

**SUBMISSION BY PASTORALISTS AND HUNTER-GATHERERS ORGANIZATIONS
IN TANZANIA**

SUBMISSION TO THE HUMAN RIGHTS COUNCIL

UNIVERSAL PERIODIC REVIEW MECHANISM

[UPR 39TH SESSION, OCTOBER – NOVEMBER 2021]

REVIEW OF THE UNITED REPUBLIC OF TANZANIA 2016-2021

**SUBMITTED BY THE FOLLOWING PASTORALISTS AND HUNTER-GATHERERS
ORGANIZATIONS**

1. Tanzania Pastoralist Community Forum (TPCF)
2. Tanzania Centre for Research and Information for Pastoralism (TCRIP)
3. Association for Law and Advocacy for Pastoralists (ALAPA)
4. Tanzania Pastoralists and Hunter Gatherers Organization (TAPHGO)
5. Mimatie Women Organization
6. Tanzania Land Alliance (TALA)
7. KINNAPA Development Programme
8. Maasai Pastoralist Development Organization Lareto (MPDO LARETO)
9. Help Foundation
10. Ngorongoro Education Development Organization (NEDO)
11. CORDS
12. Media Aid for Indigenous and Pastoralist Community (MAIPAC)
13. Community Support Initiatives Tanzania (COSITA)
14. Chama Cha Wafugaji Kanda ya Ziwa (CHAWAKAZI)
15. Pastoralist Indigenous Non-Governmental Organisations' Forum (PINGOs Forum)
16. Namnyaki Maasai Girls Women Organization (NAMGWO)
17. Community Economic Development and Social Transformation (CEDOSOTA)
18. Ngorongoro Paralegal Foundation (NPF)
19. Pan African Living Culture Alliance (PALCA)
20. Pastoral Livelihood Support and Empowerment Programme (PALISEP)
21. Tanzania Human Rights Defenders Coalition (THRDC)

I. Introduction

1. This submission highlights the state of implementation of rights of pastoralists and hunter-gatherers in Tanzania in the light of Tanzania's international human rights obligations, commitments and pledges. Specifically, it puts forward pastoralists and hunter gatherers' human rights concerns regarding concerns regarding marginalization, unlawful arrests, torture and malicious prosecution,, land grabbing and unlawful evictions, non execution of court judgments decided infavour of pastoralists as well as non harmonization of scientific and traditional adaptation strategies among pastoralists in relation to the impacts of climate change and climate variability. It further highlights Civic and Political rights, economic and cultural rights and specific groups' rights such as women, children, youth and peoples living with disabilities.

II. Methodology

2. This is a joint submission prepared by a coalition of Pastoralists and Hunter-gatherer civil society organizations (CSOs) under the coordination of Tanzania Pastoralist Community Forum TPCF, with involvement of other forums, networks and groups. The report is a compilation of primary and secondary sources of information, evidence and facts collected through consultative meetings and interviews with civil society organizations, public officials and community members, experts on pastoralism as well as members of the academia. More information was obtained from different credible sources including: the United Nations treaty bodies, United Nations special procedures, African Commission on Human and Peoples Rights, Government reports, media as well as reports of fact-finding missions conducted by CSOs working in the pastoralists and hunter-gatherers areas. A validation meeting attended by representatives of CSOs, Forums, Networks and Groups was convened in order to further fact-check this UPR submission.

III. Follow up from previous reviews/ Implementation status

3. This is the third review for Tanzania. The country was last reviewed in May 2016 and October 2011 respectively. During the second UPR cycle, Tanzania received a total of 229 recommendations, of which 133 were accepted and 96 were noted. Tanzania was first reviewed in January 2011.

4. Tanzania accepted the following recommendations
 - a) Take steps to clarify land rights and the land use situation, taking into consideration all stakeholders that are affected by the decision-making related to land ownership and use. (Finland)-Accepted
 - b) Facilitate access to education and land rights, in particular for women and people in rural areas (Haiti)-Accepted
 - c) Promote strategies for climate changes mitigation and adaptation to their effects, and disseminate them through school programmes (Haiti)-Accepted
5. The government of United Republic of Tanzania partially implemented these recommendations¹.
6. Tanzania noted the following recommendations regarding indigenous pastoralists and hunter gatherers as put forward by Mexico and Cabo Verde:
 - a) As previously recommended, promote a legal framework providing legal certainty in areas of property, particularly land tenure and protection against forced evictions and recognize the rights of indigenous peoples, pastoralists, hunter gatherers (Mexico)
 - b) Promote fairness and swift action in protecting the rights and legitimate interests of indigenous minorities (Cabo Verde)

IV. International, regional, and domestic human rights obligations

V. Marginalization of Pastoralists and hunter gatherers

7. Pastoralists and hunter-gatherers continued to be marginalized and discriminated against in Tanzania, using existing policies, laws and directives from government officials. The Wildlife Conservation Act, no 5 of 2009 that considers hunter-gatherers to be poachers while engaging in sustainable traditional livelihood in their ancestral land, is evidence of this discrimination sanctioned by law. The National Livestock Policy of 2006 does not recognize pastoralism as a mode of life and as a viable production system in Tanzania. Instead it puts more emphasis on modern livestock keeping which is a small part of the livestock sector in the country. Accordingly, pastoralism is given less policy priority, and other land uses such as crop cultivation and wildlife conservation are given more priority at the expense of pastoralism.,

¹https://www.ohchr.org/Documents/HRBodies/UPR/NGOsMidTermReports/Tanzania_CoalitionCSOsHRDefenders.pdf

8. Accordingly, Pastoralists and hunter-gathers in Tanzania remain vulnerable because the traditional livelihoods are considered backward and archaic. This justifies forceful evictions to give room to other land uses such as wildlife conservation and crop cultivation. Evictions and threats of evictions in the Ruaha valley, the Ngorongoro conservation area, the Loliondo game controlled area, Vilima vitatu and Mkungunero and the influx of crop growers claiming grazing lands in Kiteto and Kilosa districts are towering examples.
9. Specifically, while struggling to maintain their traditional livelihoods that are intrinsically dependents on access to land (i.e. Ancestral land for traditional livestock herding and hunting wild animals and racial activities), the livelihoods are under constant attack from legal and policy frameworks that discourage and criminalized them. A perfect example is the Strategic Plan for Implementation of Land Laws II (SPILL II) and the National Livestock Policy of 2006. The SPILL, which guides how land legislation could be implemented, provides categorically that nomadism (seasonal movement by pastoralists in search of water, pastures, salt licks and fleeing away from outbreaks of diseases) should be prohibited. This causes considerable pressure to pastoralists knowing that the government proposes to outlaw their livelihood of option.

VI. Unlawful Arrests, Torture and Prosecution of Pastoralists and Hunter-Gatherers

10. Reports indicate that many pastoralists have been arrested, beaten, humiliated and harassed by the police, game rangers. Specifically, publically available reports indicate that game scout of Mkungunero Game Reserve, Morogoro and wildlife rangers in Loliondo continue to torture pastoralists, and this is the same for other wildlife conservation areas across the country²., Human rights defenders and community leaders who are frontliners defending the rights of others face illegal arrest and malicious prosecution, torture, and ill treatments.

VII. Land grabs and unlawful evictions

²<https://www.pingosforum.or.tz/index.php/component/content/article/88-latest-developments/109-persistence-of-human-rights-violation-to-pastoralist?Itemid=437> (visited 19/3/2021)

11. Tanzania witnessed escalating cases of land grabs and unlawful evictions of pastoralists and hunter-gatherers from their ancestral land³. Different land users including wildlife protected areas authorities, farmers and investors supported by the government, carried out unlawful evictions and grabbing lands belonging to pastoralists.
12. According to publically available information, the government of Tanzania intends to divide the Ngorongoro Conservation Area (NCA) into four distinctive zones. The news has spiked fear among members of the community who are concerned about their land rights⁴.
13. If implemented, this plan can arguably be described as the worst chapter in the history of forceful eviction for the Maasai from land crucial to their survival and identity. This plan threatens approximately 90,000 people and their livelihoods by further restricting areas within the NCA that the Maasai can access for housing, livestock grazing, cultural activities and crop cultivation⁵. The plan will first expand the size of the NCA from 8,100km² to 12,083km² by including the Loliondo Game Controlled Area (GCA) and Lake Natron GCA. Once expanded in terms of total area, the new NCA will have significantly less land available for the Maasai to use for pastoralism, settlements, and farming crucial to their livelihoods.

VIII. Non-execution of court judgments decided infavour of pastoralists and hunter-gatherers.

14. On March 15, 2013 the Court of Appeal in Civil Appeal No.77 of 2012 ruled in favour of the Barabaig pastoralists of Vilimavitatu Village declaring that a Wildlife Management Area had been established without the free, prior and informed consent of the pastoralists in the village and that the land should be returned back to the community. On September 4, 2013 the Government evicted the Barabaig pastoralists of the village, burning down 44 of their houses and ordering them to leave the area immediately. Reportedly the Babati District Council and Vilima vitatu Village Chairman authorised the evictions, which were carried out by police and private security guards.
15. Pastoralists of Mabwegere Village, Kilosa District, filed case No. 53 of 2010 at the Court of Appeal of Tanzania against farmers who invaded their land. On January 30 2012 the Court of Appeal ruled in favour of the pastoralists of

³ Case of Ololosokwan Village Council & 3 Others vs the Attorney General of the United Republic of Tanzania, Application No. 15 of 2017 (Arising from Reference No. 10 of 2017. The case was filed in the East African Court of Justice.

⁴Defined in the Tanzanian government MLUM review as Maasai, Tatoga, and Hadzabe

⁵Mittal, A. and E. Fraser. Losing the Serengeti the Maasai Land that was to Run Forever. The Oakland Institute, 2018. <https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/losing-the-serengeti.pdf> (accessed Nov 14, 2020).

Mabwegere Village. In 2014 the Kilosa District Council refused to implement the court of appeal judgment, and the Attorney General advised the Prime Minister that the judgment is not implementable

16. In Kiteto District in an area known as Emborley e Murtangus belonging to 7 pastoralists villages which jointly allocated part of their village land for grazing and environment protection, there was an invasion by farmers resulting in a Court of Appeal decision in favour of the pastoralists. The government does not respect this decision. The Government through the Prime Minister ordered subdivision of the land contrary to the decision of the Court of Appeal in Appeal case No.58 of 2010. It was clearly stated by the court that “All farmers be removed out of...Emborley e Murtangos”, however, this decision is not respected.
17. Access to justice is further hampered by the executive pillar’s decision the to disobey courts orders on confiscation of livestock. The case of Lenina Satulo and others⁶ Vs. The Attorney General is a towering example. The court ordered return of illegally confiscated livestock but the court order remains unimplemented to date.

IX. Non harmonization of scientific and traditional adaptation strategies among pastoralists to the impacts of climate change and variability

18. For many years’ pastoralists have been using traditional adaptation strategies to cope with the impacts of climate change and climate variability⁷.
19. In Tanzania pastoralist have also been using the same traditional knowledge systems and adaptation strategies as a way to deal with the adverse impacts of climate change. However, these traditional knowledge systems do not receive government’s policy recognition and support. There is a need to support them and harmonize scientific knowledge systems and traditional knowledge system.

X. Recommendations

We, Pastoralists and Hunter-Gatherers’ CSO’s are convinced that the above issues are central to the human rights of pastoralists and hunter-gatherers, and merit consideration in the upcoming UPR review cycle. We therefore recommend the following to the government of United Republic of Tanzania:

⁶<https://www.pingosforum.or.tz/index.php/component/content/article/88-latest-developments/109-persistence-of-human-rights-violation-to-pastoralist?Itemid=437> (visited 19/3/2021)

⁷Herrero, M et al (2016). Climate Change and Pastoralism: impacts, consequences and adaptation.

20. Put in place appropriate constitutional and legislative mechanisms to protect pastoralists and hunter-gatherers against discrimination of all forms, including discrimination against their dignity, livelihoods and protection of their land tenure.
21. Review the current Livestock Policy to accommodate pastoralism component or develop a new Pastoralism Policy.
22. Set up an independent commission of inquiry involving pastoralists and hunter-gatherers to investigate unlawful arrests, prosecution and other human rights violations against pastoralists and hunter-gatherers in areas of Loliondo and Simanjiro.
23. Stop for Loliondo evictions threats and facilitates land use planning in the area
24. Facilitate for land use planning to safeguard for security tenure of Indigenous peoples in Tanzania
25. Put in place law and policy to enable implementation of the UN-Declaration on the Rights of Indigenous Peoples in Tanzania
26. Take appropriate steps for protection of indigenous people's human rights defenders in Tanzania
27. Ensure that all land that has been taken unlawfully is restored to the pastoralists and hunter-gatherers and that no further land grabs and unlawful evictions occur.
28. Stop expansion of National parks and game reserves to encroach on grazing land
29. De-gazette all game controlled areas forming part of village lands.
30. Clarifying the limits of Wildlife Management Areas in relation to the autonomy of village councils.
31. Improve the efficiency of the justice system to ensure that constitutional litigation as well as other public interest cases are conducted expediently to avoid miscarriages of justice while ensuring all cases decided by courts are executed in a timely manner.
32. Enhance access to justice by building district land and housing tribunals in all pastoralists districts
33. Make a state pledge to execute all court orders relating to pastoralists and hunter-gatherers rights.

34. Ensure that national legislation and policies fully guarantee recognition, safety, protection and preservation of pastoralist system of life, livelihood and their properties including land and livestock.
35. Harmonization of scientific and traditional adaptation strategies to the impacts of climate change and variability, which were used by pastoralist for centuries.

XI. Conclusion

The above listed pastoralists and hunter-gatherers' organizations are grateful for the opportunity to make this submission. We are strongly convinced that the UPR is an important UN process aimed at addressing human rights issues worldwide, including the situation faced by pastoralists and hunter-gatherers in Tanzania.

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