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Recognition and Reparation: The Legal Obligations of Tanzania Toward the Maasai as Indigenous Peoples

*Submitted to Support the Work of the Presidential Commissions
in relation to the Ngorongoro Conservation Area*

Executive Summary

This report on the human rights situation of Maasai pastoralists and their status as Indigenous Peoples under international law, submitted by the Indigenous Peoples Law and Policy (IPLP) Program at the University of Arizona Rogers College of Law, provides legal analysis and recommendations to support the work of the Presidential Commission on Land in Ngorongoro and the Presidential Commission on Relocation from Ngorongoro. Drawing on well-established international human rights law, regional jurisprudence, and authoritative statements of experts on Indigenous Peoples' rights, the report urges the two Presidential Commissions to ensure full compliance with international obligations, with a specific focus on the Maasai communities affected by conservation policies in the Ngorongoro Conservation Area (NCA).

The report underscores that the Maasai meet all established criteria under international law to be recognized as Indigenous Peoples. It affirms that Tanzania is legally bound to uphold the rights of the Maasai to self-identification, land, culture, and Free, Prior and Informed Consent (FPIC). The recognition of the Maasai as Indigenous Peoples is vital for Tanzania to better fulfil its human rights legal obligations and domestic legal and policy frameworks, including the work of the Presidential Commissions.

Drawing from authoritative United Nations (UN) instruments, African regional instruments, and academic and civil society sources, the report highlights the widespread international recognition of the Maasai as Indigenous Peoples. It further details the violations the Maasai have experienced due to forced evictions, restrictions on access to ancestral lands, and exclusion from decision-making processes related to conservation.

To ensure a just and effective process, the report respectfully recommends that the Presidential Commissions:

- a) **Formally recognize the Maasai as Indigenous Peoples** in accordance with international standards, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the jurisprudence of regional human rights bodies, by adopting constitutional and legislative reforms recognizing and protecting the rights of Indigenous Peoples;
- b) **Recognize that marginalization is not incidental, but a structural result** of systems historically designed to exclude specific groups, including Indigenous Peoples. Recognizing this systemic nature is crucial to developing policies and actions aimed at dismantling the barriers that limit inclusive participation;
- c) **Ensure the full and meaningful participation** of Maasai communities in all stages of the Commissions' work, from the drafting the terms of reference to the implementation stage, including through the appointment of Maasai representatives chosen according to their own decision-making procedures;
- d) **Ensure community engagement** is based on existing human rights standards as indicated in section I, paragraph 4 of this document, including participation beyond simple attendance, and ensuring that the Maasai have the opportunity to genuinely influence policies rather than being consulted post-decision;
- e) **Guarantee transparency and accountability** in the Commission's operations, including public access to terms of reference, proceedings, and outcomes;
- f) **Ensure that any recommendations issued to the President fully respect and uphold the right to Free, Prior, and Informed Consent (FPIC)** before any relocation, conservation, or land-related decisions are made;
- g) **Provide adequate and culturally appropriate reparations**, including restitution of ancestral lands, rehabilitation, satisfaction, compensation, where appropriate, and non-repetition guarantees;
- h) **Implement a rights-based approach to conservation**, recognizing and incorporating the knowledge, practices and stewardship of the Maasai in environmental governance frameworks;
- i) **Pursue comprehensive constitutional and legislative reforms** to incorporate Indigenous Peoples' rights into domestic law, ensuring alignment with Tanzania's international legal commitments; and
- j) **Ensure access to effective remedy and reparations** for all Maasai communities affected by conservation policies in the NCA and the Loliondo division, including restitution, rehabilitation, compensation, satisfaction, and concrete guarantees of non-repetition.

The report concludes that the legitimacy and success of the Presidential Commissions, and the possibility of genuine reconciliation and justice for the Maasai, depend on the full and consistent application of international Indigenous rights standards.

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Introduction

1. The IPLP Program is a leading global academic institution dedicated to supporting Indigenous Peoples through legal research, litigation, capacity-building, and policy advocacy. With decades of experience, IPLP has collaborated extensively with Indigenous communities, States and other stakeholders around the world, particularly in the areas of land rights, self-determination, and access to justice. The program has also served as host to two United Nations Special Rapporteurs on the Rights of Indigenous Peoples: James Anaya (2008–2014) and José Francisco Calí Tzay (2020–2024).
2. Through this submission, the IPLP Program aims to support the work of the Presidential Commission on Land in Ngorongoro and the Presidential Commission on Relocation from Ngorongoro (Presidential Commissions) by providing an overview of international legal standards relevant to Indigenous Peoples. The brief outlines the key criteria used to identify Indigenous Peoples under international law, presents evidence of the broad international recognition of the Maasai as Indigenous Peoples, and concludes with concrete recommendations to ensure that the Presidential Commissions' processes and outcomes align with international human rights obligations.

I. International Standards for Participation and Reparation

3. IPLP urges the Government of the United Republic of Tanzania to ensure that the Presidential Commissions are operationalized to promote reconciliation and address the historical injustices and inequities experienced by the Maasai and other Indigenous Peoples as a result of the establishment of the NCA. These Commissions must function in full compliance with international human rights law to ensure their legitimacy and accountability. In particular, they must adhere to international standards and principles, including the need for a fair, impartial,

and transparent process, guarantees of non-repetition, and clear links to effective justice and reparation mechanisms for Indigenous Peoples.¹

4. Measures to be implemented should include, but are not limited to, the following practices:
 - A. Ensure the full and effective participation of residents from the NCA at every stage - from the drafting the terms of reference to the implementation stage, including good faith and meaningful consultations with impacted Indigenous Peoples through their representative institutions, following culturally appropriate procedures, and respecting their decision-making processes to secure their FPIC before any action is taken that could affect their rights and interests;
 - B. Ensure that all Maasai residents of the NCA are accurately informed of the nature and consequences of the process and provided with an effective opportunity to participate, both as individuals and as collectives. Given the historical disadvantages often experienced by Indigenous communities, such as high rates of illiteracy and low income, effective measures to guarantee the full and meaningful participation of Indigenous Peoples shall include providing adequate financial resources to support participation, interpretation in Indigenous languages and security and protection from intimidation and retaliation of those taking part in the process;²
 - C. Ensure that members of Indigenous Peoples selected and recognized by their own communities as representing their interests in the Presidential Commissions are appointed as commissioners in accordance with Indigenous decision-making processes, ensuring their full and effective participation in the Commissions;
 - D. Publish and widely disseminate the terms of reference, framework, or guidelines in a culturally appropriate manner, clearly explaining the Commissions' process, community engagement mechanisms, timeframes, and expected outcomes;
 - E. Consult with Indigenous Peoples to develop clear and inclusive protocols for gathering public input, allowing for both written and oral submissions. Ensure all materials, announcements, and presentations are available in the native and Indigenous languages spoken in the NCA, using plain, non-technical language to make information accessible to all community members;
 - F. Guarantee transparency by publicly sharing notes from meetings and progress reports, and providing timely updates before key decision-making moments; and

¹ Articles 3, 4, 5, 8, 19, 20, 27, 28, 32, and 40, United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples* (13 September 2007) A/RES/61/295 https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf; United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (2005) UN Doc A/RES/60/147, paras 11–12, 15–27; Human Rights Committee, *General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant* (2004) UN Doc CCPR/C/21/Rev.1/Add.13; Human Rights Committee, *Guidelines on Measures of Reparation under the Optional Protocol to the International Covenant on Civil and Political Rights* (2016) UN Doc CCPR/C/158; International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195, art 6; UN Committee on the Elimination of Racial Discrimination, *General Recommendation No 23: Rights of Indigenous Peoples* (1997) UN Doc CERD/C/GC/23; UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), *Efforts to Implement the United Nations Declaration on the Rights of Indigenous Peoples: Recognition, Reparation and Reconciliation* (27 July 2015) UN Doc A/HRC/30/42; EMRIP, *Report of the Expert Mechanism on the Rights of Indigenous Peoples* (6 August 2019) UN Doc A/HRC/EMRIP/2019/3/Rev.1.

² For an extensive description of the constituent elements of Free, Prior and Informed Consent and States' obligations under international law, see: Human Rights Council, *Free, Prior and Informed Consent: A Human Rights-Based Approach – Study of the Expert Mechanism on the Rights of Indigenous Peoples*, UN Doc A/HRC/39/62 (10 August 2018).

- G. Ensure adequate, effective, and prompt reparations in accordance with international human rights standards on Indigenous Peoples' rights. This includes *inter alia*, collective reparation, such as land restitution (as outlined in UNDRIP) and systemic reforms adopted in good faith consultation with affected Indigenous Peoples.
5. Failure to adhere to these international standards, particularly in guaranteeing the full and effective participation of Indigenous Peoples, risks undermining the legitimacy and accountability of the Presidential Commissions and jeopardizing the achievement of long-term, reparative solutions to address the deeply rooted land conflicts in the Ngorongoro Conservation Area. As demonstrated in the following section, the Maasai meet the criteria for recognition as Indigenous Peoples under international law. Accordingly, the work of the Commissions, as well as any future decisions or actions arising from their findings, must be guided by the established rights and standards applicable to Indigenous Peoples under international human rights law.

II. Recognition of the Maasai as Indigenous Peoples under International Law

6. This brief affirms that the Maasai qualify as Indigenous Peoples under international law and that the Government of Tanzania is therefore obligated to apply international Indigenous rights standards and norms when addressing land disputes and relocations.
7. Recognition of Indigenous identity, particularly self-identification, is a foundational right under international law,³ forming the basis for the enjoyment of other collective rights. UNDRIP (Art. 33.1) and International Labor Organization Convention 169 on Indigenous and Tribal Peoples (ILO 169) (Art. 1.2) emphasize self-identification as the key criterion.
8. No strict legal definition of 'Indigenous Peoples' exists in international law based on the consensus of States and Indigenous Peoples that a definition is not necessary to protect Indigenous Peoples' rights. UNDRIP was adopted without a definition of Indigenous Peoples, relying instead on self-identification. This approach is consistent with international practice that does not define the term 'peoples.' Furthermore, ILO 169 Article 1.2 establishes that "self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups" that are Indigenous.
9. International human rights bodies⁴ rely on the collective self-identification of Indigenous Peoples as the primary criterion for recognition. The Inter-American Court of Human Rights has stressed: "The identification of the Community, from its name to its membership, is a social and historical fact that is part of its autonomy.... Therefore, the Court and the State must restrict themselves to respecting the corresponding decision made by the Community; in other words, the way in which it identifies itself."⁵

³ EMRIP, *Efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: recognition, reparation and reconciliation*, A/HRC/EMRIP/2019/3/Rev.1, para. 17.

⁴ *Id.*, para. 75. See also Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, Implementation of General Assembly Resolution 60/251, U.N. Commission on Human Rights, UN Doc. E/CN.4/2002/97, (2002) at para. 100 arguing that self-identification is a key criterion for determining who is indeed indigenous.

⁵ *Case of the Xákmok Kásek Indigenous Community v. Paraguay*, I/A Court H.R., *Merits, Reparations and Costs*. Judgment of August 24, 2010, Series C No. 214, para. 37.

10. In the African context, the African Commission on Human and Peoples Rights (ACHPR) refers to self-identification as part of the criterion that generally reflect “the current normative standards to identify indigenous populations in international law.”⁶ The Commission has held that self-identification “as indigenous individuals and acceptance as such by the group is an essential component of their sense of identity.”⁷ Similarly, the African Commission on Human and Peoples' Rights in the case of *Batwa of Kahuzi Biega National Park v. Democratic Republic of Congo* highlighted self-identification as a crucial criterion for recognizing Indigenous Peoples and stresses the importance of “the linkages between peoples, their lands and their culture and the fact that such a group expresses its wish to be identified as a people or is aware that it is a people.”⁸
11. Although there is no strict definition, the ACHPR Working Group of Experts on Indigenous Populations/Communities provides some guidance on the issue of indigeneity in Africa, observing that communities identifying as Indigenous Peoples share several defining characteristics.⁹ Their cultures and ways of life are markedly different from those of the dominant society, often to the extent that they face the risk of cultural extinction.¹⁰ Their survival is deeply tied to access to their traditional lands and natural resources, which sustain their livelihoods and identities.¹¹ Despite their rich heritage, these groups frequently experience discrimination and are often perceived as less developed or less advanced compared to more dominant societal sectors.¹² Many live in remote, inaccessible regions, further isolating them from mainstream political and economic systems.¹³ As a result, they are vulnerable to marginalization, domination, and exploitation within national structures “commonly designed to reflect the interests and activities of the national majority.”¹⁴ The Working Group emphasizes that defining Indigenous Peoples solely based on their historical precedence, being the “first” inhabitants, is limiting and counterproductive.¹⁵ Instead, contemporary analytical perspectives focus on issues of marginalization, cultural distinctiveness, and the right to self-identification at the international level, shifting the discourse towards recognition and inclusion.¹⁶
12. Considering that the Maasai fit squarely within the description provided by the ACHPR and the ACPHR specifically referring to the Maasai as Indigenous Peoples,¹⁷ the government of Tanzania’s recent statements that there are no Indigenous Peoples in Tanzania, and assertions

⁶ *African Commission on Human and Peoples’ Rights (ACHPR) v. Republic of Kenya*, Application No. 006/2012 (2017) paras. 107-108.

⁷ *Id.* at para. 157

⁸ ACHPR, *Batwa of Kahuzi Biega National Park v. Democratic Republic of Congo*, 120 Communication No. 588/15, (2024), para. 119

⁹ ACHPR, *Indigenous Peoples in Africa: The Forgotten Peoples? The African Commission's Work on Indigenous Peoples in Africa*, https://iwgia.org/images/publications/0112_AfricanCommissionSummaryversionENG_eb.pdf.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*, p. 16

that all citizens are equal and without status,¹⁸ are regressive. This stance directly contradicts the recognition of the Maasai as Indigenous Peoples by regional and international bodies.¹⁹

13. Under international law, States have a duty to provide express recognition and effective legal protection of Indigenous Peoples' collective identity and corresponding rights.²⁰ Indigenous Peoples have inherent rights to exist regardless of formal state recognition²¹ or the terminology used by States to describe them (tribes, marginalized or vulnerable groups, ethnic minorities, local communities). Accordingly, it is incumbent on States to provide explicit and formal recognition of Indigenous Peoples in domestic law through constitutional, statutory and/or judicial action.²² UN treaty bodies have highlighted the importance of recognizing Indigenous Peoples' identity and criticized States for failing to do so.²³ States are further obligated to prevent and provide redress where Indigenous Peoples have been deprived of their integrity as distinct peoples.²⁴ This remedy may include the establishment of special measures of protection for Indigenous Peoples as set out under international law.
14. Some countries have expressed concern that the recognition of Indigenous Peoples' rights will deny or question the identity claims of others, and lead to tribalism and ethnic conflict. The Indigenous human rights framework does not grant preferential treatment to Indigenous Peoples²⁵ but responds to the historical injustices, colonization, and discrimination faced by Indigenous Peoples that require a targeted response. Affirmative, remedial treatment of persons in disparate situations does not amount to discrimination, as Indigenous Peoples are simply asking for the same rights and protections as the rest of the population. As the Special Rapporteur on the Rights of Indigenous Peoples explains, the UNDRIP is fundamentally a

¹⁸ See for ex. United Republic of Tanzania. (2023, April 21). *Rebuttal of claims about the so-called Indigenous Peoples in Tanzania*. United Nations Permanent Forum on Indigenous Issues, 22nd Session. Retrieved March 25, 2025, from <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2023/04/2023-04-24-UNPFII-22-Tanzania-Delegation-Statement.pdf>

¹⁹ FoodFirst Information and Action Network (FIAN), *Debunking government claims: The truth about Maasai rights in Ngorongoro and Loliondo, Tanzania*, 2023 <https://www.fian.de/wp-content/uploads/2023/05/Debunking-Government-Claims-The-Truth-About-Maasai-Rights-in-Ngorongoro-and-Loliondo-Tanzania-May-2023.pdf> See also Africa Development Group, *Development and Indigenous Peoples in Africa*, 9-10 (2016) https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Development_and_Indigenous_Peoples_in_Africa_En_-_v3_.pdf who provides further acknowledgment that "Generally nomadic and semi-nomadic pastoralists and hunter/gatherers who live in situations of marginalizations and discrimination gives us a more focused description of the Indigenous Peoples in Africa."

²⁰ EMRIP Report, *supra* note 3, para. 74.

²¹ See ILO 169 Article 1. This Convention applies to: (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

²² EMRIP Report, *supra* note 3, para. 76.

²³ See CERD/C/FRA/CO/20-21, para. 11 regarding France territorial collectivities, CCPR/C/RWA/CO/4, para. 48 regarding Batwa of Rwanda and CRC/C/ZAF/CO/2, paras. 65–66 regarding the Khoisan of South Africa.

²⁴ Article 8 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. 2. States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities.

²⁵ Report of the Working Group of Indigenous Peoples on its fourth session, Chairman-Rapporteur Mrs. Erica-Irene Daes, UN Doc. E/CN.4/Sub.2/1985/22 of 27 August 1985, Annex III, para. 66.

remedial instrument, designed to address entrenched marginalization and discrimination rather than confer special privileges.²⁶ The UNDRIP urges States and the international community to remedy these enduring inequalities, emphasizing corrective justice and calling for affirmative measures that implement human rights long denied to Indigenous Peoples.²⁷ In the context of Africa, the ACHPR-Working Group of Experts on Indigenous Populations has clarified that recognizing and respecting diverse groups prevents conflict, rather than causing it. Protecting the rights of marginalized communities strengthens, rather than threatens, the unity and democratic development of African states.²⁸ In other words, recognizing and redressing structural inequalities helps build inclusive societies, reducing grievances and fostering conditions for lasting peace.

III. Global Recognition of the Maasai as Indigenous Peoples

15. As explained above, the criteria identified, including self-identification, classify the Maasai as Indigenous Peoples under international law. Additionally, the acknowledgment and recognition of the Maasai as Indigenous Peoples are widely supported and documented by the international community, civil society organizations, and scholars.

A. International Bodies' Acknowledgment of Maasai as Indigenous Peoples

16. The UN Special Procedures of the Human Rights Council, including the Special Rapporteur on the Rights of Indigenous Peoples (SRIP), have repeatedly expressed concern over the human rights violations faced by the Maasai in the NCA.²⁹ The Special Rapporteurs have urged the Government of the United Republic of Tanzania to halt all relocation efforts and to engage in good faith consultations with the Maasai, emphasizing the urgent need for a human rights-based approach to conservation. They have specifically called on the government to comply with international standards on the rights of Indigenous Peoples, including the recognition of the Maasai as Indigenous Peoples, respect for their rights to land, territories, and resources, and the obligation to obtain their FPIC before undertaking any actions that affect them.³⁰
17. The SRIP has expressed concern about the negative impacts of conservation initiatives on the Maasai in the Ngorongoro area and has issued specific recommendations to address the harms caused by conservation initiatives.³¹ He recommends *inter alia*, recognizing the special and distinct legal status of Indigenous Peoples; providing Indigenous Peoples with formal legal recognition of their rights to lands, territories, and resources; ensuring full protection of those

²⁶ James Anaya, 'Statement by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People' (UNGA Third Committee 64th Session, Item 68, 19 October 2009, New York)

²⁷ *Id.*

²⁸ ACHPR, *supra* note 10, pp. 12-13.

²⁹ [TZA 2/2023](#); [TZA 3/2021](#); [TZA 1/2016](#); [TZA 3/2013](#)

³⁰ *Id.*

³¹ José Francisco Calí Tzay, 'Report of the Special Rapporteur on the Rights of Indigenous Peoples' (19 July 2024) UNGA A/79/160; José Francisco Calí Tzay, 'Tourism and the Rights of Indigenous Peoples: Report of the Special Rapporteur on the Rights of Indigenous Peoples' (12 July 2023) UNGA A/78/162 ; José Francisco Calí Tzay, 'Protected Areas and Indigenous Peoples' Rights: The Obligations of States and International Organizations' (19 July 2022) UNGA A/77/238 <https://undocs.org/A/77/238>; Victoria Tauli-Corpuz, 'Report of the Special Rapporteur on the Rights of Indigenous Peoples' (29 July 2016) UNGA A/71/229

rights and fulfilling related obligations under international law, including the requirement to obtain FPIC; and applying a strict rights-based approach to the creation or expansion of protected areas.³²

18. UNESCO has made numerous references to the Maasai in their reports on Reactive Monitoring Missions with its advisory bodies, the International Union for the Conservation of Nature (IUCN) and International Council on Monuments and Sites (ICOMOS), stating that the NCA was established to promote “the conservation of natural resources, safeguard the interests of NCA indigenous residents and promote tourism,”³³ referring to “the protection of the Maasai indigenous rights” and encouraging the consideration of the “protection of indigenous rights of the Maasai Communities” in the development of a public use strategy for the NCA World Heritage Site.³⁴ More recent reports do not use the term “Indigenous” but instead refer to “resident pastoralist communities,” “Maasai pastoralists,” and “local communities.”³⁵
19. Several State of Conservation reports of UNESCO, IUCN, and ICOMOS refer to the Maasai in the NCA as Indigenous and highlight the need to respect their rights to FPIC:³⁶

The World Heritage Centre and Advisory Bodies consider any violence against or forced eviction of indigenous peoples and local communities to be entirely unacceptable, and that these constitute gross violations of human rights. It is important to stress that neither the Committee, the World Heritage Centre, nor the Advisory Bodies have at any time endorsed or requested the forced displacement of Maasai and other communities living in the property.

[...]

the World Heritage Centre and the Advisory Bodies stress that the strategy to address the different challenges facing the property should be subject to the full consultation and participation of all stakeholders and rightsholders, including indigenous peoples.

[...]

It is therefore recommended that the Committee, while welcoming the State Party’s assurances that relocation is only voluntary, requests the State Party to provide details on the allegations of human rights violations within the property, and demonstrate how a fair, just and equitably governed consultative process to progress long-term solutions consistent with international norms and policies of the Convention, including the principles of seeking the free, prior and informed consent of indigenous peoples has been set up and implemented and how the recommendations of the ACHPR mission report that are specific to the property will be considered, once the final report is available.³⁷

³² A/77/238, para. 50.

³³ Report on the joint UNESCO/IUCN Reactive Monitoring Mission, 1-6 December 2008, <https://whc.unesco.org/document/102109> p.8.

³⁴ Report on the joint UNESCO/ICOMOS Reactive Monitoring Mission, 6 - 12 February 2011, <https://whc.unesco.org/document/106928>

³⁵ Report of the ICOMOS/IUCN Advisory mission, 23-26 August 2017, <https://whc.unesco.org/document/165407>; Report of the joint World Heritage Centre/IUCN/ICOMOS Reactive Monitoring mission, 4-9 March 2019, <https://whc.unesco.org/document/174817>

³⁶ 2024 SOC report, <https://whc.unesco.org/en/soc/4626>; 2023 SOC report, <https://whc.unesco.org/en/soc/4381>

³⁷ 2021 SOC report, <https://whc.unesco.org/en/soc/4226>

20. The IUCN expressed concern about reports of violence by security forces against the “Maasai Indigenous Peoples” in the Loliondo Division of Ngorongoro District.³⁸ In its evaluation of the World Heritage nomination of the NCA, referred to the “indigenous knowledge of the Maasai” and called for the nomination to be “prepared with free prior and informed consent from the Maasai.... and to consider how the Maasai are represented with respect to management of the NCA, and whether this is credible and effective.”³⁹
21. The United Nations Department of Economic and Social Affairs (UNDESA) identifies the Maasai as Indigenous Peoples in Tanzania and has expressed concern over their continued expulsion from ancestral territories, an issue that began during the colonial era and persists today. The creation of the NCA, in particular, resulted in the forced eviction of the Maasai from their traditional lands without compensation.⁴⁰ Similar concerns have been raised several times by the United Nations Permanent Forum on Indigenous Issues (UNPFII), which has consistently highlighted the violation of Maasai rights in the name of conservation.⁴¹
22. The UN High Commissioner for Refugees has recognized the Maasai as among Tanzania’s Indigenous Peoples, highlighting their vulnerability and the lack of legal protection for their access to traditional lands under Tanzanian law. The agency has also reported that the Ngorongoro Conservation Area Authority has taken measures to restrict the movements of the Maasai and to ban them from cultivating certain areas. These restrictions have been described as making pastoralism virtually impossible and denying Maasai pastoralists their right to a livelihood.⁴²
23. The International Fund for Agricultural Development (IFAD) identifies the Maasai and Barabaig as Indigenous Peoples and provides detailed descriptions of their pastoralist lifestyle, historical territorial ties, and demographic distribution.⁴³
24. UN-Habitat has reported that the self-sufficient lifestyles and traditional livelihoods of Indigenous pastoralists are stereotyped and regarded as inefficient and outdated, leading to governmental policies and actions with significant detrimental consequences, including integration and assimilation.⁴⁴ By way of example, UN-Habitat refers to “the pastoralist

³⁸ <https://iucn.org/news/secretariat/202206/iucn-statement-human-rights-violations-loliondo-tanzania>

³⁹ 2010 IUCN Advisory Body Evaluation of the 2009 World Heritage nomination of the NCA under cultural criteria (comments to ICOMOS), <https://whc.unesco.org/document/153376>

⁴⁰ The UN Economic and Social Affairs, State of The World’s Indigenous Peoples, 2009, p.92.

⁴¹ United Nations Economic and Social Council (ECOSOC), Report of the Permanent Forum on Indigenous Issues (UNPFII) on its Tenth Session (16–27 May 2011), UN Doc E/2011/43-E/C.19/2011/14, paras 41-42; ECOSOC Report of the UNPFII on its Twenty-Third Session (15–26 April 2024), UN Doc E/2024/43-E/C.19/2024/8, para. 61; Statement by the Chairperson of the UNPFII on the Eviction of Maasai People from the Ngorongoro Conservation Area in Tanzania (June 2022).

⁴² UNHCR, *State of the World’s Minorities and Indigenous Peoples 2009 – Tanzania* (2009) (citing ACHPR report published in May 2008 by Community Research and Development Services (CORDS)).

⁴³ International Fund for Agricultural Development (IFAD) and International Work Group for Indigenous Affairs (IWGIA), *Country Technical Note on Indigenous Peoples Issues: United Republic of Tanzania* (IFAD 2022) <https://www.ifad.org/documents/d/new-ifad.org/tanzania-pdf>.

⁴⁴ UN-Habitat, *Urban Indigenous Peoples and Migration: A Review of Policies, Programmes, and Practices* (UN-Habitat 2010), <https://unhabitat.org/sites/default/files/download-manager->

economy of the Maasai peoples in Tanzania” being destroyed “with the full complicity of the state” due to wildlife management displacing people off their land, noting that “all the famous wildlife parks and reserves are located in the territories of indigenous peoples.”⁴⁵

25. In its December 2023 resolution, the European Parliament condemned the forced evictions of the Maasai People in Tanzania. The resolution called on the Government of Tanzania to recognize and protect the rights of the Maasai in the NCA, including their human rights to self-determination, land, free assembly, and FPIC. It also acknowledged the vital role of the Maasai in conserving wildlife and biodiversity.⁴⁶

26. Finally, the ACHPR-Working Group of Experts on Indigenous Populations/Communities clearly identified the Maasai in Tanzania as an example of Indigenous Peoples in Africa.⁴⁷

A. *References in Academic Works*

27. There is a broad body of academic literature that identifies the Maasai as Indigenous Peoples in Africa. Scholars such as Meitamei Olol Dapash and Mary Poole argue for a decolonized understanding of Maasai identity, emphasizing their status as Indigenous Peoples and their right to preserve their lands and cultural heritage. They highlight that international legal bodies, such as the United Nations, have recognized the Maasai as Indigenous, affirming their right to preserve their way of life, safeguard their lands, and protect their cultural heritage from encroachment by the State and corporations.⁴⁸

28. Dorothy Hodgson, in her book, *Being Maasai, Becoming Indigenous: Postcolonial Politics in a Neoliberal World*, underscores the deep connection that the Maasai have with their land, emphasizing that pastoralist practices are a central aspect of their cultural identity tied to their Indigenous status. She explains that “The Maasai, like many Indigenous groups, are fighting against policies that seek to assimilate them into national frameworks, erasing their distinct cultural and economic practices in the name of development and conservation.”⁴⁹ Similarly, Vanessa Wijngaarden and Paul Nkoi Ole Murero argue that the Maasai’s deep-rooted traditions, relational worldviews, and strong ties to land and community distinguish the Maasai from mainstream society and are fundamental to defining their identity and status as Indigenous Peoples.⁵⁰

[files/Urban%20Indigenous%20Peoples%20and%20Migration%20A%20Review%20of%20Policies%2C%20Programmes%20and%20Practices.pdf](#)

⁴⁵ *Id.*

⁴⁶ European Parliament, ‘Resolution of 14 December 2023 on the Maasai Communities in Tanzania (2023/3024(RSP))’ [2023] OJ C/2024/002, https://www.europarl.europa.eu/doceo/document/TA-9-2023-0477_EN.html.

⁴⁷ ACHPR, *supra* note 10, p. 16

⁴⁸ Meitamei Olol Dapash and Mary Poole, *Decolonizing Maasai History: A Path to Indigenous African Futures* (Zed Books, 2025)

⁴⁹ Dorothy L. Hodgson, *Being Maasai, Becoming Indigenous: Postcolonial Politics in a Neoliberal World* (Indiana University Press, 2011).

⁵⁰ V. Wijngaarden and P. N. Ole Murero, ‘Osotua and decolonizing the academy: Implications of a Maasai concept’ (2023) 43(1) *Curriculum Perspectives* <https://doi.org/10.1007/s41297-023-00190-2>

29. Elifuraha Laltaika and Kelly M. Askew, in *Modes of Dispossession of Indigenous Lands and Territories in Africa*, clearly position the Maasai as Indigenous Peoples by highlighting that their pastoralist way of life, deep spiritual connection to ancestral lands, and communal land tenure systems align with internationally recognized definitions of Indigeneity.⁵¹ They criticize the fact that colonial-era legal frameworks are still in place today and continue to invalidate Maasai claims by using Western notions of land ownership that overlook pastoralist systems. This legal disconnect enables development models that do not recognize or accommodate Indigenous communal land use, allowing for the expropriation of Maasai traditional lands and their exclusion from economic benefits.⁵²
30. To conclude, a broad body of literature highlights the Maasai's distinctive relationship with land and natural resources, emphasizing its relevance for nature conservation and the sustainable management of ecosystems. Lkana Hezron, et al. document the existence of *Alalili* systems practiced by Maasai pastoralist people as a pathway to improve resilience and sustain both biodiversity conservation and community livelihoods in rangeland areas of northern Tanzania.⁵³ Similarly, Kokel Melubo argues that Maasai locally devised rules, values, and practices play a paramount role in the management and conservation of biodiversity, including land and wildlife resources.⁵⁴ Finally, Mark Dowie highlights that the Maasai's cultural, spiritual, and historical ties to their lands and pastoralist lifestyles reflect a longstanding model of sustainable stewardship, predating modern conservation. He critiques "fortress conservation" approaches, like in the NCA, for displacing Indigenous Peoples despite their ecological contributions.⁵⁵

B. Civil Society Recognition of the Maasai Indigenous Peoples

31. Civil society organizations have played an important role in advocating for the Maasai in Tanzania. These organizations emphasize the Maasai's unique cultural identity, historical land connections, and challenges faced, reinforcing their status as Indigenous Peoples. Among others, Minority Rights Group International (MRG) consistently documents threats to Maasai land rights and cultural integrity and calls for legal recognition of their Indigenous status and collective rights.⁵⁶
32. Amnesty International, a global movement that fights abuses of human rights worldwide through research, campaigning, and advocacy, recognizes that the Maasai self-identify as an Indigenous Peoples. They have documented how Maasai society is governed by the village

⁵¹ Elifuraha Laltaika and Kelly M. Askew, 'Modes of Dispossession of Indigenous Lands and Territories in Africa' in R Niezen and M J Minde (eds), *Indigenous Peoples' Rights in Africa: Land, Resources, Culture and Identity* (ACHPR 2022)

⁵² *Id.*

⁵³ Elkana Hezron, Issakwisa B Ngondya and Linus K Munishi, 'Sustaining Indigenous Maasai Alalili Silvo-Pastoral Conservation Systems for Improved Community Livelihood and Biodiversity Conservation in East African Rangelands' (2024) 19(5) PLOS ONE e0303649

⁵⁴ Kokel Melubo, 'Why Are Wildlife on the Maasai Doorsteps? Insights from the Maasai of Tanzania' (2020) 16 *AlterNative: An International Journal of Indigenous Peoples* 180

⁵⁵ Mark Dowie, *Introduction to Conservation Refugees: The Hundred-Year Conflict Between Global Conservation and Native Peoples* (2009) 1 https://web.mnstate.edu/robertsb/307/Articles/Conservation_Refugees_Intro.pdf

⁵⁶ Minority Rights Group International (n.d.), *Tanzania: Protecting the Maasai's Right to Land* <https://minorityrights.org/resource/tanzania-protecting-the-maais-right-to-land/>

elders as part of their cultural practices, and their traditional livelihoods depend on the sustainable use of grazing land. They maintain a close connection with the natural environment and their traditional lands, on which their livelihoods and cultural identity depend.⁵⁷ Amnesty International calls on the Tanzanian authorities to recognize the Maasai as an Indigenous Peoples with rights to their ancestral lands.⁵⁸

33. Human Rights Watch (HRW) has documented multiple human rights violations suffered by the Indigenous Maasai Peoples in the NCA. These include the Tanzanian government's failure to obtain the FPIC of Maasai residents regarding resettlement plans, the defunding of the Ngorongoro Pastoral Council, and the downsizing of education and health services. Additionally, HRW has reported abuses committed by rangers from the Ngorongoro Conservation Area Authority, further contributing to a climate of fear and insecurity for Maasai communities.⁵⁹
34. The International Work Group for Indigenous Affairs (IWGIA) has worked with Maasai leaders since the 1980s and continues to advocate for recognition of the Maasai as Indigenous Peoples based on their cultural distinctiveness and land-based identity.⁶⁰
35. The Oakland Institute has documented human rights violations against the Maasai Indigenous Peoples in the NCA, including incidents of violent evictions and forced displacement, and advocates for the protection of their ancestral lands.⁶¹
36. Survival International has documented ongoing human rights violations against the Maasai resulting from the conservation approach implemented in the NCA including arbitrary arrests, torture and beatings, militarization, and the unlawful confiscation of livestock.⁶²
37. Cultural Survival has reported that "in Tanzania, the Maasai, one of Africa's most iconic Indigenous Peoples, are relentlessly struggling to protect their ancestral lands, cultural heritage, and way of life" due to fortress conservation initiatives in the NCA. These initiatives

⁵⁷ Amnesty International, Tanzania: "We have lost everything": Forced evictions of the Maasai in Loliondo, 5 June 2023, Index Number: AFR 56/6841/2023, www.amnesty.org/en/documents/afr56/6841/2023/en/ p. 14

⁵⁸ *Id.*

⁵⁹ Human Rights Watch, "It's Like Killing Culture": Human Rights Impacts of Relocating Tanzania's Maasai (31 July 2024) <https://www.hrw.org/report/2024/07/31/its-killing-culture/human-rights-impacts-relocating-tanzanias-maasai>

⁶⁰ Kaj Arhem, 'The Maasai in the Ngorongoro Conservation Area: An Analysis of the Maasai Land Rights and Their Struggle for Survival' (1985) 1(5) IWGIA 183–191 <https://www.jstor.org/stable/24671937>

⁶¹ Oakland Institute, *The Looming Threat of Eviction: Maasai in Tanzania's Ngorongoro Conservation Area* <https://www.oaklandinstitute.org/looming-threat-eviction>; Oakland Institute, *Flawed Plans for the Relocation of the Maasai from the Ngorongoro Conservation Area* <https://www.oaklandinstitute.org/flawed-plans-relocation-maasai-ngorongoro-conservation-area>; Oakland Institute, *A Power Struggle Over the Maasai's Land and Life* <https://www.oaklandinstitute.org/power-struggle-maasai-land-life>; Oakland Institute, *East African Court of Justice Grants Tanzanian Government Impunity to Trample Human Rights of the Maasai* (8 May 2023) <https://www.oaklandinstitute.org/east-african-court-justice-tanzanian-maasai-trample-human-rights>

⁶² Survival International, 'DecolonizeUNESCO' (Survival International, 18 April 2024) <https://www.survivalinternational.org/campaigns/DecolonizeUNESCO>

have led to forced evictions and widespread human rights violations against the Maasai people.⁶³

38. The FoodFirst Information and Action Network (FIAN), an international human rights organization advocating for food and nutrition rights, supports the Maasai's claim to Indigenous status. In their publication *Debunking Government Claims: The Truth About Maasai Rights in Ngorongoro and Loliondo, Tanzania*, FIAN counters the Tanzanian government's assertion that the Maasai are not Indigenous. They argue that the existence of Indigenous Peoples in Tanzania is not defined by the government's recognition but by international law.⁶⁴ FIAN criticizes the Tanzanian government for not recognizing the evolution of the term "Indigenous" and its connection to the Maasai.⁶⁵

IV. Conclusions and Recommendations

39. The Maasai meet the criteria for recognition as Indigenous Peoples under international law, including self-identification, historical marginalization, and distinct cultural and pastoralist traditions tied to ancestral lands.
40. Numerous UN bodies, including Special Rapporteurs, UNPFII, UNDESA, and agencies such as UNESCO, UN-Habitat, and UNHCR, as well as international NGOs and academic institutions, have affirmed the Indigenous status of the Maasai and raised concerns over violations of their rights.
41. Recent statements by the Government of Tanzania denying the existence of Indigenous Peoples in the country, based on the assertion that all citizens are equal and without status, are regressive and contradict binding international standards and obstruct the implementation of justice, participation, and reparation mechanisms.⁶⁶ The forced evictions and restrictive conservation policies in the NCA represent ongoing violations of the Maasai's collective rights to land, culture, self-determination, and FPIC.
42. Under international law, States are obligated to provide explicit legal recognition and protection of Indigenous Peoples' identities, land rights, and traditional governance systems.

⁶³ Dev Kumar Sunuwar, 'Maasai Fight for Survival: Land Grabs, Evictions, and the Struggle for Cultural Identity in Tanzania' (Cultural Survival, 6 March 2025) <https://www.culturalsurvival.org/news/maasai-fight-survival-land-grabs-evictions-and-struggle-cultural-identity-tanzania>.

⁶⁴ Food First Information and Action Network (FIAN), *Debunking Government Claims: The Truth About Maasai Rights in Ngorongoro and Loliondo, Tanzania* (May 2023) <https://www.fian.de/wp-content/uploads/2023/05/Debunking-Government-Claims-The-Truth-About-Maasai-Rights-in-Ngorongoro-and-Loliondo-Tanzania-May-2023.pdf>

⁶⁵ *Id.*

⁶⁶ In other instances, the Tanzanian Ministry of Natural Resources and Tourism, Review of the Multiple Land Use Model, 2020 refers to the Maasai as "indigenous residents" and indigenous people" rather than "Indigenous Peoples." See also State of Conservation Report for the NCA submitted by Tanzania to the World Heritage Committee in 2024: <https://whc.unesco.org/document/205623> The Tanzanian Government's 2009 nomination of the NCA as a cultural World Heritage site (in recognition of both its paleontological values and its Maasai cultural values) also repeatedly refers to the Maasai in the NCA as "indigenous to the area" and as "NCA indigenous residents." <https://whc.unesco.org/uploads/nominations/39bis.pdf>

The denial of Indigenous identity constitutes a violation of these obligations and perpetuates historical injustices. In the case of the Maasai, this means recognizing them as Indigenous Peoples under international law, regardless of how they may be classified under domestic legal frameworks. It also entails recognizing and protecting their rights to land, territories, and resources, and ensuring that no evictions or relocations are carried out without first respecting their right to FPIC as established under international law, including Article 10 of the UNDRIP.

43. The legitimacy and effectiveness of the Presidential Commissions depend on their compliance with international legal obligations concerning the rights of Indigenous Peoples.

44. IPLP respectfully recommends that the Presidential Commissions:

- a) **Formally recognize the Maasai as Indigenous Peoples** in accordance with international standards, including the UNDRIP and the jurisprudence of regional human rights bodies, by adopting constitutional and legislative reforms recognizing and protecting the rights of Indigenous Peoples;
- b) **Recognize that marginalization is not incidental, but a structural result** of systems historically designed to exclude specific groups, including Indigenous Peoples. Recognizing this systemic nature is crucial to developing policies and actions aimed at dismantling the barriers that limit inclusive participation;
- c) **Ensure the full and meaningful participation** of Maasai communities in all stages of the Commissions' work, from drafting the terms of reference to the implementation stage, including through the appointment of Maasai representatives chosen according to their own decision-making procedures;
- d) **Ensure community engagement** is based on existing human rights standards as indicated in section I, paragraph 4 of this document, including participation beyond simple attendance, and ensuring that the Maasai have the opportunity to genuinely influence policies rather than being consulted post-decision.
- e) **Guarantee transparency and accountability** in the Commission's operations, including public access to terms of reference, proceedings, and outcomes;
- f) **Ensure that any recommendations issued to the President fully respect and uphold the right to Free, Prior, and Informed Consent (FPIC)** before any relocation, conservation, or land-related decisions are made;
- g) **Provide adequate and culturally appropriate reparations**, including restitution of ancestral lands, rehabilitation, satisfaction, compensation, where appropriate, and non-repetition guarantees;
- h) **Implement a rights-based approach to conservation**, recognizing and incorporating the knowledge, practices and stewardship of the Maasai in environmental governance frameworks;
- i) **Pursue comprehensive constitutional and legislative reforms** to incorporate Indigenous Peoples' rights into domestic law, ensuring alignment with Tanzania's international legal commitments; and
- j) **Ensure access to effective remedy and reparations** for all Maasai communities affected by conservation policies in the NCA and Loliondo division, including restitution, rehabilitation, compensation, satisfaction, and concrete guarantees of non-repetition.

SIGNATORIES

The undersigned signatories affirm their support for the contents of this report but were not involved in its preparation. Their signatures do not denote authorship or direct participation in drafting the document; rather, they signify endorsement of its findings and conclusions based on their review.

