

The Displacement of the Maasai

By Caroline Lauk

The ongoing situation involving the Maasai communities in northern Tanzania represents a critical intersection of human rights, conservation, and government policy. This article delves into the complexities of this issue from a legal standpoint, focusing on the rights infringed upon by the Tanzanian government's actions.

History

The Maasai, a primarily pastoralist community, have inhabited the Loliondo division of the Ngorongoro district for generations, living in harmony with the land through livestock rearing and subsistence farming. The area, designated as the Loliondo Game Control Area (LGCA) since 1951, has seen multiple uses, including wildlife viewing and hunting, alongside residential and agricultural activities. However, recent government actions have significantly altered this balance, leading to forced evictions and rights violations.

The Current Situation

In June 2022, the Tanzanian government announced plans to demarcate 1,500 square kilometers of village land as a game reserve, effectively prohibiting the Maasai from accessing their ancestral lands for grazing, farming, and water collection. This decision was made without adequate consultation with the community, a violation of Tanzanian law and international human rights standards. The enforcement of this decision involved violent and coercive tactics, including beatings,

shootings, sexual violence, arbitrary arrests, and the destruction of property.

Right to Land and Livelihood

The forced eviction of the Maasai from Loliondo contravenes their right to land and livelihood. The eviction not only disrupts their traditional pastoralist lifestyle but also threatens their cultural survival. The government's claim of enhancing conservation efforts does not justify the unlawful displacement of communities or the violation of their rights to property and land, as protected under international and regional legal frameworks.

Right to Culture

The Maasai's culture, deeply intertwined with their land and livestock, has been put at risk. Restrictions on access to grazing lands and water sources directly impact their ability to maintain pastoralism, which is central to their identity and cultural practices. The inclusion of sacred sites within the demarcated game reserve further infringes on their cultural rights, denying them the ability to perform traditional rituals and ceremonies.



Violations: Stealing Livestock, Eviction, and More

Stealing Livestock

The confiscation and auctioning of livestock by game rangers, under the guise of protecting the game reserve, have had devastating effects on the Maasai's livelihood. The imposition of exorbitant fines for the release of impounded livestock, coupled with the auctioning of "unclaimed" animals, disproportionately affects the economic stability of the community, especially households headed by women.

Forced Eviction

The government's use of force in the eviction process, characterized by beatings, shootings, and the destruction of homes, is a grave violation of human rights. The eviction has led to displacement, with residents fleeing to seek refuge and medical treatment, further weakening social support systems and local safety nets.

Sexual Violence and Arbitrary Arrests

The deployment of security forces has led to multiple instances of rape and other forms of sexual violence, alongside arbitrary arrests and detentions of community leaders and defenders. These actions create a climate of fear, preventing the Maasai from exercising their rights to assembly, expression, and justice.



UN Statement on Maasai Eviction: A Legal Perspective

The United Nations Permanent Forum on Indigenous Issues (UNPFII) issued a statement on June 14, 2022, expressing deep concern over the Tanzanian government's actions to evict over 70,000 Maasai people from their legally registered village lands in the Loliondo division of the Ngorongoro district. This chapter analyzes the legal implications of the UNPFII's statement, emphasizing its relevance to international human rights law, the rights of indigenous peoples, and the legal obligations of the Tanzanian government.

UNPFII's Concerns and Legal Frameworks

The UNPFII's statement underscores the violation of human and collective rights of the Maasai people through the use of force, including indiscriminate shooting by Tanzanian police, resulting in injuries and forced displacement. Arbitrary arrests of community leaders further compound these violations. The statement calls for an immediate cessation of eviction efforts and compliance with international human rights instruments, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Violation of International Declarations and Treaties

The actions against the Maasai contravene several key provisions of the UNDRIP, particularly Article 10, which states that indigenous peoples shall not be forcibly removed from their lands without their free, prior, and informed consent, and only then with just and fair compensation and the option to return. The eviction efforts also flout the Village Land Act of 1999, which mandates consultation with Village Councils and Assemblies in eviction scenarios, and the 2018 injunction by the East African Court of Justice

prohibiting the eviction of the Maasai from the area.

The Right to Participation and Consent

The UNPFII emphasizes the Maasai's right to participate in decision-making processes affecting their lands, especially concerning developments like safari tourism and conservation efforts. This participatory right is fundamental to ensuring that indigenous peoples' interests are safeguarded and that any development or conservation project respects their traditional livelihoods and cultural heritage.



Legal Obligations of the Tanzanian Government

The Tanzanian government's actions raise significant legal concerns under both international and domestic law. The government is urged to:

Withdraw Armed Forces: To halt the use of force and violence against the Maasai and cease the eviction process.

Ensure Accountability: To investigate and bring to justice those responsible for human rights violations, including security forces and government officials involved in the eviction process.

Facilitate Open Reporting: To allow journalists, lawyers, human rights observers, and civil society organizations to access Loliondo freely. This transparency is crucial for documenting the situation and ensuring accountability.

Analysis of Human Rights Violations Against the Maasai People

The eviction of the Maasai people from their ancestral lands in the Ngorongoro Conservation Area in Tanzania constitutes a violation of multiple international human rights laws and standards. This analysis will detail specific rights infringements by referencing relevant articles from the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Each cited violation is based on the reported actions against the Maasai, as provided in the initial information.

Right to Non-Discrimination (Article 2, UDHR; Article 2, ICCPR)

The forced eviction and discriminatory treatment of the Maasai people violate Article 2 of the UDHR and ICCPR, which affirm the right to freedom from discrimination. The Maasai's treatment, based on their indigenous status and traditional way of life, underscores a clear breach of their right to equal protection under the law, as these actions disproportionately affect their community.

Right to Life, Liberty, and Security of Person (Article 3, UDHR; Article 6, ICCPR)

Article 3 of the UDHR and Article 6 of the ICCPR, which guarantee the right to life, liberty, and personal security, have been violated through the use of force, including shootings and beatings by Tanzanian police. These actions have resulted in injuries and, in some cases, death, directly infringing upon the Maasai's right to life and security of person.

Right to Adequate Standard of Living (Article 25, UDHR; Article 11, ICESCR)

The eviction from and destruction of their lands have jeopardized the Maasai's right to an adequate standard of living, as outlined in Article 25 of the UDHR and Article 11 of the ICESCR. Loss of access to their traditional lands means a loss of livelihood, shelter, food, water, and health, fundamentally breaching their rights to adequate living conditions.

Right to Culture and Participation in Cultural Life (Article 15, ICESCR; Article 27, ICCPR)

The Maasai's forced displacement from lands that hold cultural significance and their prevention from practicing traditional pastoralism violate their right to participate in cultural life and enjoy their own culture, as protected under Article 15 of the ICESCR and Article 27 of the ICCPR. The destruction of sacred sites and impediments to cultural practices directly infringe upon these rights.

Rights of Indigenous Peoples (Articles 8, 10, and 26, UNDRIP)

The UNDRIP articles have been particularly violated, including:

Article 8, which protects against forced assimilation and destruction of culture. The Maasai's eviction is a form of forced

assimilation, stripping them of their lands and cultural practices.

Article 10, which states indigenous peoples shall not be forcibly removed from their lands. The Tanzanian government's actions contravene this principle by evicting the Maasai without their free, prior, and informed consent.

Article 26, affirming the right of indigenous peoples to the lands, territories, and resources they have traditionally owned or occupied. The denial of access to and use of their ancestral lands is a clear violation.



Recommendations for Compliance and Remediation

To align with international human rights standards and its legal obligations, the Tanzanian government should:

Halt Evictions: Immediately cease all eviction efforts and engage in meaningful dialogue with the Maasai communities to explore alternative solutions that respect their rights and way of life.

Comply with Legal Standards: Adhere to the provisions of the UNDRIP, the Village Land Act, and the ruling of the East African Court of Justice, ensuring that any action taken respects the rights of the Maasai to their lands and territories.

Ensure Participation: Implement mechanisms for the Maasai's effective participation in decision-making processes, guaranteeing their free, prior, and informed consent for any projects affecting their lands.

Conclusion

The situation of the Maasai in Tanzania is a glaring example of how state actions can infringe upon a wide array of fundamental human rights enshrined in international law.

The violations detailed here call for urgent attention and remediation by the Tanzanian government and the international community to ensure the Maasai's rights are protected and upheld. Immediate action is required to halt the evictions, address the human rights violations, and engage in meaningful dialogue with the Maasai community to find a sustainable and just resolution.

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