

Sedentary Bias in Land Tenure Arrangements and Land Legislation: A Gender Perspective (presented by Lucy Willy Massoi)

Reported by Lukong Stella Shulika and Yahaya Mohammed Mahafuzu

This report summarises a research presentation delivered by Dr. Lucy Willy Massoi on 'Sedentary Bias in Land Tenure Arrangements and Land Legislation...' It focuses on pastoralists in East Africa, particularly the Maasai pastoralists in Tanzania – a country with about 126 different ethnic groups.

Dr. Massoi advanced her research from the point of view that in most African regions, especially sub-Saharan Africa, the formally mobile communities are increasingly becoming sedentarised partly. This as she asserted owes to decisions by international development agencies and national governments, who believe that sedentarising the pastoral communities would reduce the problems of: food insecurity; climate change and challenges causing land degradation; illiteracy rate because pastoralist communities are believed to be illiterate owing to their ways of life and the peripheral areas in which they live; poor health care; and the challenges of governance, especially as pastoralist communities are believed to cause conflicts. However, this narrative does not represent the reality and the sedentarisation strategy remains a continuous proof that pastoral or moving communities remain socially and politically marginalised by the government as well as other communities. This is evident in research and scholarship findings detailing that pastoral communities are often not represented in: decision making positions and lack access to decision making organs; the challenges they face as pastoralists are persistent; they are confronted with unfriendly policies and laws, since they are not elected to positions to influence these policies; and they compete with agrarian communities and other powerful neighbours or pastoral communities for resources like water and pasture in the framework of declining access to land.

In addition, pastoralists are manipulated by other interests groups like investors or political elites who buy land or pass policies resulting to their eviction. Generally, the tenure positions by the bodies in authority reverse the rights of pastoralists. An example would be the Hoima – Bukoba-Tanga port Pipeline project in Tanzania, among others in sub-Sahara Africa, which affects the livelihood of pastoralists; leads to eviction policies, privatisation/commercialisation of land, and land grabbing from the pastoralists and displacement; more fragmentation and sedentarisation; and degradation, as some of the plants and trees are cut down for these pipeline and road projects. Likewise, the legal framework to protect or support the pastoralists is very thin or lacking completely, Tanzania as a case in point. Gender is also a key determinant in the question of access to and use of resources especially for the pastoralist communities. In this given, men and women have roles to play in the preservation, adaptation and continuation of the pastoral communities/systems, and these gender roles are rooted in culture and traditions. The main point of contention here is that sedentarisation changes gender roles, so expectations are different. For example:

- Within the pastoral societies, women are not supposed to speak in front of men, unless they are permitted by men. So if for instance you have to conduct interviews with women, permission is needed from the husbands, meaning the man is also indirectly interviewed in this process
- The issue of what women should or should not have is also structured within gender

Looking at the issue of land in Tanzania and how gender is reflected in it, it was noted that: land is public property owned by the government/state (the president) on behalf of the people/citizens in Tanzania; land is categorised in three: Village (where the pastoralists reside), the Urban land, and Reserved land; and there is also the hybrid land tenure system under the customary law (land rights based on the customary law of each tribe as each has its own law), and statutory law (granted rights occupancy under the this law).

The institutional framework governing land in Tanzania is very gender sensitive in the sense that it also gives women access to land rights and to participate in decision making organs like village land committees, despite the gender challenges. For example, in the Koliya area of Tanzania where there are different ethnic groups including the Maasai who are the pastoralists. While the policies are very much in place in this district, they are biased towards pastoralists so much that there have been a series of: evictions of the pastoralists without resettlement plans; the illiterate level of the pastoralists also exacerbate situation; issues of land use conflicts and food insecurity; men own everything in Maasai society, even women's clothing and women and children are disadvantaged as they don't own property and are themselves the property of men - so the domestic unit places women under men. Also, power structures position women in their communities as inferior and pastoralists are discriminated against in the land reform programs

Most importantly, the power structure that position women within these communities give rights to women to own land, but implementation is difficult because the customs are not in favour of these women to have such kind of rights. The institution of marriage also eliminates the rights of women to own land in these communities because: land is a communal property; the communities are polygamous in that - the more wives you have, the more children and labour force to work to take care of the cattle; and the division of labour is not static but dynamic. So women are traditionally the household leads - making food, collecting firewood, especially in such society where patriarchy is a given

Important to note here is the fact that the government sedentarisation policies are generally not in favour of pastoralism such that some livelihood die due to lack of food, draught...etc... But again, the pastoral communities are transforming in that they have very beautiful houses, some even have motorbikes for transportation purposes. Also because of the transformation and challenges, pastoralists turn to eat other types of food like vegetable and rice. So the food pattern have also changed.

Looking at issues of citizenship, the Maasai are also citizens recognised by law. However, they have no access to land rights and therefore cannot benefit from it. In terms of national ownership of land therefore, the local authority accords land according to the needs of the people. So pastoralists are also permitted to apply for these rights. The challenge remains; the land is never enough for pastoralists, as they have to move from place to place, thus the cause of conflict.