

2009

FEMACT LOLIONDO FINDINGS

19th -21st August 2009

**FEMINIST ACTIVIST COALITION
(FEMACT)**

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Abbreviations

CSOs	Civil Society Organisations
FORDIA,	Concerns for Development Initiatives in Africa
LEAT	Lawyers Environmental Action Team
LHRC	Legal and Human rights Centre
TAMWA,	Tanzania Media Women Association
TGNP	Tanzania Gender Network Program
WILAC	Women Legal Aid Centre
UCRT	Ujamaa Community Resource Trust
PINGOs	Pastoralists Indigenous Non Governmental Organizations
NGONET	Ngorongoro Non-governmental Organisations Network

1.0 Background information

Over the Last three months, acts of unconceivable evil were perpetrated through an eviction operation against indigenous pastoralists in Loliondo. **Loliondo** is one of the three Divisions of the Ngorongoro District situated in the Arusha Region in Northern Tanzania. The Ngorongoro District Covers an area of about 14037 square Kilometres. Stretching across some 8,300 sq km, is the Ngorongoro Conservation Area, established in 1959 and governed by the Ngorongoro Conservation Area Authority, and the rest is the Loliondo Game Control Area consisting of the Sale and Loliondo Divisions.

The eviction conducted by the Tanzania police Field Force Unit was supposedly an act to eliminate the pastoralists from the hunting block allocated to an OBC known as Ortello Business Cooperation in 1992. The pastoralists had allegedly invaded the private hunting block as well as degraded the environment in the respective area. The evictions were thus aimed at returning them back to their supposed villages and save the environment in one of the vital forests of the Game Control area.

The malicious and ruthless operation to evict the maasai communities was alleged to have affected eight Villages of the Loliondo division. The alleged villages were left in unimaginable distress and utter poverty. Among other inhuman acts such as rape and torture, the Loliondo communities are alleged to have lost their properties and loved ones. It was alleged that more than two hundred Maasai *bomas* were totally burnt; women were raped; more than 3000 people left homeless without food and other social basic needs and more than 50,000 cattle were left with no grass and water.

Due to the spreading of this information especially from pastoralists' Civil Society Organisations and contrary information from government agencies, a group of activist Civil Society Organisations under the FemAct network in Dar es Salaam took the initiative of conducting a painstaking investigation on the matter. Following the latter, the FemAct secretariat teamed up with the Pastoralists' Network to put in order a two day fact-finding mission which resulted to this account.

2.0 Objectives of the investigation

The investigation team was comprised of seven representatives of the FemAct network from Dar es salaam, three pastoralist CSOs from Arusha one based in Loliondo and four media persons. The FemAct representatives included FORDIA, HakiArthi, LEAT, LHRC, TAMWA, TGNP and WILAC. The pastoralist CSOs included UCRT, PINGOS and NGONET. The investigation team arrived in Loliondo on Wednesday the 19th day of August 2009 with the following objectives:

1. The team aimed at establishing the legal Status of the Villages and that of Ortello Business Corporation.
2. The team aimed at accessing the legitimacy of the evictions and the means and procedure followed.
3. The team intended to access the extent of damage caused by the eviction as well as to identify immediate solutions and fate of the villagers.
4. The prosecution of cases if any found.

3.0 Courtesy Visit to the District Commissioner's Office

On Thursday the 20th day of August 2009, the Investigation Team passed by the District commissioner's office as a matter of courtesy. To the team's amazement, the Ngorongoro District commissioner Mr. Elias Wawa Lali gave the team a four hours presentation where he briefed the team of the ongoing situation in his district.

Mr Wawa Lali started by giving a brief history of the problem where he alleged that the source of the conflict in Loliondo stems from overlapping legislations. Mr Wawa Lali noted that the 1959 regulation establishing the Ngorongoro Conservation area and the Loliondo Game Control Area overlaps with the 1975 legislation that establishes villages and community villages. The Latter gives the Ministry of Natural Resources and Tourism ownership and overall mandate over the Game Control area and the former gives the villages the power to enter contracts with any investor interested in investing in the village. Mr. Lali argued that the Ministry of Natural Resources and Tourism allocated the Game Control Area to the OBC without paying due regard to the village authorities and hence the current blows.

With regard to the eviction operation, the District Commissioner alleged that the maasai communities are being evicted from the area in conflict due to the environmental importance of the respective area. He pointed out that, the area in dispute is a vital forest for the sustainability of the Ngorongoro Conservation Area and the Serengeti National Park as well as the entire ecosystem. Mr Wawa Lali claimed that the area in conflict is the only place with a water source and also acted as a buffer zone, a production area for animals as well as the animal migration corridor. He add that by virtue of his position as the District Commissioner, he is obliged to enforce and ensure the implementation of the law as well as to protect the Natural resources for the country's best interests.

Mr. Wawa Lali claimed that the maasai communities are depleting the environment by cutting down trees in order to push away the Arab investor. He alleged that the maasai population and their livestock have been increasing over the years and currently they cannot be carried by the land in conflict. Mr. Lali observed that the increase in population and live stock is a danger not only to the ecosystem but also the entire existence of the wild beasts. Subsequently, the eviction of the maasai from the alleged area in conflict was a necessity.

Mr Lali assured the FemAct team that the Loliondo evictions were legal and were carried out in a subtle way paying due regard to Human Rights. Mr Lali asserted that the communities were given due notice to peacefully depart from the land in conflict but they did not respond accordingly. He noted that after endless cues, he gave what he referred to as a legitimate command to evict the pastoralists from the respective area. The District Commissioner affirmed that the eviction took place from the 4th day of July 2009 to the 6th day of July 2009. He declared that the evictions started from Orelia village followed by Kalkakamoo and Girgiri. Mr Lali emphasized that the eviction operation was fair and paid due regard to human rights. He noted that the Police field force unit first evacuated all women and children and ensured that all persons with their belongings left the area before burning the Bomas. Mr Lali stressed that the Bomas were only burnt so as to prevent the communities from resettling in the same Bomas after the eviction. When asked about the alleged rape cases and other inhuman acts during the eviction, Mr. Lali asserted that all those were false accusations and misrepresentation twisted by the pastoralist CSOs on the ground.

After the detailed account of the evictions, Mr. Lali assured the FemAct team that all that has been heard on the Loliondo evictions is nothing but missinformation. He alleged that the pastoralists CSOs were not only responsible for misinforming the media but they also incited

the maasai communities to continue depleting the environment and disobey the eviction order. Mr Lali insisted that the CSOs actions were influenced by political interests of some of their members wanting to become political leaders in the coming elections.

Apart from resting his case on pastoralists CSOs, the District Commissioner alleged that the media people went to the extent of setting bushes to flames in order to portray that the Loliondo evictions were still ongoing. He observed that whereas the evictions only lasted three days, there were TV programs aired two weeks latter declaring the continuation of the evictions. Mr. Lali condemned such audacious deceitful acts and urged the FemAct team to go prove the above allegations for themselves and inform the nation of the ongoing misinformation.

With regard to contracts entered between the village council and the Ortello Business Corporation, Mr Lali stated that the respective contracts were valid and legally entered between the two parties by mutual consent and understating. He assured the FemAct team that the villages benefited from the contracts and their annual income was duly paid by the company. He said that initially the villages earned three million Tanzanian shillings but as of last year (2008) they earned twenty five million and the Soitsambu village earned fifty million Tanzanian shillings. The District Commissioner added that apart from the latter income the villages have been able to receive education assistance from the OBC. Mr. Lali said that approximately 60 children from the Loliondo villages were being educated by Ortello Business Corporation. Mr. Lali went on to enlighten the FemAct team that the question of education to massasi children is a question of great concern. He said that his office has been force to intervene and forcefully recruit children so as to provide them with the basic primary education. Mr Lali also gave an example of one child who ran to the Police car during the operation asking for help so as to secure education.

Giving his blessings to the FemAct team to continue with their mission, the District Commissioner assured the team that the eviction operations were stopped and currently they only arrest people who are caught cutting down trees and depleting the environment. He said that they had so far arrested seven people on the latter charges. The district commissioner urged the FemAct team to go affirm his words and help his office clear the alleged accusations against it.

3.1 Observation points from the District commissioner's presentation.

Throughout Mr. Lali's presentation, great reference was made to the Committee on Peace and Security as well as the Committee on Political Affairs. Mr.Lali gave orders of the eviction depending on the decisions of the two committees and made reference to a chain of meetings held with the two committees before the eviction. According to Mr. Lali, the political committee whose main role is to ensure the implementation of the ruling party's policies is the one with the upper hand and the capacity to give him orders. Mr. Lali declared that most of the matters pertaining to the Game Control Area are surely beyond his command and his hand were tied. Apart from the above mentioned committees, Mr Lali referred to two Taskforces from both the regional and national level formed to address the environmental issue in Loliondo. Mr.Lali referred to a meeting held on the 20th of June 2009 by the committees and the Regional Taskforce with an aim of evaluating the environmental status in Loliondo. Whereas Mr.Lali made reference to these Taskforces, he did not disclose their decisions or responsibilities. It was also clear from our observation that the operation was being conducted without clear reference to any particular laws and that the normal law procedures were not followed. Further the institutions responsible with delivery of justice such as courts were not involved in giving orders for eviction and demolition of people's properties. Hence all acts were determined administratively through the office of the DC and RC.

4.0 Investigation Team's Field Findings

After the encounter with the District commissioner, the FemAct team began its fact-finding mission in the Loliondo Villages. In one and a half day, the team managed to visit four out of the eight Loliondo villages as well as the Ortello Bussiness Corporation camp site. The team visited the Ololosokwan, Soitsambu, Olerien-Magaiduru and Arash villages and came up with the following findings.

Generally, the team established that it was true that there were ruthless eviction operations conducted in the Loliondo villages. Contrary to the District Commissioner's claims, the investigation team came across testimonies and evidence of despicable despicable acts. The team came across women who had undergone miscarriages, rape, loss of children and other properties including food and shelter. Men who were chained beaten and humiliated in front

of their families, those who had lost thousands of livestock among other properties and those who were imprisoned for no apparent reasons. Generally speaking, the maasai communities in the Loliondo villages are internally displaced persons. They have no land to settle, no shelter, no food, no water for even their livestock, no clothing or any other form of social services.

Above all, the maasai communities are highly traumatised and need sociological support. Due to the callous and malicious nature of the evictions, the maasai communities have remained terrified and always fearful. When the investigation team arrived in the Olerien-Magaiduru village, some of the villager started running thinking the Field Force Unit was back to harass them. A few members of the team who went to see a woman who had undergone a miscarriage also encountered resistance from the lady whose mother affirmed that she was scared thinking they were part of the evicting officers. The team also received complaints from men who complained that their wives have become hysterical and time and again collect themselves and bust out into tears.

The team also confirmed that it is not true that journalists had been setting bushes to flames so as render the continued burning of bomas. The Investigation team found more than two freshly burnt bomas in the Arash Village around olchoroibor sub village.

The investigation team also established a close link between the police conducting the evictions and Ortello Business Corporation and that the evictions were aimed at protecting the Corporation and clearing the fields for hunting. Apart from receiving endless testimonies, the team realised that the police force responsible for conducting the evictions, is the same unit as the one which questioned the team upon arrival at the Ortello Business Corporation camp site. Further the eviction operation team is hosted at OBC Camp

The enquiry team also established that there was no forest to be protected as alleged by the District Commissioner. The team only came across savannah plains and dry lands which formed the game control area where hunting blocks were to be allocated. The claims that the evictions were aimed at protecting the environment were thus false. On the other hand, the evictions were carried out throughout the Loliondo villages without any defined boundaries. Conversely , the allegations that the maasai communities are depleting the environment by cutting down trees is also false as the investigation team found no cut trees but instead a few tree branches used by the maasai to construct their traditional Bomas. The team actually

established that the eviction process contributed to environmental degradation through the burning out of Bomas and pushing the maasai communities from their land to an area with a low carrying capacity. Additionally, the respective areas had no water source, and were not in any way a buffer zone.

The investigation team also proved that it is not true that the maasai communities had trespassed or invaded the Ortello Business Corporation area as the maasai have been living in the respective villages since time immemorial. Additionally, what the Ortello Business Corporation has is a mere hunting permit and not ownership rights on the respective land. It is only to negotiate with the respective villages on the terms of use so as to effectively utilise his permit. The investigation team received testimonies from maasai elders ranging from the age of 65 and above who were born in those villages and who claimed to have buried their ancestors on the respective land. One Mr. Yohana of 74 years of age from the Ololosokwan village is a good example whose memory goes back to the 1950s before the nation's independence. He recalls having buried his father in the Ololosokwan village at the area where people are evicted.

The enquiry team also established that contracts entered between some of the Loliondo villages and Ortello Business Corporation were void. Upon reviewing a number of contracts, the team noted that, in the first place, the contracts were entered between the villages and the District Commissioner's office (the government) on behalf of Ortello Business Corporation who signed as a witness. Secondly, the contracts only outlined the terms to be followed by the villages but were silent on those to be adhered to by Ortello Business Corporation. Lastly, the Contracts had no conflict resolution clauses or terms of termination and in most cases, the village members did not participate in the whole process. Further in no clause does the contract talk about the land and the eviction of the pastoralists should any breach happen.

The investigation team furthermore established that, most of the villages had not for a long time benefited from the existence of the Ortello Business Corporation. It is only Tuesday the 18th of August 2009 on the material day of our travel to Loliondo that the villages received cheques of twenty five thousand shillings. With some village elders having been forced to receive the cheques on a ceremony presided by the District Commissioner. Our visit to all the villages has proved that the villages are not aware of receiving the money. Some have even

stated clearly that they have no interest of knowing whether the money has been received let alone any interest with the money itself.

The concern that the community has on OBC was yet another establishment. The confidence level of different members of the community including the CSOs in Loliondo has seriously been affected to the extent that everybody is worried about action being taken by the government when they get involved in the OBC matter. This can be justified by how our team was followed by the militia and how we were obstructed by the FFU vehicle after visiting the OBC camp.

4.1 Findings on Ortello Business Corporation

Apart from the above findings which are contrary to the District Commissioner's statements, the investigation team came with the following findings.

In the first place, upon arriving at the Ololosokwan villages, one receives the following network text message through the Zain mobile network.

“Dear Guest, Welcome to the UAE. Enjoy the best network coverage and other unmatched services only with Etisalat. Please use<+> or <00>before the country code for international calls. For directory services call 181, for availability of GPRS, MMS 3G roaming services call Etisalat Travellers help line 8002300 & for inquiries on Tourism, entertainment, shopping, etc call 7000-1-7000(Roaming rates apply) Have a pleasant stay in the UAE.”

The above network text message leaves allot to be desired. One wonders whether Ortello Business Corporation is a private company or is a sovereign state within Tanzania. The question of the relationship between the Corporation and the Tanzania Communication Regulatory Authority (TCRA) did not stop lingering in the heads of members of the investigation team.

As if the above is not enough, Ortello Business Corporation is guarded by the Tanzanian police and the entire security system since 1992. After the investigation team leaving the company's camp site after facing lack of corporation from the Camp manager, miles away being followed by three militia vehicle, the team was stopped by head of the field force unit responsible for supervising the evictions and guarding the company's camp site. He assured the investigation team that he had received phone calls from his bosses namely the District

and Regional commissioner complaining about the team's visit to Ortello Business Corporation camp site. He went on insisting that the team was authorised by the District Commissioner to visit the villages and not the company. He also requested of any photos of the company the team might have taken.

The above scenario surely leaves one perplexed as to whether, Ortello Business Corporation is a company registered under the Tanzanian companies Act, Cap.112 which in turn makes it a Tanzanian citizen required to abide by the Tanzanian laws or whether it belongs to a sovereign state having diplomatic relations with the country.

Ortello Business Corporation also owns an Airstrip big enough to be called an airport. Maasai communities on the ground assert that the Jet that lands on the respective air strip has the capacity of carrying about 400 people and in most cases carries animals and cargo. The investigation team affirmed this by seeing number vehicles around the area operating with no number plates and some with Dubai number plates. This was surely yet another wonder. Where our immigration, Tax and carriage authorities? This was all the investigation team called ask itself.

What is the Legality of Ortello Business Corporation? To what extent are the Loliondo communities and the nation at large informed of and involved in activities carried out by Ortello Business Corporation? What interest does the state have to enter a contract with its citizens on behalf of an investor? To what extent do the citizens know about the formed taskforces to address the Loliondo case? Why the government's protection over Ortello Business Corporation? These are all unanswered questions that the investigation team took back home.

5.0 What the Loliondo Communities Want.

1. Villagers want back their ancestral land both for their survival as well as for the sustainability of their livelihood system.
2. They want to fairly benefit from the natural resources in their areas
3. Community members demand to be involved in all decisions and all matters of their concern.

4. The community demands that they be treated fairly and harassment conducted by the government machinery on behalf of OBC should stop immediately
5. The community demands restitution for the loss that has been incurred in the process of the operation
6. Further, there is a strong demand for the government's accountability in all decisions that impact on the livelihood of the people
7. The community needs OBC out of their land and that they should be left alone to determine their destiny

6.0 Immediate needs Identified by the Investigation team

- The Loliondo communities immediately need **Water** for the survival of both the people and their livestock,
- They immediately need shelter as most community members have no houses and leave under trees,
- They need quick medical aid especially for women and children— women who had undergone miscarriages are yet to receive medical aid. They also need sociological support and counselling.
- Food is of the essence as they utterly have no food
- and lastly a number of arrested community members need legal assistance.

7.0 Action to be taken by FemAct and Pastoralist CSOs

- Provide immediate legal assistance: This action is to be taken up by PINGOS, LHRC, UCRT and NGONET. The team is to come up with the budget of two advocates to follow up on the cases. And LHRC should provide an advocate who will be facilitated by joint efforts.
- Immediate social services: With regard to the emergency social services, a fund raising proposal is to be written by the pastoralist network coordinator so as to raise relief funds from organisations which give out such funds.
- Media Strategy: The organisations are to have a press Conference to break the findings and thereafter a series of media programs to address the Loliondo case in both national and international media houses.

NOTE:**CIRCUMSTANCES NOT CONDUCTIVE TO COLLECT ANY STATISTICAL DATA**

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