



REPORT ON THE STATUS OF MEATU LITIGATION

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BY:

PINGOs FORUM and LEGAL AND HUMAN RIGHTS CENTRE

1. INTRODUCTION

Pingo's Forum and LHRC started intervention in Meatu in early 2011 after Meatu District Council and the District Commissioner issued series of notice, requiring Villagers mainly pastoralists, agro-pastoralists, hunters and gatherers from **Mwabagimu, Jinamo, Iramba Ndogo, Makao, Sapa, Mbushi** and **Mwangudo** villages lawfully living for gain within Makao wildlife Conservation Area (WMA) to vacate the Conservation without compensation. Respective villagers were treated by government authorities as trespasser to the Conservation land as such they had no any right to own and use the land.

According to the research and follow ups made by Pingo's Forum and LHRC indicated that, most victims were not trespassers to the land as contented by the Government. The pastoralists including Sukuma, Taturu, hunters and gatherers (**Hadzabe**) lawfully living within the Conservation Area resisted the government movement to evict them without paying adequate compensation.

The government without due regard to the rights of the victims used her strong muscles, the law enforcing organs to evict respective pastoralists, hunters and gatherer from their land without any compensation. A special eviction operation launched and conducted for five days from November 10-15th, 2011 removed the victims.

Out of this eviction some people especially those who could stand for their rights and rights of others were victimized and charged for vexatious and fabricated offences of incitements, trespass to wildlife conservation and environmental offences. Other people were shot and charged for offences of obstructing police officers while on their duties and some were charged for offence of murdering a game scout for Makao WMA.

Looking the situation on the ground PINGOs and LHRC sought to assist the victims on human rights ground by providing legal aid through defending victims in court of law and doing advocacy work with a view of influencing changes.

2. Cases Instituted in Court by the Republic against victims

a. Disposed Cases

i). Republic versus Jilalabu Bida & 7others CR. C #161/2011 District Court Meatu.

On 29th November, 2011, accused were charged for the offence of incitement under Section 37 of the News papers Act No. 10 of 1994.

The Counsel for the accused defended the case basing on unlawful prolongation of hearing of the case contrary to S. 225(4) of the Criminal Procedure Act of 1985. The court on 15th May, 2012 allowed defense argument and all the accused were discharged under the provision of Section 225 (5) of the Criminal Procedure Act.



Shilinde Ngalula (adv) and Lengai Melinyo (L.O) standing with accused at the DC Meatu ground

ii. Republic Versus Bulugu Gembe and 4 others CR. C # 172/2011, DC

Meatu. Charged on 28th Nov.2011 for an offence of Unlawful entry into

Game Reserve Controlled Area contrary to Section 15(1) and (2) of the Wildlife Conservation Act No.5 of 2009. After hearing the arguments of both sides, The court was convinced that prosecution has no case against the accused hence discharged the accused under the provision of section 225(5) of the Criminal Procedure Act, 1985 on 16th June, 2012.



Shilinde Ngalula (adv) right and Lengai Melinyo (LO) left in suit standing in picture with bailed 5 accused persons charged with above mentioned offence.

iii. Rv John Lupia and 2 others charged on 14th February, 2012 for an offence of Armed Robbery C/s 287A of the Penal Code Cap.16 Vol.1 of the laws as amended by Misc. Ammendment Act, No.3 of 2011. Counsel for the accused argued to discharge accused basing on the provision of S. 225 (4). The court granted the prayer and discharged accused under S. 225(5) of Criminal Procedure Act, 1985.

iv. Rv Juma Mboje charged on 27th March,2012 for an offence of unlawfully entry into social forest reserve and build dwelling house c/s 26 and 85 (5) of the Forest Act No.14 of 2002. The accused was arrested by group of game Scouts at Mobokisini sub-village, Iramba Ndogo where they started beating him and he

suffered a fracture on his leg. Prosecution failed to establish a prima facie case hence accused acquitted by the Court on No Case to answer plea as per section 230 of the Criminal Procedure Act, 1985.

v. Republic versus Gaga Dongori & 3others

Accused on 12th November, 2012 were charged for the offence of unlawful entry in a Wildlife Management Area contrary to section 21 of wildlife Conservation Wildlife Act No. 5/2009 read together with rule 71 of the Wildlife Conservation (Wildlife Management Area) Regulation 2005. Accused were discharged by court on 13th December, 2012 under section 225(5) of the Criminal Procedure Act, 1985.

vi. Republic Versus Nzengo Nkoba and Another Criminal Case No. 53 /2012

District Court Meatu

Accused charged on 30th March, 2012 for the offence of unlawful possession of marijuana c/s 12(d) of the Drugs Prevention and Trafficking in Drugs Act Cap. 95 of Revised Edition, 2002. Counsel for the accused on 12th October, 2012 persuaded the court to dismiss the case on a plea of No case to answer as per section 230 of the Criminal Procedure Act, 1985. The court concurred with the plea by dismissing the case and acquitting all accused.

b. Status of Cases pending in Court

i. Republic versus Jisunge Mpemba and another Criminal Case NO.159 of 2011

Accused were charged on 11th November, 2011 for the offence of assaulting a Police officer in the due execution of his duty Contrary to section 243(b) of the Penal Code. This case is on the hearing stage on prosecution side and already three witnesses testified their evidence in Court against the accused. This case comes for further hearing on 18th April, 2013.

ii. Republic versus Gidafarida Gudabundeka and 2 others Criminal Case No. 107 of 2012

Accused charged for the offence of unlawfully entry in a Wildlife Management Area contrary to Section 15 of the Wildlife Conservation Act No. 5 of 2009 read together with Rule 71 of the Wildlife Conservation (Wildlife Management Areas) Regulation, 2005 (GN 283/2005). This case is also on the prosecution hearing and it comes for further hearing on 9th April 2013 before Hon. Mabula-DRM Meatu District.

iii. Republic versus Isaack Biru and 4 others Criminal Case NO. 92/2012

Accused charged for the offence of threatening to kill contrary to Section 89(2) (a) of the penal Code Cap .16 Revised Edition 2002. Accused in this case are Game Scouts and Sungusungu who threatened to kill Advocate Shilinde while assisting three pastoralists to recover their confiscated herds cattle found within Makao Wildlife Management Area on 27th March, 2012 .

This Case comes for first hearing on 8th April, 2012 before Hon. Mabula DRM

iv. Republic versus Katinda Matanga and 17 others Murder case No. 6 of 2012.

Committal proceeding continue in the District Court of Meatu, however, advocate for the accused lodged a complaint to Attorney General Chamber Shinyanga to intervene the case because is a purely concocted case against the accused. Upon the complaint the case file forwarded to Attorney Chamber for necessary intervention. The case has been adjourned in court pending return of the file from the Attorney General's Chamber.

c. Challenges for Prosecuting the cases in Court

- i. The number of cases filed by state against the accused is too big to be handled by one advocate.
- ii. The accused are assisted by advocate from Arusha who travels about 800km to and from Meatu.
- iii. That, the prosecution prolongs the case by asking several adjournment without hearing the cases.
- iv. Prosecutions failure to bring in time witnesses delay hearing of cases.

- v. Victimization of accused by Game Scouts and Sungusungu supported by police authority is rampant.
- vi. Illiteracy of the victims and language barrier diminishes effective communication with their lawyers.
- vii. It is costly and too expensive to attend client's cases in Meatu regularly.
- viii. Obtaining copy of Judgment and proceeding in court is too challenging.

4. Lesson learnt

- i. Through Meatu litigation we have learnt that the State do not care about individual's rights but cares about welfare of wild animals.
- ii. That investment in wildlife and tourism is the main source of conflicts between local people around the area and investors.
- iii. That a small cake of benefit out of investments in wildlife resources is given to respective villages and spent by village leader for their personal benefits.
- iv. That most victims of cases in Meatu support the opposition party; Chadema.