

# **GRANTING HUNTING BLOCKS IN TANZANIA**

## **The Need for Reform**

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### **INTRODUCTION**

Tanzania is a country with a wealth of wildlife resources. Its national parks - Serengeti, Ngorongoro Crater, and Lake Manyara, Mikumi, and Ruaha - to name a few, are world famous. In addition, there are numerous game reserves and game-controlled areas including Selous, Maswa, and Ugalla. In the Arusha Manifesto of 1961, Tanzania's first President, Julius Nyerere, pledged to preserve this precious resource, not only for the benefit of the country's "children's grandchildren" but also for the rest of the world (1968). It is no wonder then that 25 per cent of its landmass comprises national parks, game conservation areas, or game reserves (Jones: 2).

Unlike Kenya, which has banned hunting since 1975, Tanzania has sought to exploit these resources by pursuing a policy of consumptive utilization, whereby traditional and tourist hunting are encouraged. With such resources at its disposal, the country has the potential both to finance wildlife conservation efforts through this strategy and to earn foreign exchange that could play a vital role in improving the lives of its citizens, particularly in the rural areas where the major game reserves are located. However, as this paper will examine, the regulatory framework which governs the key area of tourist hunting has severe shortcomings which have prevented the country from reaping the potential benefits this strategy offers.

This paper begins with a review of the Wildlife Conservation Act of 1974, the main law governing wildlife utilization in Tanzania. The review shows that the current system of allocation of blocks for tourist hunting is based primarily on criteria set by the Director of Wildlife. This paper argues that these criteria are ultra vires the Wildlife Conservation Act, 1974, as there is no provision in the law vesting the Director with this authority. From a legal standpoint the minister responsible for wildlife management is the only person with the authority to make regulations concerning wildlife utilization. The paper goes on to analyze the current hunting allocation system and finds it to be inimical to sound wildlife management, mainly because there are not sufficient checks and balances on the Director of Wildlife and the Minister-the main implementers of the legislation. This absence of checks and balances has resulted in nepotism, abuse of authority and serious allegations of corruption. Finally, we outline options for the reform of the system by which hunting blocks are allocated.

### **ABOUT THE AUTHOR**

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## **LAWYERS' ENVIRONMENTAL ACTION TEAM**

The Lawyers' Environmental Action Team is the first public interest environmental law organization in Tanzania. It was established in 1994 and formally registered in 1995 under the Societies Ordinance. Its mission is to ensure sound natural resource management and environmental protection in Tanzania. It is also involved in issues related to the establishment of an enabling policy environment for civil society, including civil liberties and human rights. LEAT carries out policy research, advocacy, and selected public interest litigation. Its membership largely includes lawyers concerned with environmental management and democratic governance in Tanzania.

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In the course of my work, it became clear that wildlife management in Tanzania suffers from a number of problems whose resolution cannot be further postponed. Wildlife resources in Tanzania should not be administered for the profit of those entrusted with this task, but for the good of the country's citizens and for the rest of the world. Involving contiguous communities in this task is essential. Their knowledge and experience has a vital role to play and their participation in the management of wildlife must be legally recognized and appropriately rewarded. Lastly, unless the glaring shortcomings in the system by which hunting blocks are presently allocated receive immediate and effective remedy, there is a real threat that many species of animal in Tanzania will become extinct. It is my hope that the analysis herein will enrich the ongoing debate over how the allocation of hunting blocks in Tanzania can be reformed in the interests of not only the Tanzanian population but also humankind as a whole.

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## **THE WILDLIFE CONSERVATION ACT OF 1974**

The principal legislation governing wildlife utilization in Tanzania is the Wildlife Conservation Act of 1974. This Act vests the Director of Wildlife with powers to oversee the overall management of wildlife in the country. The Director is in charge of game reserves, game conservation areas, and open lands, while the Tanzania National Parks Authority (TANAPA) is in charge of the national parks. (This last provision is made under the National Parks Ordinance, Cap. 389.)

The key points of the Act regarding the powers and responsibilities of the Director of Wildlife are:

- Section 3, which establishes the office of the Director of Wildlife who is appointed by the President. (The law does not state the qualifications necessary for appointment to this post.)
- Section 9, which provides that no person may carry out hunting activities in the game reserve and game-controlled areas without permission from the Director of Wildlife.
- Section 12, which states that no person may graze animals in the said areas without having applied for and received permission from the Director.
- Section 32, which gives the Director the power to grant licences for the capture of animals for zoological, educational, or scientific purposes or for any purpose he deems in the public interest.
- Section 41, which gives the Director broad powers to issue Presidential Licences to hunt, capture, and photograph animals on conditions laid down by the Director, whether or not such animals are protected by any other provision of this Act or any other written law. Exercise of this power, which if broadly interpreted could allow the capture or killing of endangered species like elephants and black rhinos - in total violation of international agreements like the Convention on the International Trade of Endangered Species (CITES) as well as national ethics - is subject only to the Minister's approval.

The Director is empowered to refuse, in the public interest, to issue licences and certificates, or to grant permission to any person. The Director also has the power to cancel any licence, permission, or permit. Any person dissatisfied with the decision of the Director may appeal to the Minister, whose decision on such an appeal is final and conclusive (Section 55(2)). Finally, the Director is given prosecutorial powers to try offenses under the Act (Section 81).

The Minister is the second layer of authority established by the Wildlife Conservation Act, 1974. He is empowered to:

- declare an area to be a game-controlled area (Section 6);
- prohibit capture and hunting in a closed season (Section 17);
- amend the Second and Third Schedule of the Act by an order published in a Government Gazette (Section 24); allow the hunting of scheduled and specified animals without a licence (Section 23);
- designate a body corporate or unincorporate to be an authorized association, which in turn entitles it to be allocated a hunting licence (Sections 26 and 28);
- make regulations concerning the issuance of hunting licences of scheduled and specified animals, the mode of hunting of scheduled animals, prescribe the functions of the designated organization, and prescribe the maximum number that any grantee of a licence may hunt (Section 29);
- make regulations for better application of the Act to improve wildlife conservation (Section 84);
- act as the appellate authority in cases of refusal or cancellation of hunting licences (Section 55 (2)).

The President is the third layer of authority under the Act. He has the power to:

- establish game reserves (Section 5);
- modify restrictions imposed on hunting of animals in game reserves, game-controlled areas, and partial game reserves (Section 19);
- impose a ban on any category of persons from being given a game licence (Section 22).

Having considered the general powers over wildlife utilization given by the Wildlife Act to the Director, the Minister and the President, we now focus on how tourist hunting has been conducted and regulated in the country.

## **THE REGULATION OF TOURIST HUNTING**

Tanzania has always embraced the policy of consumptive utilization of wildlife, except during 1973-1978 when hunting was banned under Government Notice No. 210 of 1973. The ban led to a calamitous upsurge in poaching and, in 1978, the government was forced to permit hunting once more. Following the lifting of the ban, the parastatal Tanzania Wildlife Company (TAWICO) was granted a monopoly over the industry, receiving sole authority to allocate quotas and blocks to various outfitters. The Director of Wildlife's powers to allocate hunting blocks were suspended. In 1984, TAWICO's monopoly was revoked, as the government began to embrace economic liberalization. In that year, nine private companies were allowed to hunt in addition to TAWICO and, finally, in 1988, the government relegated TAWICO to the role of outfitter, competing for hunting blocks with other companies (Severre: 33-4). The power to allocate hunting blocks and determine quotas was returned to the Director of Wildlife.

As stated above, Section 84 of the Wildlife Conservation Act of 1974 requires the minister responsible for wildlife to establish the rules by which licenses, permits, certificates, and other documents are to be granted. Twenty-five years have passed and the Minister has not yet complied with this requirement. This failure to comply has caused tremendous problems in the industry because the Director, who is the main conservator under the Act, has had no guidance on how to rule on applications for hunting privileges.

In the absence of ministerial guidance, the Director has set his own criteria for the allocation of hunting blocks. Although these rules were never formally made public, they were known to include the following:

- the company, or its employees, should have experience in hunting;
- the professional hunters in the company should be conversant with the requirements of the Wildlife Conservation Act, 1974;
- the company should possess the necessary equipment for hunting, such as vehicles, radios, camping gear, etc.;
- the company should possess an office with communication facilities;
- the company should be registered and hold appropriate accounts in Tanzanian banks;

- the company should have a program aimed at integrating conservation activities with the needs of rural communities;
- the company should vow to abide by conservation laws and tourist hunting byelaws;
- the company should have credible referees;
- the company should have proof of client bookings and respective downpayments (Severre: 34-5).

Although these criteria appear reasonable, they exceed the powers granted the Director under the Wildlife Conservation Act, 1974. In fact, the Minister is the only official with the legally constituted authority to make regulations on how tourist hunting should be conducted in Tanzania.

In any case, as many complaints allege, in practice, the allocation of hunting blocks has reflected the Director's personal whim rather than the consistent application of these guidelines. These complaints prompted the Minister and the Director of Wildlife to enter into an agreement with Tanzania Hunting Operators Association (TAHOA), an NGO representing the professional hunters in the country, setting out the conditions under which hunting blocks would be allocated. Under this "Consensus Agreement" of 14th November 1994, every hunting company would have to meet the following six conditions in order to be allocated hunting blocks:

1. Achieve an average utilization rate of 40 percent of its allocated quotas. This should be based on monetary value rather than number of animals killed.
2. Contribute to anti-poaching activities in cooperation with the Wildlife Division.
3. Open up roads and airstrips for the continuing use of anti-poaching squads and the Wildlife Division during the hunting off-season.
4. Offer assistance to communities adjacent to hunting areas.
5. Pay all required fees by the stipulated time (April 30).
6. Ship client trophies in timely manner.

The legality of the Consensus Agreement is open to question on the same grounds as the Director's criteria for block allocations. Under the Wildlife Conservation Act it is the Minister who is empowered to regulate wildlife utilization. One could argue, however, that the Consensus Agreement is legal in so far as the government has the right to enter into agreements that do not violate any existing laws. In the case of *Wengert Windrose Safari (T) Limited vs. The Director of Wildlife & 2 Others* the High Court of Tanzania upheld the legality of the Agreement, stating that it, "clearly comes out as a policy document, which among others, guides and controls hunting activities in Tanzania and on which both the hunters (including the Applicant) and the government rely."

## **ABUSE OF POWER**

In practice, the signing of the Consensus Agreement between TAHOA and the government has not helped to bring order to the hunting industry because corruption, nepotism, and victimization have continued unabated. Officials in the Wildlife Department have disregarded the terms of the Agreement whenever it suited them.

The Wengert Windrose case illustrates this tendency. In this case, the Applicant was allocated five hunting blocks in May 1997. Due to bad climatic conditions, and poaching activities, the company reported to the Director of Wildlife that it was not going to meet the required 40 percent utilization rate stipulated in the Consensus Agreement in three of its five blocks. At this point, the company began receiving letters from the Wildlife Division stating that three blocks would be withdrawn for failure to meet the utilization quota. In accordance with the Consensus Agreement's provision that, if unable to meet its quota, a hunting company can meet its obligations to the government by paying a top-up fee. Wengert Windrose offered to pay this fee, once advised of the amount required. In response, it received a fax message dated 25th April 1998 - a Saturday and thus a non-working day - demanding payment of the fees by Monday 27th April even though, because the annual Union Day holiday fell on the previous Sunday, this day was a public holiday. When the offices re-opened on Tuesday, the company officials made efforts to pay the top-up fee but could not do so because its bank (located in Arusha) could not issue drafts worth more than \$5,000 without authorization from its Dar es Salaam Headquarters. However, the bank promised that the drafts could be obtained the following day. On 29th April 1998, the company took the bank drafts to the Wildlife official in Arusha who, upon communicating with the Director of Wildlife, was instructed not to accept them. On 15th May, the company received a letter reducing its allocation to three hunting blocks, effectively dispossessing it of two blocks of its original quota. After its appeal to the Minister was rejected, the company had no choice but to ask for the court's intervention. Delivering a very embarrassing judgment to the Wildlife Division and the Minister, Justice Kalegeya stated:

From what has been discussed, it stands out clearly that the First Respondent abused his powers by unilaterally and arbitrarily setting the deadline for payment of necessary fees on 27th and the 28th April, 1998 contrary to the already set date of 30/4/98 as per "Consensus Agreement." He further abused his powers by refusing payment of the top-up fee on 29/4/98, and this was unreasonable, first considering the fact that it was a day before striking the deadline, and secondly, even if it was otherwise, refusing payment when there was a sound and justifiable reason for delay...The 1st Respondent, the Director of Wildlife, for reasons best known to himself decided to set a deadline of his own, which decision barred the Applicant from paying the required top-up fee within the official time, and therefore his subsequent acts against the Applicant's interests allegedly for failure to pay the fees were without any colour of legality and can only be a nullity for being a clear abuse of his powers. Besides, the 1st Respondent's decision and actions of 25th, 27th and 28th April, 1998 exhibit hasty elements akin to those of a fire brigade in action, which however good intentioned they might have been cannot escape being branded unreasonable let alone failing being saved from an imputation of bias (emphasis supplied). Concerning the issuance of a deadline falling on a public holiday, he stated:

...Having carefully considered the contents of the various communications between the parties, the Consensus Agreement, the arguments of the opposing parties, and the law, I am satisfied that when the 1st Respondent (The Director of Wildlife) fixed the deadline on which the Applicant was required to pay the top-up fees to the 27th, and then 28th April 1998, he acted unilaterally and arbitrary, for the set date of 30th April, had not been officially varied; he acted unreasonably, for, he could not issue a demand on a non-working day, execute it on the

Applicant again on a non-working day and at his residence as if there was an emergency, let alone refuse to accept payment a day (29/4/94) before the official deadline. That apart the Applicant was not afforded a chance to defend his plight, and no reasons were advanced for the withdrawal of the 2 hunting blocks. I have also found that the second Respondent (Minister) acted on false information, and insufficient evidence when dismissing the Applicant's Appeal to her.

This case shows that the current system of allocating hunting blocks is flawed since it allows officials of the Wildlife Division to allocate and withdraw hunting blocks without good cause. By issuing a demand on a non-working day, contrary to government's undertakings in the Consensus Agreement, the Wildlife Department officials demonstrated that they do not respect their own legal commitments. Not only was this behavior arbitrary and high-handed, it demonstrated indifference to the nation's welfare, because the top-up fee should have been paid even if the deadline had passed.

Similar abuses came to light in the case of Tanzania Bundu Safaris vs. The Director of Wildlife and the Attorney General. In this 1995 case, Tanzania Bundu Safaris was dispossessed of its allocated hunting blocks by the Director without being given the reasons or the right to challenge his decision. He took this action just 14 days before the Safari Club International Conference in Las Vegas, USA, where hunters and hunting companies were to meet to confirm hunting safaris for the coming season.

Tanzania Bundu Safaris was aggrieved by that decision and sued the government in the High Court. Not only did the court issue a temporary order for the restoration of the blocks, it also imprisoned the Director, Mr. Muhidin Ndolanga, for contempt of court, leading to his resignation from the civil service.

Despite its court victory, Tanzania Bundu Safaris experienced significant financial loss, as it took almost six months to prosecute the case and restore the withdrawn hunting blocks. Meanwhile, it had to stop doing business, as hunters were not sure of the outcome of the case and would not risk doing business with a company whose blocks had been withdrawn.

## **NEPOTISM**

A key element of any just and transparent system of governance is the principle that all parties must receive equal treatment by the officials who dispense justice or who deal with bids, tenders, proposals, and applications. This principle of fair play requires that all elements of favoritism be discouraged. It is, therefore, vital that government officials disclose any information, relation, prejudice, or interest they may have that might affect their decisions. This helps to ensure that justice is not only done, but is seen by the public to have been done. An 1852 ruling by the British House of Lords gave a classic statement of this principle. Setting aside the Lord Chancellor's affirmation of the Vice-Chancellor's decree in favor of a company in which the Lord Chancellor was a shareholder, Lord Campbell stated:

No one can suppose that Lord Cottenham could be, in the remotest degree, influenced by the interest that he had in this concern; but, my Lords, it is of the last importance that the maxim, that no man is to be a judge in his own cause, should be held sacred... And it will have salutary influence on [inferior] tribunals when it

is known that this High Court of last resort, in a case in which the Lord Chancellor of England had an interest, considered that his decree was on that account a decree not according to law, and was set aside (Wade: 473).

Courts in Tanzania have also emphasized the importance of fair play. In the case of Donald Kilala v. Mwanza Town Council the High Court characterized fair play as the "rules of the wise... that [are] not foreign in origin" (LRT No.19, 1973). However, the current system of hunting block allocation does not provide or promote any safeguards to ensure fair play and guard against nepotism. For example, there is no requirement under the law or the Consensus Agreement barring the Director of Wildlife from owning shares in any hunting company, nor forbidding the Director from adjudicating applications in which shares are held by a relative. The same is true at the ministerial level.

This has led to the formation of hunting companies in which sons, brothers, or in-laws of these officials have shares. This situation is exemplified in the outcome of the Tanzania Bundu Safaris case cited above. In that case, as soon as the hunting blocks were withdrawn, the Director immediately allocated them to other companies in two of which friends and relatives of the Minister for Tourism, Natural Resources and Environment were majority shareholders.

The allocation of hunting blocks to companies in which relatives of the Director and the Minister are shareholders was one of the issues of concern to the Presidential Commission of Inquiry Against Corruption, known as the Warioba Commission, formed by President Benjamin Mkapa on the 17th January 1996 as a way of fulfilling his election pledge to fight corruption in the country. The Commission was asked to review the laws of the country and working procedures in the government and parastatal sectors in order to reduce opportunities for corruption as well as to improve transparency in the rendering of services. Examining the Wildlife Division and the system of hunting block allocation, the Warioba Commission found that blocks had been assigned to companies formed primarily to take advantage of insider connections. In a scathing attack on this state of affairs, the Commission went so far as to provide the names of the shareholders in these companies and stated:

...In the Royal Frontier Company, shares have been given to a brother of the former Minister for Natural Resources, Tourism and Environment, Mr. Juma Hamad Omari. In the Game Frontier Company, shares have been given to Ahmed Muhidin who is a son of the former Director of Wildlife, Mr. Muhidin Ndolanga.

*These shares have been given to these big shots as a cover to enable allocation of hunting blocks to these companies, beside facilitating hunting activities (Tanzania, 1996: 338).*

## **ABUSE OF THE PRESIDENTIAL LICENCE**

The prevalence of nepotism within the hunting industry is also seen in the issuance of Presidential Licences. As stated above, these are licences issued by the Director of Wildlife, with the approval of the Minister, for any of the reasons stated in Section 41 of the Wildlife Conservation Act. According to this section, the Director has powers to grant any person a presidential licence, with or without a fee, to hunt, capture or photograph the animal specified for the purposes of scientific research, or for display in a museum, zoo, or

similar establishment. In addition, the licence can be issued in support of educational activities, cultural activities, as a complimentary gift, or in exchange for food in cases of emergency.

The purpose of the Presidential Licence was to allow shipment of animals to other parts of the world in support of scientific research, and to provide education on the importance of wildlife conservation. However, the only safeguard provided by law against the misuse of this power by the Director is that he must have the approval of the Minister. There is no prohibition against the Director issuing licences to his friends, relatives, the Minister, his official superiors, or to people with whom he or she has business relationships. As a result, the law creates an environment conducive to abuses involving collusion between the Minister and the Director, a possibility confirmed by the findings of the Warioba Commission.

The Commission found the Presidential Licence to be one of the most abused areas of the hunting regulatory structure, establishing that it was regularly issued to people who were friends of the Director and the Minister or who were former holders of these posts.

Examples of the Commission's findings included:

- The former Minister for Natural Resources and Tourism, Mr. Juma Hamad Omari was granted three Presidential Licences in 1994. The first one allowed him to hunt two buffaloes, two elands, two impalas, and two harte-beests in the Coast and Morogoro Regions. The second one allowed him to hunt two buffaloes, two elands, two grants, two wildebeests, and two hartebeests in the same regions. Lastly, the third one allowed him to hunt one eland, two wildebeests, three impalas, two hartebeests, and one buffalo in Kingupira area (Tanzania 1996, vol. ii, 410).
- The Commission also found that another Minister, Dr. J. Ngasongwa issued licences to undeserving people such as Brigadier Mohamed Abdulrahim Al-Ali, the Vice-Minister of Defence of the United Arab Emirates. The latter was granted a Presidential Licence to hunt one buffalo and thirty sand grouse, despite the fact that the said Brigadier had already been granted hunting rights elsewhere, in the Loliondo area, for the unprecedented term of ten years! This grant of a Presidential Licence deprived the government of revenue while gaining the nation no compensating benefit.

The law on Presidential Licences has several other flaws. First, it does not require the Director to conduct a vigorous examination of the applicants' authenticity and credibility. It is imperative, for example, that the Director ascertain whether the person or organization applying for a licence for zoological purposes has all the facilities, knowledge, and expertise necessary to keep the animal in question in good conditions. Without this requirement, animals might be given to people who have no interest at all in keeping them for the benefit of humanity.

Second, the fact that the Director may, at his discretion, issue a Presidential Licence with or without a fee lends itself to corruption and abuse. While issuing such a licence without a fee might be justifiable during a time of emergency, it does not make sense in other circumstances. Its effect is to deny Tanzania revenue necessary for wildlife management.

Finally, the Presidential Licence creates the legal basis for the "blanket nullification" of the fundamentals of sound wildlife management and protection. It enables its recipients to hunt and capture animals in total disregard of other provisions of the Wildlife Act or of any other written law, which if broadly interpreted could include even those international treaties that Tanzania has ratified. The general import of the licence is summed up in these words:

A President's licence may authorize the hunting, capture, or photography of any animal whether or not such animals are protected by any other provisions of this Act or other written laws (Wildlife Conservation Act, Section 41).

Thus the law does not require the Director of Wildlife to satisfy him or herself that there are enough animals to warrant their hunting, allowing the capture of animals that would have otherwise been protected because of legal bans or restrictions. In effect, the Presidential Licence prevents the establishment of a well-considered and consistently enforced quota system and compromises the capacity of Tanzania's system of consumptive wildlife utilization capacity to achieve both conservation and financial goals. It is to this issue we now turn.

## **WEAKNESSES IN THE HUNTING QUOTA SYSTEM**

One of the fundamental requirements of consumptive utilization is a well thought out and scientifically based system of quota setting. Any country wishing to follow this model should have a system that mandates how many animals should be hunted in a particular area (Overton: 22). In addition, the system should be able to show what animals should not be hunted - for reasons such as low population, immaturity, pregnancy, or protection under national law and international treaties like CITES.

In Tanzania, however, the actual situation does not match up to these requirements. This is because the country has no overall trophy monitoring system capable of providing the Wildlife Division with reliable information. As a result, quota setting is based solely on anecdotal reports from game officers in the field and hunting companies. In some instances, quotas have been issued that exceed the population of animals in a particular hunting block. As the Warioba Commission commented:

Issuance of quotas sometimes does not put into consideration the population of animals in relevant areas, thereby causing a shortage of some animals. For example, the Royal Frontiers Company was given a quota to hunt Topi and Gerenuk in the Mkomazi areas while these animals are not available at all in the area. A former Minister issued permits for hunting 750 hippopotamuses in the Kilombero area to three companies while this area's total hippopotamuses population does not reach 750" (Tanzania, 1996: 407).

Such allocations run contrary to the spirit of Tanzania's policy on wildlife protection and management and raise serious questions about the credibility of the Wildlife Division. Given this state of affairs, it seems fair to say that the wildlife population of Tanzania is not protected - not even by the people entrusted by the citizens of this country and the international community.

Along with quota setting, another area of concern has been the creation and subdivision of hunting blocks. A hunting block is an area where an outfitter or hunting company carries out hunting activities. A block should be large enough to accommodate each specie population and to satisfy their permanent demand for water. An ideal, well-demarcated hunting block should allow up to six hunters to hunt without intruding on each other (Tanzania, 1996: 406).

Again, actual practice has deviated from these ideal requirements to an alarming degree: While the country's wildlife population has been declining over the years, the number of hunting blocks has been increasing - with quotas for each block remaining at the same level. In 1965, when the country's wildlife population was higher than it is today, the country had only 47 blocks. By 1997 this number had increased to over 140. A major factor contributing to the subdivision of hunting blocks has been the increase in the number of companies: In 1984, when private companies were allowed to carry out tourist hunting, there were nine in operation. By 1988 this figure had risen to 21 in 1988, by 1993 to 31 (TAHOA 1998a: 10), with a further increase to 33 taking place, by 1996 (Tanzania, 1996: 436).

TAHOA consultants welcomed this trend, stating that it, "gave a better leverage to make the industry more productive than before, as the number of private hunting companies continued to increase rapidly forcing the Wildlife Division to increase the number of blocks by subdividing large blocks" (TAHOA 1998a: 33). However, this increase has not been in the interests of Tanzania's wildlife population because, while the blocks have been reduced in size, the quota for these new blocks has been maintained, with the ultimate result of increasing the quota for many areas two or threefold (Overton: 23). If this trend goes unchecked, tourist hunting could soon become a forgotten industry.

This trend also has the effect of bolstering the arguments of those who are opposed to hunting. Anti-hunting campaigners have often cited the abuses in Tanzania as one of the reasons to prohibit hunting in Kenya:

...Cheffing's concern is heightened by stories of abuses in Tanzania, claims that Tanzanian hunters regularly go beyond their quotas and encourage clients to shoot from vehicles, that some hunters receive preferential quotas and even trace their targets before getting a licence to shoot them (Johnstone: 17).

This kind of adverse publicity in the conservation media seriously affects the hunting industry in Tanzania.

## **THE LACK OF BENEFIT SHARING**

Another area of concern is the continued exclusion of contiguous communities from wildlife management. The government of Tanzania has been reluctant to involve them even though the Wildlife Conservation Act of 1974, broadly interpreted, allows contiguous communities to be involved in consumptive utilization under the banner of authorized association. Under Section 26 (1) of the Act the minister responsible for wildlife is empowered to declare any body or persons, whether body corporate or unincorporate, or any ujamaa village to be such an authorized association. It is well-established that involving contiguous communities not only increases the number of

people protecting wildlife but also results in a dramatic reduction in poaching. Furthermore, these communities possess valuable knowledge concerning wildlife that can be used by the authorities to foster sound management. Instead, the government continues to view these contiguous communities as dangerous to the animals and assumes that the only way to protect wildlife is by wholesale eviction of these communities from lands adjacent to protected areas. This tendency is exemplified by the government's recent attempts to evict well-established local communities in the Mkomazi Game Reserve of the Wamasai in response to a decline in wildlife numbers.

In theory, one of the criteria that an outfitter must meet to receive hunting privileges is a plan to integrate its conservation activities with that of the contiguous communities. Although this requirement is in principle sound, in practice it is poorly observed because there is no provision for its implementation. In most cases, outfitters think this requirement can be met by digging one or two boreholes for the villagers. Rather than creating an environment conducive to productive cooperation, the present system only demands the delivery of handouts to villages. This has led to the exclusion of the contiguous communities from involvement in wildlife protection by both the government and the outfitters.

In 1993, the government committed itself to transfer 25 percent of the revenue from hunting to the areas where hunting activities actually take place. While potentially a move in the right direction, in reality this money never reaches the actual villages or communities, instead ending up with the district council. This has fostered distrust of the government among rural populations, who feel that they are being cheated and that the benefits of wildlife utilization are reserved only for the elite and for foreigners.

One example of the disregard official structures have typically shown for the need to safeguard local interests took place in Loliondo, Ngorongoro district. In November 1992, the Ngorongoro District Council entered into an agreement with Brigadier Mohamed Abdulrahim Al-Ali for him to conduct tourist hunting in six villages in the district. The District Council entered into the agreement purportedly on behalf of these villages, but in fact, it never even consulted with them, despite the fact that hunting was to take place in village lands held under customary land rights. In the contract, the Brigadier was given carte blanche to hunt in the area in return for donating a token part of his revenue - at his discretion - toward school and dispensary renovations. The agreement did not obligate the Brigadier to pay a certain percentage of money annually to each village government. Unlike other hunting companies, whose tenure within each hunting block is five years, the Brigadier was given a ten-year permit. Despite vigorous protests about this agreement and allocation by the public, the media, and a parliamentary probe team popularly known as the Marmo Commission, this agreement remains in force.

Wildlife authorities in Tanzania cannot and should not continue to ignore the immense potential contribution contiguous people have to make to management efforts. Their deliberate exclusion has led to massive poaching and inadequate protection of wildlife.

## **RECENT REFORM EFFORTS**

Since 1993, the government of Tanzania has carried out a number of studies to determine how to improve management of the wildlife sector, stimulated by its recognition that the revenues generated by this sector fall far short of their potential. The aim has been to

increase the number of tourists, many of whom, for a number of reasons, including misinformation about the site of tourist attractions, went to other countries, especially Kenya. In 1993, for example, the government, in collaboration with international NGOs like World Wide Fund For Nature (WWF), African Wildlife Foundation (AWF) and International Union for Conservation of Nature (IUCN) organized a workshop to examine how the contribution of tourist hunting to the national economy could be strengthened. The workshop made many recommendations covering areas such as policy, quota setting, and block allocation. On the issue of quota setting, the workshop recommended that the system be improved by incorporating available census data and designing questionnaires to collect information regarding animal abundance from the game scouts who accompany hunters. Information from outfitters on trophy sizes and information from local communities on animals found in game-controlled areas and open lands should also be included. The workshop also recommended that hunting blocks be allocated using a tender system in which a minimum of five blocks may be allocated to one company (Williams et al.: 125).

In 1994-95 the government commissioned the Wildlife Sector Review Task Force to: (1) explore different approaches for addressing Tanzania's various future conservation requirements; (2) assess several potential alternatives for a restructured sector; and (3) assess the consequences of implementation of the main alternatives. The Task Team found that illegal hunting has led to the almost total elimination of the black rhino population, loss of two-thirds of the elephant population, and increasing losses of buffaloes. The Team found that Protected Areas, like the National Parks and Game Reserves, "have only partially fulfilled their objectives of conserving Tanzania's biological diversity" (MTNRE, 1995: 21). It did not, however, address the issue of the allocation of hunting blocks.

In March 1998, the government promulgated the Wildlife Policy of Tanzania aimed at ushering in changes in wildlife management (MNRT: 20). The policy sought to improve participation in the tourist hunting industry by:

- ensuring the open and fair allocation of hunting blocks through a system acceptable to the majority of stake-holders that would not prejudice long-term economic returns from tourist hunting to Tanzania;
- adopting a fee structure formulated and approved by the appropriate wildlife authority;
- setting sustainable hunting quotas on a scientific basis and monitoring wildlife populations that are hunted;
- conducting examinations for professional hunters and monitoring their competence in their practice of hunting;
- enforcing hunting regulations to ensure a high standard of hunting and of trophies;
- facilitating the timely export of trophies to hunting clients in their home countries.

To put these recommendations into practice, in June 1998 the government held a consultative meeting with TAHOA concerning the government's suggestions for reforming the hunting industry and the mode of allocation of hunting blocks. This move sent a shiver through the hunting industry, especially TAHOA, which strongly opposes any move that will change a system that it maintains has served the nation well. In its address to the Minister of Tourism and Natural Resources in the Stakeholders' Meeting

held on 3rd June, 1998, the Chairman of TAHOA was full of praise for the current system, stating:

But we must all remember that the ultimate goal is to conserve and use wildlife not only for our immediate benefits of today but also for the benefit of the children and generations of the future, nationally and globally. ...as we speak here today we are happy that we are guided in the right course to this ultimate goal; but solely by the present good system of administration of the tourist hunting industry including the block allocation process" (my emphasis).

The motivation for this comment becomes clearer if one understands the nature of TAHOA. This organization was formed at the request of the Minister in 1988 to improve cooperation between the private and public sectors. Its leaders are well connected to the government, some of whom having been invited into the country by the government itself, and thus are well placed to influence official hunting allocation policy. Gerald Pasanisi, for instance, the Chairman of TAHOA, was invited into the country by the government in 1967. He now owns Gerald Pasanisi Safaris, and his son and nephew manage Tanganyika Wildlife Safari. These connections have enabled leading figures in TAHOA to be allocated more than five blocks and thus place them in a better position to transact business in the country. The Warioba Commission found that in 1996, Gerald Pasanisi Safaris had eight hunting blocks while Tanganyika Wildlife Safaris had six hunting blocks. (Tanzania, 1996: 437-8). TAHOA's defense of the current system is motivated by its leaders' self-interest rather than loyalty to Tanzania. This is apparent in the association's strong opposition to suggestions made by other analysts calling for the introduction of alternative systems like auctioning, tendering, and allocation of hunting blocks by the committee (TAHOA Chairman's Address, 3rd June 1998).

The Wildlife Department has also come out against these proposed reforms. In May 1998, the Department assembled its experts to consider how allocation of hunting blocks should be made. In that meeting, the experts reviewed a number of options and admitted that the current allocation system needed to be reviewed so as to make it just, transparent, and acceptable, and to safeguard the interest of conservation. This finding, however, was not taken to its logical conclusion - that the current system needs fundamental change. Rather, tenders, lotteries, and auctions were presented as a great danger to the sustainable management of wildlife. The experts said:

Allocation of the hunting blocks by the Director/Department is seen to be the best method, mostly because of having [sic] greater knowledge of the resources, reduced bureaucracy, certainty of accountability, is acceptable to many of the interested parties, it is transparent with less running costs, and most important it takes into account conservation interests (Wildlife Department, 1998).

The second favored method was allocation by the Committee, of which the Director of Wildlife is the Chairman.

The Department's response demonstrates its indifference to the multiple failings of the existing system for hunting block allocation. The truth is that the powerful interests who have benefited so much under a system which the government itself has found to be unjust and inefficient, will stop at nothing to make sure that it remains in place.

## OPTIONS FOR REFORM

We have seen that the hunting industry in Tanzania will be unable to make a meaningful contribution to the national economy until the procedures for allocating hunting blocks are reformed in manner which promotes transparency and public confidence in the system. We now turn to the options for reform. Of the many alternatives available, three offer the best hope of ensuring that the wildlife resources are utilized in a manner which generates sufficient revenue for the wildlife protection and the country's economic welfare while at the same time ensuring accountability and transparency in the allocation of hunting blocks - auction, tender, and allocation by an independent committee.

In an **auction system**, interested outfitters bid against one another for the right to hunt within particular blocks at a public auction. This would attract those people who are able to offer the highest price for the quota of animals to be hunted annually. The appeal of such a system is that it " helps the government allocate resources to those who value them the most and who will probably use them more productively" (Sizer and Rice: 24).

In order to prevent collusion between outfitters, minimum price bids or "floor prices" can be set (Sizer and Rice: 23). To avoid the risk that this system selects people with financial resources but a poor track record in the industry, the government or the Committee should set minimum standards that must be met before a company would be allowed to participate in auctions. The guiding criteria could include for example, the company's national and international operating record, its relationship with contiguous communities, and its commitment to improve the wildlife sector in the country. Equally, those companies who had violated these standards in the past could be barred by the President, using his powers under Section 22 of the Wildlife Act.

Provision should be made for an affirmative action policy aimed at giving opportunities to local African Tanzanian hunting companies by reserving a certain percentage of hunting blocks to indigenous bidders. Most of these companies started with less capital than their foreign counterparts and are still struggling to establish themselves in the industry. This will ensure that, in the long run, these companies will become well positioned to compete with other companies that are owned or run by foreigners. The remaining blocks should be open for all bidders who are not disqualified by law or presidential disbarment.

Another possible option is a **tender system**, under which bidders would submit proposals to an adjudicatory committee detailing the prices and services that they would offer if given the tender to perform or run the advertised activity. Allocation of concessions would depend on both the size of the fee offered and the level of services provided.

In order to prevent animals being killed at unsustainable rates the administering authorities should set maximum utilization quotas for hunting blocks under both auction and tender systems. This would be in accordance with the Section 29(e) of the Wildlife Conservation Act's stipulation that the Minister establishes the maximum number of animals that each licensee is authorized to hunt. TAHOA's contention that these systems do not allow for quota setting is inaccurate. Not only is the establishment of quotas mandated by law, it is generally understood to be fully compatible with the use of such systems.

The third option is allocation by **independent committee**, subject to clear and well-publicized rules. A respected individual with a love and passion for wildlife management could head the committee. The committee should comprise up to eight members drawn from the private sector, reputable business, and wildlife conservation NGOs, government and the judiciary. The committee would be formed by directive of the Minister and would follow his or her guidelines as to how to allocate hunting blocks and set quotas. Members of the committee would have to disclose their relationships with directors of hunting companies. These disclosures should be made publicly available. Committee members would be required to excuse themselves from deciding on any application in which their relatives or business associates had an interest. All documents in the committee's possession should be made available to the public so as to remove the possibility of collusion and nepotism. Violation of these requirements would attract criminal sanctions.

## CONCLUSION

The current system by which the Director of Wildlife assisted by a small committee, controls the allocation of hunting blocks has failed miserably: Poaching has been on the rise, while contiguous communities have been excluded. While recognizing that that the Wildlife Department has a contribution to make in wildlife management, those who reject the need for a fundamental reform of the current system can only be motivated by self-preservation, job security and blatant self-interest. Limiting the discretionary power that the Director of Wildlife currently enjoys, and ensuring fairness, transparency, and accountability through the implementation of one of the three options discussed above, will remedy one of the industry's most serious and long-standing problems. By introducing such reforms, Tanzania has an opportunity to pioneer a model of wildlife utilization capable of harmonizing revenue, equity, and conservation goals.

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