

LOSING THE SERENGETI

THE MAASAI LAND THAT WAS TO RUN FOREVER



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The Oakland Institute

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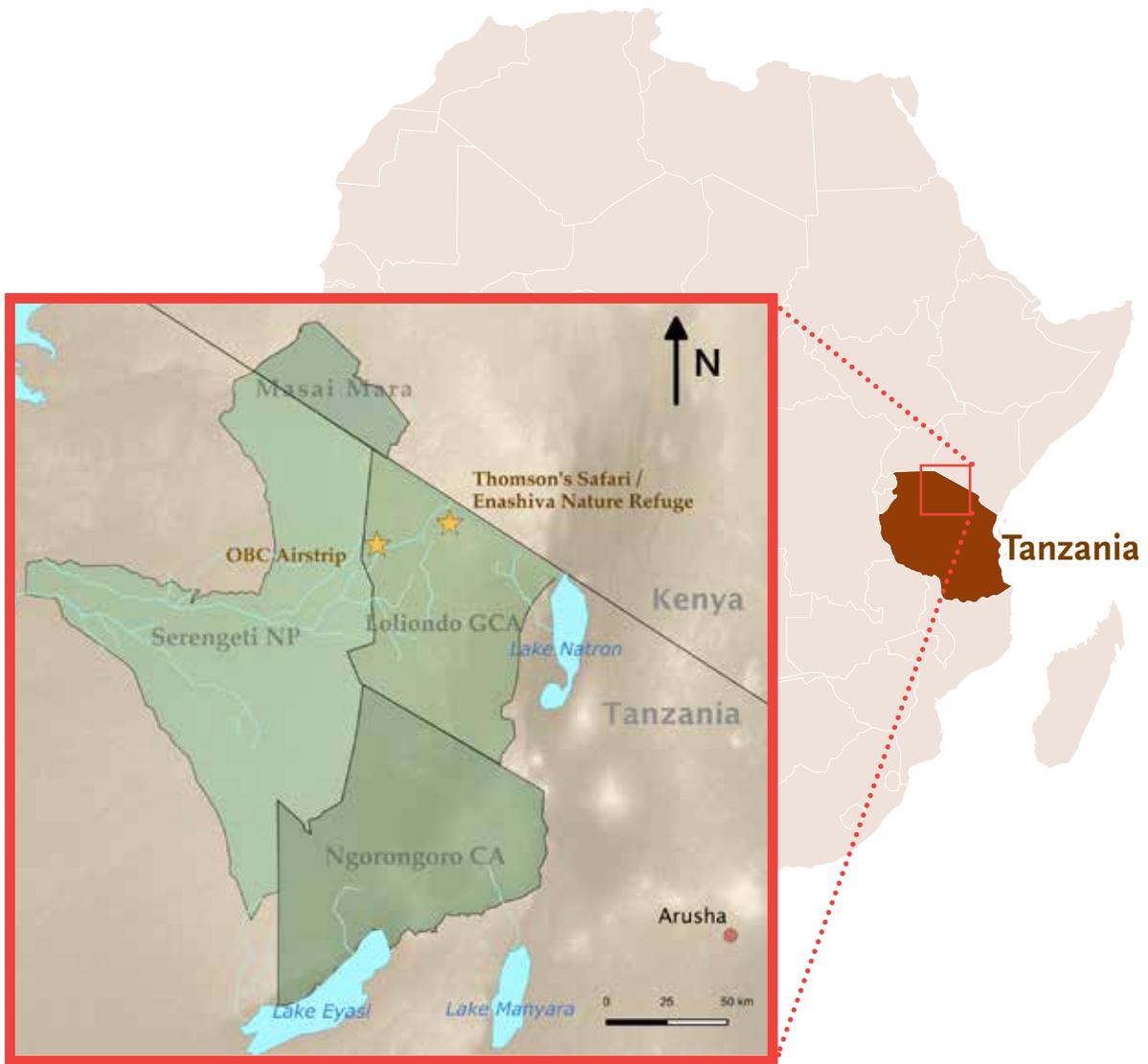
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Terms & Acronyms

Boma	A thorn-bush compound that includes a series of small huts that house the Maasai, and provides an enclosure for cattle.
CCRO	Certificates of Customary Right of Occupancy
CSO	Civil Society Organization
FAO	Food and Agriculture Organization of the United Nations
FEMACT	Feminist Activist Coalition
GCA	Game Controlled Area
GMP	General Management Plan
Ha	Hectare
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IUCN	International Union for Conservation of Nature
LGCA	Loliondo Game Controlled Area
LHRC	Legal and Human Rights Centre
Maa	The traditional language of the Maasai
MRG	Minority Rights Group
NCA	Ngorongoro Conservation Area
NCAA	Ngorongoro Conservation Area Authority
NGONET	Ngorongoro NGOs Network
NPC	Ngorongoro Pastoralists Council
OBC	Ortello Business Corporation
Orpul	A traditional Maasai ceremony
PINGOs Forum	Pastoralists Indigenous Non-Governmental Organizations Forum
SNP	Serengeti National Park
TBL	Tanzania Breweries Limited
TCL	Tanzania Conservation Limited
UAE	United Arab Emirates
UCRT	Ujamaa Community Resource Team
UNESCO	United Nations Educational, Scientific, and Cultural Organization
WMA	Wildlife Management Area



“The United Republic of Tanzania has always expressed reservations on the claim that indigenous communities exist in her jurisdiction. In our case, indigenous concept found favor during the colonial era; a notion intended to belittle local communities as inferior and there has never been critical thinking to balance the nuance of this definition. As a result, underdeveloped societies are defined as indigenous rendering their culture “alien” and of low esteem. It is in this regards that we have difficulties in accepting the notion hence the definition itself. We believe that culture adopts itself to the environment as it evolves.

Colonialism subjected pastoralist societies in Africa to perpetual marginalization and discrimination leading them to remain backward. Cognizant of this situation, immediately after independence, Tanzania adopted measures that were meant to engender the wellbeing of all people regardless of their ethnicity or tribal affiliation to redress inherent imbalances.”

– Statement by H.E. Ambassador Ramadhan M Mwinyi, Deputy Permanent Representative of the United Republic of Tanzania to the United Nations. Twelfth Session of the Permanent Forum on Indigenous Issues. May 23, 2013.



Maasai man entering his hut © The Oakland Institute



Maasai man with his cows in the Ngorongoro Conservation Area © The Oakland Institute

Executive Summary

In East Africa, the Great Rift Valley stretches lush and green for thousands of miles, threaded with streams, speckled with lakes, and home to some of the most diverse and abundant wildlife on the continent. For centuries it has also been home to the Maasai, semi-nomadic pastoralists who graze their cattle in the rhythm of the seasons, following the flush of grass, blending with the patterns established by the wild populations. The Maasai were once as rich as the land that supported them. Maintaining its health had everything to do with their own prosperity. Such an intimate connection made them de facto stewards of the land, conservationists without title or designation.

As with agriculturists the world over, the Maasai have weathered disease and drought, but the most serious threats of the past 75 years have come in the form of conservation laws, and more recently, foreign investment. As areas have been deemed “protected” or transferred to new owners, the Maasai have been driven into smaller and smaller areas,

creating a map of confinement that is as stifling and foreign to them as a zoo to a lion.

Starting in the mid-20th century, a series of land and wildlife laws aimed at conservation in Northern Tanzania pushed the Maasai off large tracts of their traditional land, including present-day Serengeti National Park. Initially, the Maasai were offered concessions – for instance, to relocate to the neighboring region of Loliondo and the Ngorongoro Conservation Area. But for the past half-century, they have continued to face numerous evictions even from these regions, while additional laws have curtailed their rights to graze cattle and cultivate subsistence gardens, leading to widespread hunger. When the rules of government are superimposed over the rules of nature, nature does not yield, but those who rely upon it – the indigenous – are forced to adapt, which usually means surrendering a way of life.



More recently, with ecotourism becoming the fastest growing sector within the tourism industry, East Africa's Rift Valley has become a tourist destination, and to some, the Maasai are interruptions to the pristine view and wildlife experience advertised by the industry. Two tourism-based companies in Loliondo have had a particularly negative impact on the Maasai – Tanzania Conservation Limited (TCL), a company owned by the couple that owns Boston-based Thomson Safaris, and the United Arab Emirates (UAE)-based Ortello Business Corporation (OBC).

In 2006, TCL purchased a 96-year lease to 12,617 acres of land in Northern Tanzania from Tanzania Breweries Ltd (TBL).¹ Three surrounding Maasai villages contest the sale of this land arguing that the land was sold to TBL in 1984 without their consent.² TBL then abandoned the land in 1990. The Maasai villages assert that they are, therefore, the owners of the land through adverse possession.³ Since TCL began occupying the land, the local communities have been

denied access to vital grazing areas and watering holes, and face intimidation and violence from police, who are sometimes called in by the safari company, which has since established its business on the land.⁴ For more information about these allegations, please refer to the endnotes 4, 32, and 41.

Operations of the Ortello Business Corporation have also impacted the Maasai. In 1992, the OBC was granted a hunting license for 400,000 ha – home to more than 50,000 Maasai.⁵ Community resistance over more than 20 years led the government to reduce the area to 150,000 ha. The license allowed the UAE's royal family to conduct private hunting trips and the company even built an airstrip for exclusive use.⁶ The OBC also restricted access to lands and water used by the Maasai. In addition, Tanzanian government forces, in collaboration with OBC security guards, have violently evicted several Maasai communities – burning their *bomas*, their belongings, and displacing



A *boma* in the Ngorongoro District © The Oakland Institute

their livestock.⁷ After decades of complaints against the company, Hamisi Kigwangalla, the newly appointed Natural Resources Minister, terminated OBC's 25-year-old hunting concession in November 2017, suspended the Director of Wildlife, and ordered investigations into the dealings of the OBC as well as former Tanzanian tourism ministers.⁸

These actions – in tandem with ongoing conservation pressures, laws passed by the Tanzanian government, and some government officials who favor investors over the Maasai – haven't just pitted indigenous land rights against tourism and conservation. They actively disregard the Maasai way of life, and have led to intimidation, loss of livelihoods, starvation, and violent evictions.

This report exposes the hardships faced by the Maasai in the Loliondo region of Tanzania. It weaves together the travails of the communities most impacted by recent events with a history of land laws, unpacks various legal challenges, and exposes how these forces are leading to starvation, outbreaks of disease, and the destruction of a

way of life. The report also explores various ways forward, including immediate actions that must be taken, such as the restoration of the rights to graze and practice subsistence agriculture in Game Controlled Areas and the need for clear security of land tenure for the Maasai; various legal and policy remedies via the right to food and international case law; the role of non-state actors, including an exploration of the UN's Guiding Principles for businesses on human rights; and local grassroots innovations such as Certificates of Customary Right of Occupancy (CCROs).

While this report focuses on the plight of the Maasai in Northern Tanzania, it is a reality that is all too familiar to indigenous communities around the world. In too many places, national governments, private corporations, and large conservation groups collude in the name of conservation, not just to force indigenous groups off their land – but to force them out of existence.

This colonization of indigenous land in the name of conservation must end.



Children from Kartalu village © The Oakland Institute





Prologue

In August 2017, fire and destruction ripped through several Maasai communities in Tanzania's Loliondo region. Early reports suggested that 185 *bomas* had been demolished, displacing thousands of villagers, destroying their food, and leading to the loss of livestock along the way.⁹ By early September, the extent of the damage had grown, with reports that 19 people had been arrested, 11 seriously injured, over 5,800 homes damaged, more than 20,000 left homeless, and significant losses of livestock.¹⁰

According to the Tanzanian Ministry of Natural Resources and Tourism, the violent evictions began on August 10, 2017 and were set to last for two weeks. The Ministry's press release notes that *bomas* were being burned under government orders, in order to preserve the ecosystems in the region and attract more tourists.¹¹ Claiming that false information was being spread about the nature of the exercise with the intention of generating hate against the government for its actions, the Ministry's statement warned persons found to be misleading others.¹²

A year before, in July 2016, similar intimidation was waged against the Maasai in Loliondo, when eight individuals – including villagers, civil society organization (CSO) members, and secondary school teachers¹³ – were arrested.¹⁴

When a local lawyer and member of the Tanganyika Law Society, Advocate Shilinde Ngalula, attempted to follow up on these arrests, he was arrested as well. Though later released, he was not allowed to meet his clients who were still in detention. When he arrived at the District Court as the counsel for the arrested, Ngalula was re-arrested in the court precincts – this time in his full court attire.¹⁵ According to the Tanganyika Law Society, the July 2016 arrests were allegedly linked to the long-standing land conflict between the Maasai pastoralist communities and foreign investors from the United Arab Emirates (UAE) and United States.¹⁶

It was through media and advocacy efforts of the Legal and Human Rights Centre (LHRC), Tanzania Human Rights Defenders Coalition, and the Tanganyika Law Society, that the accused were released on bail.¹⁷ However the arrests significantly worsened the climate of fear among the Maasai villagers.

In November 2017, OBC's hunting license was cancelled and an investigation was launched by the Tanzanian government's anti-corruption bureau.¹⁸ Local communities, however, remain cautious as they push for the land in dispute – 150,000 ha – to be gazetted as a Wildlife Management Area (WMA) as opposed to a Game Controlled Area, in effect a No-Go-Zone for the communities. If declared a WMA, the process of creating the new land-use management plan will take at least two years, requiring meaningful consultation and the involvement of local communities.

Furthermore, the Ngorongoro Conservation Area (NCA) is undergoing a new General Management Plan (GMP) after the expiry of the previous one. However, the Ngorongoro Pastoralist Council (NPC) – the organization that represents NCA residents – and the community members, have not yet been consulted.¹⁹

Given the ongoing repression and widespread fear, the names of those interviewed for this report and any information that might endanger the informants and all who supported the research, has been redacted to ensure their safety and to protect them from retaliatory measures. The Oakland Institute is very grateful to all who were willing to speak to us and who continue to courageously stand up to challenge the widespread oppression and theft of the Maasai lands and resources.

This report is dedicated to them and their daily struggles.

The Maasai

In Maa, the Maasai language, Serengeti means, “the place where the land runs on forever” or “endless plains.” With its rivers, forests, marshes, savannahs, and arid expanses, home to nearly 70 large mammal and over 500 bird species, the Maasai herd their cattle alongside wild animals. The Serengeti has been the Maasailand for centuries.

“The red that the Maasai wear symbolizes the strength of the community ties. It is the color of the blood of our cows with whom we have a special relationship. As children we learn to take care of them...to look for signs of disease, where to graze, and how to avoid the poisonous bushes. Or what to do if the lions or hyenas attack...Sometimes the rivers flood, making it impossible to return home. Sometimes it gets late and the night comes... As the children of the Maasai, we are taught early on how to overcome fear and bring ourselves and cows home safely.”²⁰

The Maasai – fierce warriors known for their tall elegant features, bright shuka shawls, and colorful beads – have captured the imagination of the outside world for decades.

But who are they?

The Maasai, a semi-nomadic ethnic group, are based in the Great Rift Valley of East Africa, between Northern Tanzania and Southern and Central Kenya.²¹ They have inhabited the region for centuries, moving their herds of cattle with the seasons.

Oral history tells that the Maasai originated in the Lower Nile Valley, not far from Lake Turkana, near the present-day border of Kenya and South Sudan.²² By the 15th century, these semi-nomadic herders began migrating south.²³ Their final destination was the vast and fertile Eastern section of the Great Rift Valley. The Maasai flourished in the region, with both human and cattle populations proliferating through the early 19th century. But with the arrival of European colonizers, disasters hit. Rinderpest and pleuropneumonia ravaged cattle populations, wiping out the Maasai’s main source of food. Drought, cholera, and smallpox beset communities.²⁴ This period, known in the Maa language as *emutai*, “to wipe out,” resulted in the drastic decline of the Maasai population and an estimated loss of nearly 90 percent of their cattle by the early 20th century.²⁵



Maasai hut in the Ngorongoro Conservation Area © The Oakland Institute





Herd of cows in the Ngorongoro Conservation Area © The Oakland Institute

Cattle have a unique and essential role in Maasai culture. Community position, nutrition and food security, personal wealth, and cultural practices are all intimately intertwined with cattle.²⁷ From a young age, boys learn to herd cattle, while the warriors provide security and guard against threats, including attacks by lions.²⁸ One Maasai prayer highlights the importance of cattle: *Meishoo iyiook enkai inkishu o-nkera*, or in English, May Creator give us cattle and children.²⁹

Today, the Maasai still reside in the Rift Valley. Population estimates vary widely between a few hundred thousand to over one million.²⁶ The past century has delivered more threats to their survival. The privatization of land, conservation laws, and game parks have pushed the Maasai off their traditional lands and reduced the available space for grazing cattle.

Over time, when cattle populations suffered for one reason or another, the Maasai have turned to subsistence agriculture to supplement their diet. Now is no exception as the available grazing lands have diminished. The Maasai

have been regarded as the first cattlemen, admired for the management of their herds and relationships with wildlife and the grasslands that support them. However, the colonial rulers, and after independence the Tanzanian government, failed to understand the symbiotic relationship that the Maasai have with the land. Consequently, conservation schemes, game parks, and development strategies aimed at attracting foreign investors have driven the Maasai from their ancestral land.

Today, Serengeti – the land that runs forever – is a myth for the Maasai.

Losing Land to the Owners of Boston-based Thomson Safaris

"But the land belongs to me because this is my village..."³⁰

After a twelve-hour journey – clouds of red dust billowing around us – we reach our destination. Nestled into a hill, Mondorosi village is in the Loliondo Division of the Ngorongoro District. Interspersed with rocky kopjes, shrubs, and acacia woodlands, the village cattle graze amidst the herds of zebra, wildebeest, and giraffes.

Home to some 3,200 residents, Mondorosi village, along with the neighboring villages Sukenya and Soitsambu, has been in litigation with Tanzania Conservation Limited, a company run by the owners of the high profile, award-winning, Boston-based tourism company, Thomson Safaris, since 2013.

The Chief of the village is at an *orpul* – a community-based healing retreat – but other villagers welcome us, and share their stories:

"From the top of the hills and between the plains . . . all this land belonged to Mondorosi village but has been now taken over by Thomson Safaris and Tanzania Conservation Limited (TCL) without our consent.³¹ It all started nearly ten years ago when they started chasing us away from our lands. Some villagers were even shot at.³²

Since then we have been organizing against the theft of our lands. In 2013, some of the women from the village marched to the District Commissioner's office in Olorien to demand the recognition of our land rights. Instead, we

were told, 'You are like our mothers and we ask you to leave.' When we refused, the tone changed and the District Commissioner threatened us and told us to stop protesting or else we will be shot.

We live peacefully in our *boma*. However, there is not enough land for all of us and this causes us hardship. All along the hills and down the plains are many Maasai. The lands that Thomson [Safaris] took over are the grazing lands of our people. We live in fear, surrounded by spies including our neighboring villages. They get bribes from the investors as well as the jobs. No one from our village is hired at Thomson's. But we believe in God. This land belongs to us, and some day it will be returned to us."³³



Women from Mondorosi village © The Oakland Institute



A group of women is listening in. At the mention of jobs, they speak in animated voices:

*"We do not want their jobs. As their employees it will become easy for them to take over our lands. What we need is our land."*³⁴

When asked what the village wishes for – for their lands to be released, for Thomson Safaris and TCL to leave, or to arrive at a fair deal – the villagers provide a firm and clear response:

"Over the years we have given serious thought to what we want and have reached the only solution possible: Thomson's should go away. How do you befriend someone who shoots you . . . your family?"³⁵ We have spoken to women in the other two villages and we are all strong in our decision."³⁶

Another villager shares with a somber look, "Our lands were stolen.³⁷ But the land belongs to me because this is my village. This land is my birthright. They found me here when they arrived. They are from a foreign land that we don't know where it is. But I was always here."³⁸

As a Thomson Safaris website explains: "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. They immediately saw its potential to be a model for community development, conservation, and responsible tourism. Following the lead of the Maasai, they called the land Enashiva Nature Refuge⁴³ ... 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."⁴⁴

Another villager shares: "Imagine, a stranger comes and constructs a big building in the center of your home. Thomson's camp is in the middle of our village. At the bottom is Marsiligi Nadooshoke subvillage and the residents no longer have access to their own land. In Tanzania, every child has the right to education, but children of Marsiligi cannot go to school since their access through the camp is restricted.³⁹ Our livestock cannot go to the water hole – there is no other route for the villagers or their livestock.

When Thomson's camp started, they prevented the livestock from grazing on the grounds. They would chase the grazing cows with their cars. The frightened cows were scattered in the bush and eaten by predators. People were arrested and taken to the Loliondo police station.⁴⁰ Lesingo Ole Nanyoi, a villager living close to the camp, was shot in his face when he was found grazing his cattle on the land. Olunjai Timan, another villager was shot in 2014. He, too, was grazing his cattle on the village land that Thomson claims.⁴¹

We are upset at being shot at and want justice. Now, through the lawsuit, we are trying to get the land back to the three villages of Soitsambu, Sukenya, and Mondorosi.

We don't lose hope. One day our educated children will claim their land again. We also know that there are tourists who sympathize with us, support us, as well as some NGOs. We have lawyers who assist us when people are hurt or harassed. So we will continue to organize.

But if everything fails, we will mobilize as a community to resist the company as the last resort."⁴²

A COMMUNITY PROPOSAL

In 2011, community meetings took place with Maasai villagers from Sukenya, Mondorosi, and Soitsambu, to allow the communities to discuss their options regarding the Thomson Safaris land conflict and build consensus on a proposed resolution with the company.⁴⁵

Over 550 Maasai from the three villages took part.⁴⁶ The end result was the following proposal:

“The village members recognize that Thomson Safaris has done investments on some part of the land. The village members agree that Thomson Safaris could retain exclusive land ownership on 2,000 acres around the MOROGWA area [immediately surrounding the company’s camp].

The community members are to acquire back the ownership of 10,617 acres of the land and then enter into direct agreement with Thomson Safaris to allow company’s continued use of some of the land for tourism purposes.

The process leading to the agreement between the community and the company should be participatory, transparent and stipulate the following:

- 1. Recognition of community rights ownership over the 10,617 acres of the land.*
- 2. Unrestricted access to water points, foot ways from one sub village to the other, and specified grazing areas for the community.*
- 3. Clear rules and procedures for implementation and management of the contract should be put in place.*
- 4. Clarified roles and responsibilities for both parties in terms of security and other relationship resolutions. Items like the length of the contract, the annual land renting fees, the bed fee per nights per person (for tourist entering the community land) and the termination of the contract should be clearly be [sic] discussed in the contract.*
- 5. The village council will oversee the use of the income generated by the contract for equitable sharing among the three sub villages for their socio-economic development.”⁴⁷*

According to a report back from the UK-based Minority Rights Group (MRG), “approaches to Thomson Safaris to enter into negotiations have subsequently been met with a resounding ‘no’ as well as completely unfounded and unsustainable allegations of fraud and false representation.”⁴⁸

The land conflict between the Maasai and Thomson Safaris rages on.



One of the community meetings that took place in 2011 © Local NGO



Seeking Recourse through the Courts

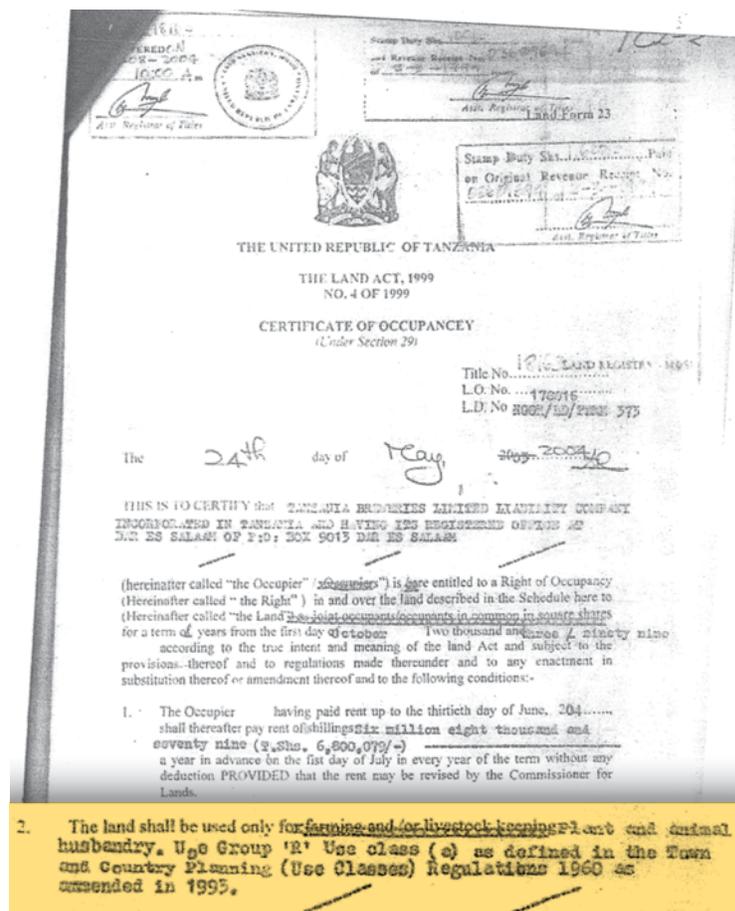
On July 4, 2013, the village councils of the Mondorosi, Sukenya, and Soitsambu villages filed a lawsuit in the High Court of Tanzania at Arusha against Tanzania Breweries Limited (TBL), Tanzania Conservation Limited (TCL), the Ngorongoro District Council, the Commissioner for Lands, and the Attorney General⁴⁹ claiming “jointly and severally for ownership of a land known as Sukenye [sic] Farm comprising 12,617 acres [5,106 ha] located within Ngorongoro District.”⁵⁰

According to the plaintiffs, TBL, a parastatal company, obtained a title for 10,000 acres [4,047 ha] near Soitsambu village in 1984 in a deal with the District Council for barley production, without the consent of the local communities and without providing any compensation.⁵¹ In the ensuing years, only approximately 800 acres of the 10,000 were used while the villagers continued grazing their livestock, building *bomas*, and watering cattle in the area. In 1990, the farm and buildings were abandoned by TBL and the villagers “retook physical possession of the disputed land.”⁵² According to the Plaintiffs Written Closing Argument, in 2003 Tanzania Breweries Ltd, “assisted by the 3rd and 4th Defendants [Ngorongoro District Council and Commissioner for Lands], illegally acquired an extra two thousand six hundred and seventeen acres”⁵³ “without the permission of the owner nor compensation paid toward the owner of that land.”⁵⁴

The Maasai villagers argue that because the land had been abandoned for so long, TBL and the Ngorongoro District Council did not have the right to sell and transfer it to TCL, a Tanzanian registered company whose two directors, Judi Wineland and Rick Thomson, own Thomson Safaris.⁵⁵

According to Rashid S. Rashid, Counsel for the Loliondo Maasai in court, “Under common law, if you own a piece of land, but I come onto that land for 12 years and you don’t object, then I can claim it. Therefore, our claim is that the villagers, who did not benefit at all from the TBL deal, through adverse possession, secured the rights to the land.”⁵⁶

“TBL brought two witnesses who stated that TBL was farming till 1990. One or two guards were left behind protecting buildings, amounting to physical possession. But they were sitting on one acre while claiming 10,000 acres. And then, how did 10,000 acres translate into 12,617 acres? If the judge agrees to adverse possession, the case is straightforward. In any case, 2,617 acres should be returned and communities should be paid compensation for waste that has been committed on this land. The title for 10,000



Certificate of Occupancy for Sukenya Farm (now Enashiva Nature Refuge) listing land use as plant and animal husbandry

acres stipulates that the land be used for plant and animal husbandry while the land has been used for tourism by the TCL, despite the rejection of their application in 2007 to change land use.”⁵⁷

The plaintiffs also alleged that following the arrival of TCL, villagers’ access to the land was diminished.⁵⁸ In his court testimony, Sandet Ole Reya, a traditional Maasai leader, described the displacement of the villagers by TCL, including the burning of *bomas* and forced removal from the disputed land.⁵⁹ Another witness, Shangwe Isata Ndekere of Sukenya village, testified that after Thomson Safaris’ arrival in 2006, all villagers were forced to remove their cattle and *bomas*. “The *bomas* that were built on the land were burnt down . . . as a result of this, people were physically hurt, beaten by the police, and prosecuted.”⁶⁰

On October 28, 2015, the Arusha-based Court ruled against the Maasai. The villagers did win on the challenge that TCL unlawfully acquired 2,617 acres of the land, however they were not awarded any damages by the court.⁶¹

The plaintiffs appealed the decision in the Court of Appeal in January 2017. The case is pending.⁶²

A Climate of Fear

Thomson Safaris, TCL's sister company, has a long list of awards – including Humanitarian of the Year by the Tanzanian Tourist Board.⁶³ But these accolades have failed to lessen the fear and intimidation amongst those who seek their land rights in the Ngorongoro region. The Oakland Institute observed firsthand this climate of fear during its field research. Seeing a car approach, the first reaction of the villagers visited by the research team was to run away. When approached, they were hesitant to speak and expressed their vulnerability and fear of the authorities and foreign investors.⁶⁴ Additional research, which is described in the following paragraphs, further reinforced these findings.

Articles by *VICE*, *The Guardian*, and others allege that Maasai pastoralists have faced violence, harassment, and arrest, at the hands of local police officers, who are called in by TCL for trespassing on the Enashiva Nature Refuge.⁶⁵ These same allegations can also be found in a letter from the United Nations Special Rapporteur on the rights of indigenous peoples, Chair-Rapporteur of the Working Group on the use of mercenaries, and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, to the Tanzanian government.⁶⁶

Journalists and researchers probing into the situation in Ngorongoro also contend that they have faced harassment and intimidation while investigating Thomson Safaris and TCL, often from the local District Commissioner. In one case, journalists from *VICE* were questioned by local authorities after a local man with close ties to Thomson Safaris and TCL told the authorities that the journalists were investigating the company.⁶⁷ In another, a *Guardian* journalist was questioned reportedly because of complaints

from TCL itself.⁶⁸ Reporters have conducted interviews hidden in ditches, in secret, and at night, because of the fears of their interviewees.⁶⁹ Some have been escorted out of the region by police for investigation, had their passports withheld,⁷⁰ faced extensive interrogations,⁷¹ and one blogger has written that she was deported for asking too many questions.⁷² The Oakland Institute's own research team was advised several times by the villagers and local researchers to leave villages before word got out to the company and District Commissioner.

Looming large over all these stories is the mysterious death of New Zealand-born photojournalist Trent Keegan in May 2008, whose body was found in a Nairobi ditch after conducting research about Thomson Safaris. Keegan told friends he was concerned for his safety because of his research.⁷³ The Kenyan police believe Keegan was killed in an attempted robbery. However, the fact that his wallet and cash were left behind, while his computer and camera documenting research were missing, has led his friends and family to call into question whether the cause of death was, in fact, an attempted robbery.⁷⁴ There is no evidence linking Keegan's death to his research relating to Thomson Safaris. In a November 2017 email response to the Oakland Institute, Judi Wineland and Rick Thomson reiterated, "Thomson Safaris has nothing to do whatsoever with the death of Trent Keegan."⁷⁵

No judgment has ever been entered against Thomson Safaris in connection to any of the events described above. Thomson Safaris denies all allegations. Regardless, a climate of fear paralyzes local populations and visitors.⁷⁶



Group of villagers with the research team ©The Oakland Institute





River Pololet © The Oakland Institute

A Game Park for the Royal Family: Lost Homes and Lives of the Maasai

The villages of Ololosokwan, Soitsambu, Olorienmahaiduru, Arash, Oloipiri, Malambo, Piyaya and Maaloni are all situated within the Loliondo Game Controlled Area (LGCA) in the Ngorongoro District. For the past 25 years, members of the Dubai royal family have regularly arrived on an exclusive landing strip in Loliondo, complete with UAE cell phone networks,⁷⁷ to hunt and trap rare animals.⁷⁸ This was done through the Ortello Business Corporation (OBC), which was granted a hunting license in 1992 that was reportedly revoked in 2017 after decades of complaints of corruption. During those 25 years, thousands of animals and birds were killed, and local communities denied access to grazing lands and water as a result of the OBC.⁷⁹ According to community members on the ground, despite the cancelation of their license, as of March 2018, OBC is still present in the Loliondo region.⁸⁰

The OBC gained its license when the Tanzanian government, purporting to act on behalf of, but without involving the impacted villages of Ololosokwan, Soitsambu, Olorienmahaiduru, Arash and Oloipiri, granted concession of the LGCA to Brigadier Sheikh Mohamed Abdul Rahim Al-Ali, former Deputy Defense Minister of the UAE⁸¹ to provide hunting excursions exclusively for the UAE's Royal Family and their esteemed guests.⁸² In recent years, the OBC's presence led to violence and intimidation of the Maasai,

along with growing divisions among the local population. Villagers from the surrounding area told Oakland Institute researchers how the OBC benefitted from fueling these conflicts.

“Today the OBC is well established – since its arrival in Loliondo in 1992. It even has its own airstrip, almost the size of an airport. OBC has built water wells in several villages, especially in Ololosokwon over the last three years. But these tokens of goodwill have failed to curtail conflict. The wells have won over the support of some 3,000-4,000 residents of Ololosokwon, while neighboring villages suffer. Starting from the Ololosokwon village, the OBC wants 150,000 ha of land with the help of the government. To defeat the local opposition, it has divided the local communities by supporting one village over the other.”⁸³

“River Pololet was once shared by the villages of Soitsambu, Kartalu, and Ololosokwon. Kartalu was a part of Soitsambu, but with demarcation, it is its own village today. The residents of Ololosokwon however refuse to acknowledge Kartalu as a village with any rights over the river. With support from the

government and the OBC, they have encroached the land of the village – they crossed the river to build homesteads and take over the river.”⁸⁴

“We need economic development but do not benefit from the investments. We only face restrictions. Foreign investors are taking away our lands while we are left with no recourse. If we speak out, we face harassment. But no one from our *boma* works with the OBC. There is no peace. We are uncertain about the future of our children.”⁸⁵

Over the course of its tenure in Tanzania, the OBC imposed significant restrictions on grazing land and access to water for the Maasai and their cattle.⁸⁶ According to James Anaya, former Special Rapporteur on the rights of indigenous peoples, “herders who ignore such restrictions risk violent conflict with hunters in the area as well as loss of livestock due to hunting activities.”⁸⁷

Since their arrival, the OBC has evicted the Maasai from their traditional lands. The most well-documented eviction took place in July 2009, when OBC security guards and Tanzania’s paramilitary Field Force Unit burnt 200 *bomas* to the ground. Over 3,000 were left homeless and 20,000 impacted, while over 50,000 cattle were left without access to pasture or water.⁸⁸ According to a 2010 report by the Special Rapporteur on the rights of indigenous peoples, the

evictions involved physical and sexual violence.⁸⁹ The Special Rapporteur also stated, “The circumstances surrounding the evictions indicate that the evictions were in fact part of a larger Government policy favoring the interests of private enterprises engaged in conservation tourism and wildlife hunting, principally the Ortello Business Corporation, over the rights of indigenous peoples, particularly the Maasai pastoralists.”⁹⁰

One of the official reasons given for the 2009 eviction was reportedly that the Maasai’s cultivation of small plots of land for subsistence agriculture was leading to environmental degradation.⁹¹ This rationale conveniently disregards the impact of a private airstrip in the middle of wildlife migration routes. In addition, reports suggest that the OBC had no regard for laws governing wildlife and hunting. Complaints against the company include corralling animals by helicopter, trapping live animals, and leaving behind wounded animals to suffer.⁹²

Shortly after the 2009 eviction – which took place without compensation or a plan for resettlement – a group of Tanzanian NGOs under the banner FEMACT launched a fact-finding mission. The mission established a “close link” between the police who carried out the evictions and OBC, concluding that the evictions were not because of the Maasai’s subsistence agriculture practices, but rather to clear the area for hunting in favor of OBC’s purpose.⁹³



Maasai herders with their cows in the plains © The Oakland Institute



"We will not accept to be pushed by anyone from our own land..."



Displaced local Maasai woman
© The Oakland Institute

"Our boma is very close to the OBC investor so they want it removed. Since 2013 we have faced many problems. We were beaten, some villagers were even shot at, and our bomas were burnt.

Fear has been built in our community so we are afraid to speak out. In the beginning, the OBC were friendly. The land was big enough for everyone. Now they think that the space for hunting is not enough. So they want our bomas and our grazing cattle to move. But we will not accept to be pushed by anyone from our own land.

If they take over that 150,000 ha, that will be our end. Our extinction. Where will we go? See our history – we were driven away from Serengeti, and then again in the '60s and now they again want our lands. Why can we not have some space to live?



Entrance to a new *boma* built by the displaced Maasai © The Oakland Institute

What scares us is that the OBC is building more structures with more and more confidence. There is no consultation or involvement of the communities. They don't see us as part of the landscape and ignore us as stakeholders.

We asked the District Council to intervene, but that was not productive. We even marched down to the OBC camp, including women, but were chased away by the guards. Politicians came and gave us false promises to calm us down. We have lost hope given we have narrated our plight so many times. The only result – we are shot, beaten, and harassed.

I heard about the President's tweet that the Maasai will not be evicted from their ancestral lands. But this year police were deployed with teargas and we were shot at and chased away from our boma. Women and children, including a minor, were arrested. We gave statements over and over, including to the Human Rights Council in Tanzania. But nothing was accomplished."⁹⁴

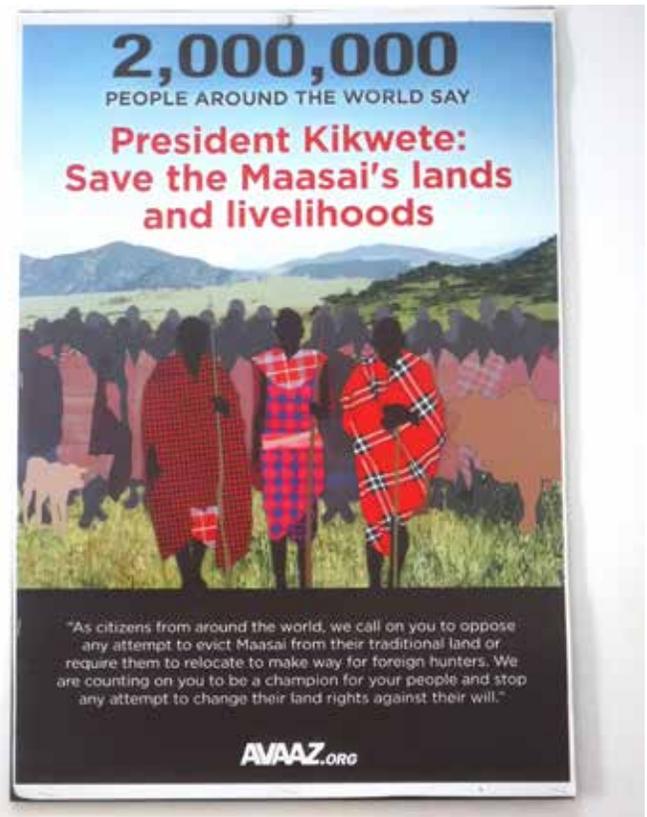
In December 2010, Tanzanian civil society organizations, including PINGO's Forum, Legal and Human Rights Centre (LHRC), Ujamaa Community Resource Team (UCRT), and the Ngorongoro NGOs Network (NGONET), filed a constitutional case against the OBC, under a certificate of urgency in the High Court of Tanzania, Arusha Registry, Ministry of Natural Resources and Tourism, and the Attorney General challenging the constitutionality of the forceful eviction.⁹⁵

Eight years later, despite being filed under the certificate of urgency, the case has not progressed. Numerous requests to relevant authorities, including letters to the High Court and the Chief Justice went unanswered.⁹⁶ This prompted the applicants to consider other supranational mechanisms, in particular the African Court for Human and Peoples Rights,⁹⁷ given the continued plight of local Maasai communities.

Since the violence of July 2009, additional evictions were carried out in connection with OBC.⁹⁸

In April 2013, the Minister for Natural Resources and Tourism, Khamis Kagasheki, announced a proposal to remove 250,000 ha from the LGCA (out of the 400,000 ha seized in 1974), while also dedicating 150,000 ha specifically for wildlife protection. This would have been possible under Section 16 of the Wildlife Conservation Act of 2009, which provides for the separation of village land and wildlife protected areas including in Game Controlled Areas.⁹⁹ While the government claimed the decision regarding the 150,000 ha was because it was, among other reasons, “a crucial breeding area for wildlife, a corridor for iconic great migration of wildlife in particular for millions of wildebeest and a critical water catchment area,”¹⁰⁰ it was also widely reported that this new “wildlife corridor” would benefit OBC.¹⁰¹

After sustained protests – including inspirational sit-ins involving thousands of Maasai women,¹⁰² a petition that garnered millions of signatures,¹⁰³ and numerous back-and-forths with the government – the proposal was withdrawn.¹⁰⁴



Poster of the Avaaz campaign to support the Maasai

On November 23, 2014 the President of Tanzania, Jakaya Kikwete, tweeted: “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.”¹⁰⁵

Less than three months later, the Maasai were evicted from the Arash and Loosoito/Maalonni areas. Between February 10 and 14, 2015, Serengeti National Park rangers reportedly burnt 114 homes, leaving 2,000-3,000 Maasai, including children, without shelter, food, or medical supplies.¹⁰⁶ Local CSOs and activists reported threats from the Ministry of Home Affairs and Ngorongoro District Commissioner to de-register pastoralist CSOs in Loliondo,¹⁰⁷ while local residents were depicted as immigrant Kenyans who were responsible for the trouble.¹⁰⁸

In October 2016, the Arusha Regional Commissioner set up a committee to look into the issue and come up with a solution to the longstanding Loliondo land conflict. Two options were offered for the 150,000 ha in question – to be either a Game Controlled Area (GCA) or a Wildlife Management Area (WMA). The local community decided in favor of the WMA because this option allowed land to be used by both livestock and wildlife.¹⁰⁹ The community's overwhelming support of the WMA was to be reported to the Prime Minister and President for final approval.





Young herders fleeing at the sight of the research team's vehicle © The Oakland Institute



A Maasai woman beads a bracelet © The Oakland Institute

As our vehicle approaches a *boma*, two young herders eye us with suspicion. Then they start running, leaving the cattle behind. “The OBC come to chase us from our lands. We are not allowed to graze and they make several rounds each day. But it is not clear who decided this land is OBC land. But with fear, it is accepted as OBC land,” they explain later.¹¹⁷

Women from ██████, who now live in ██████, share that they built the new *boma* about four years ago. “But we live with fear and uncertainty. In 2009 they came one morning and gave us no time to collect our belongings. I was screaming with fear. But we could do nothing. They burnt everything. We want a life of stability, better *bomas*, safe grazing grounds. We have no life without the cows,” the women tell the research team, while one beads an intricate bracelet around a researcher’s wrist.¹¹⁸

The conversation is interrupted as OBC rangers drive past in a green Land Rover. Fear spreads across the faces of the women and they whisper, “The OBC are here.”

“The guards chased the herders away this morning and now are back to check,” says a woman from the *boma*. “They threaten to burn our homes. They say it is their land. We are tired of living in fear on our own land.”¹¹⁹

“They threaten to burn our homes. They say it is their land. We are tired of living in fear on our own land.”

While community members awaited this final decision, another round of violent evictions took place. In August 2017, fire and destruction ripped through over a dozen Maasai communities whose villages lie in the disputed 150,000 ha corridor. Estimates suggest that 185 *bomas* were destroyed along with food and livestock, thousands were displaced, and one person was critically injured.¹¹⁰ By early September, the extent of the damage had grown, with reports that 19 people had been arrested, 11 seriously injured, over 5,800 homes damaged, and more than 20,000 left homeless.¹¹¹

According to the Tanzanian Ministry of Natural Resource and Tourism, the violent evictions began on August 10, 2017 and were set to last for two weeks. The Ministry’s press release noted that *bomas* were being burned under government orders, in order to preserve the ecosystems in the region and attract more tourists.¹¹² However numerous organizations and news agencies pointed out the connection, once again, between the land that the Maasai were being evicted from and the OBC’s hunting license.¹¹³

In early September 2017, Tanzania’s Commission for Human Rights and Good Governance intervened, ordering an

interim stop order on the eviction, after receiving numerous complaints from affected peoples.¹¹⁴ Later that month, four Maasai villages – Ololosokwan, Olorien, Kirtalo, and Arash – sued the Tanzanian government at the East African Court of Justice for the violent evictions.¹¹⁵ It was in the wake of these events that, in November 2017, OBC’s hunting license was cancelled amidst charges of bribery and corruption. The new Minister of Natural Resources also called for the arrest of Isaac Mollel, OBC’s executive director, for trying to bribe the Ministry with donations of more than US\$2 million. An investigation by the Prevention and Combating of Corruption Bureau was launched into the actions of both Mr. Mollel and former ministers.¹¹⁶

The struggle however continues. The local communities remain cautious as they push for the land in dispute – 150,000 ha – to be gazetted as the Wildlife Management Area (WMA) as opposed to a Game Controlled Area, where they would face restrictions on grazing and cultivating land. If declared a WMA, the process of creating the new land-use management plan requires meaningful consultation and involvement of the community.



Ngorongoro Crater © The Oakland Institute

A History of Displacement in the Name of Conservation

Long before companies like TCL and the OBC arrived in Tanzania, land laws challenged the Maasai and their way of life.

The expansion of the German Empire in the late 19th century framed Tanzania's colonial land laws and converted all territorial land into crown land, vesting them in the German Empire. Any land without evidence of ownership and continual use was considered vacant – resulting in the theft of over one million hectares of land from local communities.¹²⁰

After World War I, modern-day Tanzania became a British colony. In 1923, the British colonial government passed a Land Ordinance,¹²¹ which along with its many amendments, constituted the primary piece of land legislation in the country until 1999. According to the Ordinance, all Tanzanian land – whether occupied or not – was considered public land, and all public land and their rights were to be controlled by the Governor, “for the use and common benefit, direct or indirect, of the natives of the Territory.”¹²² An amendment made in 1928 formally recognized customary rights to land, creating a dual-track system of land tenure rights, where the rights granted by the state were functionally superior to customary rights.¹²³

In 1940, the colonial government passed Game Ordinance, Cap. 159 that created national parks (including Serengeti National Park, or SNP) and game reserves, and imposed the first restrictions on settlement in and use of this pristine region.¹²⁴ The Maasai were not impacted by this initial

legislation since it exempted people born or residing in Serengeti National Park from any settlement restrictions.¹²⁵

The 1940s and 1950's, however, witnessed more restrictions imposed in the name of conservation. By 1957, a British-led “community of enquiry” put forth the suggestion to split SNP into two regions in order to preserve the region's natural beauty. One region would become present day Serengeti National Park, where all human habitation, including the Maasai, would be prohibited.¹²⁶ The second region would become known as the Ngorongoro Conservation Area (NCA), an area of 829,200 ha including the Ngorongoro Crater – a three million-year-old, caldera rich with wildlife, encompassing 26,000 ha within walls 600 m high. The NCA was proposed as a multiple land-use area: conserving natural resources, protecting the interests of indigenous groups, and promoting tourism.¹²⁷

In order to enforce the plans, the colonial government needed to persuade the Maasai, who had resided in SNP for centuries, to vacate. In exchange for leaving the plains, they were told they could inhabit the newly formed NCA, and were promised the development of better water resources, participation in the governing of the conservation area, and more.¹²⁸ The Maasai agreed to leave on these terms and put their declaration, unconditionally, in writing. The verbal commitments made by the colonial government were just that – verbal – which created an imbalance between the promises of the Maasai and those of the colonial authorities.¹²⁹



In 1959, the passage of two pieces of legislation – the National Parks Act and the Ngorongoro Conservation Area Ordinance – enshrined the Maasai’s promises.¹³⁰ The Maasai vacated the Serengeti and made their home in the NCA and the Loliondo area.

The 1959 National Parks Act created the terms and boundaries of SNP and gave the Governor the authority to declare any land in Tanzania a national park. It legislated that when a national park is created, “all rights, titles, interests, franchises, claims, privileges, exemptions or immunities of any person other than the Governor in, over, under, or in respect of any land within such area shall, from the date upon which such proclamation comes into operation, cease, determine, and be forever extinguished.”¹³¹ With this, any customary rights of the Maasai to the area were forever vanquished.

The Ngorongoro Conservation Area Ordinance contained important provisions. It specifically named the Maasai as having settlement rights in the region.¹³² In the early days of the NCA, authorities verbally affirmed these rights, with the Governor of Tanzania (then called Tanganyika) telling the

“We had cattle so we were ok. But with the drought in the 1980s, situation changed. We started cultivating. In 1990, I was 13 years old. The park rangers came and beat everyone. We had broken the law by cultivating the land. Everyone in my village was crying. Life was hard. There was no food. Even milk was not enough, so it was diluted with water so all could have some.”

–Head of a local NGO, Loliondo¹³⁸

Maasai Federal Council: “I should like to make it clear to you all that it is the intention of the government to develop the Crater in the interests of the people who use it. At the same time, the government intends to protect the game animals in the area, but should there be any conflict between the interests of the game and the human inhabitants, those of the latter must take precedence.”¹³³

Despite these verbal promises, powers were granted to the NCA governing body – the Ngorongoro Conservation Area Authority (NCAA) – to prohibit, restrict, or control many important activities within the region, including the

cultivation of land, the grazing of cattle, the collecting of forest products and honey, and creation of settlements and residences.¹³⁴ These conditions would later impact the very survival of the Maasai.

In addition, the NCA Ordinance spelled out the official governance function for the NCA. Despite promises that the Maasai would have a role, the Ordinance did little to stipulate any criteria for who should be on the governing body. The first Authority included five Maasai representatives, along with local conservation officials and the District Commissioner of the Ngorongoro area.¹³⁵ The Maasai representation on the Authority, however, would not last long.

By the mid-1960s, governance of the NCA was handed over from the NCAA to a single person, the Conservator, who was directly accountable not to the community but to a federal Minister.¹³⁶ An amendment to the NCA Ordinance in 1975 further centralized power with the oversight of the region vested in a corporate-style board that was appointed by the Minister and run by a Chairman appointed directly by the President.¹³⁷ Local officials, who were previously elected, were replaced by appointed officials – taking any semblance of local accountability out of the governing authority.¹³⁸

In the years leading up to the 1970s, much changed on the ground. International conservation groups like the International Union for Conservation of Nature (IUCN) gained influence over conservation laws across Africa. The 1961 Arusha Manifesto created a specific role for international conservation organizations to provide technical expertise in the planning and management of conservation areas across Africa.¹³⁹ These groups lobbied for increasing restrictions on cultivation, grazing, and movement within the NCA. Throughout the 1960s, enforcement of these rules increased, including jail time, fines, and the confiscation of property of the Maasai.¹⁴⁰

Then in 1974, the Wildlife Conservation Act created three different types of conservation land outside of the already created game parks: game reserves, partial game reserves, and game controlled areas. The stipulations within game reserves precluded habitation, the use of firearms and bow and arrows, the fire and felling of vegetation, and grazing without a permit—restrictions that would eventually marginalize the Maasai.¹⁴¹

That same year, the post-independence government of Julius Nyerere began to unravel the deal the Maasai had made with the British, which had moved them from Serengeti to Ngorongoro. Nyerere’s government reclassified 400,000 ha

of land as the Loliondo Game Controlled Area (LGCA) through Notice No. 269 from the Ministry of Natural Resources and Tourism.¹⁴² The 1974 Wildlife Act, along with the villagization policy issued the same year,¹⁴³ however, allowed human settlement and activities within the GCA. Villages were established, providing some legal assurances that the Maasai would continue to have the right to inhabit the area. However, the re-classification meant that Loliondo was considered both a wildlife protected area as well as village land, creating an uncertain future for the Maasai.

The following year, the conservation lobby won a significant victory with the 1975 NCA Ordinance Amendment. Section 9A banned all forms of cultivation within the NCA,¹⁴⁴ delivering a huge blow to the Maasai. While many categorize the Maasai as nomadic pastoralists, for centuries they have relied on the cultivation of subsistence plots when livestock health or access to grassland were compromised.¹⁴⁵ The ban on cultivation, coupled with restrictions on the grazing and movement of livestock, put the survival of the Maasai in jeopardy.

By the early 1990s, the devastating impact of these laws on the people was clear.

In 1992, Prime Minister John William Malecela, against the wishes of the NCA, overturned the ban on cultivation within the NCA.¹⁴⁶ This move brought much relief to the Maasai who were facing starvation and death. In keeping with the pattern of promises to the Maasai, there was nothing in writing.

Interestingly, the 1995 General Management Plan for the NCA revealed that the Maasai's subsistence plots were significantly smaller than those created by government and NCA officials, and other non-indigenous groups in the NCA.¹⁴⁷ In addition, crops grown by non-indigenous groups in the NCA were often taken to market and sold for profit, whereas the Maasai's plots were subsistence – for personal consumption and survival only.¹⁴⁸

Throughout the 1990s, a process was underway to re-write Tanzania's land laws. This resulted in two acts – "the Land Act of 1999 and the Village Land Act of 1999 – both of which were enacted in 2001. The Acts have been lauded on several accounts – they recognize customary rights to land, empower women to own land, and they give village authorities the jurisdiction to govern their own land.¹⁴⁹ However, they also gave way to many issues.¹⁵⁰

At the heart of the two acts is the classification of land in Tanzania into three categories: general land, village land, and reserved land. Reserved land is special land set aside

in previous legislations such as the Wildlife Conservation Act, Ngorongoro Conservation Area Ordinance, Town and Country Planning Act, Highway Act, Forests Act, National Parks Act, and others. Village land has several specifications, amongst which is "land, other than reserved land, which the villagers have been, during the twelve years preceding the enactment of this Act, regularly occupying and using as village land."¹⁵¹ General land is defined differently in the two acts. In the Village Land Act, general land is everything not considered village land or reserved land. However, in the Land Act, general land is defined as "all public land which is not reserved land or village land and includes unoccupied or unused village land."¹⁵² No definition is offered for unoccupied or unused land.

The Village Land Act also gives the President the power to transfer village land to reserved or general land, provided that this is done in the "public interest." "Public interest" is then defined to include "investments of national interest."¹⁵³ For transfers of less than 250 ha of land, local concerns are to be sent to local village assemblies who have the right to refuse the transfer. For land totaling more than 250 ha, the Minister has the final say over the land transfer.¹⁵⁴

To complicate matters further, in 2009, the Wildlife Conservation Act was amended. The act now prohibits crop cultivation in game reserves, wetlands reserves, or game controlled areas,¹⁵⁵ and imposes strict fines and possible jail time for grazing livestock in game controlled areas.¹⁵⁶

In practical terms, these changes, amount to Maasai living in the LGCA, and other game controlled areas, being denied their right to their cultural heritage – their very means to subsistence and survival.

Unsurprisingly, since this Act was passed, land conflicts between the government, investors, and the Maasai have grown as access to grazing lands has been restricted, violating the promises made when the Maasai were resettled from the Serengeti plains in 1959. Their lives are now characterized by food insecurity, malnutrition, and dependence on inadequate and infrequent food aid, leaving them even more vulnerable in times of drought. In 2011, after three consecutive years of drought in the Ngorongoro region, a measles outbreak and the epidemic of malnutrition and food insecurity claimed the lives of 200 Maasai children.¹⁵⁷ Cultivation and grazing rights continue to be banned in game controlled areas.

This history has had a devastating effect on the Maasai – not just leading to displacement and dispossession, but eroding their traditional ways of life and threatening their very survival.



A TIMELINE OF LAND LEGISLATION IN TANZANIA

- 1895 German Land Decree: All territorial land becomes crown land, controlled by the German Empire. Any land without evidence of ownership or continued use is considered vacant and ownerless.¹⁵⁹
- 1923 Land Ordinance No 3: All land in Tanzania is considered public land and is controlled by a Governor “for the use and common benefit, direct or indirect, of the natives of the Territory.”¹⁶⁰
- 1940 Game Ordinance: Creates distinctions for national parks and game reserves, including setting the original boundaries of the Serengeti National Park. This ordinance imposes the first restrictions on settlement and use of the lands surrounding the SNP.¹⁶¹
- 1957 Community of Enquiry: Recommends that the existing SNP be split into two parts – one (the SNP) would not allow inhabitation; the other (the Ngorongoro Conservation Area) is designated as a multiple-use land area.
- 1959 National Parks Ordinance: Creates new boundaries of the SNP (based on the suggestions of the Community of Enquiry) and gives the Governor the ability to declare any land in the country as a national park. Customary rights of the Maasai in national parks are lost.¹⁶²
- Ngorongoro Conservation Area Ordinance: Establishes the Ngorongoro Conservation Area. Maasai are granted settlement rights but the governing body (Ngorongoro Conservation Area Authority) is given the ability to prohibit, restrict, or control various activities in the region, including cultivating land, grazing cattle, and creating settlement dwellings.¹⁶³
- 1961 Arusha Manifesto: Creates a specific role for international conservation groups to provide technical expertise in the planning and management of conservation areas in Africa. These groups later lobby to restrict the rights of the Maasai to cultivate, graze, and move within the NCA.¹⁶⁴
- 1974 Wildlife Conservation Act: Creates three types of conservation land, in addition to game parks – game reserves, partial game reserves, and game controlled areas. Significant restrictions are placed on activities within game reserves.¹⁶⁵
- 1975 Ngorongoro Conservation Ordinance Amendment: Section 9A of the amendment bans all forms of cultivation within the NCA.¹⁶⁶
- 1992 PM Allows Cultivation: Prime Minister overturns the ban on cultivation within the NCA.¹⁶⁷ The announcement is verbal and not written into law.
- 1999 Land Act & Village Land Act: Replaces Land Ordinance No. 3 (1923). Land is classified into three categories: general land, village land, and reserved land, but general land is defined differently in the two acts,¹⁶⁸ creating confusion. The Village Land Act gives the President the power to declare “village land” “reserved” or “general” land, provided that the reclassification is done in the public interest. Both were enacted in 2001.¹⁶⁹
- 2009 Wildlife Conservation Act: Greater restrictions are put on activities within Game Controlled Areas – including the prohibition of crop cultivation and livestock grazing.¹⁷⁰



Nainokanoka village © The Oakland Institute

“The next victim of tourism will be me.
Moved, displaced, and evicted...”

In Maa, *nainokanoka* means “I am shivering.” Sure enough, the Nainokanoka village is possibly the coldest place in Ngorongoro District. Located near the rim of the Ngorongoro Crater, the village is home to some 3,200 Maasai.

The thick evening fog envelops the village. The research team huddles together with the villagers around a small coal fire. Eager to share their hardships, late evening is better to meet, as the villagers are afraid of the authorities learning about them talking to outsiders. ██████████ born and raised in the village, speaks first.

“We are Tanzanians but the laws that govern the others do not apply to us. Instead, we are still governed by the colonial laws of the past. The Maasai, chased from the Serengeti, were tricked into believing that we will have Ngorongoro as compensation and that we will never be evacuated from here. We were even promised priority in a case of conflict. But today we cannot use the land for grazing or for cultivation—the end result is starvation of our families. The only use left for this land is to be our burial ground.

Our right to use the land was never stipulated on paper. Our rights depended on the sympathy of the government to allow cultivation. In the 1990s during the drought, the Prime Minister allowed us to cultivate. With Ngorongoro declared a World Heritage Site by UNESCO, orders came for the people to be removed and for us to stop cultivation.

We were then promised food aid. But little assistance came and when it did, leaders sold it at exorbitant prices. So we live in dire poverty and face malnutrition. Families have sold cows to buy food. With cattle gone, nothing more is left. Men have been forced to look for jobs in urban areas. They work as night guards in South Sudan where several have been killed.

Poverty, hunger, and illiteracy have increased. There is no money for education and those who go to school are still starving. In 2012-2013, close to 500 children from 30 villages, faced with malnutrition, were taken to the hospitals, mainly the Endulen hospital in the Karatu District. But hunger is a sensitive political matter in the village and we are not allowed to speak of it.



For food aid, we are provided maize flour to which we add water. There is no milk, vegetables, beans, nothing. For the small ration of aid to suffice – anywhere between 10-14 kg twice a year – we dilute the drink. But what if people took their tools and planted a little home garden? We tried actually several times. But the rangers put you in jail for improving food security of your family. We have a lot of land and water. But we cannot grow food while we starve.”¹⁷¹

A woman from the village speaks, “We tried to organize and went to Olbalbal in 2013 to close the gates and not allow any tourist into the crater. But the government intervened and called our leaders. In 2014, a big group went to the gate and again threatened to close. The Prime Minister promised food aid and that each household will receive ten sacks of maize. But nothing came. It’s now almost October, and we are still waiting.”¹⁷²

■■■■■ shared, “Yesterday President Kikwete was in the US. He declared that tourism is declining in Tanzania and so he committed to dedicating 35 percent of the country’s land to tourism. I was shocked to hear this. I know the next victim of tourism will be me. Moved, displaced, and evicted.”¹⁷³

The village lands lie barren, given the government stipulation banning cultivation. Villagers report that rangers living in houses overlooking the village drive by regularly. They have the authority to come into any house to inspect and ensure that no crops have been planted. They hide in the bush to trap women who, in desperation, go to the forest to find wood to sell. When arrested, they are sent to jail and the families who already have nothing, are forced to pay the bail.¹⁷⁴

"The only use left for this land is to be our burial ground."



A Maasai elder in Loliondo © The Oakland Institute

Next, a village elder, ■■■■■ speaks:

“I was among those moved from the crater, where I cultivated till 1954. The first conservator was Fosbrooke.¹⁷⁵ He started the conservation area and we were asked to move to conserve the crater. We moved from Serengeti and we were told to go to Ngorongoro, where there is water. After we moved, we were told to go elsewhere, out of the crater, where we could farm and live the way we wanted to live. We were promised, yet once again, the land will belong to us.

We don’t do large farming. We do home gardens – just enough to feed a family. We were farming till they banned it. We started cultivating under the conservator in the 1960s and continued till 1975, when Tanzania started the villagization policy, which completely banned us from farming and a road was built between the crater and the villages, marking a clear demarcation.

Under the policy, villages were registered and allocated specific number of miles. This land was generalized both as conservation and as village land. Here is the village certificate of formation and registration. We do not keep

"If we can break the ground to lower a body, why can't we break it for cultivation?"



Ngorongoro District © The Oakland Institute

this in the village office where it might be misplaced or destroyed. The existence of our village cannot be denied.

After 1975, our lives changed. We were left powerless with the prohibition on cultivation and we soon saw famine and hunger. Today we eat two times a day, morning and evening – porridge each time. Milk is limited since there is no grass for the cows. So milk in the porridge is for children alone. We have meat when a cow or a goat dies but we do not slaughter. We sell our cattle to buy maize since food aid is insufficient.

Today no youth are left in the village as they head out in search of jobs. Only the elders are left with no one to care for them. Young children are malnourished. The elders cannot move due to lack of food. Women have moved from families to look for money, sometimes staying away as long as six months while their children go hungry. Some have moved to Kenya, some sell snuff in cities. Hunger has destroyed our families.

I fail to understand why we are prevented from cultivating. But then my hunger limits my thinking. If allowed to garden, families that are separated will be united. Women and youth will return. Children left alone at home, will have mothers.

If we can break the ground to lower a body, why can't we break it for cultivation?"¹⁷⁶



Reeling from Hunger, Poverty, and Starvation

Ol Doinyo Lengai – Mountain of God in the Maa language – is an active volcano that looms above the Naiyobi village in Ngorongoro District. One of the largest villages on the flanks of the mountain, Naiyobi is home to more than 10,000 people who have failed to see benefits from tourism and reel from starvation.

“Earlier we farmed to sustain ourselves. In 1992, the Prime Minister allowed gardens. But in 2006, the NCA prohibited us from cultivating subsistence gardens again. These bans depend on who is in power. Today the conservators in the area do not know or sympathize with the community,” explained a villager.¹⁷⁷

In the village, the small gardens farmers tended to were burned. The few cattle that comprise their herds are not enough to sustain them. The villagers have become a sideshow for tourists with their beadwork and glimpses into a life that is vanishing. Even with tourist fees, there is scarcely enough income for food as most of the money is siphoned off by other agencies and tour operators.

“Among 10,000 villagers, only 200 have cattle. The majority have no means to support a family. There is widespread hunger and poverty. The youth have left the village in

search of jobs. They come back, if alive, with no success. Women have left to marry men with food, leaving children as orphans. If any villager tries to disobey the ban on cultivation, they are beaten and jailed. But why is it a crime to cultivate? As a [REDACTED] village I don’t understand the ban. It is oppression. We live alongside the wildlife. We don’t eat game meat. There is enough land for wildlife. If we get small plots of land, we will manage them sustainably.”¹⁷⁸

The villagers share that promises of food aid were made – 10 bags of maize per family per year. But the promises were broken. “We are offered very little that does not sustain us. Instead, the agents of the NCA sell us the food aid (at a slightly lower price than the market price). But we still cannot buy.”¹⁷⁹

Villagers report different levels of food intake in the village. “Some who have goats mix the milk with the porridge. The others have only water to add. Some villagers don’t even have the capacity to mill the maize. A study conducted by the NCA at the health centers, Endulen hospital, and the dispensary here, found high levels of malnutrition. This malnutrition has caused child starvation deaths. Endulen hospital knows about the deaths.



Ol Doinyo Lengai, the Mountain of God, Ngorongoro District © The Oakland Institute



Villagers from Naiyobi village line up for water © The Oakland Institute

We need leaders who listen. The problem with the NCA is that it is run by people who are outsiders and who have no knowledge or understanding of the local struggles.

There are 700 students in primary school, around 25 in the secondary school and 15 in high school. Six have reached the university. The challenge is that even if they finish their education, there are no jobs for our children. NCA has 548 employees out of whom only eight are residents of Ngorongoro. Conservators hired from outside, hire their friends and family.”¹⁸⁰

██████████, a woman villager shares, “I was born here. There are 16 people in my family and we face many problems. I have many responsibilities as a woman – build the *boma*, collect wood, fetch water, find food for my children – but I have had to abandon it all and work as a laborer to get money to buy some rations. I am tired of begging. I am suffering from hunger. Please help us pressure the government to allow us to cultivate small gardens. With women from other villages we went to meet the President

and cry about our starvation. We tried four times, but the subordinates prevented us. Instead we had to return to work as cheap laborers in order to survive.

There is nothing in the forests for us to gather and cook with. They want us to leave but where do we go? Loliondo is occupied. We are restricted here. If we had another place to move to, we would leave.”¹⁸¹

The villagers insist, “Please share our grievances with the international community and put pressure on the Tanzanian government to allow subsistence agriculture. This land is vast and our presence here will not impact tourism and we have always coexisted with the animals. Tourism should benefit the people of Ngorongoro. It’s a shame that between 1959 and 2015, only four members of this village have found employment in the NCA.”¹⁸²

At the village well, long lines of women and clusters of cattle were dispersing – buckets empty, thirst unquenched. Even with rationing, many went without.





View of Ngorongoro Conservation Area © The Oakland Institute

“Fighting hunger and malnutrition requires tackling the problems of discrimination and marginalization that characterize the situation of many groups that are politically or geographically marginalized and live in relatively remote areas. In this regard, [Right to Food] Guideline 8.1 states, ‘[S]tates should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries, and livestock without any discrimination ... Special attention may be given to groups such as pastoralists and indigenous people and their relation to natural resources.’”

– Food and Agriculture Organization of the United Nations¹⁸³

The Way Forward

Throughout time, conservation has come with a significant cost for indigenous communities, not just in Tanzania, but around the world.¹⁸⁴ There is a massive overlap globally between traditional indigenous lands and lands that have been protected in the name of conservation.¹⁸⁵ But while conservation has often involved displacing indigenous communities, studies show that indigenous groups are often superior to governments when it comes to conservation. There are also numerous examples where land given to governments for conservation has led to illegal logging, agribusiness expansion, large-scale infrastructure development, the extraction of natural resources, and other anti-conservation practices.¹⁸⁶ Despite the clear and growing evidence of exemplary environmental stewardship by many indigenous communities, the important role played “by indigenous peoples as environmental guardians has still failed to gain due recognition.”¹⁸⁷

Hardships faced by indigenous groups worldwide – including hunger, poverty, loss of livelihoods, displacement, violence, and more – demonstrate widespread and embedded discrimination, bringing a global perspective to the plight of the Maasai shared in this report.

These struggles combined with the decades-long history of abuse faced by the Maasai – including prejudicial legislation, disenfranchisement, and now the actions of foreign investors and tourism companies – make it essential to determine a way forward. While the following list is in no way comprehensive, it offers several possible paths, including inspirational grassroots solutions developed by the Maasai.

Need for Immediate Action

In the context of ongoing intimidation and harassment of the Maasai, there are several important actions that must be taken immediately to ensure their rights. These include:

- An independent commission of inquiry, which includes the Maasai pastoralists, must be set up to investigate land-related human rights violations, including unlawful arrests, injury, evictions, and more. Its findings should be made public and the culprits prosecuted.
- The Tanzanian government must refrain from intimidating pastoralists, human rights defenders, journalists, and civil society actors through state machinery. Instead, the government should prosecute perpetrators involved in the arbitrary arrests, mistreatment, and imprisonment of innocent pastoralists.
- The Loliondo Constitutional case against the OBC has been pending in the High Court of Tanzania Arusha Registry since December 2010, despite being filed under a Certificate of Urgency with the aim of speeding up legal proceedings. While the OBC’s hunting license was cancelled in 2017, the case never went to court. It is essential to improve the efficiency of the justice system to ensure that constitutional and other public interest litigations are conducted expeditiously.
- The government, through affirmative action, should ensure the representation of pastoralists in decision-making bodies that impact their lives and livelihoods. For instance, the new General Management Plan (GMP) for the Ngorongoro Conservation Area has failed to consult with the Ngorongoro Pastoralist Council or local commu-

nity members.¹⁸⁸ The GMP should be stopped until the process and Terms of Reference between the NCAA and residents are agreed upon.

- The Tanzanian government must immediately address the issue of severe hunger faced by the Maasai and allow them to maintain their culture and livelihood. Their rights to grazing cattle in Game Controlled Areas and other traditional grounds, as well as the cultivation of subsistence garden plots, must be restored.
- The Tanzanian government must ensure security of land tenure and communal ownership of land for pastoralists through constitutional and legislative safeguards.
- The Tanzanian government must ensure that all land taken unlawfully is restored to the pastoralists and must not allow any further land grabs and unlawful evictions.

Legal Recourse and Policy Solutions

Various legal precedents exist in international case law that offer opportunities for legal recourse for the Maasai. For example, in 2001 the Inter-American Court of Human Rights confirmed that, even if official titles and deeds are absent, indigenous groups in Nicaragua have legitimate land rights based on the traditional occupation of their land. The court also determined that these indigenous peoples maintain those rights even if they are forced off their land or it is otherwise expropriated without consent.¹⁸⁹ Another court ruling, by the African Commission on Human and Peoples Rights, confirmed violation of the rights of the Endorois peoples of Kenya in the 1970s, when they were forced from their lands to make way for a game reserve. The commission found that, although their land had become a game reserve, the Endorois people were its traditional guardians and thus best positioned to maintain its ecosystems.¹⁹⁰

Within Tanzania, there are several possible legal routes to help enshrine their rights to their land and survival.

First, Tanzania is a state party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Article 11 of the ICESCR recognizes the right of citizens to an adequate standard of living, which includes adequate food, clothing, and housing. The same article acknowledges the duty of the State to take action in securing the “fundamental right to be free from hunger.”¹⁹¹ To fulfill this duty, states are required to adopt appropriate economic, social, and environmental policies to ensure availability of food in sufficient quantities and quality, as well as sustainable accessibility to food. The Tanzanian government has clearly failed in this responsibility towards the Maasai.

Tanzania’s Constitution also requires the state to respect, protect, and fulfill various human rights. While the right to food remains un-articulated, Article 14 of the Constitution does guarantee all citizens the right to life.¹⁹² The right to food is linked to this and other rights, including the right to health and shelter, as well as various civil and political rights. Thus, the deprivation of access to resources constitutes a violation of human rights assured to all citizens in Tanzania’s Constitution.

Article 11 ICESCR:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed.¹⁹³

Article 14 of the Tanzanian Constitution:

Every person has the right to live and to the protection of his life by the society in accordance with the law.¹⁹⁴

The Right to Food is also implicitly recognized by the African Charter on Human and Peoples Rights, as reinforced through the case of *SERAC v. Nigeria*, which was heard by a court established to resolve interpretations of the charter.¹⁹⁵

There are therefore numerous avenues for international pressure and legal recourse to ensure the Tanzanian government recognizes the legal and land rights of the Maasai. In addition, the case of the Maasai should be investigated and taken up by UN special mandate holders, including the Special Rapporteur on the right to food; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on minority issues; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Working Group on the issue of human rights and transnational corporations and other business enterprises.



There is also the question of the current legal proceedings between Maasai communities and the two companies discussed in this report – TCL and the OBC. While legal precedents in Kenya and Nicaragua are important for pointing out the legitimate rights of the Maasai, the fate of these two proceedings lies in the hands of the Tanzanian courts. Recent rulings on these cases raise serious questions of whether the Tanzanian courts, and now also the East African Court of Justice, will ultimately uphold the rights of the Maasai, or continue to side with foreign interests.

As this report details, from colonial times to the present day, Tanzania’s land-use policies have largely been determined without consulting the Maasai.¹⁹⁶ It is imperative that Tanzania does away with laws that inhibit the pastoral way of life that defines the Maasai. Instead, legislation should welcome and support co-management of protected areas by empowering villagers and village authorities to sustainably manage wildlife and the lands they share. The Maasai’s right to land, life, and natural resources must be realized and respected.

The Role of Non-State Actors

There is also important responsibility that must be taken by businesses and corporations like TCL and the OBC. These companies must, at the very minimum, respect and abide by the rights of the Maasai, including land rights defenders, and use their resources to help stop all instances of violence, arrest, harassment, and threats made against the Maasai.

In 2011, the United Nations Human Rights Council endorsed a set of “Guiding Principles” for businesses regarding human rights.¹⁹⁷ A three-pronged framework known as “Protect, Respect, Remedy” asserts that states have a duty to protect against human rights abuses at the hands of businesses; corporations have the responsibility to respect human rights; and access to remedies (legal and otherwise) must increase, knowing that abuses can still take place despite the previous commitments.¹⁹⁸

The corporate responsibilities outlined in the guiding principles are particularly relevant here. Included in the many tasks and responsibilities that business enterprises should carry out is the need for due diligence. This includes conducting meaningful consultations with “potentially affected groups” and other stakeholders, and altering business plans to avoid and mitigate any potential abuses.¹⁹⁹

While these guidelines provide important directives for businesses, they are not legally binding. At the time of

the writing of this report, various negotiations aimed at creating a binding treaty based on the above framework are still underway.²⁰⁰ Nevertheless, the principles outline moral obligations and responsibilities that private businesses should clearly undertake.

Supporting Locally-Grown Solutions

Locally-grown solutions offer encouraging ways forward for the Maasai and other indigenous groups in Tanzania. One example is that of Certificates of Customary Right of Occupancy (CCROs), a new model of land titling piloted by the Ujamaa Community Resource Team (UCRT).

CCROs are a type of land designation made possible under Tanzania’s Village Land Act. Typically, they have been granted to individuals, but starting in 2011, UCRT began working with local communities, district officials, and the Ministry of Lands to pilot the establishment of these certificates for entire groups or communities.²⁰¹ Community CCROs are unique in that they “allow entire communities to secure indivisible rights over their customary lands and manage those territories through bylaws and management plans. By formalizing communities’ land holdings and providing legal documentation, CCROs ... help them protect their land rights and ensure the environmental stewardship of their territory for future generations.”²⁰²

CCROs are also powerful in that the certificates can be issued to “minority groups” who often face land grabs or other pressures on their land. Once granted, they last for life, and the land cannot be sold, traded, or subdivided without full consensus from the entire community. The eight-step process for receiving a certificate for more than 250 ha of land is also relatively fast and straightforward, according to the group.²⁰³

Between 2011 and 2014, eight CCROs were obtained with the help of UCRT, one of which was granted to the Hadzabe indigenous peoples of Northern Tanzania. Their CCRO “dedicates approximately 20,000 ha of land as a Hadzabe conservation zone and secures Hadzabe communal rights to live on, manage and use their ancestral land in perpetuity.”²⁰⁴ According to UCRT’s 2016 annual report, that year the group protected over 335,000 ha of land for community use through CCROs, more than tripling the land previously secured through this mechanism.²⁰⁵

With such progress, CCROs might be the best opportunity to ensure the protection of customary land rights for Maasai communities.

Conclusion

Marcus Colchester, a British zoologist, once stated, “It is exactly because the areas that indigenous people inhabit have not been degraded by their traditional resource practices that they are now coveted by conservationists who seek to limit their activities or expel them altogether from their customary land.”²⁰⁶

This could not be more true in Tanzania.

For centuries, the Maasai have been the ancestral occupants and guardians of the land in East Africa’s Great Rift Valley. Their lifestyle, livelihoods, and culture are dependent on the thriving surrounding ecosystems. This kind of long-term care and conservation should be rewarded and lauded. Instead, the Maasai are fighting for their lives –

facing violence, starvation, eviction, and disease, as foreign investors and tourism enterprises seek to profit off of their stewardship.

Without access to grazing lands and watering holes, and without the ability to grow food for their communities, the Maasai are at risk of a new 21st century period of *emutai* (“to wipe out”). This loss – of culture, knowledge, tradition, language, lifestyle, stewardship, and more – is unfathomably large.

But it does not have to be this way. Unlike the *emutai* of the 19th century, the hardships and abuses currently faced by the Maasai can be halted. If only action is taken now.



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/ (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 Sukenya, 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 Sukenya, 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-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) 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/maasai-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-000649-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.theeastafrican.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/1840340-4078976-11da3jib/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-k8t8g8z/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, Sukenya, 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 Irmasiling 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 2nd Defendant [Tanzania Conservation Ltd]." 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.* 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 Sukenya 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 Lesingo 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.*
- 67 Friedman-Rudovsky, J. "The Ecotourism Industry is Saving Tanzania's Animals and Threatening its Indigenous People." *Op. Cit.*



- 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.*
- 70 Renton, A. "Tourism is a Curse to Us." *Op. Cit.*
- 71 Friedman-Rudovsky, J. "The Ecotourism Industry is Saving Tanzania's Animals and Threatening its Indigenous People." *Op. Cit.*
- 72 Nordlund, S. "Brief Report about How I Was Arrested in Loliondo." *View from the Termite Mound* [blog], July 1, 2015. <https://termitemoundview.blogspot.com/2015/07/brief-report-about-how-i-was-arrested.html> (accessed February 28, 2018).
- 73 Committee to Protect Journalists. "Trent Keegan." *Journalists Killed*. <https://cpj.org/killed/2008/trent-keegan.php> (accessed February 28, 2018).
- 74 MacCormaic, B. "Follow-up to Maasai Dispute." *An African Farmer's Journal* [blog], September 14, 2008. <http://africanfarmersjournal.blogspot.ie/2008/09/follow-up-to-maasai-dispute.html> (accessed February 28, 2018); Committee to Protect Journalists. "Trent Keegan." *Op. Cit.*; *Who Killed Trent Keegan*. [video], Directed by R. Harley. 2011. Produced by Project Melting Pot, 2011.
- 75 Judi Wineland. Email message, Subject: "TCL responses" sent to Anuradha Mittal. November 21, 2017, 14:10 PT.
- 76 Villagers and communities shared the fear they live with, their experiences of intimidation, and outside researchers being forced to leave the country with the Oakland Institute research team. Direct communication with villagers, September 2015.
- 77 Patinkin, J. "Tanzania's Maasai Battle Game Hunters for Grazing Land." *BBC*, April 18, 2013. <http://www.bbc.com/news/world-africa-22155338> (accessed February 28, 2018).
- 78 Renton, A. "Tourism is a Curse to Us." *Op. Cit.*
- 79 Kabendera, E. "Tanzania ends hunting deal with Dubia royal family." *Op. Cit.*
- 80 Direct communication with local villagers, March 2018.
- 81 Anaya, J. *Cases Examined by the Special Rapporteur (June 2009 – July 2010), A/HRC/15/37/Add.1*. *Op. Cit.*
- 82 Patinkin, J. "Tanzania's Maasai Battle Game Hunters for Grazing Land." *Op. Cit.*
- 83 Direct communication with local villagers, Soitsambu Ward, September 2015.
- 84 *Ibid.*
- 85 *Ibid.*
- 86 Anaya, J. *Cases Examined by the Special Rapporteur (June 2009 – July 2010), A/HRC/15/37/Add.1*. *Op. Cit.*
- 87 *Ibid.*
- 88 *Ibid.*; Feminist Activist Coalition. *FEMACT Loliondo Findings*. August 2009, http://mokoro.co.uk/wp-content/uploads/femact_loliondo_findings.pdf (accessed February 28, 2018).
- 89 Anaya, J. *Cases Examined by the Special Rapporteur (June 2009 – July 2010), A/HRC/15/37/Add.1*. *Op. Cit.*
- 90 *Ibid.*
- 91 *Ibid.*
- 92 Renton, A. "Tourism is a Curse to Us." *Op. Cit.*
- 93 Feminist Activist Coalition. *FEMACT Loliondo Findings*. *Op. Cit.* p. 8.
- 94 Direct communication with a village elder ██████████ of Kartalu village, Soitsambu Ward, September 25, 2015.
- 95 Direct communication with civil society leaders, Arusha, September 25, 2015.
- 96 *Ibid.*
- 97 Direct communication with Edward T. Porokwa, Executive Director of PINGOS Forum, September 30, 2015.
- 98 "Tanzania breaks promise - thousands of Maasai evicted to make way for lion hunt." *The Ecologist*, February 27, 2015. http://www.theecologist.org/News/news_analysis/2771261/tanzania-breaks-promise-thousands-of-maasai-evicted-to-make-way-for-lion-hunt.html (accessed February 28, 2018).
- 99 Ministry of Natural Resources & Tourism, United Republic of Tanzania. *Government clarifies on decision to provide huge tracks of land to Loliondo residents*. [Press Release], April 7, 2013. <http://www.mnrt.go.tz/highlights/view/government-clarifies-on-decision-to-provide-huge-tracks-of-land-to-loliondo> (accessed February 28, 2018).
- 100 *Ibid.*
- 101 Smith, D. "Tanzania Ditches Plan to Evict Masai for Serengeti 'Wildlife Corridor.'" *The Guardian*, October 7, 2013. <http://www.theguardian.com/world/2013/oct/07/tanzania-maasai-serengeti-wildlife-corridor> (accessed February 28, 2018).
- 102 "Maasai Face Eviction from Ancestral Lands to make way for Dubai Hunting Firm." *Christian Science Monitor*, April 5, 2013. <http://www.csmonitor.com/World/Africa/2013/0405/Maasai-face-eviction-from-ancestral-lands-to-make-way-for-Dubai-hunting-firm> (accessed February 28, 2018); Patinkin, J. "Tanzania's Maasai Battle Game Hunters for Grazing Land." *Op. Cit.*
- 103 Stop the Serengeti Sell-off. *Avaaaz: The World in Action*. https://secure.avaaz.org/en/save_the_maasai/?slideshow (accessed February 28, 2018).
- 104 Smith, D. "Tanzania Ditches Plan to Evict Masai for Serengeti 'Wildlife Corridor.'" *Op. Cit.*; Smith, D. "Tanzania Accused of Backtracking over Sale of Masai's Ancestral Land." *The Guardian*, November 16, 2014. <http://www.theguardian.com/world/2014/nov/16/tanzania-government-accused-serengeti-sale-maasai-lands> (accessed February 28, 2018); Smith, D. "Tanzania's Masai 'Breathe Sigh of Relief' after President Vows Never to Evict them." *The Guardian*, November 25, 2014. <http://www.theguardian.com/world/2014/nov/25/tanzania-masai-eviction-uturn> (accessed February 28, 2018).
- 105 Tweet of President Jakaya Kikwete. November 23, 2014, <https://twitter.com/jmkikwete/status/536439161927266305> (accessed February 28, 2018).
- 106 According to *The Ecologist*, these evictions are linked to clearing land for use by the OBC. "Tanzania breaks promise - thousands of Maasai evicted to make way for lion hunt." *Op. Cit.*
- 107 Direct communication with civil society leaders, Arusha, September 25, 2015.
- 108 For instance, Nguchuk Turuni, a resident of Maaloni village, was arrested on claims of being a Kenyan, and taken to Loliondo. He was found not to be Kenyan, but was then accused of hosting a Kenyan national. The person accused to be Kenyan was a resident of Enguserosambu, a village in Loliondo and therefore a Tanzanian not a Kenyan. Both were later found to be Tanzanians but still forced to pay TZS 200,000 (approximately US\$92) in fines. Tanzania Human Rights Defenders Coalition. *Loliondo Joint Fact Finding Mission: Human Rights NGOs Joint Intervention Report*. May 2015, p. 18.
- 109 Direct communication with villagers and CSO members, June 2017.
- 110 Kamal, B. "Forced Evictions, Rights Abuses of Maasai People in Tanzania." *Op. Cit.*; "Maasai displaced after huts burned in Tanzania." *Op. Cit.*
- 111 Kolumbia, L. "Ngorongoro eviction victims now pondering court option." *Op. Cit.*
- 112 Tanzanian Government Communications Unit. "Zoezi La Kuondoa Mifugo Na Makazi Ndani Ya Hifadhi Ya Serengeti Na Mpaka Wa Pori Tengefu La Loliondo." *Op. Cit.*
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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 ██████████ 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 ██████████ 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 ██████████ had experience in the area, so he was able to call a meeting? A: ██████████ 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.
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