



Submission to the Committee on the Elimination of Discrimination against Women

by Minority Rights Group International,
International Non-Governmental Organisation
with ECOSOC Consultative Status

United Republic of Tanzania

Pre-Sessional Working Group 63

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Introduction

1. Minority Rights Group International (MRG) is an international NGO with over forty years of experience working to secure the rights of ethnic, religious and linguistic minorities worldwide. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), observer status with the African Commission on Human and Peoples' Rights (ACHPR) and is a registered civil society with the Organisation of American States. MRG currently is working to promote the capacity of local NGOs to manage conflicts over land rights in Tanzania, including via litigation. MRG has prepared this submission with a local NGO partner organisation, which has provided a firsthand account of the information set out below, except where otherwise cited.
2. In line with the mandate of MRG, this report focuses on the rights of Maasai women as a minority and indigenous community in Tanzania. First, this submission addresses recent developments in a major land dispute with a foreign investor in Tanzania: Tanzania Conservation Ltd/Thomson Safaris¹. Second, it explains how the Government of Tanzania has deprived the Maasai women of Loliondo of their rights to access to and control over land. Finally, this submission shows how the Government of Tanzania has failed to respect the women's right to participate in and benefit from rural development. The submission focuses in particular on Articles 10, 11, 12, 13, 14, 15, 16 of the Convention on Elimination of All Forms of Discrimination against Women (hereinafter "CEDAW" or "the Convention").
3. MRG seeks the inclusion of these issues in the List of Issues to be taken up in connection with the examination of the United Republic of Tanzania by the pre-sessional Working Group 63 of the Committee on the Elimination of Discrimination against Women (the "Committee"), from 27-31 July 2015.

Background:

4. The Maasai of Sukenya Farm, Loliondo, are currently at risk of losing their lands and livelihoods due to an aggressive tourism campaign by the Tanzanian Government, and conflicts with a local tour operator. Despite what its name suggests, Sukenya Farm is mostly open grazing land lying between the villages of Sukenya, Mondorosi and Soitsambu. These three villages have, respectively, a population of 3200, 7300 and 5400 residents². They are in Soitsambu Ward, Loliondo Division. The Loliondo division of the Ngorongoro District of northern Tanzania is an area of 31,900 km² of which 59% is the Ngorongoro Conservation Area (NCA).
5. In 1984, the Tanzanian Government claimed 10,000 acres of ancestrally owned land from the pastoralists of Sukenya Farm, and allocated it to Tanzanian Breweries Limited ('TBL'), a partially privatised company. Out of the 10,000 acquired acres, only about 700 were used for cultivation, allowing Maasai to continue using the remainder of the land for grazing and watering their livestock, in accordance with

TCL, a Tanzanian incorporated company, shares the same co-directors as Thomson Safaris Ltd, also a Tanzanian incorporated company, and is similarly under the same ownership as Wineland-Thomson Adventures Inc, a U.S.-based tourism company. These affiliated companies mainly use the land for luxury tourist accommodation and other safari related holiday activities for their clients.

¹ Based on a 2015 census.

their traditional practice.

6. On 22 June 2006, TBL sub-leased their property for 96 years to Tanzania Conservation Limited ('TCL') – a Tanzanian incorporated company, ultimately owned by US-based safari company Thomson Safaris (TS). After registering the lease, TCL via its agents and employees burned down the Maasai bomas, and chased away the pastoralists who were grazing cattle on the land.
7. In 2010, Soitsambu Village Council filed a complaint in the High Court of Tanzania, Land Division against TBL and TCL, claiming that the land belonged to the village, not the State. The application was dismissed in 2013 for procedural reasons but new proceedings were lodged several months later. The first stage of the trial took place in December 2014 and a further hearing took place in May 2015. The matter has been adjourned for further hearing in July 2015.
8. Legal representatives of Soitsambu Village Council have made several attempts to request that the High Court of Tanzania issue a temporary injunction restraining TS and its employees and agents from denying the villagers' use of the Farm. The injunction, also seeking to restrain TCL/TS from any construction, development, or any change of its designated use pending the outcome of the main proceedings, was denied in April 2014.
9. This dispute amply reflects the Tanzanian Government's attitude towards indigenous peoples' land rights. It does not recognise Maasai traditional land rights, nor their right to full access and control of the natural resources therein. The Maasai of Sukenya Farm are, therefore, at serious risk as a result of losing their lands and their livelihoods. Such an aggressive tourism policy disproportionately affects Maasai women who experience double discrimination, because of their membership of an indigenous group and their status as women in a patriarchal society. This double discrimination makes them more vulnerable, since Maasai women of Loliondo are at higher risk of becoming homeless or suffering from the consequences of inadequate living conditions. They are amongst the poorest and most marginalised groups in Tanzanian society, and therefore it is submitted that the State Party continues to violate many provisions of CEDAW. In particular, Article 14 of CEDAW specifically requires that States Parties take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, and take all appropriate measures to ensure the application of the provisions of CEDAW to women in rural areas.
10. It is submitted that the Government's policy of land grabbing and lack of respect for indigenous and customary land rights does not result in the elimination of discrimination against Maasai women and, thus, does not contribute to their economic and social development. For Maasai women dependent on agriculture, land is the most important productive asset. Nevertheless, the Tanzanian Government continues to deprive them of their right to access to and control over land (see section I below). The Tanzanian Government also violates other specific provisions in this context (see section II below).

I – Violation of women’s right to access to and control over land:

- **Articles 15.2 and 16(h): right to property**

11. Articles 15.2 and 16(h) provide an equal right in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property. The Committee has stressed the importance of “*income generating opportunities, particularly through ensuring their access to productive assets including land*”³. The Committee has further specifically recalled that rural women should have access to “*productive resources, [...] land use and ownership and property*”⁴.

12. Both Tanzania’s Land Act and its Village Land Act grant women and men equal rights to village land⁵. They recognise equal rights for men and women to access, own, control and dispose of land under the same terms and conditions. The Village Land Act protects women from discriminatory customs and traditions that restrict their access to ownership, occupation and use of land. It specifically requires an equal treatment of women and men when they apply for recognition of customary right of occupancy of village land.

13. However, although the Tanzanian legal framework meets the Convention’s requirements on paper, in practice, Maasai women’s land rights are not recognised. National interest and promotion of tourism have resulted in high levels of alienation of Maasai land. By their eviction from Sukenya Farm, the pastoralist Maasai community has been dispossessed of the land it has traditionally occupied, making them squatters on their own land. Women bear the brunt of the effects of evictions, being doubly affected.

14. Furthermore, the process by which customary rights of occupancy are granted is unnecessarily administrative and often deadlocked by men and local administration. The demarcation and mapping process can take some considerable time, following which an application is submitted for the District Council surveyor's approval. The right must then be granted by the Village Council and approved by the Village Assembly, which issues a certificate. Women are under-represented at the Village Council. In Sukenya, only 36% of Council members are women⁶, although decisions are taken by a majority vote. In a community within which there is a strong resistance from most men against titles granting to individual women, such representation is insufficient to obtain decisions in their favour. In addition, the title deeds delivery process is overly expensive, meaning that over 90% of Maasai women are not able afford it. As detailed in paragraph 40 below, the vicious circle initiated by Tanzania’s tourism policy deprives Maasai women the right to access credit. They are, consequently, deprived from possibilities of land ownership.

15. The Tanzania Government, therefore, deprives Maasai women from any chance of

³ Committee on the Elimination of Discrimination against Women, *General Statement on Rural Women*, 19 October 2011, 50th session, p.2

⁴ Committee on the Elimination of Discrimination against Women, *General Statement on Rural Women*, 19 October 2011, 50th session, p.4

⁵ Government of Tanzania, *Land Act*, 1999, Section 3.2; *Village Land Act*, 1999, Articles 20(2) and 23(2)(c)

⁶ Out of 25 Council members, 9 are women.

enjoyment and disposition of property, thereby violating Articles 15.2 and 16(h) of the Convention.

- **Article 14.2(h): right to adequate living conditions, particularly in relation to housing and water supply:**

16. Whereas the Committee has recalled that rural women should have access to water⁷, the land dispute has caused Maasai women of Loliondo to be denied their right to water. Sukenya Farm continues to be heavily guarded by both private TS security guards and armed police who physically deny access to the Maasai trying to access the natural resources upon their ancestrally-owned land to graze their animals and for water. A Maasai woman has stated: “we are now prohibited to use two more water sources. We used to go there for firewood, but now they beat you if you go”⁸. Many instances illustrate the violation of Maasai women’s right to water.
17. On 24 July 2010, for example, TS guards turned away 500 cattle belonging to the Mondorosi and Irmasiling sub-villages, preventing them from using the Pololet River, which runs through Sukenya Farm and traditionally has been the community’s main source of water. They told the owners of the cattle never to come to drink water or cross the disputed land. The closest alternative source of water is at Kenya’s end of the Pololet River, which takes approximately 2-3 days to reach on foot. This is not a sustainable solution. Denial of access to vital water sources has forced the people of Mondorosi, Sukenya and Enadooshoke villages to risk going to the Pololet River despite the presence of guards, sometimes going at night.
18. Ilotimi water source, located 5 kilometers from Sukenya sub-village, is still forbidden and blocked to date. This was previously the main source of domestic water for the community, yet Maasai women have now to travel some further 10-15 km to Wasso river or Olobo village to collect water.
19. Water is synonymous with life. The Sukenya Farm conflict has caused considerable problems for the pastoralists who have used the pastures of Sukenya Farm as a refuge for decades, particularly during acute drought. Blocking Maasai access to this vital source of water threatens their survival and that of their livestock. Not only can they not meet the human need for water, but they cannot ensure the survival of the livestock, their primary source of livelihood. Overall, the Government has done nothing to prevent the denial of access to the water and grazing pastures on Sukenya Farm. This endangers the whole community but also specifically impacts women. Depriving them from accessing close water sources has considerably increased their workloads, causing them physical suffering.
20. There have also been allegations of destruction of Maasai homes. In 2006, when TS registered their lease over the land and evicted the Maasai from their ancestral land, approximately 200 families were affected, with about 10 bomas being burnt. In addition, a Maasai named Pasua Ologespo was forced to move twice: in 2009, he and

⁷ Committee on the Elimination of Discrimination against Women, *General Statement on Rural Women*, 19 October 2011, 50th session, p.4

⁸ Rosie Martin, 2010. Land rights crisis in Tanzania, *Talking Stick*, [Online] Available at: http://www.african-initiatives.org.uk/media_files/Talking_Stick.pdf

his family were evicted because his boma was on the disputed land; in 2012, being required to move again, he resisted and the home was burned by security guards.

21. Maasai women are traditionally responsible for repairing houses. In Pasau Ologespo's case, as in many others, women had to construct these houses twice. Again, this has increased their workloads, while they are also expected to concentrate on raising and feeding children and cooking for the male family members. By not taking action in relation to the destruction of their homes, the Tanzanian Government has placed a heavier burden on Maasai women.
22. The evicted Maasai families relocated to other parts of Sukenya and Mondorosi villages, including some living just outside the boundaries of Sukenya Farm, but since 2006 they have no longer been able to access their former land and its resources freely. When they have sought to graze cattle on the land or access water sources they have been subjected to intimidation, harassment, at times suffered beatings and also been arrested and subsequently charged with trespass. These arrests are often accompanied by police harassment, including physical violence, and can be particularly severe for women. In a recent incident that was documented by NGO human rights monitors, a Maasai woman was detained along with several men. When she did not perform the physical humiliation that was ordered by the police, she was beaten in front of the entire group of men – a particularly degrading experience. Increasingly, to avoid such treatment, they have been forced to look for alternative grazing lands and water sources entailing going further afield and putting increasing pressures on those alternative lands.
23. Article 14.2(h) provides rural women the right to enjoy adequate living conditions. This right encompasses housing and water supply. Depriving the Maasai access to Sukenya Farm, their ancestral land, violates women's rights to adequate housing and water, and thus perpetuates the double discrimination they face.

II – Consequential violations: women's right to participate in and benefit from rural development:

- **Articles 11 and 14(2)(e): the right to work and benefit from economic opportunities**
24. Accessing decent and productive employment and income-generating activities is still a great challenge for Maasai women of all ages, who often only manage to secure part-time, seasonal and low-return or unpaid jobs. They face widespread labour discrimination, coupled with additional constraints related to their responsibilities for carrying out unpaid domestic tasks and care work.
 25. Article 11 requires that State Parties shall eliminate discrimination against women in the field of employment, recalling that the right to work is an inalienable right. It also provides for job security. This Article is completed by Article 14.2(e) which guarantees rural women the right to benefit from economic opportunities through employment or self employment. In many instances, Tanzania's tourism policy fails to meet these obligations.

26. TCL's concession is a lucrative venture for the central Government, with a large amount of revenue being generated from wildlife tourism in Tanzania. For example, TS paid \$1.2 million only for the property's lease. Studies show that a very small amount of this revenue makes it into rural Maasai homes⁹, and in fact the Maasai of Loliondo benefit very little, if at all, from the revenue generated by TCL's use of Sukenya Farm for tourism purposes. Few, if any, of the local Maasai are employed by TCL.
27. Maasai women are expected to concentrate on building and repairing houses, fetching firewood and water, and milking animals. With access to land and water points being refused, they are not able to supply water or wood.
28. Women also play an important role in monitoring animal health and nutritional status through their close contact with lactating cows¹⁰. As milk production depends on grass and water, the deprivation of access to such resources leads to an insufficient quantity of milk. Sales from milk provide a large proportion of household income¹¹. Income from milk is controlled by women, with most spent at the household level presenting "*a window of financial flexibility for Maasai women. This simple fact has a huge policy implication. Interventions and policies that assist women in improving their earnings from milk have potentially large poverty impacts*"¹².
29. Not only does the Tanzanian tourism policy lead to obvious financial insecurity for Maasai women by denying access to ancestral land, it also endangers the whole community. Further, the policy indirectly discriminates Maasai women because it prevents them from performing their traditional duties.

- **Articles 14.2(e): right to organise self-help groups or cooperatives**

30. In order to secure jobs and access economic opportunities, Article 14.2(e) provides for the right to organise self-help groups and cooperatives. Maasai women should therefore have the right to benefit from tourism income.
31. Tanzania's Tourism Policy of 1999 recognises the important role that women "*in the rural areas play ... in the development of tourism. They are generally managers of the environment. They are producers of more than 80% of tourist souvenirs, which include pottery, beadwork, weaving, cloth art etc.*"¹³ The opportunity for Maasai women to sell beads to tourists is extremely important for their survival. For example, after being trained on bead making, one woman reports that she earned enough money to feed her family: "*Before I joined the SACCOS I could only feed my family one meal a day and that was not assured. Now I am assured to feed my family two meals a day*".¹⁴ However, as set out in paragraph 26 above, they benefit very little, if at all,

⁹ Katherine Homewood, *Staying Maasai? Livelihood, Conservation and development in East African Rangelands*, Springer Science and Business Media, 2009, p. 395

¹⁰ Katherine Homewood, *Staying Maasai? Livelihood, Conservation and development in East African Rangelands*, Springer Science and Business Media, 2009, p. 28

¹¹ Almost a third in some regions.

¹² Katherine Homewood, *Staying Maasai? Livelihood, Conservation and development in East African Rangelands*, Springer Science and Business Media, 2009, p. 141

¹³ Government of Tanzania, Ministry of Natural Resources and Tourism, *National Tourism Policy*, 1999, Section 5.14.1

¹⁴ Available at: <http://www.pastoralwomenscouncil.org/economic-empowerment-stories.html>

from the tourism venture at Sukenya Farm.

32. TS and the Tanzanian Government have however been reluctant to enable Maasai women of Sukenya Farm from taking advantage of such opportunities. In 2010, a representative from the District community development office announced a decision to form women's groups to sell beads to TS' clients. TS chose the women strategically from families forming women's groups around Sukenya Farm as a way to silence any women's movements and promote TS' local public relations. Since this date, TS has continued this discriminatory selection process amongst the women, limiting their employment opportunities of employment. The vast majority of Maasai women in Loliondo are still not allowed to sell beads, being deprived from accessing economic opportunities. Such discrimination constitutes a violation of Article 14.2(e) of the Convention.

- **Articles 10(a) and 14.2(d): right to education**

33. Article 10 of CEDAW requires that State Parties take all appropriate measures to eliminate gender-based discrimination in the field of education. Article 10(a), which specifies that this requirement applies "in rural as well as in urban areas", is completed by Article 14.2(d) which provides the right to obtain all types of training and education, encompassing both formal and non-formal education. The violation of these provisions by Tanzania is double: on the one hand, discrimination against Maasai women relies on the lack of educational structure; on the other hand, discrimination comes from the inability of Maasai women to receive and provide traditional education.

34. Article 11 of the Constitution of Tanzania of 1977 provides for equal and affordable education opportunities for all. Maasai lack of access to their land directly reduces their incomes, and as a result, they cannot afford children's schooling. "*Without land we cannot live*" said Naishirita Tenemeri, a mother of three, who raises cows and goats in Loliondo to pay for her children's schooling¹⁵. Kimererio's sadly explained that: "*I used to sell firewood to another village 10km away so I could afford cornflour to feed my children. My children were very skinny. [...]I couldn't afford pens or books so the two eldest dropped out of primary school.*"¹⁶

35. In this situation, traditional attitudes can constitute obstacles to girls' education. Girls are indeed often disadvantaged since their parents prefer sending boys to school. "*Pastoralists do not necessarily agree on the benefits of educating girls, and therefore girls are in constant danger of dropping out. Few pastoralist girls move on to secondary school*"¹⁷. The example of Maasai woman Nanyamal illustrates this point. She recently requested education support from a local NGO for her three children: one boy and two girls. Despite her wish to provide education for all three, for financial reasons, she preferred her son to receive his education first since the

⁵ Jason Patinkin, *Tanzania's Maasai battle game hunters for grazing land*, 18 April 2013, BBC News, Available at : <http://www.bbc.co.uk/news/world-africa-2215538>

⁶ Kimererio, 32 years-old is a member of a Women's Solidarity Boma established by Pastoral Women's Council. Her story is available at: <http://www.pastoralwomenscouncil.org/economic-empowerment-stories.html>

⁷ Rosie Martin, 2010. Land rights crisis in Tanzania, *Talking Stick*, p.7, Available at: http://www.african-initiatives.org.uk/media_files/Talking_Stick.pdf

daughters would soon leave and build families.¹⁸

36. Experience shows that lack of access to education leads to further discrimination, retention and girl's confidence are results of poverty, early marriage, and teenage pregnancy. The lack of educated Maasai women also hampers the "*fight for gender equality between Maasai men and women, and to fight the patriarchal household structures*"¹⁹. The very low level of education of Maasai women further constitutes another challenge in terms of participation in decision making.

37. In addition, land is the material and spiritual basis that provides cultural survival. Most Maasai knowledge is based on generations of experience and field-testing. Maasai women play a key role in the transmission and preservation of culture as well as of the means of production and forms of organisation. They are the main knowledge holders and keepers and transmitters of culture. They are contributors to the continuation and transmission of their peoples' cultures, agricultural practices and food systems and production. When lands and access to traditionally-used resources are lost, Maasai women can lose their traditional teaching roles and their abilities to use and maintain traditional knowledge. They cannot fulfil their role far from their ancestral land.

38. The eviction of Maasai from their lands, therefore, leads to a double gender-based discrimination. The Tanzanian Government fails to provide Maasai women educational structure and prevents them from receiving and giving traditional education, thus violating Articles 10(a) and 14.2(d) of CEDAW.

- **Articles 13(b) and 14.2(g): right to access to family and financial credit**

39. Article 13(b) requires States Parties to ensure that women have the same rights to financial credit as men, and directly supports Article 14's provision (g) on rural women's access to agricultural credit and loans.

40. A vicious circle initiated by Tanzania's tourism and land policy, which prevents Maasai women accessing their ancestral lands, deprives Maasai women from the right to access credit. Maasai women's lack of property rights, education and lack of access to income generating opportunities results in little or no financial assets and resources. Women's lack of access to finance and credit then continues to inhibit women's participation in various aspects of economic activity. Consequently, they remain financially dependent on men. This dependency only reinforces their marginalised role in society.

41. The Tanzanian government thereby violates Articles 13(b) and 14.2(g) of CEDAW.

- **Articles 12 and 14.2(b): right to have access to adequate health care facilities**

⁸ The NGO decided to support one girl who is currently studying at Silla College in Arusha. Nanyamal is now an active member of the Women Rights Committee.

⁹ IIED, *The Pastoral Women's Council, Empowerment for Tanzania's Maasai*, 137e Gate keeper, The role of local organisations in sustainable development, August 2008, p. 6

42. Articles 12 and 14.2(b) of the Convention prohibit any discrimination against women in the field of health care. State parties shall therefore take all appropriate measures to ensure access to health care services, in particular those relating to maternity.
43. As previously detailed, Maasai women are deprived from the rights to access economic opportunities and to access credit. "*Lack of financial assets and resources deprive women of the right to access basic needs such as health care, a balanced diet.*"²⁰ From these violations of the Convention, therefore, also springs a violation of Articles 12 and 14.2(b).
44. Furthermore, most of the villages in Sukenya Farm do not have a dispensary or any other form of health facility. This situation especially affects pregnant women who sometimes deliver on their way to the distant dispensaries.
45. The Tanzanian Government, therefore, violates Articles 12 and 14.2(b) of the Convention.

Recommendations

46. The Tanzanian Government continues to actively violate the rights enshrined in CEDAW by failing to protect Maasai women against gender-based discrimination. It fails, *inter alia*, to recognise their rights on and access to their ancestral lands, ensure their right to participate in and benefit from rural development.
47. Improving women's access to productive, social and human assets is key to unlocking their potential as agents of development. The Tanzanian Government should therefore urgently restore Maasai ancestral land in Loliondo to the Maasai people and award appropriate compensation to those who have suffered.
48. In addition, the Tanzanian Government should take steps to:
 - Address discrimination in land ownership and tenure by taking immediate steps to guarantee equal rights to land and property for men and women. including the implementation of policies and programmes to facilitate women's access to and control over land, water and other natural resources;
 - Recognise and strengthen the contributions of Maasai women through their knowledge systems, agricultural products and services, and protect these intellectual property rights;
 - Create opportunities of employment for Maasai women;
 - Take effective measures to ensure Maasai women, in particular the girl child, have equal access to education;
 - Take effective measures to ensure Maasai women benefit from health care.

²⁰ Pastoralist Women Council, Available at:
<http://www.pastoralwomenscouncil.org/uploads/1/0/7/1/10710001/brochure.pdf>