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Kenya Wildlife Conservancies Association

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Community Conservancy Management in Kenya



October 2016



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A national landowner membership organization representing community and private conservancies in Kenya, KWCA works with conservancy landowners and regional associations to create an enabling environment to deliver environmental and livelihood benefits, directly and progressively engage in wildlife governance, thereby promoting an enabling policy and legislative framework that allows their participation in wildlife conservation, share best practices, harmonize standards and develop a network of functional conservancies, to complement state protected areas in securing land for wildlife ▪

Consultancy For In-Depth Assessment of Environment and Natural Resources Policy Framework Affecting Conservancies in Kenya

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Information about the KWCA on the Internet. It can be accessed throughthe website (www.kwcakenya.com).

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Acronyms and Abbreviations

ACC	African Conservation centre
ASALs	Arid and Semi-Arid Lands
AWF	African Wildlife Foundation
BMU	Beach Management Units
CBNRM	Community-Based Natural Resources Management
CBOs	Community-Based Organisations
CDF	Community Development Fund
CEC	County Executive Committee
CFAs	Community Forest Associations
CoG	Council of Governors
CoK	Constitution of Kenya
CWCCC	County Wildlife Conservation Compensation Committee
EIA	Environmental Impact Assessment
EMCA	Environmental Management and Coordination Act
ENRM	Environment & Natural Resources Management
EU	European Union
GDP	Gross Domestic Product
GoK	Government of Kenya
HWC	Human-Wildlife Conflict
IUCN	International Union for Conservation of Nature (IUCN)
IWRM	Integrated Water Resource Management
KII	Key Informant Interviews
KTF	Kenya Tourism Fund
KWCA	Kenya Wildlife Conservancies Association
KWS	Kenya Wildlife Service
KWTF	Kenya Water Frust Fund
NAP	National Action Plans
NEMA	National Environment Management Authority
NLC	National Land Commission
NGOs	Non-Governmental Organisations
NRT	Northern Rangeland Trust
NWSRB	National Water services regulatory Board
MEP	Mara Elephant Project
MMWCA	Masai Mara Wildlife Conservancies Association
CSOs	Civil Society Organisations
TNC	The Nature Conservancy
ToR	Terms of Reference
TRA	Tourism regulatory Authority
USAID	United States Aid agency
PAs	Protected Areas
WRMA	Water Resources Management Authority
WRUAs	Water Resource Users Association
WWF	World Wide Fund for Nature

Community Conservancy Management in Kenya

Executive Summary

This report has been prepared as part of an effort by KWCA to define its position on community conservancies and plan for future work to advance this concept and support effective environment and natural resources policy and legislative framework towards securing wildlife dispersal areas on community or private land to enhance wildlife conservation and management through ecosystem services provision and address community challenges. The key findings and recommendations in this report include:

(a) The CoK 2010 was found to provide for key aspects of the governance concept based on CBNRM: including devolution, public participation and community benefits from natural resources. But the provision is not fully supported by various sectoral legislations, regulations and institutional arrangements in place thus conflicts.

(b) Kenya has enacted numerous sector-based policies and legislations that support natural resources management after the promulgation of the constitution that supports community involvement and benefit sharing. However, a number of policies and legislations are yet to be revised to realign with the constitution. This is a potential source of conflict apart from policies and laws that have already been enacted without participation and key input from other relevant sectors.

(c) There is urgent need, therefore, to review all the old policies and laws as required by the constitution. The major policy and legislation gaps identified in this report should be addressed through a review and or formation of a high level inter-ministerial committee to harmonize the policies as well as revitalize the County Environmental Committee.

(d) There has been an increase in the formation of Community conservancies (ring fencing wildlife space and providing themselves and the wildlife with security) amidst several challenges (including human wildlife conflicts) and despite the minimal supporting legal framework, with the hope of benefitting from wildlife management activities. Communities are innovatively finding conservancies as an economical land use type and indeed leading to the emerging trend, despite the widening variety of land use practices.

(e) The policies and laws have provided for the establishment of the necessary institutions at both the national and local levels to support the implementation of the various legislations. However, some of the institutions are not legally binding due to lack of the guidelines on their formation.

(f) The funding institutions such as Water Trust Fund, Wildlife Endowment Fund, and Tourism Trust Fund do not have financial resources to support communities' initiatives in conservation and natural resources management. This has left communities on their own or seek support from NGOs resulting to a slow pace of establishment of conservancies and accelerated rate of loss of wildlife range.

(g) Conflict between government sectors over the similar natural resources is a huge setback in the implementation of various sectoral policies and legislations. There is need to clearly separate the mandates and make it clear to the conflicting agencies.

(h) The Wildlife Conservation and Management Act 2013, is yet to be fully implemented because of lack of guidelines and policy that provides a regulatory framework governing natural resources management. The draft guidelines have been developed and are going through a consultative process while the Wildlife Policy is under review. However, there is need to speed up the process in order to fully implement the Act which almost three years old.This lack of regulations to operationalize the WCMA 2013 almost three years since it came into force is a serious disincentives for community and private land owner engagement in wildlife conservation and management.

(i) Wildlife is a public good, which in principle means the government holds property rights over wildlife on behalf of the people of Kenya. It therefore behooves the government to provide incentives to those supporting it in perpetuating the availability and sustainability of this good. Land owners who chose wildlife conservation as a form of land use therefor need certain levels and variety of incentives, for the opportunity cost of supporting the government to protect, conserve and manage wildlife. Some of the proposed incentives include, but not limited to, the following;

  (i) An enabling national and county wildlife policy and regulatory framework that further defines benefits sharing as well as providing for financial incentives for conservancies, for example tax exemptions or rebates,

  (ii) Subsidies – especially for equipment, training and infrastructure,

  (iii) Compensation for the opportunity cost of keeping wildlife on private or community land – a form of payment for ecosystem services (PES),

  (iv) Easements and concessions: Gazette regulations for easements with clear procedures for engagement,

  (v) Financial support from the endowment fund envisaged by the WCMA 2013,

  (vi) Waiver on land rates/rents by the respective county governments,

  (vii) Some form of insurance – especially as an alternative to compensation for injuries, damages and death occasioned by wildlife,

  (viii) As envisaged by the County Governments Act of 2012, section 110(1) fast track the development of a ten year county GIS-based spatial plan which shall be a component part of the county integrated development plan providing clear statements of how the spatial plan is linked to the regional, national and other county plans, and,

  (ix) Free technical support by the national government through KWS

(j) Adverse effects of climate change exacerbate pastoralist communities' livelihoods, permanent assets as well as reduces their coping strategies with negative effects on pastoralism. Recurrent droughts are eroding pastoralists' livestock base and weakening their livelihoods and their resilience to climatic shocks. This leads to a shift in social lifestyles with some communities resulting to a high dependence on wildlife as bush meat and engagement in illegal wildlife trade.

(k) Pastoralist communities have highly segregated gender roles, with women and youth playing no or an insignificant part in decision making over crucial assets like land and livestock (the economic base). Girls and women are also denied the chance to acquire formal education, thus the opportunity to engage in alternative economically productive practices like business, innovation, leadership or formal employment. This is contrary to the constitution which provides for elimination of gender discrimination in law, customs and practices related to land and property.

In conclusion, ENRM policies conflict and all relevant government agencies should be involved in their formulation and review. The institutions should be strengthened and supported by law for effective implementation with financial support from the national and county governments.

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Chapter One: Introduction

1.1 Background

Kenya conserves its natural biodiversity through a network of formal protected areas comprising National Parks, National Reserves, Game Reserves and Sanctuaries. However, this covers only 8% of the total Kenyan landmass. Thus, the designated land mass does not provide sufficient space for conservation. Consequently, much of the wildlife moves forth and backwards from these protected areas and into the surrounding community and private land in search of food, water, security or breeding grounds. It is estimated that at times, up to 80% of the country's wildlife takes residence on private or community land.[1]

Communities in Kenya have lived amongst, and used, wildlife resources without a formal policy and legislative framework providing for property rights over this natural resource. For hundreds of years, these communities ensured conservation of the wildlife resource through cultural and social norms, myths and traditional practices. Sacred beliefs centered on certain wildlife species ensured that conservation principles became part of their way of life. However, today the communities living with wildlife have little cultural, social or economic interest in them because of the centralized management and financial benefits directed to the state.[2]

Deterioration in wildlife habitats caused by major land use and cover changes is exacerbated by climate change and variability, piling enormous pressures on pastoralism, ranching and wildlife conservation in Kenya's rangelands and protected areas. Further, declining wildlife populations both inside and outside protected areas, has been attributed to rapid human population growth, land use and cover changes, land fragmentation, infrastructural development, poaching for trophy and bush meat, outbreaks of infectious diseases, proliferation of firearms, weak law enforcement, poor governance, competition with livestock for space, water and pasture, poverty and inequality.[3]

To a large extent wildlife policies and laws in Kenya have offered very little incentives to the custodian of biodiversity and thus provide limited tools for achieving broader goal for conservation and promotion of sustainable development and equitable sharing of the resulting benefits. In fact the real threat to wildlife conservation outside the protected areas may not be the commercial poaching, but wildlife's inability to compete economically with the emerging alternative land uses in such areas.

Beyond the formal protected areas, community and private lands can, and have, contributed greatly to wildlife conservation and management in Kenya over the last four decades. Thus wildlife conservancies have gained momentum, including a formal definition under the Wildlife Conservation and Management Act of 2013. By 2015, wildlife conservancies comprised about 4% of Kenya's total land mass.

1.2 The Context of the consultancy

1.2.1 Kenya Wildlife Conservancies Association

Kenya Wildlife Conservancies Association (KWCA) is a national landowner membership organization representing community and private conservancies in Kenya. KWCA works with conservancy landowners and regional associations to create an enabling environment to deliver environmental and livelihood benefits, directly and progressively engage in wildlife governance, thereby promoting an enabling policy and legislative framework that allows their participation in wildlife conservation, share best practices, harmonize standards and develop a network of functional conservancies, to complement state protected areas in securing land for wildlife.

Conservation of wildlife in Kenya has been championed by community and private landowners through development of conservancies. The growth of conservancies has risen over the past two decades with about 5% of the country's landmass under community conservation today. Considering that conservancies are located on either community or private lands and recently a few on public land and Marine areas, they directly interrelate and conserve a variety of other natural resources and environmental factors.

1 Western D., Waithaka J., Kamanga J. (2015) Finding space for wildlife beyond national parks and reducing conflict through community-based conservation: the Kenya experience. Parks 21.

2 Alkemade R., Reid R.S., van den Berg M., de Leeuw J., Jeuken M. (2013) Assessing the impacts of livestock production on biodiversity in rangeland ecosystems. Proceedings of the National Academy of Sciences

3 Ogutu J.O., Piepho H.P., Said M.Y., Ojwang G.O., Njino L.W., Kifugo S.C., et al. (2016) Extreme Wildlife Declines and Concurrent Increase in Livestock Numbers in Kenya: What Are the Causes? PLoS ONE 11(9): e0163249. doi:10.1371/ journal.pone.0163249

TheMissionof KWCA is 'To work with landowners and communities to sustainably conserve and manage wildlife and their habitat outside formal protected areas for the benefit of the people of Kenya'. KWCA Vision is 'A Kenya in which people and wildlife coexist in mutual benefit'.

1.2.2 The specific ToR for the assignment

The consultancy assignment had 16 ToR which include:

1. Hold an inception meeting with KWCA secretariat to ensure clear understanding of the mandate, discuss and agree on the conceptualization of the study, suggested methodology and timelines for efficient execution of the assignment and prepare an inception report thereof;
2. Prepare and submit to KWCA a detailed inception report describing the consultant understanding of the task and the plan of action to execute the task;
3. Identify all the ENRM policies, laws and regulations that interface with conservancies both at the international, national and county level;
4. Analyses the extent to which the ENRM polices, laws and regulations, have reformed, are being implemented and how they affect and impact on the establishment and management of conservancies;
5. Analyze community based institutions created by the various ENRM laws to participate in conservation and management of the environment and natural resources;
6. Assess key cross cutting issues including climate change and inclusion of women and youth in environment and natural resource governance;
7. Identify the conflicts, overlaps, gaps, challenges and opportunities created by the ENRM policies, laws and regulations on the management and operations of conservancies;
8. Identify incentives and disincentives influencing community based conservation and compare the incentives and user rights created by each of the ENRM policies and laws to promote community based conservation;
9. Analyze how the proposed developing and reforming ENRM policies, laws are likely to positively or negatively impact on management and operations of conservancies;
10. Identify the emerging trends and key community based actors in the ENRM sectors especially in the areas of wildlife, water, forests, wetlands, marine environment.
11. Assess government agencies and policy actors overseeing the implementation of community based policy, laws and regulations;
12. Compare Kenya's policy and legal environment with select countries with comparable community based wildlife conservation approaches;
13. Propose recommendations on areas of amendment for the Wildlife Act 2013 to encourage landowners adopt wildlife conservation as a preferred land use and further support development of conservancies in Kenya;
14. Analyze whether the developing draft regulations under the Wildlife Act 2013 support development of conservancies and the extent to which they support them especially the Conservancy regulations, Incentives and Benefit Sharing regulations, Endowment Fund regulations, Community Participation and the Compensation regulations;
15. Provide recommendations on the appropriate key interventions required to improve sectoral ENRM policies and laws to promote coordinated and harmonized community based conservation; and,
16. Present to KWCA a final report on the findings of the ENRM policy and laws analysis within the period to be agreed within the agreement.

1.3 Study Objectives

In order for community conservancies to effectively develop and sustain their governance structures, operations and investments, it is important that a framework for policy harmonization be developed. KWCA through support from USAID Kenya and East Africa and The Nature Conservancy under the "Community Conservancy Support and Implementation Program" plans supported a study on the in-depth assessment of the environment and natural resource policy and legal frameworks affecting conservancies. This will create a comprehensive baseline; identify gaps, opportunities, overlaps, and potential conflicts created by the regimes. From the assessment KWCA will develop a policy matrix of key policies and laws that have an influence on Conservancies and recommend and prioritize areas for strengthening.

1.4 Specific Objectives

The specific objectives are as outlined in the ToR (see Section 1.2.2 above).

1.5 Rationale for the Study

In order for community conservancies to effectively develop and sustain their governance structures, operations and investments, it is important that a framework for policy harmonization be developed. KWCA through support from USAID Kenya and East Africa and The Nature Conservancy under the "Community Conservancy Support and Implementation Program" plans supported a study on the in-depth assessment of the environment and natural resource policy and legal frameworks affecting conservancies. This study findings creates a comprehensive baseline and identifies gaps, opportunities, overlaps, and potential conflicts created by the regimes. From the assessment KWCA will develop a policy matrix of key policies and laws that have an influence on Conservancies and recommend and prioritize areas for strengthening to the national and county governments as part of enriching their program portfolio.

1.6 Study Area and Scope

This is a national study covering areas under wildlife but outside formal government protected areas (PAs) on community and private land which are affected by the national and county government policies and legal frameworks as well as strategies.It also looks at the various institutions, benefits and incentives and cross cutting issues such as climate change, gender and youths among other areas. These areas are clearly defined in the Wildlife Conservation and Management Act 2013 and KWCA Strategy document.

Chapter Two: Approach and Methodology

2.1 Approach

The study employed a participatory process that involves consultation with KWCA and key practitioners who are either situated in wildlife rich niches/corridors and migratory routes including conservancy managers, conservation NGOs, development partners and relevant central and county governments departments. Primary data was obtained using Key Informant Interviews (KIIs) identified in consultations with KWCA partners (Annex 1).

Using the KIIs guide, qualitative data was gathered from identified institutions representation (partners and stakeholders) including relevant governments' agencies such as Ministry of Environment and Natural Resources, Agriculture and Livestock, Tourism and Lands, Fisheries department, KWS, KFS, NEMA, Water Resource Management Authority (WRMA), CSO, conservation NGOs, community conservancies management among other relevant stakeholders (Annex 2).

Secondary data was collected through a thorough desk review of existing enacted and draft relevant national and county policies and legal frameworks, strategies, management plans, regulations and other relevant literature and documents from the key stakeholders and partners. Other documents include the KWCAs strategic plan, organizational strategy, national strategy documents, policy and legal documents and multi-lateral agreements such as CBD, CITIES, MDGs, among others.

The collected data mainly qualitative was reduced, organized and interpreted on the basis of themes generated from the TOR.

2.2 The Assessment Stages/Phases

The consultants employed five (5) key phases in the assessment of the exercise.

a. **Phase 1:** Inception/planning, desk review and tools development – During this phase, the consultants held a meeting with KWCA team to discuss the contract including the scope of work, methodology and plan for fieldwork. At the same time, policy and legislation documents, reports and publications for review were identified. Eventually, KIIs for consultative meeting guide and policy analysis tools were developed.

b. **Phase 2:** Review of the existing ENRM policies, laws and regulations – that interface with conservancies. The review was anchored on the CBNRM and PES models of natural resource management that consider inclusivity (role of women and youth in environment and natural resource governance). Other national policy environments that influence conservation such as climate change policy and legislation as related to wildlife management and conservation were also interrogated. The study also identified incentives and disincentives influencing community based conservation and compared the incentives and user rights created by each of the ENRM policies and laws.

c. **Phase 3:** Consultative meetings with key stakeholder – The consultants collected information based on the questionnaire (Annex 1) in Narok, Kajiado and Laikipia/Samburu/Isiolo counties. The consultants also collated, assessed and analyzed selected conservancies experiences (positive and negative) to determine the emerging trends and key conservancy based characteristic in the ENRM sectors focusing on the areas of wildlife, water, forests, wetlands, marine environment.

d. **Phase 4:** Analysis of community based institutions – through stakeholder engagement/consultation and literature review and also interrogated community based institutions created by the various ENRM laws to participate in conservation and management of the environment and natural resources.

e. **Phase 5:** Synthesis and Reporting – After data collection, the consultants analyzed the data and developed outputs based on: identify gaps, opportunities, overlaps, and potential conflicts as per the ToR. This created a comprehensive baseline and identified gaps, opportunities, overlaps and potential conflicts created by the policy regimes. A policy matrix of key policies and laws that have an influence on conservancies were developed and key recommendations on priority areas for strengthening made.

Chapter Three: policies and Legislation Context Influencing Conservancies

3.1 Introduction

The government of Kenya has made significant investments in most protected areas (PAs) in the country. However, despite the high returns from wildlife-based tourism, conflicting interests between conservation and development persist in the larger biodiversity landscape, where the ecological viability of PAs to sustain healthy populations of wildlife is threatened by loss of animal dispersal areas and migratory corridors. These ecosystems are part of Kenya's rangelands where communities continue to experience conservation in terms of protectionism and a segregation approach contrary to their preferred approach of integration of people and nature-to deliver both development and conservation benefits.[4]

The solution to the conservation challenge lies in embracing a landscape approach to conservation and development, allowing the ecosystem to provide a broad range of benefits and services to all interests dependent on it: including wildlife, pastoralists, off-site products and services such as water and indeed the environment. Thus a need to provide a resource governance model that allows communities and conservationists to be guided by knowledge based landscape planning. This will require the modification of policies and market based incentives to balance resource use and resource conservation across the wildlife rich ecosystems in Kenya.

In this respect, then, conservancies are crucial to the survival of Kenya's wildlife, both within and outside of PAs. As observed approximately 70% of all Kenya's wildlife resides on community or private land outside PAs. And even the 30% of the wildlife that resides in the parks often spend much of the time outside the PAs, and is therefore often heavily dependent on both the pastures and the tolerance of the community and private landowners for its survival. Without conservancies Kenya's wildlife in the future may be restricted to a small number of island refuges, probably fenced, with limited numbers of animals, but a high density of tourists that will inevitably put major pressure on the environment.

The conservancies management are, however, influenced by several Kenya's natural resources policy and legislation which are scattered in a multiplicity of resource and sector specific policies and legislations (including land, water, forest, tourism, agriculture and livestock among others) as well as in the Constitution 2010 and in the national short term/mid-term development strategies; Vision 2030, e.tc. Policies to devolve responsibility for natural resource management to local bodies in Kenya have become widespread in the past 20 years based on the CBNRM approach and principles. The existence of this polices and legislations, some of which are incompatible, has resulted in complex wildlife resources management regimes outside the protected areas, resulting in scenarios such as fragmented interventions, poor land administration, and thus inadequate provision of space for wildlife conservation.

The policy formulation approach, in Kenya is multi-sectoral, but is often centralized, with devolved structures provided only for local implementation. Just like is the case in the wildlife sector the environmental and natural resources policy making in Kenya, has been piece-meal and fragmented, with significant emphasis in enacting laws and regulations without reviewing or formalizing the overarching policy. This seems to lead into uncertainly at different scales in the sector and similarly in wildlife resources conservation and management.

3.2 The constitution and ENRM Policies and legislation context

Since the promulgation of the constitution 2010, Kenya has been applauded as a model for environmental progress in the region, for entrenching environmental rights and principle in the constitution therefore signaling resolute environmental commitment.These are elaborated in Chapter Five, titled 'Land and Environment' which consists of two parts, the first devoted to land, and the second to environment and natural resources. This part consists of four Articles detailing obligations, enforcement, agreements and legislation relating to the environment.[5]

4 David Western and John Waithaka, 'Policies for Reducing Human Wildlife Conflict: A Kenya Case Study' in Simon Thirgood and Allan Rabnowitz (eds) People and Wildlife: Conflict or Coexistence (Cambridge University Press, 2005) 357, 366.

5 Constitution of Kenya, 2010

Therefore the CoK (2010) acknowledges the role of the state in ensuring sustainable development as well as the importance of equitably sharing of benefits derived from the environment. This has resulted into a paradigm shift in the way the country is governing her natural resources including biodiversity.

The key law governing biodiversity in Kenya is the Wildlife Conservation and Management Act (2013) but it is supplemented and amplified by a myriad of other Environmental and Natural Resource Management (ENRM) policies and legislations that include The Water Act (2016), The Forest Act (Cap 385), The Environmental Management and Conservation Act EMCA (387), The Wetland Regulations of 2009, The Mining Act (Cap 306), The Tourism Act (Cap 383), The Firearms Act (Cap 114) and The Fisheries Act (cap 378). Among others. All these laws seek to ensure sustainable development in Kenya as provided for in the Constitution. Therefore

(1) Natural resources governance arena in Kenya has witnessed a significant reorganization (formulation, revision and repeal) of sector specific policies legislations and regulations to align them with the current constitutional dispensation. In the process the governance tools generated in some subsectors contradicted, overlapped or even create gaps that may not facilitate sustainable management of these natural resources. Therefore sector umbrella organizations such as Kenya Wildlife Conservancies Association (KWCA) among other stakeholders must actively be engaged in all the natural resources policy and legislation formulation processes.

(2) One characteristic of most natural resources is that they are intertwined that is one ecological unit may have several resource or sector activity types (Agriculture, forest, water, wildlife, minerals, etc) Therefore are not only subjected to one sector policy or legislation. Similarly institutions created by various sectors hardly ever have jurisdiction over a whole ecosystem. For example conservancies have components under different management regimes such as CFA, WRUA, BMU, CWCCC, etc. This presents immerse difficulties as effective governance of a conservancy may require high degree of co-ordination, joint decision-making, implementation, monitoring and enforcement among several national and community based institutions.

(3) Conservancies by definition must occupy space (land) and the constitution of Kenya (CoK) 2010 recognizes land as an important factor of production. Section 60(1) outlines the principles under which Land in Kenya shall be held, used and managed.[6] Land tenure regimes significantly influence conservancies in Kenya, (private land tenure communal and public land tenure). But presently the greatest focus is on tenure conversion from other regimes to private tenure. The reasoning being that investing individuals with private property rights in land would contribute to and enhance proper resource management because individual actions are informed by enlightened self-interest.[7] But land fragmentations are unfavorable for the development of conservancies or the provision of wildlife space in form of corridors or dispersal areas outside protected areas.

The most favorable land tenure conservations seem to be community land (land held by communities identified on the basis of ethnicity, culture or similar commonality). These includes: community forests, group ranch, grazing areas or shrines; ancestral lands and lands traditionally occupied by hunter-gatherer communities; or lawfully held as community land by the county governments. In the rangelands communal ownership has been perceived as capable of encouraging good resource husbandry[8], otherwise land might be parceled out to individuals that do not necessarily have anything in common, to the detriment of the management of the parcel as a conservancy, because different individuals, may use the same resource differently (temporally or spatially).

(4) Wildlife is not out righty recognized as a land use. Article 66 gives the State the power to regulate the use of any land, or any interest in or right over any land, in the interest of among others, public safety, public order, public morality, public health, or land use planning. The constitution mandates the National government to provide general principles of land use planning, co-ordination of planning by the counties and perform national and economic

6 See section 60, CoK 2010

7 David Western and John Waithaka, 'Policies for Reducing Human Wildlife Conflict: A Kenya Case Study' in Simon Thirgood and Allan Rabnowitz (eds) People and Wildlife: Conflict or Coexistence (Cambridge University Press, 2005) 357, 366

8 Kameri-Mbote, Patricia, Land Tenure and Sustainable Environmental Management," In C.O. Okidi, et al, Environmental Governance in Kenya: Implementing the Framework Law(EAEP, Nairobi, 2008) 260-280 at p. 269

policy and planning under item No. 9 in the Fourth Schedule of the Constitution. Thus,there is need to advocate the formulation of a land use policy which will recognize and determine wildlife dispersal areas and corridors as a land use.

(5) Wildlife space may only exist on private or community land if there are benefits associated with the activities. This is dimmed to be supported by article 69(1) which articulates the equitable sharing of the accruing benefits from sustainable exploitation, utilization, management and conservation of the environment and natural resources.In most cases, the benefits that accrue from most conservation areas are not direct nor are they shared equitably among the beneficiaries. For example, despite the local communities bearing a higher cost for wildlife conservation (in the dispersal areas and wildlife corridors), through loss of lives and destruction of property, they do not accrue commensurate benefits from adjacent parks and game reserves. This has created a major problem of human-wildlife conflicts *(discussed in the chapter 6 of this document).*

(6) Principals of good natural resources governance include participation responsiveness, and inclusiveness. Article 174 in chapter 11 of the constitution of Kenya 2010 outlines the principles of devolution and promotes democratic and accountable exercise of power; gives powers of self-governance to the people and emphasizes the participation of the people in the exercise of the powers of the State and in making decisions affecting them and declares equitable sharing of national and local resources. Conservancies have prospects of being an important platform for the actual process of devolution.

(7) CoK provisions as well as the Wildlife Act (2013), creates a situation which is not consistent with devolution of wildlife management to local communities. To the contrary, they entrench state control of wildlife. Communities, acting through their CWCCC, are left with the duty to implement government policies on wildlife management. Custodianship of wildlife as well as authority for management is retained by the national government. Opportunities for participation by local communities are thus weakened as opposed to being strengthened.

But the ENRM sector in Kenya has been reviewing laws and policies to re-align with the new constitution through a consultative process as required by the constitution, a process that takes time and expensive.

Some other key policy and legislative provisions that are influencing conservancies are discussed in subsequent sections below.

3.3 The Wildlife Conservation and Management Act 2013

The Act provides for the protection, conservation, sustainable use and management of wildlife in a participatory way, based on CBNRM as well as the application of ecosystems approaches to wildlife management. Here, wildlife conservation is recognised as a land use. There is acknowledgment that majority of the wildlife is found outside protected area. This shall apply to all wildlife resources on public, community and private land. There is encouragement for landowners to keep wildlife. The Act also provide for equitable sharing of conservation benefits in order to offset costs and to ensure the value and management of wildlife do not decline.

The Act maintains KWS as the key body responsible for wildlife conservation and management in Kenyaand a community /grass root institution: County Wildlife Conservation and Compensation Committees (CWCCC). This purports to have devolved wildlife management to communities **(see in chapter 4)**. Other key observations about the Act are as stipulated below.

(1) Act promotes /encourages the formation of conservancies.The article states that any person or community who owns land that has wildlife may establish a conservancy or sanctuary. Conservancies hold different legal status as they are registered under different legal regimes. Although the draft regulations require that they be registered under KWS some of them engage in integrated livestock and wildlife management while others focus purely on conservation of wildlife. Upon establishment, a conservancy shall be issued with a Certificate of registration by KWS. The functions include:

   a. Breeding grounds
   b. Wildlife dispersal areas and corridors.
   c. Protected Area buffer zones.
   d. Eco-tourism and recreation facilities.
   e. Habitats for wildlife and endemic species.
   f. Education and research

(2) The Act further provides that communities may establish Community Wildlife Associations (CWAs) intended to advance community participation in wildlife management.

(3) The Act provides that a person shall only have wildlife rights including wildlife based tourism, educational purposes and commercial photography and filming etc., accordance to the terms and conditions of a license or permit issued by KWS. The persons wishing to undertake non-consumptive wildlife utilization to register with the CWCCC thereafter obtain a permit from KWS.

(4) The Act also requires that conservancies develop Conservancy management plans. These management plans are to be formulated by KWS in consultation with the CWCCC. The place of the wildlife associations in which communities are expected to have greater decision making powers is diminished.

(5) The provisions of the Act there for have the effect of creating several bureaucratic layers and overregulation that might lead to communities opting not to create conservancies and sanctuaries.

(6) The Act also seems to have devolution as one of its guiding principles, as demonstrated by the creation of platforms (institutions and committees) but in terms of their functions only provides delegated Authority in wildlife management. But devolution should be based on clearly prescribed rights and responsibilities of communities vis-a-vis national government and its agencies.[9]

The implementation of this Act requires the development of various regulations to operationalise the Act including:

i. The transfer of wildlife management to the lowest level possible with support to public participation through the private sector (business people, companies and investors), Non-NGOs and CBOs;

ii. Development of an effective system for incentivising and benefits sharing with the land owners and communities living wildlife land scape;

iii. The promotion of the use of local knowledge in the conservation and management of wildlife resources;

iv. Partnerships between local communities and private sector in creating profitable wildlife-based enterprises to improve the welfare of rural communities;

v. Training local communities and registered wildlife associations to manage and conserve wildlife and reduce human-wildlife conflicts (damage to crops, livestock and loss of human life); and,

vi. Encouraging community participation in wildlife conservation and management through establishment of community wildlife conservation areas, sanctuaries/conservancies and joint Management of Protected Areas.

3.4 The Draft National Wildlife Conservation and Management Policy 2016

The Draft National Wildlife Conservation and Management Policy, 2016 creates an enabling environment for the conservation of Kenya's rich diversity of species, habitats and ecosystems. The guiding principles informing the policy include: An integrated 'ecosystem' approach to conserving wildlife resources, recognising of wildlife as a land use option, especially outside protected areas, principle of sustainable use of wildlife, and equitable benefit sharing.

It establishes the Wildlife Endowment Fund whose functions are to; (a)develop wildlife conservation initiatives; (b)manage and restore protected areas and conservancies; (c)protect endangered species, habitats and ecosystems; (d)support wildlife security operations; (e)facilitate community based wildlife initiatives; and, (f) perform such other purposes as may be provided for by rules made under this Act.

Key Issues/themes emerging from the findings include;

1. The policy provides communities with communal conservancies which is a useful avenue for giving legal recognition to their communal ownership and management of land and management of wildlife resources.

2. Poaching remains the biggest threats to wildlife populations in Kenya. It targets endangered species like elephants and rhino whose populations have been on downward scale since in 1977 by over 60-70%.

9 David Western and John Waithaka, 'Policies for Reducing Human Wildlife Conflict: A Kenya Case Study' in Simon Thirgood and Allan Rabnowitz (eds) People and Wildlife: Conflict or Coexistence (Cambridge University Press, 2005) 357, 366.

3. Encroachment to wildlife habitats, migratory corridors and dispersal areas has fueled human-wildlife conflicts.

3.5 The Land policy 2009

The Land policy places great emphasis on land use planning as a tool for sustainable land management. The policy provides for: Preparation of land use plans at national, regional and local levels on the basis of predetermined goals and integrating rural and urban development; Actualization of spatial frameworks for orderly management of human activities to ensure that such activities are carried out taking into account considerations such as the economy, safety, aesthetics, harmony in land use and environmental sustenance; Efficient and sustainable utilization and management of land and land based resources; and ensuring an appropriate framework for public participation in the development of land use and spatial plans; as well as an effective framework for coordination of land use plans to ensure implementation of the planning proposals and regulations.

Part 3.4 of the land Policy comprehensively tackles conservation issues related to land in Kenya. Section 3.4.2 deals with sustainable Production Principle required solving identified problems such as: underutilization of land particularly in large farms; land deterioration due to population pressure, massive soil erosion among others. Section 3.4.2.2 regulates land subdivision, by recommending the all sub-divisions of land are tied to land use sizes specified for different ecological zones. It compels the government to (a) Put in place a system to determine economically viable minimum land sizes for various zones; and (b) Promote conformity of land subdivisions with the set minimum economically viable land sizes. Section 3.4.2.3 deals with Restoration and Conservation of Land Quality. It compels the government to restore the environmental integrity of land and facilitate sustainable management of land based resources, the Government.

Section 3.4.3 details the Environmental Management Principles, and identifies land management challenges as including degradation of natural resources such as forests, wildlife, water, marine and coastal resources as well as soil erosion and the pollution of air, water and land. It compels government to put in place measures for Conservation and Sustainable Management of Land Based Natural Resources. It identifies the role of governance systems, which defines the relationship between people, and between people and the resources, and calls for harmonization of all policies, regulations and laws dealing with land based natural resources within the framework established by the Environmental Management and Coordination Act (EMCA), 1999. Section 3.4.3.2 deals with Ecosystem Protection and Management Principles, and recognizes the diversity of ecosystems which include forests, wetlands, marine and coastal ecosystems, national parks, arid and semi-arid lands (ASALs), water sheds, lakes and drainage basins.

To ensure the protection of ecosystems and their sustainable management, the Government is compelled to (a) undertake a survey of all critical ecosystems to determine sustainable land uses for these ecosystems; (b) establish measures to ensure that healthy ecosystems are protected through land use controls; and, (c) define and maintain beaches at high and low water marks.The land policy,therefore,promotes;

- The recognition of traditional knowledge on the management of land-based resources and provide a systems for its development and use.
- The development of participatory environmental action plans by communities living near environmentally sensitive areas (like swamps, rivers, lakes, forests and hilly areas) taking into account their cultural and traditional conservation practices.

Key direct influence of the Land policy on conservancies include: As the demand for land increases dues population pressure, urbanization, pollution, climate change there is massive land use changes; This has direct implications on wildlife, space and conservation sustainability including:

(i) Provisions for Land subdivision and Fragmentation: especially in previous areas where predominant land uses was ranching. The subdivision of communal land and issuance of individual titles, without adequate sensitization of affected communities has led to numerous conflicts especially in the Maasai Mara and Amboseli ecosystem. The impact has been uncontrolled land subdivision, and introduction of incompatible land uses, which is a key cause of human wildlife conflicts in areas considered to be a wildlife dispersal area.

(ii) User rights and competing and conflicting land use: The principle of highest and best use on land management is the key facto shaping current land use in Kenya. However, it's important to note that land is not just an economic product, but a cultural,

environmental and social good. The results of highest best use has been the out competing of land uses considered weak, such as conservation, by land uses with greater returns such as agriculture,- real estate etc. This has led to loss of prime conservation thus threatening the ecological integrity of our natural systems.

(iii) **Weaknesses in enforcement of various laws and regulations:** There have been generally weaknesses in enforcement of regulations that are meant to conserve land resources. Various acts such as the physical planning act of 1996, EMCA 1999, County Government Act of 2012, Water Act 2002, and Forest Act 2006 among others have very well thought of provisions for conservation of land resources. Regulations such as zoning regulations, wetlands and riparian areas regulations, pollution control regulations, water quality regulations among others have not been enforced, leading to degradation of land resources, uncontrolled settlements patterns, irregular land subdivision, and encroachment on fragile ecosystems among others. This is a big weakness in conservation of land resources in the country.

3.6 The Community Land Act 2016

"The Act" is required under Article 63 of the CoK, 2010 to provide for community land as a distinct class of land. It also effectively repeals the Land (Group Representatives) Act, (Cap 287) and the Trust Lands Act, (Cap 288).

The Act defines "community" as an organized group of users of community land who are citizens of Kenya and share any of the following attributes: common ancestry; similar culture or unique mode of livelihood; socio-economic or other common interest; geographical space; ecological space; or ethnicity. It also provides for the following tenure systems: customary, freehold, leasehold or any other tenure system recognized by law.

The community shall elect a community land management committee of between 7 and 15 members after extensive civic education and public participation. The committee shall come up with a comprehensive register of communal interest holders and forward the same to the Registrar of community land for registration. This committee also has wide-ranging powers, including exercising control over and regulate dealings in community land, determining the land use, criteria of acquiring community land and allocating land rights, among others.

The community itself may designate community land to be held as communal land; as family or clan land; as reserve land; or in any other manner regulated under the Act and may make its own by-laws regulating the management and administration of their land especially where the land is for use or investment e.g. where there are natural resources.

Community land may be allocated to individual members of the community for their own exclusive use. The community shall grant this land subject to special conditions and the land shall revert to the community upon expiry of the term or death of the individual. However, this does not mean that the individual shall have a separate title.

Contracts and transfers over community land shall be carried out in a manner similar to transactions over private land. The community, as lessor, may cancel the lease if the lessee fails to comply with the requirements or to adhere to any restrictions imposed. Communities may also enter into investment agreements which should be structured in a way to ensure sustainable use and equal sharing of benefits including technology transfer where applicable. Before such an agreement is made, there should be an environmental impact assessment and socio-economic impact assessment of the project, extensive public participation and stakeholder consultations, payment of adequate compensation and royalties as well as a plan to restore or mitigate the harmful effects of the environment. However, the State shall maintain police powers under Article 66 of the Constitution over community land.

The Registrar of community land designated by the Chief Land Registrar will register the community land after a comprehensive adjudication programme developed and published in the Gazette by the Cabinet Secretary, in consultation with county governments. This programme shall document existing forms of land tenure, map out and ascertain the boundaries of community land and make an inventory of all community land in Kenya. This process shall be guided by the spirit of public participation through extensive consultation and effective communication to all affected members of the community. The Registrar shall also register the list of community members.

An interesting provision in the Act is the role of county governments in relation to community land, which shall hold unregistered community land in trust until such registration is effected. This role also includes holding monies paid for compulsory acquisition of the

unregistered community land, which shall be placed in a special interest earning account and redistributed to the community members once the community land is registered. County governments shall also approve the community's plan for the development, management and use of the community land; planning and regulation of land use being a function of the county governments under the Fourth Schedule to the Constitution.

Once the land is registered in the name of the community, the community shall be the proprietor of the land and shall have an indefeasible title, not subject to any challenge unless the title has been acquired fraudulently or illegally. The interest shall be subject to leases, charges and other encumbrances and the overriding interests as contained in Section 28 of the Land Registration Act, 2012.

Community land may be converted to public land through compulsory acquisition (upon fair compensation), transfer; or surrender. The community will have pre-emptive rights of reversion upon expiry of the public interest use. Community land may also be converted into private land by transfer; or allocation by the registered community, subject to ratification of the assembly of community members by a majority of two-thirds of the vote.

Dispute resolution among members of the community relating to community land may use traditional dispute resolution mechanisms whenever appropriate, subject to Article 159 of the Constitution. At first instance, this should be the preferred method of dispute resolution. However, if the dispute still remains, the parties may agree to refer the dispute to mediation in an informal and private setting and the parties will play an active role in negotiating the final settlement, which shall be in writing and signed by the parties.

The Act provides for offences and penalties, with regards to unauthorized entry, use and interference of community grazing lands, any person who is found guilty of this offence is liable to a fine not exceeding Kshs 100,000 or imprisonment for a period not exceeding six months. With regards to unauthorized occupation and use of community land other than in a manner authorized by the act, any person who is found guilty of this offence is liable to a fine not exceeding Kshs500,000, or to imprisonment for a term not exceeding three years, or to both.

(1) The Act finally institutes a framework to manage the use of community land which had long been ignored in favour of private land holding, yet in the traditional African society, land was held communally.

(2) The adjudication and registration of such lands will enable the communities to finally have legal title to their land, which will open up their areas for investment and economic growth, through the transfer and charging of this property to obtain credit. This will introduce several relatively profitable but competing land uses in the rangeland (endangering chances of developing conservancies or wildlife space).

(3) Further, the Act provides for equality to all persons entitled to community land and discourages discrimination based on gender, disability, minority, culture or marital status. This is especially important for deeply patriarchal societies, as women and children are often marginalized.

3.7 County Government Act 2012

County Government Act 0f 2012 details the various form of planning to be employed as land management tools. Part XI – County Planning, Sections 102 -115 of the Act provides for county planning. The overall goals of county planning framework are to integrate economic, physical, social, environmental and spatial planning. The law provides for two categories of plans County wide plans: Under Section 107(1) the plans include: (a) County integrated development plan; (b) Count sectoral plans; and (c) County spatial plan. Sub-county rural areas and Cities and Municipal Plans: City or municipal land use plans (b) City and municipal building and zoning plans; (c) City and urban area building ad zoning plans; and (d) Location of recreational areas and public facilities plans.

The objectives of County Planning as detailed under Section 103 include: (1) Develop urban and rural areas as integrated areas of economic and social activity; (2) Facilitate the development of a well-balanced system of settlements and ensure productive use of scarce land, water and other resources for economic, social, ecological and other functions across a county; and, (3) Maintain a viable system of green and open spaces for a functioning eco-system; to environment and development including law enforcement and monitoring of compliance.

Key direct influence of the County Government Act 2012 on conservancies include:

i. Rangelands are rapidly being converted to agricultural fields in the name of planning more so due to the fact that economic growth generated by land uses such as agriculture in the rural areas are considered more effective in reducing poverty and in the higher GDP growth. Thus reduction of wildlife space,expanding agricultural farms and ranches, charcoal burning, uncontrolled fires, human settlements and overgrazing.

ii. Because of inappropriate planning regimes human-wildlife conflict manifests itself as crop damage, humans injury or even death, livestock injury or death, competition for pasture or infection of livestock with zoonotic disease.

iii. Pastoralists in the rangelands of Kenya experience challenges such as high and low intensity conflicts (civil and human-wildlife conflict) thus employing planning techniques such as zoning becomes challenging.

3.8 The National Policy for Sustainable Development of ASALs 2004

Provides key instruments for improving land tenure and curbing land degradation. The policy aims to improve natural resource management by reviewing existing land use and land tenure systems. The policy envisions the development strategy in the ASALs in three perspectives: the short-term (5 years), the medium-term (10-15 years) and the long-term (25-30 years). In the short term, this policy envisages that the needs of poor people in the ASALs will be reflected in all national policy and planning frameworks, that the vulnerability of poor people to climatic shocks, particularly droughts and floods, will be reduced and capacities strengthened to respond to climate change, and, that ASAL inhabitants benefit from systems of good local governance.

In the medium term, the policy envisages that attracting sustained investments by government, the private sector and development partners in various priority areas such as physical infrastructure, livestock production and marketing, water resources development, education and human capital development, health, tourism, trade and industry.

In the long-term, the government envisions a vibrant ASAL economy that has strong linkages with non-ASAL economic systems and contributes significantly to national economic development.

Key direct influences of the National Policy for Sustainable Development of ASALs 2004, on conservancies include:

1. The policy does not recognize/advocate for formation of conservancies and as a land use
2. Because of the perceived potential land uses in the ASALs, it seems that local communities are seeking to contain the ever-increasing human-wildlife conflicts, in the absence of direct benefit from conservation. Through 'separation' rather than 'integration' of culture and wildlife conservation: fencing and/or translocation of wildlife seems to be a common option

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3.9 The National Livestock Policy 2008

The focuses on addressing the challenges in the livestock sub-sector and take into consideration the impact of livestock activities on the environment. This policy is important for the conservation of the rangeland landscape, because of the required harmony between livestock husbandry and wildlife conservation. The elements of the policy critical to the rangeland landscape include value addition as a way of encouraging enterprise-centred livestock production, incentive mechanisms for cottage industries and focusing on wildlife resources as an alternative for income generation and livelihoods.

The Policy aims to: (i) Develop and implement an Integrated Land Use Master (Development) Plan for the ASALs; (ii) Ensure application of Integrated Water Resource Management (IWRM) in ASALs with a view to harvesting flood and river water; and,(iii) Implement the National Action Plan (NAP) to reduce the growth of deserts and strengthen the Desertification Trust Fund.

Key direct influence of the Livestock Policy on conservancies include:

i. Human-wildlife conflict among smallholder agro-pastoralists in all the landscapes is a challenge and this could be undermining their household food security and livelihood as well as wildlife conservation.

ii. Viability of wildlife conservation as an alternative land use livestock production is challenge. Although the two are indicated to be compatible but significant planning and innovativeness is required to achieve effective and efficient compatibility.

3.10 Kenya's Forest Policy No. 9 and The Forest Act 2005

Forest degradation is inextricably linked to increasing population and poverty, and is aggravated by lack of resources to effectively monitor and support management options. Sessional Paper No.9 of 2005 on Forest Policy seeks to address the threats to Kenya's forests by increasing the area under forest cover by 10%, an acceptable level by international standards. The long-term impacts of afforestation have not been clearly discussed, but the sessional paper espouses the need for participatory approaches to forest management. Accordingly, it requires the government to facilitate the formation of 'community forest associations' (CFAs) to manage community forests, by bestowing to local people user rights over forest resources. Security of tenure is expected to encourage investment in better-farming practices, by individual farmers and collectives.

The 2005 Forest Act, provides for public consultation and broader community participation in the formulation of forest management plans. An important feature of the Act is its recognition of the potential contribution of sustainable forests to poverty reduction, and to the maintenance of vital environmental services.

The Act provides for broad-based collaboration with forest communities, recognizing their traditional cultures and values. Furthermore, the Act takes a comprehensive approach to forest ecosystems management, employing Environmental Impact Assessments and multiyear result-oriented forest management agreements. **More specifically, this particular law provides for the following which are of relevance to the establishment of conservancies:**

i. Section 13(1) and 13(2) requires delineation of forest conservancy areas and creation of forest conservation committees. Section 3(3) provides the functions of these committees, which include informing the Forest Board as well as taking into consideration the ideas, desires and opinions of local people on matters relating to conservation and use of resources within the conservancy area.

ii. Under section 36(1), the Director of Forests may, with the approval of the Board, enter into an agreement with any person for the joint management of any forest. Section 37(6) provides that the Forest Board shall, before entering into an agreement, call for an independent inventory of a forest and other relevant data to enable it to determine the true value of such forest.

iii. Section 46(1) allows a member of the forest community, together with other persons resident in the same area, to register a community forest association under the Societies Act. Furthermore, Section 46(2) provides that an association duly registered under 46(1) may apply for permission to participate in conservation and management of forest under the jurisdiction of State or local authority.

iv. Section 46(3e) states that the application shall contain the association's proposal relating to: (i) the use of forest resources; (ii) methods of conservation of biodiversity; and (iii) methods of monitoring and protecting wildlife and plant populations. Section 47(2) stipulates that management agreement may confer the association "use" rights such as: (i) collection of medicinal herbs; (ii) harvesting of timber or fuel wood for domestic use; (iii) harvesting of timber or fuel wood.;(d) Harvesting of grass or grazing; (iv) undertaking of agroforestry practices; (v) plantation establishment through non-resident cultivation; (vi) contracts to assist in carrying out specified silvicultural operations; and (vii) development of wood and non-wood forest based industries community based industries.

v. Under Section 48(1) an association may, with the approval of the Director of Forests, assign all its rights under a management agreement to a suitably qualified agent on mutually agreed terms.

vi. Section 13(3d) and 13(3e) make provisions for setting charges and retention of income from forest resources at the local level. Furthermore, Section 18 provides for the establishment of a Forest Management and Conservation Fund to support community-based forest projects.

Evidently, the Forest Act of 2005 provides institutional and regulatory procedures necessary for reorienting forest management from a command-and-control strategy to a pro-community and stewardship-oriented strategy; similar strategies may enhance wildlife resources management and conservation.

Key Issues/themes emerging from the Findings

(a) In areas where CFAs are well managed, the forest has recorded improvement in environmental quality, and the communities have improved livelihoods. This shows the potential for co-management to achieve twin objectives of conservation and social economic development

(b) The sectoral approach to resource management is causing friction and overlapping mandates, thus affecting conservation efforts. For example, mandates overlap between KFS and KWS in forest that are also national parks complicates management of these resources, as the two institutions have contrasting policy approach. Wildlife Act 2013 does not allow for consumptive utilization of resources, while Forest Act allows for the same.

(c) The setting up of clear institutional mechanisms, clear incentive policies to promote private sector and local community involvement, enhances conservation

(d) Supports the creation of forest based micro-enterprises (for example bee keeping, bamboo furniture, sale of miti shamba and wax production). This innovative compatible land uses should be adopted by conservancies as alternative land uses.

(e) The Policy appreciates the role of NGOs and CBOs. Where NGOs support local self-help efforts aimed at conserving forests; conduct awareness creation for local communities to effectively participate in forest conservation and serve as a link between government bodies and communities living around forests.

3.11 The 2002 Water Act 2016

Main aim was to align the sector with the current constitutional dispensation. The Act provides for the regulation, management and development of water resources, water and sewerage services; and for other connected purposes. The ownership of water resources is vested in and held by the national government in trust for the people of Kenya. The provisions include: (1) separation of the management of water resources from the provision of water resources; (2) separation of policy making from day to day administration and regulation; (3) decentralization of functions to lower level state organs; and,(4) encouraging non-government entities in the management of water resources and in the provision of water services.

The Act provides for the management, conservation, use and control of water resources, and for the acquisition and regulation of water rights. Under this ACT, the government established two entities to deal with different aspects of the water sector, namely the Water Resources Authority (WRA) and the Water Services Boards. The board is responsible for water supply and sewerage, while the authority is mandated to develop guidelines and procedures for water allocation, monitor and reassess the national water management strategy, receive and determine application for permits for water use, regulate and protect water resources from adverse impacts, and manage and protect catchments. The national water resources management strategy provides for the creation of water user's associationsand catchment area advisory committees.

The Water Services Board on the other hand, issues licenses to water service providers, determine standards for water provision, monitor compliance, develop guidelines for fixing tariffs, and develop and monitor the implementation of model performance agreements. Currently, there are decentralized water service boards which are linked to the National Water Services Regulatory Board.

The most significant aspect of the Act is the role of local water users' associations recognized under section 15(5), which states that they will act as fora for conflict resolution and cooperative management of water resources. With regard to water services, section 53 (2) stipulates that water services shall be provided by a water service provider, defined which may be a company, non-governmental organization or other person providing water services, in accordance with an agreement with a licensee. Community self-help groups providing water services may therefore qualify as water service providers.

The Act has, however, vested all water resources to the State, centralizing control of water resources in the ministry. This has far-reaching management implications, particularly in providing water services to the rural poor who have only limited access to State-driven systems. Matters are made worse by administrative, financial and technical constraints that inhibit government's ability to effectively implement the provisions of the Act.

The Environmental Management and Coordination Act (EMCA) 1999 provides for sound management of the environment. In relation to water resources, Section 42 of the Act deals specifies the protection of rivers, lakes and wetlands. The act forbids interference with water bodies without the express permission from the National Environment Management Authority (NEMA) Director General. The permission can be granted subject to the findings of an Environment Impact Assessment (EIA). The act also empowers the Minister of Environment to declare a lakeshore, Wetland, Coastal Zone or riverbank as a protected area and impose such restrictions, as he considers necessary to protect the lakeshore, wetland, coastal zone and riverbank from environmental degradation.

The Constitution of Kenya 2010 recognises water as a human right; this means that every Kenyan has a right to clean and safe water in adequate quantities. (Article 43) reinforces the reform agenda by enshrining access to adequate and safe water, access to safe basic sanitation, and the right to be free from hunger and to have adequate food of acceptable quality, in the Bill of Rights. The right to water entails three elements – availability, quality and accessibility which are also some of the principals of good governance.

Key Issues/themes emerging from the findings

i. Water Resource Users Associations (WRUAs) is the vehicle for local community participation and their formation is a response to the requirements of the Water Act 2002 and the need to manage the allocation and use of water resources from the water sources and adjacent groundwater conservation area.

ii. Rehabilitation of Kenya's five water towers, namely Mau Forests Complex, Mount Kenya, the Aberdare Ranges, Cherangani Hills, and Mount Elgon, these might have significant implication on conservancies in such areas.

3.12 Ocean and fisheries Policy 2008

The Ministry of Fisheries adopted the concept of participatory management of fisheries resources. This is entrenched in the Ocean and Fisheries Policy 2008 which underscores this concept, by mandating the government to promote the role of Beach management units. Co-management is introduced as a collaborative and participatory process of regulatory decision making between representatives of user groups.A key aspect of co-management is the incorporation of community participation, and establishment of local co-management institutions, represented through the BMUs, defined as organization of fishers who have traditionally depended on fisheries for their livelihoods. BMU are formed so as to manage resources on behalf of the fisheries department. The policy encourages women and the youth to participate in aquaculture as employment and income generation enterprise. The policy further provides for the promotion of public awareness and active participation of all stakeholders in the management and development of fisheries and the ecosystem.

BMU is an umbrella organisation with broad membership of resource user groups with interests ranging from fishing and associated activities, mangrove and coral reef conservation, ecotourism and utilization of the beach resources handcrafts, river slides, bird watching, swimming, diving, etc). This is because fisheries and ocean activities are undertaken in dynamic systems where physical, ecological and economic processes interact; so in this respect the department of fisheries is required to coordinate with other agencies on all cross cutting issues.

Key issues /themes emerging from the Findings

Similar to the challenges observed in conservancies including:

i. Comparing the mandate and functionality of conservancies , they have limited capacity (human, financial and technological) to execute their activities;

ii. Limited capacity of the land owners to effectively participate in negotiations for a fair and sustainable share of the resources;

iii. The privatizing of some of the beaches at the coast and on islands has meant that such areas are no longer treated as public land. Therefore conservation has borne the brunt of such moves-most of them being developed into lodges and hotels spaces; and,

iv. The law has failed to adequately address the issue of over exploitation of marine resources that has seen the fishermen experience dwindling stocks and thus face economic challenges.

3.13 National Environment Policy and Legislation

National Environment Policy (2013) provides for (i) Protect, conserve and improve the habitats, corridors and dispersal areas of wildlife (ii) Provide incentives for investment in sustainable tourism and wildlife conservation initiatives(iii) Promote the establishment of transboundary wildlife conservation areas as a basis for enhancing the conservation of shared wildlife resources and their ecosystems through relevant regional instruments) (iv) Encourage and support the establishment of private and community based conservation areas in order to win more space for wildlife(v) Maintain all gazetted protected areas and reclaim and restore the encroached parks and reserves for enhanced wildlife conservation(vi) Strengthen and support wildlife research and monitoring to generate adequate information for decision making (vii) Protect endangered wildlife species (viii) Involve community participation in conservation activities.

Environmental and coordination Act (1999) Section 9 (1) mandates NEMA to exercise general supervision and co-ordination over all matters relating to the environment and to be the principle instrument of the Government in implementation of all policies relating to the environment.

Key Issues/themes emerging from the findings

1) NEMA is mandated under section 9 (2) (a) of the Act to co-ordinate the various environmental management activities undertaken by lead agencies to promote integration of Environmental considerations into development policies. Under Section 9(2) (c) and (d) of EMCA,1999 NEMA, in consultation with lead agencies, (in this case KWS) is tasked with the function of establishing and reviewing land use guidelines and examining land use patterns to determine their impact on the quality and quantity of natural resources.

2) Environmental Management and Co-ordination Act, 1999: The Act provides for any area of land, sea, lake or river may be declared to be a protected natural environment for the purpose of promoting and preserving specific ecological processes, natural environment systems, natural beauty or species of indigenous wildlife or the preservation of biological diversity in general.

3) The Act also allows for issuing an environmental conservation order on burdened land so as to create or maintain migration corridors for wildlife(such has not been explored to enhance wildlife space in any of the migratory routes or dispersal areas).

3.14 Vision 2030

The Vision 2030 identified tourism as one of the six key sectors. The flagship projects for Vision 2030 include: Securing the Wildlife Corridors and Migratory Routes Initiative:-Kenya will conserve wildlife corridors and migratory routes; branding of the most popular parks with the aim of offering high quality experience at premium rates; Better marketing of little-visited parks so as to bring more tourists to game parks that have not been receiving many visitors, and which are located in all parts of the country: Rehabilitation of Kenya's five water towers, namely Mau Forests Complex, Mount Kenya, Aberdare Ranges, Cherangani Hills, and Mount Elgon.

Key Issues/themes emerging from the findings

(i) The blueprint covering the period 2008 to 2030 aimed at enhancing equity and wealth creation opportunities for the poor. This may be used to promote the establishment of conservancies in the rangelands.

(ii) Tourism is one of the six key sectors. The flagship projects for Vision 2030 include: Securing the Wildlife Corridors and Migratory Routes Initiative: but does not indicate the mechanism apart from aiming at promoting conservation and tourism.

(iii) Public land and large scale land based Projects: Mega projects such as large scale farming irrigation and other monoculture practices, mainly dominated by international investor are quickly becoming dominant in Kenya. The most affected regions include the Tana delta region. Other mega projects such as resort cities, LAPSET etc. This might have long-term impacts on the fragile ecosystems prime for wildlife space.

3.15 Tourism Act 2011

The tourism industry operates within a developed legal and regulatory framework which the players in this industry need to adhere to in the course of offering their services. The Authority strives to deepen and broaden tourism by developing and implementing a regulatory framework that ensures fairness, orderliness and high quality service in the industry.

The Tourism Act No. 28 of 2011 was enacted to provide for the development, management, marketing and regulation of sustainable tourism and tourism related and services and for connected services.

Article 3(1) The Minister shall, subject to subsection (5), formulate and publish in the Gazette a national tourism strategy at least once every five years, in accordance with which the tourism sector shall be developed, managed, marketed and regulated. (2) The national tourism strategy shall prescribe the principles, objectives, standards, indicators, procedures and incentives for the development, management and marketing of sustainable tourism andshall, in particular prescribe:—

(a) For the packaging of niche tourism products and services;

(b) Standards for tourism area development plans;

(c) Measures to facilitate and enhance domestic and regional tourism taking cognizance of the county governments;

(d) Priority areas for tourism development, capacity building and training;

(e) Innovative schemes, incentives and ethics to be applied in the development and marketing of sustainable tourism, including public private partnerships;

(f) Clear targets indicating projection in tourism growth over the next five years;

(g) National tourism research and monitoring priorities and information systems, including:

(i) Collection and management of tourism data and information; and,

(ii) Intelligence gathering.

3.16 Interactions and conflicts in the Acts, legislations associated with Conservancies

The national sectoral legislations have often been developed and enacted without input from all other relevant sectors hence resulting to conflicting legislations. This has made it difficult to implement the policies and hence the need for a review and or setting up high level inter-ministerial committees to resolve the conflicts. The interactions and potential conflicts in the Acts and legislations associated with conservancies are as shown in Table 3.1. But institutional conflicts are elaborated in chapter 4.

Table 3.1: Interactions and potential conflicts in the Acts and legislations associated with conservancies

Policy and legislations	Role	Relationship with Conservancies
1. Constitution of Kenya (2010)	The supreme law of Kenya: govern the people & resources (Natural & artificial)	The legal context for any activity including management of wildlife resources must conform to constitutional provisions. CoK oblige the State to encourage public participation this is key aspect of wildlife management as it allows communities to express their views on key governance tools.
2. The Wildlife Conservation & Management Act (2013) **Draft Wildlife Policy (2016)**	Protects & guards the safety & interests best for wildlife in Kenya at all times.	Creates an enabling environment for the conservation of Kenya's rich diversity of species, habitats and ecosystems.
3. The National Livestock Policy (2008) & (2013), Crop Production & Livestock Act	Plays a regulatory role in livestock farming in Kenya	The focuses on addressing the challenges in the livestock sub-sector and take into consideration the impact of livestock activities on the environment.
4. National Wetlands Policy (2013)	Provides a holistic understanding of wetlands' importance and provides regulations that maintain their purity.	Supports conservancies because most of the proposed land uses are compatible to wildlife conservation. They act as breeding and regeneration sites for wildlife.
5. National Environment management Policy (2013) and EMCA (1999)	Regulates, governs all undertakings in the environment (physical, biological & chemical)	Support conservancies by ensuring that natural resources are used in a more efficient manner
6. County Government Act 2012	Are responsible for County Legislation, management &regulation in regards to; resources, infrastructure…	Manage & control poverty levels which put pressure on the environment due to lack of choices. Poaching etc. Improve the implementation of policy strategies that enhance conservation e.g. development of County spatial plans and County integrated development plans. A county government may enter into partnerships with any public or private organization (including conservancies) in accordance with the provisions of laws relating to public or private partnerships.
7. Water policy (2012) & Water Act (2016)	Provides Management, Conservation, use and control of water resources in Kenya	Communities living along swamps, rivers and lakes are encouraged to form Water Resource Users Associations (WRUAs) who will then develop water sharing plans in consultation with WARMA to reduce conflicts

8.The Forest policy (2005) **9. Forests Act (2005)**	Protect and conserve forests that act as major sources of rivers and water.	Promotes the community participation through CFAs KFS may allow CFAs to: -Collect forest produce -Harvest grass and graze livestock - Carry out other activities with permission from KFS. Thus has potential to create Human wildlife conflicts Institutional conflicts between CFAs and CWCCC or conservancies KFS is allowed to establish forest conservation areas which are managed by Forest Conservation Committees (FCCs).
10. National Land policy and Land Act (2012)	Manage lands, recommend policies to be implemented by government	Implementation of the National Land Policy (2009) will promote a balance between land tenure (how land is held and used) and good environmental management.
11. Tourism Act (2011) and Tourism strategy 2014	Concerns with management, developing, marketing and regulating the tourism sector	Synergy as The Act provide for the development, management, marketing and regulation of sustainable tourism and tourism related and services and for connected services.
12. Kenya Fisheries Policy (2005) & The Fisheries Act (2012)	aims to reduce beach pollution and poor fishing methods by encouraging the use of alternative management approaches	Adopted the concept of participatory management of fisheries and marine resources.
13. Kenya Community Land Act (2016)	Required under Article 63 of the CoK, 2010 to provide for community land as a distinct class of land.	Fires, human settlements and overgrazing all of which have increased the effects of climate change and dry conditions. Therefore, the National Land Policy (2009) aims to improve the representation pastoralists (livestock farmers) in major decision-making processes over land and land based resources. The adjudication and registration of such lands will enable the communities to finally have legal title to their land,
14. National Forest Policy (2014) & Forest Conservation & Management Act (2016)	Stipulates forest management & regulatory strategies in Kenya.	Promotes community participation through CFAs. KFS may allow CFAs to: -Collect forest produce -Harvest grass and graze livestock - Carry out other activities with permission from KFS. Thus has potential to create Human wildlife conflicts Institutional conflicts between CFAs and CWCCC or conservancies KFS is allowed to establish forest conservation areas which are managed by Forest Conservation Committees (FCCs).
15. National Agricultural Policy (2013) & Kenya Agricultural Act (2012)	Strategizes for poverty reduction/socio- economic development	Agricultural development is closely associated with human settlements as it follow theavailability (orabsence) of natural resources including:access to land for farming and setting-up homes, waterfor domestic use and livestock, food and socialfacilities. The policy has obvious conflicts with the creation of wildlife space and the land uses typeare not compatible with Wildlife conservation

16. The Physical Planning Bill(2015) &Physical Planning Act of (2012)	provide- the principles, proceduresandstandards for thepreparation andimplementation ofphysicaldevelopment plans at the national, regional,county, urban and cities level	The National Physical Development Plandefines strategic policies for thedetermination of the generaldirection and trends of physical development and sectoraldevelopment in Kenya and provides aframework for the useand development of land.Thus key in conservancies planning and management.
17. Natural Resources Development & Management Policy (2012) & Natural Resources (2014)	Give full effect to the provision of article 72 of the constitution 2010. Manages, conserves, control the use of natural resources in Kenya.	Introduce a joint ecosystem (forest, wildlife, wetlands, freshwater) approaches to the management of natural resources due to relationships with major economic activities.
18. Energy Act (2012) National & Energy Policy (2012)	Conserves builds/explore, regulates and manages energy resources in Kenya.	Promote the use of other renewable sources of energy (for example solar, wind and biogas) and reduce overreliance on biomass sources. Manage the negative effects of climate change and related disasters including droughts and floods.
19. Mining Act (2012)	Regulate prospecting, processing, refining, treatment transport and any dealings to do with minerals in Kenya.	The activities and land use types not compatible with conservancies. Likely to infringe and reduce wildlife space

Recommendations

1. KWCA should develop a simplified version of the policies and legislations that either influence conservancies positively or negatively to improve her members and the community understanding of their ENRM.
2. Evidently, all the ENRM policies promote CBNRM thus a need to the development of a holistic CBNRM strategy NRM.
3. Although most of the legislations (institutional and regulatory procedures) for various ENR attempts to reorient ENRM from a command-and-control strategy to a pro-community and stewardship-oriented strategy; there is need to revise some of the regulations to enhance real devolution and community participation.
4. KWCA should develop a simplified version of the Policies and legislations that either influence conservancies positively or negatively to improve her members and the community understand their ENRM.
5. Development of county spatial plans with wildlife as a land use type and making such a land use economically viable in relation to other competing land uses will enable zoning of wildlife space possible.
6. The wildlife sector is closely linked to tourism, forest, water, agriculture, national security, industry, energy, education among others. Thus governance requires high degree of co-ordination, joint decision-making, implementation, monitoring and enforcement among several national and community based institutions.

Chapter Four: Institutions Analysis (Ministries at National and County Level National Agencies and Community Based)

4.0 Introduction

Wildlife conservation in Kenya is one of the sectors that is highly emotive due to the many diverse interest groups that are involved. This is complicated by the fact that over 70% of wildlife population is on community and private land. With fewer wildlife populations in protected areas (PAs), which are not complete ecological entities, the future of wildlife is dependent on utilizing and dispersing outside protected areas. In the process of interaction with people, human-wildlife conflict has emerged as the major threat to wildlife and peoples livelihoods. The government policy allows only non-consumptive use of wildlife and general definition of wildlife remains unclear and does not provide the necessary incentives for their conservation. As a result, wildlife populations have dwindled significantly over the last 30 years by over 55%.

The increasing national development agenda targeting wildlife dispersal areas as well as competing land uses with other sectors like agriculture puts wildlife at stake despite its 12% contribution to the Gross Domestic Product (GDP) and recognition as a key economic pillar in achieving Vision 2030. Loss of wildlife range and habitat as well as connectivity between habitats which is critical during harsh weather conditions is feared as the last nail on the coffin of wildlife conservation. Attempts by the government to address these challenges usually takes a political angle and making intervention difficult. Institutions have been established at national and county level as well as community based organizations and individual ranches to oversee the conservation and management of wildlife in Kenya. However, there has lack of better coordination of these institutions has led to a total failure of the entire process resulting to further loss of wildlife.

In 2013, the Kenya Wildlife Conservancies Association (KWCA), a national landowner membership organization representing community and private conservancies in Kenya was established by a consortium of conservation organizations and the central government to work with conservancy landowners and regional associations to:(a) create an enabling environment to deliver environmental and livelihood benefits, (b) directly and progressively engage in wildlife governance, (c) promote an enabling policy and legislative framework that allows their participation in wildlife conservation, (d) share best practices, (e) harmonize standards and develop a network of functional conservancies, and (f) complement state protected areas in securing land for conservation.

Securing land for Conservation of wildlife in Kenya through development of conservancies remains the only hope for wildlife in this country. Currently about 5% of the country's landmass is under community conservation and there is a good indication of good growth of conservancies, a good will from the community for conservation.This report establishes the various institutions that have a direct or indirect implication in wildlife conservation of wildlife and natural resources management on community and private land.

The conservancies, despite being primarily governed by the Kenya Wildlife Service (KWS), a government parastatal which is the custodian of wildlife in and outside PAs in the country and the Kenya Forest Service (KFS), the custodian of government forests, there are many other institutions established at local, county, national and regional levels that influence the development and management of conservancies, Community Forest Associations (CFAs) and Beach Management Units (BMUs). These institutions are as listed in the subsequent sections below namely national government ministries and departments, parliamentary and senate committees, county government ministries and departments and other institutions and commissions established by the various Acts and the Constitution. Some institutions especially local CBOs are not legally binding and faces difficult to enforce their rules.

4.1 National government Ministries and Agencies

4.1.1 National Government Ministries

The national government has 19 ministries of which 12 have a direct relevance with the formation and management of community conservancies (Table 4.1). Majorly, the role of the ministries is policy and legal framework formulation, review and enactment based on the sectors under the respective ministry. Since the promulgation of the constitution in 2010, the government ministries have been struggling with the review of the laws and policies to re-align with the new constitution through a consultative process as required by the constitution, a process that takes long.

Table 4.1: Relevant national government ministries in conservancy development and management

Institution	Relationship with conservancies
Ministry of Environment and Natural Resources	Custodians of wildlife on community land. Management of government forests. Environmental Management e.g. EIA for fencing, lodge / hotel establishment, etc. EMCA the supreme law influences all decisions that are environment related.
Ministry of Lands, Housing & Urban Development	Wildlife and forests sits on land Influence land tenure
Ministry of Transport & Infrastructure	Development of major roads through conservancies Open areas for tourism development Wildlife loss through accidents (road kills) Loss of range, habitat and connectivity
Ministry of Agriculture, Livestock & Fisheries	Livelihood of majority of conservancies is centered on livestock keeping
Ministry of Mining	Undertake mining in conservancies e.g. Cement mining in Amboseli. Results to loss of range, habitat & corridors, bush meat trade in established trading centres
Ministry of Water and Irrigation	Supporting irrigation projects in wildlife areas for crop production. Results in conflicts over water and crop raiding. Loss of range and habitat & corridors. No PES for catchment dwellers. Irrigation farming in wildlife areas Water allocation and supply in conservancies (dams, boreholes, etc)
Ministry of Tourism	Wildlife-based tourism on the conservancies
Ministry of Energy & Petroleum	Oil exploration in wildlife areas e.g. Tullow in Turkana Loss of range, habitat and corridors
Ministry of Sports, Culture & Arts	Registration of CBOs Development of sports tourism in the conservancies, wildlife filming, historical sites management if on conservancies will definitely affect their development and management.
Ministry of National Treasury	Budgetary allocation for Wildlife conservation & management, compensation, etc. Taxation of conservancies Interest rates on loans for conservancy development
Ministry of Interior & Coordination of National Government	Police force ensure safety & security on conservancies for tourism development, peace building & conflict resolution, etc
Ministry of Industrialization & Enterprise Development	Industrial development in wildlife areas – loss of NR, range and connectivity Enterprise development increases benefits & incentives to the conservancies

The challenges facing the sectoral national government ministries that may affect the operationalization and management of conservancies include;

(a) Lack of institutional linkages, synergy and coordination during implementation of their respective policies with cross cutting policy items. The operations of each government ministry has a direct or indirect implication on environment and natural resources.

(b) Prioritization of policy elements for implementation where environment related elements are often left out and perceived to be implemented by environment and natural resources ministries and agencies.

(c) Skewed performance contracts based on the respective ministry's goal or set targets with no regard to environmental concerns. The set targets of different ministries are often in conflict with. For example the Ministry of agriculture would want increased food production by increasing cultivation area not considering that the same land is also being used for conservation and have a target to increase the area under biodiversity.

(d) Lack of and or limited budgetary allocation by the National Treasury to the Ministries to implement some of the policies and legislations. A case in point is the operationalization of the County Wildlife Compensation Committees (CWCC) which took long to be gazetted and are yet to receive funds tofunction. As a result, no compensation for crop damage and livestock predation have been paid to date apart from human deaths and injuries.

It is recommended that;

(a) A high level Inter-Ministerial Task Force be established to harmonize conflicting policy issues through frequent meetings

(b) County Environment Committees be revived and supported to meet regularly to address inter-ministerial or inter agency conflicts

(c) It should be made mandatory that ministries with cross cutting policy items participate fully during the development and or review of policies and legislations for harmonization and to avoid potential future conflicts.

4.1.2 Key National Government Agencies

The national government created sectors or departments within each ministry to take over some specific functions and responsibilities to ensure efficiency and effectiveness. Some of the key and relevant departments are as listed in Table 4.2.

Table 4.2: Relevant national governments agencies

Institution	Role	Relationship with conservancies
Kenya Wildlife Service (KWS)	Custodians of wildlife on behalf of the people of Kenya	Conservancies have wildlife on community or private land. Protect people and their property against wildlife. Develop regulations for conservancies. Provide licenses for wildlife use. Wildlife protection in and outside PAs.
Kenya Forest Service	Custodians of government forests on behalf of the people of Kenya	Some conservancies have community or private forests Establishment of CFAs
NEMA	Coordinate the various environmental management activities being undertaken by the lead agencies	Conservancies undertake the management of natural resources which are environment related. EIA must be undertaken on conservancies

Judiciary& Legal affaires	Review laws and policies Undertake legal processes	Review relevant conservancies laws Registration of conservancies with the Attorney General Establishment of an Environmental court for mediation and conflict resolution
Water Resources Management Authority (WRMA)	Charged with water resource management in the country. Policy formulation on water use and management	Formulate water use regulations, protection of catchments and formation of WRUAs which occur on conservancies. Water conservation is ideal for wildlife, tourism & livestock.
National Land Commission (NLC)	Recommend a national land policy to the national government; to advise the national government on a comprehensive programme for the registration of title in land throughout Kenya	Some conservancies have one title deed and some have landowners with their titles which affects conservancy management and development Land policy influence conservancies
Kenya Tourism Board	Market Kenya at local, national, regional and international levels as a premier tourist destination	Market regions with conservancies as tourist destinations for their sustainability
Tourism Regulatory Authority (TRA)	TRA is a corporate body established under section 4 of the Tourism Act No.28 of 2011 and is mandated to regulate the tourism sector in Kenya. This entails developing regulations, standards and guidelines that are necessary to ensure an all-round quality service delivery in the tourism sector.	Conservancies are involved in tourism development and they must adhere to the regulations, standards and guidelines established. All tourism activities in the conservancies must be licensed by TRA
Tourism Professional Association	To provide a framework for tourism professional and practitioners for self-regulation	Conservancies are undertaking tourism activities and hence must be by default members of this association
Brand Kenya Board	Tasked with identifying and refining the key attributes of Kenya, that contribute positively to the image & reputation of the nation.	Conservancies are key tourist destinations and must be marketed to increase benefits to the conservancies for sustainability
Commission on Revenue Allocation (CRA)	Article 216 (4) of the Constitution requires CRA to determine,regularly reviews and publish marginalized areas that need equalization funds given to areas withhigh prevalence of poverty. It also guides in the planning, implementation and monitoring and evaluation in the use of equalization funds	CRA identified and classified the following counties as marginalized for additional funding including; Turkana, Mandera, Wajir, Marsabit, Samburu, West Pokot, Tana River, Narok, Kwale, Garissa, Kilifi, Taita Taveta, Isiolo&Lamu. These counties are rich in wildlife and are engaged in community conservation programs. Only Kajiado county was left out due to the influence of Nairobi and many wealthy immigrants.

The challenges facing the smooth operations of the government sectors include;

(a) Conflicting mandates over shared natural resources between some government agencies making it rather difficult for joint resources management. Some of the conspicuous sectors include:

  (i) KWS and KFS, although under one parent ministry have shared resources but under different policy guidelines which is a recipe for conflict. Some forests which are under KFS management have wildlife which is under KWS management. While KFS policy allows sustainable harvesting of trees under its jurisdiction KWS often resist this since it amounts to habitat destruction which is critical for wildlife. A recent attempts by the government to bring the two agencies under one management regime has not succeeded due to political interference and vested interest in timber exploitation.

  (ii) WRMA and the National Irrigation Board (NIB) of Kenya also under one parent ministry, Ministry of Water and Irrigation conflict over water use for irrigation. Attempts by WRMA to enforce illegal use of water by farmers, the NIB perceives it as a hindrance to achieve their target of increasedarea under irrigation. This puts farmers against WMRA making enforcement difficult.As a result of uncontrolled use of water wildlife and people downstream are left without water resulting to human-human conflicts and human-wildlife conflicts.

(b) Inadequate budgetary allocation by the National Treasury to implement the policies and strategies

(c) Lack of capacity to enforce the policies and legislation. For instance NEMA has an average of four staff in each county with wildlife making it difficult to enforce the EMCA laws.

(d) Lack of awareness and hence synergy about the conservancies by the various government agencies and their role towards conservancy formation and management

Since the inter-agency conflicts arise as a result of legislations and policies at the national level, their harmonization at the high inter-ministerial level would solve the inter-agency conflicts during implementation. However, since most of these conflicts happens on the ground, it is further recommended that;

(a) County Environment Committees chaired by the County Commissioner be revived and supported to meet regularly to address inter-inter agency conflicts

(b) The Ministry of Environment and Natural Resources should increase the capacity of NEMA both in terms of field staff and budgetary allocation in order to attend to environmental issues and concerns that happened almost on a day – to – day basis in order to safeguard the environment.

(c) Need for education and awareness creation among the government agencies to understand the role and management of conservancies and their interaction with the government agencies.

4.2 Parliamentary and Senate committees

The parliament is involved in the national policy and legal framework formulation. The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning Counties, as provided in Articles 109 to 113 of the Constitution. Since the two organs are representatives of the people in their respective areas, they should hence ensure the policies and laws being formulated are for the good of the people they represent. Acting as oversight arms of parliament and senate, the committees scrutinizes the policies and laws before subjecting them to parliamentary or senate discussion and approval. Some of the key committees are as listed in Table 4.3 below.

Table 4.3: Parliamentary and Senate committees that are relevant to conservancies

Committee	Role	Relationship with conservancies
Environment and Natural Resources	Review environment & natural resources bills and policies and lobby parliament for approval	They need to ensure that community interest is well captured since natural resources are found on conservancies
Agriculture, Livestock and Cooperatives	Review draft bills before takin to parliament for approval	Usually agriculture policies conflict with conservation. Livestock husbandry is the main form of land use in almost all conservancies across the country. This committee should work with Environment & Natural Resources committee to harmonize the conflicting laws and policies
Lands	Review bills on land that ensure sustainable land management	Conservancies be recognized as a form of land use and exempted from taxes to support biodiversity conservation
Justice & Legal affaires	Oversee legal policies & laws as well as arbitrations to mitigate conflicts	All conservancies & other CBOs e.g. WRUA, CFAs, etc must register with the Attorney General's office to be legally binding
Budget & Appropriation Committee	Review budgets for all government sectors before finalizing the annual government budget	Need to advocate for adequate budgetary allocation to KWS and lobby the National Treasury to fund conservancies
National Government CDF committee	Develops guidelines on the use of CDF and oversees the management of CDF	Some conservancy projects are being supported by CDF & should be made mandatory
Administration & National Security	Oversee matters of national security and provide policy direction including conflict resolution	Provide security which is good for tourism development on conservancies and arbitration of possible conflicts. Lobby scouts to be armed by government.
Transport & Public Works & Housing	Policies & laws on roads in the country	Extension of roads through conservancies without following due environmental audit guidelines
Energy, Communication & Information	Reviews national policies & laws on energy	Wind energy, oil& gas exploration projects are earmarked or being undertaken in community conservancies or future conservancy areas.
Finance, Planning & Trade	Policies & laws on national budget and stamp duties and taxes	Should lobby the national treasury to allocate financial resources to conservancies. exemption of conservancies from taxes for increased benefits

These committees are faced with some challenges including;

(a) The challenges of devolution coupled with strict datelines for passing critical legislations resulted to some ill-written laws being hurriedly passed necessitating the urgency for review immediately to address national concerns. For instance the Wildlife Act 2013 was passed because of increasing poaching which threated the elephant and rhino populations which are key tourist attractions to the country and is currently under review.

(b) Conflict between the two houses due to lack of clear roles of each house on policy and legislative process.

(c) Vested political interests and political rivalry and differences between different political parties directs the process of policy and legislation development and review.

(d) Lack of understanding of some of the established institutions and their functionality. For instance the conservancy model has not been understand by the committees making it difficult to lobby for allocation of financial support from the National Treasury.

As of these challenges, the following is recommended;

(a) Need to create awareness among parliamentarians and senators about community conservancies and their benefits to the members and conservation in general

(b) The government should have a neutral professional body that gives a final review of the policies and legislations without biasness and vested interest

(c) Quickly review the legislations and policies that were hurriedly passed to conform to the reality.

4.3 County Government Ministries

As enshrined in Chapter 11 of the Constitution,the reinstatement of regional governments through devolution was finally adopted with the formation of county governments and the national government. Devolution legalizes the formation of the 47 counties, each with its own government as spelt out in the County Governments Act, 2012. The county governments, hence, have executive and legislative authority, including the accompanying mandates and powers, to raise limited revenue, establish policies, plans,budget and governance. The form of the devolved government is defined in Section Six,which states that though the two levels of government are distinct,they remain independent. As such the county governments run programs according to their priorities. Some of the programs have either a direct or indirect implication on the community conservancies and natural resources management.

County Executive Committee (CEC) also referred to as the County Cabinet, which comprises not more than 10 members are mandated to run key service delivery departments. The relevant departments that have a bearing on conservancy's development and management are as listed in Table 4.4.

Table 4.4: County government Ministries that are relevant to conservancies

Ministry	Role	Relationship with conservancies
Land, Environment and Natural Resources	Implement national environment and NR policies & laws. Develop specific laws & regulations to govern NR in the respective counties	Development of CIDP, County spatial plans, etc which have a direct impact on conservancies Resource allocation to conservancies County policies and laws e.g. on revenue sharing in Narok County
Trade, Enterprise development &Tourism	Implement national tourism policy & law. Develop & enact county tourism laws & policies	Marketing of county tourism will impact on conservancies. Resource allocation to conservancies by county government
Agriculture, Livestock and Fisheries	Implement national policies & laws on Agriculture, Livestock & Fisheries. Develop & enact county policies & laws on Agriculture, Livestock & Fisheries	Crop farming is a competing land use with conservation. Livestock production is a compatible land use with conservation Human-wildlife conflicts related to crop and livestock predation
Treasury	Budgets & financial allocation	Some counties are supporting conservancies through financial allocation
County Wildlife Compensation Committee (CWCC)	Mitigate human-wildlife conflicts & oversee compensation	Conservancies experience high conflict incidences & if not mitigated can affect conservancy development & management through negative attitude developed
CWCC Council of Chair Persons (CWCCCCP)	To coordinate CWCC activities & lobby the government at high level	Conservancies will benefits from the outcomes of their engagements with the governments.

4.4 National and County Assembly Committees

The County Assembly, is the county parliament where the Members of County Assembly (MCAs) debate issues concerning the management of the countyconstituted according to the provisions in section 177 (a), (b), (c) and (d)of the Constitution and Section 7(1) and (2) of the County Governments Act 2011. The MCAs pass budgets, vet governor's nominees and pass Bills. These functions have an implication on the management of conservancies and natural resources management in the counties. The County Assemblies have put in place the necessary committees to oversee the management of the respective departments as listed in the Table 4.5 below.

Table 4.5: National and County Assembly committees relevant to conservancies

Institution	Role	Relationship with conservancies
County Budget and Appropriations Committee	Investigate, inquire into and report on all matters related to the budget Examine bills related to the national budget, including appropriations bills	Can approve budget allocation to community conservancies
Agriculture, Environment and Natural Resources committee	Handle all matters related to agriculture e.g crop and animal husbandry, fisheries Implementation of National policies on natural resources and environmental conservation	Agriculture is a sector that threatens conservation. Conservancies are recognized in environmental policies
Children, Culture and Community services	Consider all matters related to cultural activities, public amenities and public entertainment, museums, sports, cultural activities and facilities and county parks, recreation facilities.	Conservancies may plan to undertake sports e.g. Marathon or put up a museum to boost their income
Transport and Public works	All matters related to county transport e.g. County roads, County public works and services including storm water management, sanitation and water services	Conservancies require good road network and water services
Planning, Trade, Tourism and cooperatives	Deal with all matters related to County planning and development e.g. statistics, land survey and mapping; Boundaries and fencing; Housing and electricity, gas reticulation and energy regulation; Trade development and regulation including markets, trade licences; Local tourism and cooperative societies	Conservancies are geared towards tourism development and land survey
Council of County Governors (CoG)	This is a governors' caucus and creates a forum through which the county bosses can engage the national government	Issue of natural resources management and community conservancies are also addressed by the CoG. For instance they have come up with a framework for undertaking county spatial plans.

Challenges being experienced with devolution after the promulgation of the constitution include;

(a) The impending restructuring of the public administration and service delivery mechanisms at the local level is deep rooted and not easy due to vested political interests. A case in point is the approval of the Mara management plan which has taken many years.

(b) Some of these people and systems have been in existence for decades and disbanding or transferring them to the counties has been a hard task.

(c) Emerging controversies over how the national and county government should share responsibilities. County governments are pushing the national government to devolve all key sectors. The management of national parks under KWS is one contentious issue because of the tourism benefits accrued that goes to the central government. However, the counties are unaware that it is the same money that counties receive from the national government.

(d) The restructuring also involved the introduction of new value systems, such as the focus on service delivery, the need for closer supervision, and the importance of knowledge, skills and experience which have not been achieved due to rampant corruption and nepotism.

(e) In order to realize the desired goals, counties have been slow in developing the necessary policies and legislations due to lack of expertise and political supremacy between parties.

Recommendations made include:

(a) Where possible, counties need to learn from the experience of other countries, which have restructured their public administration and service delivery mechanisms. However, the situation in Kenya is rather complex because counties vary enormously in terms of basic characteristics and needs.

(b) Article 189(3) of the Constitution of Kenya (CoK) 2010, provides that in any dispute between the two levels of governments, should make reasonable efforts to settle the dispute, including by means of procedures provided under the national legislation. Article 189 (4) roots for establishment of Alternative Dispute Resolution (ADR) mechanism including negotiation, mediation and arbitration.

(c) The InterGovernmental Relations Act (IGRA) 2012, Section 32, 33 and 34 provides the mechanism and procedures for conflict mitigation. It recommends making every reasonable efforts to take the necessary steps to amicably resolve conflict through direct negotiations with each other or through an intermediary and court intervention be the last resort. The InterGovernmental Relations technical Committee has initiated a study through consultancy on the cost of ligitation affecting devolution structures for informed decisions moving forward.

4.5 Community-based Organisations

Some community-based organizations operate within the conservancies and undertake different livelihood related projects. However some remain anonymous and there is no synergy at all with the conservancy management. Some of the key organizations are as listed in Table 4.6.

Table 4.6: Community-based organization that relate with conservancies

Institution	Role	Relationship with conservancies
Community conservancies	Custodians of land under conservation & management of NR	Occur in different forms of ownership either as individual conservancies or under some umbrella group e.g. ALOCA, MMWCA, etc
Community Forest Associations	Forest protection & conservation	Some forests associations may be found in conservancies. Also the activities in the upper catchment may affect the management of conservancies downstream.
Land Owners Associations (e.g. ALOCA, MMWCA)	Is the apex of management of conservancies e.g. ALOCA in Amboseli, MMWCA in Mara	Represent the interest of all conservancies at high level & input into policy & laws review on behalf of the members. Some fund raise to support conservancies.

Water Resource Users Association (WRUAs)	Manage water conservation on behalf of WRMA	WRUAs exist I some conservancies whose work benefits members in terms of water conservation & management for wildlife, livestock & domestic use
Water Users Association (WUAs)	Entities under WRUAs that use water for different purposes e.g. irrigation, bottling, etc	Their activities may affect water supply into the conservancies and aggravate human-wildlife conflict

Challenges and recommendations;

- Some of the CBOs operations remain unknown to the conservancy officials and this could be a potential source of conflict. The management structure of the conservancies does not provide for the reporting of other CBOs operating within the conservancies' which is necessary for conservancy cohesion.
- CBOs registered under the Ministry of Social Services are not legally binding although recognized by the government. There is need for CBOs also to register with the Attorney General's office to legally binding.
- The costs of community mobilization and registration process are prohibitive to the poor rural community unless supported by well-wishers like NGOs and sometimes the government. Sectoral related CBOs like WRMA, CFA, Community conservancies, etc should be supported by the parent government ministry or department since they help to discharge some their functions.
- General lack of coordination between the various national and county government Ministries and departments and the established CBOs which result to conflicting projects arising from conflicting sectoral policies. There is need to form an inter-Ministerial or Department Task Force to over project development and execution without conflict.

4.6 Research / Training Institutions

Professionals are key in the management of conservancies and tourism establishments on the conservancies. Research with tangible data is crucial for informed decisions. Conservancies have also become attractive to researchers both locally and foreign. Some of the key institutions are as classified in the Table 4.7 below.

Table 4.7: Training and research institutions

Institution	Role	Relationship with conservancies
International Livestock Research Institute (ILRI)	ILRI works to improve food security & reduce poverty in Kenya through research for better & more sustainable use of livestock	Undertake wildlife counts on conservancies Undertake livestock research on conservancies
Universities e.g. Masai Mara University, University of Eldoret, etc.	Undertake research for informed decisions Build capacity in all sectors of NRM	Conduct research on conservancies Trained conservancy managers with university education
KWS Wildlife Training Institute	Train wildlife professionals	Graduates from the conservancies are absorbed to manage the conservancies
Tourism Training colleges e.g. Kenya Utalii College,	Train professionals in tourism & hotels management	Some of the trainees end up working in hotels / lodges on conservancies
Koyiaki Guiding School	Train local community members in tour guiding	Graduates are absorbed in tourist lodges in conservancies
KWS Field Training College, Manyani	Train KWS rangers	Supports community conservancy scouts training program
KFS Londiani Forestry Training College	Train rangers and foresters	Graduates from the conservancies are taken up to support conservancy management

Challenges and recommendations;

- Sometimes and in most cases researchers do not share research report with conservancy management.
- Also the research levy collected goes to KWS and the National Council for Science and Technology (NCST) and not conservancies.
- Research institutions should undertake research on community conservancies and share the findings with conservancy management for informed decisions.
- Foreign individual researchers should pay a research levy to the respective conservancy to support conservancy management
- Foreign research institutions should also be encouraged to support local capacity in research for sustainability
- Conservancies should establish a research wing and document all the natural resources within their jurisdiction

4.7 Government Funding Institutions

The national government through the provisions in the respective sectoral legal frameworks has established institutions that support grass root organizations some of which are listed in Table 4.8 below.

Table 4.8: Government financial institutions supporting community programs

Institution	Role	Relationship with conservancies
Kenya Tourism Fund (KTF) formerly CTDLTis a body corporate established under the Tourism Act, 2011 which came into operation in 2012 by a special issue Kenya Gazette Supplement No. 93 of 24th August, 2012.	To provide funds for marketing Kenya, make tourism training accessible to all Kenyans through the Revolving Fund; and give back to the community that support tourism, through integrated corporate social responsibility activities	Conservancies should lobby and benefit from this fund Development of County Strategies on Tourism which will market conservancies
Tourism Finance Corporation (Formerly Kenya Tourism Development Fund (KTDF)	Expansion of the resource base. Enlighten entrepreneurs in the industry on financing opportunities Synergy from TF on new products and Services	Conservancies should benefit from the resource base and new products & services
Tourism Regulatory Authority (TRA)	is a corporate body established under section 4 of the Tourism Act No.28 of 2011 and is mandated to regulate the tourism sector in Kenya. This entails developing regulations, standards and guidelines that are necessary to ensure an all-round quality service delivery in the tourism sector.	Conservancies are involved in tourism development and they must adhere to the regulations, standards and guidelines established. All tourism activities in the conservancies must be licensed by TRA
Kenya Water Trust Fund (KWTF)	Under the Ministry of Water & Irrigation provide financial resources to WRUAs projects	Some WRUAs are located within the conservancies & land owners benefits from water conservation and management, livelihoods projects and climate change adaptation & mitigation
Constituency Development Fund (CDF)	Provide financial resources to community projects through the respective constituencies	Some of the funds support conservancy projects hence reducing reliance of benefits from tourism to support conservancy projects hence increasing community benefits

Challenges and recommendations;

- KWS does not have a fund to support the establishment and development of community wildlife conservancies like other sectors like water and tourism. This huge limitation has led to a slow process of establishing conservancies which has been taken over by investors who sometimes exploit the communities. Some conservation NGOs e.g. WWF, AWF, Biglife Foundation, etc support the formation and management of community conservancies.
- Limited budgetary allocation by the national treasury which cannot support enlisted projectsby different sectors.
- Lack of capacity among community members to develop proposals for resource mobilization and management of resources.
- Unclear legal and policy framework to collaborate and work with the counties.
- Institutional and Operational framework on revolving fund at county level is lacking.
- Inadequate capacity to finance all counties strategies on tourism
- Political interference and vested interests in projects in the respective constituencies.

4.8 Civil Society organizations, Non-governmental and religious organizations

Due to no support from the national and county governments, traditionally conservancies have often relied on civil society organizations, Non-governmental organizations, development partners and religious organizations for their development and management through majorly resource mobilization. This report presents a few out of the many organizations that support conservancies (Table 4.9).

Table 4.9: Synergy between community conservancies and Civil Society organizations

Institution	Role	Relationship with conservancies
Conservation organizations e.g. AWF, WWF, Born Free Foundation, Biglife Foundation, TNC, ACC, NRT, MEP,	Conservation of wildlife, Forests and natural resources in and outside PAs with KWS Lobby and advocacy services on NRM with the government Influence laws & policy development and review	Establishment of conservancies Financial support to conservancies projects Capacity building of communities in various skills
Development partners e.g. World Vision, AMREF, Plan International,	Involved in development projects and programs	Support sector based projects in conservancies for livelihood improvement
Donor groups e.g. USAID, EU, Royal Netherlands Embassy,	Resource mobilization and support government projects	Support conservancies projects either directly as CBOs or through NGOs for conservancy development and management

Chapter Five: Benefit Sharing: Incentives and Disincentives Influencing Community Based Conservation And Compare The Incentives and User Rights Created By Each Of The Enrm Policies

5.1 Introduction

In Kenya, wildlife is a public good and the CoK vests in the state the duty to utilize the environment and natural resources for the benefit of thepeople of Kenya. Neither the supreme law nor sectoral laws confer ownership or property rights over natural resources, and specifically wildlife, on either the state or individuals. Wildlife is therefore a public good. A public good is both non-excludable and non-rivalrous in that individuals cannot be effectively excluded from use and where use by one individual does not reduce availability to others. In principle, the defining characteristic of a public good is that consumption of it by one individual does not actually or potentially reduce the amount available to be consumed by another individual. It therefore behooves the government to regulate and manage its use or consumption, and, as far as possible, provide incentives to those supporting the government in perpetuating the availability and sustainability of this good. It is in this conceptual framework that land owners who chose wildlife conservationas a form of land use expect certain levels and variety of incentives, for the opportunity cost of supporting the government to protect, conserve and manage wildlife.

This section looks specifically at what incentives exist in the Kenya legal and policy framework in support of conservancies.

5.2 Incentives

Legal recognition of the conservancy and community land is perceived to be an incentive and this includes:

(a) The Constitution of Kenya 2010 (CoK 2010) recognizes community land. Section 63 defines community land as land vested in and held by communities identified on the basis of ethnicity, culture or similar community of interest. This land consists of land that is lawfully; (a) registered in the name of group representatives under the provisions of any law; (b) transferred to a specific community by any process of law; (c) declared to be community land by an Act of Parliament; and, (d) held, managed or used by specific communities as community forests, grazing areas or shrines, ancestral lands and lands traditionally occupied by hunter-gatherer communities; or held as trust land by the county governments, but not including any public land held in trust by the county government under Article 62(2).

(b) Further, the constitution in article 69 confers a duty on the state to “ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits; and, protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities.”

(c) Article 63 (5) of the constitution also required the enactment of a Community Land Act to: provide for the recognition, protection and registration of community land rights; management and administration of community land; and, provide for the role of county governments in relation to unregistered community land and for connected purposes. The Community Land Act 2016 (CLA 2016) further enshrines the definition of community land as espoused in the CoK 2010 to also include land held under customary tenure system.

(d) The CLA 2016, through section 36 also provides for benefit sharing, especially for revenues accruing from compensation and royalties from investments in community land, after an agreement between the community and any investor, subject to other relevant written laws. Again the provision for benefits sharing accruing from natural resources and biodiversity is an incentive for the establishment of conservancies.

(e) The recognition of community land in the Land Act 2012 (as amended in 2015), in the supreme law as well as the specific land and community land laws gives the impetus for communities to jointly own land and exercise their right to use that land to their benefit, thus an incentive to the establishment of a community conservancy.

(f) In addition, Section 19 of the Land Act 2012 that deals with the conservation of land based natural resources compels the National Land Commission (NLC) to not only make rules and regulations for

the sustainable conservation of land based natural resources, but such rules must provide incentives for communities and individuals to invest in income generating natural resource conservation programmes as well as measures to ensure benefit sharing to the affected communities.

(g) Both the Land Act 2012 and the CLA 2016 embrace the principles of security of land rights, sustainable and productive management of land resources, and conservation and protection of ecologically sensitive areas, among others. The state therefore has an obligation to provide technical extension services to communities who wish to use their land for the conservation of biodiversity.

(h) The Wildlife Conservation and Management Act of 2013 (WCMA 2013), the primary law governing matters wildlife in Kenya has among its core principles the concept of sustainable use of natural resources, as well as encouraging and recognizing wildlife conservation and management as a form of land use on public, community and private land. The WCMA 2013, hence, recognizes conservancies and community scouts as key to wildlife conservation and management. It defines community as "a group of individuals or families who share a common heritage, interest, or stake in unidentifiable land, land based resources or benefits that may derived therefrom." In recognition of the critical role played by the community in wildlife conservation and management, the WCMA defines a wildlife conservancy as "land set aside by an individual landowner, body corporate, group of owners or a community for purposes of wildlife conservation" in accordance with the provisions of WCMA 2013. Here, we notice the inclusion and recognition of private and corporate entities in a widened sphere of wildlife conservation. Further, the same law recognizes sanctuaries as part and parcel of wildlife conservation efforts by communities. The wildlife law defines a sanctuary as "an area of land, or of land and water, set aside and maintained by government, community, individual or private entity for the conservation and protection of one or more species of wildlife."

(i) Further, WCMA 2013 defines a conservation area as "a clearly defined geographical space, recognized, dedicated and managed through legal or other effective means, to achieve long-term conservation of nature with associated ecosystem services and cultural values." This means that a conservation area does not necessary have to be managed by government, as long as there exists effective means to achieve conservation results. Under the law, conservancies therefore qualify as conservation areas. This is further enhancement of the legal incentives for any interested land owner or land owners, including communally-held land, to engage in enhancement, propagation and protection of wildlife.

(j) The WCMA 2013 defines the term wildlife as "any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya." This gives an even wider scope for the variety of land owners and land holdings in Kenya interested in wildlife and biodiversity conservation as a form of land use to exercise their right to land in such a manner as to their liking, and in such diverse habitat as suits the ecological characterization of their land.

(k) As described above, a land owner is granted rights to engage in non-consumptive utilization of wildlife, including tourism, commercial photography and filming, cultural and aesthetic purposes as well as research and education as an incentive to enjoy the benefits of wildlife on their land.

(l) Consumptive utilization of wildlife is allowed in the 8th schedule of the WCMA 2013, although it has to be practiced under strict supervision of the KWS. Although there are no publicly known entities currently engaged in consumptive utilization, the following practices are allowed under the WCMA.

i. Game farming (meaning the rearing of wildlife in an enclosed and controlled environment for wildlife conservation, trade and recreation);

ii. Game ranching (meaning the keeping of wildlife under natural extensive conditions with the intention of engaging in wildlife conservation, recreation and trade);

iii. Live capture – taking animals from the wild while alive for restocking purposes/or game farming;

iv. Cropping (harvesting wildlife for game farming and ranching operations);

v. Culling (the selective removal of wildlife based on ecological scientific principles for management purposes); and,

vi. Processing trophies: KWS may authorize local processing and sale of wildlife trophies from the cropping activities. In this regard, a trophy dealer's license may be issued in respect of certain classes of trophy only.

(m) Finally, the WCMA embraces the concept of sustainable development as envisaged by international environmental law by defining sustainable use as "present use of the wildlife resources, which does not compromise the use of the same by future generations or degrade the carrying capacity of wildlife ecosystems and habitats." Consequently, sustainable wildlife management means "management of wildlife resources so as to permit only such use of it as constitutes sustainable use." Additionally, any use-rights granted by the WCMA must be exercised in accordance with the Environmental Management and Coordination Act. Article 27 (1) of the WCMA 2013 prohibits the exemption of a licensee or anyone granted a user right from complying with any other written law concerning the conservation and protection of the environment in Kenya. Therefore, in exercise of their right to community land, the owners are bound by the concept of sustainable development as codified in national laws, including the new CLA 2016 which provides in Section 20 that "for the purposes of the sustainable conservation of land based natural resources within community land across counties, every respective registered community shall abide by the relevant applicable laws, policies and standards on natural resources".

(n) The Fisheries, Water and the Forests Act provide for community involvement and benefit sharing through locally registered user groups, being Beach Management Units (BMU), Water Resource User Associations (WRUA) and Community Forest Associations (CFA). By embracing this principal of subsidiarity, where decisions over natural resources are made at the lowest level of centralization, it provides a further incentive for communities to engage in natural resource management and benefit sharing, whether in-kind (e.g. grazing in Amboseli and bee keeping and farming in government protected forest), abstraction under license in case of water, or, direct financial benefits and resource policing (e.g. fishing in marine reserves).

5.2.1 Proposed Incentives

The following incentives were proposed by conservancy managers and umbrella groups like Laikipia Wildlife Forum and Northern Rangelands Trust, namely;

a. An enabling national and county wildlife policy and regulatory framework that further defines benefits sharing as well as providing for financial incentives for conservancies, for example tax exemptions or rebates,

b. Subsidies – especially for equipment, training and infrastructure,

c. Compensation for the opportunity cost of keeping wildlife on private or community land – a form of payment for ecosystem services (PES),

d. Easements and concessions: Gazette regulations for easements with clear procedures for engagement,

e. Financial support from the endowment fund envisaged by the WCMA 2013,

f. Waiver on land rates/rents by the respective county governments,

g. Some form of insurance – especially as an alternative to compensation for injuries, damages and death occasioned by wildlife,

h. As envisaged by the County Governments Act of 2012, section 110(1) fast track the development of a ten year county GIS-based spatial plan which shall be a component part of the county integrated development plan providing clear statements of how the spatial plan is linked to the regional, national and other county plans, and,

i. Free technical support by the national government through KWS.

5.3 Disincentives

Despite the enactment of the Wildlife Act in 2013, its implementation has been faced with an uphill task. Some of the noted disincentives include;

(a) The WCMA 2013, is not anchored on any existing wildlife policy. Kenya put the cart before the horse in enacting a law before passing a policy. Policy is the mother of law, and the law implements the policy. As a result this led to the need to review the Act as soon as it was promulgated;

(b) Lack of regulations to operationalize the WCMA 2013 almost three years since it came into effect;

(c) The WCMA 2013 has benefit sharing as one of its core principles. It states that "benefits of wildlife conservation shall be derived by the land user in order to offset costs and to ensure the value and management of wildlife does not decline." Although pos-

itive sounding, such provisions are countered by the same law, for instance under section 70(1), the law states that "every person has the right to practice wildlife conservation and management as a form of gainful land use". However, the disincentive occurs immediately in law in Section 70 (2), by stating that "the right specified in subsection (1) shall require the party to invest resources for that practice." The interested party is then required in sub-section 3 to "ensure that the wildlife is maintained in a healthy, natural, and secure state." Notice that nowhere in our laws relating to wildlife is property right to wildlife conferred on the landowner, whether private or community;

(d) WCMA 2013, defines wildlife user rights as that which "includes user rights exercised by an individual landowner, body corporate, group of owners or a community under the provisions of the Act." However, the allocated user right is on the practice of wildlife conservation and any benefits accruing from non-consumptive utilization, e.g. tourism. Where such benefits are monetary, they are subject to taxation as a statutory requirement;

(e) Since it takes financial and human resources to maintain wildlife, the section of the law dealing with incentives does not provide for such monetary or human capital incentives in any prescribed form, for example tax exemptions/rebates or provision of extension services as compared to crop, livestock or fish farming;

(f) Even where the WCMA 2013 allows for local trade in live animals, the animal remains a public good with property rights vested on the state;

(g) Further, although the CLA 2016, through section 36 provides for benefit sharing, it limits the benefits to only those derived subject to other laws related to the use of natural resources. This means for example, that a community conservancy, in exercise of the right to use land, should not contravene the wildlife or forest Act. In other words, they do not have property right over the natural resource;

(h) Technical and extension support provided by KWS to the conservancy is supposed to be free as per the law. However, while the KWS insists they provide technical and extension services freely to conservancies, conservancies claimed often paying KWS allowances for carrying out census or ecological assessments, meeting the cost of translocations, paying for training of rangers at the KWS Field Training School at Manyani, or, developing management plans;

(i) It seems the only easy, and without encumbrances, incentive that communities have to establish conservancies is to attract tourism revenue and donor funding. However, an entity does not have to be a conservancy to attract tourism revenue. There is therefore no real incentive to be a conservancy, rather, just a sense of belonging. In exercise of their right to community land, the owners are bound by the concept of sustainable development as domesticated in national laws;

(j) There is a very heavy financial burden borne by land owners in allowing wild animals on their land, yet there are no requisite financial incentives for the same. This renders the national wildlife and environmental laws a disincentive to wildlife as a form of sustainable land use; and

(k) Majority of wildlife (at times up to 70%) reside outside formal protected areas, i.e. in private and community land. Most of these lands are ecologically classified as rangelands and to a large extent suited to pastoralism where grass is the most important natural resource. Yet, Kenya lacks a rangelands policy and no "pastoralist county" has come up with a rangeland management plan or a county Integrated Development Plan as envisaged under section 108 (1) of the County Governments Act 2012. The situation is further compounded by the migrant nature of pastoralists and begs the question "what happens when livestock cross county boundaries." It is a recipe for conflicts and a danger to peaceful coexistence as well as the opportunity to earn tourism revenue.

Chapter Six: Crosscutting Issues (Climate Change, Gender and Youth, Lapset, National Development)

6.1 Introduction

Apart from the legal and policy framework, conservancies are affected by a number of cross-cutting issues, including climate change, national security and national development plans. These issues are critical for effective and efficient management of conservancies.

6.2 Climate change

Although the lands of the Amboseli and Mara Ecosystems and Northern Kenya (including the current Laikipia, Isiolo, Samburu, Garissa and Marsabit Counties) are characterized by a high diversity of wildlife in large populations, they also experience harsh climatic regimes. Popularly known as arid and semi-arid areas (ASALs), the most notable ecological aspect is extreme climatic phenomena, ranging from extended dry periods to extreme rainfall, both of which wreak havoc to the ecosystem occasioned by the attendant land degradation. Such extremes of climate are also followed by livestock diseases leading to the death of both livestock and wildlife. Massive deaths of livestock among pastoralist communities spell doom as livestock is the economic lifeline. The dominant production system in the arid counties, and in some of the semi-arid counties, is pastoralism - the extensive production of livestock (mainly cattle, camel, goats, sheep and donkey) in rangeland environments. As the main household asset and a key productive resource for pastoralist communities living in Northern Kenya, livestock accounts for a highly significant part the livelihood base and family income.

The ASALs of Kenya suffer perennial droughts leading to loss of human life, extreme poverty, and disruption of people's lives through displacements, destruction of livelihoods and property. The defining feature of the ASALs is drought which exposes the population to the greatest risk of food security and loss of livelihood. Repeated episodes of perennial drought are exacerbated by inadequate local food production, high food prices, low livelihood diversification, limited access to clean water, poor or lack of maintenance of water infrastructure, quality and affordable animal health services, inadequately developed agriculture and market infrastructure, environmental degradation, and limited skills in alternative livelihood options among the community. This affects the communities' livelihoods, permanent assets as well as reduces their coping strategies with negative effects on pastoralism. Recurrent droughts are eroding pastoralists' livestock base and weakening their livelihoods and their resilience to climatic shocks. This leads to a shift in social lifestyles with some communities resulting to a high dependence on wildlife as bush meat and engagement in illegal wildlife trade.

However, in mitigation to these deleterious climate effects, the Climate Change Act (CCA) 2016 compels the national and county governments to mainstream climate change responses into development planning, decision making and implementation, in addition to building resilience and enhancing adaptive capacity to the impacts of climate change. Further, the National Disaster Management Authority (NDMA) was formed as an agency of the Government of Kenya mandated to ensure that drought does not result in emergencies and that the impacts of climate change are mitigated.

6.3 Gender and Youth

Pastoralist communities have highly segregated gender roles, with women and youth playing no or an insignificant part in decision making over crucial assets like land and livestock (the economic base). For example, during this study, only one conservancy out of over 30 conservancies sampled had a woman as the conservancy manager. By and large, pastoralist cultural practices deny girls and women the chance to acquire formal education, thus the opportunity to engage in alternative economically productive practices like business, innovation, leadership or formal employment. This is contrary to the constitution which provides for elimination of gender discrimination in law, customs and practices related to land and property.

However, current government policies require gender parity and offer incentives for women and youth to engage in economic production, e.g. Uwezo Fund (aimed at enabling women, youth and persons with disability access finances to promote businesses and enterprises at the constituency level, thereby enhancing economic growth), Women Enterprise Fund (a semi-autonomous agency in the Ministry of Public Service, Youth & Gender Affairs established in August 2007, to provide accessible and affordable credit to support women start and/or expand business for wealth and employment creation),

and, the Youth Enterprise Development Fund (a flagship project of Vision 2030 and a state corporation under the Ministry of Public Service, Gender and Youth Affairs; it seeks to create employment opportunities for young people by providing easy and affordable financial and business development support services to youth who are keen on starting or expanding businesses). All these are opportunities for women and youth to engage in business within and around conservancies.

6.4 National Development Plans

The CoK 2010, the Land Act 2012 and the CLA 2016 allow land to be acquired for public purposes, where public purposes include transportation infrastructure, public utilities (including water, sewage, electricity, gas, communication, irrigation and drainage, dams and reservoirs), security and defense installations. Indeed, section 9(2)d of the Land Act 2012 states that community land may be converted to either private or public land in accordance with the law relating to community land enacted pursuant to Article 63(5) of the Constitution, thus CLA 2016. This gives the national government, through the NLC, the power to acquire private or community land for development projects like the Lamu Port South Sudan, Ethiopia Transport Corridor (LAPSSET) that includes resort cities, international airports, oil pipelines, roads, railways, water supply and electricity transmission lines. Other national and county projects include construction of dams e.g., Buji river located within Mt Marsabit Forest Reserve in Marsabit County to supply water to Marsabit town. Needless to say, it is possible that such national interests will conflict with county interests, but only where the county government has well laid out a spatial plan. However, the County Governments Act of 2012, section 110(1) also compels each county government to ensure its development plan is linked to the regional, national and other county plans so as to avoid such a scenario.

6.4.1 Public Infrastructure

Most conservancies are located in areas with poor or no road network, poor telecommunication coverage, inadequate or lack of water and sanitation facilities, schools and hospitals. In general, they are poorly developed. This makes it difficult for conservancies to attract tourism investors, the only currently seamless and legally allowable user right over wildlife. Poor public infrastructure is therefore an additional disincentive for communities to engage in wildlife conservation as a form of land use.

6.5 Security

Wepundi, et al (2012) documented that pastoralist communities, especially those in the north eastern and northern Rift regions live in areas with relatively little presence of security personnel, thus face numerous conflicts over grazing and water access for their cattle. They are therefore forced to acquire illicit firearms to protect human life and livestock, further exacerbating insecurity. The proliferation of arms is further driven by the cultural and economic value apportioned to livestock, thus arms become the means by which to acquire and secure livestock. This relatively easy access to fire arms is a threat to both wildlife and tourism revenue. Any little incursion, either for cattle rustling or otherwise, drives away tourists in community lodges and campsites, thus denying communities the only legally allowable source of wildlife use rights. In general, insecurity leads to lost productive capacity, personal costs of treatment and rehabilitation, and, psychological and psycho-social costs brought about by fear of death or permanent injury.

Chapter Seven: Draft Wildlife Regulations, 2016

7.1 Introduction

Since the enactment of the Wildlife Conservation and Management Act 2013, there has been a slow pace of its implementation due to lack of regulations to provide a framework for operationalizing the Act. However, the draft guidelines have been subjected to the national stakeholders' forum for review as required by law. The Explanatory Memorandum summarizes the key findings in the draft guidelines as they relate to community conservancies.

7.2 Purpose of Wildlife Regulations

The purpose of these draft Regulations is to establish a regulatory framework to operationalize the conservation and management of wildlife resource, as envisaged in the WildlifeAct, 2013. The 19 draft Regulations set out rules and requirements regarding the technical aspects of wildlife conservation and management, including:community conservation, research, security, utilization, funding among others for sustainability of wildlife conservation and management.

Kenya Wildlife Conservancies Association (KWCA) organized a pre-validation meeting with selected key stakeholders on the 3rd November 2016 to enable review the key regulations affecting conservancies before the national validation meeting planned by KWS on the 4th of November 2016 in order to develop clear and harmonized final recommendations to improve the final drafts before being gazzetted. This was part of the conservancies' collective and organized voice into the process which is crucial.The seven regulations that have greater impact on conservancies include:

1. Conservancy regulations
2. Incentives, Access and Benefit Sharing regulations
3. Compensation regulations
4. Bio-prospecting regulations
5. Community Participation
6. Management plan guidelines
7. Endowment fund regulations

The other regulations may also have indirect impact on the conservancies. They include: (a) Endangered species – some conservancies have endangered species like rhinos on their land, (b) Government trophies – scouts usually collect wildlife trophies on the conservancies and discussions on how some of the trophies can benefit the conservancies will be useful, (c) Joint Management of Water towers – this specifically touches on the Community Forest Associations (CFAs) that are adjacent to the forests and downstream users through payment for ecosystem services, (d) Licensing – conservancies are engaged in wildlife activities that require licensing and hence it is critical for conservancy establishment and management, (e) Transboundary conservation – some conservancies like in Mara and Amboseli bordering Tanzania which has either Wildlife Management Areas (WMAs) should have an input into this regulation since wildlife moves between these two areas and for wildlife security, (f) Wildlife research – a lot of research is undertaken in conservancies and the levy goes to KWS and the National Council for Research and Technology. There is need to include in the guidelines how the conservancies will benefit from research as well, and, (g) Wildlife Security – community scouts are involved in the day-to day wildlife security matters and must be fully recognized and considered in the guidelines. Hence KWCA input into the regulations should not just be restricted to the seven regulations that have a direct impact on the conservancies.

7.3 General Explanatory Memorandum on the Wildlife Regulations

The draft Regulations have some serious shortfalls which needs to be ironed out before their gazettment. The input by KWCA, hopefully, can still be allowed even after the national stakeholders forum to have a final conservancies 'eye' or even during their review by the parliamentary Land and Natural Resources Committee. Very specific and general comments include:

(a) Some of the draft regulations do not define the conflict mitigation process and yet it is inevitable when there is a shared resource with different groups with vested different interests. The KWS will need to revise these regulations in accordance with the new amendment.

(b) Incentives, Access and Benefit Sharing regulations have several emotions and some provisions and definition of the terms seem to contradict the Act itself thus requires a significant revision as already observed in the KWCA led stake holder meeting.

(c) Following the enactment of the Wildlife Act 2013 - hastilywritten due to the agency caused by rampant

poaching and illegal wildlife trade, the Act has many loopholes necessitating its amendment even before implementation. This seems to cause challenges on the development of guidelines, more so in the absence of the Wildlife policy which is still in a draft form.

(d) To develop these draft Regulations, the KWS held several consultative meetings with key stakeholders working with a consultant there was ageneral feeling that the suggested input into the documents were not considered as such.

(e) The Draft regulations were incomplete and especially the Schedules meaning they had no input from the participants.

(f) In order to have holistic and integrated regulations, there was need to review the existing regulatory framework and applicable laws, including the Tourism Act, the Forest Act, Benefit Sharing Act, Community Land Act, Environment Act, Land Act, among other relevant Acts.

(g) The KWSseem to be over whelmed bydeveloping and completing the guidelines on time resulting in the slow pace of implementing the Act which in itself is a disincentive to potential individuals or groups of people who are keen to support and embrace wildlife conservation.

(h) There should be clear timelines in the regulations and KWCA should lobby the government to move fast on the regulations by seeking support from other interest groups.

(i) Financial mismanagement is one of the key weakness in the conservancies that has led to the collapse of many conservancies. There is need for a section on conducting regular Audits to safeguard public funds to guarantee leadership integrity, ensure that the conservancies functions effectively, and to ensure that internal controls for the conservancies management are in place. The audits may be done by the Conservancy, or by a professional reputable body at the request of the Conservancy, and an audit report will be prepared.

(j) There is also need for clauses that provides for the disclosure of any existing agreements between the conservancy and any service provider who intends to provide services to the conservancy. This will ensure transparency and also avoid resentment from the members and make management easy.

(k) The various Committees proposed do not provide detail on who will appoint i.e. is it KWS DG, including highlighting the Committee's functions, composition, designation of members, meetings, remuneration, and code of conduct.

(l) Development of Conservancy Management Plan as provided for in the Act does not make reference to County Spatial plans and County Integrated development Plan and EMCA 1999. The plans must be legally binding for easy enforcement and this must be clearly captured in the regulations.

(m) Mandatory membership of Conservancies with wildlife Conservation Association (WCA) as stipulated in the Act which is KWCA in this case is not captured and this leaves the conservancies with an option of choosing to be members of KWCA which should be mandatory. This is the only way of ensuring Certification of conservancies. The clause shouldprovide that certification of the conservancies may be done by KWCA or by a professional, reputable body at the request of the KWCA, and that a certification report will be prepared.

(n) Research data storage requires the conservancies to put in place mechanisms to ensure data disposal by researchers and proper storage and safety and confidentiality for future monitoring of the changes occurring in the conservancies and that a research report will be shared with conservancies.This should be done in accordance with the levels of accessibility set out in the Access to Information Act, 2016.

These Regulations have budgetary implications, which will have to be included in the supplementary estimates. KWCA and other relevant institutions should lobby the government for budgetary allocation and fundraise from donors and conservation organizations.

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Annex I: Questions as guided by the Terms of Reference

1. Identify all the ENRM policies, laws and regulations that interface with conservancies both at the international, national and county level.
   (a) Are you aware of all the ENRM policies, laws and regulations that interface with conservancies at the national level?
   (b) Are you aware of all the ENRM policies, laws and regulations that interface with conservancies at the county level?
   (c) Are you aware of all the ENRM policies, laws and regulations that interface with conservancies at the international level?
   (d) Has your county enacted any ENRM policies, laws and regulations? If yes which ones? At what stage are they? (Ref: Wildlife, tourism, forests, fisheries, water management, livestock, land, etc). Please consider sand harvesting, charcoal burning, etc)
2. Analyses the extent to which the ENRM polices, laws and regulations, have reformed, are being implemented and how they affect and impact on the establishment and management of conservancies.
   (a) Do you see any concrete reforms in the ENRM sectoral polices, laws and regulations in line with the establishment and management of conservancies?
   (b) What is the status of implementation of the ENRM sectoral polices, laws and regulations
   (c) How are these ENRM sectoral polices, laws and regulations impacting on the establishment and management of conservancies?
3. Analyse community based institutions created by the various ENRM laws to participate in conservation and management of the environment and natural resources.
   (a) Name some of the community based institutions created by the various ENRM national laws to participate in conservation and management of the environment and natural resources
   (b) Name some of the community based institutions created by the various county ENRM laws to participate in conservation and management of the environment and natural resources
   (c) How effective are these national and county institutions? If so why?
   (d) Are these institutions adequate at national and county level?
4. Assess key cross cutting issues including climate change and inclusion of women and youth in environment and natural resource governance.
   (a) Is climate change adequately addressed in the national ENRM policies, laws, regulations and strategies?
   (b) Does your county government have the necessary policies, laws, strategy(ies) or regulations to address climate change
   (c) Does Protected areas and the adjacent community conservancies have CC mitigation strategy(ies) and or is it necessary?
   (d) Do you think the national ENRM policies, laws and strategies address women and youth?
   (e) Does your county government have adequate ENRM policies, laws and strategies address women and youth?

   (f) Do community conservancies consider women and youths in their management? What role do they play? What is their percentage in the management? What challenges do you experience in ensuring effective women and youth participation in leadership and management of NR?
5. Identify the conflicts, overlaps, gaps, challenges and opportunities created by the ENRM policies, laws and regulations on the management and operations of conservancies.
   (a) What are some of the likely conflicts created by the national ENRM policies, laws and regulations on the management and operations of conservancies
   (b) What are some of the likely conflicts created by the county ENRM policies, laws and regulations on the management and operations of conservancies
   (c) What are some of the gaps and challenges in the national ENRM policies, laws and regulations on the management and operations of conservancies
   (d) What are some of the gaps and challenges in the county ENRM policies, laws and regulations on the management and operations of conservancies
   (e) What are some of the opportunities have been created by the national and county ENRM policies, laws and regulations on the management and operations of conservancies
6. Identify incentives and disincentives influencing community based conservation and compare the incentives and user rights created by each of the ENRM policies and laws to promote community based conservation.
   (a) What incentives have been created by specific ENRM policies and laws that influences/supports community-based conservation? Please compare the incentives and user rights created and how they promote community based conservation?
   (b) What disincentives have been created by specific ENRM policies and laws that influences/supports community-based conservation?
   (c) Are the incentives adequate? If not what needs to be done to improve on the incentives to promote community based conservation?
7. Analyze how the proposed developing and reforming ENRM policies, laws are likely to positively or negatively impact on management and operations of conservancies.
   (a) In your opinion, what are the likely impacts (+ve & -ve) of the existing and draft policies and laws on the management / operations of the conservancies?
   (b) What role do you need play to ensure that these policies and laws capture the aspirations of the community conservancies?
8. Identify the emerging trends and key community based actors in the ENRM sectors (especially in wildlife, water, forests, wetlands, marine environment).
   (a) Can you name some of the key community based actors in the ENRM sectors in wildlife, water, forests, wetlands, livestock, marine environment
   (b) Do these actors have the necessary capacity (human & financial) to influence change in NRM?
   (c) What challenges do these actors face and how can they overcome the challenges?
   (d) Are women and youths adequately considered in these actors community groups?
9. Assess government agencies and policy actors overseeing the implementation of community based policy, laws and regulations.
   (a) What national and county agencies and policy actors exist to support the implementation of ENRM policies and laws/regulations

(b) Do you think the national and county government actors are doing enough in the implementation of the community-based policies, laws and regulations? What needs to be done to make them efficient and effective?

10. Compare Kenya's policy and legal environment with select countries with comparable community based wildlife conservation approaches.

(a) Which African countries have good ENRM policies and laws for community based wildlife conservation?

(b) What advantages do these countries have over the Kenyan policies and laws?

11. Propose recommendations on areas of amendment for the Wildlife Act 2013 to encourage landowners adopt wildlife conservation as a preferred land use and further support development of conservancies in Kenya.

(a) Which areas of the Wildlife Act 2013 are a hindrance to the landowners to adopt wildlife conservation as a preferred land use and do not support development of conservancies?

(b) What other ENRM policies and laws are also a hindrance to the landowners to adopt wildlife conservation as a preferred land use and do not support development of conservancies?

(c) What recommendations do you suggest that can address these hindrances?

12. Analyze whether the developing draft regulations under the Wildlife Act 2013 support development of conservancies and the extent to which they support them especially the conservancy regulations, Incentives and Benefit Sharing regulations, Endowment Fund regulations, Community Participation and the Compensation regulations.

(a) Do the draft regulations under the Wildlife Act 2013 adequately address the development / management of conservancies the conservancy regulations, Incentives and Benefit Sharing regulations, Endowment Fund regulations, Community Participation and the Compensation regulations? Please elaborate your answer.

(b) What recommendations can you make about these draft regulations?

13. Provide recommendations on the appropriate key interventions required to improve sectoral ENRM policies and laws to promote coordinated and harmonized community based conservation.

(a) In your opinion, what recommendations can you make on key interventions that are required to improve sectoral ENRM policies and laws for better community-based conservation?

(b) Who should take a leading role in the implementation of these recommendations?

Annex II: List of institutions / people interviewed

Area	Person contact	Organization	Contact Address
Narok/ Mara	Kevin Gichangi	WWF	0720594349
	Maurice Nyaligu	WWF	0727397076
	Michael Otieno	Director Water Affair – Narok County	
	Philip Kangethe	Surface water officer, WRMA –Narok County	
	Agnes Kiu	Chief officer –Tourism	0713704803
	Daniel Tanui	Assistant Ecosystem Conservation Director KFS - Narok	
	Collins Omondi	Senior warden – KWS Narok	
	Amose Kipen	Project Manager Base camp Foundation Kenya	
	Dominic Konya	County Liaison officer, Naibosho Conservancy	0725590310
	Jame Kumun	Member Land holding company Naibosho	0710689386
	John Sangely	Chairman Land holding company Naibosho	0710961789
	Daniel Ole Muli	Regional coordinator, MMWCA	0720213054
Amboseli	NCDO	Leonard	
	AET	Benson Leyian	
	CWCCC	Jackson Mwato	
	Group Ranches Association	Ole Tiptip Koikai	
	ALOCA / Kilitome Conservancy	Joshua Punuka	0704917942
	Biglife Foundation	John Gisa	0721378081
	County government (CO Land & NR	Moses Murunya	0724818903
	County government – Planner)	Fred Swala	0722482115
	NEMA	Geoffrey Wafula	0734423574
Samburu, Laikipia, Isiolo	Peter E. Hart	Executive Director, Liakipia wildlife forum	0701161238
	Viginia Wahome	Chairperson CWCCC, Laikipia County	0721539096
	Tom Lalampaa	NRT	
	Richard Chepkwonyi	Senior Warden, KWS Laikipia	0721448099
	Esther Nyeri	Secretary CWCCC Laikipia /community warden KWS	0724452809
	Reuben Lendira	Manager, SERA Conservancy	
	Peter Matunge	Manager Lekurruki Conservancy	

	Benson Lekukai	Rangeland coordinator –Kalama	
	Mohamed Yassin	Coordinator NRT	
	Chris Lekupe	Manager West Conservancy Samburu	
	Patrick leveso	Manager Ingwesi Conservancy	
	Susan Kiringo	NRT	
	Isaiah Epuxi	Manager Nasuulu Conservancy	
	Ali Mohamed	Manager Shurr Conservancy	
	Robert Dokhole	Manager Conservancy	
	Barako Golicha	Manager Jaldesa Conservancy	
	Kusso Iddi Ahmed	Manger Lower Tana Conservancy	
	Mohamed Sharif	Manager Kiunga Conservancy	
	Malik Dotta	Manger Deri Conservancy	
	Ahmednoor Abdi Maalim	Manger Ishagbini Conservancy	
	Anne Cheptoo	CEC- Trade, Tourism & Coop Development	0727295873

Kenya Wildlife Conservancies Association
Living nature, Living people



KWCA working with Community Conservancies to safeguard their natural resources and derive benefits

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