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**Seeking Citizenship on the Border: Kenya Somalis, the  
Uncertainty of Belonging, and Public Sphere Interactions**

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## **Abstract**

This paper examines the history and the processes that have led to the exclusion of Kenya's northern and northeastern (N&NE) pastoral communities from the country's public sphere. At the center of the deteriorating pastoralists-state relationships are the growth of Somali nationalism and the border controversy between Kenya and Somalia and the resultant irredentist war of the 1960s, the outcomes of which continue to shape Kenya government's policy toward the N&NE Kenya. In the past more than four decades after Kenya's independence and the end of the irredentist war, pastoral populations in the region continue to survive in immense isolation often under deplorable social and economic conditions away from the public domain. This is an outcome of a persistently tense pastoralists-state relationship that is largely based on suspicion and anti-pastoralist policies. The paper traces the trajectories through which area residents are attempting to negotiate increased social, economic, and political inclusion and a well-defined citizenship status and provision of associated rights through the public sphere.

## **Introduction**

The pioneering work of T. H. Marshall (1950, 1998) is not only a valuable contribution to our understanding of citizenship, but also has remained influential in the writings and debates of scholars of citizenship issues. For Marshall, citizenship comprises of civil, political, and social rights. While the civil element encompasses individual freedom, the political element concerns itself with freedom to exercise political power, as an elected or elector of persons to political body. The social element, which according to Marshall was attained last in the historical development of these rights, involves economic welfare including rights to educational and other social services.

The broadening interest in the study of citizenship has been phenomenal in the past couple of decades, which has led to emergence of new meanings of the topic and new levels of analysis covering nuanced areas, such as "...flexible citizenship,' 'the privatization of citizenship,' 'cultural citizenship,' 'destabilized citizenship,' and so on" (see Turner 1990; Verdery 1998: 292). For Rosaldo (1994: 402), cultural citizenship is "...the right to be different and to belong in a participatory democratic sense." He asserts that "...in a democracy, social justice calls for equity among all citizens, even when such differences as race, religion, class, gender, or sexual orientation potentially could be used to make certain people less equal or inferior to others" (Rosaldo 1994: 402). Bryan Turner defines citizenship "...as a collection of rights and obligations which give individuals a formal legal identity..."

(1997: 5) and Nick Stevenson goes further and emphasizes that seeking those “collection of rights” must be linked to “...the quest for recognition and cultural respect...” (2003: 331).

Writers of cultural citizenship argue that the broadening focus of citizenship studies “...needs to pay greater attention to the rise of the ‘cultural’ society” (Stevenson 2003: 331). While cultural rights have been treated as belonging to the domain of social rights until fairly recently, it encompasses a wide range of claims quite distinct from the other forms of rights that have been the basis of citizenship debates (see Pakulski 1997; Turner 1997). In deed, Verdery (1998) critiquing Rosaldo’s work suggests the inclusion of “cultural citizenship” as the fourth set of rights in Marshallian framework of the three elements of rights discussed above.

In the Kenyan context the overarching aspirations and demands of the members of the minority, disadvantaged, and those divided by borders, including Somalis, are to secure a full inclusion into the social, economic, and political arenas and also for the society and the state to recognize and be responsive to the rights of these communities (see Rosaldo 2003). What citizenship for Kenyan Somalis entailed in the form of fundamental rights, liberties, and obligations have been a major source of concern both for the concerned population and colonial and post colonial administrations. Somali citizenship in Kenya has been a widely debated and passionately contested issue both prior to and after Kenya’s independence from Great Britain in 1963. For decades, all the parties found the thorny question traumatizing to redress. For Kenyan border communities, particularly pastoralists whose access to livelihood resources are governed by seasonal migration based on erratic weather patterns, the state has become and continues to be an embodiment of unsympathetic and insensitive policies. Border politics and the dilemma of divided communities have been a source of strained society-state relations. Invariably, the rights of border communities are continually violated and they are often perceived of as nuisance communities and governed through exclusivist policies (see Chachage 2003).

However, society-state engagements on citizenship rights and obligations, particularly involving migratory and minority groups, have become part of the public discourse, at least since the re-introduction of multi party politics in Kenya in late 1991. The Kenyan public sphere, more than ever before, has become a place for discussing and negotiating citizenship. Likewise, the political class is engaging Kenyan Somalis in the public sphere to address perennial issues of concern to the community. The distinctive nature of the new Somali-State interactions is its evolution through time from the formative years of Somali nationalism in

the Horn of Africa and irredentist struggles through to the current overwhelming agitation to become a significant part of the Kenyan citizenry.

This paper explores the sources of Somali-State tensions, its outcomes, and how it is being redressed in the public sphere. First, the initial source of the tension stems from the crackdown on the rise of Somali nationalism in the Horn of Africa, which swept across the Somali-inhabited areas in the Horn. The rise of Somali nationalism was an important turning point in the political landscape of the Horn of Africa (Drysdale 1964; Laitin 1979; Sheik-Abdi 1977; Shultz 1995). The ripping up of the Somali nationhood between European colonizers and Ethiopian imperialists generated more questions and concerns among Somalis regarding their future relationships with the states within which they found themselves and their citizenship in the newly emerging administrative configuration. Second, Somali-State relations have been strained as skepticisms surrounding state interventions in pastoral affairs and particularly sectoral biases that favor farming and industrial undertakings continue to prevail (see Salih 1990). The state has maintained a frosty attitude and marginalizing tendencies toward pastoral communities and maintains adverse policies toward pastoralism. The perceived threats of Somali nationalism to Kenya's nationhood and territorial integrity coupled with an unfavorable stance on pastoralism and pastoral communities as a burden to the national economy and a threat to its prosperity and security are influential factors in shaping the level of Somali-State relationships and more importantly in determining the position of Kenyan Somalis on the citizenship continuum. Rosaldo's (1994: 402) conceptualization of citizenship along a continuum as opposed to an "either/or" issue provides a useful framework to gain an insight into the contested status of Somali citizenship and the struggles in the public sphere to negotiate for inclusion, recognition, and responsiveness.

The primary product of these tense relationships was the erosion of the rights of the Somali community in the Kenyan state, which was often manifested in a multitude of ways including diminishing rights to quality and accessible education, health, and other social services, state-sponsored terror, wide-spread discrimination, rigid and biased civil registration processes, and trade and travel restrictions. One of the emerging pathways to redress the strained Somali-State relationship and challenge the status quo is the formation of forums that echoed the concerns of the community and agitated for increased recognition as a significant and emerging political block. The Somali Islamic identity provided a sound opportunity, a strong momentum, and an invaluable forum through which the community could engage with the state and the opposition seeking political power through the creation of broad-based alliances with other Muslim communities in the country. The invocation of the Muslim

identity and the creation of a new alliance were aimed at gaining more favorable access to the public sphere and to make a stronger case for increased inclusivity. Together with the Islamic block, the dawn of multi party politics in Kenya presented an opportunity to participate in the public sphere. Thus the agitation to engage and be heard in the public sphere was aimed at constructing a new meaning of the Somali citizenship in Kenya.

### **The rise of Somali nationalism and associated alienation in Kenya**

The significance of the examination of the rise of Somali nationalism of the 1950s and 1960s and the consequent Kenya-Somalia border controversy and the associated *shifita* war is the strong connection of these events with contemporary prejudiced policies and official discrimination that Kenyan Somalis face. The systematic historical and contemporaneous alienation of the Somali began since the rise of Somali nationalism beginning towards the end of the 19<sup>th</sup> century into early 20<sup>th</sup> century. This was around the time of the advent of European colonization and partitioning of Somali-inhabited territories between Western powers and the Ethiopian monarchy. The partitioning of the Somali nation between the British, the French, the Italians, and the Ethiopians was a critical moment in the political history of Somalis in the Horn of Africa. This was swiftly followed by the permanent fragmentation of the Somali key grazing areas, which occurred when the British handed over the Somali-dominated Ogaden in 1948 and Hawd areas in 1954 to Ethiopians. This set in motion one of the most disputed border areas in the Horn of Africa and instantly gave birth to a renewed sense of Somali resistance (Sheik-Abdi 1977; Shultz 1995). The handing over of the Ogaden and the Hawd were the latest in the series of these partitions and had the most sustained protest from Somalis regionally.

The Somali Dervishes leader and a staunch opponent of the British occupation in northern Somalia in particular and the occupation of other forces in southern Somalia, Sayyid Mohammed Abdille Hassan, whom the British derogatorily referred to as the “Mad Mullah” is widely considered as the father of Somali nationalism. Abdille Hassan’s resistance lasted from 1899 to 1920 (Laitin 1979; Sheik-Abdi 1977; Turton 1969). Although his forces could not withstand the British military power, Sheik-Abdi writes that the Sayyid “...is universally regarded as the first true Somali nationalist leader of the modern era” (1977: 659). The rebellion against European rule that began in northern Somalia spread to southern parts of the country with significant effects on the attitude of the colonial administration toward Somalis (Turton 1969). The murder of Jenner, a colonial administrator in Jubaland in 1900 and that one of Lieutenant Elliott at Serenli in 1916 and the raid on the colonial station at Wajir with

the killing of four British officers prompted the British colonial administration to issue a warning that all Somalis, including those residing in Nairobi to be watched for subversive activities (Turton 1969).

The years leading to independence for both Somalia and Kenya were epitomized by intensified Somali political disturbances, which were repeatedly echoed in various means and forums. The growth of nationalistic ideals led to the establishment of political parties, such as the Somaliland National League (SNL) and the Somali Youth League (SYL). The SNL was the oldest political organization in Somaliland and has been in existence periodically since 1935. The party's declared goals were to establish Somali nationalism and get rid of ties to kinship. According to Lewis (1963a), the detailed program of the party included, among other issues, bringing about the unification of the Somali people and Somali territories in the Horn of Africa. The SYL, which was one of the most robust political organizations in Somalia prior to independence, was established in 1943 and became fully organized by 1947. Without overt reference to territorial claims, the SYL's first and most important agenda was the unification of the Somali youth in particular and the rest of the population in general (Lewis 1963a).

The struggle for the unification of all Somali people and territories in the Horn of Africa was anchored on the promise of increased economic and political space and an assurance of the protection of citizenship rights, which lacked in colonial administration of the Somali-inhabited areas in the British territory. These were the basis of the nationalism rhetoric of the years preceding the Somali independence. During the late 1950s and with the approach of independence it became increasingly clear that Somali nationalism based on Somali territorial unity was unstoppable. Although this upset Ethiopia and Kenya, who controlled expansive territories dominated by ethnic Somalis, a new wave of re-unification was emerging forcefully. The Somali post-colonial constitution reflected the new tendency in paragraph 4 of article VI, which stated that "the Somali Republic shall promote by legal and peaceful means the union of Somali territories and encourage solidarity among the peoples of the world, and in particular among African and Islamic peoples" (Lewis 1963a: 151).

It was on the basis of the existing strong Somali identity that the former British Somaliland and the former Italian Somaliland united to form the Republic of Somalia (Lewis 1972). Thus Somali identity, unity, and a sense of common citizenship were obviously anchored on clearly demarcated Somali territories. Lewis notes also that while other newly independent African states were pursuing the policy of internal unification, Somali's ambitious project was dramatically different in the sense that "...the aim was from the first to expand the state so that it fully comprehended the nation: nationhood had already been

achieved and awaited its political fulfillment in a single all-embracing Somali state” (1972: 385). The search for an all-inclusive Somali state was an unwelcome idea for the Kenyan authorities and had to be quashed at all costs and by adoption of all means.

The Kenya-Somalia border dispute was one of the earliest post colonial border controversies and presented an unprecedented challenge for the newly independent states and for the continental body, the former Organization of African Union (OAU). The dispute also became a subject of intense interest by scholars (e.g. Adar 1994; Drysdale 1964; Kromm 1967; Lewis 1963b; Mburu 2005). For example, Drysdale (1964: 8) quotes the Somali Prime Minister (PM), Dr. Abdirashid Ali Sharmarke in a Somali government publication titled “The Somali Peninsula: A New Light on Imperial Motives,” published in London in 1962, that:

“...our misfortune is that our neighbouring countries, with whom, like the rest of Africa, we seek to promote constructive and harmonious relations, are not our neighbours. Our neighbours are our Somali kinsmen whose citizenship has been falsified by indiscriminate boundary ‘arrangements.’ They have to move across artificial frontiers to their pasture lands. They occupy the same terrain and pursue the same pastoral economy as ourselves. We speak the same language. We share the same creed, the same culture and the same traditions. How can we regard our brothers as foreigners?”

From the Somali Prime Minister, demanding to incorporate Somalis on the Kenyan territories into the Republic of Somalia was not only a moral obligation, but also one that sought to recognize and promote cultural citizenship. The PM’s articulation of pastoral resource access issues was a strong argument in the direction of the call for Somali unity. The overwhelming support in favor of joining the Republic of Somalia after the British quit the former Northern Frontier District (NFD) by non-Somali Muslims, such as the Sakuye, Isiolo Boran, and the Rendile was indicative of pastoralism and Islam as strong unifying factors in the prevailing political circumstances. As will be demonstrated later, it was and continues to be because of the practice of pastoralism as a way of life and a source of livelihood that Kenyan leaders detested and the government continued to subdue and alienate northern and northeastern (N&NE) pastoral populations. On the other hand, it was through the unifying factor of being Muslims and invocation of the Muslim identity that these groups have formed an alliance with other Muslim groups in the country to seek a redefinition of their citizenship status in the era of competitive and relatively open Kenyan politics. While Somali leaders

believed their role as protectors and guarantors of the rights of all Somali populations in the Horn of Africa irrespective of the flags under which they lived, Kenyan leaders perceived of Somali demands as an outright act of aggression on its territorial integrity. Indeed, the absence of the clause on territorial claim in the SYL agenda was not accidental because the overarching objective of seeking the unity of all Somalis in the region was to create a cohesive community with lesser emphasis on territoriality (see Drysdale 1964).

The British blunder in handling the Somali issue in the Horn of Africa in general and the NFD in particular was two fold. First, to reiterate, was the partitioning of the Somali nation among European powers, the British included, and the Ethiopians. Second, the British conducted a referendum in the NFD regarding the political future of the inhabitants of the area. The failure on the part of the British administration to approve the results of the referendum held in 1962 under its auspices, which indicated that an overwhelming majority of the residents, Somalis and non-Somalis, indicated a strong desire to join the Somali Republic, led to serious Somali betrayal and increased disturbances along the border. Its ramifications were widespread political and economic destabilization in the province. Schlee notes that:

To hold a referendum and then to act contrary to its results was asking for trouble: trouble not for the British who withdrew but for the Kenyans who took over. Because of the referendum central Kenyans knew exactly what to think about the northern Kenyan and war was the immediate result. Guerilla actions of varying intensity flared throughout the decade (1994: 51).

The results of the referendum and the associated war created a deep mistrust and suspicion between the Kenyan government and “...everybody who lived as a nomad” (Schlee 1994: 51). The newly established post colonial Kenyan state threw a *cordon sanitaire* around N&NE territories of the country the same way the colonial government did with effects that social, economic, cultural, and political activities were seriously curtailed and human rights abuses intensified. This became the beginning of a bitter resistance war whose consequences were disastrous and extensive. It was also a major turning point in the pastoralists-state relations as will be shown later. In one of the most bizarre, irresponsible, and unresponsive actions, the state gunned down Sakuye camels in thousands decimating a community’s only and most crucial source of livelihood and cultural heritage with the result that this community has not recovered until today. Several Sakuye households have become destitute having abandoned pastoralism altogether to live in shanties around Isiolo and Moyale towns (Schlee

1994). Livestock populations were devastated throughout the pastoral province, particularly in Isiolo and Garissa Districts. Quoting a UNDP/FAO report of 1971<sup>1</sup>, (Hogg 1986: 322) states that camel population declined from 200,000 to a meager 6,000, representing a 95 percent loss, the small stock population shrunk from an estimated 500,000 to 38,000 (over 90 percent loss), while the cattle population loss was about 7 percent, from 150,000 to 140,000 between 1963 and 1970. According to Merryman and Merryman,<sup>2</sup> also quoted in Hogg (1986: 322), the loss that the members of the “First Farm,” an irrigated farmers’ association in Garissa, incurred as a result of the war was on average 93.3, 68.4, 82.2 percent of their camels, cattle, and small stock, respectively.

Although pastoralists in northern Kenya had been restricted from owning shops and engaging in livestock trading activities prior to the Second World War (WWII), the British colonial administration relaxed this control during and after the WWII). The result was an impressive expansion in pastoral livestock sales and by the 1950s Garba Tulla in Isiolo District had emerged as a livestock auction center for the NFD. Surprisingly, the extensive pastoral push into poverty occurred in the 1960s and 1970s in post colonial Kenya. According to Hogg (1986), drought and the war were the main causes of the misfortune. Although droughts were a natural phenomenon beyond the capacity of local pastoralists to prevent their occurrence and the war originating both from internal and external factors, the state played a leading role in producing generations of paupers among pastoral communities in N&NE parts of the country through what is obviously negligence and prejudiced policies.

Another outcome of the war and a source of pastoral disenfranchisement through state-sponsored repression was the Meru invasion of Isiolo District following the killing and forceful expulsion of the surviving local Boran and Somali pro-secessionists in 1969. The Tigania people of the larger Meru group took over the economic activities of the town following the direction of one of their politicians. Kenyan troops killed and in other instances removed livestock from the district, which adversely affected livestock trade in the area (Hjort 1974).

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<sup>1</sup> UNDP/FAO, *Range Development in Isiolo District* United Nations Development Program, Rangeland Surveys Kenya, UNFAO, AGP: SF/KEN11, Working Paper no. 9, Nairobi.

<sup>2</sup> J.L. Merryman and N.H. Merryman, *The Potential for Agricultural Development in a Pastoral Society: a Sociological Study of the Peoples of the Garissa District*, Report no. 6. Nairobi: Ministry of Co-operative Development, 27.

## **Pastoralist-State tensions**

Salih argues that misconceptions and misunderstandings in the pastoralists-state relationships are key issues in the breakdown in communication between the two parties. He further asserts that pastoralists-state interactions are based on exploitative relationships in which African pastoralists continue to support states through taxes and other forms of rates while their North American counterparts receive state support to sustain production (see Hogg 1997; Salih 1990). For N&NE pastoral communities, the Kenyatta, Moi, and Kibaki administrations have not been any better in a meaningful way. The standards of education, social services, human and animal health and security are at their worst in comparison to the rest of the country. Insecurity is the single most obvious risk to pastoral survival (Baxter 2001), which amazingly has not featured prominently on the state list of priorities. Thus the residents of N&NE Kenya have been compelled to learn how to live with it since the era of the colonial administration. While some analysts state that pastoralists are no respecters of state borders, it is indeed state borders that are no respecters of pastoralists as pastoralists were the first on the scene before current state borders were crafted.

The following sections highlight the pastoralists-state interactions since independence with a focus on successive Kenyan administrations and policies toward the inhabitants of the former NFD. The analysis presented here lends support to the widespread perception of institutional weaknesses, lack of responsibility, and gross oversight on the part of the state.

### ***The Northeastern Province and the Kenyatta Administration***

The consequences of the deep mistrust, suspicions, and authoritarianism that emerged as a result of the bitter war between the former NFD residents, supported by the Republic of Somalia, and the Kenyan state were expressed in a multiple of ways. The key areas of intervention in welfare and livelihood enhancement, such as human and animal health, education, water, and roads were severely curtailed by Kenya leading to serious disruption and impairment to the local cultural, economic, and social order. Campaigns against diseases and poverty formed the basis of the initial development agenda of the new state when the then Prime Minister Kenyatta outlined his manifesto to address these issues throughout the country (Sunday Nation of June 2, 1963, cited in Maxon (1995). For Kenya and, by extension, African countries the centrality of education was duly recognized in the formative years of young post colonial states and was widely viewed as an agent of social change and development (see Anderson 1965; Maxon 1995).

Anderson (1965: 203) notes that education and politics were intricately related in the African post colonial context and thus “[t]he national government, by keeping a tight control over the educational system of the country, can thus control the direction in which social change is likely to take place.” This partly explains the normative outcomes of failed educational system in N&NE Kenya. It is also one of the aspects and products of the difficult pastoral-state relationship. The Coast and Northeastern Provinces registered the smallest percentage of primary and secondary school student enrollment and remained in that position between 1966 and 1978. Using the Ministry of Education data, Närman (1990: 113) argues that the national figure for the percentage of adults over 20 years of age enrolled in formal education in 1969 was about 30 percent, far above those for selected pastoral districts, such as Garissa (3 percent), Isiolo (12 percent), Mandera (1 percent), Marsabit (6 percent), Samburu (4 percent), Turkana (12 percent)<sup>3</sup>, and Wajir (4 percent). Ten years later in 1979 the national average of enrollment in formal education for the same cohort of people had increased to about 50 percent while those for the N&NE districts failed to record significant improvements, e.g. Garissa was 7 percent, Mandera (4 percent), Marsabit (7 percent), Samburu (10 percent), Turkana (6 percent), and Wajir (4 percent) (Närman 1990: 113-4). The gap in educational opportunities between pastoral communities and the rest of the country continued to widen as the country’s access to education improved while those of pastoral districts showed constrained expansion.

Inevitably, as will be demonstrated later, these two provinces joined opposition provinces of the Rift Valley, Nyanza, and Western in their quest to vote Kibaki out of office because of the continuation of the Kenyatta legacy of concentrating the economic and political power in Central Province. The lack of remedying provincial disparities in the first 15 years of the country’s independence remained one of the heavy criticisms of the educational system in Kenya (Maxon 1995). Similarly, hospitals, hospital beds, physicians, nurses, and other health facilities and provisions were unevenly distributed. Indeed, Coast and Northeastern Provinces registered a decrease in the percentage of hospitals between 1966 and 1979 while the highly endowed province in the country, Central, increased its share of hospitals from 6 to 21 percent of the total during the same period (Maxon 1995: 135). Thus the center continued to register improved health and raised life expectancy while pastoral peripheries continued to tread miserably.

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<sup>3</sup> Närman casts serious doubts on the accuracy of the Turkana figure.

The first 15 years of Kenya's independence did not help the Northeastern Province attain improved education and health standards that matched any of the provinces in the republic. The 1960s deplorable position of the Northeastern Province was explicable because of the irredentist war and the general insecurity in the frontier province. But it is difficult to explain the dwindling educational, health, and general social welfare provision in the 1970s and thereafter. But Maxon's (1995: 136) optimism that "...a better-educated and healthier population would facilitate more rapid development" appears to be more relevant to the properly Kenyan citizens who were enjoying the "fruits" of independence. With regard to the pastoral inhabitants of Kenya's northern and northeastern territories it appears that the state embraced a rather more pessimistic position because a better-educated and healthier N&NE pastoral population would turn staunch Somali nationalists who would unleash a more complicated and sustained irredentist agenda to which the Kenyan government had to take every conceivable precaution. Although the processes of differentiation that intensified during the Kenyatta administration have its roots and architects in the colonial government, the former pursued similar policies, which produced a more categorized society. The state's justification for adopting adverse policies toward the N&NE residents lied in the latter's secessionist and "subversive" political activities.

### ***The Moi Administration and the growing instability in NEP***

Economic decline plagued the first decade of Moi's presidency (Haugerud 1995; Maxon and Ndege 1995; Throup 1993). Political disturbances were the consequences of dismal performance of the economy and "patronage politics." The associated conflicts had escalated as ethnic blocks fiercely competed for access to the dwindling education, health, and other social services (Haugerud 1995). Indeed, since Moi came to power in 1978 "[t]he state became more authoritarian, dissent was stifled and political power became increasingly focused on specific ethnic groups" (Throup and Hornsby 1998: 26). Moreover, individual freedoms had been eroded, the judiciary had become increasingly under state control, and the functioning of non-governmental institutions and the electoral processes had adversely been manipulated (Throup 1993). Increasing economic and political uncertainty in the country signified tougher times for the already battered pastoral province. The 1980s and 1990s were particularly difficult times for the residents of N&NE Kenya as Moi government clamped down on political opponents resulting in widespread human rights abuses. In relation to the state's brutal treatment of the northeastern pastoral populations, the Kenya Human Rights Commission (KHRC) writes:

“On March 12, 1998, Kenyan security forces ostensibly on a security operation rounded up 38 residents of Mbalambala in North Eastern Kenya and subjected them to horrifying torture. The 38 were arrested following the killing of a police officer in a banditry attack. There is nothing accidental about the manner in which the torture was carried out. People were stripped naked, tear-gassed, kicked and viciously whipped. They were hung by the hands from trees leading to paralysis of the arms and subjected to the most vile and undignified treatment” (Kenya Human Rights Commission 1998: 1).

The commonality between Kenyatta and Moi administrations regarding the former NFD was sanctioning of extensive police brutality and persistent state violation of human rights, which continued unabated. The colonial administration used the emergency rule to curtail African political activism, but both Kenyatta and Moi used this provision against their political opponents and regions perceived as disloyal to the regimes. The emergency rule “...was used to stymie political opposition because under its provisions the Government could detain anyone for long periods without a trial” (Ross 1992: 423-4). Both leaders used these rules against the residents of N&NE Kenya for the latter’s agitation for secession to join Somalia in the 1960s and perceived continuing hostility to the Kenyan state. The emergency rule in the province was upheld from 1968 to 1991 (Kenya Human Rights Commission 1998).

In its lengthy report about the deterioration in pastoralists-state relationships in N&NE Kenya, the KHRC provides an analysis of detailed schemes of torture, harassment, and killings of residents at the hands of state agents. According to the Commission, the government uses the Kenya Police, the Kenya Army, the Administration Police and the armed unit of the Kenya Wildlife Services to torture its own citizens in Moyale and Marsabit Districts. These agents pressure residents to provide information on banditry activities and demand the surrender of arms in possession of civilian populations. While the police use the crudest and most cruel ways to compel people to reveal their links with bandits and banditry activities and give up their guns, there must be a certain level of acceptable civility in dealing with such matters. In one of the incidents reported in KHRC report, a victim’s narrative of torture and harassment in Marsabit District went as follows:

Torture is very rampant here. We do not know our rights. We fear revealing our experiences because we know we will be victimized. We are surprised that the government allows the security forces to torture us with impunity because

this district stood solidly behind the Kenya African National Union (KANU) in the last elections (Kenya Human Rights Commission 1998: 142).

Since these incidents are allegedly committed by locally-based government agents, senior security officials in Nairobi must be aware of the atrocities being perpetrated in pastoral areas on what residents appear to believe to be flimsy excuses. It still remains the case for the police to kill, investigate, give report and be the judge in the same case. These incidents have occurred and continue to occur in the pastoral north and northeastern under the very eyes and ears of the provincial administration, which is responsible for not only keeping peace and order, but also protecting citizenship rights of the residents in these areas.

### ***Kibaki's oversights and official biases to pastoral massacres***

The Kibaki government, which came to power in a landslide victory of the opposition in 2002, did not embark on major policy shifts in regard to safeguarding citizenship rights and improvement in the provision and adjustments to the general welfare of N&NE pastoral territories. In addition to the extension of the status quo, the Kibaki Administration maintained a detached attitude toward the region. Far from addressing the perennial security and livelihood issues affecting pastoral residents of the region, large scale tragedies, such as the Turbi massacre, received the least sympathy and urgency from the state. The Turbi raid, which occurred on July 12, 2005, was a major post-Moi massacre in the pastoral areas of the country occurring in an unprecedented scale and execution. It was widely expected that it would be a wake-up call for the newly elected national leaders to take a decisive step to end the cruelty in the pastoral N&NE insecure borderlands. It was also highly expected that the President would lead the nation not only in mourning the deaths of several Kenyans, including school children, and loss of property, but also to show solidarity in times of bereavement. It was also anticipated that a campaign would be initiated in the area and the entire north to reign in a new era of peace and prosperity. This did not happen and instead the Minister for Internal Security was flown to the scene of the massacre for a few hours for the usual "fact-finding mission." The absence of the Head of State on the scene was conspicuous given the gravity of the situation and the urgent need to find a lasting solution to pastoral conflicts. But when a building under construction collapsed in Nairobi on January 23, 2006, about six months after the Turbi killings, President Kibaki returned home immediately from the African Union Summit in Sudan and headed straight to the scene of the disaster (The East African Standard 2006a).

Comparative death tolls indicated that while 76 people were killed in the Turbi raid including 22 school children, 14 people died in the collapsed building in Nairobi, but state responses and mobilization were phenomenally different in regard to both cases. Responding to the collapsed building, the then Minister for Health, Charity Ngilu said “I want to assure the nation that everything is under control and there is no cause for alarm.” She went on and declared that “...medical staff had been mobilized and doctors recalled from leave.” The Minister said also that hospitals would be receiving more medicine from the Kenya Medical Supplies Agency (The East African Standard 2006b). With all due respect for the deaths in Nairobi, it received overwhelming responses from the country’s leaders, including the president, and comparatively larger state resources were mobilized in the rescue efforts although the magnitude of the Turbi killings and Nairobi building disasters differed a great deal. With increasing tendency for state apathy and continued policy of exclusion and marginalization, pastoral communities in Kenya’s N&NE frontiers are being denied their citizenship rights of protection and the right to live and work in a peaceful environment in which social and economic progress could be accomplished. The Kibaki Administration performed miserably in the upholding of peace and improvement of pastoral livelihoods in the N&NE territories. Kibaki’s reaction to Turbi massacre was the most intriguing and exposed his regime to massive opposition in not only N&NE pastoral territories, but also among the majority of pastoral populations nationwide when he sought re-election in 2007. The Turbi incident and others similar to it support the perception of the existence of a “citizenship continuum” in Kenya particularly with regard to nomadic communities.

### **Overcoming exclusionary and discriminatory politics: negotiating citizenship through the public sphere**

The influential work of Jürgen Habermas on the conceptualization of the public sphere (Oeffentlichkeit) was aimed at the transformation of the deteriorating political and social conditions at the time of Habermas’ writing (Hohendahl and Russian 1974). In his argument about the public sphere, Habermas maintains a positive orientation to action and optimism (Calhoun 2000) and an ideal democratic environment with an emphasis on inclusiveness. The public sphere is a vital site through which citizens claim and negotiate to secure their rights. Pakulski argues that asymmetries between claimed and delivered rights are not unusual. He further asserts that citizenship rights in developed democracies continue to dominate the public sphere and scholarly debates to include the rights of the “...aged, disabled, children,

refugees, homosexuals...” and beyond the “social sphere” to include the rights of “animals and eco-systems” (Pakulski 1997: 77). For Calhoun:

“The issue of ‘democratic inclusiveness’ is not just a quantitative matter of the scale of a public sphere or the proportion of the members of a political community who may speak within it. While it is clearly a matter of stratification and boundaries (for example, openness to the propertyless, the uneducated, women, or immigrants), it is also a matter of how the public sphere incorporates and recognizes the diversity of identities which people bring to it from their manifold involvements in civil society” (2000: 531).

The Kenyan case demonstrates that the sanctioning and protection of citizenship rights across all communities are still in their formative years or entirely lacking or in some cases deliberately inhibited because of historical and political issues. Citizenship rights are greatly infringed upon in the latter cases to dehumanizing and critical levels. Indeed, commenting on the government’s recent intense public debate and overwhelming interest in the Mau Forest settlement controversy, a senior member of the Muslim community commented that “[t]he government is engrossed in fighting for Mau forest while our rights continue to be subdued. We are treated as second class citizens that even trees are prioritised over our rights” (The Friday Bulletin, [www.islamkenya.com](http://www.islamkenya.com)). The public sphere is an imperative forum through which citizenship rights are openly negotiated, contested, debated, and redress sought. Particularly, the public sphere has become a vital space for seeking citizenship rights among the Somali population since the reintroduction of multi party politics in Kenya.

Guidry and Sawyer (2003) argue that marginalized groups’ increased interactions with one another and with political leaders and policy makers are important tools for policy improvements and have great potential for changing the direction of dominant perceptions. According to this view engaging the state or those in authority is one of the pathways to achieving a desirable result in one’s favor. Pastoralists’ agenda in general and that of the residents of N&NE Kenya in particular has seldom been in the public sphere to the extent of actively engaging state authorities. This does not, however, imply that pastoralist issues have not been raised in public, only that they have not been regarded as serious matters in the public domain.

The 2007 general elections presented an immense opportunity for reshaping of the country’s political landscape thus profound political realignments were inevitable. Intense

political competition ensued for the most part of 2007, especially running up to the general elections later in the year. As this was regarded as one of the toughest presidential and parliamentary races in the Kenyan post colonial history, every province, every district, every conceivable community, and every vote counted. Thus the N&NE Kenya received increased attention never anticipated in the past. Promises, political rhetoric, frequent luminary visits, and crisscrossing choppers over the barren expanse were overwhelming.

A major political party, the Orange Democratic Movement (ODM), appealed for Muslim votes and campaigned hard among Muslim voting block in general and the N&NE residents in particular to support its candidate, Raila Odinga, for the presidency. Muslims, through the National Muslim Leaders' Forum (NAMLEF) promised to mobilize Muslim voters throughout the country to vote as a block for the ODM candidate while the latter was expected to reward Muslims with key government appointments and most importantly redress thorny issues of the community's marginalization from the main stream economic and political arenas, including citizenship issues. NAMLEF is a relatively new organization whose general objectives include safeguarding the rights of Kenya Muslims. The organization opened its secretariat in Nairobi on November 5, 2008 in which ODM luminaries including its presidential candidate and leading opposition figure, Raila Odinga attended the launch of the organization. NAMLEF and ODM presidential candidate, Raila Odinga, signed a memorandum of understanding (MoU) on August 29, 2007. The signing of the agreement appeared to be one of the most publicized Muslim-State engagements in the country's political history and it was a significant departure from the customary vote-hunting trips and verbal commitments that political leaders made to Muslim and pastoral populations.

The ODM-NAMLEF-N&NE residents pact is of particular interest as they engaged each other in a non-customary space – the public arena and through the tools of the mass media. The role of the mass media is critical as it links public events with the public sphere (Oliver and Myers 1999). The communicative tools of the media were exploited as the MoU was made public attracting both criticisms and commendations. On November 27, 2007, NAMLEF called an international press conference in Nairobi to put the MoU in the public domain. The key issues agreed upon were disclosed ending months of speculations and controversies surrounding the document. It was a six-point document that outlined the agreements between the parties. It stated in part:

“...this MoU is made to secure and cement solidarity and partnership between Honorable Raila Odinga and Namlef constituency based on values of mutual

trust, honesty, integrity, transparency and good governance....This MoU is made in utmost good faith and trust between Honorable Raila Odinga and Namlef with the common objective of transforming our country Kenya into a proud, prosperous and just nation, where all Kenyans live in harmony realising their full potential without discrimination, subjugation or fear” (Agina 2007).

The NAMLEF Chairman, Abdillahi Abdi stated that “the intention and objective (of signing the MoU) was to safeguard the interests and welfare of a section of the Kenyan community (Muslims) that has undergone atrocities over the last 44 years” (Namunane 2007). Although the Kenyan media portrayed the document as nothing more than an agreement between a section of the society who believed to have been locked out of the mainstream economic, social, and political arenas for decades and a major political party whose manifesto had clearly outlined remedying the politics of marginalization, exclusion, and oppression of minority groups upon coming to power, it was a symbolic breakthrough for Muslims in general and the residents of N&NE Kenya in particular.

In addition to engaging the opposition with the MoU, NAMLEF continued to pressure the government to act on Muslim demands for equitable citizenship rights. NAMLEF heavily censured the government for human rights violations against Muslims, particularly Muslim renditions to Ethiopia, Somalia, and Guantanamo Bay, Cuba, which was heavily publicized, yet kept secret under persistent denials by the government. NAMLEF had at its disposal several outlets through which the Muslim public could be informed of what the stakes were in the impending presidential elections. Friday Sermons at the Jamia Mosque in Nairobi in which thousands of Muslim men and women are reached provided a public forum for interactions between Muslims themselves and Muslims and the media. The Mosque is located in downtown Nairobi, a locality that is easily accessible to Muslims on business trips to the capital and those on family visits. The contents of these sermons are easily transmitted to rural Muslim populations.

The Friday Bulletin, which is a weekly bulletin of news, is published by Jamia Mosque Committee. It deals with Muslim related issues in its coverage. The Pamphlets are distributed for free in most major towns of the country after the Friday prayers. While its contents are generally on national Muslim issues, it intensified its political coverage prior to the 2007 general elections.

Cellular phone usage has dramatically increased in Kenya in the past few years. These services are fully available in far-flung pastoral towns and villages, such as Bute, Elwak,

Mandera, Marsabit, Moyale, and Wajir in northern and northeastern Kenya. They have become useful communication kits for business people as valuable means to obtain information from the rest of the country, and connect with friends and family. The use of text messaging was one of the ways to reach these often inaccessible territories during the campaign season. Several campaign messages were sent to thousands of the residents of N&NE areas to inform them of the stakes in the 2007 elections and how they were expected to vote. One of the messages that were sent around to thousands of people had the following message:

“We support the National Muslim Leaders Forum’s stand to vote out this government for mistreating Muslims. Muslims need 25 percent of representation in next government. NAMLEF seeks to better the position of Muslims in Kenya by demanding our rights through ongoing negotiations with Raila’s ODM. Please send to ten Muslims.” (message was sent on August 29, 2007). (Edited slightly for clarity).

Seeking increased representation in the new political dispensation has become one of the overarching objectives of the Kenyan Somalis. Using Islamic forums to negotiate for increased political space for the community provides more leverage than using the Somali or pastoral path. Muslims, though a minority group in Kenya, are well represented through out the country, with significant populations in Northeastern Kenya, Coast Province, Upper Eastern Province, Nairobi area, and in major urban centers, such as Nakuru, Kisumu, and Eldoret. Several Muslim organizations have been agitating for a more solid and inclusive policies since the reintroduction of multi-party politics in the country in late 1991, but NAMLEF initiatives and thrust into the Kenyan public sphere and the resolve to engage the government and the opposition overtly had taken many by surprise including the government itself.

### **The government too takes to the public sphere**

The government would not sit back and watch helplessly as cultural, economic, social, and political issues affecting minority groups were being debated in the public sphere and at a time when it faced an uphill task to challenge the opposition surge that was out to mobilize minority votes in its favor. The government appeared keen to appease Muslim groups and particularly inform the Somalis that they were widely included in the government structure

than the opposition was trying to portray. The government sought to actively involve the Muslim population in public debates regarding the wider citizenry issues affecting the community.

The Muslim-State exchange through the public sphere produced two significant results. First, the government hastily made public announcements of a few Muslim appointments to the government in what appeared to be a belated damage control and win-Muslim-votes effort. Most important, the government responded by setting up a body called the Presidential Special Action Committee on October 15, 2007 to investigate general Muslim concerns and find out clues to the deteriorating Muslim-State relations. The specific mandate of the Committee included the documentation of individual complaints of the Muslim community with regard to harassment in law enforcement procedures and discrimination in accessing public services, travel restrictions and unnecessary delays at airports to Muslims traveling out of and into the country, review public service delivery regulations and procedures and how it impacted on the Muslim community, and make policy recommendations geared toward necessary reforms and improvements of service delivery to address anomalies pertaining to asymmetrical treatment of Muslims in the country (The Friday Bulletin, [www.islamkenya.com](http://www.islamkenya.com)).

The commissioning and composition of the committee was not unintentional. The committee was created at a time when Kibaki Administration was most feeble and vulnerable because of a strong and widespread national opposition and a growing Muslim frustration with regard to renditions and decades old official discrimination. The appointments of A.M.H. Sharawe (a Somali man) and Amina Mohammed (a Somali woman) as Chairman and Secretary of the Committee, respectively, were not totally unexpected. First, NAMLEF Chairman, Abdillahi Abdi, is a Somali, which sent a strong message to the administration that all was not well in the Somali voting block, which was customarily associated with voting in favor of the government. Second and most important, Somali positions at the helm of the Presidential Committee were in part to counter the growing popularity and nationwide pressure that NAMLEF continued to exert on Muslims generally and the N&NE Kenya residents in particular to support the ODM. In this equation, Somalis formed the majority of the Kenyan Muslim population. The administration feared also that the promises of an ODM government to create more political and economic spaces and ensure increased Muslim participation in public affairs sent shockwaves across the Kibaki campaign teams. Indeed, Mr. Odinga had repeatedly promised to redress injustices inflicted upon the Muslim and N&NE Kenya populations once he ascended to power.

The Presidential Committee started its public hearings on November 5, 2007, less than two months to the general elections, at the Kenyatta International Conference Center (KICC) where its secretariat was also based. Other towns on the team's itinerary were Mombasa and Garissa in that order and were assigned two days of hearings because of the expected large number of people who would want to present their views, concerns, and recommendations. Other towns visited were Kisumu, Kakamega, Eldoret, Nakuru, Nyeri, and Isiolo each for a day. A total of nine towns were visited in 12 days. According to a Muslim Nominated Member of Parliament, Amina Abdallah, the committee had completed its task of collating the views of Muslims and residents of N&NE Kenya and made recommendations on policy reviews according to its mandate and presented its findings to the Head of the Public Service, Mr. Francis Muthaura on March 31, 2008. The MP told parliament that the report has not made it to Kibaki and that no actions have been taken so far (The East African Standard 2008). Nonetheless, the outcome of the interactions between Muslims, of whom the N&NE residents make a significant component, and the state has continued to dominate the public sphere both in the pre- and post-2007 general elections and will continue to do so in the foreseeable future.

## **Conclusions**

A multiple of factors shape the State-N&NE Kenya relations. First, Kenya's perception of its N&NE pastoral population is shaped by the experiences of the past nationalistic ideals and the fear of future uprising. Second is the notion of the northern and northeastern pastoral populations as a community of people wandering across the international borders with little regard for the rule of law and responsible for environmental damage in the arid and semi arid areas that they occupy. Third, these groups of pastoralists are viewed as people who have refused to embrace "development and change," a view that has dominated and continued to shape the Somali-State interactions since independence. Thus these myths have persistently continued to feed into and inform the repressive, authoritarian, and exclusionary state policies. These relations and arguments outlined help explain the existence of a continuum of citizenship in Kenya with regard to and experiences of the residents of northern and northeastern parts of the country.

The N&NE Kenya is least known by other Kenyans and seldom features in the national economic and political debates. The region often appears in the public domain for the wrong reasons, such as banditry and mass killings in ethnic conflicts, transit area for weapons,

and droughts and famine. The public perception of the territories is constructed around the above mentioned issues which is not radically divergent from the views of policy makers.

Increased involvement in the public sphere for these residents and other Muslim populations in Kenya are indicative of a strengthening democratization process and widening of democratic spaces nationally. It appears that as the government is pressured to uphold accountability and equity positive outcomes are within reach of achievement as exclusionary and marginalizing practices are minimized. However, the public sphere in which Somalis have now found a forum to interact with the state and challenge the status quo is not in itself the end, but a means to democratization and a more meaningful future engagement (see Rosaldo 2003). State response to public demands and pressure is swifter than many had anticipated since Kenya's independence. Referring to the expansion of citizens' rights in quantitative terms in the work of Stuart Hall and David Held<sup>4</sup>, Rosaldo (2003) explores a new aspect in these changes in what he refers to as "qualitative shift" in citizenship rights. He identifies two changes. The first is resource redistribution which encompasses the struggle for economic equality, while the second change refers to "recognition and responsiveness," which includes attention to and appreciation of the rights of the less visible in the society. The argument presented in this paper demonstrates a struggle toward, not realization of, qualitative changes in citizenship rights in Kenya. The full realization of these shifts would involve the provision of equitable resources for N&NE pastoral areas to recognition and appreciation of the way of life of nomadic and border communities.

This paper has demonstrated how the perception of pastoral communities in the N&NE borderlands as peripheral populations has been countered with a sustained political activism in the public sphere. Addressing Somali, Muslim, and pastoral matters in the public arena to an audience seeking the highest political office in the country is a demonstration of assertiveness and high stakes in the pastoralists-state relationships. This also demonstrates the strengthening aspirations of northern and northeastern pastoral groups in general to belong and become a participating public as opposed to second-class citizens. It is suggested that the government create policies that are more accommodative, inclusionary, and responsive to the needs and aspirations of the residents of N&NE Kenya to facilitate full integration of the area and its people in the national social, economic, and political arenas.

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<sup>4</sup> Hall, Stuart and Held, David. 1990. "Citizens and Citizenship." In Stuart Hall and Martin Jacques (eds.), *New Times: The Changing Face of Politics in the 1990s*. London: Verso, pp. 173-88.

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