

**MAKERERE SCHOOL OF LAW AT 50 MOOT COURT COMPETITION
HYPOTHETICAL CASE**

Before the SUPREME COURT OF WAKANDA

in the case between

OMONDI AND CENTRE FOR NATURAL RESOURCE JUSTICE

and the

REPUBLIC OF WAKANDA

1. Wakanda Republic is a land locked country located in the greater horn of Afrika. It shares its boundaries with Tanza in the South, Sudi in the North, Enya in the East and Zabanga in the West. As of 2016, the total population of Wakanda was estimated to be 40 million. Of this, 80% are youth. In 2017 Wakanda's Gross Domestic Product (GDP) was estimated at USD 26 billion. For several years, Wakanda has had an impressive economic trajectory growing at an average of 6% per annum. This has since slowed down to about 4.5% over the last five years.
2. Wakanda like many other Afrikan countries was a British colony and only gained independence in 1962. Unfortunately, soon after independence Wakanda descended into anarchy characterised by military coups and instability. During this time, the military gained prominence and was used to settle political differences and to coerce the masses. The rights of citizens were wantonly violated and there are many accounts of extra judicial killings, forced disappearances and detention without trial. It is against this background that the government in power formed the Revolutionary Party which waged a protracted guerrilla war struggle against what it termed as dictatorial rulers. With a promise to restore peace and respect for human rights and constitutionalism, the Revolutionary Party gained popularity among the people and with their support came into power in 1990. Indeed true to their promise, once in power the Revolutionary Party initiated several reforms with the aim of rebuilding the country and restoring democracy. In particular, a new Constitution was promulgated and the people given the opportunity to elect their leaders. As a result of these efforts, Wakanda received a lot of international attention as one of the fast rising African

democracies. Its economy re-bounded and the life of citizens improved greatly. Its leaders were hailed as being part of a "new breed" of leaders.

3. This notwithstanding, Wakanda remained a defacto one party state. Aside from the Revolutionary Party, other political parties could and can only mobilise for support during elections. Even then they are strictly regulated under the Political Organisations Act which requires any political party to seek permission from the police inspector before holding a public rally. The Act also forbids political parties from soliciting foreign support. Political Parties are also barred from utilising state media platforms and only the Revolutionary Party has access to these. In the past, leaders of other political parties have found themselves in trouble for holding rallies without police clearance. The moment they gather crowds, they are teargassed by the police and arrested. On all occasions, they are set free by the courts.
4. Uguti is a region comprising of about 4 districts all of which are found in the western part of Wakanda on the shoulders of the great Afrikan rift valley and Lake Uguti. According to the sensitivity atlas, Uguti is one of the most ecologically diverse areas in Afrika. In fact, Uguti is a top tourist destination and accounts for over 80% of Wakanda's annual income from tourism. The people of Uguti constitute of the Baguti who are the dominant tribe. As per the last population census, the Baguti constituted 98% of the population of Uguti. The other 2% is made up of a small group of people known as the Basuti. Unlike the Baguti, the Basuti have been slow to embrace modernisation. They prefer their traditional lifestyle and depend on hunting and gathering and fishing from Lake Uguti. The Basuti elders have also decreed that no Basuti girls should go to school. They fear that their girls will be wowed by Baguti and will thereafter be forced to abandon Basuti culture. On its part, the government has enacted a law requiring all children below the age of 12 years to go to school. Parents found culpable of contravening this law risk being imprisoned for at least two years. The government has built free schools in the capital of Uguti to ensure that no parent gives the excuse of cost as a reason of not sending their children to school. The challenge is that when Basuti children try to attend, they are discriminated against. Its is even worse for the adolescent girls who are laughed at and ridiculed for being dirty all because they cannot afford sanitary pads. There is no policy in place for the provision of sanitary pads for school children. Government says that it will consider

this only after constructing all the roads required for development, including the Express Way from the Airport to the luxurious tourist and conference resort of Lunyonyi.

5. Aside from being a biodiversity hotspot, Uguti is also known for its natural resources endowment since the colonial times. However, due to the years of political turmoil that befell Wakanda soon after independence, not much was done to extract these resources until the year 2000 when the government under the Revolutionary Peoples Party licenced a number of International Oil Companies to assist it in development of this natural resource potential. These companies included Quick Oil International PLC which was licenced to explore for oil in Uguti. Following many years of exploration, in 2016 Quick oil confirmed the existence of large deposits of commercial oil in Uguti and particularly in the areas occupied by the Basuti.

6. The news of this discovery spread like a wild fire and caused a lot of excitement around the country. The government held a press conference and declared to the nation that with oil, poverty would soon be history and that it would no longer have to rely on foreign aid to provide for citizens. The government also announced that Quick Oil International PLC would be rewarded with exploration rights over the entire Uguti region and that the company was free to carry out any operations in the area. Immediately following this announcement, Quick Oil International PLC embarked on sinking more oil wells in Uguti. Unfortunately most of these turned out to be dry wells and were abandoned by the company soon after they were sunk without any form of restoration. The Company is also implicated for depositing waste in Lake Uguti and on open land. As a result, the communities no longer have access to safe water. In fact, diseases which were hitherto rare have become common in Uguti. According to the in-charge of the Uguti Health Centre, 8 out of 10 admitted patients suffer from hygiene and respiratory diseases. These include mostly children. The communities' protests to the government against the activities of the company have been ignored. Instead, in July 2018, the Ministry of Natural Resources announced that the people of Uguti would have to understand that they would be required to relocate to other areas in order to allow Quick Oil International PLC to undertake more extensive explorations without any form of interference. The community was given six months to decide on whether they would prefer to move into government

constructed apartments or receive monetary compensation. Being business oriented, the majority of the Baguti chose to receive monetary compensation. Research shows that most men used the money to buy vehicles and marry second wives.

7. The Basuti on the other hand have declined both options and insisted on staying in Uguti. They insist Uguti belongs to their ancestors and no one can drive them away from their land. The Basuti also argue that that life in the city is not conducive for the practice of their cultural and spiritual beliefs and traditions. This is because every year the Basuti gather at the shores of Lake Uguti from where they organise week long feasts and make sacrifices and thank their ancestors for bestowing unto them such a beautiful and productive land. The Basuti also have a lot of cultural sites in Uguti. These include spiritual places like the Uguti tree which is found in Buguti where Quick Oil is planning to install an oil rig. All the Basuti kings have to pick a branch from this tree before they assume the throne. For this they argue that there is no other place like Uguti in the whole world. The Basuti also assert that the oil beneath their soil belongs to their ancestors and no one should get it out without their consent. They are not happy that Quick Oil was able to extract this oil without seeking permission from their supreme chief and are opposed to any efforts to extract the oil in commercial quantities.
8. After failing to convince the Basuti and a small section of the Baguti to move, on August 28, 2018 Wakanda police moved into Uguti and forcefully evicted the communities. Those who tried to resist were beaten and about 5 Basuti lost their lives in the scuffle. Since the Basuti declined any form of compensation, they were moved into a camp in the neighbouring Musana region. The conditions in the camp are deplorable, there is barely any food aside from that provided by a local church which is largely posho and beans. Even then it is only one meal per day. There is no medical facility and although the Basuti do not believe in western medicine, they are barred from obtaining herbs from the nearby forest reserve because it is gazetted for wildlife. As a result every single day a Basuti dies.
9. To avoid what was termed as "misguided resistance", Government hastily processed through Parliament an amendment of the Constitution which allows the state to appropriate land for public purposes and compensate the owners later. Human rights

groups have opposed this law and said that it violates international law. Government insists it will implement the law.

10. In August 2018, Quick Oil International PLC being a wildcatter company sold some of its interests in the productive wells to Sun Cho Hong Company. The Company registered a profit of over USD 5billion from the transaction. When the Wakanda Revenue Authority attempted to tax this profit as a capital gain they were informed that any such attempt would violate the terms of the Petroleum Sharing Agreement (PSA) signed with the Republic of Wakanda. The company claims that the Agreement contains a stabilisation clause that forbids the government of Wakanda from taking any action to the detriment of the company. As it is up until this moment, the PSAs have remained confidential documents and only the oil companies and the office of the Attorney General of Wakanda have access to the text and contents. This is notwithstanding the fact that Wakanda's constitution provides for a right to information for all citizens. Wakanda also has an Access to Information Act. Under both the Constitution and the Act, citizens have the right to access information in the hands of state authorities except where it is shown that such access would violate the right to privacy or interfere with national security. On its part, the government has argued that the information contained in the PSA is commercial information that it cannot be freely shared. Further, it is argued that it is dangerous for this information to be put out in the public as oil has implications for national security.
11. Sonhon Company which purchased Quick Oil's interest is already in advanced stages of production having been given a licence recently. The Company is interested in building an oil pipeline from Uguti to neighbouring Tanza Republic where it plans to refine crude oil and thereafter market the finished product in the region. The Oil Pipeline is slated to go through many areas including the Basuti cultural sights and burial grounds for its Kings. Given the huge cost involved in compensation, the government has announced that all those affected will have to wait for the pipeline to be completed before they can be compensated. This will be done under the amendment law on compulsory acquisition of property.
12. Omodiis a Musuti who recently joined Wakanda Law School on a scholarship of the Great Church of Wakanda. He is deeply concerned about the developments in Uguti

and Wakanda land and hoped that he can intervene to save his ancestral land and his people. With the power of social media he has been able to mobilise the youth across the country to support his cause. In fact very recently he was elected to Parliament to represent Uguti area. It is rumoured that he has presidential aspirations.

13. Omodiis popularity while endearing him to many including a host of foreign organisations it has also caused him trouble with the state. The extremists in the Revolutionary party believe that for their role in liberating the country, the next president should be from the party. They are against an outside ascending to the presidency more so a youth. As a result of their influence, Omodiis was recently badly assaulted at a recent rally organised to mobilise for funds to provide clean water and health care to the Basuti in camps. In the end he was admitted for about two weeks and according to the medical report he suffered several injuries.

14. Omodiis experience has however not broken his spirit. He is committed to ensuring that justice is done for his people and all other political victims. In this respect, Omodiis has petitioned the Supreme Court of Justice challenging the eviction of his people as well as acts of torture and other human rights violations against him and his people. Omodiis alleges that the government of Wakanda is responsible for violations of a whole host of rights under the Wakanda Constitution and the regional and international instruments that the Country is signatory to. These include among others the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples Rights (ACHPR). He further contends that as a member of the UN, Wakanda ought to be seen to be committed to values of human dignity as defined by the polity of nations. He is seeking among others the following remedies:

- a) Permanent injunction
- b) Restoration of environment
- c) Declaration of violations of the right to clean and healthy environment,
- d) Structural interdict
- e) Compensation for all victims

15. On its part, the government of Wakanda alleges that Omodiis is a self-seeking politician who is working with foreign groups to destabilise Wakanda. That in fact Omodiis is a member of the opposition who has failed to convince the people to vote for change and is using the Uguti issue to attract attention. That all his activities are illegal under the Political Organisations law. Further, the government contends that all its actions are in the best interests of the people especially the Basuti who for a long time have been regarded as backward.

16. Omodiis's suit has attracted even more attention. Remarkably, the Centre for Resource Justice (CEREJU) a Non-Governmental Organisation has expressed interest in being joined to the suit as *amicus curiae*. In their application, the NGO contends that it has solid and wholistic expertise in natural resource justice and that its involvement will enable the court reach a just decision. CEREJU argues that the problem is that Wakanda nature resources allows are not consistent with international standards and best practices on natural governance.

As counsel, you are required to prepare written submissions (15 pages 1.5 spacing) and to make oral arguments before the Supreme Court of Wakanda on behalf of each of the following parties.

- a) Omodiis
- b) The Government of Wakanda
- c) Centre for Resource Justice

Wakanda's laws are *pari materia* the laws of the Republic of Uganda. The only exception is with respect to the jurisdiction of the Supreme Court.