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Bugnau (Switzerland), August 20, 2014

**Ref: Concerns about the attempted eviction of Uvinje community of Saadani Village, Pwani, northeast Tanzania**

Excellencies,

The ICCA Consortium is an international association under Swiss law uniting federations and organizations of indigenous peoples, local communities and NGOs concerned with the appropriate recognition of the **territories and areas conserved by indigenous peoples and local communities** (ICCAs) throughout the world. We are a partner organization of the Secretariat of the Convention on Biological Diversity (CBD), the United Nations Development Programme (UNDP GEF SGP) and the International Union for the Conservation of Nature (IUCN). Our Members and Honorary members span over fifty countries.

The ICCA Consortium's worldwide engagement is part of the global recognition of the importance of community conservation practices, including by those who define themselves as discrete indigenous peoples and those who do not, to achieve global conservation goals and targets. This recognition is enshrined in the Convention on Biological Diversity (CBD), which recommends Parties to "recognize the role of indigenous and local community conserved areas in biodiversity conservation and

*diversification of governance types”* (CBD COP 10, Decision X 31), a role considered fundamental to reach Aichi Biodiversity Targets 11 and 18, among others.<sup>i</sup>

**We are writing to express concerns regarding the threatened eviction of the Uvinje villagers from their ancestrally owned coastal land adjacent to the Saadani National Park, in violation of international human rights obligations and in contradiction with CBD decisions, IUCN Resolutions and Tanzania’s own land tenure and natural resource policies that protect village land rights.** Such an eviction would not only have serious negative consequences for the Uvinje community’s livelihoods and well-being but also for conservation practices in the country and region.

News of possible eviction comes as a surprise to the Consortium as our global members have looked for some years to Tanzania as a lead actor in both the recognition of customary land rights and the practical development of mechanisms to enable communities to contribute to national conservation objectives without losing their lands. We refer to Wildlife Management Areas (WMA) but especially to the extraordinary progress Tanzania has made in the form of community owned and managed forest reserves (see below). Both offer important avenues through which such conundrums of rights and conservation as demonstrated in this case may be addressed.

## **Background**

The mentioned dispute involves Uvinje, a small, coastal sub-village of Saadani Village, located 8 km from the village centre. Since the 1990s, the Tanzania National Park Authority (TANAPA) has, through the redrawing of boundary lines, unilaterally gazetted Uvinje’s present and ancestral lands to extend the coverage of Saadani National Park. As a result, the Uvinje villagers now face forced eviction from their land and homes.

In 1965, **the Saadani village leaders themselves approached the Director of Wildlife to request support to protect local wildlife** that was being indiscriminately hunted by outsiders. The Saadani Game Reserve (SGR) was created, and officially gazetted by the Wildlife Division in 1974. The community thus voluntarily contributed over 66% of their original lands to the Reserve, including voluntarily vacating some smaller sub-villages, close to the better rangelands where wildlife found important habitats. **In exchange, the community was promised the retention in perpetuity of the coastal areas where their main villages, including Uvinje, are situated.** The same agreement applied to the main coastal villages of Saadani and Porokanya. At the time of the agreement **the Game Department (WCA) positioned a line of concrete beacons (markers) to delineate the official boundary between the Saadani Game Reserve and the village lands** (see [Annex 1](#)). New land law (Land Act, 1999, Village Land Act, 1999 confirmed villagers as legally enjoying protection for their village lands.

In the 1990s, without involving or consulting the local communities, TANAPA redrew the boundaries of the Saadani Game Reserve to include the totality of the Uvinje and Porokanya sub-villages and a portion of the remaining Saadani village lands. From the new map, as drawn up by TANAPA, it is clear that these new boundaries now delineate the area of the gazetted Saadani National Park (see [Annex 2](#)). As soon as the villagers became aware of this, they strongly objected (see [Annex 3](#)).

**In 2006, an official investigation by the Commissioner of Bagamoyo District and the Regional Commissioner of the Coastal Region into the status of the village lands ruled firmly in favour of the villagers** (see [Annex 4](#)). In late 2011, however, TANAPA and a new Bagamoyo District Commissioner insisted that the villagers were to relocate. In June 2014 government officials and policemen attempted to start the expropriation of the Uvinje community’s lands. There have also been attempts to persuade Uvinje villagers to accept compensation, which legitimate members of the community have steadfastly rejected (see [Annexes 2 & 5](#)).

**Independent research** setting out the full history of the status of the lands in question is provided in [Annex 6](#); **this includes expert spatial analysis** of relevant maps and boundary descriptions.

Despite the decision by TANAPA to alter the recorded boundaries of the Saadani National Park, the **villagers of Uvinje** remain the legal owners of the village lands in question. Moreover, they have for a long time proven to be **diligent custodians of their lands and able to respect and manage wildlife whilst remaining *in situ***. Their excellent relationship with the Game Department over 30 years testifies to this.

## Concerns

The ICCA Consortium is informed that 24 households and about 56 adult landowners are directly and primarily affected in this case. These are not large numbers, but fundamental questions of rights and lessons for other citizens remain at stake, and raise questions as to how far Tanzania's own legal and administrative processes have been observed. From the perspective of international law, may we also draw your attention on a number of covenants to which Tanzania is a State Party.

### **1. The forced eviction of customary landholders from their lands is a violation of their fundamental rights and the duties of States to recognise and protect such rights.**

Articles 2 of the **International Covenant on Civil and Political Rights**<sup>ii</sup> requires that

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

This is reiterated in the **International Covenant on Economic, Social and Cultural Rights**.<sup>iii</sup> In addition, the Covenant requires State Parties to take appropriate steps to ensure the realization of the right to an adequate standard of living, to food and adequate housing (Article 11) and the right for cultural heritage, so often premised on longstanding habitation and special sites to be protected (Article 15).

Articles 7 and 14 **African [Banjul] Charter on Human and Peoples' Rights**<sup>iv</sup> are similarly protective of Africans land rights under provisions requiring that

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate law (Article 14), and

Every individual shall have the right to have his cause heard (Article 7).

International jurisprudence on these commitments has been considerable. In Africa, the landmark decision of the African Commission on Human and Peoples Rights in 2010 is also of note. This ruled that the dispossession of the Enderois (in Kenya) amounted to an encroachment of their right to property in violation of Article 14 of the above African Charter and also found violations of the right to culture (Article 17), to natural resources (Article 21) and to development (Article 22), including breach of duty to obtain 'free, prior and informed consent'.<sup>v</sup>

### **2. Conservation efforts that damage human, indigenous peoples' and local community rights are unlikely to foster effective long-term conservation results and are incompatible with relevant international policies and best practices**

Global conservation policy promotes the integration of community rights and conservation targets through mechanisms such as ICCAs, whereby communities, supported through suitable measures and incentives, practice conservation while sustaining and developing their livelihoods. This position is confirmed in numerous policy statements of the Convention on Biological Diversity— in particular element 2 of its **Programme of Work on Protected Areas**<sup>vi</sup> approved at CBD COP 7, as well as Decisions at CBD COP 9, COP 10 and COP 11 that promote the role of communities in conservation and support the recognition of different types of governance of protected and conserved areas by legal and other effective means.<sup>vii</sup> In addition, the International Union for Conservation of Nature and Natural Resources (IUCN)— the leading international technical authority on conservation, an organisation of which Tanzania is a member— also stresses the need to promote and support ICCAs in its **IUCN Resolution 5.094** (*Respecting, recognizing and supporting Indigenous Peoples' and Community Conserved Territories and Areas*) of September 2012, and its recent Best Practice in Protected Areas Series— volume No. 20 on governance of protected areas.<sup>viii</sup>

This position is reflected in the Tanzanian Government's own legal provisions and actual practice. We note that as of 2012 (we have no more recent data) no fewer than **1,233 villages in Tanzania** have brought 2.366 million hectares of woodland and forest and comparable natural flora areas under protection as **village owned and managed reserves**. A further 5.392 million hectares of **National and Local Authority Reserves** are managed by communities under the technical guidance of local and national forest authorities.<sup>ix</sup> And more than 3% of the country's land area is under **38 Wildlife Management Areas**— communal lands set aside by 148 villages exclusively as habitat for wildlife, engaging active contributions to conservation by more than 440,000 people.<sup>x</sup>

Tanzania's acclaimed efforts echo global findings that community conserved areas offer one of the most effective and natural routes to sustainable conservation, and offer added benefits in terms of livelihoods, cultural conservation and the respect of collective rights.<sup>xi</sup>

In sum, we respectfully invite the Tanzanian Government to consider that the proposed eviction of the villagers of Uvinje would contravene international best practice and Tanzania's own laws and strategies on the involvement of citizens in conservation, would constitute a pernicious example for villagers *not* to engage in conservation and would ultimately *not* be conducive to sustaining wildlife in Tanzania in general and in Saadani National Park in particular.

### Appeal for action

Excellencies,

The ICCA Consortium and its Members from over fifty countries appeal to the Tanzanian Government to give urgent consideration to the matters raised in this letter and to **cancel the proposed eviction of Sadaani villagers from Uvinje**. We note that under the Village Land Act, 1999, in addition to procedures designed to limit wrongful and unnecessary transfers from village to general or reserved lands, provision is made for the President to direct the Minister in charge of land matters to **appoint an inquiry** (VLA, s. 4 (12)). We respectfully urge that this practical action be considered in order for the matter to be thoroughly investigated; through this, **amicable dialogue, discussion of options, and mutual agreement between State and citizens** may be reached.

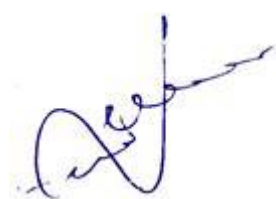
In the course of investigation, we appeal that, *inter alia*, these aspects be taken into consideration:

- i. **That the Uvinje case presents an exceptional condition:** the Uvinje community voluntarily surrendered in good faith two thirds of its traditional village land area for the creation of the

Sadaani Game Reserve, and has willingly made do with the remainder on the basis that its rights to these lands were assured;

- ii. ***That the dispute arises primarily from a misunderstanding about the boundaries of the original Saadani Game Reserve:*** and that now, with important historical and spatial information available (as illustrated in Annexes), misinformation as to the real location of the SGR boundary may be corrected;
- iii. ***That grave confusions have arisen over compensation:*** it appears that compensation has been offered ahead of eviction and/or accepted by some citizens, but it transpires that these beneficiaries are *not* legitimate members of Uvinje sub-village and are taking advantage of the situation. As noted in [Annex 5](#), ***no legitimate member of Uvinje has accepted compensation or intends to do so;***
- iv. That while the right of the Government of Tanzania to acquire village land through compulsory acquisition is obviously not disputed, the incidents of the case suggest that this may not serve genuine public interest; and
- v. ***That other routes exist to reach peaceable and just remedy, notably via Tanzania's constructive options to secure and conserve village land and natural resources,*** and we appeal that these be brought into play. These routes were structured to provide win-win outcomes for land rights and conservation, and it is our humble view that this is possible in this instance.

We thank you very much for your kind consideration and we look forward to hearing from you. We would simply be delighted to celebrate with TANAPA officials, at the forthcoming 2014 World Parks Congress (12-19 November 2014, Sydney, Australia), a positive and forward looking solution of this case: Tanzania confirmed as leader in conservation practices compatible with sustainable livelihoods and the respect of community collective capacities and land rights.



Dr. M. Taghi Farvar  
President, The ICCA Consortium



Dr. Grazia Borrini-Feyerabend  
Global Coordinator, The ICCA Consortium

#### **Annexes:**

**Annex 1.** [The Wildlife Conservation Games Reserves Order, Section 8. Official Gazette. G.N. No. 275 of 1974.](#)

**Annex 2.** [Spatial Analysis on extent and location of Saadani village's land gazetted as park land.](#)

**Annex 3.** [Pre and post Park establishment official communications, from District and village level authorities, addressing multiple issues relating to Park claims to village land.](#)

**Annex 4.** [Letter from the Bagamoyo District Commissioner to the Head of the Saadani National Park. December 1, 2006.](#) This letter addressed to TANAPA describes the Regional Commissioner's orders that Uvinje residents should not be moved and that their land rights should be reinstated.

**Annex 5.** [Documentation relating to confusion in identification of beneficiaries of compensation.](#)

**Annex 6.** [Independent Research: Case Study Report: Uvinje Village & the Saadani National Park Tanzania, May 2014, Alejandra Orozco, Coastal Resource Analysis Lab, University of Victoria; and Environmental Evaluation For Tourism Development in the Saadani Game Reserve, February 1997, Institute of Resource Assessment, UDSM, commissioned by the Wildlife Division and the Ministry of Natural Resources & Tourism.](#)

#### Endnotes:

<sup>i</sup> Kothari, A. and A. Neumann, 2014, *ICCAs and Aichi Targets: The Contribution of Indigenous Peoples' and Local Community Conserved Territories and Areas to the Strategic Plan for Biodiversity 2011-20*, ICCA Consortium, Kalpavriksh, CBD Alliance, and CENESTA, Teheran (in press).

<sup>ii</sup> G.A. res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

<sup>iii</sup> G.A. res 2200A (XXI) of 16 December 1966, entered into force 3 January 1976.

<sup>iv</sup> Adopted June 27, 1981, OAU Doc. CAB/LEGL67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986.

<sup>v</sup> *Communication 276/2003, Centre for Minority Rights and Minority Rights Group International on behalf of the Endorois Welfare Council v Kenya*, delivered by the African Commission on Human and Peoples Rights and confirmed by the African Union in February 2010.

<sup>vi</sup> Seventh Conference of the Parties (COP) to the Convention on Biological Diversity (CBD), Decision VII.28, Kuala Lumpur, 2004.

<sup>vii</sup> Distilled highlights of such decisions, as well as CBD technical analyses of ways by which countries are respecting such decisions, are available at [http://www.iccaconsortium.org/?page\\_id=35](http://www.iccaconsortium.org/?page_id=35) and [http://www.iccaconsortium.org/?page\\_id=30](http://www.iccaconsortium.org/?page_id=30).

<sup>viii</sup> Borrini-Feyerabend, G., N. Dudley, T. Jaeger, B. Lassen, N. Pathak Broome, A. Phillips and T. Sandwith (2013). *Governance of Protected Areas: From understanding to action*, Best Practice Protected Area Guidelines Series No. 20, Gland, Switzerland: IUCN. xvi + 124pp.

<sup>ix</sup> Ministry of Natural Resources and Tourism of Tanzania, *Participatory Forest Management in Tanzania, Facts and Figures*, Department of Policy and Planning of the Ministry of Natural Resources and Tourism, Dar es Salaam, 2012

<sup>x</sup> WWF, 2014, [Tanzania's Wildlife Management Areas: A 2012 Status Report](#), WWF, Dar es Salaam

<sup>xi</sup> See, for instance: Persha L. and T. Blomley, 2009, *Management Decentralization and Montane Forest Conditions in Tanzania*, *Conservation Biology*, 23: 1485-1496; Treue, T. et al., 2014, *Does Participatory Forest Management Promote Sustainable Forest Utilization in Tanzania?* *International Forestry Review*, 16 (1): 23-28. For global evidence, refer for example to Sayer, J. et al., 2007, *Local Rights for Forests: Opportunity or Threat for Conservation? Rights and Resources*, Washington DC; Somanthan, S. et al., 2009, Decentralization for cost-effective conservation, *Proceedings of the National Academy of Sciences of the USA*, 106:4243-4247; Seymour, F. et al., 2014 *Evidence linking community-level tenure and forest condition: An annotated bibliography*, *Climate and Land Use Alliance* [http://www.climateandlandusealliance.org/uploads/PDFs/Community\\_level\\_tenure\\_and\\_forest\\_condition\\_bibliography.pdf](http://www.climateandlandusealliance.org/uploads/PDFs/Community_level_tenure_and_forest_condition_bibliography.pdf)