



Building Bridges or Sowing Division? Maasai, BBI, and a Century of Misinterpretation

By Lotte Hughes



Maasai leaders used a BBI (Building Bridges Initiative) rally in Narok in February 2020 to demand the return of lands stolen by British colonisers. Leaders called for, among other things, “the return of community land grabbed during the colonial era” (*Nation*, 22 February 2020). They submitted a memorandum to the BBI Taskforce, subtitled “Urgent Declarations [sic] by the Maa Nation”. Narok Senator Ledama Ole Kina, who made a rousing appeal to defend Maasai land against non-Maasai intruders, was arrested for hate speech soon afterwards. (The case has been pending since June 2020.) The late MP William Ntimama’s daughter Leah hit out at local leaders who are Kipsigis and Kalenjin. The rally turned acrimonious, and two local political leaders walked out. Soon after his arrest, Ole Kina (441.8K Twitter followers) got busy tweeting remarks such as this: “Extremism in defense of truth and liberty for the Maa Nation is not being tribal.” Many Kenyans responded angrily.

Here we are more than a year down the line, COVID having put BBI on the back burner. The [BBI Taskforce Report](#) has since been published (October 2020). Most recently, the High Court has blocked the Constitution of Kenya Amendment Bill (2020), ruling it unconstitutional. Despite high excitement among the Maasai that the BBI will deliver long-awaited redress for historical injustices, the Bill to change the constitution does not mention this. The BBI Taskforce Report only alludes to the issue briefly, when reporting what Kenyans called for in their submissions. It fails to say

anything about redressing historical injustices in its recommendations, and none of its proposed Bills is about land or historical injustices. The BBI does not have a mandate to deal with these issues. But many Maasai, particularly politicians and land rights activists, seem to believe otherwise.

Senator Ole Kina has repeated his earlier calls for the return of Laikipia, tweeting on 30 July 2021: “When I become President of Kenya . . . [n]o single person will own more than 1000 acres of land. All ranches in Laikipia will revert back to the original owners! Neocolonialism will end!” He had referred to Laikipia in a tweet in February 2020: “I am reaching out to huge land owners in Laikipia to relinquish part of their lands back to the Maasai Nation to be preserved for grazing . . . The land when handed over will be owned by the community.” In July 2020, he tweeted: “The Maasai Nation is finalizing on its claim soon to be filed in the UK courts @10 Downing Street [sic]. Laikipia and all other parts taken forcefully from the Maasai must be fully compensated.” I asked for more information, but received no reply.

This is just the latest instalment in a sorry tale of “lost” land, historical injustices, and misunderstood documents, starting with the Masai (sic, this was the anglicised name) Treaties, also known as the Masai Agreements of 1904 and 1911 between the British and Maasai leaders. These are often wrongly called the Anglo-Maasai Agreements, which is not their proper name. (The TJRC’s final report made the same error.) Many Maasai seem to have repeatedly misread and misinterpreted these and other key documents, which is not at all helpful to them if they hope to claim land back. In order to understand what is going on now, and Maasai “readings” of the BBI, we need to go back in time and trace some historical continuities.

Which lands were Maasai leaders referring to in their memorandum? They include Naivasha, Molo, Nakuru, Mau Narok, Kedong, Kitet, Laikipia and Ndabibi. The memorandum also listed other land, including that occupied since 1911 by the Magadi Soda Company in Kajiado. These lands, it said, must all be “reverted back to the community’s ownership”. But the memorandum failed to explain what “revert” means.

The memo also called on the government to establish a Commission on Historical Land Injustices and Contested Communal Land Claims, as if the National Land Commission (NLC) had not already been tasked with investigating historical injustices. (The BBI Taskforce Report also mentions this second proposed commission as something Kenyans are calling for.) Maasai groups in some parts of the country are preparing to submit complaints about historical injustices to the NLC by 21 September, which appears to be the cut-off date for such claims. (There is some confusion about the deadline, say lawyers.) Anyhow, the NLC only has the power to make recommendations.

It is important to make clear that Kenyan Maasai are by no means unanimous in their views on BBI. One activist who runs an NGO in Laikipia gave this opinion: “[BBI] is about power realignment, and Maasai leaders are moving with the wave aligning with the system, hoping that they will consolidate power and remain in power. We are not gaining anything as far as land is concerned. We are losing more and more.”

Now, some of my Maasai friends - who include indigenous rights activists - will not like what I am about to say. One particular activist and his long-time American collaborator have accused me of opposing Maasai land rights. Not true. I have critiqued some *approaches to claiming land rights*, which is totally different. This article also contains a critique, one that is meant to be constructive. I am in a strong position to comment, since I’ve studied and written about the historical background to all this for years. My doctoral research in 1997-2002 centred on the colonial British alienation of Maasai land, the forced moves of the 1900s, the 1904 and 1911 Masai Treaties, and a 1913 court case brought by the Maasai with the aid of British sympathisers and lawyers that challenged the legality of the moves and the 1911 Agreement. In researching and writing this “story”, I gathered

and used a great deal of oral testimony, some from elders old enough to have taken part in the 1911-12 forced moves as children, and wove this together with archival evidence. The latter included a stash of letters written by Dr Norman Leys, a British whistle-blower and medical doctor in government service, to British MPs and humanitarians, alerting them to the plight of the Maasai. They told a truly shocking tale of how the Maasai were parted from their land. Leys lost his job as a result of his whistleblowing, and never quite recovered.

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As I make very clear in my 2006 book *Moving the Maasai*, there is no doubt that this land alienation and the forced moves constituted a major injustice perpetrated by the British colonial power. It is estimated that the Maasai lost at least 50 per cent of the land they had once utilised, maybe much more. (I deliberately avoid the word “owned” because individual Maasai did not own land in those days. Land was communally owned, and used seasonally, and still is in some places.) Every ethnic group in Kenya lost land to the British, but this was probably one of the largest grabs, and the most high profile.

There is nothing new about the Maasai demanding their land back. They have done so, on and off, ever since the 1913 court case, which failed on a technicality. My old friend John Keen, the late politician, did his best at the second Lancaster House constitutional talks in London in 1962, which he attended as part of a Maasai delegation. He walked out in disgust when Maasai demands were not met, and the delegation refused to sign the final constitutional documents. Keen would have been the first to say that the Maasai have since missed many opportunities to bring a land claim against Britain, or alternatively against Kenya. I was at a 2006 meeting held in Nairobi to plan a future lawsuit that was attended by Maasai from across Kenya, who included lawyers. Both Keen and Ntimama were there too. Keen declared: “I pledge half a million Kenya shillings towards the court expenses, here and now. If the Maasai go ahead with the case, I pledge another half million!” There was a lot of talk, but nothing came of it.

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It is now highly likely that too much time has passed for such a case to stand any chance in court. Years ago, I ran the question of a hypothetical claim against Britain past Martyn Day of the London-based law firm Leigh Day, who in turn consulted QCs; this was their considered opinion. Besides, unlike the successful Mau Mau reparations case (the one brought by Leigh Day and the KHRC; others have since failed), all the potential witnesses are long dead.

But in asking for the return of land now, and making this a domestic issue rather than an anti-British one, the Maasai do not seem to realise that they risk opening a Pandora’s box that would inevitably lead to ethnic strife – the very opposite of building bridges. Their memorandum says that they hope BBI will “transform Kenya from a geographical patch-up [sic] of antagonizing [sic] indigenous nationalities to a symphony of a thriving nationhood.” How is this demand helping?

Implications

Those calling for the return of land have not thought through the implications for other Kenyans now living in places once occupied by the Maasai. If their pre-1904 land were to be returned, this would

involve throwing thousands if not millions of Kenyans off land they believe is theirs, and for which they may well hold title. Cue civil war. We would see former victims of injustice forcibly displacing and dispossessing their fellow citizens. Other ethnic groups could then try to follow suit, and demand the return of their land. And where would the displaced go? All productive land in Kenya is already spoken for.

The Maasai's BBI memorandum singles out "all Laikipia white settlers" for the reversion treatment, ignoring the fact that land in Laikipia is owned by a mélange of Kenyan citizens - black, brown and white. The sight of huge ranches owned by a handful of Europeans, many of which are now conservancies, understandably makes landless Africans angry and covetous. But the picture is more complex. Scholar Graham R. Fox has [written](#): "Overall . . . Laikipia's political landscape is defined by actors who defy the black-white, rancher-pastoralist dichotomy".

The singling out of white settlers came to a head in 2004, when Maa-speaking invaders targeted ranchers of European descent whose leases were believed to be about to expire. Talk of the land 'reverting' once settler leases expired became common parlance then, on the 100th anniversary of the 1904 Masai Agreement. This was wrongly believed to expire 99 years after it was written. In fact, it was not a land lease and did not have an expiry date, as a quick read of it will confirm. Maasai activists confused settler leases and the Agreements, and some continue to do so. Moreover, few European settlers moved onto Laikipia before 1918, after World War One, so the majority of leases were not due to expire in 2004 anyway. There was another wave of ranch invasions in 2017, by Pokot and Samburu herders, egged on by a prominent Samburu politician. This time around, land owned by non-whites was also overrun by armed raiders - including a ranch owned by the Maasai former Speaker of the National Assembly, Francis Ole Kaparo.

Going back to the 1960s, politician Justus Ole Tipis (also a member of the Lancaster House delegation) used the term "revert" when suggesting to Reginald Maudling, Secretary of State for the Colonies, that Maasai land ought to be returned when the British left Kenya. (Parselelo Kantai mentions this in his 2007 journal article, [In the Grip of the Vampire State](#). The Maasai delegation's 1962 memorandum, presented at Lancaster House, centred on the idea that land had only been given out for the purpose of European settlement, and was now at risk of falling into other hands (in other words, Kikuyu). The word "revert" did not enter popular discourse until much later. Now the BBI Taskforce Report states, when reporting what Kenyans called for: "Reversion of ownership of land to the community upon expiry of leasehold ownership by non-citizens". Since most settlers of European descent are Kenyan citizens, this would not apply to them.

Myths

One of the myths that has developed around the Masai Agreements is that they said the alienated land would be returned once the British left Kenya. In fact, they said no such thing. Why would they? Colonial powers believed that the sun would never set on empire. They would hardly include a caveat, in a formal treaty with African subjects, which foresaw their future departure and demise. Making this concept the cornerstone of the BBI memorandum is therefore ahistorical, confused, and confusing.

With respect, Maasai activists and lawyers need to get to grips with the facts, rather than allow their imaginations to run away with them. Few seem to have bothered to read the Agreements, yet the 1911 document is online and copies of both are freely available in libraries and archives. Myths also fed into the TJRC evidence. I asked a Maasai lawyer who was involved in drafting the BBI memorandum where the idea of reversion had come from; he just referred me to the TJRC final report. In fact, it says no such thing in its recommendations on land, or in the chapter on land in Volume IIB. Some Maasai who gave evidence to the TJRC *talked* of reversion, but this is not the

same as the TJRC endorsing it.

The word “revert” keeps popping up everywhere. See for example the story headlined [Kedong Maasai to block BBI meeting in Narok](#): “The community told the new investors on the [Kedong] ranch they will not be responsible for any losses they incur once the land reverts to the Kitet Maasai”. And again: “[Robinson] Torome said legendary Laibon Lenana signed an agreement with the British settler community members, who lived in Kedong, in 1904 *that the land would be returned to the Kitet community when they were done with it*”. (My emphasis). Furthermore, there was in all likelihood no, or very few, European settlers on Kedong in 1904. (Sandford’s 1919 account, see below, just refers to applications for land at Kedong having been *received* by the government by February 1904.) This reading of the Agreement also makes the mistake of thinking it was made with white settlers, rather than government.

According to media coverage of current struggles over Kedong, much of it factually inaccurate with regard to history, the Maasai are calling for the 75,000 acres to “revert” to them. Its value has soared since plans were laid for new industrial zones, dry ports and the SGR (Standard Gauge Railway), hence intensifying contestation. “Revert” has become a mantra. But those hoping to take historical land claims to court must understand that this concept has no legal or historical basis.

Activists have concocted another false and unhelpful narrative about Kedong, in an attempt to link present-day contestation over the ranch to the Kedong Massacre of 1895. That event is well documented, but again some people refuse to believe sources simply because they were written (in this case) by a colonial civil servant, George Sandford (published 1919). Scholars have also written about this much more recently than Sandford. What reportedly happened was this: Maasai warriors killed 650 porters in a Swahili/Arab caravan crossing Maasailand on its way to Uganda, after porters snatched two Maasai girls from a warrior *manyatta*. A freelance British trader called Andrew Dick, who was in the area with two Frenchmen, set out to avenge the massacre despite being ordered not to do so by British officials. He is said to have killed around 100 warriors before being speared to death.

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The Frenchmen refused to accompany Dick on his little escapade, and rushed to the nearest British fort to report what had happened. A British investigation into the incident exonerated the Maasai after deciding they had been sorely provoked. But now activists have invented a second massacre – by British forces (who were not in the area at that time) against Maasai, alleging that 2,000 warriors were killed. Others claim warriors were shot dead by British farmers, but there were none at Kedong in 1895; settlers did not begin to arrive until the turn of the century, and many of the earliest were South African, not British. Activists are now using this invented second massacre to claim that Maasai suffered land losses at Kedong starting in 1895, when in fact the two things are not related.

Another enduring myth linked to the signing of the 1911 Agreement concerns the death of the prophet Olonana, who is said to have been poisoned by British officials who then put his thumb-print onto the Agreement posthumously. Nonsense; his name and thumbprint are not on the document, and the British had no motive to kill their closest Maasai ally, who reportedly died of dysentery. Some activists call all this revisionism “decolonizing Maasai history”. In fact, it’s called making stuff up to suit yourself, without providing any supporting evidence. The tragedy for the wider Maasai community is that it does *not* suit them, but undermines what could be valid claims for redress.

Richard Waller, a leading historian of the Maasai, had this to say about the process of inventing history to suit modern-day political purposes: “It is indeed tragic that Maasai history has been ‘reconceptualized’ in this way, not only because it will cut no ice in any legal arena but also because it obscures and falsifies/over-simplifies a history which is deep and fascinating. Maasai – especially the younger generation – deserve better than this.”

‘Native reserves’

In reclaiming Maasai land for the Maasai, leaders are (ironically) echoing the colonial policy of confining Africans to so-called native reserves. These were mono-ethnic, and designed to exclude members of other ethnic groups. Reserves made it easier for the British to tax and control their subjects. But in today’s world, the legacy of reserves, and the mentality of reservation on ethnic grounds, feeds into ethnic territorialism, ethnicised identity politics, and a nostalgia for “what was once ours”. The TJRC touched on this in its [final report](#), referring more broadly to colonial administrative units: “The Commission finds that the creation of these administrative units planted the seeds of ethnic hatred as communities started to establish ownership of their territories to the exclusion of others”. The Maasai are, in effect, asking for the return of the Southern Maasai Reserve, and for it to be kept for their exclusive use as the British pledged in 1911. Fondness for a reserve: how colonial administrators would laugh in their graves!

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Moreover, “going back to where you come from” makes no sense in a multicultural society like Kenya. Most citizens are now too thoroughly mixed up, intermarried and inter-settled to want to return (even if this were possible) to mono-ethnic enclaves. The richness of Kenya lies in its diversity, a point made in the Preamble to the 2010 *katiba*. The Constitution also says Kenyans have the right to live anywhere they like, regardless of ethnic origin.

Other practicalities

Even if the land were returned, to whom would it be returned? Individuals, communities, county governments dominated by the Maasai? How about the diaspora? Would everyone who is part-Maasai have to prove their blood quantum ([a dangerous notion](#)) in order to receive their cut? The fact is that the Maasai have intermarried with other ethnic groups, notably the Kikuyu, for generations. The notion of racial purity is nonsense, all part of the nativist, far-right racist narrative that is in the ascendancy worldwide, including in the UK where deluded Little Englanders are calling, post-Brexit, for “illegal migrants” to be expelled – especially Muslims, and those with black or brown skins. Let’s not go down that path. There is no difference, in my view, between calls for “England for the English” and “Maasailand for the Maasai”; neither has merit.

So, my Maasai friends, protest your losses by all means, support the BBI by all means. Defend your contemporary land rights against encroachers such as industrial giants and infrastructure projects. Use the law to seek compensation for historical injustices. But please avoid trampling on the rights of fellow Kenyans in the process. Most importantly, do closely read, and get a handle on, historical documents that could help your case, rather than continue to misinterpret and mangle them.

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