

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA
TZA 1/2016:

16 September 2016

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of indigenous peoples and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 24/7, 25/18, 24/9 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning regarding the **arrests of 57 Maasai from the Loliondo community in Ngorongoro District**, Northern Tanzania, and the **continued threat of further detentions of individuals** who are contesting Government plans to provide Maasai ancestral lands to tourism and gaming companies.

According to the information received:

Between 14 and 22 July 2016, 19 Maasai from the subgroups Purko, Loita and Laitayok, including secondary teachers, a director of an NGO and his wife, village chairmen, a former Member of Parliament, a traditional leader, the lawyer representing a number of the detainees, and two elected councillors were arrested. A number of them remained detained for a period of over ten days.

On 20 August 2016, an additional 38 people were arrested in Loliondo, including seven minors. Twenty were released within days but 18 were held without charges nor bail and allegedly suffered long interrogations and were subjected to torture, including a Director of an NGO who suffered from a severely dislocated leg as a result of the ill-treatment while in detention. These latest arrests followed the stoning of the district commissioner's car in the village of Maaloni. The rest were released on 23 August 2016, after four days in detention. The situation is apparently very tense and communities and civil society feel highly under threat and some people remain in hiding. According to the information, some of the detainees were fined 5 million Tanzanian shillings under the suspicion of throwing stones at the district commissioner's vehicle.

Reportedly, the arrests were carried out by the Special Police Unit of Dar es Salaam, and the individuals detained in the Loliondo Police Station in Ngorongoro District. No charges have been issued for any of the individuals.

Reportedly, the Government is considering a charge of 'causing threats to national security due to their involvement in land rights mobilisation in the Loliondo villages of Ngorongoro District'.

According to the source on or around 8 September 2016, twenty people including three staff from Pastoralist Women's Council as well as ten volunteers from U.S.A were arrested in nearby villages and taken to Loliondo police station.

The detainees were refused access to legal assistance, medical treatment and visitation rights. Some of the individuals under arrest have alleged that they have been tortured. Allegedly, the involvement of the Dar es Salaam Special Police Unit indicates that the arrests and detentions could have been and could continue to be coordinated nationally. Community members and civil society representatives have stated that they are afraid to speak. Reportedly, individuals who have been released have been advised by authorities to be silent on land issues or risk being newly detained. Community members and civil society representatives suspect that the arrests took place as a result of their strong opposition to the Government's intention to demarcate 1500 square kilometres of their traditional land in favour of Thomson Safari, a safari company from the United States of America and of Ortello Business Corporation (OBC), a gaming company from the United Arab Emirates. The demarcation would result in the displacement of 30,000 individuals and dislocation of thousands more from their traditional nomadic cattle-herding livelihoods. It has been reported that OBC already occupies a vast portion of land formerly used as pastureland by the Maasai. OBC utilizes the land it occupies as a safari camp equipped with a mansion, a runway big enough for large jets, off road vehicles and a branch of UAE mobile phone network. The company reportedly caters to wealthy clients from all over the world, particularly from the United Arab Emirates.

We wish to recall previous allegations of attacks, forced evictions, arbitrary detention and torture of members of Maasai communities in the Ngorongoro District in the context of earlier allocations of their traditional lands for tourism, as referred to in communications sent by the previous Special Rapporteur on the rights of indigenous peoples to your Excellency's Government on 2 April 2014, 14 November 2013, 8 May 2013 and 23 September 2009.

While we do not wish to prejudge the accuracy of these allegations, serious concern is expressed about the safety and well-beings of the aforementioned individuals whose arrests appear linked to their defense of the traditional lands of their community. Serious concern is also expressed regarding the allegations of torture and ill-treatment of several of the detained individuals.

We would like to draw your Excellency's Government's attention to the binding obligations under the International Covenant on Civil and Political Rights (ICCPR), specifically the protection against arbitrary arrest and torture and cruel, inhuman or degrading treatment or punishment (articles 14 and 7), the right to persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity

(article 10), the right to fair proceedings before an independent and impartial tribunal in articles 9 and 14 and the right to freedom of opinion and expression set forth in article 19.

We wish to refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which was adopted by the General Assembly in 2007 with an affirmative vote of United Republic of Tanzania. Article 7 of UNDRIP provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. With respect to land rights, article 26 affirms the right of indigenous peoples to ‘the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired’ and for legal recognition of those rights ‘with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.’ Article 10 states that indigenous peoples ‘shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.’

Furthermore, UNDRIP provides for the rights of indigenous peoples to reparation for actions that have affected the use and enjoyment of their traditional lands and resources. In that regard, article 28 states that ‘indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.’

We also wish to recall the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders (UNDHRD). In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide my office with information regarding the basis for the arrests of the 57 individuals detained in Loliondo from 14 July to 20 August 2016. Please provide information on any measures taken to ensure the physical and psychological integrity of all persons detained in relation with the above mentioned facts.

3. Please provide information regarding the measures that your Government, at the local, national and regional levels, including the Special Police Unit and ordinary police forces, have taken or will take to guarantee the human rights, safety and well-being of the above named individuals. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would like to bring to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We intend to publicly express our concerns in the near future should the situation continue as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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