

# KUIPOTEZA SERENGETI

ARDHI YA WAMASAI ILIYOPASWA KUDUMU MILELE



The Oakland Institute

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## Shukrani

Ripoti hii imeandikwa na Anuradha Mittal na Elizabeth Fraser.

Utafiti umefanya na Anuradha Mittal, akisaidiana na watafiti mbalimbali pamoja na mashirika ya ndani ya Tanzania. Licha ya kutotajwa majina yao ili kulinda usalama wao, turawashukuru sana kwa mchango wao.

Ramani iliyopo ukurasa wa 3 imebuniwa na Massimo Lambert-Mullen.

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Picha ya jalada: Wachungaji wa kimasai na mifugo yao ndani ya eneo la Hifadhi ya Ngorongoro © The Oakland Institute.

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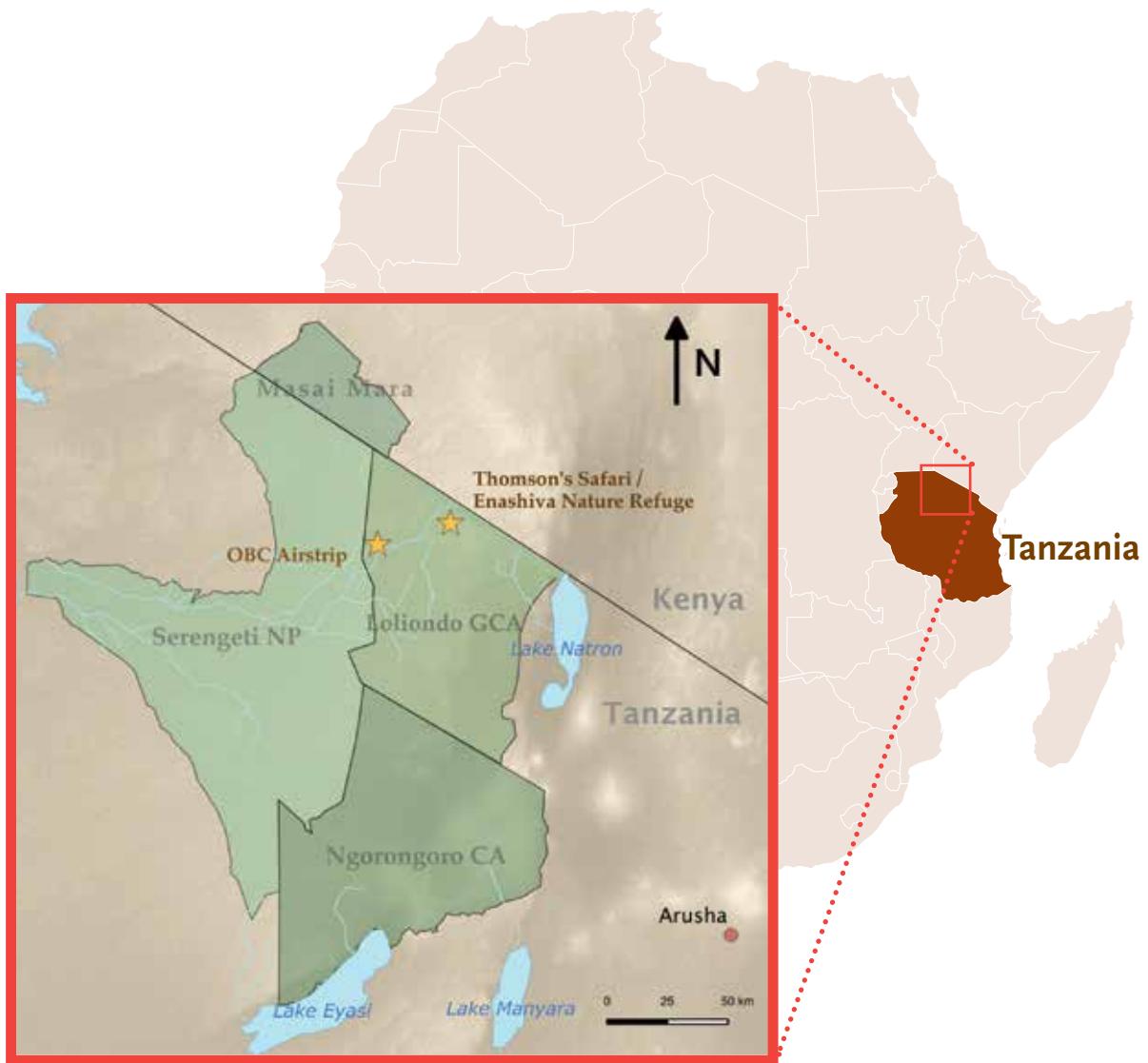
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## Istilahi & Vifupisho

Boma	Eneo maalumu lenye mkusanyiko wa michongoma ambalo, hujumuisha vibanda vidogo ambavyo ni makazi ya Wamasai na huwekwa uzio kwa mifugo.
CCRO	Certificates of Customary Right of Occupancy / Hati ya umiliki wa haki za kimila
CSO	Civil Society Organization / Asasi ya kiraia
FAO	Food and Agriculture Organization of the United Nations / Shirika la Umoja wa Mataifa la Chakula na Kilimo
FEMACT	Feminist Activist Coalition / Muungano wa wanaharakati wa kifeministi
GCA	Game Controlled Area / Eneo lisilo la Hifadhi ya Taifa linalomilikiwa na serikali na kuruhusu watu kufanya uwindaji kwa kibali maalumu
GMP	General Management Plan / Mpango wa Uongozi
Ha	Hectare / Hekta
ICESCR	International Covenant on Economic, Social, and Cultural Rights / Mkataba wa kimataifa wa haki za kiuchumi, kijamii, na kiutamaduni
IUCN	International Union for Conservation of Nature / Umoja wa kimataifa wa kuhifadhi viumbe hai
LGCA	Loliondo Game Controlled Area / Eneo lisilo la Hifadhi ya Taifa linalomilikiwa na serikali na kuruhusu watu kufanya uwindaji kwa kibali maalumu la Loliondo
LHRC	Legal and Human Rights Centre / Kituo cha sheria na haki za binadamu
Maa	Lugha ya kikabila ya Wamasai
MRG	Minority Rights Group / Haki za makundi ya watu wachache
NCA	Ngorongoro Conservation Area / Eneo la Hifadhi ya Ngorongoro
NCAA	Ngorongoro Conservation Area Authority / Mamlaka ya Eneo la Hifadhi ya Ngorongoro
NGONET	Ngorongoro NGOs Network / Mtandao wa mashirika yasiyo ya kiserikali ya Ngorongoro
NPC	Ngorongoro Pastoralists Council / Baraza la Wafugaji wa Ngorongoro
OBC	Ortello Business Corporation / Shirika la Kibiashara la Ortello
Orpul	Sherehe ya kimila ya kimasai
PINGOs Forum	Pastoralists Indigenous Non-Governmental Organizations Forum / Jukwaa la Asasi za Kirai la Wafugaji wazawa
SNP	Serengeti National Park / Hifadhi ya Taifa ya Serengeti
TBL	Tanzania Breweries Limited / Kampuni ya BiaTanzania
TCL	Tanzania Conservation Limited / Kampuni ya Hifadhi ya Wanyamapori Tanzania
UAE	United Arab Emirates / Umoja wa Falme za Kiarabu
UCRT	Ujamaa Community Resource Team / Timu ya Rasilimali ya Jumuia ya Ujamaa
UNESCO	United Nations Educational, Scientific, and Cultural Organization / Shirika la Umoja wa Mataifa la Elimu, Sayansi, na Utamaduni
WMA	Wildlife Management Area / Eneo la Uongozi wa Wanyamapori



*“Jamhuri ya Muungano wa Tanzania mara zote imeelezea mashaka yake kuhusu dai la kwamba jamii za wazawa zipo katika mamlaka yake kisheria. Katika suala letu, dhana ya wazawa ilionekana inafaa katika zama za ukoloni; dhana inayolenga kudhalilisha jamii za wenyeji zionekane duni na hakujawahi kuwa na ufikiriaji wa kina ili kuweka usawa wa tofauti ndogo za fasili hii. Matokeo yake, jamii ambazo hazijaendelea zinatafsirika kama za kienyeji na kufasili tamaduni zao kuwa “si za kawaida” na kuchukuliwa kuwa ni duni. Kupitia mtazamo huu ndio tunapata ugumu wa kukubali dhana na maana yake. Tunaamini kwamba jamii zinabadilika zenyewe kulingana na mazingira yanavyobadilika.*

*Ukoloni ulitawala jamii za wafugaji ndani ya Afrika ili kudumisha ubabe na ubaguzi uliopelekea wasiendelee. Kwa kutambua hali hii, mara baada ya uhuru, Tanzania walichukua hatua ambazo zililenga kuleta hali nzuri kwa watu wote bila ya kujali ushirikishwaji wa maeneo au kabila lao ili kuondoa asili ya kutokuwapo kwa usawa.”*

—Maelezo yametolewa na Balozi wa H.E Ramadhan M Mwinyi, Makamu Mwakilishi wa Kudumu wa Jamhuri ya Muungano wa Tanzania katika Umoja wa Mataifa. Mkutano wa kumi na mbili wa Baraza la Kudumu kuhusu masuala ya Wazawa. 23 Mei, 2013.





Mmasai akiwa na ng'ombe wake katika Eneo la Hifadhi ya Ngorongoro © The Oakland Institute

## Muhtasari wa Jumla

Ndani ya Afrika mashariki, Bonde kubwa la ufa linazidisha ustawi na kijani kwa maili elfu moja, lilozungukwa na mito, maziwa, na baadhi ya makazi mengi tofautitofauti na wanyamapor wengi katika bara. Kwa karne sasa, yamekuwa ni makazi kwa Wamasai, wafugaji wa kuhamahama amba wanachunga mifugo yao kulingana na majira, kufuata ustawi wa majani, kuendana na muelekeo ilioundwa na idadi ya wanyama. Wamasai walikuwa matajiri kadri ardhi iliyowaneemesha. Kutunza ustawi wake kulikuwa ni kitupekee cha kufanya kwa mafanikio yao binafsi. Uhusiano huo wa karibu uliwafanya wawe wamiliki wa ardhi hiyo, bila ya haki kisheria au hati.

Kama ilivyo kwa wakulima ulimwenguni kote, wamasai wamekumbwa na magonjwa na ukame, lakini tishio kubwa zaidi la miaka 75 iliopita limekuja kutokana na sheria za hifadhi, na hivi karibuni uwekezaji wa kigeni. Kwa vile maeneo yamekuwa yakiaminika "kulindwa" au kuhamishwa kwa wamiliki wapya, wamasai wamelazimishwa kwenda

kwenye maeneo madogo na madogo zaidi, Kutengeneza ramani inayowabana kama kifungo na ngeni kwao kama ilivyo kwa simba kuwekwa kwenye bustani ya wanyama.

Kuanzia katikati mwa karne ya 20, mfululizo wa sheria za ardhi na wanyamapor zilizolengwa katika hifadhi za kaskazini mwa Tanzania zimeaondosha Wamasai kwa sehemu kubwa kutoka katika ardhi yao ya asili, ikijumuisha Hifadhi ya Taifa ya Serengeti ya hivi sasa. Mwanzoni, Wamasai waliahidiwa milki - kwa mfano, kuhamishiwa katika eneo la jirani la Loliondo na eneo la hifadhi ya Ngorongoro. Lakini kwa nusu karne iliopita, wameendelea kukabiliwa na utimuliwaji hata katika maeneo haya, wakati sheria za ziada zimezuia haki zao za kuchunga mifugo na kulima mazao ya chakula, kupelekea ueneaji wa njaa. Endapo kanuni za serikali zinaingizwa kupita kiasi, kuzidi kanuni za utaratibu wa asili, utaratibu wa asili hausalimu amri, lakini huo ndio wanautegemea – wenyeji – hulazimika kubadilika, ambapo



kwa kawaida humaanisha kuuacha mwelekeo wa maisha waliouzoea.

Hivi karibuni, utalii wa kiikolojiaumekuwa ni sekta inayokua kwa kasi katika soko la utalii, Bonde la ufa la Afrika Mashariki limekuwa ndio kusudio la utalii, na baadhi wanaona, Wamasai wanaharibu muonekano wa asili, kutokana na tajiriba kuhusu wanyamapori iliyotangazwa na tasnia ya utalii. Makampuni mawili ya Loliondo yamekuwa yana athari mbaya kwa Wamasai – Kampuni ya Hifadhi ya Wanyamapori Tanzania (TCL), kampuni inayomilikiwa na washirika wanaomiliki Kampuni ya Thomson Safaris ilioko Boston, na Shirika la Ortello (OBC)-lililoko katika Umoja wa Falme za Kiarabu (UAE).

Mnamo 2006, TCL ilinunua ekari 12,617 za ardhi kaskazini mwa Tanzania kutoka kwa Kampuni ya Bia Tanzania (TBL) kwa mkataba wa miaka 96.<sup>1</sup> Vijiji vitatu vya karibu vya Wamasai vilipinga uuza ji wa ardhi hii wakidai kwamba ardhi

iliuzwa kwa TBL mnamo 1984 bila ya ridhaa yao.<sup>2</sup> Baadaye mwaka 1990 TBL waliitelekeza ardhi hiyo. Vijiji hivyo vildai kwamba kupitia mabaya hayo, wao ndio wamiliki wa ardhi hiyo.<sup>3</sup> Tangu TCL ianze kumiliki ardhi hiyo, jamii za wenyiji zimekuwa zikizuiwa kutumia maeneo ya kulishia na kunyweshea maji mifugo, na kukumbana na vitisho na vurugu za polisi, ambao muda mwengine huletwala na kampuni ya safari, tangu ianzishe biashara katika ardhi hiyo.<sup>4</sup> Kwa maelezo zaidi kuhusu madai haya, tafadhalii jere viambatanisaho 4, 32, na 41.

Shughuli za Shirika la Kibiashara la Ortello pia zimewaathiri Wamasai. Mnamo 1992, OBC lilipewa kibali cha uwindaji wa Hekta 400,000 – makaazi ya Wamasai zaidi ya 50,000.<sup>5</sup> Upingaji wa Jamii wa zaidi ya miaka 20 ulipelekea serikali kupunguza eneo hadi kufikia hekta 150,000. Kibali hicho kiliruhusu familia za kifalme za UAE kufanya safari binafsi za uwindaji na vilevile kampuni hii ilijenga uwanja wa ndege kwa matumizi maalum.<sup>6</sup> Pia OBC ilipiga marufuku utumiaji



Vibanda katika wilaya ya Ngorongoro © The Oakland Institute

wa ardhi na maji yaliyokuwa yakinutumiwa na Wamasai. Licha ya hayo, vikosi nya ulinzi na usalama nya serika ya Tanzania, vikishirikiana na walini wa OBC, wamezitimu jamii kadhaa za Wamasai kwa kutumia nguvu - kuchima *vibanda* vyao, mali zao, na kutawanya mifugo yao.<sup>7</sup> Baada ya malalamiko ya miaka mingi dhidi ya kampuni hiyo waziri mpya alieteuliwa wa maliasili, Hamisi Kigwangalla, alivunja umiliki wa uwindaji wa OBC wa miaka 25 mnano Novemba 2017, alimsimamisha kazi mkurugenzi wa Wanyamapori, na aliamuru uchunguzi wa vitendo nya OBC vilevile nya mawaziri wa utalii waliopita.<sup>8</sup>

Vitendo hivi – vinaenda sambamba na ushurutishaji unaoendelea katika hifadhi, sheria zilizopitishwa na serikali ya Tanzania, na baadhi ya viongosi wa serikali wanaowathamini wawekezaji kuliko Wamasai – sio tu vinabeza haki za ardhi ya wenyeji dhidi ya hifadhi na utalii. Hawazingatii ipasavyo namna Wamasai wanavyoishi, na wamesababisha vitisho, kupoteza maisha, njaa, na uhamishwaji wa nguvu.

Ripoti hii inaweka wazi matatizo yanayowakumba Wamasai katika eneo la Loliondo nchini Tanzania. Inajumuisha mateso ya jamii hizo hasa yaliyosababishwa na matukio ya hivi karibuni pamoja na historia ya sheria za ardhi, inaonesha changamoto mbalimbali za kisheria, na kubainisha ni

kwa namna gani vyombo hivi vinapelekea njaa, milipuko ya magonjwa, na uharibifu wa namna ya kuishi. Pia ripoti hii inachunguza mbinu mbalimbali, ikiwamo hatua za haraka ambazo ni lazima zichukuliwe, kama vile kurejesha haki za ufugaji na kufanya kilimo cha chakula katika eneo lisilo la Hifadhi ya Taifa linalomilikiwa na serikali na hitaji la uhakika wa usalama wa umiliki wa ardhi kwa Wamasai; marekebisho mbalimbali ya sheria na sera kupitia haki ya chakula na sheria maalum za kimataifa; wajibu wa sekta binafsi, ikiwamo kuchunguza mwongozo wa kanuni za UN kuhusu haki za binaadamu kwenye biashara; na uvumbuzi wa jamii za kienyeji kama vile Haki ya Umiliki wa Hati za Kimila (CCROs).

Ingawa ripoti hii inajikita katika shida za Wamasai wa kaskazini mwa Tanzania, uhalisi wake ni kwamba zote zinafahamika sana kwa jamii za kienyeji ulimwenguni kote. Katika maeneo mengi, serikali za kitaifa, mashirika binafsi, na makampuni makubwa ya hifadhi ya wanyamapori yanapanga njama kwa mgongo wa hifadhi ya wanyamapori, sio tu kuondosha kwa nguvu jamii za kienyeji katika ardhi yao – bali pia kuondosha kabisa uwepo wao.

Ukoloni huu wa ardhi ya wenyeji kwa mgongo wa hifadhi ya wanyamapori lazima utokomee.



Watoto wa kijiji cha Kartalu © The Oakland Institute





Eneo la Hifadhi ya Ngorongoro © The Oakland Institute

## Utangulizi

Mnamo Agosti 2017, moto na uteketezaji ulisambaa kwa jamii kadhaa za Wamasai katika eneo la Loliondo nchini Tanzania. Taarifa za awali zilieleza kwamba vibanda (boma) 185 viliteketea, kutawanyishwa kwa maelfu ya wanavijiji, kuharibu vyakula vyao, na kupelekea upotevu wa mifugo.<sup>9</sup> Hadi mwanzoni mwa mwezi Septemba, kiwango cha madhara kiliongezeka, kulitolewa taarifa kwamba watu 19 walikamatwa, 11 walijeruhiwa vibaya, makaazi zaidi ya 5,800 yaliharibiwa, watu zaidi ya 20,000 walibaki bila ya makazi, na upotevu mkubwa wa mifugo.<sup>10</sup>

Kwa mujibu wa Wizara ya Maliasili na Utalii Tanzania, uhamishaji wa kutumia nguvu ulianza mnamo Agosti 10, 2017 na ulipangwa kuchukuwa wiki mbili. Taarifa rasmi ya wizara inasema kwamba vibanda (boma) vilikuwa vinachomwa kwa agizo la serikali, ili kuhifadhi mazingira katika eneo hilo na kuvutia watalii wengi.<sup>11</sup> ikidai kwamba taaarifa za uongo zilikuwa zinasambazwa kuhusu uhalisi wa zoezi hilo kwa lengo la kutengeneza chuki dhidi ya vitendo vya serikali, taarifa ya wizara ilionya watu watakaopatikana wakipotosha wengine.<sup>12</sup>

Mnamo Julai 2016, mwaka mmoja kabla, vitisho kama hivyo viliwekwa dhidi ya Wamasai wa Loliondo, ambapo watu wanane – wakiwamo wanakijiji, wanachama wa asasi za kiraia (CSO), na walimu wa shule za sekondari<sup>13</sup> – walikamatwa.<sup>14</sup>

Wakati mwanasheria wa kawaida na mwanachama wa chama cha wanasheria Tanganyika, Wakili Shilinde Ngulula, akijaribu kufatilia ukamataji huo, vilevile naye alikamatwa. Ingawaje baadaye aliachiwa, hakuruhusiwa kukutana na wateja wake ambao bado walikuwa wameshikiliwa. Alipowasili katika mahakama ya wilaya kama wakili wa waliokamatwa, Ngulula alikamatwa tena katika eneo la mahakama - mara hii akiwa amevaa mavazi yake ya mahakamani.<sup>15</sup> Kwa mujibu wa chama cha wanasheria Tanganyika, ukamataji huo wa Julai 2016 ulidaiwa kuhusiana na mgogoro wa muda mrefu wa ardhi kati ya jamii za wafugaji za kimasai na wawekezaji wa

kigeni kutoka Umoja wa Falme za Kiarabu na Marekani.<sup>16</sup>

Ilikuwa kupitia vyombo vya habari na juhudzi za utetezi wa Kituo cha Sheria na Haki za Binadamu (LHRC), Umoja wa Wateteaji wa Haki za Binadamu Tanzania, na Chama cha Wanasheria Tanganyika, ndipo watuhumiwa akaachiwa kwa dhamana.<sup>17</sup> Hata hivyo ukamataji huo ulizidisha hali ya uoga mionganoni mwa wanakijiji wa kimasai.

Mnamo Novemba 2017, kibali cha uwindaji cha OBC kilifutwa na uchunguzi ulianzishwa na mamlaka ya Kuzuia na Kupambana na Rushwa Tanzania.<sup>18</sup> Hata hivyo, wenyeji walibaki na tahadhari huku wakiendelea na mabishano ya ardhi Hekta 150,000 – zitangazwe kama ni Eneo la Uongozi wa Wanyamapori (WMA) kama ilivyopingwa kwa GCA, kupelekea eneo kupigwa marufuku kwa jamii. Kama ilivyotangazwa na WMA, mchakato wa kuunda mpango mpya wa usimamizi wa utumiaji wa ardhi utachukua takribani miaka miwili, kuhitajika kwa ushauri wa msingi na uhusikaji wa jamii za wenyeji.

Halikadhalika, Eneo la Hifadhi ya Ngorongoro (NCA) mpango mpya wa uongozi (GMP) baada ya mpango uliopita kuisha muda. Hata hivyo, Baraza la Wafugaji wa Ngorongoro (NPC) – shirika linalowawakilisha wakazi wa NCA – na wanachama wa jumuia, bado hawajafuatwa kwa ushauri.<sup>19</sup>

Kulingana na uonevu unaoendelea na kuongezeka kwa uoga, majina ya waliohojiwa kwa ajili ya ripoti hii na taarifa yoyote ambayo inaweza kuhatarisha watoa taarifa na wale wote waliosaidia utafiti huu wamehaririwa kuhakikisha usalama wao na kuwalinda na matendo ya kulipiza kisasi. The Oakland Institute inawashukuru wote waliojitlea kikamilifu kuongea na sisi na ambao wanaendelea kipinga unyanyasaji unaoendelea na wizi wa ardhi na rasilimali za Wamasai kwa ujasiri.

Ripoti hii imetunukiwa kwao na harakati zao za kila siku.

## Wamasai

Katika Maa, lugha ya kimasai, Serengeti humaanisha, “ni eneo ambalo ardhi hutumiwa daima” au “uwanda usio na ukomo.” Pamoja na mito yake, misitu, maziwa, uoto wa savana, na maeneo yenye ukame, makazi kwa mamalia wakubwa karibia 70 na zaidi ya jamii za ndege 500, Wamasai huchunga mifugo yao karibu na wanyamapori. Serengeti imekuwa ardhi ya Wamasai kwa karne nyingi.

*“Vazi jekundu wanalovaa wamasai  
huwakilisha nguvu umoja wa jamii. Ni  
rangi ya damu ya ng’ombe wetu ambao  
tuna uhusiano nao wa kipekee. Kama  
watoto tunajifunza kuwatuza...kuangalia  
dalili za ugonjwa, wapi pa kuwalishia, na  
namna ya kuwakinga na mapori yenye  
sumu. Au nini cha kufanya ikiwa simba au  
fisi watawashambulia...muda mwingine  
mafuriko ya mito yanawafanya kushindwa  
kurudi nyumbani. Kuna wakati muda  
huenda na giza huingia...Kama watoto wa  
kimasai tunafundishwa namna ya kuushinda  
uoga na kurudi nyumbani sisi na ng’ombe  
tukiwa salama.”<sup>20</sup>*

Wamasai – wapambanaji wenyewe nguvu wanaojulikana kwa kwa sifa yao ya urefu, shu la mharuma linalong’aa, na shang’aa za rangirangi – zimeushangaza ulimwengu wa nje kwa muda mrefu.

Lakini wao ni nani?

Wamasai, ni kikundi cha kikabila cha ufugaji wa kuhamhama, wanapatikana katika Bonde Kuu la Ufa la Afrika Mashariki, maeneo ya kaskazini mwa Tanzania na kusini na katikati mwa Kenya.<sup>21</sup> Wameishi katika eneo hilo kwa muda mrefu, wakihamisha makundi ya mifugo yao kwa kufuata ajira ya mwaka.

Historia isiyoadikwa inasema kwamba asili ya Wamasai ni kutoka Upande wa chini wa Bonde la mto Nile, sio mbali na Ziwa Turkana, karibu na mpaka wa Kenya na Sudan ya Kusini wa hivi sasa.<sup>22</sup> Hadi karne ya 15, wafugaji hawa wa kuhamahama walianza kuhama kusini.<sup>23</sup> Na ukomo wa safari yao ulikuwa kwenye sehemu kubwa mno na yenye rutuba ya upande wa mashariki wa Bonde Kuu la Ufa. Wamasai walishamiri katika eneo hilo, wao na mifugo yao wakizaliana kwa wingi mwanzoni mwa karne ya 19. Lakini kutokana na ujio wa wakoloni, majanga yakawakumba. Sotoka (maradhi ya ng’ombe) na pleuropneumonia (maradhi ya binadamu) viliangamiza idadi kubwa ya mifugo, kusambaratisha chanzo kikuu cha chakula cha Wamasai. Ukame, kipindupindu, na ndui yalisumbua jamii.<sup>24</sup> Kipindi hiki, kinajulikana kwa lugha ya Maa kama emutai, “kusambaratisha,” kupelekea kupungua kwa idadi kubwa ya Wamasai na inakadiria upotevu wa karibia ya asilimia 90 ya mifugo mwanzoni mwa karne ya 20.<sup>25</sup>



Kibanda cha Kimasai katika Eneo la Hifadhi ya Ngorongoro © The Oakland Institute





Kikundi cha Ng'ombe katika Eneo la Hifadhi ya Ngorongoro © The Oakland Institute

Mifugo ina kazi ya kipekee na muhimu katika utamaduni wa kimasai. Nafasi ya jamii, lishe na usalama wa chakula, utajiri binafsi, na shughuli za kiutamaduni vyote kwa dhati yake vinaukaribu na mifugo.<sup>27</sup> Kuanzia umri mdogo, wavulana hujifunza kuchunga mifugo, wakati wapambanaji wanaweka ulinzi na usalama dhidi ya vitisho, ikiwemo uvamizi wa simba.<sup>28</sup> Sala moja ya Kimasai inasisitiza umuhimu wa mifugo: *Meishoo iyiook enkai inkishu o-nkera*, au katika Kingereza, Muumba atujaalie mifugo na watoto.<sup>29</sup>

Hadi leo, Wamasai bado wanaishi katika Bonde la Ufa. Idadi yao inakadiriwa kubadilika kwa kasi kubwa kati ya laki kadhaa hadi zaidi ya milioni moja.<sup>26</sup> Karne iliyoopita imeleta vitisho vingi kwenye maisha yao. Ubinafsishwaji wa ardhi, sheria za Hifadhi ya wanyamaporini, na maeneo yasiyo ya hifadhi yanayomilikiwa na serikali yamewaondosha Wamasai kutoka katika ardhi yao ya asili na kupunguza upatikanaji wa eneo la kuchungia mifugo.

Kwa muda ambao mifugo inasumbuliwa na sababu moja au nyingine, Wamasai huhamia katika kilimo cha chakula ili kujaliza mlo wao. Sasa hivi hakuna kikwazo kwani ardhi iliyopo ya kuchungia mifugo imepungua. Wamasai

wamekuwa wakichukuliwa kama wachungaji wa kwanza wa ng'ombe, wakipendwa kwa usimamizi wa mifugo yao na mahusiano na wanyamaporini na ukanda wa mbuga unaowasaidia. Hata hivyo, wakoloni, na hata baada ya uhuru wa serikali ya Tanzania, walishindwa kuelewa uhusiano wa kutegemeana ambaao Wamasai wanao na ardhi hiyo. Hivyo, mipango ya hifadhi ya wanyamaporini, maeneo yasiyo ya Hifadhi yanayomilikiwa na serikali, na mikakati ya kimaendeleo iliyolenga kuwavutia wawekezaji wa kigeni imewaondosha wamasai katika ardhi yao ya asili.

Hii leo, Serengeti – ardhi iliyopaswa kumilikiwa daima – ni hadithi kwa Wamasai.

## Kupoteza ardhi kwa wamiliki wa Thomson Safaris iliyopo Boston

*"lakini ardhi hiyo ni mali yangu kwa sababu hiki ni kijiji changu..."<sup>30</sup>*

Baada ya safari ya masaa kumi na mbili – ghubari la vumbi jekundu lilitzunguka kama mawimbi – tukafika mwisho wa safari yetu. Kijiji cha Mondorosi, kilichopo kilimani, kipo katika eneo la Loliondo katika wilaya ya Ngorongoro. Ni kijiji Kilichochanganyika na vilima vidogo vya mawe, vichaka, na ardhi yenye miti ya acacia. Kijiji hicho huchunga mifugo yao katikati mwa kundi la pundamilia, nyumbu na twiga.

Makazi ya wakazi 3,200, kijiji cha Mondorosi, pamoja na vijiji vya jirani vya Sukenya na Soitsambu, vimekuwa na ugomvi na Shirika la Hifadhi la Wanyamapori Tanzania, kampuni inayoendeshwa na wamiliki wenye wasifu wa hali ya juu, wanaoshinda tunzo, kampuni ya kitalii iliyopo Boston, Thomson Safaris, tangu mwaka 2013.

Mkuu wa kijiji anapatikana katika *sherehe ya kimila* – kimbilio la uponyaji wa jamii hiyo – lakini wanakijiji wengine walitukaribisha, na kutuambia mambo yao:

"Kuanzia juu ya vilima na katikati mwa uwanda . . . ardhi yote hii ni milki ya kijiji cha Mondorosi lakini sasa imechukuliwa na Thomson Safaris na Shirika la Hifadhi la wanyamapori Tanzania (TCL) bila ya ridhaa yetu.<sup>31</sup> Yote haya yalianza karibia miaka kumi iliyopita walipoanza kutufukuza kutoka katika ardhi zetu. Hata baadhi ya wanakijiji walipigwa risasi.<sup>32</sup>

Tangu kipindi hicho tumekuwa tukiungana kupinga wizi wa ardhi zetu. Mnamo mwaka 2013, baadhi ya wanawake wa kijiji waliandamana hadi ofisini kwa mkuu wa wilaya huko Olorien kudai kutambuliwa haki zetu za ardhi. Badala yake, tuliambiwa, 'nyinyi ni kama mama zetu na tunawaomba muondoke.' Tulipokataa, sauti ilibadilika na mkuu wa wilaya akatutishia na kutuambia tuache kupinga au vinginevyo tutapigwa risasi.



Wanawake kutoka kijiji cha Mondorosi © The Oakland Institute

Tunaishi kwa amani kwenye vibanda (*boma*) vyetu. Hata hivyo, hakuna ardhi ya kutosha kwa sisi sote na hili linatusababishia shida. Kuna wamasai wengi kuanzia vilimani hadi chini kwenye uwanda. Ardhi ambayo watu wetu huchungia mifugo ndiyo iliyochukuliwa na Thomson [Safaris]. Tunaishi kwa woga, tumezunguuukwa na wapelelezi vikiwamo vijiji vya majirani zetu. Wanapokea hongo kutoka kwa wawekezaji na ajira vilevile. Hakuna mtu yoyote kutoka katika kijiji chetu aliyeajiriwa na Thomson. Lakini sisi tunamuamini Mungu. Ardhi hii ni milki yetu na ipo siku itarudishwa mikononi mwetu."<sup>33</sup>



Kundi la wanawake linasikiliza kuhusu. Kutangazwa kwa ajira, wanaongea kwa sauti za kusisimua:

*"Hاتتاكى اجرا زاو. تكىوا واجيرىوا واؤ<sup>34</sup>  
ىتاكوا راهىسى كوا واؤ كuchukuwa ardhi zetu.  
Tunachohitaji ni ardhi yetu."*<sup>34</sup>

Walipoulika kijiji kinataka nini – kuachiwa kwa ardhi zao, kuondoka kwa Thomson Safaris na TCL, au kufikia makubaliano ya haki – wanakijiji walitoa jibu liliowazi na thabiti:

“Kwa miaka mingi tumezikiria kwa kina kuhusu tunachokitaka na tumeona utatuzi pekee unaowezekana ni: Thomson iondoke. Mtu anayekupiga risasi wewe ... familia yako atakuwaje rafiki?<sup>35</sup> Tumeongea na wanawake wa vijiji vingine viwili na wote tupo thabiti na uamuzi wetu.”<sup>36</sup>

Mwanakijiji mwingine alieleza huku akionekana mwenye huzuni, “Ardhi zetu ziliibiwa.<sup>37</sup> Lakini ardhi hiyo ni yangu kwasababu hiki ni kijiji changu. Ardhi hii ni haki yangu ya urithi. Walipokuja walinikuta hapa. Wao wanatokea katika ardhi ya kigeni na hatujui iko wapi. Lakini siku zote mimi nilikuwa hapa.”<sup>38</sup>

*Kama tovuti ya Thomson Safari inavyoeleza: “Judi Wineland na Rick Thomson, mume na mke wanaomiliki the Thomson na TCL, walinunua ardhi katika mnada wa wazi 2006 ambapo Kampuni ya Bia. Ililiweka shamba hilo sokoni. Kwa haraka waliona faida zake za kuwa mfano kwa maendeleo ya jamii, hifadhi, na uthalii thabiti. Kwa kufuata muongozo wa Wamasai, waliliita eneo hilo Enashiva kimbilio la asili<sup>43</sup>... hii leo, Thomson Safaris na Shirika la Hifadhi ya Wanyamapori Tanzania(TCL) wanafanya kazi bega kwa bega na Wamasai ili kutunza uoto mwangi wa kushangaza wa savannah na ukanda wa wazi wa mbuga wenye ekari 12,600 kwenye mazingira ya Serengeti.”<sup>44</sup>*

Mwanakijiji mwingine alieleza: “Fikiria, mgeni anakuja na anajenga jengo kubwa katikati ya makazi yako. Kituo cha Thomson kipo katikati mwa kijiji chetu. Upande wa chini kuna kijiji kidogo cha Marsiligi Nadooshoke na wakazi wake hawana ruhusa ya kutumia ardhi yao wenywewe. Nchini Tanzania, kila mtoto ana haki ya kupata elimu, lakini watoto wa Marsiligi hawawezi kwenda shule kwani kituo hicho kinawazuia.<sup>39</sup> Mifugo yetu haiwezi kwenda kwenye maeneo ya kunyweshea maji – hakuna njia nyininge kwa wanakijiji au mifugo yao.

Wakati kituo cha Thomson kinaanzishwa, walizua uchungaji wa mifugo katika maeneo yao. Kwa kutumia magari yao waliwafukuza ng'ombe waliokuwa wakichungwa. Ng'ombe walio na woga walitawanyika porini na kuliwa na wanyama. Watu walikamatwa na kupelekwa kituo cha polisi cha Loliondo.<sup>40</sup> Lesingo Ole Nanyoi, mwananchi anayeishi karibu na kituo hicho, alipigwa risasi ya uso alipoonekana anachunga mifugo yake katika ardhi hiyo. Olunjai Timan, mwanakijiji mwingine alipigwa risasi mwaka 2014. Yeye, pia, alikuwa anachunga mifugo yake kwenye ardhi ya kijiji ambayo inamiliikiwa na Thomson.<sup>41</sup>

Tumefadhaishwa na kupigwa risasi na tunataka haki hivi sasa, kupitia kesi iliyopo mahakamani, tunajaribu kurudisha ardhi yetu kwa vijiji vitatu vya Soitsambu, Sukenya, na Mondorosi.

Hatukati tamaa. Watoto wetu wasomi watamiliki tena ardhi yao. Pia tunatambua kwamba kuna watalii wenye huruma na sisi, wanaotusaidia, vilevile baadhi ya NGOs. Tuna wanasheria wanaotusaidia pale watu wanapoumizwa au kubughudhiwa. Hivyo tutaendelea kuungana.

Lakini kama kila kitu kitashidikana, tutajandaa kama jamii kuipinga kampuni hii hadi mwisho.”<sup>42</sup>

## PENDEKEZO LA JAMII

Mnamo 2011, vijiji vya Sukenya, Mondorosi, na Soitsambu vilifanya vikao, ili kuruhusu mjadala juu ya maoni ya jamii hizo kuhusu mgogoro wa ardhi na kampuni ya Thomson Safari na kukubaliana juu ya utatuzi ulipoendekezwa na kampuni hiyo.<sup>45</sup>

Zaidi ya Wamasai 550 kutoka katika vijiji hivyo vitatu walishiriki.<sup>46</sup> Mwishowe yalipendekezwa mambo yafuatayo:

*“Wanakijiji watambue kwamba kampuni ya Thomson Safari imefanya uwekezaji kwenye baadhi ya maeneo ya ardhi hiyo. Wanakijiji walikubali kwamba kampuni ya Thomson Safari wanaweza kubakia na umiliki wa ardhi wa ekari 2,000 zinazozunguka eneo la MOROGWA [eneo linalozunguka kambi ya kampuni hiyo].*

*Wanakijiji warudishiwe umiliki wa ekari 10,617 za ardhi na baadae kuingia katika makubaliano ya moja kwa moja na kampuni ya Thomson Safari ili kuiwezesha kuiruhusu kampuni hiyo iendelee kutumia sehemu ya ardhi kwa malengo ya utalii.*

*Mchakato huo ulipelekea makubaliano kati ya jamii na kampuni hiyo yatayokuwa ya ushirikishwaji, uwazi na yenye masharti yafuatayo:*

1. *Kutambua haki za jamii za umiliki wa ekari zaidi ya 10,617 za ardhi.*
2. *Unrestricted access to water points kutumia bila ya kizuizi maeneo ya maji, njia wenda kwa miguu kutoka kijiji kimoja hadi kingine, na maeneo maalumu ya kuchungia mifugo kwa jamii hiyo.*
3. *Kanuni na taratibu za utekelezaji na usimamiaji wa mkataba zinapaswa kuwekwa wazi.*
4. *Kuweka wazi wajibu na majukumu ya pande zote mbili katika masuala ya kiusalama na mahusiano mengine yalioafikiwa. Vipengele kama urefu wa mkataba, kodi ya mwaka ya kukodisha ardhi, gharama za kulala usiku mmoja (watalii wanaoingia katika ardhi ya jamii hiyo) na uvunjwaji wa mkataba unapaswa uwekwe wazi ndani ya mkataba.*
5. *Halmashauri ya kijiji itasimamia matumizi ya mapato yatokanayo na mkataba huo kwa mgawanyo sawa kwa vijiji hivyo vitatu kwa maendeleo yao ya kiuchumi.*<sup>47</sup>

Kwa mujibu wa ripoti iliyorudishwa na Kampuni ya Haki za watu wachache iliopo UK (MRG), “Njia za kampuni ya Thomson Safari za kuingia katika makubaliano imekumbana na jibu la ‘hapana’ Vilevile madai yasiyopatikana na yasiyoidhinishwa ya ulaghai na uwakilishi wa uongo.”<sup>48</sup>

Mgogoro wa ardhi baina ya wamasai na kampuni ya Thomson Safaris unaendelea vikali.



Moja ya kikao vya wanakijiji kilichofanyika mwaka 2011 © NGO ya ndani



## Utafutaji wa Rasilimali kuitia Mahakama

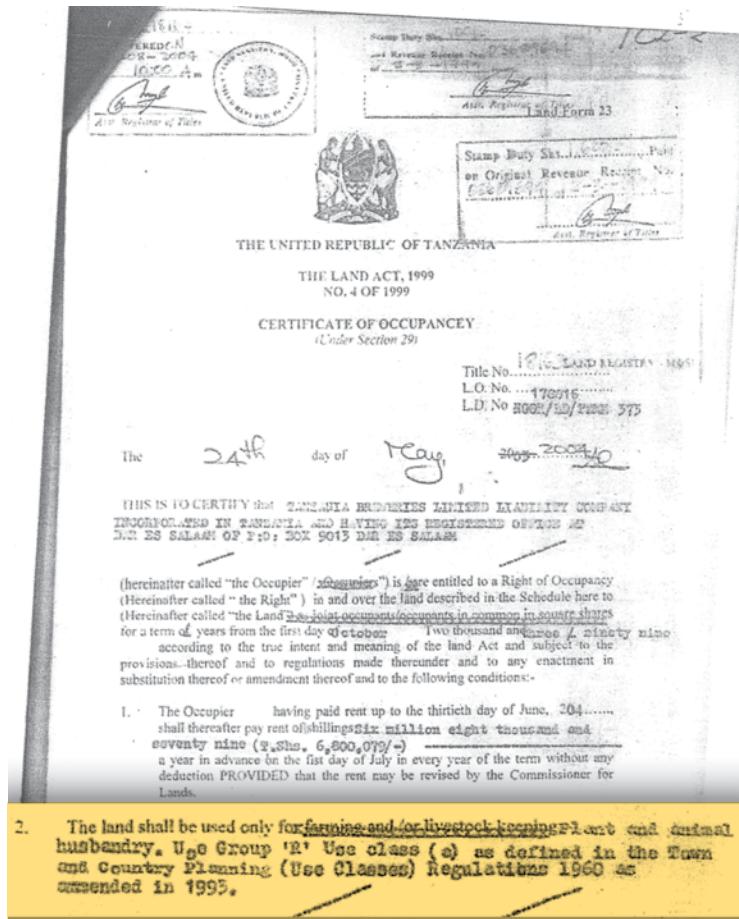
Mnamo Julai 4, 2013, halmashauri za vijiji vya Mondorosi, Sukenya, na Soitsambu vilifungua kesi ya madai katika Mahakama Kuu ya Tanzania jijini Arusha dhidi ya Kampuni ya Bia Tanzania (TBL), Shirika la Hifadhi ya Wanyamapori Tanzania (TCL), Halmashauri ya wilaya ya Ngorongoro, Mkuu wa ardhi, na mwanasheria mkuu<sup>49</sup> wakidai “umiliki wa pamoja wa ardhi ijulikanayo kama shamba la Sukenye [sic] lenye ekari 12,617 [hekta 5,106] lililokuwapo ndani ya wilaya ya Ngorongoro.”<sup>50</sup>

Kwa mujibu wa walalamikaji, TBL, kampuni inayoendeshwa na serikali, ilipatia hati miliki ya ekari 10,000 [hekta 4,047] karibu na kijiji cha Soitsambu mnamo 1984 katika makubaliano na Halmashauri ya Wilaya kwa ajili ya uzalishaji wa shayiri, bila ya idhini ya wenyeji na bila ya kutoa fidia yoyote.<sup>51</sup> Katika miaka iliofuta, makadirio ya ekari 800 pekee kati ya 10,000 zilitumika huku wanakijiji wakiendelea kuchunga mifugo yao, kujenga vibanda (*boma*), na kunywesha maji mifugo katika eneo hilo. Mnamo 1990, shamba na majengo yalitelezwa na TBL na wanakijiji “walichukuwa tena umiliki wa ardhi iliyokuwa na mgogoro.”<sup>52</sup> Kwa mujibu wa maandiko ya majadiliano ya siri ya walalamikaji, mnamo 2003 Kampuni ya Bia Tanzania, “ikisaidiwa na watetezi namba 3 na 4 [Halmashauri ya Wilaya ya Ngorongoro na mkuu wa ardhi], walijitwalia ekari elfu mbili mia sita na kumi na saba za ziada kinyume cha sheria”<sup>53</sup> “bila ya idhini ya wamiliki kulipa fidia kwa wamiliki wa ardhi hiyo.”<sup>54</sup>

Vijiji vya Kimasai vilitai kwamba kwasababu ardhi hiyo ilikuwa imetelekezwa kwa muda mrefu, TBL na Halmashauri ya Wilaya ya Ngonrongoro hawakuwa na haki ya kuiuza na kuihamisha kwa TCL, kampuni ya kitanzania iliyosajiliwa ambayo wakurugenzi wake wawili, Judi Wineland na Rick Thomson, wanamiliki kampuni ya Thomson Safaris.<sup>55</sup>

Kwa mujibu Rashid S. Rashid, Wakili wa Wamasai wa Loliondo mahakamani, “Chini ya sheria ya kawaida, kama una miliki kipande cha ardhi lakini nikaja katika ardhi hiyo kwa miaka 12 na haupingi, hivyo ninaweza kuitwaa. Kwa hivyo, dai letu ni kwamba wanakijiji, ambao hawajafaidika na chochote katika mkataba wa TBL, kuitia umiliki mbaya, walipata haki za ardhi hiyo.”<sup>56</sup>

“TBL ililetai mashahidi wawili walioeleza kwamba TBL walikuwa wanalima hadi 1990. Mlinzi mmoja au wawili waliachwa kulinda majengo, wanatosha kumiliki eneo. Lakin walikuwa wanakaa kwenye hekari moja ilhali wanamiliki ekari 10,000. Kisha, ni kwa vipi ekari 10,000 zikatafsiriwa kuwa ekari 12,617? Kama hakimu atakubali umiliki usio halali basi kesi ipo wazi. Kwa vyovypote vile, ekari 2,617 ni lazima zirudishwe na wanakijiji walipwe fidia kwa uharibifu uliofanya kwenye ardhi hii. Hati miliki ya hekari 10,000 inatamka kwamba ardhi hiyo itumike kwa utunzaji wa



Hati ya umiliki wa shamba la Sukenya (sasa Enashiva kimbilio la asili) ikijumuisha matumizi ya ardhi kama kuhifadhiha mimea na wanyama

mimea na wanyama wakati ardhi hiyo imekuwa ikitumiwa na TCL kwa ajili ya utalii, licha ya kukataliwa kwa ubadilishaji wa matumizi ya ardhi mnamo 2007.”<sup>57</sup>

Walalamikaji pia walidai kwamba kufuatia ujio wa TCL, matumizi ya ardhi yalipunguzwa kwa wanakijiji.<sup>58</sup> Katika ushahidi wake mahakamani, Sandet Ole Reya, kiongozi wa kimila wa Wamasai, alielezea utawanyishwaji wa wanakijiji uliofanya na TCL, ikiwamo uchomaji wa vibanda (*boma*) na uondoshwaji wa lazima katika ardhi iliyo na mgogoro.<sup>59</sup> Shahidi mwengine, Shangwe Isata Ndekere wa kijiji cha Sukenya, alithibitisha kwamba baada ya ujio wa kampuni ya Thomson Safari mnamo 2006, wanakijiji wote walilazimishwa kuondoa mifugo na vibanda vyao (*bomas*). “Vibanda (*bomas*) vilivyojengwa katika ardhi hiyo vilichomwa ... matokeo yake, watu waliumia, walipigwa na polisi, na kushtakiwa.”<sup>60</sup>

Mnamo 28 Oktoba, 2015, Mahakama iliyoko Arusha ilitoa hukumu dhidi ya Wamasai. Wanakijiji walishinda dai kwamba TCL ilijitwalia ekari 2,617 za ardhi kinyume cha sheria, hata hivyo mahakama haikuamuru walipwe fidia.<sup>61</sup>

Walalamikaji walikata rufaa kwenye mahakama ya rufaa mnamo Januari 2017 kupinga uamuzi huo. Kesi hii bado ipo mahakamani.<sup>62</sup>

## Hali ya uoga

Thomson Safaris, kampuni yenye uhusiano na TCL, ina orodha ndefu ya tuzo – ikiwamo mfadhili wa mwaka iliyotolewa na Bodi ya Utalii Tanzania.<sup>63</sup> Lakini sifa hizi kuu zimeshindwa kupunguza waoga na vitisho kwa wale wanaotafuta haki zao za ardhi katika eneo la Ngorongoro. The Oakland Institute ilichunguza asili ya hali hii ya uwoga katika utafiti wake. Wapoona gari inakaribia, upokeaji wa mwanzo wa wanakijiji waotembelewa na timu ya watafiki ilikuwa ni kukimbia. Walipokaribiwa, walisita kuongea na kuelezea kudhuriwa kwao na uwoga wao kwa wanausalamu na wawekezaji wa kigeni.<sup>64</sup> Utafiti wa ziada, ambao unaelezewa katika aya inayofuata, imefafanuwa kwa undani tafti hizi.

Makala ya VICE, *The Guardian*, na zingine zinadai kwamba wafugaji wa kimasai wamekumbwa na vurugu, bughudha na kukamatwa mikononi mwa afisa wa polisi, ambao waliitwa na TCL kwa kumatiza kwenye kimbilio la asili la Enashiva.<sup>65</sup> Madai kama haya yanaweza kupatikana katika barua ya mwandishi maalumu wa Umoja wa Mataifa juu ya haki za wenyeji, mwandishi mkuu wa kamati juu ya matumizi ya mamluki, na mwandishi maalum kuhusu mateso na vitendo vingine vyta kikatili, visivyo vyta kibinaadamu au udhalilishaji au adhabu, kwa serikali ya Tanzania.<sup>66</sup>

Wanahabari na watafiti walichunguza kuhusu hali iliyoko Ngorongoro pia walidai kwamba wamekabiliwa na bughdha na vitisho wakati wanazichunguza Thomson Safaris na TCL, mara nyingi kutoka kwa mkuu wa wilaya. Katika tukio moja, wanahabari wa VICE walihojiwa na mamlaka baada ya mtu mmoja mwenye uhusiano wa karibu na Thomson Safaris na TCL kuiambia mamlaka kwamba wanahabari wanaichunguza kampuni hiyo.<sup>67</sup> Tukio jingine, mwanahabari wa *Guardian*

alihojiwa kwa sababu ya malalamiko kutoka kwa TCL wenyewe.<sup>68</sup> Waandishi walifanya mahojiano kwa kujificha, kwa siri, na usiku, kwa sababu ya uwoga wa wanaohojiwa.<sup>69</sup> Baadhi walitolewa nje ya eneo kwa uchunguzi, hati zao za kusafiria zikishikiliwa,<sup>70</sup> walihojiwa kwa kina,<sup>71</sup> na mmoja wa waandishi ameandika kwamba alifikuzwa nchini kwa sababu alihoji maswali mengi.<sup>72</sup> Timu ya utafiti ya Taasisi Oakland ilishauriwa mara kadhaa na wanakijiji na watafiti wa ndani kuondoka vijijini humo kabla taarifa hajiafikia kampuni na mkuu wa wilaya.

Tishio kubwa juu ya habari zote hizi ni kifo kisichoelezeka cha Trent Keegan mpiga picha mzaliwa wa New Zealand mnamo Mei 2008, ambaye mwili wake ulikutwa Nairobi ukiwa umetupwa baada ya kufanya utafiti kuhusu Thomson Safaris. Keegan aliwambia marafiki kwa sababu ya utafiti wake anahofia usalama wake.<sup>73</sup> Polisi wa Kenya wanaamini kwamba Keegan aliuwawa katika jaribio la uporaji. Hata hivyo, ukweli kwamba pochi yake na fedha zake zilikuwapo ilhali kamera na kompyuta yake vyenye nyaraka za utafiti havikuwapo, hii ilipelekea marafiki na familia yake kuhoji kwamba kama kweli sababu ya kifo chake ni jaribio la uporaji.<sup>74</sup> Hakuna ushahidi wowote unaohusisha kifo cha Keegan na utafiti wake unaohusu Thomson Safaris. Mnamo Novemba 2017 Judi Wineland na Rick Thomson, wakijibu The Oakland Institute kwa barua pepe walirudia kusema “Thomson Safaris hahusiki na kifo cha Trent Keegan kwa namna yoyote ile.”<sup>75</sup>

Hakuna hukumu yoyote iliyotolewa dhidi ya Thomson Safaris kuhusiana matukio yoyote yalioelezwa hapo juu. Thomson Safaris inakataa madai yote. Ingawaje, hali ya uwoga inawafadhaisha wanakijiji na wageni.<sup>76</sup>



Kundi la wanakijiji pamoja na timu ya watafiti © The Oakland Institute





Mto Pololet © The Oakland Institute

## Eneo lisilo la hifadhi linalomilikiwa na serikali za Familia za Kifalme: Upotevu wa makazi na maisha ya Wamasai

Vijiji vya Ololosokwan, Soitsambu, Olorien-mahaiduru, Arash, Oloipiri, Malambo, Piyaya na Maaloni vyote vimo ndaniyaeneo lisilo la hifadhi linalomilikiwa na serikali (LGCA) la Loliondo wilaya ya Ngorongoro. Kwa miaka 25 iliopita, wanafamilia wa familia ya kifalme ya Dubai wamekuwa wakiwasili mara kwa mara katika uwanja maalum wa ndege wa Loliondo, kikamilifu pamoja na mitandao ya simu ya UAE,<sup>77</sup> kuwinda na kuwakamata wanyama adimu.<sup>78</sup> Hili lilifanyika kupitia OBC, ambayo ilipewa kibali cha uwindaji mnamo 1992 ambao uliripotiwa kubatilishwa mnamo 2017 baada ya malalamiko ya rushwa ya muda mrefu. Katika miaka hiyo 25, maelfu ya wanyama na ndege waliuwawa, na wanakijiji walizuiwa kutumia ardhi kwa ufugaji na maji kwasababu ya OBC.<sup>79</sup> kwa mujibu wa wanajamii wa maeneo hayo, licha ya kufutwa kwa leseni yao, hadi March 2018, OBC bado ipo katika maeneo ya Loliondo.<sup>80</sup>

OBC ilipewa kibali chake pale serikali ya Tanzania, kwa dhumuni la kuwakilisha, lakini bila ya kuhusisha vijiji vilivyoathirika vya Ololosokwan, Soitsambu, Olorien-mahaiduru, Arash na Oloipiri, ilitoa milki ya LGCA kwa Brigadier Sheikh Mohamed Abdul Rahim Al-Ali, Naibu Waziri mstahafu wa wizara ya ulinzi ya UAE<sup>81</sup> kufanya matembezi maalumu ya uwindaji kwa ajili ya familia ya kifalme ya UAE na wageni wao.<sup>82</sup> Kwa miaka ya hivi karibuni, uwepo wa OBC umepelekea vurugu na vitisho kwa Wamasai, pamoja na kuendelea kuigawa jamii ya wazawa.

Wanakijiji wanaolizunguka eneo warmewaambia watafiti wa The Oakland Institute kwa namna ipii OBC walinufaika kwa kuchochera migogoro hii.

“Leo hii OBC imejiimarisha vyema – tangu ifike Loliondo mnamo 1992. Mpaka ina kiwanja chake cha ndege, kinachokaribia ukubwa wa uwanja wa ndege. OBC imejenga visima katika vijiji kadhaa, hasa Ololosokwonka zaidi ya miaka mitatu. Lakini dalili hizi za nia njema zimeshindwa kumaliza migogoro. Visima vimesaidia zaidi ya wakazi 3,000 - 4,000 wa Ololosokwon, wakati vijiji vya jirani vinataabika. OBC inataka hekta 150,000 za ardhi kwa msaada wa serikali. Kushinda upinzani wa wenyeji, imevigawanya vijiji kwa kukisaidia kijiji kimoja dhidi ya kingine.”<sup>83</sup>

“Kuna kipindi mto Pololet ulikuwa ukitumiwa na vijiji vya Soitsambu, Kartalu, na Ololosokwon. Kartalu ilikuwa sehemu ya Soitsambu, lakini vilitengana, sasa ni kijiji kinacho jitegemea. Hata hivyo wananchi wa Ololosokwon walikataa kuitambua Kartalu kama kijiji na kuwa na haki yake yoyote juu ya mto. Kwa msaada wa serikali na OBC, Wametwaa ardhi ya kijiji hicho – wamevuka mto kujenga makazi na kuutawala mto.”<sup>84</sup>

"Tunahitaji maendeleo ya kiuchumi lakini hatunufaiki na uwekezaji. Tunakabiliana na vikwazo tu. Wawekazaji wa kigeni wanachukua ardhi yetu huku wakituacha bila rasilimali. Hakuna hata mmoja katika Boma letu anayefanya kazi na OBC. Hakuna amani. Hatuna uhakika juu ya kesho ya watoto wetu."<sup>85</sup>

Katika kipindi cha mkataba wao nchini Tanzania, OBC iliweka vikwazo vikuu juu ya ardhi ya malisho na matumizi ya maji kwa Wamasai na ng'ombe wao.<sup>86</sup> Kwa mujibu wa James Anaya, aliyekuwa Mwandishi Maalum kuhusu haki za wazawa, "wachungaji ambao hupuuza vikwazo hivyo huwa na hatari ya kuibuka kwa vurugu na wawindaji katika eneo hilo na pia hypoteza mifugo yao kutokana na shughuli za uwindaji."<sup>87</sup>

Tangu kuwasili kwao, OBC wamewafukuza Wamasai kutoka kwenye maeneo yao ya asili. Nyaraka zinaonyesha ufukuzaji rasmi ulifanyika mwezi Julai 2009, wakati walinzi wa usalama wa OBC na Kitengo cha kutuliza ghasia cha Jeshi la Tanzania walichoma moto maboma 200 kwenye ardhi hiyo. Zaidi ya watu 3,000 waliachwa bila makazi na 20,000 waliathiriwa, wakati ng'ombe zaidi ya 50,000 waliachwa pasina uhakika wa upatikanaji wa malisho wala maji.<sup>88</sup> Kulingana na ripoti ya 2010 ya Mwandishi Maalum kuhusu haki za wazawa, uhamisho ulihusisha unyanyasaji wa kimwili na wa kijinsia.<sup>89</sup> Mwandishi maalum pia alisema,

"Mazingira yanayoambatana na kufukuzwa yanaonyesha kwamba kufukuzwa kwao hakika kulikuwa ni sehemu ya sera ya Serikali inayoweka kipaumbe maslahi ya makampuni binafsi yaliyohusika na utalii wa uhifadhi na uwindaji wa wanyamapori, hasa Shirika la Kibiashara la Ortello, juu ya haki za wazawa, hasa wachungaji wa Kimasai."<sup>90</sup>

Sababu moja rasmi iliyotolewa kuhusu kufukuzwa kwa Wamasai mwaka 2009 ni kwamba kilimo cha Wamasai kwa ajili ya kujikimu kinasababisha uharibifu wa mazingira.<sup>91</sup> Kwa minajili hii kumepuuzwa kwa urahisi athari za kutua kwa ndege binafsi katikati ya njia wanazopita wanyamapori. Aidha, ripoti zinaonyesha kuwa OBC haikujali sheria zinazosimamia wanyamapori na uwindaji. Malalamiko dhidi ya kampuni yanajumuisha kusafirisha wanyama kwa helikopta, kuwanasa wanyama hai, na kuacha wanyama waliojeruhiwa kuteseka.<sup>92</sup>

Muda mfupi baada ya kitendo cha kufukuzwa mwaka 2009 – ambacho kilifanyika bila malipo wala mpango wa uhamisho wa makazi – kundi la NGOs za Tanzania chini ya bendera FEMACT walizindua mpango wa kutafuta ukweli. Mpango huo ultafiti "Mahusiano ya ukaribu" kati ya polisi waliohusika kufukuza na OBC, ilibainika kuwa kufukuzwa huko hakukuwa kwa sababu ya mazoe ya kilimo cha Wamasai, bali ilikuwa ni kusafisha eneo la uwindaji ili kuwezesha matakwa ya OBC yafanikiwe.<sup>93</sup>



Wachungaji wa Kimasai wakiwa na ng'ombe wao katika uwanda wa malisho © The Oakland Institute





Mwanamke mwenyeji mmasai aliyejamishwa  
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*"Hatutakubali kuondoshwa na mtu  
yejote kutoka katika nchi yetu  
wenyewe..."*

*"Boma letu liko karibu na mwekezaji wa OBC hivyo wanataka  
liondolewe. Tangu mwaka 2013 tumekabiliwa na matatizo mengi.  
Tulipigwa, baadhi ya wanakijiji walipigwa risasi, na maboma yetu  
kuteketezwa kwa moto.*

Hofu imetanda katika jamii yetu, tunaogopa kusema. Mwanzoni, OBC ilikuwa ya kirafiki. Nchi ilikuwa kubwa ya kutosha kwa kila mtu. Sasa wanafikiri kuwa nafasi ya uwindaji haitoshi. Kwa hivyo wanataka maboma yetu na mifugo yetu iondolewe. Lakini hatutakubali kuondoshwa na mtu yeyote kutoka katika nchi yetu wenyewe.

Ikiwa watachukua hekta 150,000, huo utakuwa mwisho wetu. Kupotea kwetu. Tutakwenda wapi? Angalia historia yetu - tulifukuzwa kutoka Serengeti, na hapa tena 'miaka ya 60 na sasa wanataka tena ardhi yetu. Kwa nini hatuwezi kuwa na mahali pa kuishi?



Mlango wa Kuingia Boma Jipyaa la Wamasai Waliohamishwa © The Oakland Institute

Kinachotutisha sisi ni kwamba OBC wanajenga majengo mengi na kwa ujasiri mkubwa. Hakuna cha ushauri wala ushiriki wa jamii. Hatutazamwi kama sehemu ya mazingira na kutupuuza kama wadau.

Tuliomba Halmashauri ya Wilaya kuingilia kati, lakini hilo halikuzaa matunda. Tulikwenda hata kwenye kambi ya OBC, pamoja na wanawake, lakini tukafukuzwa na walinzi. Wanasiasa walikuja na kutupa ahadi za uongo ili kututuliza. Tumezeileza shida zetu mara nyingi na tumepezea matumaini juu ya ahadi. Matokeo tu tunayoyapata ni risasi, kupigwa, na kudhalilishwa.

Niliwahi kusikia ujumbe wa Rais wa twita kwamba Wamasai hawatafukuzwa katika maeneo yao ya asili. Lakini mwaka huu polisi walipiga mabomu ya machozi na tulipigwa risasi na kufukuzwa mbali na boma yetu. Wanawake na watoto, ikiwa ni pamoja na watoto wadogo, walikamatwa. Tumeeleza haya mara nyingi kwa vyombo mbalimbali, ikiwa ni pamoja na Baraza la Haki za Binadamu nchini Tanzania. Lakini hakuna kilichofanyika.<sup>94</sup>

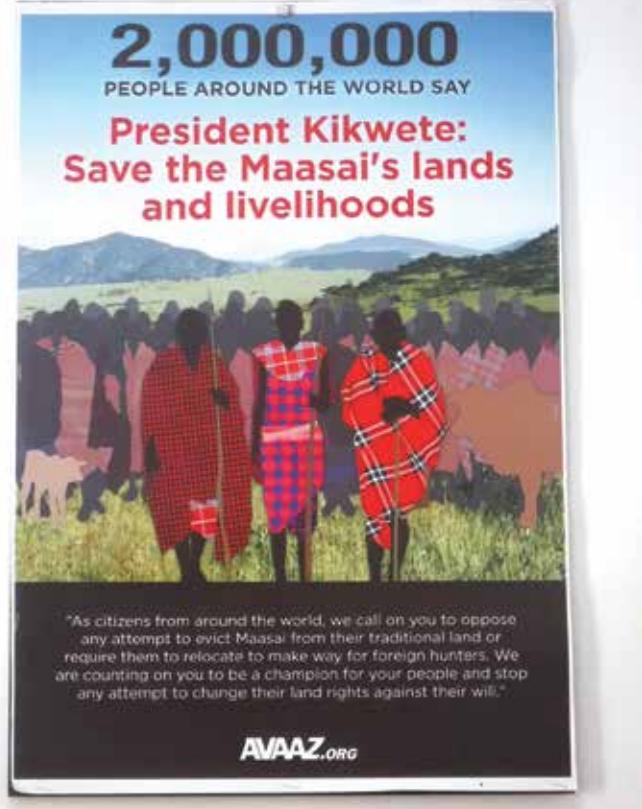
Mwezi Desemba 2010, mashirika ya kiraia ya Tanzania, ikiwa ni pamoja na Jukwaa la PINGO, Kituo cha Sheria na Haki za Binadamu (LHRC), Timu ya Rasilimali za Jumuiya ya Ujamaa (UCRT), na Mtandao wa Mashirika ya NGO ya Ngorongoro (NGONET), yaliwasilisha kesi ya kisheria dhidi ya OBC, kwa hati ya haraka katika Mahakama Kuu ya Tanzania kwa Msajili wa Arusha, Wizara ya Maliasili na Utalii, na Mwanasheria Mkuu wa Serikali kudai haki ya kisheria ya kuondolewa kwa nguvu katika makazi yetu.<sup>95</sup>

Miaka minane baadaye, licha ya kupelekwa chini ya hati ya haraka, kesi haikuendelea. Tumefuatilia mara nyingi kwa mamlaka husika, ikiwa ni pamoja na barua kwa Mahakama Kuu na Jaji Mkuu hatukupata majibu.<sup>96</sup> Hii ilisababisha walalamikaji kuangalia taratibu nyingine za kimataifa, hasa Mahakama ya Afrika ya Haki za Binadamu na Watu,<sup>97</sup> kutokana na shida zinazoendelea juu ya jamii za Wamasai.

Tangu vurugu ya Julai 2009, vitendo vya kufukuzwa vimeendelea kufanywa na OBC.<sup>98</sup>

Mnamo Aprili 2013, Waziri wa Maliasili na Utalii, Khamis Kagasheki, alitangaza pendekezo la kuondoa hekta 250,000 kutoka kwa LGCA (nje ya hekta 400,000 zilizotengwa mwaka wa 1974), huku pia zikitengwa hekta 150,000 mahususi kwa ajili ya usalama wa wanyamapori. Hii inawezekana chini ya kifungu cha 16 cha Sheria ya Uhifadhi wa Wanyamapori ya mwaka 2009, ambayo inatenganisha ardhi ya kijiji na maeneo yaliyotengwa kwa ajili wanyamapori ikiwa ni pamoja na maeneo yaliyohifadhiwa.<sup>99</sup> Wakati serikali ikifanya maamuzi kuhusu hekta 150,000 ni kwa sababu hiyo, pamoja na sababu nyingine, "eneo muhimu la kuzaliana kwa wanyamapori, ukanda wa uhamaji mkubwa wa wanyamapori hasa kwa mamilioni ya wanyamapori na eneo muhimu la vyanzo vya maji,"<sup>100</sup> pia ilielezwa kuwa kwa kiasi kikubwa "ukanda wa wanyamapori" mpya utainufaisha OBC.<sup>101</sup>

Baada ya maandamano na malalamiko endelevu - ikiwa ni pamoja na msukumo ulionyeshwa na maelfu ya wanawake wa Kimasai,<sup>102</sup> dua iliyohusisha mamilioni ya saini,<sup>103</sup> na



Bango la kampeni ya Avaaz kuwaungamkono Wamasai

kumekuwa na nenda -rudi nyingi za serikali – hatimaye pendekezo kuondolewa.<sup>104</sup>

Tarehe 23 Novemba, 2014 Rais wa Tanzania, Jakaya Kikwete, alitwiti: "Hakujawahi kuwa, wala hakutakuwa na mpango wowote kwa serikali ya Tanzania kuwfokuza Wamasai kutoka ardhi yao ya asili."<sup>105</sup>

Baada ya hapo haikuzidi miezi mitatu, Wamasai walifukuzwa kutoka maeneo ya Arash na Loosoito / Maalon. Kati ya Februari 10 na 14, mwaka 2015, ilielezwa kuwa maaskari wa hifadhi ya Taifa ya Serengeti wamechoma moto nyumba 114, na kuacha Wamasai kama 2,000-3,000, ikiwa ni pamoja na watoto, bila makao, chakula, au huduma za matibabu.<sup>106</sup> AZAKI na wanaharakati waliripoti vitisho kutoka Wizara ya Mambo ya Ndani na Mkuu wa Wilaya ya Ngorongoro kuzifutia usajili AZAKI za wafugaji huko Loliondo,<sup>107</sup> wakati huo wakazi wa eneo hilo walichukuliwa kama wahamiaji Wakenya ambapo kwao kukabiliwa na shida lingekuwa ni suala la kawaida.<sup>108</sup>

Mnamo Oktoba 2016, Mkuu wa Mkoa wa Arusha aliunda kamati ya kuchunguza suala hilo ili kuja na suluhisho la kudumu kuhusu mgogoro wa ardhi wa Loliondo. Namna mbili zilipendekezwa kuhusu hekta 150,000 kuwa eneo lililohifadhiwa kwa uwindaji (GCA) au Eneo la Usimamizi wa Wanyamapori (WMA). Jumuiya ya wazawa waliichagua WMA kwa sababu uchaguzi huo uliruhusu ardhi kutumika kwa vyote mifugo na wanyamapori.<sup>109</sup> Msemaji mwakilishi

Jakaya Kikwete
[@jmkikwete](#)

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There has never been, nor will there ever be any plan by the Government of #Tanzania to evict the #Maasai people from their ancestral land.

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Wafugaji wadogo wanakimbia mbele ya gari la timuya watafiti  
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Mwanamke wa Kimasai akiwa na bangili za shanga zake  
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Wakati gari letu linakaribia boma, wachungaji wawili wadogo walituangalia kwa kutuhofia. Kisha walianza kukimbia, na kuacha ng'ombe nyuma. "OBC wamekuja kutufukuza kutoka kwenye ardhi yetu. Haturuhuswi kuchungia, nao huzungukia mara kadhaa kila siku. Lakini haiko wazi kama OBC ndio wenye mamlaka na nchi hii. Lakini tunaogopa, inaonekana kama ni ardhi ya OBC," walieleza baadaye.<sup>117</sup>

Wanawake wa [REDACTED], sasa wanaishi [REDACTED] walijenga boma jipya miaka minne iliyopita. "Lakini tunaishi kwa wasiwasi na hatuna uhakika. Walipokuja asubuhi moja 2009 hawakutupatia hata muda wa kukusnya mali zetu. Nilipiga kelele kwa hofu. Lakini haikusaidia chochote. Walichoma kila kitu. Tunataka maisha ya utulivu, maboma bora, maeneo salama ya malisho. Hakuna maisha bila kuwana ng'ombe," Wanawake waliwaambia timu ya utafiti huku mmoja akimvalisha ushanga mtafiti kwenye mkono.<sup>118</sup>

Mahojiano yalikatishwa na ujio wa askari wa OBC waliofika na land Rover ya kijani. Hofu ikatanda kwenye nyuso za wanawakena wakanong'ona, "OBC wapo hapa."

"Walinzi waliwafukuza wachungaji mbali leo asubuhi na sasa wanarudi kuangalia," anasema mwanamke katika boma. "Wanatishia kuchoma nyumba zetu. Wanasema ni ardhi yao. Tumechoka kuishi kwa hofu ndani ya nchi yetu wenyewe."<sup>119</sup>

## *"Wanetishia kuchoma nyumba zetu. Wanasema ni ardhi yao. Tumechoka kuishi kwa hofu ndani ya nchi yetu wenyewe."*

wa jumuiya kuhusu WMA alitakiwa kufikisha uchaguzi huo kwa Waziri Mkuu na Rais ili waithinishe.

Wakati wajumbe wa jumuiya wakisubiri uamuzi wa mwisho, kukatokea tena vurugu za kuondolewa kwa ukatili. Mnamo Agosti 2017, moto na uharibifu ulizikumba jumuiya kadhaa za Wamasai ambazo vijiji vyake viko katika mgogoro wa ukanda wa hekta 150,000. Makadirio yanaonyesha maboma 185 yaliharibiwa parmoja na chakula na mifugo, maelfu walihamishwa makazi yao, na mtu mmoja alijeruhiwa sana.<sup>120</sup> Mwanzoni mwa mwezi Septemba, kiwango cha uharibifu kiliongezeka, na ikiarifiwa kwamba watu 19 wamekamatwa, 11 wamejeruhiwa sana, zaidi ya nyumba 5,800 ziliharibiwa, na watu zaidi ya 20,000 waliachwa bila makazi.<sup>121</sup>

Kwa mujibu wa Wizara ya Maliasili na Utalii Tanzania, kuhamishwa kwa nguvu kulianza tarehe 10 Agosti 2017 na kulipangwa kumalizika kwa wiki mbili. Vyombo vyakuhifadhi mazingira katika eneo hilo na kuvutia watalii zaidi.<sup>122</sup> Hata hivyo mashirika mengi na mashirika ya habari kwa mara nyingine yalionyesha uhusiano uliopo, kati ya ardhi ambayo Wamasai walikuwa wakifukuzwa na leseni ya uwindaji ya OBC.<sup>123</sup>

Mwanzoni mwa mwezi wa Septemba 2017, Tume ya Haki za Binadamu na Utawala Bora Tanzania iliingilia kat, na kuamuru kusitisha zoezi la kufukuza, baada ya kupokea malalamiko mengi kutoka kwa watu walioathirika.<sup>124</sup> Baadaye ndani ya mwezi huo, vijiji vinne vyaa Wamasai - Ololosokwan, Olorien, Kirtalo, na Arash-sued viliangaliwa na Serikali ya Tanzania katika Mahakama ya Haki ya Afrika Mashariki kuhusu kufukuzwa kikatili.<sup>125</sup> Ilikuwa baada ya matukio hayo ambapo, mnamo Novemba 2017, leseni ya uwindaji ya OBC ilifutwa kwa kuhusika na mashtaka ya rushwa na ujisadi. Waziri mpya wa Maliasili pia aliomba kukamatwa kwa Isaac Mollel, mkurugenzi mtendaji wa OBC, kwa kujaribu kutoa rushwa kwa Wizara kwa kuchangia zaidi ya dola milioni mbili za Marekani. Ofisi ya Kuzuia na Kupambana na Rushwa ilianzisha uchunguzi juu ya matendo ya Bwana Mollel na mawaziri wa zamani.<sup>126</sup>

Hata hivyo, jitihada zinaendelea. Jumuiya za wazawa zinachukua tahadhari kuhusu mgogoro wa ardhi ya hekta 150,000 - kuwa ziithinishwe kama eneo la Usimamizi wa Wanyamapori (WMA) tofauti na kuwa eneo la lilitengwa kwa uwindaji, ambalo wangeweza kukabiliana na vikwazo katika kulisha na kulima ardhi. Endapo ingetangazwa WMA, mchakato wa kuanzisha mpango mpya wa usimamizi wa ardhi ungehitaji ushauri na ushirikishwaji wa jamii.

## Historia ya Uhamisho kwa Mgongo wa Uhifadhi

Muda mrefu kabla makampuni kama TCL na OBC hayajawasili Tanzania, sheria za ardhi zilikuwa ni changamoto kwa Wamasainanamna yao ya kuishi.

Dola ya Ujerumani mwishoni mwa karne ya 19 katika upanuzi wake ilianzisha sheria za ardhi ya kikoloni nchini Tanzania na kugeuza ardhi yote ya makoloni kuwa katika miliki ya kifalme, na kuwekwa chini ya Dola ya Ujerumani. Ardhi yoyote ambayo haikuwa na ushahidi wa umiliki na matumizi ya kila siku iliheسابیوا kama ardhi huru, hii ilisababisha kuporwa kwa zaidi ya hekta milioni moja ya ardhi kutoka kwa wazawa.<sup>120</sup>

Baada ya Vita Kuu ya Kwanza, Tanzania ya sasa ilikuwa koloni ya Uingereza. Mwaka wa 1923, serikali ya kikoloni ya Uingereza ilipitisha Sheria ya Ardhi,<sup>121</sup> ambayo pamoja na marekebisho yake mengi, ilikuwa ni ufunguo wa sheria za ardhi hadi mwaka wa 1999. Kwa mujibu wa Sheria, ardhi yote ya Tanzania- iwapo inamilikiwa au la - ilichukuliwa kuwa ardhi ya umma, na ardhi yote ya umma na haki zake ilikuwa chini ya usimamizi wa Gavana, "kwa matumizi na kwa manufaa ya jumla, ikiwa ni ya moja kwa moja au yasiyo ya moja kwa moja, kwa wenyeji wa Koloni."<sup>122</sup> Marekebisho yaliyofanyika 1928, awali kulitambuliwa haki za wamiliki wa ardhi, kwa kuunda mfumo wenye uwili wa kufuatilia haki za umiliki wa ardhi, ambapo haki zilizotolewa na serikali zilikuwa juu zaidi dhidi ya haki za kimila.<sup>123</sup>

Mnamo mwaka wa 1940, serikali ya ukoloni ilipitisha Sheria ya hifadhi za uwindaji. 159 ambayo ilianzisha hifadhi za kitaifa (ikiwamo Serengeti National Park, au SNP) na hifadhi za uwindaji, na kuweka vikwazo vya kwanza juu ya makazi na matumizi ya eneo hilo.<sup>124</sup> Wamasai hawakuathirika na hii awali, sheria tangu mwanzo iliwajali wazawa au wakazi wa Hifadhi ya Taifa ya Serengeti kutokana na vikwazo vyovoyote vya makazi.<sup>125</sup>

Hata hivyo, miaka 1940 na 1950, tulishuhudia vikwazo vingi vikiingizwa kwa jina la uhifadhi. Mnamo mwaka wa

1957, "jamii ya uchunguzi" iliyoongozwa na Uingereza ilitoa maoni ya kugawanya SNP katika kanda mbili ili kuhifadhi uzuri wa asili. Kanda moja ndio Hifadhi ya Taifa ya Serengeti ya leo, ambapo makazi yote ya binadamu, wakiwamo Wamasai, yanzezuiliwa.<sup>126</sup> Kanda ya pili ingejulikana kama Eneo la Uhifadhi wa Ngorongoro (NCA), eneo la hekta 829,200 likijumuisha na Kreta ya Ngorongoro – yenyе umri wa miaka milioni tatu, kaldera yenyе utajiri na wanyamapori, ikijumuisha hekta 26,000 ndani yake na kuzungukwa na kuta zenyе urefu wa mita 600. NCA ilipendekezwa kama sehemu ya ardhi yenyе matumizi mbalimbali: kuhifadhi maliasili, kulinda maslahi ya vikundi vya wazawa, na kukuza utalii.<sup>127</sup>

Ili kutekeleza mipango yake, serikali ya kikoloni ilitakiwa kuwashawishi Wamasai, ambao walikuwa wameishi ndani ya SNP kwa karne nyingi, kuondoka. Kama kubadilishiwa makazi waliondoka katika mabonde hayo, na kwenda kukaa katika NCA mpya, na waliwaahidi kuendeleza rasilimali za maji bora, ushiriki katika kusimamia eneo la hifadhi, na zaidi.<sup>128</sup> Wamasai walikubali kuondoka kwa masharti hayo na kutolazimika kuweka kumbukumbu za makubaliano hayo, kwa maandishi. Utekelezaji wa dhamira ya kauli ya serikali ya kikoloni ilikuwa tu – ni ya maneno – ambayo iliibua uto usawa kati ya ahadi za Wamasai na zile za mamlaka ya kikoloni.<sup>129</sup>

Mwaka 1959, kifungu cha sheria mbili - Sheria ya Hifadhi ya Taifa na Sheria ya Uhifadhi wa Eneo la Ngorongoro - ilitaja ahadi za Wamasai.<sup>130</sup> Hivyo, Wamasai waliondoka Serengeti na wakafanya makazi yao katika NCA na eneo la Loliondo.

Sheria ya Hifadhi za Taifa ya 1959 iliweka masharti na mipaka ya SNP na kumpa Gavana mamlaka ya kutangaza ardhi yoyote Tanzania kuwa Hifadhi ya Taifa. Sheria hiyo ilieleza kwamba wakati hifadhi ya kitaifa imetangawa, "haki zote, majina, maslahi, vibali, madai, upendeleo, msamaha au kinga ya mtu yeyote isipokuwa Gavana ndani, chini, au katika ardhi yoyote ndani ya eneo hilo, tangu tarehe ya

kutangazwa kuanza kufanya kazi, kusitisha, kuamua, na kuwe kumebatilishwa daima.<sup>131</sup> Kwa hili, haki yoyote ya kimila ya Wamasai katika eneo hilo haina nafasi kabisa.

Sheria ya hifadhi ya eneo la Ngorongoro ilitoa masharti ya msingi. Imewataja moja kwa moja Wamasai kuwa na haki ya kuwa na makazi ndani ya eneo.<sup>132</sup> Katika siku za mwanzo za NCA mamlaka ilikiri kutambua haki hizo pamoja na Gavana wa Tanzania (iliyoitwa Tanganyika) akiwaambia Baraza la Shirikisho la Wamasai: "Ningependa kuwaeleza wazi kwamba ni nia ya serikali kuendeleza Kreta kwa maslahi ya watu wanaoitumia. Wakati huo huo, serikali inatarajia kulinda wanyama wa kuwindwa katika eneo hilo, lakin lazima pangeibuka mgogoro wowote kati ya maslahi ya hifadhi ya kuwinda na watu wanaoishi katika eneo, ila watu lazima waendelee."<sup>133</sup>

Pamoja na ahadi hizi za maneno, mamlaka yalitolewa kwa bodi ya uongozi wa NCA – Mamlaka ya Hifadhi ya Ngorongoro (NCAA) – kuzuia, kutoruhusu, au kudhibiti shughuli imbalimbali muhimu ndani ya eneo, ikiwa ni pamoja na ulimaji wa ardhi, ufugaji wa ng'ombe, ukusanyaji bidhaa za misitu na asali, na uanzishaji wa makazi.<sup>134</sup> Masharti haya baadaye yangeleta athari kwa maisha ya Wamasai.

Aidha, Sheria ya NCA ilieleza wazi majukumu rasmi ya kiutawala ya NCA. Licha ya ahadi kwamba Wamasai watakuwa na wajibu, Sheria haikuainisha vigezo vyovoyote

*"Tulipokuwa na ng'ombe tulikuwa vizuri. Lakini kutohana na ukame katika miaka ya 1980, hali ilibadilika. Tulianza kulima. Mwaka 1990, nilikuwa na umri wa miaka 13. Askari wa Hifadhi walikuja na kupiga kila mtu. Tulivunja sheria kwa kulima ardhi. Kila mtu katika kijiji changu alikuwa akilia. Maisha yalikuwa magumu. Hakukuwa na chakula. Hata maziwa hayakututosha, hivyo ilibidi yaongezwe maji ili wote wapate kiasi."*

–Mkuu wa NGO ya wenyeji, Loliondo<sup>135</sup>

kwa wanaopaswa kuwa katika bodi ya utawala. Mamlaka ya kwanza ilijumuisha wawakilishi watano wa Wamasai, pamoja na maafisa wa hifadhi wenyeji na Mkuu wa eneo la Wilaya ya Ngorongoro.<sup>136</sup> Uwakilishi wa Wamasai katika Mamlaka, hata hivyo, haukuwa wa muda mrefu.

Katikati ya miaka ya 1960, utawala wa NCA ulitolewa kutoka kwa NCAA na kuwa kwa mtu mmoja, Mtunzaji, aliyekuwa akiwijibika moja kwa moja kwa Waziri wa shirikisho na sio kwa jamii.<sup>137</sup> Marekebisho ya Sheria ya NCA mwaka 1975 yaliongeza nguvu zaidi pamoja na uangalizi wa eneo hilo lililowekwa katika mtindo wa bodi ya ushirika ambayo iliteuliwa na Waziri na kuongozwa na Mwenyekiti aliyeeteuliwa moja kwa moja na Rais.<sup>138</sup> Maofisa wazawa, ambaao walichaguliwa hapo awali, walibadilishwa na maafisa walioteuliwa – wakifanya majukumu yanayofanana na ya wazawa nje ya mamlaka inayotawala.<sup>139</sup>

Katika miaka hiyo hadi kufikia miaka ya 1970, mengi yalikuwa yamebadilishwa. Makundi ya hifadhi ya kimataifa kama vile Umoja wa Kimataifa katika Uhifadhi wa Asili (IUCN) lilipata ushawishi juu ya sheria za uhifadhi katika Afrika. Tamko la Arusha mwaka 1961 lilitoa jukumu mahususi kwa mashirika ya kimataifa ya hifadhi kuacha kutoa utaalamu wa mipango na usimamizi wa maeneo ya hifadhi katika Afrika.<sup>139</sup> Makundi haya yalichangia kuongezeka kwa vikwazo vya kulima, malisho, na harakati ndani ya NCA. Katika miaka ya 1960, utekelezwaji wa sheria hizi uliongezeki, ikiwa ni pamoja na muda wa kukaa jela, faini, na utaifishaji wa mali za Wamasai.<sup>140</sup>

Ndipo mwaka 1974, Sheria ya Uhifadhi wa Wanyamaporiliunda aina tatu tofauti za uhifadhi wa ardhi nje ya vituo vya hifadhi ya wanyama viliviyotengwa tayari: hifadhi za wanyama, hifadhi inayoruhusu uwindaji, na maeneo ya hifadhi yaliyodhibitiwa. Masharti yaliyowekwa ndani ya hifadhi za wanyama yamezuia makazi, matumizi ya bunduki na upinde na mishale, moto nauangushaji wa mimea, na kuchunga bila ruhusa maalum-ni wazi kuwa vikwazo hivi vimewabagua Wamasai.<sup>141</sup>

Mwaka huo huo, serikali ya baada ya uhuru ya Julius Nyerere ilianza kuangazia makubaliano ambayo Wamasai waliyafanya na Waingereza, ambapo waliharishwa kutoka Serengeti hadi Ngorongoro. Serikali ya Nyerere ilirekebisha hekti 400,000 za ardhi kama Eneo Lililohibitiwa kwa Uwindaji la Loliondo (LGCA) kuitia Nakala No. 269 kutoka Wizara ya Maliasili na Utalii.<sup>142</sup> Sheria ya Wanyamaporiy 1974, pamoja na sera ya vijiji iliyotolewa mwaka huo huo,<sup>143</sup> hata hivyo, iliruhusu makazi na shughuli za kinadamu ndani ya GCA. Vijiji vilianzishwa, vikipewa baadhi ya kinga za kisheria kwamba Wamasai wataendelea kuwa na haki ya kukaa katika eneo hilo. Hata hivyo, ugawaji huu wa mara nyininge uliipa Loliondo sura mbili kama eneo lililohifadhiwa kwa wanyamaporili hali kadhalika kama ardhi ya kijiji, hivyo kuzidi kujenga sintofahamu kuhusu kesho ya Wamasai.

Mwaka uliofuata, ushawishi wa uhifadhi ulipata ushindi mkubwa kwa kufanikiwa kufanya marekebisho Sheria ya NCA ya 1975. Kipengele cha 9A kilikataza aina zote za kilimo ndani ya NCA,<sup>144</sup> lilikuwa pigo kubwa kwa Wamasai. Wakati wengi wanawachukulia Wamasai kama wafugaji wa kuhamahama, kwa karne nyingi wametegemea kilimo cha kujikimu katika vijishamba hasa wakati afya ya mifugo au upatikanaji wa nyasi ni wa mashaka.<sup>145</sup> Kupiga marufuku kulima, pamoja na vikwazo juu ya malisho na hamahama ya mifugo, kunahatarisha uhai wa Wamasai.

Mapema miaka ya 1990, athari kubwa kutokana na sheria hizi kwa watu zilikuwa dhahiri.

Mnamo mwaka wa 1992, Waziri Mkuu John William Malecela, alifanya kinyume na matakwa ya NCAA, alitengua zuio la kulima ndani ya NCA.<sup>146</sup> Hatua hii iliwasaidia Wamasai ambaa walikuwa wanakabiliwa na njaa na kifo. Kwa kuzingatia mlolongo wa ahadi kwa Wamasai, hakukuwa na ushahidi wowote wa maandishi.

Kwa mshangao, Mpango Mkuu wa Usimamizi wa mwaka wa 1995 wa NCA ulibaini kuwa mashamba ya kilimo cha kujikimu ya Wamasai yalikuwa madogo sana kuliko yale yaliyopangwa na serikali, viongozi wa NCA, na vikundi vingine visivyo vya wazawa katika NCA.<sup>147</sup> Aidha, mazao yaliyopandwa na makundi yasiyo ya wazawa katika NCA aghalabu yalipelekwa sokoni na kuuzwa kwa faida, wakati mashamba ya Wamasai yalikuwa kwa chakula cha kujikimu - kwa ajili ya matumizi binafsi na ili waishi.<sup>148</sup>

Katika miaka ya 1990, mchakato ulikuwa unaendelea kuandika tena sheria za ardhi za Tanzania. Hii ilisababisha kutokea sheria mbili - Sheria ya Ardhi ya mwaka 1999 na Sheria ya Ardhi ya Kijiji ya 1999 - zote mbili zilianza mwaka 2001. Sheria hizo zimekuwa zikisifiwa katika masuala kadhaa - zimetambua haki za kimila za ardhi, kuwawezesha wanawake kumiliki ardhi, na zinatoa mamlaka kwa kijiji kuwa na mamlaka ya kusimamia ardhi yao wenye.<sup>149</sup> Hata hivyo, pia zimetoa mwelekeo katika masuala mengi.<sup>150</sup>

Kiini cha sheria hizi mbili ni ugawaji wa ardhi ya Tanzania katika makundi matatu: ardhi ya jumla, ardhi ya kijiji, na ardhi iliyoifadhiwa. Ardhi iliyoifadhiwa ni ardhi maalum iliyotengwa kisheria katika sheria za awali kama vile Sheria ya Uhifadhi wa Wanyamapori, Sheria ya Uhifadhi wa Eneo la Ngorongoro, Sheria ya Mipango ya Miji na Nchi, Sheria ya Barabara Kuu, Sheria ya Misitu, Sheria ya Hifadhi za Taifa, na nyingine. Ardhi ya kijiji iliwekewa vigezo kadhaa, mionganii mwavyo ni "ardhi, isipokuwa ardhi iliyoifadhiwa, ardhi ambayo wanakijiji wamekuwapo kipindi cha miaka kumi na mbili kabla ya kuwepo kwa Sheria hii, ardhi ambayo muda wote imemilikiwa na kutumia kama ardhi ya kijiji."<sup>151</sup> Ardhi

ya Jumla imefasiliwa tofauti katika sheria hizo mbili. Katika Sheria ya Ardhi ya Kijiji, ardhi ya jumla ni kila kitu ambacho hakifikiwi kuwa ardhi ya kijiji au ardhi iliyoifadhiwa. Hata hivyo, katika Sheria ya Ardhi, ardhi ya jumla imefasiliwakama "ardhi yote ya umma isiyohifadhiwa au kuwa ardhi ya kijiji na inajumuisha ardhi ya kijiji isiyomilikiwa au isiyotumiwa."<sup>152</sup> Hakuna ufanuzi uliotolewa kuhusu ardhi isiyomilikiwa au isiyotumiwa.

Sheria ya Ardhi ya Kijiji pia inampa Rais uwezo wa kuhamisha ardhi ya kijiji kuwa ardhi iliyoifadhiwa au kuwa ardhi ya jumla, kwa minajili kwamba hilo litafanyika kwa "manufaa ya umma." "Manufaa ya umma" hapa imefasiliwa kuwa ni yale yanayojumuisha "uvekezaji wenyewe maslahi kwa kitaifa."<sup>153</sup> Kwa ubadilishaji wa matumizi ya ardhi ambaa ni chini ya hekta 250, utahusu masuala ya wazawa ambapo maombi ya ubadilishaji yataamuliwa na mukutano wa kijiji ambaa pia wana haki ya kukataa ubadilishaji. Kwa ardhi yenye zaidi ya hekta 250, Waziri mwenye dhamana ndiye mwenye kauli ya mwisho kuhusu ubadilishaji wa matumizi ya ardhi.<sup>154</sup>

Mwaka 2009 mambo yalizidi kuwa tata ambapo, Sheria ya Uhifadhi wa Wanyamapori ilirekeblishwa. Sheria sasa ilikataza kilimo cha mazao ndani ya hifadhi za wanyama, hifadhi ya maeneo oevu, au maeneo yaliyodhibitiwa kwa uwindaji,<sup>155</sup> na iliwekwa faini kali na uwezekano wa kwenda jela kwa kulisha mifugo katika maeneo yaliyodhibitiwa kwa uwindaji.<sup>156</sup>

Kwa hali halisi, mabadiliko haya, yaligusa maisha ya Wamasai katika LGCA, na maeneo mengine yanayodhibitiwa kwa uwindaji, kukataliwa haki zao za urithi wao wa kitamaduni - njia zao muhimu za kujikimu na kuishi.

Cha kushangaza ni kuwa, tangu Sheria hii ipitishwe, migogoro ya ardhi kati ya serikali, wawekezaji, na Wamasai imeongezeka hasa kuzuiliwa kwa mahitaji ya ardhi ya malisho, sambamba na kukiuka ahadi zilizotolewakwa Wamasai walipokuwa na makazi yao ndani ya Serengeti mwaka 1959. Maisha yao sasa yanakabiliwa na uhaba wa chakula, utapiamlo, na utegemezi wa misaada ya chakula isiyokidhi na isiyotabirika, ambayo katika maisha hatarishi nyakati za ukame. Mwaka 2011, baada ya miaka mitatu mfululizo ya ukame katika eneo la Ngorongoro, mlipuko wa ugonjwa wa surua na utapiamlo usioisha na chakula kisichokuwa salama viligharimu maisha ya watoto 200 wa Wamasai.<sup>157</sup> Kilimo na haki za malisho viliendelea kuzuiwa katika maeneo yaliyodhibitiwa kwa ajili ya uwindaji.

Historia hii imekuwa na athari mbaya kwa Wamasai - sio tu kuhamishwa na kupoteza mali zao, lakini kuharibiwa njia zao za jadi za kuishi na kutishia uhai wao.



## VIPINDI VYA SHERIA YA ARDHI NCHINI TANZANIA

- 1895 Tamko Ujerumani Kuhusu Ardhi: Ardhi yote katika makoloni itakuwa ardhi ya kifalme, itakuwa chini ya utawala wa Dola ya Ujerumani. Ardhi yoyote isiyothibitika kuwa na mmiliki au isiyotumika itachukuliwa kuwa ni ardhi huru na isiyomilikiwa.<sup>159</sup>
- 1923 Sheria ya Ardhi Na 3: Ardhi yote nchini Tanzania itakuwa ardhi ya umma na itasimamiwa na Gavana "kwa matumizi na manufaa ya umma, wazi na yasiyo wazi, kwa wazawa katika koloni."<sup>160</sup>
- 1940 Sheria ya Hifadhi ya Wanyama: Inabainisha tofauti kati ya hifadhi za taifa na hifadhi za wanyama, ikiwa ni pamoja na kuweka mipaka ya awali ya Hifadhi ya Taifa ya Serengeti. Sheria hii inaweka vikwazo vya mwanzo juu ya makazi na matumizi ya ardhi inayozunguka SNP.<sup>161</sup>
- 1957 Jumuiya ya Uchunguzi: Inapendekeza kwamba SNP iliyopo igawanywe katika sehemu mbili - (SNP) ya kwanza haitaruhusu makazi, na nyngine (Eneo la Hifadhi ya Ngorongoro) ni eneo la ardhi iliyoitengwa kwa matumizi mbalimbali.
- 1959 Sheria ya Hifadhi ya Taifa: Inaunda mipaka mipy ya SNP (kulingana na mapendekezo ya Jumuiya ya Uchunguzi) na inampa Gavana uwezo wa kutangaza ardhi yoyote katika nchi kama Hifadhi ya Taifa. Haki za kimila za Wamasai katika mbuga za kitaifa zinaondolewa.<sup>162</sup>  
Sheria ya Eneo la Hifadhi ya Ngorongoro: Inaanizisha Eneo la Hifadhi ya Ngorongoro. Imewapa Wamasai haki ya makazi lakini bodi inayosimamia (Mamlaka ya Hifadhi ya Eneo la Ngorongoro) imepewa uwezo wa kuzuia, kukataza, au kudhibiti shughuli mbalimbali ndani ya eneo, ikiwa ni pamoja na kulima, kulisha ng'ombe, na kuanzisha makazi.<sup>163</sup>
- 1961 Tamko la Arusha: linalekeza jukumu maalum kwa makundi ya hifadhi ya kimataifa kuhusu kutoa utaalamu wa kiufundi katika kupanga na usimamizi wa maeneo ya hifadhi Afrika. Makundi haya baadaye yalishawishi kuzuiwa kwa haki za Wamasai za kulima, malisho, na hamahama ndani ya NCA.<sup>164</sup>
- 1974 Sheria ya Uhifadhi wa Wanyamapor: Inatambua aina tatu za hifadhi ya ardhi, ikijumuisha na mbuga za wanyama - hifadhi za wanyama, hifadhi za wanyama za uwindaji, na maeneo yaliyodhibitiwa kwa ajili ya wanyama. Vikwazo mahususi vimewekwa juu ya shughuli mbalimbali ndani ya hifadhi za wanyama.<sup>165</sup>
- 1975 Marekebisho ya Sheria ya Hifadhi ya Ngorongoro: Kifungu cha 9A cha marekebisho kinazuia aina zote za kilimo ndani ya NCA.<sup>166</sup>
- 1992 WM Kuruhusu Ulimaji: Waziri Mkuu ametengua zuio la ulimaji ndani ya NCA.<sup>167</sup> Tamko lilikuwa ni kauli ya maneno tu na halikuandikwa katika sheria.
- 1999 Sheria ya Ardhi na Sheria ya Ardhi ya Kijiji: Inakuwa mbadala wa Sheria ya Ardhi Na 3 (1923). Ardhi imewekwa katika makundi matatu: ardhi ya jumla, ardhi ya kijiji, na ardhi iliyohifadhiwa, lakini ardhi ya jumla imefasiliwa kwa namna tofauti katika hizo sheria mbili,<sup>168</sup> hivyo kuleta mkanganyiko. Sheria ya Ardhi ya Kijiji inampa Rais mamlaka ya kutangaza "ardhi ya kijiji" "iliyohifadhiwa" au "ardhi ya jumla", Kwa masharti kwamba ubadilishaji mpya wa matumizi ni kwa manufaa ya umma. Sheria zote mbili zilianza mwaka 2001.<sup>169</sup>
- 2009 Sheria ya Uhifadhi wa Wanyamapor: Vikwazo vingi vinawekwa kwenye shughuli zinazofanyika ndani ya maeneo yaliyodhibiti wa kwa ajili ya wanyama - ikiwa ni pamoja na kuzuia ulimaji na ufugaji.<sup>170</sup>



Kijiji cha Nainokanoka © The Oakland Institute

*"Mwathirika wa pili wa utalii atakuwa mimi.  
Tumehamishwa, Tumeondoshwa, na walifukuzwa..."*

Kwa Wamasai, *nainokanoka* inamaanisha "Ninajishusha." Kwa hakika, kijiji cha Nainokanoka inawezekana ni eneo lenye baridi zaidi katika Wilaya ya Ngorongoro. Kiko karibu na kingo za Kreta ya Ngorongoro, kijiji hiki ni makazi ya Wamasai kama 3,200.

Ni jioni yenye ukungu mzito uliokifunika kijiji. Timu ya utafiti ilitangamana pamoja na wanakijiji kuuzunguka moto mdogo wa mkaa. Walitamani nao washiriki shida zao, ilikuwa ni vizuri kukutana nao nyakati za jioni sana, kwa kuwa wanakijiji waliogopa kwa mamlaka ikiwa watajua kuwawanaongea na wageni.

[REDACTED] nilizaliwa na kukulia katika kijiji, anasema.

"Sisi ni Watanzania lakini sheria zinazoongoza wengine hazitumiwi kwetu. Badala yake, bado tunaongozwa na sheria za kikoloni za zamani. Wamasai, walifukuzwa kutoka Serengeti, walidanganywa kwa kuaminishwa kwamba tutapewa Ngorongoro kama fidia na kwamba hatuwezi kuondolewa hapa. Tuliahidiwa pia kupewa kipaumbele katika kesi za migogoro. Lakini leo hatuwezi kutumia ardhi kwa ajili malisho au kulima- tunachokiambulia hatimaye ni njaa isiyioisha ndani ya familia zetu. Matumizi pekee yaliyobaki kwa ardhi hii ni kuwa eneo la maziko yetu.

Haki yetu ya kutumia ardhi haijawahi kuandikwa kwenye karatasi. Haki zetu zilitegemea huruma ya serikali kuruhusu kulima. Katika miaka ya 1990 wakati wa ukame, Waziri Mkuu alituruhusu kulima. Ngorongoro ilipotangazwa kuwa Eneo la Urithi wa Dunia na UNESCO, amri ilikuja ya watu kuondolewa na sisi kuacha kulima.

Hivyo, tuliahidiwa msaada wa chakula. Lakini msaada mdogo ulikuja na ulipofika, viongozi waliuuza kwa bei kubwa. Kwa hiyo tunaishi katika umasikini mkali na tukikabiliwa na utapiamlo. Familia zimeuza ng'ombe ili kununua chakula. Na ng'ombe wameisha, hakuna cha zaidi kilichosalia. Wanaume wamelazimishwa kutafuta kazi maeneo ya mijini. Wanafanya kazi kama walinzi wakati wa usiku Kusini mwa Sudan ambapo baadhi wanaauawa.

Umaskini, njaa, na kutojua kusoma na kuandika vimeongezeka. Hakuna fedha kwa ajili ya elimu na wale ambao wanaenda shule bado wana njaa. Mnamo 2012-2013, takribani watoto 500 kutoka vijiji 30, walipata utapiamlo, walipelekwa hospitali, hasa Hospitali ya Endulen iliyopo Wilayani Karatu. Lakini njaa limekuwa jambo la kisiasa katika kijiji na haturuhusiwi kulizungumzia.



Kwa msaada wa chakula, tulipewa unga wa mahindi ambaao tuliuongeza maji. Hakukuwa na maziwa, mboga, maharage, wala chochote. Kwa msaada mdogo tulipatiwa ili tuishi – ilikuwa ni kati ya kilo 10-14 mara mbili kwa mwaka – tulichakachua kinywaji. Lakini iwapo watu wangetumia zana zao kulima vibustani kuzunguka nyumba zao nini kingebaribika? Ijapokuwa tulijaribu mara kadhaa. Lakini maaskari wanakuweka jela kwa jitihada unazochukua kuboresha usalama wa chakula wa familia yako. Tuna ardhi kubwa na maji. Lakini hatuwezi kuzalisha chakula na huku tuna njaa.<sup>171</sup>

Mwanamke mmoja kutoka kijiji anasema, "Tulijaribu kujikusanya na kwenda Olbalbal mwaka 2013 ili kufunga mageti yote na kutoruhusu watalii kuingia ndani ya kreta. Lakini serikali iliingilia na kuwaita viongozi wetu. Mwaka 2014, kikundi kikubwa kilikwenda tena getini na kutishia kufunga. Waziri Mkuu alituahidi msaada wa chakula na kwamba kila kaya itapewa magunia kumi ya mahindi. Lakini hakuna kitu chochote kilichokuja. Sasa ni karibu Oktoba, na tunaendelea kusubiri."<sup>172</sup>

[REDACTED] alitushirikisha, "Jana Rais Kikwete alikuwa Marekani. Alitangaza kuwa utalii unashuka Tanzania na hivyo alijitolea kutoa asilimia 35 ya ardhi ya nchi kwa utalii. Nilishtuka kusikia hili. Najua mwathirika wa pili wa utalii atakuwa mimi. Kwa kuhamishwa, kuondoshwa, na kufukuzwa."<sup>173</sup>

Ardhi ya kijiji inaonekana tasa, kutokana na amri ya serikali ya kupiga marufuku kulima. Wanakijiji wanasema mara kwa mara askari wamekuwa wakiwachunguza katika nyumba zao. Wana mamlaka ya kuingia ndani ya nyumba yoyote kufanya uchunguzi na kuhakikisha kwamba hakuna mazao yoyote yaliyopandwa. Hujificha kwenye vichaka ili kuwakamata wanawake ambaao, kutokana na shida, wanakwenda msituni kuokota kuni ili wauze. Wanapowakamata huwapeleka wanafamilia ambaao wamebaki bila kitu hulazimisika kulipa dhamana.<sup>174</sup>

*"Matumizi pekee ya ardhi hii yaliyobaki ni kwa ajili ya maziko yetu."*



Mzee Mmasai akiwa Loliondo ©The Oakland Institute

Kisha, mzee mmoja katika kijiji, [REDACTED], anasema hivi:

*"Nilikuwa mionganini mwa wale waliohamia kutoka kreta, ambako nililima hadi mwaka wa 1954. Mhifadhi wa kwanza alikuwa Fosbrooke.<sup>175</sup> Akaanza kulihifadhi eneo na tuliombwa tuondoke ili tupishe hifadhi ya kreta. Tulihamia kutoka Serengeti na ndipo tukaambiwa kwenda Ngorongoro, ambako kuna maji. Baada ya kuhama, tuliambiwa tuende mahali popote, rje ya kreta, ambako tungeweza kulima na kuishi kwa njia zozote tunazotaka kuishi. Tuliahidiwa, kwa mara nyingine, ardhi hiyo itakuwa yetu.*

*Hatuna kilimo kikubwa. Tunalima bustani za nyumbani - vya kutosha kulisha familia. Tulikuwa tunalima mpaka walipopiga marufuku. Tulianza kulima chini ya mhifadhi miaka ya 1960 na tuliendelea mpaka mwaka 1975, wakati Tanzania ilianza sera ya vijiji, ambayo ilitupiga marufuku kabisa kulima na barabara ilijengwa katikati ya vijiji na kreta ili kuuweka mpaka wazi.*

*Chini ya sera, vijiji vilisajiliwa na kupewa idadi maalum ya maili. Ardhi hii ilijumuisha kote kama ardhi ya hifadhi na kama ardhi ya kijiji. Hii ni hati ya kijiji ya uanzishwaji na usajili. Hiki Hatukihifadhi ndani ya ofisi ya kijiji hapo kinaweza kupotea au kuharibika. Uwapo wa kijiji chetu hauwezi kukanwa.*

**"Kama tunaweza kuvunja ardhi kuzika mwili,  
kwanini hatuwezi kuivunja ardhi kwa kulima?"**



Wilaya ya Ngorongoro © The Oakland Institute

Baada ya 1975, maisha yetu yalibadilika. Tulitenguliwa nguvu kwa kuwa tulizuiwa kulima na muda mrefu haukupita tulianza kupungukiwa chakula na kukabiliwa na njaa. Leo tunakula mara mbili kwa siku, wakati wa asubuhi na jioni - na ni uji kila wakati. Maziwa ni kidogo kwa kuwa hakuna nyasi za kulisha ng'ombe. Hivyo, maziwa huwekwa katika uji kwa ajili ya watoto pekee. Hatuchinji wanyama ila tunakula nyama pale ng'ombe au mbuzi anapokufa mwenyewe. Tunauza wanyama wetu ili kununua mahindi kwa kuwa misaada ya chakula haitoshelezi.

Siku hizi hakuna vijana waliobaki kijijini wanatoka nje kutafuta kazi. Wazee tu ndio walioachwa bila uangalizi. Watoto wadogo wanadumaa. Wazee hawawezi kutembea kutohana na ukosefu wa chakula. Wanawake wameziacha familia na kwenda kutafuta fedha, wakati mwingine hukaa mbali kwa muda wa miezi sita huku watoto wao wakibaki na njaa. Wengine wamehamia Kenya, baadhi huuza urembo katika miji. Njaa imesambaratisha familia zetu.

Ninashindwa kuelewa kwa nini tunazuiliwa kulima. Lakini njaa yangu hupunguza uwezo wangu wa kufikiri. Endapo tungeruhusiwa kulima japo bustani, familia ambazo zimetengana zingeungana. Wanawake na vijana wangerudi. Watoto wameachwa peke yao nyumbani, wangekuwa na mama zao.

*Kama tunaweza kuvunja ardhi kuzika mwili, kwanini hatuwezi kuivunja ardhi kwa kulima?"<sup>176</sup>*



## Kuangamia Kutokana na Njaa, Umaskini, wa Chakula

*O! Doinyo Lengai – Mlima wa Mungu katika lugha ya Kimaa - ni volkano hai inayolipuka juu ya kijiji cha Naiyobi katika Wilaya ya Ngorongoro. Hiki ni mionganoni mwa vijiji vikubwa vilivyo ubavuni mwa mlima huo, Naiyobi ni makazi ya watu zaidi ya 10,000 ambao hawajaona faida zitokanazo na utalii wakiwa wanateketetea kwa kukosa chakula.*

"Awali tulilima kwa kujimu. Mwaka 1992, Waziri Mkuu aliruhusu tulime maeneo madogo kuzunguka makazi yetu (bustani). Lakini mwaka 2006, NCA ilitukataza tena kilimo cha kujikimu katika bustani. Vikwazo hivi vilitigemea ni nani aliyepo madarakani. Leo wahifadhi wa eneo hawajui wala kuguswa na jamii," alieleza mwanakijiji.<sup>177</sup>

Kijijini, wakulima wadogo walioanza kulima bustani ziliteketezwa. Ng'ombe wachache ambao walikuwa ni sehemu ya mifugo hawakutosha kuendeshea maisha. Wanakijiji wamegeuka vivutio vya watalii wakiwa na shanga zao kandokando ya njia na hiki ni kiashiria tosha cha kutoweka kwa maisha. Hata kwa ada za utalii, hakuna kipato cha kutosha kwa chakula kwa kuwa fedha nyingi zinavutwa na mashirika mengine pamoja na waongozaji wa watalii.

"Kati ya wanakijiji 10,000, 200 tu ndio wenye ng'ombe. Wengi wao hawana namna za kutegemeza familia zao. Kuna njaa na umasikini umekithiri.

Vijana wameondoka kijijini wamekwenda kutafuta kazi. Wanarudi, ikiwa ni wazima, basi hurudi bila mafanikio. Wanawake wameacha wanaume kwa sababu ya chakula, na kuacha watoto kama yatima. Ikiwa mwanakijiji yeyote akipuuza zuio la kulima, basi hupigwa na kufungwa. Lakini kwa nini kulima kuwe kosa? Kama [REDACTED] siilewi hiyo marufuku. Huu ni ukandamizaji. Tunaishi pamoja na wanyamapori. Hatukuwahi kula nyama ya wanyama hao. Kuna ardhi ya kutosha kwa wanyamapori. Ikiwa tunapata mashamba madogo, tutasimamia vema."<sup>178</sup>

Wanakijiji walishiriki ahadi za misaada ya chakula walichopewa- mifuko 10 ya mahindi kwa familia kwa mwaka. Lakini ahadi hizo zilikoma."Tulipatiwa kiasi kidogo sana ambacho hakikututosheleza. Badala yake, mawakala wa NCA walituuzia chakula cha msaada (kwa bei ya chini kidogo kuliko bei ya soko). Lakini bado hata hivyo hatukumudu kukinunua."<sup>179</sup>

Wanakijiji walituarifu tofauti kuhusu viwango vya ulaji wa chakula katika kijiji. "Wenye mbuzi huchanganya maziwa na uji. Wengine hutumia maji tu kwenye uji. Wanakijiji wengine hawakuwa hata na uwezo wa kusaga mahindi. Utatifi uliofanywa na NCA katika vituo vya afya, hospitali ya Endulen, na zahanati ya hapa, ulionyesha kuwapo kwa viwango vya juu vya utapiamlo. Utapiamlo huu umesababisha vifo



*Ol Doinyo Lengai, Mlima wa Mungu, Wilaya ya Ngorongoro © The Oakland Institute*



Wanakijiji kutika kijiji cha Naiyobi kwenye foleni ya maji © The Oakland Institute

vya njaa kwa watoto. Hospitali ya Endulen wanazo taarifa kuhusu vifo hivyo.

Tunahitaji viongozi ambao wanasikiliza. Tatizo la NCA ni kwamba inaendeshwa na watu ambao sio wazawa na hawana ujuzi wala uelewa juu ya matatizo yanayotukabili.

Kuna wanafunzi 700 katika shule ya msingi, wanafunzi 25 shule za sekondari na 15 shule za sekondari za juu. Sita wamefikia chuo kikuu. Changamoto ni kwamba hata kama wakihitimu elimu yao, watoto wetu hawapati kazi. NCA ina wafanyakazi 5,548 kati ya hao ni wanane tu ambao ni wakazi wa Ngorongoro. Wahifadhii wanawaajiri watu wasio wazawa, wanaajiri marafiki na ndugu zao.<sup>180</sup>

mwanamke mwanakijiji alituambia, "Nilizaliwa hapa. Tupo watu sita katika familia yangu na tunakabiliwa na matatizo mengi. Nina majukumu mengi kama mwanamke-kujenga boma, kukusanya kuni, kuteka maji, kutafuta chakula cha watoto wangu - lakini nimepaswa kuacha hayo yote na kufanya kazi kama kibarua ili nipate pesa za kununua mgawo. Nimechoka kuomba. Ninakabiliwa na njaa. Tafadhalii tusaidieni kuilazimisha serikali ili ituruhusu kulima bustani ndogo. Pamoja na wanawake kutoka vijiji

vingine tulikwenda kukutana na Rais na kulia juu ya njaa yetu. Tulijaribu mara nne, lakini wasaidizi wake walituzuia kuonana naye. Badala yake tulirudi kufanya kazi kama vibarua wa bei nafuu ili tupate kuishi.

Hakuna kitu katika misitu ambacho tunaweza kukusanya na kupika. Wanatutaka sisi tuondoke lakini tuende wapi? Loliondo ina watu na hakuna nafasi. Tunazuiwa hapa. Tungekuwa na mahali pengine pa kwenda tungekwenda."<sup>181</sup>

Wanakijiji walisisitiza, "Tafadhalii yafikishe malalamiko yetu kwa jumuiya za kimataifa na kuweka shinikizo kwa serikali ya Tanzania ili kuturuhusu kilimo cha kujikimu. Nchi hii ni kubwa na uwepo wetu hapa hautaathiri utalii na tumekuwa tukiishi pamoja na wanyama. Utalii unapaswa kuwanufaisha watu wa Ngorongoro. Ni jambo la aibu kwamba kipindi chote cha 1959 hadi 2015, ni wakazi wanne tu wa kijiji hiki waliobahatika kufanya kazi NCA."<sup>182</sup>

Kwenye kisima cha kijiji, kuna foleni ndefu ya wanawake na makundi ya wanyama waliosambaa - ndoo tupu wakiwa na kiu kisichoisha. Hata kwa kuwagawanyisha bado wengi waliondoka bila kumaliza kiu.



*“Kupambana na njaa na utapiamlo kunahitaji kukabiliana na matatizo ya ubaguzi na upendeleo unaohusishwa na tabia za vikundi vingi ambavyo hubaguliwa kisiasa au kijiografia na hawa ni wale wanaoishi maeneo ya pembezoni. Katika suala hili, Mwongozo wa [Haki ya Chakula] 8.1 unasema, ‘[Ma] dola zinapaswa kuheshimu na kulinda haki za watu binafsi kuhusiana na rasilimali kama vile, maji, misitu, uvuvi, na mifugo bila ubaguzi wowote ... Tahadhari mahususi inaweza kuchukuliwa kwa vikundi kama vile wachungaji na wazawa na uhusiano wao na maliasili.’”*

– Shirika la Umoja wa Mataifa la Kilimo na Chakula<sup>183</sup>

## Namna ya Ufumbuzi

Kwa nyakati zote, hifadhi zimewaletea gharama kubwa jamii ya wazawa, na sio kwa Tanzania tu, ni duniani kote.<sup>184</sup> Kuna kuingiliana kwa kiasi kikubwa duniani kati ya ardhi ya jadi ya wazawa na ardhi ambazo zimehifadhiwa kwa jina la hifadhi.<sup>185</sup> Lakini wakati hifadhi mara nyingi huhusisha kuhamisha jamii za wazawa, tafiti zinaonyesha kwamba makundi ya wazawa mara nyingi ni bora zaidi ya serikali kwa habari ya kuhifadhi. Pia kuna mifano mingi ambayo ardhi iliyotolewa kwa serikali kwa ajili ya hifadhi kukabiliwa na ukataji haramu wa magogo, upanuzi wa kilimo cha biashara, uendelezaji mkubwa wa miundombinu, uchimbaji wa rasilimali za asili, na vitendo vingine visivyo rafiki kwa uhifadhi.<sup>186</sup> Pamoja na ushahidi wa wazi na vielelezo madhubuti vyta uwakili bora wa mazingira wa jamii za wazawa, jukumu kubwa linalofanywa "na wazawa kama watunzaji wa mazingira bado halijafanikiwa kutambuliwa."<sup>187</sup>

Magumu yanayovikibili vikundi vyta wazawa duniani kote - ikiwa ni pamoja na njaa, umasikini, upotevu wa maisha, uhamisho, vurugu, na hali kadhalika – udhihirisho wakuenea na kuingizwa kwa ubaguzi vimeleta msukumo wa kiduniajuu ya habari za Wamasai zilizoshirikishwa katika ripoti hii.

Jitihada hizi zinahusisha miongo-historia ya muda mrefu ya unyanyasaji uliowakabili Wamasai – ikiwa ni pamoja na athari za kisheria, kuwabagua, na sasa vitendo vyta wawekezaji wa kigeni na makampuni ya utalii – vinaonyesha umuhimu kufikianjia za ufumbuzi. Wakati orodha ifuatayo haina njia mwafakai, inatoa pendekeso la uwezekano wanja kadhaa, ikiwa ni pamoja na ufumbuzi wa msingi wa msukumo uliopendekezwa na Wamasai.

## Haja ya Hatua za Haraka

Katikamuktadha wa kutishiwa na unyanyasaji unaoendelea kwa Wamasai, kuna hatua kadhaa muhimu zinazopaswa kuchukuliwa mara moja ili kulinda haki zao. Hatua hizoni pamoja na:

- Tume huru ya uchunguzi, ambayo inajumuisha wachungaji Wamasai, inapaswa kuanzishwa kuchunguza ardhi-ikihusisha na uvunjifu wa haki za kibinadamu, ikiwa ni pamoja na ukamataji ulio kinyume na sheria, kuumiza, kufukuzwa, na zaidi. Matokeo ya utafiti yanapaswa kutangazwa kwa umma na wakosaji kuhukumiwa.
- Serikali ya Tanzania inapaswa kuacha kutishia wachungaji, watetezi wa haki za binadamu, waandishi wa habari, na Vyama vyta wanaharakati wakijamii kuitia vyombo vyta dola. Badala yake, serikali inapaswa kuwashtaki wahalifu wanaohusika katika ukamataji holela, unyanyasaji, nakuwafunga wachungaji wasio na hatia.
- Kesi ya Katiba ya Loliondo dhidi ya OBC imekaakwa Msajili wa Mahakama Kuu ya Tanzania Kanda ya Arusha tangu Desemba 2010, licha ya kuandikwa chini ya Hati ya haraka kwa lengo la kuharakisha kesi za kisheria. Wakati huo leseni ya uwindaji ya OBC ikafutwa mwaka 2017, bila kesi kwenda mahakamani. Ni muhimu kuimarisha ufanisi wa mfumo wa haki ili kuhakikisha kwamba masuala ya kikatiba na mengine yenye masilahi kwa umma yanafanywa pasipo ushawishi wa aina yoyote.
- Serikali, kwa njia kuletausawa, inapaswa kuhakikisha uwapo wa uwakilishi wa wachungaji katika bodi zamaamuzi ambayo huathiri uhai wao na maisha yao. Kwa mfano, Mpango Mpya wa Usimamizi Mkuu (GMP) wa Eneo la

hifadhi ya Ngorongoro umeshindwa kushauriana na Hal-mashauri ya Wachungaji wa Ngorongoro au wanajamii.<sup>188</sup> GMP inapaswa kusimamishwa mpaka makubaliano ya mchakato nahadidu za rejea kati ya NCAA na wakazi if-anyike.

- Serikali ya Tanzania inapaswa kuchukua hatua za dharula kushughulikia suala la njaa kali inayowakabili Wamasai na kuwaruhusu kudumisha utamaduni na namna zao za kuiishi. Haki zao za kulisha ng'ombe katika maeneo ya yali-yodhibitiwa kwa ajili ya wanyama na maeneo mengine ya kitamaduni, pamoja na kilimo cha kujikimu cha bustani, vinapaswa kurejeshwa.
- Serikali ya Tanzania lazima ihakikishe usalama wa umiliki ardhi na umiliki wa jamii wa ardhi kwa wachungaji kupitia katiba na kinga ya kisheria
- Serikali ya Tanzania lazima ihakikishe kwamba ardhi yote iliyochukuliwa kinyume cha sheria inarudishwa kwa wafugaji na kutoruhusu tena kuchukuliwa kwa ardhi na kufukuzwa kinyume cha sheria.

## Msaada wa Kisheria na Suluhihisho la Kisera

Vielelezo mbalimbali nya kisheria viliyyopo katika sheria za kimataifa hutoa fursa za msaada wa kisheria kwa Wamasai. Kwa mfano, mwaka wa 2001 Mahakama ya Kimarekani ya Haki za Binadamu ilithibitisha kuwa, mbali na kutokuwapo kwa majina na matendo rasmi, vikundi nya asili nya wazawavya Nicaragua vina haki halali ya ardhi kulingana na Umiliki wa kijadi juu ya ardhi yao. Mahakama pia iliamua kuwa hawa watu wenye asili (wazawa) watabaki kuwa na haki hizo hata kama watalazimishwa kuondoka katika ardhi yao aukwa nanma yoyote ya kupokonywa bila ridhaa yao.<sup>189</sup> Maamuzi mengine ya kimahakama, yalisanywa na Tume ya Afrika ya Haki za Binadamu na Watu, ilithibitisha ukiukwaji wa haki za watu wa Endorois wa Kenya katika miaka ya 1970, wakati walipolazimishwa kutoka kwenye ardhi yao ili kupisha hifadhi ya wanyama. Tumeilibaini kuwa, ingawa ardhi yao ilikuwa hifadhi ya wanyama, watu wa Endorois walikuwa wafuatiliaji wa jadi zao na hivyo ni bora zaidi waachwe ili kuendeleza uhusiano wao wa asili na mazingira.<sup>190</sup>

Ndani ya Tanzania, kuna njia nyingi za kisheria zinazoweza kusaidia kulinda haki zao za ardhi na maisha yao kwa jumla.

Kwanza, Tanzania ni nchi mwanachama wa Mkataba wa kimataifa wa haki za kiuchumi, kijamii, na kiutamaduni (ICESCR). Kifungu cha 11 cha ICESCR kinatambua haki ya wananchi kufikia kiwango bora cha maisha, ambayo inajumuisha kuwa na chakula cha kutosha, mavazi, na nyumba. Kifungu hicho kinatambua wajibu wa nchi katika kuchukua hatua ya kuhakikisha "haki ya msingi ya kuwa huru kutokana na njaa."<sup>191</sup> Ili kutekeleza wajibu huo, nchi

zinahitajika kupitisha sera zinazofaa za kiuchumi, kijamii na za mazingira ili kuhakikisha upatikanaji wa chakula kwa kiasi cha kutosha na bora, hali kadhalika upatikanaji endelevu wa chakula. Katika hili ni wazi kuwa serikali ya Tanzania imeshindwa katika jukumu hili kwa Wamasai.

Katiba ya Tanzania pia inaitaka serikali kuheshimu, kulinda, na kutimiza haki mbalimbali za binadamu. Wakati haki ya chakula ikiwa haijaleezwa, Kifungu cha 14 cha Katiba kinahakikisha wananchi wote haki ya kuishi.<sup>192</sup> Haki ya chakula inahusishwa na haki hii na haki nyingine, ikiwa ni pamoja na haki ya afya na makazi, hali kadhalika haki mbalimbali za kiraia na za kisiasa. Hivyo, kuzuiwa kutumia rasilimali kunahusisha ukiukwaji wa haki za binadamu walizohakikishiwa wananchi wote katika Katiba ya Tanzania.

### Kifungu cha 11 ICESCR:

Mataifa Wanachama katika makubaliano haya yanatambua haki ya kila mtu kufikia kiwango bora cha maisha kwa ajili yake mwenyewe na familia yake, ikiwa ni pamoja na chakula cha kutosha, mavazi na nyumba bora, na kuendelea kuboresha hali ya maisha. Mataifa Wanachama watachukua hatua zinazofaa ili kuhakikisha haki hii inafahamika, kwa kutambua umuhimu wa ushirikiano wa kimataifa kuwa ni makubaliano ya hiari.

Mataifa Wanachama kwa makubaliano haya, yanapaswa kutambua haki ya msingi ya kila mtu kuwa huru kutokana na njaa, itahusu, mtu mmoja mmoja na kupitia ushirikiano wa kimataifa, hatua, ikiwa ni pamoja na programu maalum, ambazo zitahitajika.<sup>193</sup>

### Kifungu cha 14 cha Katiba ya Tanzania:

Kila mtu ana haki ya kuishi na ulinzi wa maisha yake kwa jamii kwa mujibu wa sheria.<sup>194</sup>

Haki ya Chakula pia inatambulika kikamilifu na Mkataba wa Afrika juu ya Haki za Binadamu na Watu, kama ilivyopewa msukumo kupitia kesi ya *SERAC v Nigeria*, iliyosikilizwa na mahakama ilioanzishwa ili kurahisisha ufafanuzi wa mkataba.<sup>195</sup>

Kwa hiyo kuna fursa nyingi za shinikizo la kimataifa na misaada ya kisheria katika kuhakikisha serikali ya Tanzania inatambua haki za kisheria na za ardhi za Wamasai. Aidha, kesi ya Wamasai ingepaswa kuchunguzwa na kushughulikiwa na kitengo maalum cha mamlaka ya Umoja wa Mataifa, ikiwa ni pamoja na Mwandishi maalum juu ya haki ya chakula; Mwandishi maalum juu ya haki za watu wa kiasili; Mwandishi maalum juu ya masuala ya makundi baguliwa; Mwandishi Maalum juu ya mateso na matendo mengine ya kikatili, yasiyo



ya kibinadamu au mabaya; na Kundi linalohusika na suala la haki za binadamu na mashirika ya kimataifa na makampuni mengine ya biashara.

Lipo pia suala la kesi iliyopo ya kisheria kati ya jamii ya Wamasai na makampuni mawili yaliyojadiliwa katika ripoti hii - TCL na OBC. Wakati matukio ya kisheria ya Kenya na Nicaragua ni muhimu kwa kurejelea haki halali za Wamasai, hatima ya kesi hizi mbili iko mikononi mwa mahakama za Tanzania. Maamuzi ya hivi karibuni juu ya kesi hizi yaliibua maswali ya msingiikiwa mahakama za Tanzania, na sasa pia Mahakama ya Haki ya Afrika Mashariki, hatimaye zitaendeleza haki za Wamasai, au zitaendelea kutetea maslahi ya wageni.

Kama ulivyo undani wa ripoti hii, kutoka nyakati za ukoloni hadi leo, sera za Tanzania za matumizi ya ardhi zimeamuliwa kwa kiasi kikubwa bila kushauriana na Wamasai.<sup>196</sup> Ni muhimu kwamba Tanzania kuachana na sheria zinazozua njia za maisha ya uchungaji zinazowatambulisha Wamasai. Badala yake, sheria inapaswa kukaribisha na kuimarisha usimamizi wa ubia wa maeneo yaliyohifadhiwa kwa kuwawezeshesha wanakijiji na mamlaka ya kijiji kusimamia wanyamapori na ardhi wanayoshirikiana. Haki ya Wamasai ya ardhi, kuishi, na maliasili lazima zitambuliwe na kuheshimiwa.

### Wajibu wa Wanaharakati Wasio wa Kiserikali

Pia kuna jukumu muhimu ambalo linapaswa kufanya na makampuni na mashirika kama vile TCL na OBC. Makampuni haya lazima, hata kwa kiwango cha chini sana, kuheshimu na kufuata haki za Wamasai, ikiwa ni pamoja na utetezi wa haki za ardhi, na kutumia rasilimali zao kusaidia kuzuia matukio yote ya vurugu, kukamatwa, kunyanyaswa, na vitisho vinavyofanyika dhidi ya Wamasai.

Mnamo 2011, Baraza la Haki za Binadamu la Umoja wa Mataifa liliidhinisha "Kanuni za Mwongozo" kwa ajili ya makampuni kuhusiana na haki za binadamu.<sup>197</sup> Mpangilio wautatu unaojulikana kama "Linda, Heshimu, Ponya" unaeleza kuwa serikali ina wajibu wa kulinda dhidi ya ukiukwaji wa haki za binadamu mikononi mwa makampuni; mashirika yana wajibu wa kuheshimu haki za binadamu; na upatikanaji wa tiba (kisheria na namna nyingine) vinapaswa kuongezeka, huku wakijua kwamba ukiukwaji bado unaweza kufanyika licha ya kuwapo kwa ahadi za awali.<sup>198</sup>

Majukumu ya ushirika yaliyotajwa katika kanuni za kuongoza ni muhimu hasa hapa. Pamoja na kazi nyingi na majukumu ambayo makampuni ya biashara wanafanya wanapaswa kuziendeleza kwa bidii ya kutosha. Hii ni pamoja na kuendesha mazungumzo yenyenye tija kwa "makundi yaliyoathiriwa" na wadau wengine, na kubadilisha mipango ya makampuni ili kuepuka na kupunguza ukiukwaji wowote unaoweza kujitokeza.<sup>199</sup>

Ingawa miongozo hii inatoa maagizo muhimu kwa makampuni, bado haijawa ya kisheria. Wakati wakuandika kwa ripoti hii, mazungumzo mbalimbali yenyenye lengo la kuanzisha makubaliano ya kisheria kulingana na misingi ya hapo juuyalikuwa bado yanaendelea.<sup>200</sup> Hata hivyo, kanuni zinaelezea matakwa ya kimaadili na majukumu ambayo makampuni binafsi yanapaswa kuyaweka wazi.

### Ungaji Mkono Ufumbuzi wa Wenyeji

Ufumbuzi wawenyeji unatoa njia za kuwahamasisha Wamasai na makundi mengine ya asili nchini Tanzania. Mfano mmojawaponi ule wa Hati za Haki za Kimila za Umiliki (CCROs), mfano mpya wa upaji majina ya ardhi uliojaribiwa na Timu ya Rasilimali za jamii ya Ujamaa (UCRT).

CCROs ni aina ya uteuzi wa ardhi ambao hufanyika chini ya sheria ya ardhi ya kijiji ya Tanzania. Kwa kawaada, imekuwa ikitolewa kwa watu binafsi, lakini kuanzia mwaka 2011, UCRT ilianza kufanya kazi na jamii za wenyeji, viongozi wa wilaya, na Wizara ya Ardhi ili kuendesha majaribio ya kuanzisha hati kwa makundi yote au jamii.<sup>201</sup> Jamii za CCRO ni jamii za kipekee kwa kuwa "huruhusu jamii nzima kupata haki zisizogawanyika juu ya ardhi yao ya kimila na kusimamia himaya hizo kwa njia ya sheria na mipango ya usimamizi. Kwa kurasmisha umiliki wa ardhi ya jamii na kutoa nyaraka za kisheria, CCROs ... huwasaidia kulinda haki zao za ardhi na kudumisha uwakili wa mazingira wa eneo lao kwa ajili ya vizazi nya baadaye."<sup>202</sup>

CCROs nazo pia zina nguvu kwa kuwa hati zinaweza kutolewa hata kwa "makundi madogo" ambayo mara nyingi hukabiliwa na ushindani au vikwazo kadhaa katika ardhi yao. Mara baada ya kupewa, huwa ni za daima, na ardhi haiwezi kuuzwa, kufanyiwa biashara, au kugawanywa bila makubaliano kamili kutoka kwa jamii nzima. Mchakato wa hatua nane za kupata hati zaidi ya hekta 250 nao huwa ni wa muda mfupi na wa moja kwa moja, kulingana na kundi.<sup>203</sup>

Kati ya mwaka 2011 na 2014, CCROs nane zilipatiwa msaada wa UCRT, mojawapo ni ule uliotolewa kwa watu wa asili ya Wahadzabe wa kaskazini mwa Tanzania. CCRO yao "ilitenga takribani hekta 20,000 za ardhi kama eneo la hifadhi la Wahadzabe na hulinda haki za jamii za Wahadzabe za kuishi, kusimamia na kutumia ardhi ya baba zao daima."<sup>204</sup> Kulingana na ripoti ya mwaka, ya 2016 ya UCRT, mwaka huo kundi lilitunza zaidi ya hekta 335,000 za ardhi kwa ajili ya matumizi ya jamii kupitia CCROs, ambayo zaidi ya mara tatu ya ardhi iliyohifadhiwa hapo awali kwa njia hii.<sup>205</sup>

Kwa maendeleo kama hayo, CCROs zinaweza kuwa fursa nzuri ya kutunza usalama wa haki ya ardhi za kimila kwa jamii za Wamasai.

## Hitimisho

Marcus Colchester, mtaalamu wa zoolojia Mwingereza, aliwahi kusema, "Ni hakika kwa sababu maeneo ambayo watu wa kiasili wanaishi hayajaharibiwa na tabia na matendo yao ya jadi ambayo sasa wanatamaniwa na wahifadhi wa mazingira ambao wanajaribu kupunguza shughuli zao au kuwafukuza kabisa kutoka kwenye ardhi zao za kimila."<sup>206</sup>

Hili haliwezi kuwa la kweli sana nchini Tanzania.

Kwa karne nyingi, Wamasai wamekuwa wakazi na watanzaji wa ardhi katika Bonde la Ufa la Afrika Mashariki tangu mababu na mababu. Jinsi wanavyoishi, maisha yao, na utamaduni vinategemea uhusiano wao wa karibu na mazingira walimo. Aina hii ya utunzaji na uhifadhi wa muda mrefu inapaswa kupongezwa na kuheshimiwa. Badala yake, Wamasai wanapigania maisha yao-na kukabiliwa na vurugu,

njaa, kufukuzwa, na magonjwa, kama ambavyo wawekezaji wa kigeni na makampuni ya utalii wanatafuta kujinufaisha kutoka kwenye uwakili walioutumikia miaka mingi.

Bila upatikanaji wa ardhi ya malisho na marambo ya maji, na bila uwezo wa kuzalisha chakula kwa ajili jamii zao, Wamasai wapo kwenye hatari katika kipindi cha karne mpya ya 21 ya *emutai* ("kusambaratika"). Huku ni kupotea kwa utamaduni, maarifa, ujadi, lugha, namna ya kuishi, uwakili wa mazingirai, na namna nyingine – ni maangamizo makubwa.

Lakini haipaswi kuwa hivyo. Tofauti na *emutai* ya karne ya 19, shida na unyanyaswaji ambao kwa sasa wanakabiliwa Wamasai, unaweza kuzuiwa. Kama tu hatua zinachukuliwa kuanzia sasa.



Overlooking the Ngorongoro Crater © The Oakland Institute



## Endnotes

- 1 In an email response to the Oakland Institute, dated November 21, 2017, Judi Wineland and Rick Thomson stated, "Thomson Safaris did not buy 12,617 acres of land." Judi Wineland. Email message, Subject: "TCL responses" sent to Anuradha Mittal. November 21, 2017, 14:10 PT.

A Thomson Safaris' blog, however, states, "Judi Wineland and Rick Thomson, the husband-and-wife team who own Thomson and TCL, purchased the land in an open bidding process in 2006 when Tanzania Breweries Ltd. put the farm up for sale" and "Today, Thomson Safaris and Tanzania Conservation Ltd. (TCL) are working alongside the Maasai to conserve this vast wilderness of wooded savannah and open grassland covering 12,600 acres within the Serengeti ecosystem." Thomson Safaris. "The Enashiva Nature Refuge." *Thomson Safaris Spotlights Good Works in Tanzania*, August 21, 2009. [https://thomsonsafaris.wordpress.com/2009/08/21/ena\\_nat\\_ref/](https://thomsonsafaris.wordpress.com/2009/08/21/ena_nat_ref/) (accessed February 28, 2018).

Documents obtained in a 2014 discovery action include a copy of the official lease from 2006 between Tanzania Breweries Limited and Tanzania Conservation Limited showing a 96-year lease was obtained for a lump sum of US\$1.2 million. Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *In Re Application of Loserian Minis, et al. for an Order Granting Leave To Issue Subpoenas for the Taking Of Discovery Pursuant to 28 U.S.C. § 1782*, Civil Action No. 1:14-mc-91050-DJC, (D. Mass. April 18, 2014), pp. TS2017-0672 - TS2017-0675.

A letter written on Thomson Safaris letterhead, also obtained through the 2014 discovery action, reads "The dilemma is that Tanzania Conservation Ltd, whom I represent, along with Thomson Safaris Ltd, have purchased land for tourism purposes under TIC from Tanzanian Breweries (TBL) in 2006, but to date we have not been granted the change of land use, thus substantially enabling various interests to frustrate the progress of the investment, to the detriment of the investors concerned, the local area, district and the countries' attractiveness as an investment destination." Letter from Thomson Safaris Ltd, December 14, 2012, *Ibid*, p. TS2017-0024.

- 2 In sworn testimony from June 2014, Judi Wineland commented: "When, a long time ago when this was all one big village, what was the Soitsambu village, there were three subvillages. And the land that [REDACTED] sits on at the moment belonged to the Sukanya, the Loita ... Laitayok ... So anyhow, this land is actually, this land actually belonged to them. And this land, when this land ended up with Tanzanian Breweries, it was the Purko who made that decision. This is what we hear, so I'll just tell you what we hear. So it was Purko who made the decision for this land, that belonged to the people of Sukanya, to go to Tanzanian Breweries." Documents obtained from Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *Op. Cit.*, p. TS2017-0330.

- 3 Direct communication with Rashid S. Rashid, Counsel for the Loliondo Maasai, September 30, 2015.

Details of the legal case are also discussed and summarized in: Gilbert, J. "Litigating Indigenous Peoples' Rights in Africa: Potentials, Challenges and Limitations." *International & Comparative Law Quarterly*, Volume 66, Issue 3 (2017), 657-686; Minority Rights Group. "Tanzania: Protecting Maasai right to land." *Law and Legal Cases*, November 11, 2016. <http://minorityrights.org/law-and-legal-cases/mondorosi-sukenya-and-soitsambu-village-councils-v-tanzania-breweries-limited-tanzania-conservation-ltd-ngorongoro-district-council-commissioner-for-lands-and-attorney-general-tanzania/> (accessed February 28, 2018).

- 4 Several internal emails, obtained in a 2014 discovery action, verify that grazing at the Enashiva site has been limited by TCL. For example: An email dated February 8, 2008 states: "For grazing, I told them that we will only discuss that during the severe drought, right now it is raining heavily every where and that there is grasses everywhere so they don't need to ask for that now." Internal email message, Subject: "RE: Loliondo Issues," February 8, 2008, 3:02AM, obtained as part of Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *Op. Cit.*, p. TS2017-0143.

Another email dated October 15, 2008 states: "This is not a big problem anymore, even people from [REDACTED] area have stopped bringing cattle to the property, but they have been coming constantly to me asking to graze, my fear is that once I allow them, then we will have herds of cattle in the property again as everyone will think it is now allowed. ... The committee is also insisting that we should allow people to graze but, I have always told them that it is a bad coincidence because it is a bad time of the year for them and this is the time that we have clients who want to see wildlife too..." Internal email message, Subject: "Loliondo report," October 15, 2008, 8:55AM, *Ibid*, p. TS2017-0213. Note: The committee mentioned in the above email is a grazing committee created by TCL to help create a grazing policy for the farm.

With regards to water access, in summer 2010, a local Maasai person emailed: "We have a big problem here, Mondorosi community are very disparate of water problems ... They have been using Pololet River of the last 4 months. Yesterday your guards turn overt [sic] 500 livestock preventing them from Pololet water source. And telling them never to come and drink water or even to across [sic] the disputed property. I'm writing this email to ask you if you could make an official statement to you [sic] staff here to allow the community surroundings the disputed property to use the pololet water and Elotim water ... We do not know if this decision to denied access to water again is made by you or somebody else. The community at Mondorosi thinks that after meeting this Friday that refused to accept [REDACTED] money for the school led to [REDACTED] decision to denied [sic] access to water. As since January 2010, we have seen improvement in [REDACTED] allowing the community access to water and grazing, and are shocked by the current change in situation. We know we are in the middle of the conflict over this property, but please do not harm so many people at this critical stage of drought." Internal email message, Subject: "urgent request," July 25, 2010, 4:26AM, *Ibid*, pp. TS2017-0105 – TS2017-0106.

In November 2013, a similar request came from local Maasai man: "Here in Tz we are having a long drought by the time being, people and livestock are moving from one place to another in search water and pasture. [REDACTED] may I please ask this question, yes we have been in land conflict for almost 8 years, when will this conflict come to an end, please take time to think about the best way of bring this misunderstanding to an end for the betterment of our people and your company." Internal email message, Subject: November 20, 2013, 12:25PM, *Ibid*, pp. TS2017-0255 – TS2017-0256.

In sworn testimony, also obtained in a 2014 discovery action, Judi Wineland argued that during the dry season, there is no water in the Pololet, and that there is only ever water on the farm at times when there is water elsewhere in the region. Their answers to questioning by lawyers from EarthRights International are as follows: "Q: Are there water sources on the land? A: Okay. What's a water source? Help me with that, because that's a real sticky thing, as you and I know. What to you is a water source? So you and I are on the same page. Q: Are there natural bodies of water on the land? A: There is a spring and there is a catchment that is called a pololet, but it's not like a raging, running river. And the spring is only there occasionally. So that's it ... Q: And the river, the pololet or the catchment, as you said, when is there water in the pololet? A: There's water in there during rainy season when there's water everywhere. In other words, it doesn't hold water where other people don't have water ... Q: But just to ask the question as, I mean, you could answer it yes or no. Do people from the surrounding communities bring cattle onto the land to drink water? A: I'm not going to answer that yes or no, because do they bring the cattle on for water? No, because there's no water there if they're bringing their cattle on. Q: You did say that there are times when there is water on the land. A: And they bring their cattle on. Q: I feel that this is a pretty simple question. A: I don't think it's simple at all." *Ibid*, pp. TS2017-0320 - TS2017-0321.

These discovery action documents also reveal that TCL employees either call police directly or the District Commissioner, who then calls the police, when situations arise on the land. While the company argues that this is only when things are confrontational ("The police are only called when the situation is escalating and people are feeling like they're being threatened or something of that nature." *Ibid*, p. TS2017-0384) the documents also demonstrate that police have been called, via the District Commissioner, for trespassing, chopping wood, and possibly for farming. See endnote 32 for more information.

**Allegations of denied access to water, grazing lands, and intimidation and violence at the hands of the police, who are sometimes called in by TCL, were also communicated to Oakland Institute researchers through in-person interviews with Maasai villagers.**

**Allegations of violence and harassment have also been made in numerous articles, and letters from the then-Special Rapporteur on the Rights of Indigenous Peoples to the Tanzanian government. See: Anaya, J., Arias, P., and J.E. Méndez. *Letter to the President of Tanzania*. Office of the United Nations High Commissioner for Human Rights. Reference: AL Indigenous (2001-8) G/SO 214 (2005-4) G/SO (53-24) TZA 1/2014. [https://spdb.ohchr.org/hrdb/27th/public\\_-\\_AL\\_Tanzania\\_02.04.14\\_\(1.2014\).pdf](https://spdb.ohchr.org/hrdb/27th/public_-_AL_Tanzania_02.04.14_(1.2014).pdf) (accessed February 28, 2018); Renton, A. "Tourism is a Curse to Us." *The Guardian*, September 5, 2009. <http://www.theguardian.com/world/2009/sep/06/masai-tribesman-tanzania-tourism> (accessed February 28, 2018); Anaya, J. & A. Katz. *Letter to the Tanzanian Government*. Reference: AL Indigenous (2001-8) G/SO 214 (2005-4) TZA 3/2013. November 14, 2013. [http://unsr.jamesanaya.org/docs/cases/2014a/public\\_-\\_AL\\_Tanzania\\_14.11.13\\_\(3.2013\).pdf](http://unsr.jamesanaya.org/docs/cases/2014a/public_-_AL_Tanzania_14.11.13_(3.2013).pdf) (accessed February 28, 2018); Friedman-Rudovsky, J. "The Ecotourism Industry is Saving Tanzania's Animals and Threatening its Indigenous People." *Vice*, May 11, 2015. <http://www.vice.com/read/casualties-of-conservation-0000649-v22n5> (accessed February 28, 2018).**

5 Elbagir, N. "Tanzania's Maasai fight government, game hunters for ancestral lands." *CNN*, May 1, 2013. <https://www.cnn.com/2013/05/01/world/africa/tanzania-maasai-eviction/index.html> (accessed February 28, 2018); Anaya, J. *Cases Examined by the Special Rapporteur (June 2009 – July 2010), A/HRC/15/37/Add.1*. James Anaya, Former United Nations Special Rapporteur on the Rights of Indigenous Peoples, September 15, 2010. <http://unsr.jamesanaya.org/cases-2010/32-united-republic-of-tanzania-alleged-forced-removal-of-pastoralists> (accessed February 28, 2018).

6 Anaya, J. *Cases Examined by the Special Rapporteur (June 2009 – July 2010), A/HRC/15/37/Add.1. Op. Cit.*

7 *Ibid.*

8 Kabendera, E. "Tanzania ends hunting deal with Dubai royal family." *The East African*, November 12, 2017. <http://www.theeastfrican.co.ke/news/Tanzania-ends-hunting-deal-with-Dubai-royal-family/2558-4182470-dv6hysz/index.html> (accessed February 28, 2018).

9 Kamal, B. "Forced Evictions, Rights Abuses of Maasai People in Tanzania." *Inter Press Service*, August 28, 2017. <http://www.ipsnews.net/2017/08/forced-evictions-rights-abuses-maasai-people-tanzania/> (accessed February 28, 2018); "Maasai displaced after huts burned in Tanzania." *BBC News*, August 16, 2017. <http://www.bbc.com/news/world-africa-40950383> (accessed February 28, 2018).

10 Kolumbia, L. "Ngorongoro eviction victims now pondering court option." *The Citizen*, September 1, 2017. <http://www.thecitizen.co.tz/News/Ngorongoro-eviction-victims-now-pondering-court-option/1840340-4078976-11da31b/index.html> (accessed February 28, 2018).

11 Tanzanian Government Communications Unit. "Zoezi La Kuondoa Mifugo Na Makazi Ndani Ya Hifadhi Ya Serengeti Na Mpaka Wa Pori Tengefu La Loliondo." *Ministry of Natural Resource and Tourism*, August 17, 2017. <http://www.mnrt.go.tz/highlights/view/zoezi-la-kuondoa-mifugo-na-makazi-ndani-ya-hifadhi-ya-serengeti-na-mpaka-wa> (accessed February 28, 2018).

12 *Ibid.*

13 Direct communication with local Maasai and civil society organization members. August 2016.

14 Kolumbia, L. "Groups demand release of activists." *The Citizen*, July 25, 2016. <http://www.thecitizen.co.tz/News/1840340-3309600-k8t898z/index.html> (accessed February 28, 2018).

15 The Tanganyika Law Society. *Press statement on the arrest of advocate Shilinde Ngalula while in the course of performing his duties as an officer of the court*. July 26, 2016. <http://tls.or.tz/wp-content/uploads/2016/07/Statement-on-Illegal-arrest-of-Advocate-Shilinde-Ngalula-Signed.pdf> (accessed February 28, 2018); Ubwani, Z. "Tanzania: Police Break Up Lawyers' Protest March in Arusha." *The Citizen*, July 27, 2016. <http://allafrica.com/stories/201607270699.html> (accessed February 28, 2018).

16 The Tanganyika Law Society. *Press statement on the arrest of advocate Shilinde Ngalula while in the course of performing his duties as an officer of the court*. *Op. Cit.*

Local reports suggest that communication with Susanna Nordlund, a Swedish blogger who writes about land-related human rights violations in Loliondo, might have sparked the arrests. Kolumbia, L. "Groups demand release of activists." *Op. Cit.*

17 Direct communication with the civil society organizations, September 5, 2016.

18 Kabendera, E. "Tanzania ends hunting deal with Dubai royal family." *Op. Cit.*

19 Direct communication with local villagers, ongoing since 2016.

20 Direct communication with a local Maasai researcher, September 24, 2015.

21 The Maasai Association. *The Maasai People*. <http://www.maasai-association.org/maasai.html> (accessed February 28, 2018).

22 New World Encyclopedia. *Maasai*. <http://www.newworldencyclopedia.org/entry/Maasai> (accessed February 28, 2018); Blue Gecko. *Maasai – History*. <http://www.bluegecko.org/kenya/tribes/maasai/history.htm> (accessed February 28, 2018).

23 New World Encyclopedia. *Maasai*, *Op. Cit.*

24 Blue Gecko. *Maasai – History*. *Op. Cit.*

25 New World Encyclopedia. *Maasai*, *Op. Cit.*

26 *Ibid.*; The Maasai Association. *The Maasai People*. *Op. Cit.*

27 *Ibid.*

28 The Maasai Association. *The Maasai People*. *Op. Cit.*

29 *Ibid.*

30 Direct communication with local villagers, September, 2015.

31 As discussed in endnote 1, Tanzania Conservation Limited (TCL) paid Tanzania Breweries Limited (TBL) US\$1.2 million to obtain a 96-year lease over 12,617 acres of land in an open bidding process in 2006. As noted later in the report, three Maasai villages situated on this land argue that the sale of the land lease was not valid both because the initial sale of the land to Tanzania Breweries Ltd (TBL) in 1984 allegedly took place without their consent, and because TBL then abandoned the land in 1990. The villages assert that they are, therefore, the owners of the land through adverse possession. More details and citations regarding these allegations and the ensuing court case are found later in this report in the section entitled "Seeking Recourse through the Courts."

Aspects of this case have been reported on extensively, including in Gardner, Benjamin. 2016. *Selling the Serengeti: The Cultural Politics of Safari Tourism*. University of Georgia Press; and in Gilbert, J. "Litigating Indigenous Peoples' Rights in Africa: Potentials, Challenges and Limitations." *Op. Cit.*

32 Oakland Institute researchers did not independently verify if anyone was shot at by TCL employees or guards.

Journalists have reported that TCL staff are unarmed (see, for example, Renton, A. "Tourism is a Curse to Us." *Op. Cit.*). In sworn testimony obtained from a 2014 discovery action, Rick Thomson states: "The company has no firearms to issue to them ... No one has, is allowed or is issued with a firearm to carry." Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *Op. Cit.*, p. TS2017-0395.

This same sworn testimony reveals that TCL relies on the wildlife division and local police to provide security at their property in Loliondo. Staff from the wildlife division and local police are paid for their services, carry firearms, and are not bound by the code of conduct of the company, which outlines rules and guidelines around violence and confrontations. The testimony, in response to questions from lawyers at EarthRights International is as follows: "Q: To your knowledge does [REDACTED] employ or contract individuals to provide security on the farm? A: Yes. Q: Who are those individuals? A: We source security from two places, either the wildlife department or the police department." When asked whether it is an informal arrangement,



Rick Thomson responded: "A: Yeah. In mean, informal in the sense that, I just want to let you know that tomorrow we've got some guests coming to the camp. We need a couple of your wildlife department guys to come to the camp and give us security, and that's that. ... When they perform duties outside of their station, we have to pay them, I believe it's 10,000 shillings a day, for that ... Q: Do these wildlife division rangers carry firearms? A: They do, yes. ... Q: Do you know if these wildlife division rangers would sign the code of conduct? A: No, they wouldn't." *Ibid*, p. TS2017-0394.

Documents obtained in the same discovery action reveal that TCL employees either call the police directly or the District Commissioner, who then calls the police, when situations arise on the land. Rick Thomson argues that this is only when things are confrontational ("The police are only called when the situation is escalating and people are feeling like they're being threatened or something of that nature." *Ibid*, p. TS2017-0384).

The documents also demonstrate that police have been called, via the District Commissioner (DC), for trespassing, chopping wood, and possibly for farming. For example: "The cops, under the direction of the DC detained 5 herders who were grazing on [REDACTED] without permission. This follows the protocol established by the DC, whereby [REDACTED] was told that he cannot take any direct action towards herders. He must call the OCD who will deal with it ... and so they did ... by detaining the herders ... last week." Internal email message, Subject: "Detained herders," July 30, 2012 11:57AM, *Ibid*, p. TS2017-0472.

Response: "Nice to know that it is the DC and police that are dealing with this, that we are out of that picture in the sense that we did not have face to face conflict and the usual thing of being accused of beating people etc." Internal email message, Subject: "Detained herders," July 30, 2012 12:07PM, *Ibid*, p. TS2017-0471.

"I have not updated you on the guy whom did open a farm at the northern corner of [REDACTED] ... Recently when it was raining a lot and pololet floods that we can not cross to the other side ... then he started farming, I immediately communicated the matter to the DC whom ordered the Game officer to follow up on the issue ... I told the game officer that, we have nothing to discuss, the fact is that the guy want [sic] to farm inside the property and he should stop immediately ... I then I called the DC ... the DC told me that he is in Arusha attending the meeting but he will give a call to Ngoitiko to tell him to tell the guy to stop farming otherwise the DC will arrest him. (I hope so)." Internal email message, Subject: "Farm encroachment," January 9, 2014, 9:15AM, *Ibid*, pp. TS2017-0292 – TS2017-0293.

Sworn court testimony shows that a man named Mr. Meitaya was arrested on the property for having cut down wood. When Rick Thomson was asked about the incident under oath, he replied, "He was discovered with, you know, a surprisingly large amount of cut wood. And I don't think he had a whole lot to say about it. And I believe he was taken to court." When asked, "Do you know if Mr. Meitaya happens to live in the settlement in the northeastern corner [of the Enashiva property] that we just discussed?" the answer was, "I think I've learned that he does." Mr. Thomson could not answer where he was found cutting the wood. *Ibid*, p. TS2017-0383.

The specific case of the shooting of Lesingo Ole Nanyoi is addressed in endnote 43.

A letter from John Bearcroft, General Manager of TCL, to the Oakland Institute, states "The allegations and questions regarding the role of government, police, commissioner of lands, government policy, etc., including the alleged intimidations and impacts that you mention, must be addressed directly to the proper authorities in government ... We cannot speak for them, nor can we accept responsibility or blame for the policies, decisions, actions and impacts of government of what you or any of us might believe is wrong." John Bearcroft. Letter to Anuradha Mittal, September 14, 2017.

- 33 Direct communication with a villager, Mondorosi village, September 26, 2015.
- 34 Direct communication with villagers, Mondorosi village, September 26, 2015.
- 35 Oakland Institute researchers did not independently verify if anyone was shot at by TCL employees or guards. Please see endnote 32 for more information.

- 36 Direct communication with villagers, Mondorosi village. *Op. Cit.*
- 37 For more information on the Maasai's allegation that these lands were stolen, please see the section "Seeking Recourse through the Courts."
- 38 Direct communication with villagers, Mondorosi village. *Op. Cit.*
- 39 TCL denies this allegation. In sworn testimony from June 18, 2014, Rick Thomson commented: "That kids are walking 16 kilometers a day each way to get to school, because we're not, you know, we're not, we're restricting them somehow. That's nonsense." In the same testimony, when asked "Do you know of any communities that would require attending school across the property, the other side of the property, let's say a community that doesn't have its own school?" his response was "Not really. I mean I've heard people talk about this matter, but I don't really, I don't really know names of areas or so on." Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *Op. Cit.*, p. TS2017-0386.

In the Plaintiffs Written Closing Brief from the case of Mondorosi, Sukanya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al., Joshua Makko, Chairman of Mondorosi Village, "clarified that the children who lived in either of the sub-villages of Enadooshoke or Irmasingil must necessarily pass through the disputed land to get to Mondorosi primary school and that they were therefore hindered or prohibited from getting to school by the 2<sup>nd</sup> Defendant [Tanzania Conservation Ltd]." High Court of Tanzania at Arusha. *Plaintiff's Written Closing Brief in case of Mondorosi, Sukanya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Land Case No. 26. 2013*, p. 12. Joshua Makko testified on December 10, 2014.

- 40 Allegations that the Maasai have lost access to grazing areas, and have faced arrest and intimidation by the local police were elevated and brought to the attention of the Tanzanian government by then-Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, and the Chair-Rapporteur on the Working Group on the Use of Mercenaries, Anton Katz, in correspondence from November 2013. The letter states: "It is reported that since the 2006 evictions, the private security guards connected to TCL and local police have continually subjected Maasai pastoralists to acts of intimidation, harassment, and beatings when they have attempted to graze their cattle or access water points in the disputed land area. It is also alleged that Maasai pastoralists attempting to access Sukanya Farm are often detained by the company security guards or police and taken to local prisons where they are required to pay a substantial fee in order to be released." Anaya, J. & A. Katz. *Letter to the Tanzanian Government. Op. Cit.*

For more information on allegations of lost access to grazing areas and facing arrest and intimidation by the local police, please see endnotes 4 and 32.

- 41 Thomson Safaris disputes these allegations.

Regarding the shooting of Lesingo Ole Nanyoi, the company claims he was part of a group that came onto the Enashiva land and threatened TCL staff. "In April of 2008, a group of almost 30 armed young men entered Enashiva and threatened [REDACTED] who later contacted the local police. The police arrived, firing off warning shots in the air, and eventually taking 3-4 of the young men into custody ... Later, community groups alleged that Lesinko ole Nanyoi was shot on the land during this altercation and was in critical condition." Internal email message, Subject: "Conde Nast traveler and Thomson Safaris." June 9, 2010, 3:16PM, Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *Op. Cit.*, p. TS2017-0191.

Thomson Safaris argues that Lesingo Ole Nanyoi could not have been shot by the police because of the nature of the weapons used ("The police were there with automatic police weapons ... He was lucky he didn't lose his head if he got shot by one of their weapons. How could it have just resulted in that wound to his jaw?" *Ibid*, p. TS 2017-0386.) and alleges that Nanyoi went to Kenya for treatment ("And then the really weird thing is that instead of him crying out for help immediately, he somehow gets himself to a clinic in Kenya ... why he didn't just ask for help and people would have taken him immediately to Wasso Hospital which was, in my way of thinking, the closest place to go." *Ibid*, pp. TS2017-0386 – TS2017-0387).

This same testimony also reveals that the company obtained medical records for Mr. Nanyoi from a Dar Es Salaam hospital, including admit and discharge dates, blood tests, and notes from the examining physician stating: "The above named patient admitted following traumatic injury of the chin due to gun shot which led to upper mandibular fracture." When asked how the company came to possess this document, the response was "Maybe we printed it off of the Internet." *Ibid.*, p. TS2017-0389.

In an email response from Judi Wineland to Anuradha Mittal on November 21, 2017, in response to allegations of violence on the Sukenya property, they state "These are mere allegations and we reserve our right to demand for evidence to proof the same." Judi Wineland. Email message, Subject: "TCL responses" sent to Anuradha Mittal. November 21, 2017, 14:10 PT.

Allegations regarding the shooting of Olunjai Timan are also contained in Friedman-Rudovsky, J. "The Ecotourism Industry is Saving Tanzania's Animals and Threatening its Indigenous People." *Op. Cit.*

- 42 Direct communication with ██████████, a villager in Mondorosi village. September 26, 2015.
- 43 The farm is known locally as Sukenya Farm. Enashiva means "happiness" in the Maasai language, *Maa*.
- 44 Thomson Safaris. "The Enashiva Nature Refuge." *Op. Cit.*
- 45 Batundi, F. "Tanzania: Maasai Land Dispute with Safari Tourism Group." *Minority Rights Group*, March 22, 2012. <http://www.minorityvoices.org/news.php/en/1055/tanzania-maasai-land-dispute-with-safari-tourism> (accessed February 28, 2018).
- 46 *Ibid.*
- 47 *Ibid.*; Gardner, Benjamin. 2016. *Selling the Serengeti: The Cultural Politics of Safari Tourism*. *Op. Cit.*, pp. 120-121.
- 48 Batundi, F. "Tanzania: Maasai Land Dispute with Safari Tourism Group." *Op. Cit.*
- 49 High Court of Tanzania at Arusha. *Plaintiff's Written Closing Brief in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.*
- 50 High Court of Tanzania at Arusha. *Defendants' Joint Final Submissions*. Land Case No. 26 of 2013, pp. 1-2.
- 51 High Court of Tanzania at Arusha. *Plaintiff's Written Closing Brief in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.* This case is also discussed in Gardner, Benjamin. 2016. *Selling the Serengeti: The Cultural Politics of Safari Tourism*. *Op. Cit.* and in Gilbert, J. "Litigating Indigenous Peoples' Rights in Africa: Potentials, Challenges and Limitations." *Op. Cit.*
- 52 High Court of Tanzania at Arusha. *Plaintiff's Written Closing Brief in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.*, p. 29.
- 53 *Ibid.*, p. 30.
- 54 *Ibid.*, p. 29.
- 55 High Court of Tanzania at Arusha. *Judgment in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al.* Land Case No 26. 2013.
- 56 Direct communication with Rashid S. Rashid, Counsel for the Loliondo Maasai, September 30, 2015.
- 57 *Ibid.*
- 58 High Court of Tanzania at Arusha. *Plaintiff's Written Closing Brief in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.*; High Court of Tanzania at Arusha. *Judgment in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.*
- 59 High Court of Tanzania at Arusha. *Plaintiff's Written Closing Brief in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.*, pp. 24-25. Sandet Ole Reya testified on May 13, 2015.

Similar allegations were asserted in letters from various UN Special

Rapporteurs: Anaya, J. & A. Katz. *Letter to the Tanzanian Government*. *Op. Cit.*; Anaya, J., Arias, P., and J.E. Méndez. *Letter to the President of Tanzania*. *Op. Cit.*

- 60 High Court of Tanzania at Arusha. *Plaintiff's Written Closing Brief in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.*, p. 25. Shangwe Ndekere testified on May 13, 2015.

TCL argues that these were temporary structures that had been abandoned. In sworn testimony from 2014, when being questioned by lawyers from EarthRights International, Judi Wineland responded with the following: "Q: When ██████████ to your knowledge were there any existing structures on the land? A: Yes. Q: What structures were there? A: There were TBL structures where the TBL staff was living that was on the land. Q: And were there any other human made, any other things built by humans? A: Other things built by humans? From what I hear there were some old thorny fences that were on the land at some point. But otherwise, I'm looking around, no, that I know of ... Q: Who told you about there being old thorny fences at ██████████? A: The first time I heard that there were old thorny fences at ██████████ was where – I don't know if it was ██████████ contacted us to say that the regional commissioner had flown up to see, because somebody in the neighborhood, ██████████, was telling everybody that we were burning down homes on our land that belonged to Maasai. He flew up, pissed as a rat, that she had done this, because it was not. It was thorny brushes and he looked at that. And then he wrote to me – He wrote to us, actually, cc'd to me, about this happening. And that was the first time I even knew they were on the property ... Q: And was ██████████ burning those thorny obstacles? A: Yes, I hear that they did." Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *Op. Cit.*, pp. TS2017-0318 – TS2017-0319.

The testimony also confirmed that it was since discovered that additional bomas exist on the Enashiva property. In the testimony, Judi Wineland stated: "We found out that there are, there's a boma inside our property that we didn't know about. And there is one, but it's not – So it's not been built. All the questions you have asked me. It's been there all along. We just didn't know that our land went to the far corner where this place is. Q: Do you know who lives in those bomas? A: I'm trying to give you a name, but the family of a fellow who ended up in the hospital. I'm sorry, I can't remember his name ... Q: Was that the man who was shot? A: Somewhere, yeah. Not on our property, but somewhere. Q: Lesingo Ole Nanyoy? A: Nanyoy's family. I think that's who that is." *Ibid.*, pp. TS2017-0339 – TS2017-0340.

- 61 High Court of Tanzania at Arusha. *Judgment in case of Mondorosi, Sukenya, and Soitsambu Village Councils v. Tanzania Breweries Ltd, et al. Op. Cit.*
- "The title deed reads 12,617 acres. Any changes made to the size of the land did not happen under the ownership of the land by TCL. This is the correct position regarding the appeal. The Villages as any other litigant in Tanzania have a constitutional right to appeal against a decision of any court or tribunal should they feel aggrieved." Judi Wineland. Email message, Subject: "TCL responses" sent to Anuradha Mittal. November 21, 2017, 14:10 PT.
- 62 Direct communication with Rashid S. Rashid, Counsel for the Loliondo Maasai, *Op. Cit.*
- 63 Thomson Safaris. *Thomson Safaris Affiliations & Awards*. <http://www.thomsonsafaris.com/affiliations-awards> (accessed April 12, 2016). This webpage is no longer active online, but a previous version can be found at: <https://web.archive.org/web/20170514065450/http://www.thomsonsafaris.com/affiliations-awards> (accessed February 28, 2018).
- 64 Direct communication with young herders, September 2015.
- 65 These allegations have not been independently verified by Oakland Institute researchers. They have, however, been extensively reported, including by the following sources: Friedman-Rudovsky, J. "The Ecotourism Industry is Saving Tanzania's Animals and Threatening its Indigenous People." *Op. Cit.*; Renton, A. "Tourism is a Curse to Us." *Op. Cit.* Additional information regarding these allegations can be found in endnotes 4 and 32.
- 66 Anaya, J., Arias, P., and J.E. Méndez. *Letter to the President of Tanzania*. *Op. Cit.*
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- 68 Renton, A. "Tourism is a Curse to Us." *Op. Cit.*
- 69 *Ibid.*; Friedman-Rudovsky, J. "The Ecotourism Industry is Saving Tanzania's Animals and Threatening its Indigenous People." *Op. Cit.*
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- 174 Direct communication with villagers from Nainokanoka village. September 26, 2015.
- 175 During field research, "Force Brook" was mentioned often as one of the Conservators in Ngorongoro Conservation Area (NCA) who proposed the burning of cultivation in Ngorongoro claiming it to be a threat to a world heritage site.
- 176 Direct communication with a villager, Nainokanoka village. September 27, 2015.
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- Regarding the due diligence conducted before purchasing the Enashiva sight, in sworn testimony from 2014, Judi Wineland provided the following response during dialogue with EarthRights International lawyers: "Q: Did you check whether there were any conflicting claims to [REDACTED] before you bought it? A: I wasn't the person who was responsible for buying the property. We worked with our lawyer and there were – Nothing, I remember there was no conflict. There was no mention of conflict. Q: So if someone had done a check for conflicts, it would have been your lawyer, is that right? A: I don't know. Who does a check for conflicts? I don't know if it would have been my lawyer or if it would have been – I don't know who would have done that. Most likely our lawyer told us it was a free and clear and titled, deeded piece of property. Q: Did you check whether any people were using the land before you bought it? A: I'm the wrong person to ask. I'm sorry." Wineland-Thomson Adventures, Inc., d/b/a Thomson Safaris ("Thomson Safaris") and Thomson Safaris' owners, Judi Wineland and Warwick Thomson, during the discovery action, *Op. Cit.*, p. TS2017-0317.
- An internal email produced as part of the discovery action also addresses this issue: "We bought this land not understanding the difficulties of clan warfare that was taking place in Loliondo ... We carefully, as all Americans do, did our title searches ... but what we might not have realized is that we should have done a "clan search, or a community search"...like here when you buy property you look at the neighbor hood [sic] that you are moving into, you look at the schools, you look at the political aspects. We didn't really do that well enough." Internal email message. Subject: "RE: Loliondo" June 7, 2010, 11:44AM, *Ibid.* pp. TS2017-0177 – TS2017-0178.
- Testimony from Rick Thomson also touched on this issue. "Q: Did you or the guides that you sent previously ask any questions about whether or not any of the members of a certain community had any use for the land or were using the land at the time? A: Well, no. I mean, not really in that sense. I mean, it was TBL property. You know, it wasn't a huge thought in my mind." *Ibid.* p. TS2017-0367.
- Later, while discussing details about a meeting conducted with local elders prior to purchasing the property, Mr. Thomson answered questions as follows: "Q: Did you go to several different of the settlements around the property at that time? A: Well, I think rather than go to all around the place, because I wasn't that familiar yet with all these places, but somehow we called a meeting and I think [REDACTED] might have helped with that. And so we sort of had a group of elders and, you know, chatted to them, talked to them. Q [REDACTED] had experience in the area, so he was able to call a meeting? A: [REDACTED] is a guy who had bought a prior property from Breweries – not in the area, but, you know, and he was our, yeah, he – I went with him to look at the property the first time, you know, and have a look around and investigate it personally so I could have a look at it. So he kind of toured me around." *Ibid.* p. TS2017-0371.
- 200 Business & Human Rights Resource Center. *Latest news on proposed binding treaty*. <https://business-humanrights.org/en/binding-treaty/latest-news-on-proposed-binding-treaty> (accessed February 28, 2018).

- 201 Lekaita, E., Nelson, F., and J. Davie. *Securing Communal Land Tenure in Northern Tanzania Using Certificates of Customary Right of Occupancy*. Ujamaa Community Resource Team, 2014. [http://www.ujamaa-crt.org/uploads/1/2/5/7/12575135/ucrt\\_ccro\\_brief\\_2\\_014.pdf](http://www.ujamaa-crt.org/uploads/1/2/5/7/12575135/ucrt_ccro_brief_2_014.pdf) (accessed February 28, 2018).
- 202 Goldman Environmental Prize. *Edward Loure: 2016 Goldman Prize Recipient*. <http://www.goldmanprize.org/recipient/edward-loure/> (accessed February 28, 2018).
- 203 Lekaita, E., Nelson, F., and J. Davie. *Securing Communal Land Tenure in Northern Tanzania Using Certificates of Customary Right of Occupancy*. *Op. Cit.*
- 204 *Ibid.*
- 205 Ujamaa Community Resource Team. *Annual Report 2016*. [http://www.ujamaa-crt.org/uploads/1/2/5/7/12575135/ucrt\\_ar\\_2016.compressed.pdf](http://www.ujamaa-crt.org/uploads/1/2/5/7/12575135/ucrt_ar_2016.compressed.pdf) (accessed February 28, 2018).
- 206 Quoted in: Dowie, Mark. 2009. *Conservation Refugees: The Hundred Year Conflict between Global Conservation and Native Peoples*. Cambridge: MIT Press, p. 265.



