

Legal Dimension on Protection of Outstanding Universal Value Properties in Tanzania: A Dilemma for Development Activities in the Selous Game Reserve

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Abstract

This paper examines the legal status of the Selous Game Reserve (SGR) as one of the properties with Outstanding Universal Value (OUV) status in the World Heritage List (WHL) in relation to ongoing economic activities within it. The article articulates existing national and international legal framework for management of the Selous Game Reserve. It demonstrates that Tanzania has obligations under international law to ensure sustainable management of wildlife resources. The ongoing activities in the Selous Game Reserve put Tanzania into a dilemma due to the fact that national legislation somehow permits developmental activities while international law is against such activities in SGR. It is recommended that Tanzania should adhere to its international obligations under the World Heritage Convention in order to ensure sustainable management of the Selous Game Reserve and promote tourism in the Southern corridor.

1. Introduction

Tanzania is endowed with diverse natural and cultural resources which are important nationally and globally.¹ These resources are protected under, mainly, municipal laws. The laws cover such aspects as national parks, game reserves, forest reserves, wildlife resources, game controlled areas and archeological sites. Some of these resources are recognised and protected by international law. These are considered to be protected not only for the benefit of the State in which they are located but also for the whole humankind. These resources are regulated by, among others, the Convention concerning Protection of Cultural and Natural Heritage of 1972 which was adopted under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO).² They are known as Properties of Outstanding Universal Value (OUV). Their recognition at the international level is due to their unique nature and the value they hold from science or conservation perspectives. Such properties are managed as world heritage; and such management requires State Parties to adhere to agreed international legal principles to ensure enjoyment of international recognition.

2. Protection of Natural Heritage in Tanzania: An Overview

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¹ See United Republic of Tanzania, **The Wildlife Policy of Tanzania**, Dar es Salaam, Ministry of Natural Resources and Tourism, 2007, pp.4-7.

² On 2nd August 1977, Tanzania ratified this Convention wholesale without any kind of reservation.

What amounts to a natural heritage has been categorically stipulated under the Convention concerning Protection of the World Cultural and Natural Heritage of 1972. The Convention defines natural heritage to mean anything that falls within any one of three main categories, namely, (a) natural features consisting of physical and biological formations or groups of such formations; (b) geological and physiographical formation and precisely delineated areas constituting habitat of threatened species of flora and fauna; and (c) natural sites or precisely delineated natural areas. These must have an outstanding universal value from the aesthetic or scientific point of view or science or conservation or natural beauty point of view.³ A natural heritage may fall under any of these categories or a combination of them.

Tanzania is a State Party to the 1972 Convention concerning the Protection of Cultural and Natural Heritage; and has a number of resources which form part of the World Heritage List. In total, Tanzania has seven protected areas which are inscribed in the World Heritage List. Three of them are natural sites, namely, the Serengeti National Park (1991), the Selous Game Reserve (1982), and Kilimanjaro National Park (1987). In addition there are cultural sites, namely, the ruins of Kilwa Kisiwani and Songo Mnara (1981), the Stone Town of Zanzibar (2000) and Kondoa Rock-Art Site (2006); there is yet another site which is a mixed site, namely, Ngorongoro Conservation Area (NCA).⁴ In 2010, the Ngorongoro Conservation Area (NCA) was categorized as mixed site enjoying both natural and cultural heritage site's values. The changes from natural site took into account recognition of the cultural aspects due to its rich history, palaeontological and archeological characteristics.⁵

3. Criteria and the Process of Inscribing Properties in the World Heritage List

Properties to be inscribed in the World Heritage List (WHL) need to meet the set criteria adopted by the World Heritage Committee upon considering a number of applications by the State Parties to the Convention. There are a total of ten main criteria for inscribing any property to the WHL either as a natural or cultural heritage. These criteria include that the property should:

³ Article 2 of the Convention concerning Protection of World Cultural and Natural Heritage, 1972.

⁴ <http://whc.unesco.org/en/statesparties/tz> as visited on 19th January 2017.

⁵ Olenasha, William, "A World Heritage in the Ngorongoro Conservation Area: Whose World? Whose Heritage?" in Stefan Disko and Helen Tugendhat, **World Heritage Sites and Indigenous Peoples' Rights**, IWGIA, Forest People Programme and Gundjeihmi Aboriginal Corporation, Copenhagen-Denmark, 2014, pp. 195-197. See also <http://whc.unesco.org/en/list/39> as visited on 19th January 2017.

(i) represent a masterpiece of human creative genius; (ii) exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design; (iii) bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared; (iv) be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history; (v) be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change; (vi) be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance. (The Committee considers that this criterion should preferably be used in conjunction with other criteria) ; (vii) contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance; (viii) be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features; (ix) be outstanding examples representing significant on-going ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals; and (x) contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of Outstanding Universal Value from the point of view of science or conservation.⁶

The inclusion of Selous Game Reserve in the World Heritage List was based on criteria (ix) and (x) of these criteria. Selous Game Reserve is renowned for being home of extraordinary populations of large mammals, including African elephant (*Loxodonta Africana*), black rhinoceros (*Diceros bicornis*) and wild hunting dogs (*Lycaon pictus*). It also includes one of the world's largest known populations of hippopotamus (*Hippopotamus amphibius*) and buffalo (*Syncerus caffer*).⁷

Inscription in the World Heritage List requires that a property should meet one or more of the criteria set out by the World Heritage Committee. The inscription of a property which meets the criteria for inclusion in the World Heritage List is within the mandate of the State Party to initiate. It is the State Party which is mandated to submit an inventory of the property forming natural heritage on suitability for inscription. The inventory should include documentation about location of the property and its significance.⁸ The nomination of the property for inscription is addressed fully in the Guidelines. The State Party intending to nominate any natural heritage property to be included in the WHL ought to include initial preparatory work to establish that a property has the potential to justify Outstanding Universal Value, including integrity or authenticity, before the development of a full nomination dossier.⁹

The nomination should include identification of the property; description of the property; justification for inscription; state of conservation and factors affecting the property;

⁶ See Article 11 (2) and (5) of the World Heritage Convention and Paragraph 77 of the Operational Guidelines for Implementation of the World Heritage Convention.

⁷ UNESCO World Heritage Centre-IUCN, Reactive Monitoring Mission Selous Game Reserve (United Republic of Tanzania, 02 to 11 December 2013, pp. 7-10

⁸ Article 11 (1) of the Convention.

⁹ Paragraphs 120 to 123 of the Guidelines.

protection and management; monitoring; documentation; contact information of responsible authorities; and signature on behalf of the State Party.¹⁰ It is on this role played by the State Party towards inscription of the property as an OUV which makes the Convention refer to the consent of the State Party.¹¹

The next step is the registration of the nomination. This is done by the World Heritage Secretariat which checks the completeness of the nomination documents and registers the nomination.¹² Normally, evaluation of the property by advisory bodies follows and in cases of natural heritage the mandate is vested in the International Union for Conservation of Nature (IUCN). The Advisory Bodies may recommend for inscription without reservation, not recommend or propose deferral and referral of the nomination.¹³

Another step is for the World Heritage Committee to make a decision guided by the recommendation of advisory bodies. The decision may either be to inscribe or not to inscribe in the World Heritage List, to defer or refer.¹⁴ Any decision to inscribe the property in the list entails adopting a Statement of Outstanding Universal Value for the property including identifying criteria upon which the property is inscribed, as well as the assessments of the conditions of integrity and for cultural and mixed properties authenticity. It should also include a statement on the protection and management in force and the requirements for protection and management for the future. The Statement of Outstanding Universal Value forms the basis for the future protection and management of the property.¹⁵

A State Party to the Convention's expression of willingness through submission of a property nomination for inclusion in the World Heritage List is evidence that such State is fully aware and ready to be bound by the provisions of the Convention and its attendant regulations and guidelines. It is clear that undergoing this rigorous process prior to inscription of the property is not done only as a matter of procedure but rather a need to acquire international legal protection and recognition for benefit of the State Party and the world at large.

That is why Kameri-Mbote argues that:

Member states to this Convention can seek to have nationally important cultural, historical or natural sites recognised and listed as internationally important. Once the sites are added on the World Heritage List, they qualify for support from the international fund set under the convention to facilitate preservation. It is noteworthy that State sovereignty is not infringed upon at all because the procedure, though international [sic] devised, is voluntary.¹⁶

4. Legal Framework for Protection of the Selous Game Reserve (SGR) Heritage Site

4.1 International Legal Framework for Protection of the Selous Game Reserve

¹⁰ See Paragraph 130 of the Guidelines.

¹¹ Article 11(3) of the World Heritage Convention.

¹² See Paragraphs 140 -142 of the Guidelines.

¹³ Paragraph 143, 145, and 149-151 of the Guidelines.

¹⁴ Paragraph 153 of the Guidelines

¹⁵ Paragraphs 154 and 155 of the Guidelines.

¹⁶ Kameri-Mbote, P (2005), "Sustainable Management of Wildlife Resources in East Africa: A Critical Analysis of Legal, Policy and Institutional Frameworks," *IELRC Working Paper No. 5*, Geneva, International Environmental Law Research Centre, p. 11. See [http:// www.ielrc.org/content/w0505.pdf](http://www.ielrc.org/content/w0505.pdf) accessed on 26th January 2017.

Under international law, the Selous Game Reserve may be regulated by three main international legal instruments, i.e., the Convention on Biological Diversity (CBD) of June 1992, the Convention on International Trade on Endangered Species (CITES), 1973 and the Convention concerning the Protection of the World Cultural and Natural Heritage of 1972 (World Heritage Convention) with its guidelines. The CBD and CITES are most appropriately applicable legislation in the sustainable management of the Selous Game Reserve as a protected area under the municipal and international law. However, in respect of management of the Selous Game Reserve from a natural heritage perspective the World Heritage Convention is the most appropriate law.

The primary duty on identification, protection, conservation, presentation and transmission to the future generations of the cultural and natural heritage is entrusted to a State Party.¹⁷ A State Party is called upon to apply its resources to ensure protection of natural heritage with a possibility of obtaining international assistance and co-operation in terms of financial, artistic, scientific and technical assistance.¹⁸

Accordingly all State Parties recognize that such heritage constitutes a world heritage whose protection is the duty of the international community as a whole. Further, State Parties undertake to give their assistance in the identification, protection, conservation and presentation of the natural heritage if the State in whose territory the heritage is situated so requests.¹⁹ This provision is important for two main reasons. First, it recognizes the status of the heritage to be internationally legal protected property. Both municipal and international legal regimes would apply to the property. Second, every State Party accepts the obligation to take part in the processes of protection, conservation and preservation of the natural heritage.

Further, the Convention creates a trust fund for the protection of the World Cultural and Natural Heritage of Outstanding Universal Value designated as the World Heritage Fund.²⁰ A State Party like Tanzania may request for financial assistance from the Fund for a World Heritage situated in that particular state's territory.²¹ Such request must contain information which defines the operation contemplated, the work that is necessary, expected cost, the degree of urgency and the reasons why the resources of the requesting State do not allow it to meet all the expenses.²² An experts' report should support the request for financial assistance. Where the request is for addressing natural calamities it is categorized as a request that requires utmost urgency and must be accorded the highest priority from the Committee's reserve fund for contingencies.²³

The Convention stipulates the forms of international assistance from the Fund to include studies concerning the artistic, scientific and technical problems raised by the protection, conservation, preservation or rehabilitation of the heritage; provision of experts,

¹⁷ Article 4 of the World Heritage Convention.

¹⁸ *Ibid.*

¹⁹ See Article 6(2) of the Convention.

²⁰ Article 15 of the Convention.

²¹ Article 19 of the Convention.

²² Article 21 (1) of the Convention.

²³ *Ibid.*, Article 21(2) of the Convention.

technicians and skilled labour to ensure carrying out correctly of approved work; training of staff and specialists in sustainable heritage management; supply of equipments which the State concerned does not possess or is not in position to acquire; low interest or interest free loans that may be repayable on long-term basis; and in exceptional cases and for special reasons granting of non-repayable subsidies.²⁴ Kameri-Mbote argues that the incentives are the international recognition gained from enlisting the sites on the World Heritage list and the financial assistance accorded to members. This approach has been extremely successful in enlisting state support for conservation measures of sites of recognized international importance.²⁵

International assistance on a large scale would be dealt with in a different manner. It requires that detailed scientific, economic and technical studies must precede such large scale international assistance. Article 24 of the Convention caters for the large scale international assistance in protection of natural heritage. The guiding principle is that only part of the cost of work necessary should be borne by the international community. A State Party is obliged to contribute a substantial share of the cost to undertake each programme or project unless the resources of that State Party do not permit.²⁶ Further, State Party is required to report to the General Conference of UNESCO on legislative and administrative provisions adopted and all other pertinent actions taken to ensure that natural heritage are well protected, conserved, preserved or rehabilitated.²⁷

4.2 Domestic Legal Framework for Selous Game Reserve World Heritage Site

There is an extensive legislative framework with bearing to protection of natural heritage in Tanzania. These laws range from the Constitution, framework environmental law and sector legislation.

The Constitution of United Republic of Tanzania is the fundamental law of the land which provides an overall framework for the management of natural heritage in Tanzania. Though not detailed on natural heritage protection, the Constitution has a number of provisions relevant to natural heritage protection. For instance, the Directive Principles of State Policy requires the state authority and all its agencies to be obliged to direct their policies and programmes towards ensuring that the laws of the land are upheld and enforced, and that activities of the Government are conducted in such a way as to ensure that the national wealth and heritage are harnessed, preserved and applied for the common good.²⁸

²⁴ Article 22, *ibid*.

²⁵ Kameri-Mbote, P (2005), Sustainable Management of Wildlife Resources in East Africa: A Critical Analysis of Legal, Policy and Institutional Frameworks, *IELRC Working Paper No. 5*, Geneva-Switzerland, International Environmental Law Research Centre, p. 11. It is found at <http://www.ielrc.org/content/w0505.pdf> accessed on 26th January 2017.

²⁶ Article 25, *ibid*.

²⁷ Article 29 of the Convention.

²⁸ See Article 9(b) and (c) of the Constitution of United Republic of Tanzania, Cap. 2 [R.E. 2002].

This part of the Constitution sets the ground for inclusion of the protection of natural heritage. The Directive Principles set a guide as to what the State intends to address in the whole process of governance of the State. They form an important part of the Constitution and, indeed, they are the spirit and core of the Constitution. The negative side of the Directive Principles is that they are not justiciable.²⁹ Inclusion of issues on protection of natural heritage in the part on fundamental objectives and directive principles of State policy cannot render them meaningless. On this point Kabudi argues that:

the fundamental objectives and directive principles of state policy remain to be significant both to the constitution and in the development a new culture of constitutionalism and accountability in Tanzania, especially after the recent re-introduction of pluralism in politics.[sic]³⁰

More relevant and pronounced provisions of the Constitution on the protection of the natural heritage are those covered under Part III of Chapter two of the Constitution under the Bill of Rights. The Constitution imposes a duty on every person to protect the natural resources of the United Republic, the property of the state authority, all property collectively owned by the people, and also to respect another person's property.³¹ This duty is a mandatory obligation to all persons without any exception. The Constitution states further that:

all persons shall be required by law to safeguard the property of the state authority and all property collectively owned by the people, to combat all forms of waste and squander, and to manage the national economy assiduously with the attitude of people who are masters of the destiny of their nation.³²

It has been argued that “this provision of the Constitution implements the public trust doctrine as the protection of natural resources is accommodating the perception that resources will be managed and preserved for the benefit of citizens generally.”³³ According to Takacs fish, wildlife and wilderness areas might easily fall under the protections of the Public Trust Doctrine (PTD) because they are scarce resources naturally suited for public use.³⁴

²⁹ Article 7(2) of the Constitution states that “The provisions of this Part of this Chapter are not enforceable by any court. No court shall be competent to determine the question whether or not any action or omission by any person or any court, or any law or judgment complies with the provisions of this Part of this Chapter.”

³⁰ Kabudi, P.J (1995), “The Directive Principles of State Policy versus Duties of the Individual in East African Constitutions,” **Law and Politics in Africa, Asia and Latin America**, Vol. 28, No. 3 (3. Quartal 1995), pp. 272-303, at p.302. It was sourced at <http://www.jstor.org/stable/43110638> on 22nd January 2017.

³¹ Article 27(1) of the Constitution of United Republic of Tanzania, Cap 2 R.E. 2002.

³² Article 27(2) of the Constitution, Ibid.

³³ Longopa, E., “Climate Change in EAC: Addressing the Rights of Local Communities through Constitutions,” **Nyerere Law Journal**, Vol. 1(2014), p. 14.

³⁴ Takacs, D., “The Public Trust Doctrine, Environmental Human Rights and the Future of Private Property”, **New York University Environmental Law Journal**, (2008) Vol.16, p. 716.

Another relevant legislation is the Wildlife Conservation Act (WCA).³⁵ The Act provides for a number of aspects pertinent to development activities within the SGR. It states that all animals in Tanzania shall continue to be public property and remain vested in the President as a trustee for and on behalf of the people of Tanzania.³⁶ This recognises PTD which mandates the Sovereign (State) to manage the resources for the benefit of the Tanzanian citizens. Generally, PTD requires that property subject of the trust must be used for a public purpose and held available for use by the general public; the property should not be sold; and that the property must be maintained for particular types of uses.³⁷

The game reserves, Selous Game Reserve inclusive, contain restrictions on the entry; possession of weapons; protection of vegetation against felling, cutting, burning, injuring or removal as well as prohibition of hunting without permission in writing from the Director of Wildlife.³⁸ Any of these violations would attract punishment ranging from custodial sentence of not less than one year or fines not less than one hundred thousand shillings.³⁹

The Wildlife Conservation Act also restricts other development activities within the game reserves. For example, cultivation of crops and grazing livestock are outlawed activities under the Act.⁴⁰ Apart from these activities, mining of any kind is prohibited as a general rule.⁴¹ This law prohibits any person from collecting sand, prospecting and mining in a game reserve. The prohibition ensures that environmental problems like land degradation and erosion are minimized to a great extent.

However, the prohibition of mining activities in the game reserves in Tanzania is not absolute. The law permits a number of exceptions to this general rule. In exceptional circumstances, prospecting or mining activities related to mining or prospecting of oil, gas or uranium is permissible.⁴² This can only be possible when four pre-conditions exist, namely, Environmental Impact Assessment (EIA) has been conducted in accordance with the provisions of the Environmental Management Act; protection cost has been paid by an investor; the concession fee has been paid; and the Government is the initiator of such undertaking.⁴³

Furthermore, WCA categorically states that any physical development in wildlife protected areas, the wildlife management areas, the buffer zone, migratory route or

³⁵ Act No. 5 of 2009.

³⁶ Section 4 of the Wildlife Conservation Act, No. 5 of 2009.

³⁷ See Kameri-Mbote, P., "The use of the Public Trust Doctrine in Environmental Law", **Law, Environment and Development Journal**, (2007) Vol. 3, No. 2, p. 199; and Madan B. Lokur, "Environmental Law: Its Development and Jurisprudence", A Green Law Lecture delivered on 3rd July 2006, p. 16. http://assets.wwfindia.org/downloads/green_law_lecture___july_3__2006.pdf as accessed on 19th January 2017.

³⁸ Sections 15(1) and (2), 17, 18 and 19 of the Wildlife Conservation Act.

³⁹ *Ibid.*

⁴⁰ Sections 20(1) (c) and 21 of the Wildlife Conservation Act.

⁴¹ Section 20 (2) of the Act

⁴² See Section 20(3) of the Act, *Ibid*

⁴³ See the proviso to the Section 20(3) of the Wildlife Conservation Act, *ibid.*

dispersal area must be preceded by an EIA study.⁴⁴ Such projects cannot commence unless EIA certificate has been issued by the Minister for Environment. This applies to mining development which is undertaken by a person or organization either in the private or public sector.

The scope of EIA requirement in the WCA is to the effect that any impact on wildlife must be included and it should contain a statement of the existing or anticipated economic impacts to the conservation of wildlife including an account of the species, communities and habitats affected and extent of threat. There must also be a statement on whether rare, endangered or endemic species and their habitats are or may be affected; a list of alternatives, including action and mitigation measures to adverse effects which may be taken to remove or lessen adverse impacts; and recommendations for subsequent action.⁴⁵

WCA also recognizes application of international agreements on wildlife resources to which Tanzania is a signatory. Application of such agreements entails strict observance of the rights and obligations to Tanzania as a State Party to the conventions. As such, Tanzania must respect and fulfill its obligations under international law on various aspects relating to sustainable management of SGR. According to WCA, all wildlife resources which are protected under international law are accorded the same status in Tanzania if they are found in, or migrate to or through Tanzania.⁴⁶ We have noted that some of the international agreements pertinent to management of natural resources in the Selous Game Reserve are the CBD, CITES and the World Heritage Convention.

The law requires the Minister responsible for wildlife to initiate and prepare legislative proposals for purposes of implementing the agreements, and identify appropriate measures necessary for the implementation of the agreements where the United Republic is a party to an international or a regional agreement relating to the protection and management of wildlife and its habitats.⁴⁷ The

Wildlife habitats envisaged by WCA include the Selous Game Reserve.

The Land Act is another piece of legislation with bearing to conservation in the game reserves. It provides for three categories of land: general land, village land and reserved land.⁴⁸ Under section 6(1), the reserved land covers, among others, the land reserved, designated or set aside under the provisions of the Forest Act, the National Parks Act, the Ngorongoro Conservation Area, the Wildlife Conservation Act and the Marine Parks and Reserves Act. The Selous Game reserve is recognized within section 14 of the WCA as envisioned in the Land Act.

The Land Act articulates another category of reserved land which is designated as hazardous land. Hazardous land may include “land specified by the appropriate authority as land which should not be developed on account of its fragile nature or of its

⁴⁴ Section 35 of the Act.

⁴⁵ See Section 35(5) of the Act.

⁴⁶ Section 94(2) of the Wildlife Conservation Act.

⁴⁷ Section 94(4) of the Act.

⁴⁸ Section 4 (4) of the Land Act, Cap. 113 [R.E. 2002].

environmental significance.”⁴⁹ Indeed, land declared to be game reserve like the Selous Game Reserve may be covered under this part of the law due to its importance in environmental conservation issues.

Further, the Land Act explicitly excludes all resources which may either be part of natural or cultural heritage from the Granted Right of Occupancy (GRO). It stipulates that GRO does not confer rights to remove any kind of flora or fauna naturally occurring or present on the land or any palaeontological or archaeological remains found on the land.⁵⁰

Moreover, the Environmental Management Act (EMA) addresses the protection of natural heritage in Tanzania under different provisions. First, the Act recognises applicability of sector laws relevant to protection of particular natural heritage like forests and wildlife legislation.⁵¹ Such laws cover wildlife and forest resources conservation. These laws cover the Selous Game Reserve, as well.

Second, the Act provides for the need to protect biological diversity in Tanzania and it empowers the Minister to make regulations including those relevant to:

identification of the components of biological diversity important for conservation and sustainable use, having regard to any international standards applicable to Tanzania; the promotion of protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings; and procedures for the establishment of a system or system of protected areas or areas where special measures need to be taken to conserve biological diversity.⁵²

The third and most important is the recognition of the need to protect cultural and natural heritage in Tanzania within EMA. The Act recognises that special attention is required in the protection of natural heritage in sustainable environmental management in Tanzania.⁵³ These issues entail requiring all activities which may have adverse impact on environment to observe the precautionary principle. All such activities would require conducting an Environmental Impact Assessment (EIA) study prior to the implementation of such activities.⁵⁴ Development activities like mining exploration or exploitation, hydro-electrical power generation and supply, i.e., laying transmission lines as well as construction of road infrastructure might have negative impact on the conservation of Selous Game Reserve.

The fourth aspect is on applicability of sustainable development principles. EMA calls for any person, court or tribunal exercising powers under the Act to observe and be guided by the principles of sustainable development, namely: the principle of eco-system integrity; the principle of international co-operation in management of environmental

⁴⁹ See section 7(1) (f) of the Land Act, Cap. 113 [R.E. 2002].

⁵⁰ Section 22(2) of the Land Act (emphasis supplied).

⁵¹ Sections 63(1) and 65(2) of the Environmental Management Act, Cap. 191 [R.E. 2002].

⁵² See Sections 66(3) (d) and 67(2) (d) and (m) of the Environmental Management Act.

⁵³ Section 73 (1), *ibid*.

⁵⁴ Section 81 (1) and 3rd Schedule to the Environmental Management Act and Reg. 4 and 1st Schedule of the Environmental Impact Assessment and Audit Regulations, GN. No. 349 of 4th November 2005.

resources shared by two or more states; and that the environment is the common heritage of present and future generations.⁵⁵

5. Current Legal Issues on Selous Game Reserve as an OUV Property

The Selous Game Reserve (SGR) is the largest protected conservation areas of Tanzania located in the South East of Tanzania. SGR comprises vast areas mostly undisturbed open woodland and floodplains, grasslands, riverine forests and major expansive *miombo* woodlands. SGR has an iconic status as one of the few remaining vast uninhabited areas in Africa with a high degree of naturalness.⁵⁶ As a result, SGR has unique natural ecosystems and biological diversity.

Enjoyment of the OUV status for SGR depends on strict compliance with the World Heritage Committee Guidelines including integrity and authenticity and must have an adequate protection and management system to ensure its safeguarding.⁵⁷ As such, all activities undertaken in the property must focus on sustainable conservation of the natural site. Activities with likely adverse impacts are not welcome in a property inscribed as a World Heritage Site. Whenever the state of conservation deteriorates and there is urgent need to take immediate actions to ameliorate the natural heritage site, the World Heritage Committee is empowered to list the property in a List of World Heritage in Danger. For property to be placed under the List of World Heritage in Danger the following conditions must be met, namely: the property is on the World Heritage List; the property is threatened by serious and specific danger; major operations are necessary for the conservation of the property and that assistance under the Convention has been requested for the property.⁵⁸

The World Heritage Committee Guidelines recognize that bio-physical processes and landform features should be relatively intact. These areas should be in a pristine state except for limited human activities, including those of traditional societies and local communities, which are consistent with the OUV status of the area and where they are ecologically sustainable.⁵⁹ Protection and management of such properties should ensure that their Outstanding Universal Value, including the conditions of integrity and/or authenticity at the time of inscription, are sustained or enhanced over time.⁶⁰

The main challenges currently facing SGR include poaching and large scale development projects.⁶¹ These activities are related to exploration and extraction of minerals, oil and gas, and large infrastructure plans. It has been observed that:

⁵⁵ See Section 5(3) (c) and (g) ; and section 7(3)(a) of the Environmental Management Act.

⁵⁶ UNESCO World Heritage Centre-IUCN, Reactive Monitoring Mission Selous Game Reserve (United Republic of Tanzania, 02 to 11 December 2013, pp. 7-10.

⁵⁷ See Paragraph 78, *Ibid*.

⁵⁸ Paragraph 177 of the Operational Guidelines.

⁵⁹ Paragraph 90 of the Operational Guidelines for Implementation of the World Heritage Convention.

⁶⁰ See Paragraph 96 of the Operational Guidelines for the Implementation of the Convention.

⁶¹ UNESCO World Heritage Centre-IUCN, Reactive Monitoring Mission Selous Game Reserve (United Republic of Tanzania, 02 to 11 December 2013, pp. 8, 11-16.

The genesis of the problems of poaching elephants and the launching of anti-poaching operations to curb the vice in the country commenced in 1965, when the government permitted hunting of wildlife in game reserves starting with the Selous Game Reserve. As a result of increasing exponentially of poaching activities which led the government to launch a number of anti-poaching operations like *Operation Uhai* in 1989 and *Operation Tokomeza* in 2013 respectively.⁶² [sic]

Indeed, permitting access to the property in form of hunting activities contributed significantly for illegal hunters to permeate into the game reserve for search of ivory and rhino horns.

Apart from the hunting activity there is the Mkuju River Project (MRP), one of the large scale development activities, which is likely to adversely impact on the sustainable conservation of SGR. Although MRP is outside the boundaries of the SGR, since the MRP is for exploitation of Uranium such project is likely going to adversely affect SGR.⁶³ Tanzania considers Mkuju River Project as a crucial project towards achieving its development goals. Indeed, Tanzania has resolved to hasten the industrialization process through exploiting its comparative strategic advantages. One of such advantages is availability of natural resources in abundance including uranium. To achieve the objective of the development goals there must be strategic interventions including implementation of the Mkuju Uranium Project.⁶⁴

The modification of SGR's boundaries accommodated conditions necessary for conservation of the area. Such modifications included:

provision of additional valuable wildlife forest area to compensate for the excised area of SGR for inclusion in the property; ensure enhanced and effective protection of the Selous-Niassa corridor; **not to engage in any mining activity within the SGR World Heritage property after exclusion of the Mkuju River mining site**; ensure that investors contribute to the Protection Fund provided for under WCA; and **not to undertake any development activities in SGR and its buffer zone without prior approval of the WHC.**⁶⁵ (Emphasis supplied)

Accordingly the decision of World Heritage Committee (WHC) to approve boundary modification was done in an exceptional and unique manner.

The United Republic of Tanzania was obliged to

⁶² Majamba, H.I., "Public Trust Doctrine: Emerging Trends in Combating Illegal Ivory Trade in Tanzania", **Eastern Africa Law Review**, (2014) Vol. 41, Issue No 2, pp.32-63, at p. 40.

⁶³The modification of the boundary was officially accepted during the 36th World Heritage Committee meeting in Saint Petersburg, Federal Republic of Russia in June 24th to July 6, 2012.

⁶⁴ See Ministry of Finance and Planning, "*National Five Year Development Plan 2016/2017 to 2020/2021 - 'Nurturing Industrialization for Economic Transformation and Human Development'*", Dar es Salaam, Ministry of Finance and Planning, (2016) pp. 28, 32, 107 and 108.

⁶⁵ See Paragraph 7 (a) to (f) of the WHC Decision 36 COM 8B.43 -Examinations of Minor Boundary Modifications of Natural, Mixed and Cultural Properties already inscribed on the World Heritage List.

ensure that environmental management and monitoring plan is implemented; economic and social needs of the local population and workers are respected and that social conditions in and around SGR, in particular the Mkuju River Mining site, are subject to monitoring; and that the mining activity and processing of the uranium is carried out corresponding to state of art of international standards and adherence to International Atomic Energy Agency (IAEA) rules governing the processing of uranium materials.⁶⁶

It is expected that Tanzania would have in place adequate and effective legal and institutional framework to monitor the environmental management relating to this peculiar category of mining activities. Currently, Tanzania has a number of legislative instruments touching on environmental management and issues of radioactive materials.⁶⁷ It has also a number of institutions. However, Tanzania lacks adequate capacity in terms of equipment, trained personnel and funding to deal with monitoring of radioactive minerals, and expertise to deal with issues related to the uranium mining in the country.⁶⁸ It has been further observed that “National Environmental Management Council (NEMC) does not have adequate experience in uranium mining regulation and operations, does not have specialists in the field of nuclear physics or atomic energy and related sciences, does not have facilities and equipment required to monitor radioactive minerals mining projects....”⁶⁹

The inability to monitor uranium processes and the likelihood of adverse environmental impacts on the property has made international community not to support any such development activities in SGR. There have been consistent WHC’s urge to Tanzania to stop mining activities in the Selous Game Reserve over the years since 2012. It reiterated its utmost concerns on Tanzania’s continuance to advance development projects within the SGR and its buffer zone without approval of WHC.⁷⁰

Under the World Heritage Convention, compliance is done through two main ways. The first is through the periodic reporting mechanism by the State Party. Such report must be sent to UNESCO General Conference through the World Heritage Committee and must include legislative and administrative actions taken in the implementation of the Convention and state of conservation of World Heritage sites in its territory.⁷¹

⁶⁶ Paragraph 9, *Ibid.*

⁶⁷ The laws includes: The Mining (Radioactive Minerals) Regulations, 2010 GN No. 407 of 22nd October 2010; the Atomic Energy (Radiation Safety in the Mining and Processing of Radioactive Ores) Regulations, 2011 GN No. 369 of 4th November 2011; the Atomic Energy (Packaging and Transport of Radioactive Minerals) Regulations, 2011, GN No. 368 of 4th November 2011; the Mining (Safety Occupational Health and Environmental Protection) Regulations, 2010 GN No 408 of 22nd October 2010; and the Environmental Impact Assessment and Audit Regulations, 2005 GN No. 349 of 4th November 2005.

⁶⁸ Ministry of Finance and Planning (2016), *National Five Year Development Plan 2016/2017 to 2020/2021 - “Nurturing Industrialization for Economic Transformation and Human Development”*, Dar es Salaam, Ministry of Finance and Planning, pp. 107 and 108.

⁶⁹ Rosa Luxemburg Stiftung and Legal and Human Rights Centre (2014), *Uranium Mining Impact on Health & Environment*, Dar es Salaam, Rosa Luxemburg Stiftung and Legal and Human Rights Centre, p.13.

⁷⁰ WHC Decision 37COM 7B.7 of 2013; Decision 38 COM 7B.95; and Decision 39 COM 7A. 14.

⁷¹Section 29 of the World Heritage Convention and Paragraph 199 of the Operational Guidelines.

Such periodic reporting aims at providing an assessment on application of the Convention; assessment on the maintenance of on OUV of World Heritage Site over a period of time; to provide up-dated information about the World Heritage properties to record the changing circumstances and state of conservation of the properties; to provide a mechanism for regional co-operation and exchange of information and experiences between States Parties concerning the implementation of the Convention and World Heritage conservation. It is assumed that state reporting is crucial for more effective long term conservation of the properties in the World Heritage list, as well as to strengthen the credibility of the implementation of the Convention.⁷²

The second mechanism is through the reactive monitoring which is usually done by the Secretariat or advisory bodies to the Committee on the state of conservation when there is a threat to properties inscribed on the World Heritage List. It is one of the procedural requirements prior to deletion of the property from the World Heritage List.⁷³ State Parties are invited to provide information to the Committee when they undertake or authorize any major restoration operation or activity within the protected property which may affect its OUV status. Such communication should be prior to drafting the basic documents or making the decisions for activity whose effects may be irreversible. Reactive monitoring would include indication of threat or improvements in the property since the last reactive report; follow-ups on the recommendations of the previous missions; and any threat or damage to or loss of OUV, integrity or authenticity of the property for which it was inscribed.⁷⁴

In 2013, WHC/IUCN Reactive Monitoring Mission visited the Selous Game Reserve. The mission recommended that:

Tanzania should consolidate domestic capacity and use external expertise to ensure comprehensive and independent monitoring and compliance of the complex mining operation at MRP, Tanzanian first uranium site especially of quantitative and qualitative water monitoring points beyond the mining concession area; ensure full risk preparedness and establish clear response mechanisms in case of possible future contamination incidents associated with extractive activities outside its (SGR) boundaries; and the State Party should inform the WHC in case In-Situ Leaching (ISL) is considered as extraction technique in addition to or in alternative to open pit mining.⁷⁵

Uranium deposits suitable for in situ leaching (ISL) occur in permeable sand or sandstones, confined above and below by impermeable strata, and which are below the water table. Use of ISL has the potential of causing significant adverse impacts especially surface contamination and damage to soils and contamination of ground water, i.e.,

⁷² Paragraph 201 and 202 of the Operational Guidelines, 2015.

⁷³ See paragraph 169, *ibid*.

⁷⁴ Paragraphs 172-174 of the Operational Guidelines

⁷⁵ UNESCO World Heritage Centre-IUCN, Reactive Monitoring Mission Selous Game Reserve (United Republic of Tanzania, 02 to 11 December 2013, pp.5 and 25. Other joint UNESCO-IUCN Reactive Monitoring Mission visits to the Selous Game Reserve as World Heritage Property were done on 2-9 June 2007 and 23-30 November 2008.

aquatic ecosystems.⁷⁶ It is argued that the risk of such contamination has the potential to impact the regional economy, animals, and vegetation. Therefore, acidic ISL operations should remain under strict surveillance both during the ISL process and during the subsequent decommissioning and reclamation of the site. In some cases it will be necessary to restore the contaminated groundwater. If residual soil or groundwater contamination will remain at the site, long term monitoring programmes must be established to ensure that the contamination does not spread into uncontrolled aquifers or areas.⁷⁷

Furthermore, it is reported in the **Manual of Acid in Situ Leach Uranium Mining Technology** that ISL field operations should proceed with strict controls against spills and leaks of production and leaching solutions onto the site ground. The solutions recovered from the recovery wells should be collected into portable receptacles and returned to the recycling system. Prior to leaching, a baseline survey of the site should be conducted. During the leaching process as well as following completion of leaching, additional radiation environmental control and sanitary surveys should be carried out.⁷⁸ We have demonstrated that currently Tanzania lacks adequate mechanisms to deal with uranium mining surveillance and monitoring as well as expertise for ensuring strict controls are in place.

The Reactive Monitoring mission specifically requested to be informed on the ISL in SGR due to the fact that extensive use of chemicals as an extraction method though might reduce risks to employees, the method may have devastating effect especially to water resources both surface and underground water courses.

Tanzania complies with reporting mechanisms. It confirmed that no mining permits were issued in the property; increased capacity and efforts in combating poaching resulting in stabilization of the situation in the property; strengthening the fight against environmental and wildlife crimes; increased bilateral efforts including an agreement on trans-boundary Niassa-Selous Ecosystem signed with Mozambique as well as efforts to address illegal trade including China; on-going stakeholder consultations on possible addition of new areas to the property at the western boundary and the creation of a buffer zone; appointment of an inter-ministerial team to monitor the MRP uranium mine and efforts to establish baselines for water monitoring; and confirmation on In-Situ Leaching (ISL) at MRP with no approval for ISL being granted at the moment.⁷⁹

⁷⁶ International Atomic Energy Agency (2001), **Manual of Acid in Situ Leach Uranium Mining Technology**, Vienna-Austria, International Atomic Energy Agency, pp.221-241.

⁷⁷ *Ibid.* p. 221.

⁷⁸ *Ibid.* p.223.

⁷⁹ <http://www.unesco.org/en/list/199/documents> - state of conservation report of Selous Game Reserve (United Republic of Tanzania), 2016.

Further, Tanzania noted that EIA Study would be undertaken at Stiegler's Gorge and that Kidunda dam EIA would be submitted to National Environment Management Council and shared with WHC. It reiterated its commitments to comply with 2013 Reactive Mission report including Desired State of Conservation for the removal of the property from the List of World Heritage in Danger (DSOCR).⁸⁰

The international community is vehemently against the extraction of uranium at SGR as reflected in the World Heritage Committee decision of 2016 on the status of SGR as OUV under the World Heritage List. The Committee expressed its utmost concern about:

- a) the ongoing lack of clarity in terms of the extraction method, water monitoring and disaster preparedness as regards the Mkuju River Project (MRP), b) the ongoing Stiegler's Gorge dam project **despite a high likelihood of serious and irreversible damage to the Outstanding Universal Value (OUV) of the property**, c) the lack of submission of a complete Environmental and Social Impact Assessment (ESIA) on the Kidunda dam project, which seems to have been extended in its scope and therefore could have **a higher impact on the integrity of the property**, d) **the legal possibility of mineral exploration and exploitation in the property and the overlapping mining and prospecting licenses, despite the commitment made by the State Party to not engage in any mining activity within the property, in line with the established position of the Committee that mining and oil and gas exploration and exploitation are incompatible with World Heritage status**, e) the lack of reported progress in creating opportunities for local communities to participate in decision-making and benefit-sharing, including in Wildlife Management Areas (WMAs).⁸¹

As such the World Heritage Committee called upon Tanzania to undertake Strategic Environmental Assessment (SEA) to comprehensively identify the cumulative impacts of mining, the potential **Stiegler's Gorge and planned Kidunda dam projects, agriculture and associated infrastructure, such as road building, both within the property** as well as in important wildlife corridors and dispersal areas that are critical for maintaining the OUV of the property, and further **urged the State Party to abandon any plans for the different development projects which are incompatible with the World Heritage status of the property**.⁸² Conducting SEA would be in line with section 105 of EMA which calls for the Ministry responsible for water, energy or minerals to undertake SEA whenever there is discovery of mineral resource or petroleum before specific details are planned or a hydro electric power station or major water project is planned.

6. The Role of International Law and the Effect of its Non-Observance

International law plays a significant role in the sustainable management of natural resources. Tanzania being a State Party to the World Heritage Convention is obliged to adhere to the provisions of the Convention. The adherence to the Convention is of great importance to Tanzania in ensuring sustainable management of SGR. Currently, it can access international assistance from the Fund and other donors for management of the

⁸⁰ *Ibid.*

⁸¹ See Paragraph 9 of the World Heritage Committee-Selous Game Reserve (United Republic of Tanzania) (N 199bis) Decision 40 com 7A.47 (**Emphasis added**).

⁸² See Paragraph 10, *ibid.*

SGR to maintain its integrity and authenticity. Any implementation of development activities with likelihood of adverse impacts to environment of SGR leading to deterioration of important qualities of OUV status is not welcomed.

The question as to whether the State Party can freely engage in development activities in natural heritage with OUV status has been subject of consideration in international dispute resolution bodies. For instance, in the case of *African Network for Animal Welfare (ANAW) v. The Attorney General of the United Republic of Tanzania*⁸³ the Court observed that:

Tanzania was in breach of the Treaty for the Establishment of the East African Community, 1999 particularly violation of Article 5(3) (c), 8(1) (c), 111(2) and 114(1) of the Treaty. The issues of the reference (environment) are today the subject of wide debate across the world, including environmental protection, sustainable development, environmental rule of law and the role of the State in policy formulation in matters relating to the environment and natural resources. This has necessitated by the desire to balance on the need to protect the Serengeti ecosystem for sake of future generations and whether the road has potential for inflicting irreparable damage to the environment. As such a declaration to issue that initial proposal or the proposed action by Tanzania to construct a road of bitumen standard across the Serengeti National Park is unlawful and infringes the EAC Treaty is granted; grant of a permanent injunction restraining United Republic of Tanzania from operationalizing its initial proposal or proposed action of constructing and maintaining a road of bitumen standard across the Serengeti National Park subject to its right to undertake such other programmes or initiate policies in future that would not have negative impact on the environment and ecosystem in the Serengeti National Park.⁸⁴

This decision prompted the United Republic of Tanzania to appeal to the Appellate Division on the ground that the trial court erred in law in enforcing Articles 111-114 of the EAC Treaty when those Articles are yet to be negotiated, agreed, signed and ratified by all Partner States through an Appropriate Protocol. The Appellate Division of the East African Court of Justice (EACJ) in its Judgement dated 29th July 2014 had this to say in respect of the matter:

...There can be no bar or fetter whatsoever against the Court's carrying out its duty to interpret the provisions of the Treaty; apply them; and ensure that Partner States adhere to and live by the objectives, duties, undertakings and standards which they, as full-fledged Sovereign States, did directly, deliberately, freely and voluntarily assume under the provisions of their Treaty – a Treaty which, even Counsel for the Appellant readily admits, was negotiated, signed and duly ratified by all the Partner States.⁸⁵

The EACJ decision reiterated the need for a State Party to an international legal instrument to respect its international obligations within its territory to ensure that the spirit of international law is upheld. In the instant case, the Treaty for Establishment of the East African Community has provisions that suggest that particular Chapters of the Treaty would be supplemented by the adoption of negotiated, signed and ratified Protocols. Tanzania invited the Court to rule that absence of such Protocol being in force

⁸³ *African Network for Animal Welfare (ANAW) versus the Attorney General of the United Republic of Tanzania*, Reference No. 9 of 2010 (Judgement dated 20th June 2014).

⁸⁴ See Paragraphs 85 and 86 of the judgement.

⁸⁵ Paragraph 23 of the judgement of *the Attorney General of the United Republic of Tanzania versus African Network for Animal Welfare (ANAW)*, Appeal No.3 of 2014, EACJ Appellate Division.

exonerates it from any liabilities arising out of the Treaty on such Chapters. EACJ clearly reiterates the position of international law that where a State Party freely consents to be bound by a treaty by signing and ratification, that state is obliged to honour its obligations in accordance with agreed principles of international law.

It may be argued that a strong case can be made against any development in the Selous Game Reserve with potential of causing adverse impact on the environment within SGR. In the current situation, Tanzania is a State Party to the World Heritage Convention 1972. Thus, it is a breach of international law for Tanzania to undertake any activities which adversely affect the status of Selous Game Reserve as OUV Heritage Site.

Tanzania might freely cede some of its sovereignty over the Selous Game Reserve through the process of inscription of the SGR as a Natural Heritage Site under UNESCO. It is possible for Tanzania to invoke permanent sovereignty over the natural resources (PSNR) on SGR in order to allow implementation of development activities which are objected by the international community. Such a move would trigger deletion of SGR from the World Heritage List thus denying Tanzania's access to international financial assistance. In the long run, the tourism sector will be completely impaired as the World Heritage Site status plays a significant role in attracting tourists.

The Vienna Convention on Law of Treaties, 1969 is an illustrative instrument in respect of conflict between municipal law and international law where the State is party to international Convention. First, the State Party is required to observe and implement the international obligations in good faith. The Treaty provides that "every treaty is binding upon the parties to it and must be performed by them in good faith."⁸⁶ This is called the principle of *Pacta sunt servanda*.

Simply stated, a State Party is obliged to perform its international obligations in a manner that does not waterdown the spirit of that particular international legal instrument. *Pacta sunt servanda* is, indeed, the oldest principle of international law which underlies every international agreement. It has been observed that:

It is not hard to see why this is so. In the absence of a certain minimum belief that states will perform their treaty obligations in good faith, there is no reason for countries to enter into such obligations with each other.⁸⁷

Tanzania's ratification of the World Heritage Convention is evidence that it is willing to be bound and adhere to all the aspects articulated within the Convention.

Second, presence of a requirement prohibiting State Party to invoke its municipal legislative or administrative framework to evade its international obligations is equally important. Article 27 of the Vienna Convention provides restrictions not to use its municipal law as excuse not to perform an aspect which is regulated by international

⁸⁶ Article 26 of the Vienna Convention on the Law of Treaties, 1969. This is reported in *United Nations Treaty Series* (UNTS), Vol. 1155, p. 332.

⁸⁷ Shaw, M. N., (1986), *International Law (2nd Edition)*, Cambridge, Grotius Publications Limited, p.459.

legal instrument to which that State Party entered freely by signing and ratifying or acceding to the Convention. At this juncture, Tanzania can neither invoke the Constitution of the United Republic of Tanzania nor the WCA that permit mining of uranium, petroleum or natural gas on the game reserves to validate activities that are against the World Heritage Convention. Peter argues firmly that:

...such agreements and treaties are not useless. They are valid undertakings and the government is bound by its commitments to others...the mere fact that an international agreement is not incorporated into our municipal law does not absolve the government of the duty to adhere strictly to its undertakings under that agreement. International agreements are serious and important instruments in guiding international intercourse and thus they should not be taken lightly. It is therefore, important to remind governments of their cardinal duty to respect international undertakings. In the Tanzanian context it is important for the government to incorporate all its international undertakings and particularly those on protection of environment into domestic sphere so as to make execution smooth. This will also indicate sincerity of the government in making these undertakings on behalf of its people.⁸⁸

There is no doubt that Tanzania is under legal and moral obligation to respect, promote and observe tenets of international law relating to conservation of world heritage sites to which it voluntarily accepted to be bound and respect. It is without a flicker of doubt that conducting development activities within the Selous Game Reserve on pretext of permission given by the municipal law, namely, the WCA 2009 is a clear violation of international law.

In the long run, such adamancy to continue exploration, mining and hydro –electric power generation in SGR would result into removal of the property from the World Heritage List. Such deletion may hamper conservation efforts for absence of international assistance and impact on tourism sector which contribute significantly to the Gross Domestic Product (GDP).

7. Concluding Observations

Legal protection of World Heritage properties calls for concerted efforts at both national and international levels. Such properties are protected under municipal and international law. Tanzania is obliged to respect and implement its obligations under the World Heritage Convention. These obligations include maintaining the SGR to its required integrity and authenticity. It entails maintaining SGR intactness without disturbances to ecology and ecosystem by restricting development activities within the SGR.

We have noted that development activities within SGR have caused great concerns. Implementation of treaty obligations in management of SGR is still wanting as the government has not ceased the exploration and implementation of other development activities in the pretext of legal permission under municipal law. According to international law, municipal legislative and administrative regimes are not permitted to act as a hindrance to the furtherance of objectives of international legal instruments.

⁸⁸ Peter, C.M., *Human Rights in Tanzania: Cases and Materials*, Koln, Stiftung Koppe Verlag, 1997, p.155.

Operationalization of the uranium mining in Tanzania at MRP at a time when there is conspicuous shortage of experts, facilities and equipment for surveillance and monitoring of the impact of uranium extraction is not desirable at all. It is of paramount importance to develop capacity in terms of expertise and securing important facilities and equipment for monitoring and surveillance of the uranium mining processes prior to active mining operations in order to address environment issues.