

**Observations on the State of Indigenous Human Rights in the
United Republic of Tanzania in Light of the
UN Declaration on the
Rights of Indigenous Peoples
Prepared for
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CULTURAL SURVIVAL

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: www.cs.org

In preparing this report, Cultural Survival collaborated with Social Economic and Governance Promotion Centre (SEGP) and with a broad range of Indigenous and human rights organizations, advocates, and other sources of verifiable information on Tanzania.

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I. Executive Summary

Tanzania is home to four ethnic groups who identify as Indigenous: the Akie, the Hadzabe, the Barabaig, and the Maasai. Indigenous people suffer from a lack of land rights and have experienced repeated land grabbing as Indigenous lands are being used for wildlife conservancies, mining, large-scale farming, and luxury hunting and safaris. This has put Indigenous lifestyles and livelihoods at risk as Indigenous groups are evicted from areas with adequate grazing land and water sources. As a result, many Indigenous People are impoverished and food insecure. Land disputes have led to violent confrontations with police, security guards, and farmers, causing injuries, property losses, and deaths. There has been some political progress with the 2014 Constitutional Reform when Indigenous Peoples had several recommendations included in the proposed Constitution. However, many ideas were not accepted in the writing of the constitution, especially proposals regarding their right to manage land. Furthermore, the constitutional review has been postponed with no new date announced. Future efforts must focus on providing Indigenous people with land rights that will guarantee their ability to survive. Land should be restituted to Indigenous Peoples who have traditionally used those lands, and if not, compensation should be given that equates to the land previously lost. Any more negotiations regarding land, especially with international investors, should seek the Free, Prior, Informed Consent from the surrounding Indigenous Peoples.

II. Background

Tanzania has at least 125 different ethnic groups, who mainly fall into 4 categories: the Bantu, the Cushite, the Nilo-Hamite, and the San. Within these ethnic groups, the Akie and Hadzabe (hunter-gatherers) and the Barabaig and Maasai (pastoralists) recognize themselves as Indigenous. The Akie (Ndorobo) are estimated to number around 5,000 while the Hadzabe total to about 1,000 people. The Barabaig belong to the Datoga group, who number almost 90,000 while the Maasai number 430,000. Most of the Indigenous groups live in the northern region of Tanzania as hunter-gatherers and pastoralists. Because of the growing scarcity of land and natural resources, many Indigenous people have yielded to pressures from the government to cultivate crops, leaving their traditional lifestyles behind.

The country of Tanzania supported the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and signed various international human rights treaties but has yet to ratify the ILO Convention 169. Furthermore, the country does not explicitly recognize the existence of Indigenous people and there is a “lack of legal and administrative measures that address the intrinsic link between land, identity and traditional culture.”¹

III. First Cycle UPR Recommendations

Several recommendations were made to Tanzania regarding Indigenous Peoples during the first cycle of the UPR in 2011:

1. *Recognise the notion of Indigenous peoples with a view to effectively protecting their rights (Denmark)*
2. *Adopt measures to protect and preserve the cultural heritage and traditional way of life of Indigenous peoples and undertake effective consultations with Indigenous peoples based on free, prior and informed consent (Denmark)*
3. *Launch a credible investigation of forced evictions and land conflicts and use the results of this investigation to help draft new legislation, which fully takes the rights of Indigenous peoples into account (Finland)*
4. *Set up an effective statutory consultation mechanism with organizations working on the rights of Indigenous peoples to help avoid further conflicts (Finland)*

¹ Schertow, John Ahni. “Indigenous Peoples’ Rights Ignored as Tanzanian Government Protects Foreign Investors”. 21 February 2012. <https://intercontinentalcry.org/Indigenous-peoples-rights-ignored-as-tanzanian-govt-protects-foreign-investors/>

5. *Promote a legal framework giving legal certitude in terms of property, in particular with regard to land ownership and protection against forced evictions and recognition of the rights of Indigenous people, pastoralists, hunters and gathering peoples (Mexico)*

While Indigenous Peoples have gained greater representation in the government with the formation of the Pastoralists and Hunter-Gatherers Katiba Initiative, they are still not formally recognized by the government. Furthermore, their traditional ways of life have not been protected as they are still vulnerable to land grabbing and violent conflicts over land use. If the new constitution is approved, it would recognize the pastoral way of life as equal to farming as well as protect some pastoral rights, which would help preserve the Indigenous ways of life. However, the constitutional referendum has been postponed. In many instances, investigations have not been performed regarding land conflicts and evictions although there is an ongoing trial regarding conflict over Sukenya Farms. Effective legal framework has not been established to prevent further land related problems.

IV. Continued Rights Violations

Land Rights (UNDRIP Article 26 & 27) and Land Grabbing (UNDRIP Article 10, 11 & 28)

Because they are mostly pastoralists and hunter-gatherers, in order to maintain their traditional practices the Indigenous Peoples of Tanzania require areas of land, “where their freedom of movement and their access to the natural resources on which their subsistence relies are not obstructed.”² However, the Tanzanian government does not recognize these practices as economically viable, offering little support to these Indigenous communities.³ Current land laws include “unoccupied or unused village land” in what constitutes public land, which does not account for the mobility of Indigenous pastoralists and hunter-gatherers.⁴ Indigenous land is constantly being taken by the government and encroaching farmers and used for investment opportunities, including large-scale crop cultivation, mining, national parks and wildlife conservancies, and tourist attractions like hunting and safari grounds. For instance, the Randile Wildlife Management Area was established in the Monduli district in 2013 and is encroaching on the grazing lands of the pastoralists of the Lolkisale village. Many Indigenous People argue that the conservancy has been created without their free, prior, and informed consent, in violation of Article 10 of the UNDRIP. A similar incident occurred in Kambala Village, where the council tried to give pastoral land to a CDM Smith Irrigation and Rural Roads Project contracted by USAID/Tanzania. However, the land contained the Mgongola Gorge, a vital water source for the pastoralists and the council had not sought the consent of the pastoralists.⁵ Therefore, the recommendation made by Denmark in 2011 regarding efforts to consult Indigenous people is still relevant.

Not only is the land grabbing itself a major human rights violation, it is often done in a violent and destructive manner. In 2009, the Tanzanian government had plans to evict 40,000 Maasai pastoralists living in the 1,500 sq/km area next to Serengeti National Park in Loliondo. The land was to be used instead by a United Arab Emirates company for luxury hunting and safari. However, the issue quickly received worldwide attention, generating a petition with over 2 million signatures. The Tanzanian government eventually ended the negotiations, promising over social media to not evict any more Maasai people from their lands. Recently, however, land negotiations between the Tanzanian government and the United Arab Emirates company resurfaced, and in February of 2015, 114 Maasai bomas (traditional houses) in the Ngorongoro District were burned down by national police and Serengeti National Park

² International Work Group for Indigenous Affairs (IWGIA). *Country Technical Note on Indigenous Peoples' Issues: United Republic of Tanzania*. June 2012. p. 10.

<http://www.ifad.org/english/Indigenous/pub/documents/tnotes/tanzania.pdf>

³ Kibore, Lumona. *The Indigenous Hadzabe People in Tanzania: Their Rights, Culture, Livelihood and Politics*. July 2015. Social Economic and Governance Promotion Centre. p. 4.

⁴ *Ibid.*, p.5-6.

⁵ PAICODEO Tanzania. *Report on the State of Pastoralists' Human Rights in Tanzania*. 2013. p. 32.

http://www.iwgia.org/iwgia_files_publications_files/0626_Human_Rights_Book_FINAL.pdf

security guards. Over 3,000 Maasai were left homeless and hungry, because they were not allowed to gather their supplies from inside their bomas.⁶ Several Maasai villagers were beaten and held at gunpoint when they tried to resist eviction.⁷ It is evident that the Tanzanian government has not upheld its promise of ending evictions and future efforts must be made to hold the government accountable.

Operation Save Kilombero Valley is another example of the force used against Indigenous People, in which Sukuma, Maasai and Barabaig pastoralists were threatened and evicted from their land in the Kilombero and Ulanga districts.⁸ The government justified the evictions by claiming that the pastoralists' livestock damaged the wetlands and water sources in the area. By 2012, almost 200,000 heads of livestock had been confiscated and 2,000 people pushed out. It was confirmed that 7 pastoralists were shot and killed that same year⁹.

The criminalization of Indigenous Peoples in order to justify evictions has become a commonly used tactic. In Morogoro, municipality officials called for the removal of pastoralists from the Morogoro district. The officials claimed the pastoralists were criminals, because they were having conflicts with farmers and villagers as well as trespassing onto the Selous Game Reserve, causing wild animals to leave.¹⁰ This criminalization violates Indigenous Peoples' right to defend their lands and results in physical, mental, economic and social harm to Indigenous Peoples.

Due to ongoing conflicts between farmers and pastoralists as they fight over limited land and water resources, violent and sometimes deadly clashes have been raging for decades. Many see these conflicts as a sign of a growing social problem that has occurred because of the government's failure to set aside specific areas for Indigenous pastoralists and farmers. In the Morogoro region there have been numerous conflicts between Indigenous pastoralists and farmers, especially in pastoralists designated villages. The conflicts are being sparked by farmers with the assistance of the district and regional governments. Since 1992, when a Kambala Village Chairman was lynched by machetes due to the conflict, these incidents have not stopped. A notable event still in pastoralists' memories happened in January 29, 2009 whereby more than 4000 cattles were taken by Kilosa District Council during an operation to evict pastoralists thought to be invaders. Despite the fact that the operation was intended for illegal immigrants, it went further demoralizing Mabwegere pastoralists and surrounding pastoralists villages. Even though the operation was halted by a court, pastoralists have still been assaulted and killed, including Pianga Oleku and Lekoonyi Lekata on the 6th November 2013 in Kambala Village. Farmers demonstrated on the 25th January 2013 in Dumila, closing the main road from Morogoro to Dodoma, resulting in the burning of 8 commercial houses and one vehicle belonging to Maasai Pastoralists. The demonstration was staged to oppose Kilosa District Commissioner's statement that Mabwegere Village is designated for pastoralists. Mabwegere Village is in Kitete Ward, in Magole Division in Kilosa District. The village was measured in 1990 and given a certificate of ownership numbered 36042 and dated the 5th January 1990, for 99 years. The village was later certified and on a certificate dated 16th January 1999, numbered 'MG/KIJ.522'. However, due to the ongoing land conflicts from outsiders, the village filed a case number 23 in 2006 to the High Court Land Division and then later on to the Court of Appeal. The Court of Appeal's decision ruled in favor of pastoralists on the 30th January 2012. The ruling stated that Mabwegere Village was registered legally, with full autonomous land usage, and that its boundaries are legal as identified by the Regional Land Authority in 1989. The government now is to enforce the ruling

⁶ <http://www.culturalsurvival.org/news/eviction-maasai-continues-loliondo-tanzania>

⁷ "Tanzania breaks promise- thousands of Maasai evicted to make way for lion hunt". 27 February 2015. *The Ecologist*.

[://www.theecologist.org/News/news_analysis/2771261/tanzania_breaks_promise_thousands_of_maasai_evicted_to_make_way_for_lion_hunt.html](http://www.theecologist.org/News/news_analysis/2771261/tanzania_breaks_promise_thousands_of_maasai_evicted_to_make_way_for_lion_hunt.html)

⁸ IWGIA "The Indigenous World: Tanzania". 2014. p. 417-418.

<http://www.iwgia.org/images/stories/sections/regions/africa/documents/IW2014/TanzaniaIW2014.pdf>

⁹ IWGIA. "The Indigenous World: Tanzania". 2013. p. 487.

<http://www.iwgia.org/images/stories/sections/regions/africa/documents/2013/Tanzania.pdf>

¹⁰ IWGIA. "Briefing Note: Ethnic Violence in Morogoro Region in Tanzania". March 2015. p. 4

http://www.iwgia.org/iwgia_files_publications_files/0714_Briefing_Note_Violence_in_Morogoro_Tanzania.pdf

but continues to favor invaders. The government has since been defying the Court of Appeal's decision, as witnessed on the 28th January 2015 through the Regional Commissioner's public meeting with farmers, whereby he ordered farmers to get back to "their" farms in Mabwegere Village, and said that the police should protect them, contradicting the the Court of Appeal ruling. On the 21st January 2014, the Regional Commissioner deliberately denied to supervise a process of restoring boundary blocks which were earlier removed after the Village won case number 53/2012 on the Court of Appeal, with an interest to have a New Land Use Plan so that farmers are allocated areas in accordance with his wish, even though pastoralists have right over the area for grazing. On the 12th December 2014, farmers demonstrated and blocked Dodoma-Morogoro main road and destroyed 4 houses belonging to Maasai pastoralists because they were denied cultivation in Mabwegere. On the 18th January 2015, farmers burnt 27 houses and 8 traditional houses belonging to Maasai pastoralists intending to grab the land from them. The incident also involved beating of 2 men and 6 women being raped.

More instances of deadly conflict between pastoralists and farmers have been reported. In 2014, a fight between the two groups in the Mgongola Valley over the intrusion of farmers onto Maasai grazing land led to the death of a farmer. Afterwards, several attacks were made on Maasai people in the area, regardless of whether they had been involved in the original conflict.¹¹ The International Working Group has published a briefing detailing the violence committed against Indigenous groups, particularly the Maasai and Datoga in the Morogoro Region. They estimate that as of mid-January 2015, there have been between 6 and 15 deaths, 6 rapes, and 38 homes destroyed.¹²

In Loliondo Division in the Ngorongoro District, there is an ongoing dispute between the Maasai people and Thomson Safaris over the true ownership of what is now called Sukenya Farms. The land, traditionally used by the Maasai for grazing, was leased to Tanzania Breweries Ltd. (TBL) in 2004 for a 99-year period, but was turned over to Thomson Safaris, based in Massachusetts, two years later in 2006. Because they were not consulted during the 2004 leasing of the land, the Maasai believe the lease to Thomson Safaris is also invalid and that the land should return to Maasai ownership.¹³ The Maasai depend on that land to graze their cattle, grow crops, and to access one of the only remaining dependable water sources. The police and security guards have been forcefully removing pastoralists found grazing cattle on the land, sometimes beating, shooting, and arresting them. here have been many instances of cattle being confiscated and houses being burned down.¹⁴ In July of 2014, while herding his cattle back home, herdsman Olunjai Timan was confronted by Thomson Safari security guards and shot by police. This prompted a trial over the true ownership of Sukenya Farms that went to Tanzania's High Court at the end of 2014 and is continuing this year.¹⁵

Political Participation (UNDRIP 5 & 18) and Constitutional Reform

Indigenous Peoples often lack participation in the state's political system. This can be attributed to the discrimination they face, including stereotypes that they are primitive and backwards, as well as their constant mobility and lack of access to civic education. However, recently they have been successfully involved in the process of reforming the country's constitution. To participate in the constitutional review process, several Indigenous organizations formed the Pastoralists and Hunter-

¹¹ IWGIA. "The Indigenous World: Tanzania". 2015. p. 401-402.

http://www.iwgia.org/images/stories/sections/regions/africa/documents/IW2015/Tanzania_IW2015_web.pdf

¹² IWGIA. "Briefing Note: Ethnic Violence in Morogoro Region in Tanzania". March 2015. p. 1.

http://www.iwgia.org/iwgia_files_news_files/1183_Briefing_Note_Violence_in_Morogoro_Tanzania.pdf

¹³ <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/too-common-occurrence-maasai-land-theft-safari-company>

¹⁴ Business & Human Rights Resource Centre. "Thomson Safaris lawsuit (re Maasai in Tanzania)". 17 July 2013.

<http://business-humanrights.org/en/thomson-safaris-lawsuit-re-maasai-in-tanzania>

¹⁵ Friedman-Rudovsky, Jean. "The Ecotourism Industry is Saving Tanzania's Animals and Threatening its Indigenous People". 12 May 2015. *Vice Media LLC*. <http://www.vice.com/read/casualties-of-conservation-0000649-v22n5>

Gatherers Katiba Initiative (KAI) and worked to mobilize Indigenous People, poll their communities, and submit reports to the Constitutional Review Commission. They were also able to get seven representatives appointed to the Constituent Assembly. A new constitution has been written, which incorporates several recommendations made by KAI that will promote Indigenous rights. If passed, the new constitution would recognize the pastoral livelihood as equal to farming as well as protect the rights of minorities, including the right to the land where they traditionally lived. Pastoralists' rights would be added to the Bill of Rights and the government would demarcate land for different communities, paying compensation to those whose land is encroached upon for national interests. Many recommendations, however, were not incorporated into the proposed constitution. Land and natural resources would still be considered public goods, meaning they are controlled by the government without any say from Indigenous Peoples. Furthermore, no measure was added to ensure that Indigenous Peoples would receive compensation for past injustices committed against them, and pastoralists still do not have access to protected lands, which would help sustain their livelihood. Although the constitutional referendum was set for April 30th of 2015, it was postponed at the beginning of April and no rescheduled date has been announced. The National Electoral Commission claimed that they needed to update permanent voter registration before voting on the constitution.¹⁶

Poverty and Food Insecurity

Faced with continuous land-grabbing and the negative effects of climate change, Indigenous people face higher levels of poverty and food insecurity. Poverty rates are especially high in the Hanang and Mbulu districts and have not improved as a result of the lack of government intervention. They lack access to food, especially traditional food, which contributes to their poverty.¹⁷ Indigenous groups have increasingly limited access to water because of the effects of climate change and their eviction from land with water sources. One Maasai woman from the Kiteto District told of how the people from her village must walk 15 kilometers to the nearest water source, which takes about 12 hours, including the 6 hours spent waiting in line. Because the nearby dams dry up and do not provide suitable drinking water, villagers from Wame-Sokoine must buy their water from private businessmen at a high cost.¹⁸

A two-year study published in 2014 found that almost 60% of Maasai children under the age of 5 were physically stunted whereas nearby groups had rates of only 20-40%. In addition, Maasai children reported more incidences of illnesses like pneumonia and diarrhea. The study indicated that food insecurity was a major cause of this discrepancy as 80% of Maasai were found to be food insecure, compared to the 50% of neighboring ethnic groups.¹⁹ Reports have shown that several pastoralist children in the Ngorongoro Conservation Area have died from malnutrition. Over 200 children were said to have died between May 2011 and the end of 2012. This is demonstrative of how the interests of tourism and wildlife conservation have been placed before the lives of pastoralists. The government failed to distribute food from the National Grain Reserve and has not ensured that the pastoralists living in the Ngorongoro Conservation Area receive a fair share of earnings from tourist entrance fees.²⁰

Gender Inequality and Women's Rights

¹⁶ AFP. "Tanzania postpones constitutional referendum: election commission". 2 April 2015. *Yahoo! News* <http://news.yahoo.com/tanzania-postpones-constitutional-referendum-election-commission-200337155.htm>

¹⁷ Kibore, Lumona. *The Indigenous Hadzabe People in Tanzania: Their Rights, Culture, Livelihood and Politics*. July 2015. Social Economic and Governance Promotion Centre. p. 9-10.

¹⁸ PAICODEO Tanzania. *Report on the State of Pastoralists' Human Rights in Tanzania*. March 2013. p. 61-62. http://www.iwgia.org/iwgia_files_publications_files/0626_Human_Rights_Book_FINAL.pdf

¹⁹ Lawson, David W. and Susan James. "Maasai in Tanzania: world fame but empty stomachs". 12 December 2014. *The Guardian*. <http://www.theguardian.com/global-development-professionals-network/2014/dec/12/masai-in-tanzania-world-fame-chronic-malnutrition>

²⁰ IWGIA. "Tanzania: Hunger in a World Heritage Site. Where is the World?". 21 December 2012. http://www.iwgia.org/news/search-news?news_id=732

Indigenous women in Tanzania often have little say in the decisions that affect their lives and face severe obstacles that contribute to their impoverishment. More specifically, “women [are] denied their right in decision making, right to health education, right to own properties, land and income of family.”²¹ Within their own communities, women are not allowed to be traditional leaders, or participate in meeting. Their lack of access to education makes it difficult for them to escape poverty and engage more politically. Established gender roles mean that women’s everyday chores are often extremely time consuming, such as the process of obtaining water, visiting the market, finding firewood, and obtaining medicine can also all take a whole day’s time mentioned above, resulting in women’s exclusion from community meetings and educational opportunities as a result of their busy schedules.²²

V. Questions:

1. What steps is the government of the United Republic of Tanzania taking to secure land rights of Indigenous Peoples?
2. What steps is the government of the United Republic of Tanzania taking to investigate land disputes and bring perpetrators to justice?

Recommendations for this UPR Submission:

Cultural Survival urges the Government of the United Republic of Tanzania to:

1. Approve the new constitution, which will guarantee more rights for Indigenous peoples, and address the recommendations that were not incorporated into the new constitution.
2. Ratify the ILO Convention No. 169.
3. Restitute Indigenous Peoples to their traditional lands or if restitution is not possible, provide adequate relocation lands and compensation established through a process of free prior informed consent with affected communities.
4. Uphold promises to end the eviction of the Maasai people from their lands: launch a proper investigation of land grabbing in Loliondo to hold accountable those people involved in the eviction of Maasai people and boma burning.
5. Investigate the charges of violence against Maasai by Thomson Safari security guards and return the land to the Maasai or come to an agreement between Maasai and Thomson Safaris to share the land.
6. Recognize the pastoral and hunter-gatherer lifestyles of the Indigenous peoples as economically viable and engage in communication with these groups to understand the support they need to maintain their traditional lifestyle. The government should seek the prior, free, and informed consent of Indigenous groups before taking action that affects their lands and lifestyles.
7. Establish specific constitutional, legislative and administrative measures in accordance with the UNDRIP to protect rights of Indigenous Peoples and ensure that they enjoy human rights in equal footing as other members of the mainstream society.
8. Allow pastoralists to use wildlife protected areas for grazing and to have better access to water.
9. Expand opportunities to education for Indigenous Peoples, particularly girls and women, and promote greater participation for women in decision-making processes.
10. Ensure the implementation of judicial rulings by all branches of government in a fair and impartial way.
11. Establish an impartial investigation into land conflicts in Mabwegere and Kambala villages.
12. Ensure Indigenous peoples’ lands are protected and Indigenous communities are adequately consulted in all matters affecting them, especially regarding development projects.
13. Take operational steps to implement the United Nations Declaration on the Rights of Indigenous Peoples, including the recognition of the right to land and natural resources of all Indigenous peoples in Tanzania.

²¹ Kibore, Lumona. *The Indigenous Hadzabe People in Tanzania: Their Rights, Culture, Livelihood and Politics*. July 2015. Social Economic and Governance Promotion Centre. p. 10.

²² *Ibid.*, p. 10.

14. Evaluate and align all legislation and government programs with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)
15. Adopt a national action plan on its implementation to ensure Indigenous peoples' effective and politically meaningful participation in the decision-making process and equal representation in the governance of the country as provided under UNDRIP.
16. Implement the World Conference on Indigenous Peoples Outcome Document, beginning with drafting a National Plan of Action to achieve the ends of the UN Declaration on the Rights of Indigenous Peoples
17. Invite the Special Rapporteur on the Rights of Indigenous Peoples to visit Tanzania.