

Mandate of the Special Rapporteur on the rights of indigenous peoples

REFERENCE: AL Indigenous (2001-8)
TZA 2/2013

8 May 2013

Dear Mr. Saronga,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples pursuant to Human Rights Council resolution 15/14.

In this connection, I would like to bring to your Government's attention information I have received concerning **the situation of indigenous Maasai pastoralists in the Loliondo Game Controlled Area**. As your Government is aware, I sent communications to your Government on 23 September 2009 and 12 April 2010 regarding the situation of Maasai pastoralists in Loliondo, Ngorongoro District, Arusha Region. These communications raised concerns over the existence of land conflicts over the past few decades as a result of conservation and tourist development initiatives that allegedly affected the traditional land rights of Maasai pastoralist groups and led to alleged incidents of eviction and violence against members of Maasai groups in that area. I regret that I have not received a response from your Government regarding the previous communications I sent on 23 September 2009 and 12 April 2010 about the situation of the Maasai people in Loliondo. I respectfully hereby reiterate my concern about this situation and transmit to your Government supplemental information and allegations that have come to my attention.

According to the information received:

On 26 March 2013, the Minister of Environment and Tourism announced plans to declare a corridor of 1500 square km in the Loliondo area as a "game controlled area" in accordance with the Wildlife Management Act of 2009.

The 1500 square kilometers are part of the broader 4000 km area that comprises the "Loliondo Game Controlled Area". The area was declared as a Game Controlled Area in 1974 in accordance with the Wildlife Conservation Act of that year. Since its creation, Maasai pastoralists have continued to live and graze livestock within the boundaries of the Loliondo Game Controlled Area, and the area forms part of their traditional territory. Further, the Maasai assert that their lands in Loliondo constitute "village lands" under the provisions of the 2009 Land

Act and the 1999 Village Land Act. Accordingly, they have rights to collectively hold these lands, including grazing areas, and to manage them in accordance with their customary norms and through their respective village councils.

The revised Wildlife Conservation Act of 2009 prohibits grazing livestock in game reserves unless authorized in writing by the relevant authorities (section 21(1)) and does not allow for game controlled areas to overlap with village lands, stating that "...the Minister shall ensure that no land falling under the village land is included in the game controlled areas" (section 16(5)). Thus, the announcement that the 1500 square km would be declared a game controlled area in accordance with the Wildlife Conservation Act of 2009 resulted in an outcry by Maasai people living in the Loliondo area, who feared that they would be evicted from that area or that they would be restricted from using those lands for grazing their livestock and other purposes.

Furthermore, according to the allegations received, the 1500 square km area corresponds to the prime commercial hunting zone operated by the Ortello Business Corporation (OBC) of United Arab Emirates in accordance with a concession issued by the Government of Tanzania in 1992. For years, conflicts in this area have arisen between Maasai and the OBC, especially in the dry season when available green pastures used by the Maasai for grazing coincide with the areas where wildlife gather and hunting groups are brought. These conflicts have resulted in the alleged incidences of evictions of the Maasai people in various villages in Loliondo in July 2009 by State police personnel and OBC security forces. These evictions were the subject of my 23 September 2009 communication to Tanzania.

In this connection, concern is expressed that the Government declared the 1500 km as a game controlled area in order to reserve that area exclusively for hunting, thereby reducing significantly the areas available to Maasai for grazing their livestock and potentially ultimately leading to their eviction from village lands in that area.

On the other hand, in a press release issued on 8 April 2013, the Government of Tanzania asserted that its recent action is rather an effort to address the land conflicts in the Loliondo area. The press release sought to clarify that the 1500 square km was set aside as a game controlled area for the continued protection of the wildlife and environment, given that area's importance to the ecosystem of the region. It further stated that the Government was de-gazetting the remaining 2500 square km from the current Loliondo game reserve area in order "to allow local inhabitants of Loliondo area to freely utilize the land for their own community development" and to provide land to the "growing landless population in the area." Also in its press release, the Government disputed the existence of legally established Maasai village lands within the Loliondo Game Controlled Area, stating that "for very compassionate reasons the Government has allowed them to

continue living there all these years” but that the land has always been Government land.

In order to resolve the conflicts that have existed in Loliondo, Maasai representatives have proposed the creation of Wildlife Management Areas within their village lands, in accordance with the Wildlife Conservation Act of 2009 (section 31). This would reportedly provide for joint management and benefit sharing of the area by the communities and the Government, and allow for multiple types of land use, including for pastoralism, hunting, and photo safari.

While I am pleased that your Government has assumed responsibility to resolve the land conflict situation in Loliondo, I cannot but help notice very divergent views about the rights of the Maasai people in the area. Your Government’s April 2013 press release indicated that the people in the area have lived there illegally for many years and that the lands have never been allocated to any person or community. The allegations on the other hand indicate the lands in question constitute the ancestral territory of the Maasai groups in the area and that these are legally established as village lands.

In light of the concerns raised by the information in this letter as well as in my previous communications to your Government regarding the Maasai people in Loliondo, I would like to request your Government’s response to the allegations and information transmitted in this letter, and any additional information your Government may deem relevant. In particular, I would like to know further information about:

1. Your Government’s position as to the rights of the Maasai pastoralists groups within the area encompassing the Loliondo Game Controlled Area. Are the lands used by these Maasai groups within the Loliondo Game Controlled Area also recognized as village lands under the 1999 Land Act and the 1999 Village Land Act?

2. Within the 1,500 square kilometer area that your Government indicated it will retain as part of the Loliondo Game Controlled Area, how will the traditional settlement and grazing activities of the Maasai groups concerned be accommodated?

3. Is eviction contemplated for the Maasai groups reportedly inhabiting the 1,500 square kilometer area? If so, will there be consultation procedures in place with the affected groups in order to seek their free, prior and informed consent regarding their possible relocation? What compensation measures would be contemplated for the affected Maasai groups?

4. What is your Government’s position on proposals for the creation of Wildlife Management Areas allowing joint management and benefit sharing between your Government and the Maasai communities inhabiting the area currently comprising the Loliondo Game Controlled Area?

I would appreciate a response from your Government within 60 days to the information and questions contained in this letter as well as in my previous

communications to your Government. I undertake to ensure that your Government's response will be taken into account in my assessment of this situation and in developing any recommendations that I make for your Government's consideration pursuant to the terms of my mandate.

Please accept, Mr. Saronga, the assurances of my highest consideration.

James Anaya
Special Rapporteur on the rights of indigenous peoples