

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

**SUBMISSION TO THE HUMAN RIGHTS COUNCIL**

**UNIVERSAL PERIODIC REVIEW MECHANISM**

**[UPR 12<sup>TH</sup> 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**)

Umoja wa Wafugaji Mpanda

Southern Highland Development Organization (**SHILDA**)

## **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)<sup>1</sup> 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 of fact finding missions of pastoralists' CSOs members.

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<sup>1</sup> For the list of these CSOs, please see the cover page.

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),<sup>2</sup> CERD<sup>3</sup> 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 2010<sup>4</sup> 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 region<sup>5</sup> 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,<sup>6</sup> found out that large numbers of Sukuma agro-pastoralists and Parakuyo, Taturu and Barbaig pastoralists and their livestock were

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<sup>2</sup> 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](http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.96.1.doc)

<sup>3</sup> 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 27<sup>th</sup> 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).

<sup>4</sup> Ibid

<sup>5</sup> 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.

<sup>6</sup> 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.

forcefully evicted from 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.<sup>7</sup>

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.<sup>8</sup>

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<sup>7</sup> 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.

<sup>8</sup> 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 1977<sup>9</sup> and the interpretations made by the judiciary (that land is property)<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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

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

<sup>10</sup> 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.'

<sup>11</sup> 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.

<sup>12</sup> Information from one of the villagers who attended a workshop of the pastoralists' (indigenous peoples organizations) CSOs on 22<sup>nd</sup> 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](http://www.pingosforum.or.tz)

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 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)<sup>13</sup> has ordered re-assessment of the situation but evidently nothing was done to serve the livelihoods of the surrounding community members.<sup>14</sup>

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 URT<sup>15</sup> show that,

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

<sup>14</sup> 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](http://www.pingosforum.or.tz)

<sup>15</sup> Including "A Report on Eviction and Resettlement of Pastoralists from Ihefu and Usangu-Mbarali District to Kilwa and Lindi District s" by PINGOs Forum available at [www.pingosforum.or.tz](http://www.pingosforum.or.tz)

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, 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.<sup>16</sup> Six villagers of Gibaso in Tarime District were reported to have disappeared mysteriously in the Serengeti National Parks since October 2010.<sup>17</sup> 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 20<sup>th</sup> 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 6<sup>th</sup> 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

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<sup>16</sup> 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](http://www.pingosforum.or.tz)

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

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.

- 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.<sup>18</sup> 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.<sup>19</sup> 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

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<sup>18</sup> 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](http://www.pingosforum.or.tz)

<sup>19</sup> 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](http://www.pingosforum.or.tz)

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 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.<sup>20</sup>

- 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.

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<sup>20</sup> 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.