

IWGIA REPORT ON THE TANZANIA UPR PROCESS

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October 2011

Introduction

On the 3rd October 2011 the United Republic of Tanzania was for the first time reviewed under the Universal Periodic Review (UPR) of the UN Human Rights Council. IWGIA has in collaboration with the Dutch organizations Justice and Peace and Cordaid supported indigenous peoples in Tanzania to prepare for the UPR process, undertake prior lobbying in Geneva and participate in the UPR review in Geneva.

Preparatory process in Tanzania

As preparation for the UPR process, indigenous peoples in Tanzania organized a stakeholder meeting in March 2011 that was financially supported by IWGIA and in which Margot Stroeken from Justice and Peace participated. The meeting was organized by Pingos Forum in collaboration with the Pastoralist Livelihood Task Force. The stakeholder meeting gathered representatives of more than 20 pastoralist and hunter-gatherer organizations in Tanzania. The meeting formed a stakeholder coalition of pastoralists and hunter/gatherers, and this coalition produced a UPR stakeholder report that was formally submitted to the UN Office of the High Commissioner for Human Rights (OHCHR), and which became part of the formal background documents to the UPR review (see Annex 1 for the Stakeholder Report).

The stakeholder coalition further produced a summary version of the Stakeholder Report (see Annex 2) as well as an advocacy charter (see Annex 3).

The Stakeholder Report, the summary version and the advocacy charter were sent by e-mail to a large number of Permanent Missions in Geneva and to the Ministries of Foreign Affairs of Denmark, Norway, Finland and Holland (see Annex 4 for the distribution list), and all of the Permanent Missions contacted were urged to raise the issue of violations of indigenous peoples' rights during the UPR examination of Tanzania.

The indigenous peoples' stakeholder coalition also had dialogue with other stakeholder coalitions in Tanzania working on the UPR process, and they managed to a certain extent to make such coalitions include the aspect of indigenous peoples' rights. In the "Tanzania Stakeholders Human Rights Advocacy Charter" - that raises a wide range of human rights violations taking place in Tanzania - the issue of unlawful evictions of indigenous peoples and destruction of their property is included, and recommendations are made on recognition and legal protection of indigenous peoples, protection of their land rights, implementation of the recommendations of the UN Special rapporteur on indigenous peoples and ratification of the ILO Convention 169.

Prior lobbying in Geneva

A group of people (representatives of the stakeholder coalition of pastoralists and hunter gatherers) were supported to come to Geneva and carry out lobbying of Permanent Missions to ensure that the issue of indigenous peoples' rights would be raised during the UPR review. The following people were in Geneva and carried out lobbying prior to the UPR review (1-2 weeks before the UPR review took place):

- Adam Ole Mwarabu, PAICODEO
- Lilian Looloitai, CORDS
- Edward Loure ole Parmelo, UCRT
- Edward Porokwa, PINGOs Forum

These representatives collaborated with /were assisted by Lola Garcia-Alix (IWGIA) and Margot Stroeken (Peace and Justice) during the lobbying.

This group met with a number of Permanent Missions including: Cameroon, Congo Brazzaville, Senegal, South Africa, Kenya, Benin, Denmark, Norway, Finland, the Netherlands, France, Germany, Poland, Switzerland, Austria, United Kingdom, the Holy See, the Philippines, Mexico, Guatemala, Bolivia, Brazil, Canada and New Zealand. The background documents (Stakeholder Report, summary version and advocacy charter) and a video film on indigenous peoples in Africa produced by the African Commission on Human and Peoples' Rights (ACHPR) and IWGIA were given to all of these countries.

The group also met with the UN Special Rapporteur on the Rights of Indigenous Peoples, Mr. James Anaya.

The lobby work in week 38 was done by Adam Ole Mwarabu, Lilian Looloitai, Edward Loure ole Parmelo, Lola Garcia-Alix and Margot Stroeken, and they produced an outcome charter that outlined the lobbying it had done and the responses they had received. In week 39 Edward Porokwa took over the lobbying using the outcome charter as a point of departure.



Adam Ole Mwarabu, Edward Loure ole Parmelo and Lilian Looloitai during lobby work in Geneva.

UPR review

Tanzania's UPR report was presented by the Minister of State and Good Governance Mathias Chikawe, and he headed a big Tanzanian government delegation.

Three representatives of the stakeholder coalition participated in the UPR review of Tanzania:

- Ndinini Kimesera, (MWEDO)

- Edward Letaika, UCRT
- Edward Porokwa, PINGOs Forum

Further Marianne Wiben Jensen (IWGIA) and Margot Stroeken (Peace and Justice) participated.

During the UPR examination nine countries raised questions/made recommendations on the issue of rights of indigenous peoples and/or pastoralists. These were:

- Finland
- Denmark
- Norway
- The Netherlands
- Poland
- Latvia
- Nepal
- South Africa
- Mexico

Denmark and Finland were the two countries with the strongest focus on indigenous peoples' rights (see Annex 5 and 6 for their statements)

After the UPR examination the government of Tanzania responded to some of the many issues raised, but did not make comments to the issue of indigenous peoples' rights. Before the UPR examination started, the government of Tanzania responded to some questions that had been submitted in advance, among those a question advanced by Denmark on indigenous peoples' rights ("What steps has Tanzania taken towards adopting legislative measures to address the specific rights of indigenous peoples?"). To this the government of Tanzania responded: 24. "Concerning the issue of indigenous peoples in Tanzania, there is no consensus definition of indigenous peoples in Tanzania generally. All ethnic groups in Tanzania are regarded as indigenous. The position of the Government is that there are special groups, which need special protection within the country. These include the Maasai, Hadzabe and Barabaig. The Government has taken various measures to provide political, social and cultural amenities to such groups in the field of health, politics,

employment and education." ... and 25. "...also land laws prevent forced evictions and provide for compensation where land is used for public interest"

After the adoption of the preliminary report on the 5th of October, the government of Tanzania did not reject any of the recommendations relating to indigenous peoples/pastoralists, but they did not immediately accept them either. They will consider them and provide responses at the latest by the 19th session of the Human Rights Council in March 2012. The government of Tanzania promised to share the report with "all relevant stakeholders" and they accepted Poland's recommendation to engage civil society in the process of implementation of the UPR recommendation. Hopefully this will provide an avenue for having dialogue with the government of Tanzania during the coming months and get them to accept the recommendations.

After the UPR examination the representatives of the stakeholder coalition present in Geneva produced a press release (see Annex 7) that has been widely circulated to the press in Tanzania and is posted on the Danish development portal u-landsnyt.dk: <http://www.u-landsnyt.dk/nyhed/06-10-11/fn-diskuterer-indfodte-folks-menneskerettigheder-i>

The representatives of the stakeholder coalition present in Geneva discussed follow up possibilities in Tanzania, and the following suggestions were made:

1. Convene a follow-up meeting with the stakeholder coalition to inform about the Tanzania UPR process in Geneva and discuss and agree on follow up to be done.
2. Send letters of thanks to the Permanent Missions, which asked questions on the rights of indigenous peoples/pastoralists
3. Meet in Dar es Salaam with those embassies/countries, which raised questions on the rights of indigenous peoples/pastoralists to thank them and discuss with them possibilities for collaboration on follow up to/implementation of the UPR recommendations
4. Start lobbying the government of Tanzania to set up the suggested consultative mechanism relating to issues on rights of indigenous peoples
5. Possibly make follow up via using the Committee on Economic, Social and Cultural Rights that will convene in December 2011.

List of annexes:

1. Stakeholder Report
2. Summary version of Stakeholder Report
3. Advocacy Charter
4. Distribution list to Permanent Missions in Geneva
5. Denmark's questions and recommendations
6. Finland's questions and recommendations
7. Press release

ANNEX 1

JOINT STAKE HOLDERS SUBMISSION ON PASTORALISM AND HUNTER-GATHERERS IN TANZANIA

SUBMISSION TO THE HUMAN RIGHTS COUNCIL

UNIVERSAL PERIODIC REVIEW MECHANISM

[UPR 12TH SESSION, 2011]

REVIEW OF UNITED REPUBLIC OF TANZANIA

SUBMITTED ON BEHALF OF THE FOLLOWING ORGANIZATIONS:

Pastoralist Indigenous NGOs Forum (**PINGOs Forum**)

Tanzania Pastoralists, Hunter-Gatherers Organization (**TAPHGO**)

International Working Group on Indigenous Affairs (**IWGIA**)

Catholic Organization for Relief and Development Aid (**CORDAID**)

Ujamaa Community Resource Team (**UCRT**)

Pastoral Women Council (**PWC**)

Association for Law and Advocacy for Pastoralists (**ALAPA**)

Longido Community Development Organization (**LCDO**)

Tanzania Natural Resources Forum (**TNRF**)

Ngorongoro NGOs Network (**NGONET**)

Parakuyo Indigenous Community Development Organization (**PAICODEO**)

Huduma ya Injili na Maendeleo ya Wafugaji (**HIMWA**)

Monduli Pastoralists Development Organization (**MPDO**)

Simamnjiro Development Organization (**SDC TRUST**)

Community Research and Development Organization (**CORDS**)

Enyoito Development Organization (**MANYOITO**)

Free Ministry for Mission to Unreached (**FMUCO**)

Hadzabe Survival Council of Tanzania (**HSCT**)

Loliondo Development Organization (**LADO**)

Umoja wa Wafugaji Kanda ya Mashariki (**UWAKAMA**)

I. EXECUTIVE SUMMARY

1. In conformity with the criteria set out by the African Commission on Human and Peoples Rights' as well as the United Nations, the indigenous peoples of the United Republic of Tanzania (*hereinafter* 'URT') include the Maasai, the Barbaig, Akie, Taturu and Hadzabe. The former two groups are predominantly pastoralists whereas the latter comprise of forest-dwelling hunter-gatherers. The Sukuma, Nyaturu, and others belong to tribal groups, recognized also under international human rights law. The groups mentioned above collectively practice pastoralism and hunting-gathering.
2. The situation on the ground suggests that indigenous populations are subjected to violations, abuses and denials of human rights including systematic land alienation, evictions, intimidations, and marginalization from social services as well as lack of legal recognition. This is despite of the fact that the URT has enacted several laws and policies to address land rights and other rights. The misguided investment policies and abuse (legislative and administrative) of power are some of the main causes of the mistreatment of indigenous peoples in Tanzania. The situation seems to be extreme and therefore exposes these groups into serious vulnerability. As such, the pastoralist and other indigenous peoples' Civil Society Organizations (CSOs)¹ recommend that the Human Rights Council (HRC) should urge the government of Tanzania to adopt, *inter alia*, legislative measures to address the specific rights of these groups in Tanzania.

II. METHODOLOGY

1. This is joint submission prepared by a coalition of 22 CSOs. The report is a compilation of primary and secondary sources of information, evidences and facts collected through consultative meetings and interviews with CSOs and Community members. Others included human right experts from *Justitia Et Pax*, CORDAID; CEMIRIDE and members of the academia. More information was obtained from different credible sources including the UN treaty bodies, UN special procedures, ACHPR, government reports, media as well as reports

¹ For the list of these CSOs, please see the cover page.

of fact finding missions of pastoralists' CSOs members. Validation of this report was done by pastoralist CSOs and National CSOs in two different meetings.

III. CURRENT FRAMEWORK

2. URT is yet to ratify the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, 1989. In addition, the URT has failed to respond to and implement a number of recommendations from the Human Rights Committee (HRC),² CERD³ and ACHPR requiring the government of the URT to respond to specific needs of indigenous peoples including their legal recognition and violations of their rights. The UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous Peoples in 2010⁴ also urged the government of Tanzania to respond to information received with regard to the alleged forced evictions of Masaai pastoralists from Loliondo, Ngorongoro District Arusha region⁵ and Kilosa District, Morogoro region but no response has been made to date.

IV. MAJOR HUMAN RIGHTS VIOLATIONS AND RECOMMENDATIONS

Lack of Recognition and Unlawful Evictions of Indigenous Peoples, Pastoralists and Hunters-Gatherers

3. The government has been engineering forceful evictions on allegations of environmental degradation with little regard to the traditional land ownership and customary practices. Forced evictions of pastoralists, which have been taking place in different parts of the URT since 2007 to date, are some of the examples of such actions. For instance, a consortium of Tanzanian organizations,⁶ found out that large numbers of Sukuma agro-pastoralists and Parakuyo, Taturu and Barbaig pastoralists and their livestock were forcefully evicted from

² See: Paragraph 26 of Page 7 of the Concluding Observations of the Human Rights Committee to Tanzania. Ref. CCPR/C/TZA/CO/4 of 29 July, 2009 at www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.96.1.doc

³ See: Paragraph 16 at page 3 of the Concluding Observations of the Committee on the Elimination of Racial Discrimination. Ref. CERD/C/TZA/CO/16 of 27th March, 2007. At [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/\\$FILE/G0741001.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/$FILE/G0741001.pdf).

⁴ Ibid

⁵ Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, [Ref: A/HRC/15/37/Add.1, 14/9/2010], paragraph 421, page 173.

⁶ Comprised of PINGOs Forum (Pastoralists Indigenous Non-Governmental Organizations' Forum), Hakiardhi (Land Rights Research and Resources Institute), HIMWA (Huduma ya Injili na Maendeleo Kwa Wafugaji), Legal and Human Rights Centre (LHRC), ITV (Independent Television Limited) and the newspaper Majira.

the Usangu Plains in Mbarali District, Mbeya Region in the period of May 2006 to December 2007, on grounds that their activities in the basin allegedly threatened important water sources. This 'justification' was however based on no proof or scientific evidence, and it were evident that the drying up of water sources was caused by other factors. Eight (8) villages including Ikonga, Mabindasi, Upagamo and Ukwaheni in the Mbarali District have been grabbed in 2008 by the government and made part of the Ruaha National Park without consultation of indigenous villagers. Between 2008 and 2009 more than 300,000 cattle; 20,000 sheep and goats; and more than 300 families were evicted from Kilosa District in Morogoro Region and forced to trek more than 1,000 kilometers to Lindi Region; more than 10 houses were burnt.⁷

4. Moreover, there have also been continuous evictions of indigenous peoples, pastoralists, hunters and gatherers to give way to other economic activities such as tourism, hunting, farming, and mining in pastoral and hunter-gatherers land without these people being adequately compensated or given alternative settlements. For instance, in July 2009 the government ordered forceful eviction of Maasai pastoralists from their homesteads in Loliondo division, Ngorongoro District in northern Tanzania for the benefit of a hunting company namely Ortello Business Corporation Company (OBC). More than 200 homesteads (*Bomas*) were burned in the eviction process earlier on in 2007/8, the land of the Hadzabe people in Mbulu District, Manyara Region, was allocated to an investor. Moreover, the Barbaig grazing land at the Vilima Vitatu village close to Lake Manyara in the Babati District, Manyara Region has been leased to a foreign investor to set up a tourist camp. Similar incidences were also reported from Iringa region (Pawaga and Idodi divisions). In Losimingori village, Monduli District, Arusha region pastoralists were evicted in 2011 from their ancestral land by the Tanzania Peoples' Defense Forces (TPDF) on claims that the land belongs to the latter and victims now live in tents.⁸

⁷ Information from testimony of some of the residents of the areas, made in Arusha on 22 February 2011 during the UPR consultative meeting organized by pastoralists' (indigenous peoples organizations) CSOs.

⁸ Information from testimony of some of the residents of the areas, in Arusha on 22 February 2011, during the UPR consultative meeting organized by pastoralists' (indigenous peoples' organizations) CSOs.

5. Despite the Constitution of the URT of 1977⁹ and the interpretations made by the judiciary (that land is property)¹⁰ recognizing the rights to own properties and right to work, pastoralists and indigenous people do not fully enjoy these rights because the state authorities including Tanzania National Parks (TANAPA); Tanzania Investment Centre (TIC); Ngorongoro Conservation Area Authority (NCAA); Tanzania Police Force (TPF); Tanzania Peoples' Defence Forces (TPDF); District Commissioners and others have been increasingly and arbitrarily dispossessing the indigenous people of their lands and other properties in order to protect the interests of investors.

6. The government has not intervened to safeguard the interests of these people despite the many violations that took place. For instance, at least 8,000 livestock were apprehended by the government following the evictions in the Mbarali District in 2006/2007.¹¹ In Kilosa District, over 149 cattle and 20 goats were seized and killed by the Mikumi Game Rangers between April and August 2010 on allegation of trespass to the Mikumi National Park.¹² While as in Loliondo, Ngorongoro District over 50,000 cattle were left without grazing land or water due to the burning of the said land and exclusion from traditional grazing areas.

7. As a result of the atrocities described above, the many evicted families in different parts of the country are now landless, homeless and subjected to conflicts with other land users, making them more vulnerable to poverty and making it even harder for them to access fundamental social services such as education and health facilities.

RECOMMENDATIONS: The government of the URT should ensure that all victims of evictions that took place from 2006/7 to date are resettled and compensated and that any future eviction is criminalized through legislation. The government should ensure that the constitution, laws and policies address the identity of the indigenous peoples and their land ownership in conformity with

⁹ Article 24 of the Constitution the Constitution of the URT of 1977 provides that everyone has the right to own property, including traditional land.

¹⁰ In the case of *Lohay Akonaay and Another Vs. The Attorney General*, High Court of Tanzania at Arusha, Miscellaneous Civil Case No. 214 of 1992 (Unreported). Held that 'land' is 'property.'

¹¹ Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, [Ref: A/HRC/15/37/Add.1, 14/9/2010], paragraph 427, pages 177 and 177.

¹² Information from one of the villagers who attended a workshop of the pastoralists' (indigenous peoples organizations) CSOs on 22nd February, 2011 at Arusha. Information is also collaborated by 'A Fact Finding Mission Report on Cattle Shot Dead in Mikumi National Park, Kilosa District District .' Report of August 2010, pages 2-8. Available online at www.pingosforum.or.tz

international human rights instruments and standards. It should also set up official, effective, permanent and statutory consultation machinery with organizations working on the rights of indigenous peoples to avoid further violations.

Suppression of Indigenous Peoples' Livelihoods in Tanzania

8. Apart from the evictions there are also incidences of other forms of harmful actions. For example, the effluent of harmful chemical substances from the Bunda Oil Company into the indigenous peoples' farms, water sources and grazing lands in the Miguguni and Tairo villages in Bunda District, Mara region, which has caused several effects to pastoralists and other villagers including miscarriages, children born lame; and animals such as sheep and goats experiencing grotesque deformation. The National Environmental Council (NEMC)¹³ has ordered re-assessment of the situation but evidently nothing was done to serve the livelihoods of the surrounding community members.¹⁴
9. **RECOMMENDATIONS:** Government should conduct an environmental audit of the impacts as soon as possible; further, perpetrators of these actions should be held accountable. It should also compensate the victims of the environmental pollution and ensure that, such a situation does not recur in future.

Abuses of Due Legal Processes by State Organs: Rape and Torture

10. Article 13 of the Constitution of the URT of 1977, calls for applicability of due legal process in both civil and criminal justice systems. However, indigenous peoples and other groups whom this report covers have been subjected to arbitrary decisions and actions of law enforcement agencies in the URT. Various reports of NGOs in the URT¹⁵ show that, pastoralists and hunter/gatherers are subjected to various forms of mistreatments by government agencies. For instance, a woman was allegedly raped by police officers during the eviction processes in Loliondo in July 2009; while four others suffered miscarriages,

¹³ The environmental monitoring body established under provisions of the Environmental Management Act, 2004.

¹⁴ Statement by Bunda elder to the President of Tanzania on 11/8/2006. This information is also covered by the 'Effluent Affliction of Bunda Oil Company (Bunda Oil Industries Ltd), Report of July 2010 by PINGO's Forum.' See pages 4, 7, 8 and 9. Available online at www.pingosforum.or.tz

¹⁵ Including "A Report on Eviction and Resettlement of Pastoralists from Ihefu and Usangu-Mbarali District District to Kilwa and Lindi District s" by PINGOs Forum available at www.pingosforum.or.tz

reportedly as a result of the violence which took place during the eviction. Men were chained by members of Field Force Unit of the police force, beaten up, and humiliated. In Meatu District, seven (7) Hadzabe people are reported missing after they were arrested allegedly for illegal hunting in 2009/2010.¹⁶ Six villagers of Gibaso in Tarime District were reported to have disappeared mysteriously in the Serengeti National Parks since October 2010.¹⁷ Efforts to locate their whereabouts have been in vain to date (March 2011). Further more children have been harassed and arbitrarily arrested every once in a while and some were imprisoned in Nyasura adult's prison in Mara Region.

11. **RECOMMENDATIONS:** The government should set up a commission of inquiry to investigate the mysterious disappearance of people. The government should also put to task those who have been implicated in all these arbitrary arrests, mistreatments, and imprisonments. Moreover, it should stop intimidating its people through state agencies.

None Disclosure of Reports by Probe Committees and Commissions

13 Article 107A of the Constitution of the URT of 1977 requires determination of peoples' rights by the judicial process. However, despite public outcry from local and international communities, none of the perpetrators of the described human rights violations have been brought to justice. On the 20th April 2007 the state formulated a commission to inquire *inter alia* violation of human rights during the Mbarali (Ihefu) eviction process. The Commission presented its report to the President on the 6th June 2007. However, the report has never been made public and no actions have been taken to address the human rights violations committed during the eviction process. Similarly, the Parliament's investigation report on allegations of human rights abuses during the forceful evictions in Loliondo in July 2009 is yet to be made public. The ACHPR has made several requests to the government of Tanzania to be allowed to visit the country and look into the human rights situation of indigenous peoples. However, no response has been received to date from the government of Tanzania.

¹⁶ PINGO's Forum Study of Hadzabe Livelihood at Sungu in Meatu, Mang'ola in Karatu, Yaeda Chini Valley in Mbulu, and Kipamba in Iramba, study of 20 June – 7 July, 2010. See page 6 of the Report. It is available at www.pingosforum.or.tz

¹⁷ Letter of Gibaso's Village Executive Officer to the District Commissioner of Tarime, dated 16/11/2010.

14 RECOMMENDATIONS: The government should make public the reports of the probe committees and commissions including the Mbarali, Sukenya and Loliondo reports and take stern measures against all perpetrators who violated human rights and laws during these and other evictions. The government should also promptly respond to the issues raised by the UN Special Rapporteur (SR) on the Human Rights and Fundamental Freedoms of Indigenous Peoples and implement the recommendations made by SR and other human rights committees and NGOs. Furthermore the government should respond to the ACHPR and allow it to carry out the requested country visit.

Denial of Freedom of Expression and Association

15 Articles 18, 20 and 21 of the Constitution of the URT of 1977 guarantees freedom of information, expression, association and participation in public affairs. However, contrary to what the Constitution states, human rights defenders have been intimidated, unlawfully arrested and maliciously prosecuted. It is also on records that the government has been suppressing efforts of NGOs, journalists, Maasai traditional leaders and villagers to investigate and protect the rights of the pastoralists and hunter-gatherers, both with regards to the evictions and the situation of pastoralists generally. This suppression is taking place in the form of threats, violence; repression of peaceful protests by women, youth, and elders; and the restriction of journalists' and NGOs' entry into the affected areas to investigate the situation.

16 RECOMMENDATIONS: The government should immediately stop the intimidation, threats and malicious prosecution against human rights defenders such as the media, NGOs and community members.

Forced Destruction of Cultural Heritage

17 Articles 8, 12 and 15 of the UN Declaration on the Rights of Indigenous Peoples (2007) and provisions of the Universal Declaration on Cultural Diversity (2001) provide for respect for indigenous culture, dignity and diversity of living. However, Tanzanian investment policies and laws including the Tanzania Investment Act of 2007 allow

creation of land banks and reserves anywhere without regards to religious and cultural sites such as holy (sacred) sites and tombs of ancestors. For instance, the Ikongoro Grumeti Game Reserves in Serengeti and Bunda Districts were traditionally used by villagers for rituals before they were circumvented into reserved areas.¹⁸ Similarly pastoral lands occupied by the National Food Corporation (NAFCO) are not accessible by pastoralists for their religious rituals. The ancestral tombs are still located in those areas yet people are restricted from accessing them.

RECOMMENDATIONS: The government should allow indigenous peoples to access their religious and cultural sites without restrictions.

Biased Education and Health Opportunities

18 Article 11 of the Constitution of the URT of 1977 provides for equal and affordable education opportunity for all. To the contrary, most of the indigenous communities have no access to schools and health centres with sufficient facilities and qualified staff.¹⁹ Therefore serious concerns persist in regard to the future of the indigenous peoples after the government's failure to develop affirmative measures which would have ensured that marginalized groups have access to quality education and health services.

19 Moreover, in Ngorongoro Conservation Area, indigenous peoples are subjected to cumbersome Environmental Impact Assessment (EIA) requirements to curtail their rights to social services including health and education on the pretext that some of the areas are ecologically sensitive. Ironically however, five star hotels and resorts are increasingly built on the said ecologically sensitive areas where schools are prohibited.

20 **RECOMMENDATIONS:** The Government should adopt education and health programmes which meet the specific needs of pastoralists and indigenous populations' nature of life for instance mobile health clinics and boarding schools. EIA requirements

¹⁸ The Fact-Finding Mission Report of 2008 on Serengeti Natural Resources Based Conflicts, by Samson Rumende (Advocate of the High Court of Tanzania) and Shilinde Ngalula (Legal Officer – LHRC), page 11. Report available at www.pingosforum.or.tz

¹⁹ PINGO's Forum Study of Hadzabe Livelihood at Sungu in Meatu, Mang'ola in Karatu, Yaeda Chini Valley in Mbulu, and Kipamba in Iramba, study of 20 June – 7 July, 2010. See page 6 of the Report. It is available at www.pingosforum.or.tz

should not be arbitrary used to discriminate against indigenous peoples and curtail their right to development.

Wrong Contention of Environmental Degradation

21 One of the justifications for evictions of the indigenous peoples from the “conservation areas” has been environmental degradation. However, separate independent investigations have revealed that the land use practices of the evicted groups such as Maasai, Taturu, Barbaig, Sukuma and others do not pose any environmental threat. In fact, some of the investors occupying community land such as OBC in Loliondo Game Controlled Area, have had negative environmental impacts with no intervention by the government. Specifically, the construction and operation of an airstrip in the middle of wildlife corridors and breeding areas have caused air pollution and noise disturbance. Moreover, the construction of permanent housing has taken place within animal conservation areas; and water piracy has diminished waters resources and denied local communities of access to water sources.²⁰

22 **RECOMMENDATIONS:** The government should ensure that all investments or programmes undertaken in indigenous peoples’ lands must protect the rights of indigenous peoples to access and use of water and pastures. The government should make sure that no future investment plans are implemented without the free, prior and informed consent of indigenous peoples.

²⁰ FEMACT’s Loliondo Fact Finding Report of August 2009 available online through search machines. Also see: Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, [Ref: A/HRC/15/37/Add.1, 14/9/2010], paragraph 445, page 181. Note: *FEMACT* is the human rights coalition of NGOs which advocates for gender and other human rights. It is comprised of more than 50 members.

ANNEX 2

UNIVERSAL PERIODIC REVIEW OF UNITED REPUBLIC OF TANZANIA, UPR 12TH SESSION, 2011

SUMMARY OF JOINT STAKEHOLDERS (NGOS) SUBMISSION TO THE HUMAN RIGHTS COUNCIL, UNIVERSAL PERIODIC REVIEW (UPR) MECHANISM

ON

HUMAN RIGHTS VIOLATIONS TOWARDS INDIGENOUS PEOPLES IN TANZANIA

SUBMITTED ON BEHALF OF THE FOLLOWING ORGANIZATIONS:

Parakuyo Indigenous Community Development Organization (PAICODEO), Tanzania Pastoralists, Hunter-Gatherers Organisation (TAPHGO), Community Research and Development Organization (CORDS), International Working Group on Indigenous Affairs (IWGIA), Association for Law and Advocacy for Pastoralists (ALAPA), Southern Highland Development Organization (SHILDA), Monduli Pastoralists Development Organization (MPDO), Longido Community Development Organization (LCDO), Umoja wa Wafugaji Kanda ya Mashariki (UWAKAMA), Huduma ya Injili na Maendeleo ya Wafugaji (HIMWA), Simamnjiro Development Organization (SDC TRUST), Pastoralist Indigenous NGOs Forum (PINGOs Forum), Enyoito Development Organization (MANYOITO), Free Ministry for Mission to Unreached (FMUCO), Hadzabe Survival Council of Tanzania (HSCT), Loliondo Development Organization (LADO), Ujamaa Community Resource Team (UCRT), Tanzania Natural Resources Forum (TNRF), Ngorongoro NGOs Network (NGONET), Pastoral Women Council (PWC), Umoja wa Wafugaji Mpanda

V. INTRODUCTION

1. This short note is based on the stakeholder report produced by the above mentioned organizations, which are rights groups advocating for the rights and welfare of indigenous peoples and other similar marginalized tribal groups in Tanzania. As per the identification criteria established by the African Commission on Human and Peoples' Rights (ACHPR), indigenous peoples in Tanzania include nomadic and semi-nomadic pastoralists and hunter-gatherers such as the Maasai and the Barbaig pastoralists and the Akie, Taturu and Hadzabe hunter-gatherer communities. Other similar groups are the Sukuma, Nyaturu and other pastoralists groups. The groups mentioned above collectively practice pastoralism and hunting-gathering.

There is no legal framework in Tanzania for the promotion and protection of the rights of indigenous peoples, and Tanzania has not ratified the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries. However, Tanzania voted in favor of the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

2. Indigenous populations in Tanzania are subjected to serious human rights violations, including systematic land alienations, forced evictions, intimidations, marginalization from social services and lack of legal recognition. The mistreatment of indigenous peoples in Tanzania is caused among others by misguided investment policies that lead to displacement of pastoralists and hunter-gatherers from their land as well as by abuse (legislative and administrative) of power on the part of the authorities.

1. MAJOR HUMAN RIGHTS VIOLATIONS AND RECOMMENDATIONS

Unlawful Evictions of Indigenous Peoples, Pastoralists and Hunters-Gatherers²¹

3. Since 2006, the government of Tanzania has been engineering forceful evictions of pastoralists and hunter-gatherers. Justifications for these evictions have been unsubstantiated allegations that pastoralists cause environmental degradation, and that the government or local authorities need the lands of pastoralists and hunter-gatherers for investment purposes – regardless of the traditional land ownership and customary practices. Forced evictions of pastoralists and hunter-gatherers have taken place in different parts of Tanzania such as in Loliondo (Ngorongoro District); Usangu Plains (Mbarali District); Yaeda Chini (Mbulu District); Vilima Vitatu (Babati District); Pagawa and Idodi (Iringa Region); and village areas near the Ruaha National Park.
4. The Constitution of the United Republic of Tanzania of 1977 and the interpretations made by the judiciary (that land is property) recognize the rights to own property and the right

²¹ There is solid documentation of all the below described evictions that is available upon request. We also attach the report of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people of 14 September 2010 in which he has examined some of the cases of forced evictions of indigenous peoples in Tanzania (page 172 – 184).

to work. However, pastoralists and hunter-gatherers do not fully enjoy these rights because state authorities including Tanzania National Parks (TANAPA); Tanzania Investment Centre (TIC); Ngorongoro Conservation Area Authority (NCAA); Tanzania Police Force (TPF); Tanzania Peoples' Defence Forces (TPDF); District Commissioners and others have been increasingly and arbitrarily dispossessing these indigenous peoples of their lands and other properties in order to protect the interests of investors.

5. During the forced evictions, serious human rights violations have taken place including seizing or killing of animals; burning of houses, property and food; harassment and mistreatment of people; and lack of assistance and compensation to people who were left extremely vulnerable due to the evictions and human rights violations. In some cases the evictions took place during periods of drought, which made the situation even more serious. The evictions have been carried out by security forces acting on behalf of certain government officials. The forced evictions are a clear violation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), in particular its articles 10, 26 and 28.
6. **RECOMMENDATION:** The government of Tanzania should ensure that all victims of evictions that took place from 2006/7 to date are resettled and compensated and that any future eviction is criminalized through legislation.
7. **RECOMMENDATION:** The government should ensure legal and administrative measures to address the intrinsic link between land, survival, existence and identity of the indigenous peoples in conformity with the constitution and other international human rights instruments and standards.
8. **RECOMMENDATION:** The government should set up an official, effective, permanent and statutory consultation mechanism with organizations working on the rights of indigenous peoples in order to avoid further violations.

Suppression of Indigenous Peoples' Livelihoods in Tanzania

9. Apart from the evictions, there are also incidences of other forms of harmful actions. For example, the effluent of harmful chemical substances from the Bunda Oil Company into the indigenous peoples' farms, water sources and grazing lands of the Miguguni and Tairo villages in Bunda District, which has caused serious effects to pastoralists and other villagers including miscarriages, children born lame and animals such as sheep and goats experiencing grotesque deformation. The National Environmental Council has ordered re-assessment of the situation but evidently nothing was done to serve the livelihoods of the surrounding community members.
10. **RECOMMENDATION:** The Government should conduct an environmental audit of the impacts as soon as possible and the perpetrators of these actions should be held accountable. It should also compensate the victims of the circumstance and ensure that such a situation does not recur in future.

None Disclosure of Reports by Probe Committees and Commissions

11. Despite public outcry from local and international organizations, none of the perpetrators of the above described human rights violations have been taken to task. Moreover, none of the reports made by probe committees and commissions on the unlawful evictions and other forms of human rights violations against these groups have ever been made public.
12. **RECOMMENDATION:** The government should make public the investigation reports of the probe committees and commissions including the Mbarali, Sukenya and Loliondo reports and take stern measures against all perpetrators who have violated human rights and laws during these and other evictions.

Implementation of recommendations by international human rights mechanisms

13. A number of international human rights mechanisms have expressed their serious concern about the lack of legal recognition of indigenous peoples in Tanzania, the serious situation of indigenous peoples (including forced evictions) and the lack of consultation and dialogue with indigenous peoples. The UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People (SR) recommends that: 1) The Government of Tanzania should desist from any further forced removals of indigenous pastoralist groups; 2) Establish an effective mechanism to protect indigenous rights to land in consultation with indigenous communities themselves; 3) Establish a mechanism under which affected groups can apply to receive redress and reparations; 4) Carry out independent and impartial investigations and publicly release findings and reports²². The African Commission on Human and Peoples' Rights (ACHPR) has similarly expressed their concerns about the lack of recognition of indigenous peoples in Tanzania and the violation of their rights, including the forced evictions²³. The Human Rights Committee has recommended that Tanzania adopt specific legislation to protect and promote the cultural heritage and traditional way of life of its indigenous peoples, and consult indigenous communities before establishing game reserves, granting licences for hunting, or other projects on ancestral or disputed lands²⁴. The Committee on the Elimination of All Forms of Racial Discrimination (CERD), the Special Rapporteur on toxic waste and the Special Rapporteur on the rights to food have expressed similar concerns²⁵.

²² Recommendations made in the "Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. Cases examined by the Special Rapporteur June 2009 – July 2010". 14 September 2010 (Ref. A/HRC/15/37/Add.1)

²³ ACHPR Urgent Appeal addressed to the President of Tanzania, 6 August 2009 and Concluding Observations of the African Commission on the Second-Tenth Periodic Report of the United Republic of Tanzania. 43rd Ordinary Session. May 2008.

²⁴ See: Paragraph 26 of Page 7 of the Concluding Observations of the Human Rights Committee to Tanzania. Ref. CCPR/C/TZA/CO/4 of 29 July, 2009 at www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.96.1.doc

²⁵ See: Paragraph 16 at page 3 of the Concluding Observations of the Committee on the Elimination of Racial Discrimination. Ref. CERD/C/TZA/CO/16 of 27th March, 2007. At [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/\\$FILE/G0741001.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/$FILE/G0741001.pdf).

14. **RECOMMENDATION:** The government should promptly respond to the serious concerns raised by the above mentioned international human rights mechanisms and implement the recommendations they have made.
15. **RECOMMENDATION:** The government should allow those international and regional human rights mechanisms who have requested permission to visit Tanzania relating to the situation of indigenous peoples to do so. These include the Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People and the Working Group on Indigenous Populations of the African Commission on Human and Peoples' Rights.

Denial of Freedom of Expression and Association

16. Human rights defenders have been intimidated and prosecuted. It is also on records that the government has been suppressing efforts of NGOs, journalists, Maasai traditional leaders and villagers to investigate and protect the rights of the pastoralists and hunter-gatherers, both with regards to the evictions and the situation of pastoralists generally. This suppression is taking place in the form of threats, violence, repression of peaceful protests by women, youth, and elders and the restriction of journalists' and NGOs' entry into the affected areas to investigate the situation. Such harassment is a violation of the UN Declaration on Human Rights Defenders.
17. **RECOMMENDATION:** The government should immediately stop the intimidation, threats and malicious prosecution against human rights defenders such as the media and local NGOs.

Forced Destruction of Cultural Heritage

18. Tanzanian investment policies and laws including the Tanzania Investment Act of 2007 allow creation of land banks and Game Controlled Areas (game reserves) anywhere without regards to religious and cultural sites such as holy (sacred) sites and tombs of ancestors. For instance, the Ikongoro Grumeti Game Reserves in Serengeti and Bunda Districts were traditionally used by villagers for rituals before they were circumvented into reserved areas. Similarly pastoral lands occupied by the National Food Corporation (NAFCO) are not accessible by pastoralists for their religious rituals. The ancestral tombs are still located in those areas, yet people are restricted from accessing them.
19. **RECOMMENDATION:** The government should allow indigenous peoples to access their religious and cultural sites without restrictions.

Summary of Current Situation and Recommendation

20. The current Tanzanian legal framework is faulted for not addressing specific rights of indigenous peoples by, inter alia, ratify and domesticate principles of the international human rights instruments which provide for the rights and duties in respect of these groups. For instance, Tanzania is yet to ratify the ILO Convention 169 on Indigenous

and Tribal Peoples of 1989. Moreover, Tanzania has failed to respond to and implement a number of recommendations from the Human Rights Committee and other Treaty Monitoring Bodies requiring government of Tanzania to respond to specific needs of indigenous peoples, including their legal recognition, and violations of their rights.

21. The situation as shown above is extremely serious and is continuously deteriorating and therefore exposes these groups into a danger of extinction.

22. **RECOMMENDATION:** The pastoralist and other indigenous peoples' Civil Society Organizations mentioned above, recommend that the Human Rights Council should urge the government of Tanzania to adopt, *inter alia*, legislative measures to address the specific rights of these groups in Tanzania as well as to address the above mentioned legal and human rights concerns.

23. **RECOMMENDATION:** The government of Tanzania should ratify the ILO Convention 169 on Indigenous and Tribal Peoples of 1989.

ANNEX 3

Stakeholders submission	State report	UN Treaties bodies and special procedures recommendations	Suggested questions	Suggested recommendations
1. Unlawful evictions and destruction of property.				
<p>CSOs and Stakeholders jointly observed that the Government has failed to adhere to its own laws and international accords on land evictions and property rights.</p> <p>Forceful evictions have been carried out in different parts of Tanzania allegedly to give way for other national development programs, investments, and economic activities such as mining, tourism, farming, and commercial hunting and for environmental conservation affecting the right to development of communities and individuals. In many cases, there are either inadequate or delayed compensations or sometimes no compensation.</p>	<p><i>The state report is silent on the response to the call of the UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People (SR) as well as the appeals of the African Commission on Human and Peoples' Rights (ACHPR)</i></p>	<p>The UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People (SR) recommends in his report of 14 September 2010 that: The Government of Tanzania should desist from any further forced removals of indigenous pastoralist communities from their ancestral land.</p> <p>The ACHPR Urgent Appeal addressed to the President of Tanzania, 6 August 2009 and the Concluding Observations of the ACHPR made at the 43rd Ordinary Session of the ACHPR, May 2008 reiterated the same.</p>	<ul style="list-style-type: none"> • <i>What are the responses of the government of Tanzania in regards to the inquiry by the UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People (SR)?</i> • <i>What actions have the government conducted in regards to the pastoralists evicted in Ihefu, Kilosa, Loliondo and other areas as observed by the Special Rapporteur and what actions have been taken against the perpetrators of human rights violations in Kilosa, Ihefu, Loliondo and similar places where evictions took place?</i> • <i>What is the position of the government with regards to eviction or relocation of people to give room for investment or any government project?</i> 	<p>The government of Tanzania should ensure that all victims of evictions that took place from 2006/7 to date are resettled and compensated and that any future eviction is criminalized through legislation.</p> <p>The government should ensure legal and administrative measures to address the intrinsic link between land, survival, existence and identity of the indigenous peoples in conformity with the constitution and other international human rights instruments and standards.</p> <p>The government should set up an official, effective, permanent and statutory consultation mechanism with organizations working on the rights of indigenous peoples in order to avoid further violations</p> <p>The government of Tanzania should ratify the ILO Convention 169 on Indigenous and Tribal Peoples of 1989.</p>
2. Suppression of Indigenous Peoples' Livelihoods in Tanzania				
Stakeholders submitted that	<i>The question of</i>	The UN Special	• <i>How far has the government</i>	The Government should conduct assessments of

<p>communities such as Hadzabe, Akie and Taturu who are forest dwellers and hunter-gatherers; and pastoralists such as Maasai and Barbaig have become victims of evictions causing destruction of their property, rendering people landless (without property) and homeless subjecting them into conflict with other land users such as farmers. Homelessness has led to lack of access to fundamental social services and rights such as education and health facilities among the affected communities.</p>	<p><i>the promotion and protection of minorities and indigenous people's rights was raised during the consideration of Tanzania's 4th Periodic Report on the International Convention on Civil and Political Rights whereby the Government was urged to carry out a study.²⁶ The government stated that it is currently, working on the recommendations.</i></p>	<p>Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous Peoples recommends in his report of 14 September 2010:</p> <p>The establishment of an effective mechanism to protect indigenous rights to land in consultation with indigenous communities themselves;</p> <p>The Establishment of a mechanism under which affected groups can apply to receive redress and reparations</p>	<p><i>reached in implementation of its commitment made of promotion and protection of Minority and Indigenous Peoples as recommended in the 4th Periodic Report on the International Convention on Civil and Political Rights whereby the Government was urged to carry out a study on indigenous peoples and their territories?²⁷</i></p> <ul style="list-style-type: none"> • <i>What mechanism has the government put in place to protect indigenous peoples as recommended by the UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People?</i> • <i>What plans does the Government have to stop arbitrary evictions and ensure prompt compensations where eviction is justifiable?</i> • <i>What is the government's strategy to address conflicts between investors and agro-pastoralists on one hand and tribal land conflict on the other side?</i> 	<p>the impacts of different evictions as soon as possible and the perpetrators of these actions should be held accountable. It should also compensate the victims of the circumstance and ensure that such a situation does not recur in future.</p>
<p>3. None Disclosure of Reports by Probe Committees and Commissions on violation of human rights</p>				
<p>Stakeholders stated that on the 20th April 2007 the state formulated a</p>	<p><i>The state report is silent about the</i></p>	<p>The UN Special Rapporteur on the Human</p>	<ul style="list-style-type: none"> • <i>Why has the government failed to make public the report of</i> 	<p>The government should make public the investigation reports of the probe committees</p>

²⁶ Recommendation No 26 states that the State party should adopt specific legislation and special measures to protect, preserve and promote their cultural heritage and traditional way of life. It should also consult indigenous communities before establishing game reserves, granting licences for hunting, on “ancestral lands”.

²⁷ Ibid

<p>commission to inquire about the violations of human rights during the Mbarali (Ihefu) evictions. The report has never been made public and no actions have been taken to address the violations. Similarly, the Parliament's investigation report on human rights abuses committed during the forceful evictions in Loliondo in July 2009 has still not been made public.</p>	<p><i>government initiated investigation reports and does not mention the existence of the recommendations made to the government of Tanzania by the UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous Peoples</i></p>	<p>Rights and Fundamental Freedoms of Indigenous People recommended the government to carry out independent and impartial investigations and publicly release findings and commissions reports.</p> <p>The African Commission on Human and Peoples' Rights (ACHPR) has similarly expressed their concerns about the lack of recognition of indigenous peoples in Tanzania and the violation of their rights, including the forced evictions²⁸.</p>	<p><i>Ihefu eviction of pastoralist and what measures have been made to ensure that eviction of people should not occur in the future?</i></p> <ul style="list-style-type: none"> • <i>What the position of the government is in regards to violation of the right of indigenous peoples and their rights to land?</i> • <i>How much has the government used to compensate the evicted people in Ihefu, Kilosa, and Loliondo?</i> • <i>What is the position of the government with regards to the Taturu who are currently facing threats of eviction in Meatu by Meatu District council?</i> 	<p>and commissions including the Mbarali, Sukenya and Loliondo reports and take stern measures against all perpetrators who have violated human rights and laws during these and other evictions</p>
<p>Implementation of recommendations by international human rights mechanisms. A number of international human rights mechanisms have expressed their serious concern about the lack of legal recognition of indigenous peoples in Tanzania, among others the UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People (SR), The African Commission on Human</p>	<p><i>The state report has not responded to any of the inquiries, and recommendations sent to it by these various international human rights mechanisms.</i></p>	<p>The Committee on the Elimination of All Forms of Racial Discrimination (CERD), the Special Rapporteur on toxic waste and the Special Rapporteur on the rights to food have urged ²⁹ the government to establish an effective mechanism to protect indigenous rights to land in consultation with</p>	<ul style="list-style-type: none"> • How has the government responded to Committee on the Elimination of All Forms of Racial Discrimination (CERD), the Special Rapporteur on toxic waste and the Special Rapporteur on the rights to food who urged ³⁰ the government to establish an effective mechanism to protect indigenous rights to land in consultation with indigenous communities 	<p>The government should promptly respond to the serious concerns raised by the above mentioned international human rights mechanisms and implement the recommendations they have made.</p> <p>The government should allow those international and regional human rights mechanisms who have requested permission to visit Tanzania relating to the situation of indigenous peoples to do so. These include the Special Rapporteur on the Human Rights and Fundamental</p>

²⁸ ACHPR Urgent Appeal addressed to the President of Tanzania, 6 August 2009 and Concluding Observations of the African Commission on the Second-Tenth Periodic Report of the United Republic of Tanzania. 43rd Ordinary Session. May 2008.

²⁹ See: Paragraph 16 at page 3 of the Concluding Observations of the Committee on the Elimination of Racial Discrimination. Ref. CERD/C/TZA/CO/16 of 27th March, 2007. At [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/\\$FILE/G0741001.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/$FILE/G0741001.pdf).

³⁰ See: Paragraph 16 at page 3 of the Concluding Observations of the Committee on the Elimination of Racial Discrimination. Ref. CERD/C/TZA/CO/16 of 27th March, 2007. At [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/\\$FILE/G0741001.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/64f7f6e01590cc74c12570b20034ae98/$FILE/G0741001.pdf).

<p>and Peoples' Rights (ACHPR), The Committee on the Elimination of All Forms of Racial Discrimination (CERD), the Special Rapporteur on toxic waste and the Special Rapporteur on the right to food</p>		<p>indigenous communities themselves; and establish a mechanism under which affected groups can apply to receive redress and reparations.</p>	<p>themselves? <ul style="list-style-type: none"> •When will the government of Tanzania invite the UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People and the African Commission's Working Group on Indigenous Populations to Tanzania to conduct official visits as repeatedly requested by these two mechanisms? </p>	<p>Freedoms of Indigenous People and the Working Group on Indigenous Populations of the African Commission on Human and Peoples' Rights.</p>
<p>4. Forced Destruction of Cultural Heritage</p>				
<p>Stakeholders stated that Tanzanian investment policies and laws including the Tanzania Investment Act of 2007 allow creation of land banks and reserves anywhere without regards to religious and cultural sites such as holy (sacred) sites and tombs of ancestors. For instance, the Ikongoro Grumeti Game Reserves in Serengeti and Bunda, Hanang District Endoinyoomorwak.</p>	<p><i>The state report does not take any note of the existence of recommendation and special legislation to protect traditional heritage</i></p>	<p>The Human Rights Committee. (CCPR/C/TZA/CO/4 of 29 July, 2009) has recommended that Tanzania adopt specific legislation to protect and promote the cultural heritage and traditional way of life of its indigenous peoples, and consult indigenous communities before establishing game reserves, granting licenses for hunting, or other projects on ancestral or disputed lands³¹.</p>	<p>•When is Tanzania going to enact legislation to protect and promote the cultural heritage and traditional way of life of its indigenous peoples?</p>	<p>The government should allow indigenous peoples to access their religious and cultural sites without restrictions.</p>

³¹ See: Paragraph 26 of Page 7 of the Concluding Observations of the Human Rights Committee to Tanzania. Ref. CCPR/C/TZA/CO/4 of 29 July, 2009 at www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.96.1.doc

ANNEX 4

PERMANENT MISSIONS IN GENEVA CONTACTED IN RELATION TO THE TANZANIA UPR

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ANNEX 5

UNIVERSAL PERIODIC REVIEW – Tanzania

Intervention by Denmark

Madame President,

Denmark warmly welcomes the Tanzanian delegation to Geneva and would like to thank the delegation for its comprehensive presentation given here today.

Torture, death penalty and violations by security forces

Denmark is concerned by reports of law enforcement officers engaging in disproportionate use of force, including reports of torture and other cruel, inhuman or degrading treatment or punishment being carried out against suspects held in custody.

- Denmark recommends that the Government of Tanzania ratifies the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Denmark also recommends that the Government of Tanzania takes adequate measures to protect its population from violence committed by the security forces and establishes an independent mechanism for the investigation of complaints regarding abuses carried out by law enforcement officials in line with recommendations by the Human Rights Committee.
- Whilst acknowledging that a de facto moratorium on the death penalty has been in place since 1994, Denmark recommends that Tanzania formalises this moratorium as a step towards the complete abolition of the death penalty.

Indigenous peoples

Denmark is concerned by reports that the rights of indigenous peoples to ancestral lands have been denied or curtailed due to economic development projects resulting in numerous forced evictions. This is against Tanzania's obligations under the Land Act (1999) and its international obligations. The policy of the Tanzanian Government under which the notion of indigenous peoples remains unrecognised is a stumbling block to obtaining adequate protection of indigenous peoples' rights.

- Denmark recommends that the Government of Tanzania recognises the notion of indigenous peoples with a view to effectively protecting and promoting their rights.

- Denmark recommends that Tanzania adopts measures to protect and preserve the cultural heritage and traditional way of life of indigenous peoples and to undertake effective consultations with indigenous peoples based on free, prior and informed consent.

Women's Rights

Denmark is concerned by cultural norms, practices and traditions that are discriminatory against women, including female genital mutilation, polygamy, the Marriage Act and local customary law on inheritance and land rights.

- Denmark recommends that Tanzania puts in place a comprehensive strategy and legislation to eliminate practices that discriminate against women.
- Denmark also recommends that the Marriage Law is amended in order that the minimum age for marriage for both girls and boys is set at 18.

Thank you Madame President.

ANNEX 6

Ministry for Foreign Affairs of Finland

12th Session of the Working Group on the Universal Periodic Review

Finland's questions and recommendations to the United Republic of Tanzania 3 October 2011

Finland wishes to thank Tanzania for its national report and its efforts to realize human rights. We have three questions and five recommendations to make.

1. Children with disabilities and the right to education

In Tanzania, persons with disabilities are effectively restricted in education by physical barriers and inadequate resources. What action does the Government intend to take in order to fully implement the recent Act on persons with disabilities and the strategy on Inclusive Education?

Finland recommends that schools and other educational facilities and environments be improved to meet the needs of persons with disabilities. **Finland also recommends** that pupils with disabilities be provided with adequate equipment and tools, and that all lecturers and teachers be trained in inclusive education.

2. Unlawful evictions of indigenous peoples

Forceful and unlawful evictions of indigenous peoples have been carried out in different parts of the country, allegedly to give way for various economic activities.

What actions does the Government intend to take in order to implement the recommendations made by the UN Special Rapporteur on the rights of Indigenous Peoples, including stopping illegal evictions? Furthermore, what legislative measures does the Government intend to take to effectively protect the rights of indigenous peoples?

Finland recommends that the Government of Tanzania launch a credible investigation of forced evictions and land conflicts, and that it use the results of this investigation to help draft new legislation, including the new constitution, which fully takes the rights of indigenous peoples into account. **Finland also recommends** that an effective statutory consultation mechanism be set up with organizations working on the rights of indigenous peoples to help avoid further conflicts.

Thank you.

ANNEX 7

Press Release by the Civil Society Coalition of Pastoralists and Hunter-Gatherers on the UPR³²

“UN Human Rights Mechanisms raises violations of human rights for pastoralists and hunter-gatherers”

On the 3rd of October 2011, Tanzania was for the first time reviewed under Universal Periodic Review (UPR), which is a new mechanism under the United Nations Human Rights Council. The UPR was established four years ago to review on a periodic basis the fulfillment by each of the 192 United Nations Member states of their human rights obligations and commitments. The UPR operates on a four years cycle.

Tanzania's UPR report was presented by Hon. Minister of State for Good Governance Mathias Chikawe. The government report presented the extent to which the government of the United Republic of Tanzania has implemented its human rights obligations and commitments.

During the UPR interactive dialogue different member states raised their concerns with regard to the human rights situation in Tanzania. The civil society coalition of pastoralists and hunter-gatherers is pleased to note that some of the serious concerns of indigenous peoples were among the issues raised by state parties.

The coalition commends the state parties who raised the issues of evictions of pastoralists and hunter-gatherers from their ancestral lands. The coalition encourages the government of Tanzania to diligently respond to the issues of evictions and to adopt the recommendations made by the member states during the interactive dialogue.

During the UPR examination, member states recommended to the government of Tanzania to recognize the existence of indigenous peoples in Tanzania and to make clear provisions for the protection of their rights in line with international human rights standards. The coalition welcomes this important recommendation and urges the government to accept and work on this

³² This coalition consists of: Pastoralist Indigenous NGOs Forum (PINGOs Forum), Tanzania Pastoralists, Hunter-Gatherers Organisation (TAPHGO), International Work Group for Indigenous Affairs (IWGIA), Ujamaa Community Resource Team (UCRT), Pastoral Women Council (PWC), Association for Law and Advocacy for Pastoralists (ALAPA), Longido Community Development Organization (LCDO), Tanzania Natural Resources Forum (TNR), Ngorongoro NGOs Network (NGONET), Parakuyo Indigenous Community Development Organization (PAICODEO), Huduma ya Injili na Maendeleo ya Wafugaji (HIMWA), Monduli Pastoralists Development Organization (MPDO), Simamjiro Development Organization (SDC TRUST), Community Research and Development Organization (CORDS), Enyoito Development Organization (MANYOITO), Free Ministry for Mission to Unreached (FMUCO) Hadzabe Survival Council of Tanzania (HSCT), Loliondo Development Organization (LADO), Umoja wa Wafugaji Kanda ya Mashariki (UWAKAMA), Umoja wa Wafugaji Mpanda, Southern Highland Development Organization (SHILDA)

recommendation. In addition an important recommendation was made to the government of Tanzania to align its policies on pastoralism with the newly created African Union Policy Framework on Pastoralism.

The civil society coalition of pastoralists and hunter-gatherers further welcomes the recommendations made to the government of the United Republic of Tanzania to invite the UN and other human rights special mechanisms to come to Tanzania to investigate on the human rights violations, including evictions of pastoralists and hunter-gatherers and to release the reports of previous parliamentary commissions of inquiry. The coalition further urges the government to observe and implement the recommendations of the UN- special rapporteur on the rights of indigenous populations.

The coalition also recognizes the valuable recommendations made by member states during the UPR examination on the issue of free, prior and informed consent on all matters affecting pastoralists and hunter-gatherers. The coalition recommends the government to adhere to these human right standards on issues affecting indigenous people.

The coalition welcomes with due respect the recommendation made by member states during the UPR examination for the establishment of an official, permanent and effective consultation mechanism with the participation of organizations working on the rights of indigenous peoples to address the situation and rights of indigenous peoples in Tanzania, including the issue of free, prior and informed consent.

We strongly recommend the government of the United Republic of Tanzania to accept all the recommendations made on the rights of indigenous peoples and to ensure that the suggested special consultation mechanism addresses violations of human rights and impunities particularly related to evictions exercises.

The civil society coalition of pastoralists and hunter-gatherers welcomes the opportunity to cooperate with the government of the United Republic of Tanzania on how best the recommendations raised by the member states during the UPR review can be implemented.

For more information contact PINGOs Forum on behalf of the Coalition

4th October 2011, Geneva Switzerland