mattee and Shem 2006:3-6). If pastoralist's information and knowledge regarding the common property system is understood, then, instead of being seen as a tool for land degradation, it can be used as a tool for effective land use and a means for economic improvement (Ensminger and Rutten 1991, Tenga et al. 2008).

The livestock sector, in many developing countries, despite of its strong policies of reforming livestock production and pastoralism into "commercialized" production, less and less priority is given to this sector. Pastoralists have been maintaining their livelihood system with little government contribution. Pastoralism is more economically efficient than currently accounted for and therefore is more sustainable than perceived today (Catley et al. 2013, Union 2010). It is significant to acknowledge the pastoralists' use of arid and semi-arid lands which are sustained through common resource use. These areas are so dry and lack infrastructure yet, the pastoralists have managed to utilize them for many years, and otherwise these areas would have been abandoned (Swallow 1994:7). Furthermore, due to ecological reasons, common property is vital in enabling pastoralism to continue and many times pastoralists have avoided tragedies through land management exerted as a result of the traditional pastoralist governance structures (Catley et al. 2013, Mattee and Shem 2006:5). This is either not understood or deliberately left out of dialogue by the supporters of private land ownership, in the debate on pastoralism and its future.

A “...new paradigm for understanding dryland pastoral systems drawing heavily upon concepts of ecosystem instability or disequilibrium ecological theory” is important. The future of pastoralism to a large extent rely on the support from decision makers on livestock mobility within “governance and service provision” based on the ecology the pastoralists live in (McGahey 2011:2).

Chapter 3 Pastoralists and modern policies in East Africa

3.1. Overview

The contribution of pastoralism in the formal economy is generally not sufficiently acknowledged although it contributes in “national economies and export earnings” in many countries in Africa (Davies 2008:178).

Policies and strategies which have been implemented in pastoralists’ areas are useful to understand how ‘modernizing’ policies have been affecting pastoralism. While questions of ownership and implementation matter, also looking on what works and does not in this section provides a strong basis to be sceptical of ideologies on African land tenure systems. It looks at implications of different land policies and the relevance of these separated perspectives by observing practices and consequences of the land tenure frameworks in East African countries particularly in Ethiopia, Kenya, and Uganda while Tanzania is discussed in the next chapter.

Previously, land appeared “an almost inexhaustible asset in Africa” however a number of factors including “market development are creating mounting pressure and competition for land resources,” particularly land close to main growing towns and cities, highways, and high strategic areas (Quan et al. 2004: 1). Traditional customary land administration is under pressure yet the capacity for formalizing land is also limited in many areas which increase insecurity in a competing period over resources. Customary land property rights are identified to be weak and uncertain that bring obstacles to achieve development in the region. Land holds natural resources and facilitates agricultural activities which are fundamental to people’s livelihoods, food security, income generation, and has cultural and spiritual attachments to many African traditions. At the same time, land (resource) competition perpetuates land conflicts increase (Ellickson 1993, Manji 2006, Obeng 2012, Quan et al. 2004).

In East Africa land reform has been with land law reforms as well in the post-colonial period by nominating “commissions of inquiry” for land issues, formulation of national land policies and eventually enactment of land laws. As noted, one main reason for enactment of new land legislations is to liberalize land tenure for opening opportunities of land markets (Borras 2007, Manji 2006:1).

Historically land injustice and land alienation are holding back communities in East Africa. Dangers of political conflict are noticeable in Eastern Africa, which are associated to resources hence created tension to governments. Pastoralists’ tension is highly increasing due to rangelands enclosure and long journey of marginalisation through complex policies and modern systems (Benjaminsen et al. 2013, 2009, Manji 2006, Markakis 1993, Nelson 2012, Obeng 2012, Quan et al. 2004).

The role of pastoralists in modern Africa continent remains absolutely “underappreciated and misunderstood by development agencies, external observers, and policymakers” (McPeak et al. 2012:1) Nevertheless, half of the land in the continent is arid and semi- arid land which is occupied and used by pastoralists for livestock production and contribute substantially in meat and

milk production in the continent and East Africa as a region (Davies 2008, EAC Food Security Action Plan 2011, McPeak et al. 2012).

Pastoral societies have institutions and social relations such as “age-set structure, kinship, clanship and marriage, homestead and household organization” which in many ways have important roles in social, economic and political in every pastoral community. Also such relations are characterized by flexible and intensive relations that harmonize access of pastures in each locality and cross-boundaries resources during hardship moments that require mobility and migration (McPeak et al. 2012:38).

3.2. Perception of mobility and natural resources management

The perception tends to be generalized that mobile pastoralism weakens sustainability and degrades the environment which influence policy formulation around natural resources. It also perceived to affect environment and natural resources as well as to hinder management of such resources (Ayantunde et al. 2014). “Soil erosion and decline in pasture productivity” are said to be the result of mobile livestock in the rangelands (Solomon et al. 2007: 481). However, “humans are part of nature and should not be tempted or encouraged to forget it” (Kassahun et al. 2008:1266).

As a result, pastoralism is seen negatively and considered naturally unfriendly and less productive (Ibid). From this point of view, the goal of development has been to transform pastoral production to an innovative production system with various profits. This negative view on pastoral production has been used to justify lack of government and other development actors’ support, as their assistance would encourage more damage to the environment by keeping large number of livestock. It “...argues that since pastoralists in northern Kenya already own far too many animals from an environmental point of view, implementing veterinary programs would ultimately be counterproductive” (McPeak et al. 2012:150). Pastoral production system has been thought to be transformed into “sedentary farmers”, and governments officials intended to transform pastoralists Maasai from extensive herding to irrigated cultivation” (Ibid: 150). Such perceptions influence policy making framework that does not favor the pastoral systems at the moment.

The second option of transforming pastoralists is the formation of “modern livestock production systems through fundamental reformation of property rights to land, provision of infrastructure, and the replacement of milk production oriented pastoralism towards meat-oriented ranching operations” (Ibid:150-151)

3.3. Ranching and Pastoralists

The focus of the East Africa governments since the colonial period have been on the development of ‘modern livestock ranching’ however overlooked the important role of pastoralism. The contestation over land use among non-pastoralists and pastoralists existed even before the establishment of ranches started in many countries (Salih et al. 2001:100).

This “ranching phase” started during the colonial period and under the first independent governments with the aim of transforming pastoral systems

into modern livestock production system, in particular until mid-1980s. In Kenya, “the Kenya Livestock Development Project (KLDP)” started in late 1960’s and in Ethiopia, “Second Livestock Development Project (SLDP)” in 1973 (McPeak et al. 2012:151). Uganda also developed a ranching scheme which began around 1962 with the same vision of introducing ‘modern livestock production system’ (Salih et al. 2001:101). A lot has been done by operating ranches in “commercial milk production” cross-breeding to increase production but due to poor administration most of the ranches failed in all the countries (Ibid: 101).

3.4. Potential impacts

Pastoralist groups are still living for the most part in dry, arid areas that create a tough living environment. These harsh conditions shape pastoralist lifestyles on survivability of their families and livestock hence engaging in government development programmes is often minimal. This applies across the pastoralist communities, for instance, as the problems of the Fulani in Cameroon are closely similar to the Pokot in Kenya as well as the Maasai in Kenya and Tanzania (Markakis 1993).

Pastoralists have been outside the political and economic decision making systems not just within Tanzania but across East Africa (Markakis 1993, Dietz 1987). In recent years, in Kenya, the pastoralists are mentioned, and their issues identified, in the new constitution. However, the majority of pastoralists across East Africa are not given any acknowledgement in their own countries although they have grazing land which has been taken by their governments whenever there is a need for land, despite of limited resources available (Ensminger and Rutten 1991).

Chapter 4 Land Tenure framework in Tanzania

4.1. Natural resource management

“Property and Business Formalization Program (PBF) is an initiative of the Government of the United Republic of Tanzania, aimed economically for empowering the poor majority in the country, by increasing their access to property and business opportunities, towards development of a strong expanded market economy, which is governed by the law” (Mkurabita 2012:1).

The land tenure and natural resource management framework in Tanzania is composed by a complex set of laws, regulations and policies that govern all social, economic and political interests of ‘all’ stakeholders. The most important policies and laws, having a direct or indirect influence on changes of the pastoralists Maasai land include the land policy (of 1995), the land act no. 4 (of 1999), the village land Act no. 5 (of 1999), the livestock policy (of 2006), the land use planning act (of 2007), the wildlife conservation act no. 5 (of 2009), the grazing-land and animal feed resources act, no. 14 (of 2010), and the livestock identification, registration and traceability (of 2010). Particularly, land laws have received great attention through strategic plans, guidelines and regulations that have been developed. To mention few including “The Strategic Plan for Implementation of the Land Laws-SPILL” (URT, 2005), The National Strategy for Growth and Reduction of Poverty (NSGRP)/MKUKUTA and Property and Business Formalization Program (PBF)/ MKURABITA.

Today all land in Tanzania is still legally “public land and control is vested in the president for and on behalf of all Tanzanians” (Mattee and Shem 2006:22). The Land Acts of 1999 divides land into three categories that referred as “General Land”, “Reserve Land”, and “Village Land” (Mattee and Shem 2006:21, Olenasha 2005), land administration and control is decentralised. The “General Land” is controlled based on the land act openly under the Commissioner, “Reserve Land” under statutory or other bodies is set up with the powers over these lands e.g. forest reserves are governed by the “Forest Act of 2002”. Game reserves and other wildlife areas governed through the “Wildlife Conservation Act of 2009”, and “Village Land” is governed by the “Village Land Act of 1999” and under the administration of the village council. The village council acts as an agent of the “Land Commissioner” in administering land village councils operate as trustees on behalf of village members, who together formally compose the village assembly (Mattee and Shem 2006:21-23).

Thus the principle is that the village council administers the land through the authority of the village assembly which is the highest authority at the village level (Sundet 2005). The village assembly must approve of any changes in land use and changes in the status of various types of land in the village (for example, changing village land into general land or conserved land). General or reserve land can be transferred to the village based on what the law allows vis-a-vis village land can also be transferred to the two categories based on the head of state decision (URT-Village Land Act 1999:10)

The existing dual legitimate condition is reflected in the Land Acts. Customary land rights are recognised by the present land acts whether such rights

are registered or not, and whether they are individual or communal. Behind the village land act, administration of village land accordance with customary law means any rule that is established by usage and accepted as having the force of law by the community the prevailing custom of the day in a given area. However, customs are against vulnerable groups like women, or people with disabilities (Odgaard and Bentzon 2007) are prohibited.

The widespread land acquisitions undertaken mostly by state authorities have led rise to lately strong discussions based on Tanzanian present review process of its Constitution. A number of civil society organisations are trying to argue with extra effort for the decrease of the President's power over land just as they did in 1995 during land policy although they did not succeed.

4.2. The pastoralists Maasai and the State

Tanzania is endowed with abundant natural resources, which include land, forage and a large livestock resource base. It has the total "94 million hectares of land resource, where 60 million hectares are rangelands utilised for grazing 18.5 million cattle; 13.1 million goats and 3.6 million sheep" (Askew et al. 2013, URT-National Livestock Policy 2006:1). It is estimated that Tanzania remains among the top countries with large size of livestock population in Africa (Mashingo and Mwakaje 2013:2). The livestock production sector is still dominated by pastoralism which is more than 90% and logically are recognized with "low genetic potential" Whilst, such indigenous livestock are well strong to resist "diseases and harsh environments" (URT-National Livestock Policy 2006:1).

Livestock industry is categorized into two major production systems "extensive and intensive" (Davies 2008:178). The intensive system, whilst limited in size, has been receiving more emphasis in investment and improvement because of its contribution to the market oriented economy (Mashingo and Mwakaje 2013). Nevertheless, the extensive system, which is pastoralism dominated by the Maasai and agro- pastoralism, is a production system based on seasonal availability of natural pastures and water thus resulting into unavoidable mobility. This system is mostly constrained by "poor animal husbandry practices, lack of modernization, accumulation of stock beyond the carrying capacity and lack of market orientation" (Mattee and Shem 2006:16, URT- National Livestock Policy 2006:1). Despite of the limitations pastoralism is facing it has been sustaining households' subsistence. Livestock in order to develop and achieve its goals, it requires to be inclusive to guide all stakeholders (Tenga et al. 2008:24)

Based on the land acts the president can identify any land for other use including private investments, if it is seen as being in the interest of the public. Although procedures for taking land away from the villagers are explained in the village land act still centralized powers over village land are applied (Sundet 2005). Recent evidence has shown that the various government leaders of Tanzania since the independence have indeed used their powers and alienated a lot of land, both individual government officials at various levels, and the National Government from mainly pastoralists Maasai community (Tenga et al. 2008:10). Many of the more recent land acquisitions have happened in the name of conservation and development (wildlife conservation and growing urban) in Ewor-endeke for example. Land acquisitions with legal and illegal

means have become common in present days in the country and specifically in the Maasai grazing land (Davies 2008). The evictions of pastoralists from different areas like Ihefu (Usangu Plains), Kilosa, Ngorongoro, Loliondo, Ewor-endeke etc., show a clear trend of land insecurity despite of implementation of village land act (Tenga et al. 2008). Both direct and indirect eviction is applied in this process.

Previously a land title could only be given to individuals, but today land rights (based on the village land act) may be registered in the name of individuals, a family unit, a group or a whole community. A land title for the whole community type has special importance for the pastoral Maasai community who are jointly using land resources, as is the case for the majority of villagers from Ewor-endeke village. However, as reflected in this paper and elsewhere one thing is principles and another is how such principles are adhered to in practice (Veit 2010).

There are good reasons for the Maasai to be sceptical about current development policies and concerned about their future as an ethnic group in a national, economic and political view (Swallow 1994:5). The introduction of “villagization” and “the Maasai Range Project” both more comprehensive strategy of societal transformation are working against the pastoralists (Ahrem 1985:26, Mattee and Shem 2006:5). The Maasai in this matter have been experiencing a huge loss of grazing land particularly to the Tanzanian government (Nelson 2012, Tenga et al. 2008:33).

4.3. Agricultural policy and the pastoralists

Policy processes mostly are wrongly understood that are “political processes” rooted in controlling relations and “institutional politics” (Brock and Harrison 2006:7). “Land tenure, agriculture and livestock policies”, markets related set-up form land use which ultimately influence the livelihoods to change as well, and this has been the result on the Maasailand (Homewood 2009: 335-337).

Pastoralists noticeably are “by-passed” in most of the policies. They might be mentioned in a law where (implicitly or explicitly) benefits are expected by the government. Where there is a mission of investing in “conservation or tourism” for example, then pastoralists might be mentioned but in reality still they are excluded. Practically there is no any policy which focusing on pastoralism issues as an important system (Tenga et al. 2008:45). Cultivation however is receiving full support through uncountable legislations and programmes that are initiated by the government (Mashingo and Mwakaje 2013:14, Mattee and Shem 2006).

“Freedom of movement” is conserved in the Constitution of the United Republic of Tanzania (URT) that allows each citizen to have a choice to settle anywhere without breaking the law. Whilst mobility in pastoralism is an ecological necessity mobile pastoralism is prohibited (Catley et al. 2013). Meanwhile pastoralists live and practice pastoralism in the drylands, mobile pastoralism is regularly the best way to manage such dry environments sustainably (Niamir-Fuller 2005) but negative perception is dominating the policy framework (Davies 2008:176). Also mobility is the way to minimize risks of losing livestock and maximize productivity in such harsh and uncertain environments.

But, a programme like SPILL of dividing common grazing lands is increasing challenges on pastoralism system. The philosophy is reflected in some ‘development’ initiatives taking place in many places including Ewor-endeke case study for this research.

The current performance of the pastoral system is broadly perceived in a negative manner in many plans. A number of statements emphasise that pastoralism is an unproductive practice; that it can be a poverty reduction strategy, although not the most effective (Catley et al. 2013, Davies 2008). Contradiction however exists in the livestock policy (of 2006), that acknowledges traditional system to be contributing more than 70% of meat and milk annually (URT Nation Livestock Policy 2006:3).

It is clearly reflected in the SPILL that GoT is committed to the modernisation on the agricultural sector in Tanzania and that land is viewed as an integral commercial asset to assist in the realisation of that aim. There is an accompanying notion that traditional practices of pastoralists have to be changed and that they have to learn to practice modern animal husbandry. The plan promotes strategies of ‘sedentarization’ that pastoralists and change their production system into a ranching system, and to introduce a system of minimum acreages for farmers through a resettlement scheme (Mattee and Shem 2006:5). The following extracts from SPILL focus on the plan’s perception of the pastoral sector and the conclusion related to the foreseen future of that (McGahey 2011).

Generally, policies are suggested once there is an issue to be addressed (Tenga et al. 2008) and usually, ideas may originate from various groups but not all ideas and needs are taken into consideration for the best of pastoralists groups so far since they are taken to be part of the land problems (Benjaminson et al. 2009, Olenasha 2005).

4.4. The land regime(s) and international pressure

Tanzania’s land tenure has been reframed for the last 20 years. These reformations involved coming up with a ‘new’ land policy (1995) which resulted two land acts. People claim that these processes have no different from any other land reforms from the British colonial authorities that in Tanzania enacted. For example, the “land tenure ordinance of 1923” referred not to be noticeable land policy and law reform till the 1990’s when the movements of land policy started (Manji 2006:1) however, still the policy left fundamental concerns of the citizens (Olenasha 2005). As the result, land has become very contentious as the land tenure system is changing dramatically (Askew et al. 2013, Pinckney and Kimuyu 1994).

The statement of the colonial law late 1890’s set in signal the philosophy of land ownership under German rule. The rule of the law stated that all land “whether occupied or not”, was considered as “un owned crown land” (Lugoe and Salaam 2008:4). However, there was still room to prove ownership of private or communities land through documented evidence while communities could prove through use or occupying the land and it was accepted. During the British era, basic values were retained that were set by the Germans. Nevertheless, there were few modifications has taken the country to be under “trusteeship of the League of Nations and Britain’s own colonial production policy” (Olenasha 2005:4).

Prior to the new 'land policy of 1995 and the 1999 Land Acts' official land legislation was mainly composed by the 'Land Ordinance' approved by the British colonial authorities in 1923. The Land Ordinance has been accompanied by different modifications. According to the Land Ordinance all land was declared as 'public lands' under the control of the Governor for the benefit of the inhabitants (Lugoe and Salaam 2008).

The visible land reforms began with "the appointment and work of the highly celebrated Presidential Commission of Inquiry into Land Matters (hereafter the Commission)" (Olenasha 2005:2). The outcome of this commission is the land policy of 1995 that led the country to come up with two legislations which are land act no.4 and village land act no.5 of 1999. Other significant administrative arrangements which have occurred in land tenure are "Land Bank" under the "Tanzania Investment Act" administered by "Tanzania Investment Centre" (TIC) that is very critical in land tenure regime with the pastoralists' areas (Mattee and Shem 2006:24).

The government describes that there is quick and fast response to land issues due to increasing demands and immeasurable clashes over land within the country. Almost two decades since the land policy was put in place but land problems are increasing all over the country and more land pressure increased multiple times in the pastoralists areas. Particularly on private property land system. As explained by Ostrom "Resource systems are best thought of as stock variables that are capable, under favorable conditions, of producing a maximum quantity of a flow variable without harming the stock or the resource system itself" (Ostrom 1990:40). However, through 'land deals', the government of Tanzania in this case, has been supporting rangeland enclosure systems that challenges pastoralism to have access of its favorable resources which maximize its productivity (Benjaminsen et al. 2013, Mashingo and Mwakaje 2013, Nelson 2012).

4.5. Internal and External Pressure

Pastoralism on top of being challenged by land changes and irrational environment, the external change process are also affecting their mode of production by "changes in exchange relations, and changing in property rights to natural grazing lands and other natural resources and migration routes" (Selemani et al. 2013:141, Swallow 1994:2)

As the government puts pressure that it needs 'effective and efficient' measures for land disputes, it is facilitating and regulating forces, of rapid population and urbanization growth, market demands, and conservation, for a land free-market together with creating space for obtaining huge lands from pastoralists mostly for expansion of towns, foreign investors' interests and formation of WMAs (Nelson 2012, Swallow 1994:2).

Chapter 5 Empirical Data Analysis

5.1. Longido District and the Land Acts

Rangeland has been gradually decreasing for many years in Longido. This process has intensified at both local and national levels, a phenomenon in part due to, but has also contributed to property rights changes gradually increasing socio-political conflict (Trench et al. 2009). The Longido district area has been demarcated as village lands under the Village Land Act of 1999 and hence Ewor-endeke (case study) legally is a registered village. In accordance with the Village Land Act, the village government is responsible for management of all village lands, in addition to the customary rights of occupancy vested in them as well. Under the Village Land Act, village land may become individual land (farms, homesteads, etc.) or remain communal land forests or grazing pastures.

Based on empirical findings, pastoralism as a system within the Longido area is declining mostly as a result of the changing land property rights regime.⁸ In Longido, pastoralists' land is owned communally yet private-property rights' opponents consider such use to be 'inefficient' way of production. Due to that there are new interventions on pastoralists' lands in Longido despite pastoral communities being under informed and not aware of the value of such initiatives. Disposessions and rangeland enclosures are occurring on traditional pastoralists' lands and are affecting upon the environment in many places around the country (see Benjaminsen et al. 2009, Nelson 2012, Tenga et al. 2008). The data were therefore collected from Ewor-endeke village, Longido District, northern Tanzania, NGOs and the government officials from Arusha and Dar es Salaam regions in July 2014. These findings largely corroborate with this research argument that the pastoralists Maasai are experiencing pressures from the existing policies and laws in the country. The research included a literature review of the land laws that form the legal context and their effects on the Maasai

Different forms of land registration including the implementation of the village land act which aims to enhance security of tenure and access of resources to avoid lands conflicts with other neighbouring villages have been given consideration in the law. Each village is described by its boundaries and its available resources. However, through the 'land deals', the government of Tanzania, has been supporting rangeland enclosure where challenges pastoralism to have access of favorable resources which maximize its productivity (Benjaminsen et al. 2013, Mashingo and Mwakaje 2013, Nelson 2012).

Longido district has over 90 percent residents who self-identify as pastoralists Maasai. Due to unfavourable cultivation conditions, cultivation is minimal. It is estimated that around 95 percent of the total district land is grazing land which is backing up significantly the district economy (Trench et al. 2009). Though, persistent drought has been challenging livestock size. Subsistence

⁸ Privatization land ownership system is expanding to the Maasai pastoralists locality which is challenging their communal resource rights

farming is carried out by around “5% of the population”. Wildlife plays a substantial part in the district as well (Odgaard and Maganga 2013:7).

Table 3: Longido District Land Use Patterns

Uses	Area in Sq. Km	Hectares	% of usage
Grazing land/Game area	6392.35	639,235	82.14
Arable land	1,023.90	102,390	13.6
Forest	365.75	36,575	4.7
Total	7,782	778,200	100

Source: Odgaard and Maganga, 2013

The village land formalization requires demarcation and land use planning by implementing the village land act (of 1999) and land use planning (of 2007). It was expected to attain full power and control over the village land once such requirements are implemented but still the central government can obtain land from communities. For example, in Ewor-endeke village, the Longido district authority has given them a letter that notified part of the village land will be moved to urban land administration to allow urban new settlements.

5.2. Policy and pastoralists’ engagement

The policy making process within Tanzania is a multi-stakeholder engagement process, not for policy makers and/or politicians only. This is to say a policy has to incorporate, and reflect democratically, the interests of all stakeholders. In respond to the question, ‘What has been the role of the land policy/acts and the pastoralists Maasai involvement in these processes?’ Below have been the responses.

The respondents from Ewor-endeke are named as VR/M1 to VR/M15. VR stands for ‘Village Respondent’ and M/F stands ‘Male and Female’ for gender identification. NGOs are the second group named NGO1 – NGO4 and the last group is government officials named as GO1-GO4. Three NGOs interviewed have a large proportion of their work specifically with the Maasai on capacity building and actual implementation of the land acts of 1999. However, the NGO4 participant pointed out that this does not mean that the NGOs are accepting ‘everything’ that is in policy and legislations but only making use of available opportunities to secure pastoralists’ land. Conflicting and uncertainties policies around land property ownership are dominating. Land property is surrounded by many laws apart from land acts in this case but also the wildlife, mining and urban planning acts that facilitate rural dwellers land lose without considering their customary rights.

It is clear from the participants statements that the pastoralist Maasai did not participate in the recent land policy making process and, indeed, appear not even to be aware of the existence of this policy. It is apparent that there is a minimal understanding within the Longido Maasai community of the land laws particularly ‘the Village Land Act and Land Act’. Whilst there has been stakeholder engagement through the activities of NGOs purporting to represent the Maasai, it is apparent that the Maasai local governance system largely

has been excluded (See box 1). Aspect of generalization in the national level is leading to override rights of marginalized groups in the country as observed and stated by the GO1 (see box 8).

There was tension between the district government and village government (VR/M1, VR/F8) while as well as ‘newly’ established NGOs in 1990’s during the land policy development and their little participation was not taken positively by the government (NGO1, NGO2). These organizations stated to have been playing vital role in popularizing government policies while promoting rights of the pastoralists including the Maasai however still experiencing oppression even with such effort from the government.

The role of NGOs is also noticeable (explained by Ewor-endeke and even acknowledged by GO1) which assist in reducing negative perception on pastoralists Maasai in particular however it also depends on who is in power in the country (New constitution draft, included pastoralists which has been the effort of communities with much support from NGOs). The experience shows that there is an increase of hostility and harsh environments to pastoralists at different regimes despite of global land demands.

Box 1: Community engagement into policy

Interviewed on 27th July, 2014

Village Respondent/Man 1: “As pastoralists did not engage in any policy making process and this is not new. We do not know where these laws coming from so do we not know where are formulated. We have been recipients of laws which to a large extent do not reflect our needs as ‘people of cattle’. It’s a dream to us knowing when and where policies are enacted apart from knowing through NGOs.”

VR/M2: “Literacy gives you as an individual or group of people confidence to participate in many issues but it was not possible for us to know what is going on regarding policy.”

VR/M3: “We have been busy in our lifetime looking for reliable pastures, water and settlement. Drought has been hitting us and killing our livestock. This consumes a lot of our time and we only come to know there are new mechanisms when we see such changes over our lands.”

VR/M4: “We only see the negative impact of the land policy in this matter. In 1980’s we as the Maasai used to get livestock services that included dips, veterinary and dams (for assurance of water) were constructed but after time we were forgotten hence we are struggling on own. Yet, we are losing our land to other people plus the government with its tricks.”

NGO1 and NGO2: Interviewed on 17 and 23, July 2014

The participants’ responses confirmed that NGOs have participated in the land policy making for the duration of the entire process through a loose coalition called, the “National Land Forum (NALAF)” which brought individuals, organizations, research institutions etc., together to mobilize resources and to advocate views of pastoralists for inclusion in relevant land regime policy. However, a number of critical principles were left out. Such principles included not reducing the power of the presidents together with land commissioner in order to retain land under communities’ control (see box 2).

Box 2: Role of the NGOs in policy participation

NGO1: “Fundamental issues were not taken into account in the land policy and two acts; the President’s power overland has been a problem and this was left out. Public interest is costing particularly the Maasai, expansion of towns and wildlife has been affecting them due to some clauses in the laws that are influencing decision making.”

NGO2: “The policy making process happened at the time when the country started to engage fully into neo-liberal economy. Due to that, land policy and the market liberalization are closely connected which have led formulation of land laws that facilitate the process in order to strengthen the country’s economy. Making of the land policy and later land acts created the big assumption of investments opportunities that were considered vital for economic growth. But, the process to these opportunities have been rampant that ignored all our fundamental needs as citizens. NGOs and opposition political party were looked as same 1990’s which limited full participation especially to pastoralists NGOs. Land cases were opened by pastoralists NGOs including ‘Sukenya’ in Loliondo, Ngorongoro Conservation Area (NCA) and ‘Hanang’ wheat plantation’. The pastoralists Maasai and Barbaig were busy with the court land cases against the government hence their full engagement was limited and they were few less than 10 in numbers.”

GO1: Interviewed on the 28th July, 2014

“It is the government responsibility to involve the local people in the policy making process and this is done through local government councils. The counsellors coordinate with respective village leaders and gather people’s views which then taken to district councils and then the national level. The involvement of the pastoralists in the policy might not be specified just like other groups but their issues are taken into consideration through the local authorities.”

5.3. The implications of land privatization for communal rights

Shrinkage of village land also leads to mobility restrictions and reducing of livestock herd size which in turn compromises the ability to feed and sustain rangeland management in the village. The situation of being prohibited to use historical stock routes has reduced flexibility in the village.

It was revealed that the Tanzanian government is expanding the Namanga Township to Ewor-endeke village’s land by establishing various institutions (banks, petrol stations) together with dividing land into individual ownership through land titling which in legal terms takes the land out of communal ownership. Concerns and worries were expressed by community members that this would result the end of the Maasai. Rapid land use changes, particularly in this case rapid urbanization (Ayantunde et al. 2014, Borjeson et al. 2008), occurring in Ewor-endeke village are challenging the whole meaning of pastoralism. Based on these multiple changes, there are changes in the social and economic aspects of traditional pastoralist lifestyles and livelihoods. In responding to the question ‘How has land changes affected you and how do you deal with this situation in your context who are pastoralists?’ These have been the responses in box 3.

Box 3: Impact of land privatization

VR/M4: Interviewed on 27th July 2014

The former Ewor-endeke village is no longer a village rather than 'mitaa' (streets). "As we speak, and I do not know if pastoralists can survive at streets full of cars, non-pastoralists. We only have two choices, to fight over this land or we accept to be absorbed by urbanization and lose our 'Maasaism'. It is not easy to understand that the law gives space for our land to be transferred for other uses but there is not any protection in the law for the land to remain for pastoralists or be transferred from urban to our benefits."

VR/M3, VR/F5, VR/M6, VR/M7 and VR/M11: The Maasai community is divided nowadays and culture is deteriorating through formal legal mechanisms. The outcome of privatisation is threatening their being and modern systems are imposed through policies that are weakening the Maasai while traditional values and norms are undermined as well. "Everything is taken to police or court without elders' consultation. The Maasai's strong culture and social ties are destroyed and diluted hence the situation increases more chances to lose the land which makes everything complicated to us⁹."

VR/M9: "Other communities excluding and marginalising us because we have no education, what will happen if we lose all of our land and livestock? Our vulnerability will triple with no education, no land and no livestock and it will be the end of the Maasai community."

Respondents from the Ewor-endeke village and NGOs mentioned that privatization plants 'individualization seed' which destroys the Maasai in general. The following question was asked 'Do you think a village land certificate or individual titles protecting the Maasai land and their traditional livelihood systems in general?' The question was asked to all three groups and below is their responses

Box 4: Role of a certificate/title/Land use Planning

VR/M1: "Already these policies that require citizens to have individual land titles are imposing 'class differentiation', in our own context, those who are benefiting are those with large herds, education and political positions in the district level. The rest, have to move to other neighbouring places or being tenants of those who are stronger."

VR/F8: "Indeed, we thought the village land certificate gives security and assurance to our land however we are so wrong. We have been hearing what is happening to our own fellow Maasai in other districts over grazing lands but now we are in the centre of the same problem. We are in the middle of a fast growing urban, do you think this is what we thought we are coming to get after accepting land demarcation? Whether you have the certificate still does not give you any security."

VR/M15: "I think it was a mistake we made in the first place to accept land demarcation. These people (referring government), know the size of the land we have because they came and go around our land so this has given them

⁹ This research revealed that these institutions have been disrupted in Ewor-endeke village and are in a state of dilemma.

confidence just to decide where and what size of land they can obtain from us. This is the source of many of our problems as the Maasai.”

NGO3: The problem is not land acts, however, the implementation is different; the policy makers who are part of the government are still not recognizing pastoralism as a viable livelihood system. The government must recognize land with or without a certificate but this is not yet a problem but the negative perception of pastoralists and in this matter the Maasai are more condemned to justify what’s happening in their environments.

GO2: The issue is not about pastoralists or the Maasai but “we have also to look their way of life which is not accepted at this 21st century. The Maasai have to change in order to fit the current system. The question of whether the certificate brings individualization or not, this no longer the ‘Ujamaa¹⁰’ era. The Maasai for sure need to change because there are many factors which are pushing the government to acquire land from communities including the Maasai. Population growth is one and it is the role of the government to find ‘open’ spaces to allow new settlement. The titles give protection but not the way pastoralists want to use land, the land has to be productive and occupied.”

VR/F8: Interviewed on 28th July 2014

In the past, “we had many ceremonies that brought us together as women or community but shrinkage to our land, challenging also size of our livestock for such occasions. The Maasai traditionally, shared and accommodated each other but now even getting a place to put your own house is becoming a problem, things are no longer the same. Life and the integration with other communities are shaping our being which we don’t want but it’s coming by force.”

VR/M2 and VR/M15: Interviewed on 27th July 2014

“We did demarcate our village and have land use planning but both actions have been source of blocking our stock routes, taking away our grazing lands for wildlife, now again is bringing outsiders to settle on our land. Land use planning has been made to look a government idea, however, the Maasai before the land use planning Acts [... 2004, 2006, and 2007] or any other land acts, we had our own land management plans to ensure there is sustainability and flexibility of our resources use. We also had cross-boundaries land use plans but this is disentangled by the law through demarcating villages of which we have not seen yet the protection of it. Management of common resources needs collective effort.”

VR/F10: Interviewed on 28th July, 2014

“At the moment, the government is not forcing us from our land however Ewor-endeke is an indirect eviction. Being a pastoralist is not being in a two bed-room house without a cow. We need land for grazing which is our livelihood system. There is no way a Maasai can be a pastoralist without livestock. Being in a growing town is a clear sign of disappearance as a community as well as people of cattle which are our being. The problem of cutting our land into small pieces has been the beginning of our uncertainty and we do not know yet the end of this.”

¹⁰ Ujamaa means socialism system

The existing land acts are facilitating land acquisition by state in the Maasai villages and Ewor-endeke explains with acknowledgement of the two NGOs which also work in Longido District that despite of following legal procedures. Ewor-endeke community and NGO1, NGO2 and NGO4, for example, explained that there is an urgency need to review the two land laws. They identified that Land Act no.4 and the Village Land Act no.5 are overlapping which create confusion among the implementers and other actors. Whilst is used mostly by the state as an opportunity to take land from mostly the pastoralists Maasai. This is possible because the land is still vested to the President and land commissioner has the legal right to change land for other uses as long as bears ‘interest of the nation’

The Ewor-endeke members have no alternatives. They have had to start looking for land from neighbouring villages which accommodate them as pastoralists stated by (VR/M1, VR/M2) although this causes further conflict in turn. The only remaining alternative, other than encroaching on neighbours’ land, is to leave the pastoralist way of life. The latter is a long-term option and needs greater research attention, particularly regarding the numbers and ages of community members resorting to this. See in box 6 what they have said.

Box 6: Effects of centralized land system

VR/M13 and VR/M14: Interviewed on 29th July 2014

Pastoralism in urban areas is unmanageable, impossible and our land is insecure when is under individual ownership. “Our village land insecurity is real which is contributed by our central government more than any other actors. We just received a letter from the district office informing us that the village land status is changing more than half of our village is going to urban administration lands to allow urban development activities. So what else can we do? It is time of devastation and being in dilemma.”

VR/F5

“I insist that the government must respect the law if a village has a certificate according to the law then it should abide with it without shifting from one status to another. That will control rapid changes in land use and it should be government responsibility. What else can we do as pastoralists if we tried to abide with the law but our own government is pushing us into absolute poverty? These are the worries we have and unfortunately the government is pushing us into disappearance by using its own laws.”

NGO3 and NGO4

“We have been implementing particularly ‘the Village Land Act’ but the land is becoming a problem when you have it or when you do not have it. The law is not protecting pastoralists’ land. The Ewor-endeke village or even neighbouring Namanga area is demarcated and got village land certificates but we see what has happened in Namanga and now in Ewor-endeke. One of the problems is that still there is wrong perception of pastoralism. It is not acknowledged by the state as a viable economic livelihood system that also deserves legal land property rights.”

Also upon arrival of the letter to village there was no any pre-consultation that has been done with the respective village government or villagers even though are required by the village land act as reported by village government.

NGO1 and NGO3 Interviewed on 18th and 23rd July 2014

Promoting the rights of local people as such as pastoralists, hunter-gatherers, fishers, small-scale farmers, is likely being out of order because these livelihoods are not nationally and globally acknowledged to support or fit into the global neo-liberal economy system. “Now we are at the time where the world is overwhelmed with modernization and at the end of the day, if you want to follow the trend then you have to be on the same business.”

NGO4

“Policy is framed with the global influence which does not meet the needs of the local communities. The pastoralists Maasai are of less concern because their contribution to the national economy is very low, they are few in term of population hence they are politically less significant.”

VR/M1

“We have land and it could be the reason why the government does not invest much on our livelihood so there it keeps getting a room for taking land from us.” Whilst pastoralism contributes significantly for food security, yet it receives less attention in the government.

Generally speaking, pastoralism is challenged by the privatization of land. Common property land regime is not supported or integrated in many policies including the Animal Feeds Act (of 2010) which promotes modern system through commercialization. The first goal of the National Livestock Policy (of 2006:iii) is “to encourage the development of commercially oriented, efficient and internationally competitive livestock industry”. Whilst the body of the legislation refers to registration and commercialization, issues that are important to maintain and sustain rangeland with mobile pastoralism have not been part of any policy unless there is a vital significant role pastoralism can play with (Mattee and Shem 2006).

Traditionally, social relations of the Maasai relied upon clan, age-set affiliation and friendship. In turn, these contributed to management and access of pastures, water and stock routes of livestock. Also members of the same clan or age-set have common social gathering that support each other but these are also deteriorating as culture is diluted. The resource land situation is a problematic. The Ewor-endeke is one of many cases that are taken from the pastoralists Maasai. Despite of the village acquiring a land certificate as explained by respondents above, the land is still taken for different usage including wildlife corridors, WMA and currently, expansion new growing towns (Benjaminsen et al. 2013). Main concerns from the community were that the government must give the Maasai ‘space’ to achieve the so called ‘development’ at their own pace, without weakening their livelihood systems.

Pastoralist NGOs in 1990’s pushed to open land cases in court, including the Mkomazi reserve case (Tenga 1999). The whole situation caused stress and hostility between government and pastoralists, and unfortunately the latter lost all the cases as explained by NGO2. Such experience made pastoralists Maasai to lose trust in the courts and as a result there is a common held belief within the local Maasai community that there is no legal justice. Apart from a) general land, b) reserved land and c) village land categories, also ‘community land’ and ‘government land’ were identified to offer potential to reduce land insecurity particularly in the pastoralists Maasai as stated by NGO2 and NGO4.

Pastoralists' issues are still taken to be difficult to deal with. The claim of pastoralists land is underutilized, idle and empty is still dominating in Tanzania today. Pastoralists Maasai are always the people who are required to change and this is what has been said from the government. 'Do you think pastoralists are accommodated in the current agricultural and land policy systems?'

Box 7: Government Perception on pastoralists

GO1 and GO3

It is not possible to deal with issues concerning pastoralists or the Maasai¹¹ alone in this country however issues pertaining pastoralists are still difficult to deal with. "Getting the number of livestock that the Maasai have is not possible because of their cultural belief that they do not count so we never have the real figure of these people and their cattle which challenges the government to do much for these people."

GO2: Interviewed by 23rd July 2014

"The Maasai must change from their traditional way of life and the land belongs to the government. This has to be clear to all people including the pastoralists' activists so the government whenever has a need for land, it will get it without avoiding pastoralists land. The Maasai are not using all the land so it should not be a problem when is used for other uses. The interest of the government is to maximize profit through different stakeholders to be able to run its programmes though the government also needs include finding a way of reducing conflicts in many sectors including mining, wildlife, forests, because the competition between traditional livelihood aspects and commercial is still too strong."

5.4. Reflections

Land tenure system that is responsive to the needs and interests of its people in their diversity is important. The current land act, its institutional framework and on-going activities, in principle and in theory provide motivations, opportunities and bases for a secure tenure system for Tanzanians while the implementation is taking place either is contrary or ignored by those in power.

Land is acknowledged to be vital in all livelihoods whether under customary economy or modern economy. Policy is therefore very instrumental in creating genuine and equal rights without generalization and exclusion. In the constitution of Tanzania, for example, other groups are given constitutional rights (including right to movement), however important groups like pastoralists are not mentioned anywhere in the constitution and conditions are put in place to restrict moving with livestock.

¹¹ "Wamasai wanadhani wao tu ndio wafugaji nchi hii" (The Maasai think they're the only pastoralists group in this country said by GO1). NGO2 said that they have brought on board other pastoralists to ensure pastoralists issues are listened than thinking these are "the Maasai propagandas"

Land acts are the product of land policy derived from political and economic needs, which might not necessarily reflect the real needs of many rural communities and in particular those of pastoralists. Of course, it remains difficult to accommodate people's needs than political interests and those who are involved in the making process. There have been several debates in the last 15 years following the enactment of the Land Act (no.4) and the Village Land Act of 1999 (no. 5) including the need to revisit the acts to define different terms like 'general land' which is overlapping both acts no. 4 & 5. This concern was raised during data collection, indicating that there are 'many' gaps in the enacted policies and laws. There is too much generalization in the acts hence exclusion of 'traditional communities' occurs.

The implementation of policy is much challenged by inadequacy of resources hence controlled by politics, internal dynamics of the implementing institutions as well as their structural positioning. Individuals also have a key role on either catalysing or inhibiting institutional change, which means that policy engagement must also focus on micro-politics of how decisions are made within an organization and consensus are required for different kinds of actions.

There are also underlying issues and complexities within the stakeholder engagement processes around implementation of the village land acts. A deeper level of investigation and analysis is required regarding democratic engagement. It is apparent from the participant responses in this research that the role of NGOs in the national policy process has been, and continues to be, critical to ensure issues of pastoralists are not bypassed or excluded. The Maasai pastoralists are commonly accused of being nomadic, unsettled and contributing to increase conflict in the country. However, what is often forgotten about/left unsaid is that since 1960's the government has been taking pastoralists' lands. It is also important to know that most of the national parks, game controlled areas, conservation areas were traditionally used and managed by the pastoral communities and mostly by the Maasai (Tenga et al. 2008) hence their livelihood systems play a vital role in environmental conservation.

As the result of NGOs engagement in promoting the land rights, pastoralists' issues have been given space, for example, in MKUKUTA 1 and 2, Wildlife policy, ASDPL pastoralists' issues are included as explained by NGO1 and NGO2, however, the underlying concern is the implementation of these policies which is very low and mostly these policies are not referred to. Furthermore, the Village Land Act mentions pastoralists under the customary (communal) land use however there is no security guarantee of pastoralists' land irrespective of whether land demarcation, registration and certification has been legally carried out. For instance, Ewor-endeke village obtained a certificate but this has not prevented their land from being taken away. The problem is therefore misuse of power rather than the legislative framework in place.

The National Livestock Policy acknowledges pastoralists to be contributing around 70 percent in terms of meat production the country (URT NLP 2006) but they are not the priority in the policy apart from being mentioned. The 'grazing land and animal traceability act 2010 and animal welfare act 2008' are among of the identified policies to be unsuitable for pastoralism. Its key focus is livestock market commercialization which excludes the traditional livestock keepers who are pastoralists. The African Union has formulated an opportunity for possibility to integrate its pastoralism policy into national and

regional development strategies and programmes. It helps to reinforce democratic land administration that allows free choices. The pastoralists Maasai in Ewor-endeke are asking that they get freedom to develop and change slowly at their own pace without destroying their culture and identity.

Whilst pastoralists Maasai remain marginalized in Tanzania, there are ongoing processes of democratization which have amplified the need for increased participation, social equity, and respect for human rights. The policy frameworks like NSGRP and wildlife policy tend to recognize diversification and consider pastoralism as a sustainable livelihood system but the government remains with its idea that pastoral communal grazing practices increases overgrazing. Hence the situation remains the same on pastoralists' side with no hope of protecting their lands. Such ideas can be challenged by pastoralists, based on the positive outcomes of supportive policies despite of the presence of contradictions. A greater motive may be convincing the government to allocate adequate resources to pastoral areas so that policies can be implemented smoothly.

Notwithstanding, the low investment of education to the Maasai areas, a growing number of those who form the Maasai elite (who have formal education) has increased in the last two decades. This educated group offers both opportunities and challenges to the Maasai development. Whilst the educated Maasai can become a link between the Maasai pastoralists and the policy making processes, in addition to the "formal government institutions, or work as service providers" (Davies 2008: 182) there is also an increased risk of misuse of this 'representative' power, for personal means. Many educated Maasai (myself included) have started to work within our own representative NGOs which has resulted in a rise in the engagement of Maasai led civil society organizations in negotiation on pastoral Maasai issues. This increased engagement has been paralleled with the rise both national and international recognition whilst it also increases attention over the Maasai pastoralists resources (Ibid).

The policy and institutional environment determine access to the resources in these areas and therefore has a significant impact on equity, productivity and livelihoods. Limited or uncertain resource tenure and access to, or ownership of land, water and other resources is a long-term, fundamental constraint for pastoralism. Similarly limited formal education, health and communication facilities, unsuitable market and livestock infrastructure, can lead to dissatisfaction, generate injustice and further promote hostility. These problems can also lead to non-sustainable resource use and environmental degradation. However, appropriate pro-pastoral policy and institutional reforms can push pastoral communities and promote equitable access to natural resources, services, and promote sustainable land use and environmental management.

Pastoralists Maasai land whether demarcated or not, is still taken for other uses. The villages in Longido District including Ewor-endeke have undergone the necessary required stages to be legally registered. Deregistration is taking place in order to allow land changes to take place, yet these changes exclude consideration of local livelihood systems. For example, Ewor-endeke village with the certificate approved by the 'Land Commissioner' but it is possible for government to change the village land to other uses without following legal procedures. This shows that there is weak legal system that is easy to tamper with it. Yet, it seems the Maasai will continue with their way of life despite of many challenges surrounding their existence. It is increasingly accepted that

livestock rearing is the dominant and rational economic enterprise in pastoral communities, but policies to solve pastoral issues and needs are not yet there.

The theories of “Tragedy of the Commons” and ‘property rights’ propose that formalizing land property brings with security and proper use but these are not working within the pastoralists communities despite of their efforts. A village land certificate as required by the law does not prevent land loss as it was claimed by ‘private property rights’ proponents. The issue that pastoralism is not accommodated in property rights frameworks is questionable.

Chapter 6 Conclusion

This research started by asking:

How do agricultural and livestock sectors and land policies affect the Maasai pastoralists in Tanzania?

It is apparent that the Maasai pastoralists' way of life is not accommodated in the framework of 'modern land policies' which favours private ownership. The majority of policies are pro-privatization/individualization of land property rights and commercialization yet the Maasai are people whose way of life fundamentally relies upon common property rights. Livestock mobility is prohibited through modern Tanzanian land policies and state orders, yet, as indicated by the respondents with support of literature as well, mobility is essential in sustaining pastoralism and conserving the environment. Land use plans, in the pastoral Maasai community's context, territorial-based works. The village land boundaries practically affect negatively the pastoralism system which is characterised by mobility.

The Maasai are accused of roaming beyond established modern legal boundaries which causes conflict across Tanzania. However, this is not simply a case of pastoralism being misunderstood. There are other livestock dominated communities like the Sukuma and Nyamwezi, yet these groups are experiencing minimal hostility and land loss when compared to the Maasai. It is therefore observed that a negative perception towards one group of pastoralists exists which somehow influences policies formulation that suppresses and discriminates against that community. Exclusion, discrimination and marginalization that exist, and from what respondents have indicated, appear to be inherent within local, regional and national Tanzanian political, economic and legislative systems, which will not help pastoralists such as the Maasai to in line with policy, develop new livelihood strategies.

Sharing resources communally has been part and parcel of the Maasai way of life. However, this way of life, whilst immensely resilient in the past, is gradually being eroded by "dividing the commons" into private land rights system (Platteau 2000:73). The Maasai social and economic livelihood systems are gradually being destroyed and disintegrated as days go by. The centralization resource control is therefore undermining local livelihood systems. As is the case of Tanzania, limited empirical research has been conducted to assess the impact of the existing land legal tenure framework. It is stated in the act that all power and responsibility has been rendered to local level institutions however, in reality, there is limited power, control and access of rangeland usage through local Maasai governance systems. The local village governments have no control which was corroborated in the case of Ewor-endeke, where it is apparent that there is still a lot of dominance and control from the central government. The respondents from Ewor-endeke indicated in this research how they are distressed as a result of the 'top-down' dominance.

This research has revealed a collision of laws within Tanzania. The Land Laws no.4 and no.5 have clauses that are similar 'general lands', 'reserved land', 'public land' etc., and are creating conflict. The implementation of Village Land Act prevailed by other laws. Other laws from agricultural and wildlife sectors

are playing critical role to influence land enclosures in the pastoralists in the country. Conservation, crop production and urban expansion are increasing rangeland enclosure that is affecting the pastoralists grazing lands in Tanzania as a whole. The pastoralist Maasai are not asking for being treated differently or favoured but do wish to be treated equally like the rest of Tanzania's citizens with dignity and inclusion in the policy and development frameworks. The continued privatization of grazing lands is endangering not only their livelihoods, and the whole pastoralist way of life but also an integral part of Tanzania's internal production system.

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