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25/11/2021
DS [Signature]

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION - 2021


DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

REPORT ON:

THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL,
2020 (SENATE BILL NO. 30 OF 2020)

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2021

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 25 NOV 2021	
DAY: Thursday	
TABLED BY:	Chair-Environment Hon. Kareke Mbiuki
CLERK-AT THE-TABLE:	Benson Inzoga

CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings on the consideration of the Wildlife Conservation and Management (Amendment) Bill (*Senate Bill No. 30 of 2020*) which was published on 4th December, 2020, passed in the Senate on 5th August, 2021 and read a First Time in the National Assembly on 30th September, 2021. The Bill was thereafter, committed to the Departmental Committee on Environment and Natural Resources pursuant to National Assembly Standing Order 143.

The Bill which is sponsored by the Senator for Taita Taveta County, **Sen. Johnes Mwaruma, M.P.**, *seeks to amend the Wildlife Conservation and Management Act (No. 47 of 2013) to make further provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act and to provide for a timeline for compensation for human death, human injury or crop and property damaged caused by wildlife.*

In considering the Bill, the Committee applied itself to the provisions of Articles 109(5) and 114 of the Constitution of Kenya which relate to the origination and definition of a 'Money Bill', by seeking determination as to whether the Bill was a money bill from the Parliamentary Budget Office. The analysis on the Bill is contained in Part III of this Report.

The Committee also took note of the Report by the Senate Standing Committee on Land, Environment and Natural Resources, in which it observed that it had received views in accordance with Article 118 of the Constitution from: Kenya National Commission on Human Rights, the Natural Justice and from a Mr. Gilbert Odira Awuonda.

The Committee invited the Ministry of Tourism and Wildlife vide a letter REF: NA/DDC/ENR/2021/071 dated 5th October, 2021 for a meeting on the Bill, which was held on Tuesday, 19th October, 2021. The outcome of deliberations with the Ministry is contained in Part III of the Report.

On behalf of the Departmental Committee on Environment and Natural Resources and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Wildlife Conservation and Management (Amendment) Bill (*Senate Bill No. 30 of 2020*).

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank all stakeholders who participated in the consideration of the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Wildlife Conservation and Management (Amendment) Bill (*Senate Bill No. 30 of 2020*) and have the honour to report back to the National Assembly with the recommendation that the Bill be **REJECTED** since it is a 'Money Bill' pursuant to Article 114(3) of the Constitution and as such it can only be introduced in the National Assembly pursuant to Article 109(5) of the Constitution. Since there is an ongoing Comprehensive Review of the Wildlife Conservation and Management Act No. 47 of 2013, the proposed amendments in this Bill will be considered when the Ministry of Tourism and Wildlife submits the new bill to Parliament for review.

Hon. Kareke Mbiuki, CBS, MP

1.0 PREFACE

1.1 Committee Mandate

1. The Departmental Committee on Environment and Natural Resources is established under the National Assembly Standing Orders No. 216 (1). The functions and mandate of the Committee are also contained under the National Assembly Standing Orders, No. 216(5) as:-
 - a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - b) Study the program and policy objectives of the Ministries and departments and the effectiveness of the implementation;
 - c) **Study and review all legislation referred to it;**
 - d) Study, access and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
 - e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
 - g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.
2. The subject matters of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Orders No. 216 (f) as follows: climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management.

1.2 Oversight

3. In executing its mandate, the Committee directly oversights the following Government Ministries and Departments: -
 - a) The Ministry of Environment and Forestry;
 - b) The Ministry of Water & Sanitation and Irrigation;
 - c) The State Department for Wildlife; and
 - d) The Ministry of Petroleum and Mining.

1.3 Committee Membership

4. The Committee comprises the following Members:

Chairperson

The Hon. Kareke Mbiuki, CBS, M.P.
Maara Constituency

Jubilee Party

Vice-Chairperson

The Hon. Sophia Abdi Noor, M.P.
Ijaara Constituency

Party of Development and Reforms (PDR)

The Hon. David Kangogo Bowen, M.P.
Marakwet East Constituency

Jubilee Party

The Hon. Francis Chachu Ganya, M.P.
North Horr Constituency

Frontier Alliance Party (FAP)

The Hon. Ali Wario Guyo, M.P.
for Garsen Constituency

Wiper Party

The Hon. Benard Masaka Shinali, M.P.
Ikolomani Constituency

Jubilee Party

The Hon. George Macharia Kariuki, M.P.,
Ndia Constituency

Jubilee Party

The Hon. Charity K. Chepkwony, M.P.
Njoro Constituency

Jubilee Party

The Hon. Simon Ng'ang'a King'ara, M.P.
Ruiru Constituency

Jubilee Party

The Hon. Peter Kimari Kihara, M. P.
Mathioya Constituency

Jubilee Party

The Hon. Janet Ong'era, MP.

MP for Kisii County

Orange Democratic Movement (ODM)

The Hon. Charles Ong'ondo Were, M.P.
Kasipul Constituency

Orange Democratic Movement (ODM)

The Hon. Nasri Sahal Ibrahim, M.P.
Nominated

Forum for Restoration of Democracy-K

The Hon. Rozaah Buyu, M.P.
Kisumu County

Orange Democratic Movement (ODM)

The Hon. Said Hiribae, M.P.
Galole Constituency

Forum for Restoration of Democracy- K

The Hon. Hassan Oda Hulufu, M.P.
Isiolo North Constituency

Kenya Patriots' Party (KPP)

The Hon. Amin Deddy Mohamed Ali, M.P.
Laikipia East Constituency

Jubilee Party

The Hon. Rehema Hassan, M.P.
Tana River County

Maendeleo Chap Chap Party (MCC)

The Hon. (Eng.) Paul M. Nzengu, M.P.
Mwingi North Constituency

Wiper Party

1.4 Secretariat

5. The Committee is serviced by the following staff:

Ms. Esther Nginyo
Second Clerk Assistant
Lead Clerk

Mr. Dennis Mogare Ogechi
Second Clerk Assistant

Dr. Benjamin Ngimor
Senior Fiscal Analyst

Ms. Lynette Otieno
Legal Counsel I

Mr. Eugene Apaa
Research Office

2.0 OVERVIEW OF THE BILL

2.1 Introduction

6. The Wildlife Conservation and Management (Amendment) Bill (Amendment) Bill, 2020, (Senate Bill No.30 of 2020) is a Bill by the Senate. It was published on 4th December 2020 and passed by the Senate with amendments on 5th August 2021. The Bill was committed for consideration to the Departmental Committee on Environment and Natural Resources on 30th September 2020 pursuant to Standing Order 127(1).
7. The primary objective of the proposed draft Bill is to amend the Wildlife Conservation and Management Act, 2013 to make further provision for the allocation of adequate facilities to the County Wildlife Conservation and Compensation Committees (CWCC) established under the Act and to provide for a timeline for compensation for human death, human injury or crop and property damage caused by wildlife.
8. The Bill is a money Bill as per the provisions of Article 114 of the Constitution and the National Assembly Standing Order No. 117 (d); the enactment of the Bill shall occasion expenditure of public funds to be provided for through the annual estimates.
9. The Bill concerns county governments in terms of Article 110 (1) (a) of the Constitution as it contains provisions that affect the powers of the county governments, in as far as the provisions of the benefit-sharing of resources collected from wildlife protected areas.

2.2 Analysis of the Bill

10. The highlights of the Bill structure are as follows.
 - a) Clause 2 of the Bill proposes to introduce a New Section 21A in the principal Act to provide for the funds for community wildlife conservation committees. The provision also sets timeline for payment of compensation and provides for provision of adequate funds.
 - b) Clause 3 of the Bill proposes to amend Section 23 of the principal Act to provide for a nominee of the Council of Governors in the Wildlife body and to provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management
 - c) Clause 4 of the Bill proposes to amend Section 24 of the principal Act to provide for clarity in who is responsible for establishment of the scheme and provides for funds of the scheme to be monies appropriated by National Assembly.
 - d) Clause 5 of the Bill proposes to amend Section 25 of the principal Act to provide for clarity in process of provision of compensation and sets timeline for payment of compensation.
 - e) Clause 6 of the Bill proposes to amend Section 76 of the principal Act to provide for guidelines to include benefits not only to local communities neighbouring but also negatively affected by activities undertaken for the preservation of the national parks. Set criteria for determination of minimum benefits which shall be based on the gross total revenue and fees collected with respect to the protected area.
 - f) Clause 7 of the bill proposes to amend Part A of the Third Schedule to the principal Act by inserting the words "poisonous snakes, dangerous snakes, shark, stone fish,
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whale, sting ray, wild pig" immediately after the word "buffalo. This is to increase the list of wildlife species that can receive compensation.

3.0 VIEWS FROM STAKEHOLDERS

11. In considering the Bill, the Committee applied itself to the provisions of Articles 109(5) and 114 of the Constitution of Kenya which relate to the origination and definition of a 'Money Bill', by seeking determination as to whether the Bill was a money bill from the Parliamentary Budget Office.
12. The Committee also took note of the Report by the Senate Standing Committee on Land, Environment and Natural Resources, in which it observed that it had received views in accordance with Article 118 of the Constitution from: Kenya National Commission on Human Rights, the Natural Justice and from a Mr. Gilbert Odira Awuonda.
13. The Committee invited the Ministry of Tourism and Wildlife vide letter REF: NA/DDC/ENR/2021/071 dated 5th October, 2021 for a meeting on the Bill, which was held on Tuesday, 19th October, 2021. The Stakeholders submitted as follows:

3.1 Briefing from the Parliamentary Budget Office

14. In a meeting that was held on Tuesday, 12th October, 2021, Parliamentary Budget Office briefed the Committee as follows on the Bill:
 - a) The Bill seeks to introduce a new purpose for provision of funds from the Wildlife Conservation Trust Fund which entails providing support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management. This provision is an imposition of a new charge to a public fund which is in line with Article 114 (3) (b) of the Constitution.
 - b) The Bill proposes to extend the benefit-sharing of resources collected from wildlife protected areas to cover local communities neighboring national reserves as well as communities not neighboring national parks but have been negatively affected by activities undertaken for the preservation of national parks. This provision is an imposition of a new charge to a public fund which is in line with Article 114 (3) (b) of the Constitution.
 - c) The Bill also proposes to introduce a timeline of twelve (12) months within which a claimant should be paid upon recommendation by the CWCC. Since there is currently a backlog of pending payment of claims amount to about Kshs. 14 billion as of July 2021, this provision may lead to additional appropriation of funds by the Ministry through the Kenya Wildlife Service (KWS). This provision is in line with Article 114 (3) (c) of the Constitution.
 - d) The Bill also introduces seven (7) new species to the list of wildlife species in respect of which compensation may be paid in the case of death or injury. This provision may lead to additional appropriation of funds by the Ministry through the KWS. This provision is in line with Article 114 (3) (c) of the Constitution.

3.2 Comments from the Ministry of Tourism and Wildlife

15. The Cabinet Secretary for Tourism and Wildlife appeared before the Committee on Tuesday, 19th October, 2021 and briefed as follows, that:
- a) The Bill seeks to amend the Wildlife Conservation and Management Act, No. 47 of 2013, in order to make further provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act.
 - b) It also provides for the timeline of twelve (12) months for the compensation for human death, human injury or crop and property damage caused by wildlife in accordance with the Act. The Act makes further provision for the payment of compensation and other entitlements due to local communities affected by wildlife in accordance with the Act.
 - c) The Ministry requested for the withdrawal of the Bill as there was already an ongoing Comprehensive Review of the Wildlife Conservation and Management Act No. 47 of 2013. This comprehensive review is being done in the interest of the public with a view of repealing the current Act and coming up with a new law that effectively addresses the many current ongoing issues so as to avoid piece meal amendments.
 - d) The Ministry further indicated that the proposed amendments in this Bill are being looked into comprehensively and will be harmonized with other submission from various stakeholders so as to enable it develop a Comprehensive Legal Instrument that enables a unified approach in Conservation and Management of Wildlife.

4.0 COMMITTEE'S OBSERVATIONS

16. In considering the Bill, the Committee observed as follows:

- a) The Bill meets the criteria required to define it as a 'Money Bill' pursuant to Article 114(b) & (c) of the Constitution. As such, the National Assembly is required to take into consideration the recommendations of the Budget and Appropriations Committee when debating the Bill. Further, a 'Money Bill' can only be introduced in the National Assembly pursuant to Article 109(5) of the Constitution. Therefore, the Bill should have been first introduced in the National Assembly and not in the Senate.
- b) There is an ongoing Comprehensive Review of the Wildlife Conservation and Management Act No. 47 of 2013 by the Ministry of Tourism and Wildlife. The Ministry was collating submissions for inclusion in a new Bill that will overhaul the current Act. The Committee also noted that the Ministry was willing to incorporate the proposed amendments provided in this Bill.

5.0 COMMITTEE'S RECOMMENDATION

17. The Committee having considered the Wildlife Conservation and Management (Amendment) Bill (Amendment) Bill, 2020, (Senate Bill No.30 of 2020), recommends that the House **REJECTS** the Bill since it is a 'Money Bill' pursuant to Article 114 of the Constitution and as such it can only be introduced in the National Assembly pursuant to Article 109(5) of the Constitution.



Signed:

HON. KAREKE MBIUKI, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND
NATURAL RESOURCES

Date: 24/11/2021

LIST OF ANNEXTURES

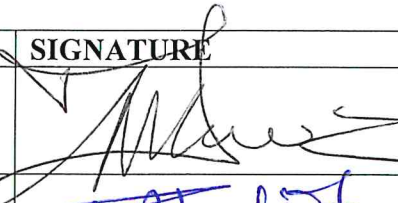
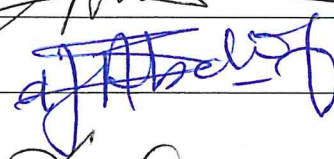

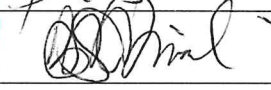
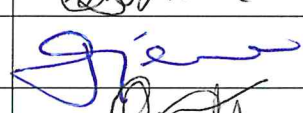



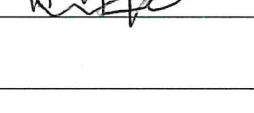
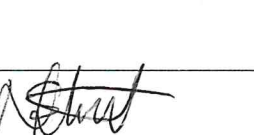

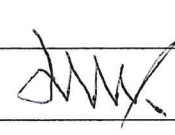
1. ADOPTION LIST
2. COMMITTEE MINUTES
3. MINISTRY OF TOURISM AND WILDLIFE
LETTER
4. SENATE REPORT ON THE WILDLIFE
CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL (SENATE BILL NO. 30
OF 2020)
5. COPY OF THE BILL

ADOPTION LIST

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ADOPTION LIST

DATE: 23rd October, 2021 **TIME:** 10.00 A.M. **VENUE:** Trademark Hotel, Kiambu County

AGENDA: Consideration and Adoption of the Wildlife Conservation And Management (Amendment) Bill 2020
(Senate Bill No. 20 of 2020)

	NAME	SIGNATURE
1.	The Hon. Japhet Kareke Mbiuki , CBS, M.P., Chairperson	
2.	The Hon. Sophia Abdi Noor , M.P., Vice Chairperson	
3.	The Hon. Francis Chachu Ganya, M.P.	
4.	The David Kangogo Bowen, M.P.	
5.	The Hon. Benard Shinali, M.P.	
6.	The Hon. Janet Ongera, MP.	
7.	The Hon. Charity Kathambi Chepkwony, M.P	
8.	The Hon. Charles Ong'ondo Were, M.P.	
9.	The Hon. Amin Deddy Mohamed Ali, M.P.	
10.	The Hon. Hassan Oda Hulofo, M.P.	
11.	The Hon. George Kariuki, M.P.	
12.	The Hon. Ali Wario Guyo, M.P.	
13.	The Hon. Nasri Sahal Ibrahim, M.P.	
14.	The Hon. Peter Kimari Kihara, M.P	
15.	The Hon. Eng. Paul Musyimi Nzengu, M.P.	
16.	The Hon. Rehema Hassan, M.P.	
17.	The Hon. Rozaah Buyu. M.P.	
18.	The Hon. Said Hiribae, M.P.	
19.	The Hon. Simon King'ara, MP	

COMMITTEE MINUTES

MINUTES OF THE 64TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD VIRTUALLY ON TUESDAY, 12TH OCTOBER, 2021 AT 10.00 AM.

PRESENT

- | | |
|--|-------------------------|
| 1. The Hon. Japhet Kareke Mbiuki, CBS, M.P., | Chairperson |
| 2. The Hon. Sophia Abdi Noor, M.P., | Vice Chairperson |
| 3. The Hon. Francis Chachu Ganya, MP | |
| 4. The Hon. Hassan Oda Hulufu, M.P. | |
| 5. The Hon. Nasri Sahal Ibrahim, M.P. | |
| 6. The Hon. Rehema Hassan, M.P. | |
| 7. The Hon. Rozaah Buyu. M.P. | |
| 8. The Hon. Simon King'ara, M.P. | |
| 9. The Hon. Eng. Paul Musyimi Nzengu, M.P. | |
| 10. The Hon. Ali Wario Guyo, M.P. | |
| 11. The Hon. Amin Deddy Mohamed Ali, M.P. | |

APOLOGIES

1. The Hon. Bernard Shinali, M.P.
2. The Hon. David Kangogo Bowen, M.P.
3. The Hon. Charles Ong'ondo Were, M.P
4. The Hon. Charity Kathambi Chepkwony, M.P.
5. The Hon. Janet Ong'era, MP
6. The Hon. Peter Kimari Kihara, M. P
7. The Hon. George Kariuki, M.P.
8. The Hon. Said Hiribae, M.P.

PETITIONER

Hon. Ibrahim salah - MCA, Tana River County Assembly

THE NATIONAL ASSEMBLY

- | | |
|-----------------------------|---------------------------|
| 1. Ms. Esther Nginyo | - Clerk Assistant II |
| 2. Mr. Dennis Mogare Ogechi | - Clerk Assistant II |
| 3. Dr. Benjamin Ngimor | - Senior Fiscal Analyst |
| 4. Ms. Lynette Otieno | - Legal Counsel I |
| 5. Mr. Eugene Apaa | - Research Officer |
| 6. Mr. Mark Mbuthia | - Audio Recording Officer |

AGENDA

- i) Prayers
- ii) Confirmation of Minutes
- iii) Matters Arising
- iv) **Briefing on the Wildlife Conservation and Management (Amendment) (Senate Bill No.30 of 2020).**
- v) **Meeting with Hon. Rehema Hassan, MP on Public Petition regarding harassment of residents of Tana River County by KWS officers**
- vi) Date of the next Sitting

MIN.NO. DC/ENR/283/2021:

- PRELIMINARIES

The Meeting was called to order at 10.22 am after which prayers were said. The Chairperson stated that the main agenda of the day was:

- a) Briefing on the Wildlife Conservation and Management (Amendment) (Senate Bill No.30 of 2020).
- b) Meeting with Hon. Rehema Hassan, MP on Public Petition regarding harassment of residents of Tana River County by KWS officers

The Members adopted the agenda of the meeting.

MIN.NO. DC/ENR/284/2021:

- CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sitting was deferred to the next meeting.

MIN.NO. DC/ENR/285/2021:

**- BRIEFING ON THE WILDLIFE
CONSERVATION AND
MANAGEMENT (AMENDMENT)
(SENATE BILL NO.30 OF 2020).**

PRESENTATION BY THE LEGAL COUNSEL

The legal counsel attached to the Committee briefed members as follows:

1. The Wildlife Conservation and Management (Amendment) Bill (Amendment) Bill, 2020, Senate Bill No.30 of 2020 was a Bill by the Senate that was published on 4th December 2020 and passed by the Senate with amendments on 5th August 2021.
2. The Bill was committed for consideration to the Departmental Committee on Environment and Natural Resources pursuant to Standing Order 127(1).

3. In accordance with Article 118(1)(a) of the Constitution that provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees, an advertisement was published inviting for public participation and submission of memoranda.
4. The Bill proposed amendments to the Wildlife Conservation and Management Act, 2013 as set out in a detailed table (tabulation attached).

PRESENTATION BY THE RESEARCH OFFICER

The Research Officer attached to the Committee briefed members as follows:

1. The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020) seeks to amend the Wildlife Conservation and Management Act (No.47 of 2013) to make provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act.
2. The Bill also provides a timeline of twelve months for the compensation for human death and injury or crop and property damage caused by wildlife.
3. The Bill makes further provision for the payment of compensation and other entitlements due to local communities on claims resulting from loss or damage caused by wildlife.

He then made a tabulation of a clause-by-clause analysis of the Bill (tabulation attached).

PRESENTATION BY THE FISCAL ANALYST

The Fiscal Analyst attached to the committee briefed the committee as follows:

1. Pursuant to Standing Order 41, the Speaker received a Message from the Senate seeking the concurrence of the National Assembly on the Wildlife Conservation and Management (Amendment) Bill (Senate Bill No.30 of 2020). The bill was read for the first time on Thursday, 30th September, 2021 and committed to the Departmental Committee on Environment and Natural Resources.
2. In considering the bill, the Speaker directed the Committees to apply themselves to the provisions of Articles 109(5) and 114 of the Constitution which relate to the origination and definition of a 'Money Bill' and make appropriate recommendations to the House as required by the Constitution.
3. Article 109(5) of the Constitution directs that a 'money bill' can only be introduced in the National Assembly. In addition, Article 114 of the Constitution gives the definition of a money bill and directs that the National Assembly may only proceed to debate a 'money

bill’ after taking into consideration the recommendations of the Budget and Appropriations Committee.

4. The Bill seeks to introduce a new purpose for provision of funds from the Wildlife Conservation Trust Fund which entails providing support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management. This provision is an imposition of a new charge to a public fund which is in line with Article 114 (3) (b) of the Constitution.
5. In addition, the Bill proposes to extend the benefit-sharing of resources collected from wildlife protected areas to cover local communities neighboring national reserves as well as communities not neighboring national parks but have been negatively affected by activities undertaken for the preservation of national parks. This provision is an imposition of a new charge to a public fund which is in line with Article 114 (3) (b) of the Constitution.
6. The Bill also proposes to introduce a timeline of twelve (12) months within which a claimant should be paid upon recommendation by the CWCC. Since there is currently a backlog of pending payment of claims amount to about Kshs. 14 billion as of July 2021, this provision may lead to additional appropriation of funds by the Ministry through the Kenya Wildlife Service (KWS). This provision is in line with Article 114 (3) (c) of the Constitution.
7. Lastly, the Bill also introduces seven (7) new species to the list of wildlife species in respect of which compensation may be paid in the case of death or injury. This provision may lead to additional appropriation of funds by the Ministry through the KWS. This provision is in line with Article 114 (3) (c) of the Constitution.
8. In light of the above, the Parliamentary Budget Office concluded that pursuant to the provision of Article 114 (3) of the Constitution, the draft Bill **does meet** the criteria required to define it as a “Money Bill”. Therefore, the Bill may proceed as contemplated in the relevant Standing Orders.

MIN.NO. DC/ENR/286/2021:

- OBSERVATIONS

1. The Bill seeks to reinstate compensation for individuals who have suffered snake bites. This is a category of compensation that had been done away with by an earlier amendment introduced by the Committee.
2. The Bill introduces a timeline of twelve months for the compensation for human death and injury or crop and property damage caused by wildlife. This may not be a feasible provision considering the pending bills with respect to compensation for human-wildlife conflicts.

3. There was need to hold a meeting with the KWS and the parent ministry in order to get their views on the proposed amendments contained in the Bill.
4. The Bill was considered to be before the Committee improperly. It contravenes Articles 109(5) and 114 of the Constitution which relate to the origination and definition of a 'Money Bill'. Article 109(5) of the Constitution directs that a 'money bill' can only be introduced in the National Assembly. However, the Bill at hand was introduced in the Senate. In addition, Article 114 of the Constitution gives the definition of a money bill and directs that the National Assembly may only proceed to debate a 'money bill' after taking into consideration the recommendations of the Budget and Appropriations Committee. There were no recommendations from the said committee at the time of consideration of the Bill.

RESOLUTION

The Committee resolved not to proceed with consideration of the Bill since it was before it un-procedurally.

MIN.NO. DC/ENR/287/2021:

- **MEETING WITH HON. REHEMA
HASSAN, MP ON PUBLIC PETITION
REGARDING HARASSMENT OF
RESIDENTS OF TANA RIVER
COUNTY BY KWS OFFICERS**

The Hon. Rehema Hassan, MP appeared before the Committee with respect to the Public Petition regarding harassment of residents of Tana River County by KWS officers. He briefed members as follows:

1. She was presenting the petition on behalf of residents of Bangale Ward, Bura Constituency, Tana River County;
2. She drew the attention of the House to the following:
 - a) THAT, Kora National Park which spans over 1,787 square kilometers is a natural resource in Tana River County that offers sanctuary to wildlife including several of the Big Five species;
 - b) THAT, Kora was upgraded from a Game Reserve to a National Park without the awareness and participation of the residents of the settlements adjacent to the park and the wider residents of the County;
 - c) THAT, the settlements adjacent to the Park had provided protection to the wildlife by complementing the efforts of the Kenya Wildlife Service (KWS) through reporting of all poaching activities thus reducing incidences of poaching;
 - d) THAT, the KWS has failed to help mitigate human wildlife conflicts in the area, neglected collaboration with communities living close to wildlife habitations, and

- further failed to give incentives for wildlife resource conservation and management through Corporate Social Responsibility and community sensitization;
- e) THAT, instead of solving all disputes between the locals and the wardens procedurally and professionally, KWS officers have repeatedly harassed residents leading to frequent injuries of residents as well as massive losses of livestock;
 - f) THAT, the arising disputes are administratively presented in Meru County where the Park was being managed from instead of Tana River County where the Park is situated;
 - g) THAT, the growth of the neighbouring Boka Town which is situated at the boundary of the Park has been inhibited by KWS's constant intimidation of business people intending to invest in the town, thereby raising suspicion of future plans to overrun the Town via Park boundary expansion;
 - h) THAT, efforts to have these grievances addressed by the relevant Government agencies including the Kenya Wildlife Service have not yielded any fruit;
 - i) THAT, the issues in respect of which the petition was made are not pending before any court of law, or other constitutional or legal body.
3. She prayed that the National Assembly through the Departmental Committee of Environment and Natural Resources;
- a) engages the relevant Government agencies with a view to determining the original boundary demarcation between Kora National Park and the adjacent community settlements including Boka town community;
 - b) obtains for public access the Public Participation and Corporate Social Responsibility (CSR) Report from KWS emanating from engagement with the local residents living around Kora National Park;
 - c) reverts the Park back to its original status of game reserve and secures the involvement of local communities and County government in any future plans of upgrading it into a national reserve or a national park, and
 - d) makes any further order(s) it deemed fit in the circumstances of the petition.

OBSERVATIONS

Members observed as follows:

1. Prior to the conversion of the game park into a national park, the game park engaged in numerous CSR activities that greatly benefitted the local community. These included; locals being allowed to graze their animals in the park during dry spells. However, this had changed since KWS took over management of the park as it harasses locals who venture into the park seeking pastures.
2. The growth of Boka town had stunted since the KWS never allows developments around the town claiming the land belongs to it for conservation purposes.

3. It could be better to address the teething problems at the national park than transferring it to the Tana River County Government by reverting it into a game reserve which may compromise conservation efforts.

RESOLUTION

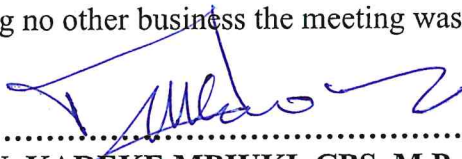
It was resolved that the Committee will hold a meeting with the ministry of Tourism and Wildlife on 19th October, 2021 to deliberate on the petition.

MIN.NO. DC/ENR/288/2021: - **ANY OTHER BUSINESS**

It was resolved that the Committee shall hold a meeting on 14th October, 2021 with all the CEOs of Water Development Agencies across the country regarding the status of implementation of water projects in the country in the 2021/2022 FY.

MIN.NO. DC/ENR/289/2021: - **ADJOURNMENT**

There being no other business the meeting was adjourned at 11.50 am.

SIGNED:

THE HON. KAREKE MBIUKI, CBS, M.P.
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

DATE:
24 / 11 / 2021

MINUTES OF THE 66TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD VIRTUALLY ON TUESDAY, 19TH OCTOBER, 2021 AT 10.00 AM.

PRESENT

- | | |
|--|-----------------|
| 1. The Hon. Hassan Oda Hulufu, M.P | Chairing |
| 2. The Hon. Francis Chachu Ganya, MP | |
| 3. The Hon. Bernard Shinali, M.P. | |
| 4. The Hon. Nasri Sahal Ibrahim, M.P. | |
| 5. The Hon. Rehema Hassan, M.P. | |
| 6. The Hon. Rozaah Buyu. M.P. | |
| 7. The Hon. Simon King'ara, M.P. | |
| 8. The Hon. Eng. Paul Musyimi Nzengu, M.P. | |
| 9. The Hon. Ali Wario Guyo, M.P. | |
| 10. The Hon. Amin Deddy Mohamed Ali, M.P. | |

APOLOGIES

- | | |
|---|-------------------------|
| 1. The Hon. Japhet Kareke Mbiuki, CBS, M.P., | Chairperson |
| 2. The Hon. Sophia Abdi Noor, M.P., | Vice Chairperson |
| 3. The Hon. Janet Ong'era, MP | |
| 4. The Hon. David Kangogo Bowen, M.P. | |
| 5. The Hon. Charles Ong'ondo Were, M.P | |
| 6. The Hon. Charity Kathambi Chepkwony, M.P. | |
| 7. The Hon. Peter Kimari Kihara, M. P | |
| 8. The Hon. George Kariuki, M.P. | |
| 9. The Hon. Said Hiribae, M.P. | |

FRIENDS TO THE COMMITTEE

1. The Hon. Kubai Iringo, MP
2. The Hon. Faith Gitau, MP
3. The Hon. Joshua Mwalyo, MP

THE NATIONAL ASSEMBLY

- | | |
|-----------------------------|-------------------------|
| 1. Ms. Esther Nginyo | - Clerk Assistant II |
| 2. Mr. Dennis Mogare Ogechi | - Clerk Assistant II |
| 3. Dr. Benjamin Ngimor | - Senior Fiscal Analyst |
| 4. Ms. Lynette Otieno | - Legal Counsel I |

- | | |
|----------------------|------------------------------|
| 5. Mr. Eugene Apaa | - Research Officer |
| 6. Mr. Stanley Lagat | - Senior Serjeant-at-Arms II |
| 7. Mr. Mark Mbuthia | - Audio Recording Officer |

AGENDA

- i) Prayers
- ii) Confirmation of Minutes
- iii) Matters Arising
- iv) **Meeting with the Cabinet Secretary for Tourism and Wildlife to respond to: - 1. Question 005/2021 by Private Notice by Hon. Paul Katana, MP. 2. Question 346/2021 by Hon. Faith Gitau, MP. 3. Question 367/2021 by Hon. Mwalyo J. Mbithi, MP. 4. Statement regarding termination of employment of a former KWS Ranger by Hon. Kubai Iringo, MP. 5. Public petition regarding displacement of the residents of Kihoto area due to the rising water levels in Lake Naivasha. 6. Public petition regarding harassment of residents of Tana River County by KWS officers by the Hon. Rehema Hassan, M.P. 7. Consideration of Wildlife Conservation and Management (Amendment) Bill (Senate Bill No. 30 of 2020).**
- v) Date of the next Sitting

MIN.NO. DC/ENR/290/2021:

- PRELIMINARIES

The Meeting was called to order at 10.19 am after which prayers were said. The Acting Chairperson stated that the main agenda of the day was meeting with the Cabinet Secretary for Tourism and Wildlife to respond to: - 1. Question 005/2021 by Private Notice by Hon. Paul Katana, MP. 2. Question 346/2021 by Hon. Faith Gitau, MP. 3. Question 367/2021 by Hon. Mwalyo J. Mbithi, MP. 4. Statement regarding termination of employment of a former KWS Ranger by Hon. Kubai Iringo, MP. 5. Public petition regarding displacement of the residents of Kihoto area due to the rising water levels in Lake Naivasha. 6. Public petition regarding harassment of residents of Tana River County by KWS officers by the Hon. Rehema Hassan, M.P. 7. Consideration of Wildlife Conservation and Management (Amendment) Bill (Senate Bill No. 30 of 2020).

The Members adopted the agenda of the meeting.

MIN.NO. DC/ENR/291/2021:

- CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sitting was deferred to the next meeting.

The Member for Igembe Central Constituency, Hon. Kubai Iringo, MP read his statement regarding release of terminal benefits of one, Mr. Hamisi Geovannie Nderi of ID No. 11892397, a former Kenya Wildlife Service (KWS) ranger, pursuant to Standing Order 44(2)(c). He specifically raised the following concerns in his request for statement:

1. Could the Chairperson explain what measures the government has put in place to ensure efficient and proper disbursement of employee terminal benefits of officers in government parastatals and in particular the KWS?
2. Could the Chairperson explain why KWS delayed in releasing Mr. Nderi's benefits, despite receiving all required documents needed to facilitate disbursement to his next of kin?
3. Could the Chairperson explain when the service will disburse the money due to Mr. Nderi to his next of kin plus all interest accrued since 16th June, 2015 when his terminal benefits were to be calculated?

The Cabinet Secretary for Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee and responded as follows:

1. On measures the government has put in place to ensure efficient and proper disbursement of employee terminal benefits of officers in government parastatals and in particular the KWS he stated that:
 - a) Kenya Wildlife Service has a contributory pension scheme that provides benefits to employees on retirement and in the event of death in-service. The Scheme is registered by the Retirement Benefits Authority (RBA) and is governed by the RBA Act No. 3 of 1997 & its Regulations and the Scheme's Trust Deed & Rules.
 - b) Benefits under the scheme are computed based on a members' contribution, years of service and interest accrued. Upon retirement/leaving Service, employees are paid their benefits within thirty (30) days as per the RBA regulations and the Trust Deed & Rules.
 - c) Benefits under the Scheme vest in the member and not any other party. In the event of death, benefits are payable to the nominated beneficiary.
2. On why KWS delayed in releasing Mr. Nderi's benefits, despite receiving all the required documents needed to facilitate disbursement to his next of kin, he stated that:
 - a) Kenya Wildlife Service promptly processed the benefits within the stipulated period and Cheque No. 179543 for Ksh. 155,098.80 dated 27th January, 2010 was

ready for collection. However, the ex-employee was not able to collect the cheque since he was in custody and the funds had to be returned back to the scheme for re-investment. The funds have since grown to Ksh. 496,541.00 gross as at 14th October, 2021.

- b) The RBA Regulations provide that; in the absence of a member, the Pension Benefit is payable to the next of kin based on the nomination of beneficiary form dully filled and signed by the member while still in employment.
 - c) In this particular case, the ex-employee had indicated in the Personal Details Form; Grace Tabu Kushi as the spouse along with the children as indicated above. However, Mrs. Nuria Abdi Kara ID No. 23983258 presented herself to the Service as the spouse of the ex-employee claiming to have been issued with Power of Attorney. The Service was therefore in a dilemma as to who is the rightful legal next of kin for purposes of paying the terminal benefits.
 - d) The RBA regulations stipulate that benefits under the Pension Scheme must be paid to the rightful beneficiary as per records declared by employees at the time of or in the course of employment.
 - e) The Service processed benefits in respect of the ex-employee and was ready to pay within the stipulated period had the ex-employee turned up or the known nominee as per records held by the Service.
3. On when the Service will disburse the money due to Mr. Nderi to his next of kin plus all interest accrued since 16th June, 2015 when his terminal benefits were to be calculated, he stated that as already indicated above, the Service has all along been ready to disburse the benefit inclusive of interest accrued subject to the issue of the next of kin (beneficiary) being resolved.

OBSERVATION

It was observed that the response was satisfactory.

MIN.NO. DC/ENR/293/2021:

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QUESTION 346/2021 BY HON. FAITH GITAU, MP

The Hon. Faith Gitau, MP asked his question as follows:

- a) What steps has the Ministry taken to stop hippopotamuses from straying into farms and homes near Lake Olbolosat in Oljorokok and Ndararagwa Constituencies in Nyandarua County, and terrorizing the area residents and destroying crops and livestock around the lake?
- b) When will the victims of human – wildlife conflicts in Nyandarua County, who lodged claims for compensation as far back as 2013, get compensation, particularly those who

have suffered injuries and farmers who have lost crops and livestock due to attacks by hippopotamuses?

The Cabinet Secretary for Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee and responded as follows:

1. The Ministry of Tourism and wildlife through the Kenya Wildlife Service was committed to the protection of people and their property anywhere in the country. The following measures had been undertaken by KWS to ensure that the people who live near Lake Olbolosat Ol-Jorok and Ndararagwa Constituencies in Nyandarua County are safe.
 - (i) KWS has an office headed by a County Warden in Nyandarua County and assisted by fifteen Problem Animal Control rangers strengthened by vehicles registered as KAV 878E and KCP 404K. This team is mandated and deployed to patrol the whole of Nyandarua County as part of their duties assigned to them. The patrols and response to conflicts attended have resulted to KWS generating data that it has used to map the following areas as the hippo hotspots in the County; they are Manguu, Ziwani, Githunguchu, Marekeka, Kariamu, Kaibanga, Gatumbiro, Mukindu and Gatimu areas.
 - (ii) Part of a KWS County Warden's duties is to carry out wildlife conservation and management sensitization meetings and barazas in areas of their jurisdiction. Such information includes giving communities information on wildlife behavior. Notably the Wardens in Hippo infested areas are expected to hold meetings with the farmers and other stakeholders to inform them of hippo behavior and advise them on appropriate mitigation measures like leaving buffer vegetation to protect farms, fencing off their farms and advice farmers on the best timing within the day to undertake their farming activities. He provided a table summarizing the various engagements the Warden Nyandarua was involved in at the time in sensitizing the community on wildlife issues;
 - (iii) KWS works very closely with the County Government and County Administration in particular around the lake Olbolosat area with the Chiefs and Assistant Chiefs to facilitate the reporting of cases to KWS office for action.
 - (iv) The Government in January 2021, under the Economic stimulus recovery program, engaged Community Scouts Country wide to assist in wildlife matters. In Nyandarua County, a total of sixty-nine (69) Community Scouts were engaged. One of the key duties of the community scouts was to serve as early warning systems for human wildlife conflicts. The scouts are distributed across the expanse of the County and have helped a

great deal in providing HWC information that has facilitated proactive Problem animal control operations around area.

- (v) Formation of community resolution Committees that ensure Human Wildlife Conflicts are addressed proactively instead of reactively. For instance, committee members will inform the warden of animals moving out of a protected area even before they pose danger to the community. The people of Nyandarua County are free to call at any time the number **0756-508 890** to report any wildlife issues for action by KWS.
 - (vi) Hippos are sacred away back into the water and if they are seen to pose danger to the public then they are put down.
2. KWS facilitates the government approved compensation whereby any person who suffers bodily injury or is killed by the wildlife listed under the third schedule and or any person who suffers loss to crops, livestock or other property from wildlife specified in the third schedule submit a claim to the County Wildlife Conservation and Compensation Committee which verifies the claim and make recommendations as appropriate and submit to the Cabinet Secretary for payment consideration. Compensation funds are provided by the National Treasury to the claimants via the Ministry and KWS. He provided a table summarizing the compensation claims lodged at Nyandarua County as from year 2013 to the date of the meeting.
 3. He concluded that management of Hippos in lake Ol bolossatt was a challenge that continued to be a top priority for the Service. The problem had been exacerbated by the increasing numbers of both hippos and humans that reside around and depend on the lake. To address the situation, a concerted effort between the National government (Ministry of lands), the County government and Ministry of tourism and wildlife (KWS) was needed to address both the wildlife and human welfare issues facing the lake. This will ensure that the riparian land is secured for conservation, ecotourism and other commercial benefits that are contiguous and can benefit the community.

OBSERVATIONS

It was observed that:

1. There was a backlog of settlement of compensation claims emanating from human-wildlife conflicts not only in Nyandarua County but also countrywide.
2. There was deferment of processing of compensation claims due to incomplete documentation received by the compensation committee at the county level.

RESOLUTION

It was resolved that The Hon. Faith Gitau, MP to follow up and ensure the concerned members of the public with deferred claims furnish the relevant office with the requisite documentation for processing of the same to proceed.

MIN.NO. DC/ENR/294/2021:

- **QUESTION 005/2021 BY PRIVATE
NOTICE BY HON. PAUL KATANA, MP**

Hon. Paul Katana, MP asked his question as follows:

- a) Could the Cabinet Secretary state when the family of Mr. Chivatsi Meri Mwadzine of ID No. 11376806, a resident of Mweza village in Kaloleni Constituency, will be compensated for the death of his daughter, Margaret Chivatsi, who was killed by an elephant near Ndatani Primary School in Kaloleni Sub County on Thursday 23rd September 2021 and the incident reported at Mariakani Police Station under OB 25/24/9/2021?
- b) What action is the Ministry taking to address the perennial human – wildlife conflicts in Kaloleni Constituency?

The Cabinet Secretary for Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee and responded as follows:

1. The late Margaret Chivatsi aged around 20 years was attacked and killed by an Elephant at Ndatani area of Kaloleni Sub-County in Kilifi County on 24/09/2021. The body was removed from the scene by the Mariakani police and taken to Mombasa hospital mortuary. The incident was booked by Mariakani Police station vide OBNO. 25/24/09/2021 and also recorded at KWS vide OBNO. 08/24/09/2021.
2. The family was issued with compensation claims forms on 01/10/2021 and were advised on how to fill it and the relevant attachments to avail. Once returned, the documents will be tabled to the County Wildlife Conservation and Compensation Committee that will examine the form and recommend the award that is to be paid by National Treasury through the Ministry and KWS.
3. The following measures are in place to mitigate the human wildlife conflicts in Kaloleni Constituency;

a) Problem Animal Control.

Kenya Wildlife Service has a fully-fledged station in Kilifi County responsible for coordinating management of human wildlife coexistence in the county, but more specifically mitigation of human wildlife conflicts. The station is supported by

substations in Bamba, Mackinnon, and Mombasa Park as and when required. The KWS staff charged with the responsibility of undertaking problem animal control operations are well trained and equipped. They operate under an elaborate standard operating procedure that ensures that they are responsive and effective.

b) Problematic wildlife capture and translocation.

KWS has a fully-fledged Veterinary and capture unit that provides veterinary interventions for wildlife in distress as well as aid in the management of problematic animal species through capture and translocations among other strategies. The capture team recently translocated two lions from Chalale and Bore areas into Tsavo east National Park to as a mitigation measure to resolve livestock predation and threat to human life posed by the lions in the County of Kilifi.

c) Wildlife drive operations

Elephant drives is a strategy being undertaken by KWS to drive elephants away from community settled areas. The drive is carried out both on the ground by ranger teams and by use of helicopter as the situation dictates and when the number of elephants is considerably high. This is a service that KWS will continue to provide to the community in the long term to ensure that the negative impact by elephants is minimised. The KWS Airwing and aircrafts from conservation partners are always on standby to support ground teams when required. The latest elephant drive was undertaken in Mariakani area of Kilifi in early September 2021.

d) Wildlife Barriers.

KWS has collaborated with stakeholders and experts to design and put in place different barriers for different species of wildlife in HWC prone areas. Fencing provides a long-term solution to problematic wildlife species such as elephants and other large mammalian species from invading agricultural areas threatening people's lives and destroying crops. Arabuko Sokoke Park is fenced with a 114 km of electric fence line that minimizes interactions between the communities and wildlife.

e) Awareness creation

Continuous awareness creation to the public on wildlife co-existence is undertaken by KWS staff in collaboration with stakeholders, Chiefs and Village administrators to sensitize the public on wildlife conservation and coexistence. This is also being done through local FM stations in the County to keep the public informed on animal behavior and the best ways to co-exist with wildlife. KWS on 07/10/2021 collaborated with lulu FM in public sensitization on wildlife matters in Kilifi County. The service has undertaken a number of awareness and education programs through community meetings in the County in the recent past as follows; At Dzitsoni area on 19/09/2021, At



Kaliapapo area on 04/07/2021, At Shakahola Chakama area on 30/03/2021, At Goshi area on 08/02/2021, At Adu area on 09/03/2020, At Ganze area on 08/09/2020, At Bamba area on 09/09/2020.

f) Establishment of community conservancies

KWS has collaborated with conservation partners to form three (3) Conservancies in Kilifi County. The conservancy's staff assists KWS to manage wildlife outside designated protected areas. Conservancies are vital for current and future management of wildlife as they provide dispersal areas/corridors, food, water.

g) Use of Technology

The Service has embraced technology in the management of wildlife, especially elephants and Lions. The latest satellite-linked GPRS collars are fitted on identified animals to monitor movement and activities of large mammals like elephants and carnivores such as lions. Information from the GPRS transmitters is used for proactive deployment of resources to prevent human wildlife conflicts. The data is uploaded to a Management Information System (Earth Ranger) which is used to analyze trends for effective decision making. Majority of the problem animals elephants disturbing the Kilifi Residents are reportedly moving from Tsavo national park due to prolonged dry season. They are migrating towards Shimba Hills national Park but unfortunately, they find their old migratory routes inhabited resulting to conflicts. Collaring of the elephants helps KWS to proactively deploy Problem Control Teams strategically resulting to fewer conflicts.

h) Government support.

The Government in January 2021, under the Economic stimulus recovery program, engaged Community Scouts Country wide to assist in wildlife matters. In Kilifi County, a total of sixty-four (64) Community Scouts were engaged. One of the key duties of the community scouts is to serve as early warning systems for human wildlife conflicts. The scouts are distributed across the expanse of the County and have helped a great deal in providing HWC information that has facilitated proactive Problem animal control operations in the affected areas, including the Kaloleni area.

He then provided a table showing the Kilifi County Compensation Status for Claims occurring from 2013 to the date of the meeting.

OBSERVATION

It was observed that the response given was satisfactory

RESOLUTION

It was resolved that the Hon. Paul Katana, MP to aid the affected family to prepare the requisite documentation required to lodge the compensation claim.

MIN.NO. DC/ENR/295/2021:

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**QUESTION NO. 367/2021 FROM THE
MEMBER FOR MASINGA, HON.
MWALYO J. MBITHI, MP**

The Hon. Mwalyo J. Mbithi, MP asked his question as follows:

- a) What action is the Ministry taking to permanently address the constant human - wildlife conflict in kyangosi, Masaku DC area to Nunguni region hear Kamburu Dam in Masinga Constituency where wild animals have been crossing over from Mwea Game Reserve into private farms causing harm on people, destroying crops causing massive losses to the small-scale farmers along Tana River?
- b) Could the Cabinet Secretary provide a detailed list of the number of reported cases in the area for the last ten (10) years including deaths and the status of compensation claims?
- c) Could the Ministry ensure that claims for compensation as a result of human - wildlife conflict in the said area are settled promptly

The Cabinet Secretary for Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee and responded as follows:

1. Diverse measures have been put in place to minimize the human wildlife conflicts experienced by residents of Masinga constituency as follows:

a) Problem Animal Control.

The KWS staff stationed at Machakos County and the supporting stations at Mwea National Park and Oldonyo Sabuk National park staff are trained and equipped to significantly reduce the cases of human-wildlife conflicts in the area by managing problematic animals.

Problem animal control Rangers and the eight community scouts that hail from Masinga Constituency are deployed along the lower tana circuit to drive back the elephants before they cross to Machakos and Embu Counties.

b) Wildlife Barriers.

KWS has the task of designing, planning and the execution of protective barriers for different wildlife species. This is an area that the service has collaborated with other stakeholder and experts to design different barriers for different wildlife. Mwea National Reserve has a 16 km stretch of electric fence. Eight (8) kms of this fence starts from Mwea reserve offices towards

Kanyonga area upto River Thiba and the other stretch of 8km extends towards Kithesu area of Tana River making the only area that is not fenced the space along the two rivers. The unfenced area is located at the southern part of the Reserve. During dry seasons when water levels are down the elephants use this space as entry point from the Reserve to Machanga area in Embu County and Kyiangozzi and Ngetani areas of Machakos County. Awareness creation by KWS with the help of community scouts has prompted some community members to erect solar fences to safeguard their farms and homesteads in these areas.

c) Government support.

KWS in January 2021 under the Economic stimulus recovery strategy engaged Community Scouts country wide to assist in wildlife matters. In Machakos County a total of eighty-seven (87) Community Scouts were engaged and part of their duty is to serve as early warning systems for human wildlife conflicts.

d) Awareness creation

Continuous awareness creation to the public on wildlife co-existence is undertaken by KWS staff in collaboration with stakeholders, Chiefs and Village administrators for proactive wildlife response as well as the service has conflict hotlines that are given to the public for swift communication of conflict cases. These are spread within the Counties as well as the KWS Toll free line at the headquarters of 0800 597 000.

e) Wildlife counts and translocations

The Service also translocates problematic animal species and or undertakes translocation of species of animals from an ecosystem whose carrying capacity is exceeded to suitable ecosystems with less of such species. In 2007, a total of 23 elephants were translocated from the reserve to Tsavo East National Park.

f) Compensation.

KWS facilitates the government approved compensation for members of the community who suffer losses as a result of wildlife. A total of ten (10) claimants from the constituency have been paid their compensation dues and the rest are on process of being paid by National Treasury.

2. Section 18 to 21 of wildlife conservation and management Act (WCMA), 2013 and the Miscellaneous amendments to the WCMA, 2013 of January 2019 establishes the Community Wildlife Conservation Committee (CWCC) in the 47 Counties and provides for their roles; while Section 19 gives the responsibility on CWCC which includes reviewing and recommending compensation for wildlife damage claims. The Machakos Committee is already in place and has been considering and recommending award of compensation funds to benefit those affected negatively by wildlife listed in

the 3rd schedule of the WCMA, 2013. All compensable claims are paid by the National Treasury through KWS.

MIN.NO. DC/ENR/296/2021:

- **PUBLIC PETITION (No. 26 of 2021)
REGARDING HARRASSMENT OF
RESIDENTS IN TANA RIVER
COUNTY BY KENYA WILDLIFE
SERVICE AT KORA NATIONAL
PARK.**

The Hon. Rehema Hassan, MP briefed the meeting on her petition. Then the Cabinet Secretary for Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee and responded as follows:

1. KWS cannot revert Kora National Park to its original status of Game reserve due to the following:
 - a) Kora National Park was gazetted vide Proclamation No. 339 of 6th October 1989 with boundaries as shown in Boundary Plan No. 204/65. The use and management of the Park is provided under the Wildlife Conservation and Management Act, 2013 and Sec. 34 of the Act that provides that the variation of boundaries or revocation of a National Park shall only be published by the Cabinet Secretary where a proposal is recommended by the Service in consultation with the National Land Commission in accordance with subsection (2) and is subsequently approved by a resolution of Parliament.
 - b) The Act further provides that variation or cessation will only be recommended if such variation or cessation proposed by the notice:
 - (i) Shall not endanger any rare, threatened or endangered species;
 - (ii) Shall not interfere with the migration and critical habitat of the wildlife;
 - (iii) Does not adversely affect its value in provision of environmental goods and services, and,
 - (iv) Does not prejudice biodiversity conservation, cultural site protection, or its use for educational, ecotourism, recreational, health and research purposes.
 - c) Further, the proposal for variation and/or cessation must be subjected to an environmental impact assessment in accordance with the provisions of the Environmental Management and Coordination Act, 1999; and Public Consultation in accordance with the Fourth Schedule of the Wildlife Act shall be undertaken in relation to the proposal.

2. As the Park is public land alienated vide survey plan F/R 287/22 and issued with title number L.R 24308 (Grant No. CR 35854), the special conditions under the Grant require that the land is only used for purposes of a National Park, and should the land or any part thereof cease to be a Park it shall be deemed to have automatically reverted to the Government of Kenya without the necessity of a surrender. Further, KWS cannot change the use of the land without the prior written consent of the National Land Commission.
3. Kenya Wildlife Service manages approximately 8% of Kenya's total landmass (about 48,000 km²). This comprises 23 Terrestrial National Parks, 28 Terrestrial National Reserves, 6 Marine National Reserves, 4 Marine Parks and 4 National Sanctuaries. In addition, there are 154 stations and outposts which daily monitor wildlife movements to ascertain their safety and minimize conflicts with the communities. All these are administratively managed in eight conservation areas. The region where Kora Park is located is called Eastern Conservation area.
4. Eastern Conservation Area (ECA) covers the Counties of Tharaka Nithi, Meru, Isiolo, Garissa, parts of Kitui and Tana River. Meru and Kora are the two National parks within the area with the Reserves being N. Kitui (Mwingi), Bisanadi, Rahole, Arawale, Nyambene, and Shaba.
5. Kora National Park covers an area of 1787 sq.km forming the third largest protected area in Kenya. The Park is located in Tana North sub- county, Tana River County. Until the development of Kora National Park Management plan 2018-2028; the area used to be managed by KWS as single unit namely Meru conservation area-MCA which comprised of Meru National Park, Bisanadi National Reserve and Mwingi National Reserve with a headquarters at Murera that is located on the North western part of Meru National Park.
6. Boka is located in Tana River County, Bura Constituency. It is found on the Eastern side of Kora National Park, Next to Kalimangilu. The center came about after the exit of the Kenya Defence Forces (KDF) who used to camp in that area from 1996 upto 2002 in the time of the Shiftas war; before then, the area was inhabited by a few Somali pastoralists who resided in Manyattas due to the presence of the Boka wells which served as watering points for their livestock to date.
7. The area is majorly inhabited by the Somalis of Abduwab, Awulian, Gare, Digodia clans among others. Boka has mushroomed to date with a few permanent and semi-permanent houses with approximately 1150 Households. Several amenities have also been put up in the area including a primary school, Police station, Dispensary, Safaricom Booster.
8. Water boreholes and wells, an airstrip and a livestock market which are meant to serve the locals. The area is regarded as a location and therefore has a chief and an assistant Chief as

the government administrators of Boka. It should be noted that the area under which Boka lies is well within Kora National Park Boundary that is defined by River Mitamisyi.

9. The then County Council of Tana River and the public were involved in the upgrading of the National Reserve into a National Park. He provided minutes backing up the same.
10. As concerns public participation and Corporate Social Responsibility Kenya wildlife service in conjunction with George Adamson Trust for African Schools (TAS) developed programs to assist the communities living within Kora ecosystem. He provided a list of projects under Boka area of Bangal Ward of Tana sub-county which began in the year 2008 and were ongoing and handing over was yet to be done by the donor: Boka school (from 2010); Elrar Primary School (from 2017); Asako Primary School (from 2008); Kora Secondary School (from 2015).
11. Human wildlife conflict in the form of livestock predations and human threat is prevalent in the area surrounding Kora National Park. Predation of livestock has been common both during wet and dry season in Asako, Boka, Elrar, Kamaguru areas. Livestock incursion in the protected area has been on increase due to continued lack of rains in the area hence coming in contact with wildlife leading to easy prey to predators. Affected Communities are helped to lodge claims for payment by the state.

He provided a table showing a summary of the compensation claims status from Tana River County since 2013 to the date of the meeting.

OBSERVATION

It was observed that there was need to fast-track the projects being implemented by the KWS and its partners so that the community can benefit from them in a timely manner.

RESOLUTION

It was resolved that the projects being implemented by the KWS and its partners were to be fastracked and concluded by December, 2021 at the latest.

MIN.NO. DC/ENR/297/2021:

- **PUBLIC PETITION ON
DISPLACEMENT BY LAKE
NAIVASHA RISING WATER
LEVELS**

Then the Cabinet Secretary for Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee and responded as follows:

1. This matter was addressed by an Inter-Agency Technical Team in which the Ministry of Tourism & Wildlife was represented. The Inter-Agency Technical Team was being led by the Ministry of Environment and Forestry. A report was prepared and presented to NDITC.
2. The report noted that the key impacts of the rising lake levels within protected areas include loss of habitat available for wildlife especially large mammals, change in water chemistry of the saline lakes as well as loss of riparian land and increased cases of Human-Wildlife Conflicts.
3. The destruction of tourism infrastructure including lodges, roads, campsites, Visitor gates and the game proof fences has been recorded in most of the lakes. These destructions resulted to great loss properties, financial investments, employment opportunities and community livelihoods. In addition, lakes such as Baringo and Naivasha have experienced huge wildlife habitat lose and economic loss with respect to the tourism facilities. These have been adequately highlighted in the report.
4. The proposed interventions in the report include the rebuilding of the tourism infrastructures, rehabilitation of fences, marking and pegging of riparian land will help in the mitigation of the impacts of the rising lake levels on the protected areas. Further, the review and gazettment of Integrated Management Plans in the protected areas will go a long way in the mitigation of the impacts of the rising lake levels.
5. He noted that the Ministry awaited the implementation of the recommendations that will support mitigation of the identified impacts on the wildlife and tourism sub-sectors.

OBSERVATIONS

It was observed that the Lake Naivasha ecosystem did not constitute a National Park therefore fencing it by KWS would not be a tenable solution.

MIN.NO. DC/ENR/298/2021:

- **WILDLIFE CONSERVATION
AND MANAGEMENT
AMENDMENT (SENATE BILL
NO. 30 OF 2020)**

Then the Cabinet Secretary for Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee and responded that the Ministry had written to the Leaders of Majority in both the National Assembly and Senate indicating an objection to the Bill.

The objection was premise on the fact there was an impending comprehensive review of the Wildlife Conservation and Management Act No.47 of 2013 being undertaken as sanctioned by the Cabinet.

MIN.NO. DC/ENR/299/2021:

-

ADJOURNMENT

There being no other business the meeting was adjourned at 11.41 am.

SIGNED: 

THE HON. KAREKE MBIUKI, CBS, M.P.

CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

DATE: 24/11/2021

MINUTES OF THE 68TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD AT THE TRADEMARK HOTEL, KIAMBU COUNTY ON SATURDAY 23RD OCTOBER, 2021 AT 10.00 AM.

PRESENT

- | | |
|---|------------------|
| 1. The Hon. Japhet Kareke Mbiuki, CBS, M.P., | Chairperson |
| 2. The Hon. Sophia Abdi Noor, M.P., | Vice Chairperson |
| 3. The Hon. Janet Ong'era, MP | |
| 4. The Hon. Simon King'ara, M.P. | |
| 5. The Hon. Eng. Paul Musyimi Nzengu, M.P. | |
| 6. The Hon. Charles Ong'ondo Were, M.P. | |
| 7. The Hon. Said Hiribae, M.P. | |
| 8. The Hon. Hassan Oda Hulufu, M.P. | |
| 9. The Hon. Nasri Sahal Ibrahim, M.P. | |
| 10. The Hon. Rehema Hassan, M.P. | |
| 11. The Hon. Rozaah Buyu. M.P. | |
| 12. The Hon. Amin Deddy Mohamed Ali, M.P. | |
| 13. The Hon. Charity Kathambi Chepkwony, M.P. | |

APOLOGIES

1. The Hon. Francis Chachu Ganya, MP
2. The Hon. David Kangogo Bowen, M.P.
3. The Hon. Bernard Shinali, M.P.
4. The Hon. Ali Wario Guyo, M.P.
5. The Hon. Peter Kimari Kihara, M. P
6. The Hon. George Kariuki, M.P.

THE NATIONAL ASSEMBLY

- | | |
|-----------------------------|---------------------------|
| 1. Ms. Esther Nginyo | - Clerk Assistant II |
| 2. Mr. Dennis Mogare Ogechi | - Clerk Assistant II |
| 3. Dr. Benjamin Ngimor | - Senior Fiscal Analyst |
| 4. Ms. Lynette Otieno | - Legal Counsel I |
| 5. Mr. Stanley Lagat | - Serjeant-at-Arms |
| 6. Mr. Eugene Apaa | - Research Officer |
| 7. Mr. Mark Mbuthia | - Audio Recording Officer |
| 8. Ms. Christine Sabdio | - Office Assistant |

AGENDA

- i) Prayers

- ii) Confirmation of Minutes
- iii) Matters Arising
- iv) **Consideration and Adoption of a report on the Wildlife Conservation and Management (Amendment) Bill (Senate Bill No. 30 of 2020).**
- v) Date of the next Sitting

MIN.NO. DC/ENR/304/2021: - PRELIMINARIES

The Meeting was called to order at 10.22 am after which prayers were said. The Chairperson stated that the main agenda of the day was Consideration and Adoption of a report on the Wildlife Conservation and Management (Amendment) Bill (Senate Bill No. 30 of 2020).

The Members adopted the agenda of the meeting.

MIN.NO. DC/ENR/305/2021: - CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sitting was deferred to the next meeting.

MIN.NO. DC/ENR/306/2021: - CONSIDERATION AND ADOPTION OF A REPORT ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILL NO. 30 OF 2020).

The Report on the Wildlife Conservation and Management (Amendment) Bill (Senate Bill No. 30 of 2020) was considered and adopted after being proposed by Hon. Hassan Hulufu, MP and Hon. (Eng.) Paul Musyimi Nzengu, MP.

It was adopted with the following observations and recommendation:

OBSERVATIONS

The Committee observed as follows:

1. The Bill seeks to introduce a new purpose for provision of funds from the Wildlife Conservation Trust Fund which entails providing support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management. This provision is an imposition of a new charge to a public fund which is in line with Article 114 (3) (b) of the Constitution.
2. The Bill proposes to extend the benefit-sharing of resources collected from wildlife protected areas to cover local communities neighboring national reserves as well as communities not neighboring national parks but have been negatively affected by activities undertaken for the

preservation of national parks. This provision is an imposition of a new charge to a public fund which is in line with Article 114 (3) (b) of the Constitution.

3. The Bill also proposes to introduce a timeline of twelve (12) months within which a claimant should be paid upon recommendation by the CWCC. Since there is currently a backlog of pending payment of claims amount to about Kshs. 14 billion as of July 2021, this provision may lead to additional appropriation of funds by the Ministry through the Kenya Wildlife Service (KWS). This provision is in line with Article 114 (3) (c) of the Constitution.
4. The Bill also introduces seven (7) new species to the list of wildlife species in respect of which compensation may be paid in the case of death or injury. This provision may lead to additional appropriation of funds by the Ministry through the KWS. This provision is in line with Article 114 (3) (c) of the Constitution.
5. There is an ongoing Comprehensive Review of the Wildlife Conservation and Management Act No. 47 of 2013 by the Ministry of Tourism and Wildlife. The Ministry was collating submissions for inclusion in the new Bill.

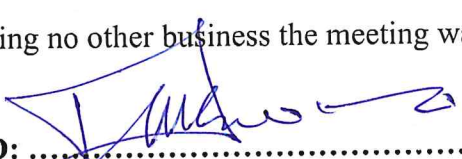
RECOMMENDATION

The Committee recommended that, the House **REJECTS** the Bill as it meets the criteria to define it as a 'Money Bill' and that further, there is an ongoing Comprehensive Review of the Wildlife Conservation and Management Act No. 47 of 2013 in which the Ministry of Tourism and Wildlife was collating submissions for inclusion in the new Bill.

MIN.NO. DC/ENR/308/2021:

- **ADJOURNMENT**

There being no other business the meeting was adjourned at 2.55 pm.

SIGNED:

THE HON. KAREKE MBIUKI, CBS, M.P.
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

DATE: 24 / 11 / 2021

MINISTRY OF
TOURISM AND
WILDLIFE
LETTER

DLS - To role

D/DC's

To bring to the attention of the relevant Committee

19/10/21

DIRECTOR

GOVERNMENT

19 OCT 2021



Director of Departmental Committees

CNA/OL

Kindly bring to the attention of the Committee for their response. I am concerned on the budgetary implications as well

18/10/21

MINISTRY OF TOURISM AND WILDLIFE

State Department of Wildlife

Office of the Principal Secretary

Telegrams: "NATURE", Nairobi

Telephone: 0254-20- 2724725/2724646

Email: pswildlife@tourism.go.ke

Website: www.tourism.go.ke

NSSF Building, Bishop Rd. Block A 21st
Floor, Eastern Wing
Ngong Rd 5th Avenue
P. O. BOX 41394-00100
NAIROBI

Ref: SDW/1/49 Vol.X

Esther Ngunyoro

pls facilitate

19/10/21

14th October, 2021

Hon Dr. Amos Kimunya, FCPA, EGH, MP
Leader of the Majority
National Assembly
Parliament Buildings
P.O BOX 41842-00100
NAIROBI

NATIONAL ASSEMBLY
RECEIVED

19 OCT 2021

DEPUTY CLERK
P. O. Box 41842 - 00100, NAI

RE: OBJECTION TO THE WILDLIFE CONSERVATION AND MANAGEMENT (AMMENDMENT) BILL (SENATE BILL NO. 30 OF 2020)

Reference is made to the above mentioned subject.

Our attention is drawn to the fifth session of the National Assembly Orders of the day of Thursday, September 30th 2021 at 2.30pm. During the session, the above mentioned Bill was tabled by Hon. Senator Johnes Mwaruma during the proceedings for first reading.

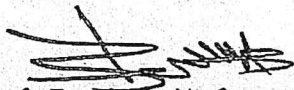
The Bill seeks to amend the Wildlife Conservation and Management Act, No. 47 of 2013, in order to make further provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act. It also provides a timeline of twelve months for the compensation for human death, human injury or crop and property damage caused by wildlife in accordance with the Act. The Bill makes further provision for the payment of compensation and other entitlements due to local communities affected by wildlife in accordance with the Act.

We are requesting for the withdrawal of the Bill on the basis that there is already a Comprehensive Review of the Wildlife Conservation and Management Act No.47 of 2013 being undertaken as sanctioned by the Cabinet. The proposed amendments are

being looked into comprehensively and it is in the interest of the public to carry out this comprehensive review with the view of repealing the current Act and coming up with a new law that effectively addresses the issues being proposed to avoid piece meal amendments.

The Ministry is collating submissions for inclusion in the new Bill and these proposals should be forwarded to the Ministry for them to be harmonized with others to enable the Ministry develop a Comprehensive Legal Instrument that enables a unified approach in Conservation and Management of Wildlife.

By this letter, we are requesting for withdrawal of this Bill from the proceedings of the House and request the Honourable Senator to forward the proposed amendments to the Ministry for inclusion in the new Bill being developed.



Prof. Fred H. K. Segor, CBS

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Ministry of Tourism and Wildlife
NSSF Building
NAIROBI

The Attorney General
Office of the Attorney General and Department of Justice
P.O. Box 40112-00100
NAIROBI

SENATE REPORT ON
THE WILDLIFE
CONSERVATION AND
MANAGEMENT
(AMENDMENT) BILL
(SENATE BILL NO. 30 OF
2020)

REPUBLIC OF KENYA



THE SENATE

TWELFTH PARLIAMENT

FIFTH SESSION

2021

SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND
NATURAL RESOURCES

.....
COMMITTEE REPORT ON THE WILDLIFE CONSERVATION AND
MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 30 OF 2020)
.....

*Clerk's Chambers,
First Floor,
Parliament Buildings,
NAIROBI.*

MAY, 2021

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PREFACE

Establishment of the Committee

The Standing Committee on Land, Environment and Natural Resources is established under standing order 218(3) of the Senate Standing Orders. The mandate and the functions of the committee are set out under the Second Schedule of the Senate Standing Orders which mandates the Committee to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Membership of the Committee

The Committee is comprised of the following members:-

- | | |
|------------------------------------|-----------------------------|
| 1. Sen. Paul Mwangi Githiomi, MP | - Chairperson |
| 2. Sen. Philip Mpaayei, MP | - Vice - Chairperson |
| 3. Sen. Njeru Ndwiga, EGH, MP | |
| 4. Sen. Gideon Moi, CBS, MP | |
| 5. Sen. (Dr.) Lelegwe Ltumbesi, MP | |
| 6. Sen. George Khaniri, MGH, MP | |
| 7. Sen. Johnes Mwaruma, MP | |
| 8. Sen. (Arch.) Sylvia Kasanga, MP | |
| 9. Sen. Issa Juma Boy, MP | |

Mr. Speaker,

The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020) seeks to amend the Wildlife Conservation and Management Act (No.47 of 2013) to make provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act. It also provides a timeline of twelve months for the compensation for human death and injury or crop and property damage caused by wildlife. The Bill makes further provision for the payment of compensation and other entitlements due to local communities on claims resulting from loss or damage caused by wildlife. The Bill succeeds the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019).

The Committee considered the Bill at length, conducted public participation and deliberated on the submissions received from various stakeholders. Based on the deliberations and public participation, the Committee presents some amendments with a view of strengthening the provisions of the Bill for consideration by this House.

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate as well as the Secretariat comprised of Ms. Veronicah Kibati, Mr. Victor Bett, Mr. Mitchell Otoro, Ms. Clare Kidombo and Mr. James Kimiti for the support extended to it in the conduct of the public hearings and in fulfilling its mandate.

Further, the Committee wishes to thank members of the public and stakeholders who sent written submissions including the Kenya National Commission on Human Rights (KNCHR), Natural Justice- Lawyers for Communities and the Environment and Mr. Gilbert Odira Awuonda.

Mr. Speaker,

It is now my pleasant duty, pursuant to standing order 143 of the Senate Standing Orders, to present the Report of the Standing Committee on Land, Environment and Natural Resources on the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020).

Signed.....

Date7/05/2021.....

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

CHAPTER ONE

INTRODUCTION

1.0 Background

The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020) is sponsored by Sen. Mwaruma Johnes, M.P. Senator, Taita Taveta County. The Wildlife Conservation and Management Act, No. 47 of 2013 was enacted in 2013 to provide for the protection, conservation, sustainable use and management of wildlife in Kenya. The Act further establishes the Kenya Wildlife Service (KWS) vide section 6.

The Bill was published on 4th December, 2020, and read a First Time in the Senate on 4th March, 2021. Following the First Reading in the Senate, the Bill stood committed, pursuant to standing order 140(1) of the Senate Standing Orders, to the Standing Committee on Land, Environment and Natural Resources for facilitation of public participation. Subsequently, the Committee, pursuant to Article 118(1)(b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, invited submissions from members of the public on the Bill via an advertisement in the Standard and the Daily Nation Newspapers on 16th March, 2021.

1.1 The Object of the Bill

The principal object of the Bill is to amend the Wildlife Conservation and Management Act, No. 47 of 2013 in order to make provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act. The Bill makes further provision for the payment of compensation and other entitlements due to local communities on claims resulting from loss or damage caused by wildlife. The Bill succeeds the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019).

1.2 Overview of the Bill

Section 16 of the Wildlife Conservation and Management Act, 2013 provides for the annual estimates of KWS. Section 16(2) of the Act provides that the estimates of KWS shall make provision for —

- (a) payment of salaries, allowances, pensions, gratuities and other charges in respect of the staff of the Service, regional wildlife conservation area committees and community wildlife scouts;
- (b) payment of salaries, allowances, pensions, gratuities and other charges in respect of the county wildlife conservation and compensation committees, as the case may be;
- (c) payment of allowances in respect of the County Wildlife Conservation and Compensation Committees;
- (d) the proper maintenance of the buildings and grounds of the Service;
- (e) the maintenance, repair and replacement of the equipment and other property of the Service; and
- (f) the creation of such reserve funds as the Service may deem appropriate to meet the recurrent expenditure and contingent liabilities of the Service.

Clause 2- Amendment to insert section 21A of the Act-Provision of Funds for Community Wildlife Conservation Committees

Section 21 of the Act provides as follows -

“Remuneration of Committee members

A member of the County Wildlife Conservation and Compensation Committee shall be entitled to be paid such allowances as the Salaries and Remuneration Commission may determine.”

Clause 2 of the Bill seeks to amend the Act by inserting a new section 21A on provision of funds for Community Wildlife Conservation Committees. The clause will require the Cabinet

Secretary to provide adequate funds for the management of the affairs of each Community Wildlife Conservation Committee in each financial year. Additionally, that where no appeal has been lodged under the Act, the Cabinet Secretary shall ensure compensation required to be paid will be undertaken within twelve months of a determination of the respective Community Wildlife Conservation Committee.

Clause 3- Amendment to section 23 (4) by inserting a new paragraph (fa)-The Wildlife Conservation Trust Fund

Section 23 of the Act provides as follows-

“The Wildlife Conservation Trust Fund

(1) There is established a Wildlife Conservation Trust Fund that shall be vested in a governing body established in accordance with subsection (2)—

(2) The governing body referred to in subsection (1) shall serve as a public private partnership and comprise—

(a) a Chairperson being appointed by the President;

(b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife;

(c) the Principal Secretary in the State Department for the time being responsible for matters relating to finance;

(d) the Director General of the Service who shall be the Secretary;

(e) four representatives from the private sector, who shall have technical experience in either philanthropy, law, natural resources, finance, business and investment matters, one of whom shall be a representative nominated by an umbrella wildlife conservancy body; and

(f) a representative from the office of the Attorney General.

(3) There shall be paid into the Wildlife Conservation Trust Fund—

(a) moneys appropriated by Parliament;

- (b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors, and for biodiversity offset schemes that compensate for conservation impacts as a contribution towards the Wildlife Conservation Trust Fund as the Cabinet Secretary may, upon the recommendation of the governing board, determine;*
 - (c) moneys for payment of environmental services and biodiversity offset schemes in which entities make payments directly to the Wildlife Conservation Trust Fund;*
 - (d) moneys from debt-for-nature transactions;*
 - (e) income from investments made by the governing board; and*
 - (f) such grants, donations, bequests or other gifts as may be made to the Fund..*
- (4) The purpose shall be to provide funds in order 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;*
 - (f) award wildlife conservation grants based on criteria to be established by the governing board; and*
 - (g) such other purposes as may be provided by the governing board.*
- (5) The Cabinet Secretary may, on recommendation of the Service, by notice in the Gazette, issue regulations and guidelines necessary and appropriate for the carrying out of the purposes of this section."*

Clause 3 - Amendment to section 23 (4) of the Act on the Wildlife Conservation Fund

Amend section 23(4) by inserting a new paragraph (a) to ensure that the Fund provides support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management.

Clause 4- Amendment of Section 24(1)-The Wildlife Compensation Scheme

Section 24 of the Act provides as follows-

“The Wildlife Compensation Scheme

(1) The Government shall establish a Wildlife Compensation Scheme that shall consist of—

(a) monies specifically allocated for this purpose through the budget process;

(b) an insurance scheme to be established by the Cabinet Secretary responsible for matters relating to finance; and

(c) monies from any other source approved by the Cabinet Secretary for the time being responsible for matters relating to finance; and

(2) The Wildlife Compensation Scheme shall be used for financing compensation claims for human death or injury or crop and property damage caused by wildlife.”

Clause 4 of the Bill seeks to amend section 24 (1) of the Act by substituting the word ‘Government’ with ‘Cabinet Secretary’. Additionally, to delete paragraph (a) and substitute with the a new paragraph that the Wildlife Compensation Scheme shall consist of monies specifically allocated by the National Assembly.

Clause 4- Amendment to Section 24(1) - The Wildlife Compensation Scheme

There were no stakeholder submissions to amend Clause 4.

Clause 5- Amendment to section 25 (3), (4), (5) and (6) of the Act - Compensation for personal injury or death or damage to property

Section 25 of the Act provides as follows -

“Compensation for personal injury or death or damage to property

(1) Where any person suffers any bodily injury or is killed by any wildlife listed under the Third Schedule, the person injured, or in the case of a deceased person, the

personal representative or successor or assign, may launch a claim to the County Wildlife Conservation and Compensation Committee within the jurisdiction established under this Act.

(2) The County Wildlife Conservation and Compensation Committee established under section 18 shall verify a claim made under subsection (1) and upon verification, submit the claim to the Cabinet Secretary together with its recommendations thereon.

(3) The Cabinet Secretary shall consider the recommendations made under subsection (2) and where appropriate, pay compensation to the claimant as follows—

(a) in the case of death, five million shillings;

(b) in the case of injury occasioning permanent disability, three million shillings; (c) in the case of any other injury, a maximum of two million shillings, depending on the extent of injury.

(4) Any person who suffers loss or damage to crops, livestock or other property from wildlife specified in the Seventh Schedule hereof and subject to the rules made by the Cabinet Secretary, may submit a claim to the County Wildlife Conservation and Compensation Committee who shall verify the claim and make recommendations as appropriate and submit it to the Service for due consideration.

(5) The County Wildlife Conservation and Compensation Committee shall review the claim and award and pay a compensation valued at the ruling market rates: Provided that no compensation shall be paid where the owner of the livestock, crops or other property failed to take reasonable measures to protect such crops, livestock or property from damage by wildlife or his land use practices are in compatible with the ecosystem-based management plan for the area.

(6) A person who is dissatisfied with the award of compensation by either the County Wildlife Conservation and Compensation Committee or the Service may within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal and on a second appeal to the Environment and Land Court.

(7) The Cabinet Secretary may, by notice in the Gazette, prescribe such regulations and guidelines as are necessary and appropriate to carry out the purposes of this section.”

Clause 5(a) of the Bill seeks to amend section 25 (3) of the Act which requires the Cabinet Secretary to consider recommendation made by the County Wildlife Conservation and Compensation Committee. The amendment seeks to insert a timeline of twelve (12) months for the Cabinet Secretary to settle compensation claims.

Section 25(4) of the Act provides that any person who suffers loss or damage to crops, livestock or other property from wildlife specified in the Seventh Schedule may submit a claim to the County Wildlife Conservation and Compensation Committee who shall verify the claim and make recommendations as appropriate and submit it to the Service for due consideration. Clause 5(b) of the Bill seeks to substitute the due consideration and provide that the recommendations to the Service should be for the purpose of processing the payment for compensation.

Clause 25 (5) of the Act provides that the County Wildlife Conservation and Compensation Committee shall review the claim and award and pay a compensation valued at the ruling market rates. Clause 5 (c) seeks to insert a timeline of twelve (12) months for the award and payment of compensation.

Clause 25 (6) provides for an appeal process on the decision of the County Wildlife Conservation and Compensation Committee or the Service to the National Environment Tribunal and a second appeal to the Environment and Land Court. Clause 5 (d) of the Bill seeks to amend the section to clarify that the amendment is on the decision of the County Wildlife Conservation and Compensation Committee.

Clause 6- Amendment to Section 76 (4) of the Act- Guidelines on incentives and Benefit-sharing

Section 76 of the Act provides as follows-

“Guidelines on incentives and benefit-sharing

- (1) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation, formulate guidelines regarding incentives and benefit sharing, and the nature and manner in which the same shall be distributed.*
- (2) The Cabinet Secretary shall publish in the Gazette within twenty-one days of the formulation rules and regulations to govern the regime on incentives and benefits.*
- (3) The guidelines under this section shall be subjected to public scrutiny at every stage of their formulation within the framework of the laws on devolution and land management.*
- (4) The guidelines on benefit sharing shall comply with the minimum conditions that a minimum of five per cent of the benefits from national parks shall be allocated to local communities neighbouring a park.*
- (5) Subject to Article 66 of the Constitution, private investments in conservancies shall benefit local communities and investors shall provide such benefits by applying various options including infrastructure, education and social amenities."*

Section 76 of the Wildlife Conservation and Management Act, 2013 provides for formulation of guidelines on incentives and benefit-sharing by the Cabinet Secretary upon advice by the Service and in consultation with the Commission on Revenue Allocation. Section 76(4) provides that the guidelines shall comply with the minimum conditions that a minimum of five per cent of the benefits from national parks shall be allocated to local communities neighboring a park.

Clause 6 (a) of the Bill seeks to amend the Act to enhance the benefits to local communities neighbouring or negatively affected by activities undertaken for the preservation of the protected areas which should be a minimum of five per cent from protected areas.

Clause 6(b) of the Bill further provides that determination of the minimum percentage of the benefits to be allocated to local communities under subsection (4) shall be based on the gross total revenue and fees collected with respect to the protected area.

Clause 7- Amendment to the Third Schedule- Wildlife Species in Respect of which compensation may be paid

The Third Schedule provides as follows-

WILDLIFE SPECIES IN RESPECT OF WHICH COMPENSATION MAY BE PAID

A. Death and Injury

*Elephant
Lion
Leopard
Rhino
Hyena
Crocodile
Cheetah
Buffalo*

B. Crop, livestock and property damage

*Elephant
Lion
Leopard
Rhino
Hyena
Crocodile
Cheetah
Buffalo
Hippo
Zebra
Eland
Wildebeest
Snake
Wild dog*

Clause 7 amends the Third Schedule of the Act to include “poisonous snakes, dangerous snakes, shark, stone fish, whale, sting ray, wild pig” as wildlife species in respect of which compensation may be paid in cases resulting in death and injury.

The Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 amended the Wildlife Conservation and Management Act, 2013 to delete poisonous snake, shark, stone fish, whale, sting ray and wild pig as wildlife species in respect of which compensation may be paid. The Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 was assented to on 31st December, 2018 and commenced on 18th January, 2019.

CHAPTER TWO

PUBLIC PARTICIPATION

2.0 Attendance by Stakeholders

The Committee, pursuant to Article 118 of the Constitution and standing order 140 (5) of the Senate Standing Orders, invited submissions from members of the public on the Bill via an advertisement in the Standard and Daily Nation Newspapers on 16th March, 2021.

The Committee received written submissions from —

1. The Kenya National Commission on Human Rights (KNCHR)
2. The Natural Justice- Lawyers for Communities and the Environment
3. Mr. Gilbert Odira Awuonda

2.1 Submissions from Stakeholders

Clause 2- Amend to insert section 21A of the Act-Provision of Funds for Community Wildlife Conservation Committees

The submissions by stakeholders on Clause 2 of the Bill were as follows-

- (i) Provide a mechanism for lodging complaint for non-payment within the twelve months-** The Kenyan National Commission on Human Rights (KNCHR) proposed that Clause 2 of the Bill be amended to provide a mechanism for lodging complaint for non-payment within the twelve months. The amendment will enhance enforceability of the proposed provisions.
- (ii) Clarify the phrase “adequate funds”** - The Natural Justice – Lawyers for Communities and the Environment proposed that Clause 2 of the Bill be amended to clarify the phrase “adequate funds” by substituting it with more definite terms stating

the percentage of the budget that should be dedicated to the County Wildlife Conservation and Compensation Committees.

The organization was of the view that the phrase “adequate funds” is ambiguous and may be subject to misinterpretation and sometimes provide an avenue for the abuse of discretionary powers. The clarity will promote transparency and accountability in the budgeting process, which will also help manage expectations.

- (iii) **Inclusion of paragraph (e) to Section 19 on the functions of the Community Wildlife Management Committee-** The Natural Justice – Lawyers for Communities and the Environment further proposed that the Bill be amended by inserting a further amendment to section 19 of the Principle Act to be in line with the proposed amendment to Section 21A i.e. by the inclusion of paragraph (e) to Section 19 on the functions of the Community Wildlife Management Committee to include “receiving and holding monies allocated by the Cabinet Secretary for the management of its affairs”.

The organization was of the view that with the inclusion of the new power/function for the Cabinet Secretary under the proposed section 21A , there is a corresponding need to amend Section 19 which outlines the functions of the Community Management Committees to reflect this.

- (iv) **Revert to the parent Act-** Mr. Gilbert Odira Awuonda proposed that Clause 2 of the Bill be amended to further amend the proposed new section 21A to revert to the provision originally passed by Parliament when the Bill was enacted.

Mr.Awuonda was of the view that Amendments of 2018 to the Principal Act that mutilated the original Act, 2013 that envisaged the strengthening of devolution in wildlife matters, disbanded their functions and put their running in the hands of the Provincial Administration, i.e. the Central Government and its functionaries instead of local community members where the chair had to be a locally competitively selected

person. The original section of the Act that had County Wildlife Conservation and Compensation Committees (CWCCCs) ought to be reverted to.

Clause 3- Amendment to section 23 (4) by inserting a new paragraph (fa)-The Wildlife Conservation Trust Fund

The submissions by stakeholders on Clause 3 of the Bill were as follows-

- (i) **Amend the Bill to broaden and clarify the scope of applicability and responsibility-** The Kenya National Commission on Human Rights (KNCHR) proposed that the Bill be amended in the new paragraph (fa) to read as follows—

(fa) provide support to local communities negatively affected by activities undertaken by actors, public and/or private, with respect to wildlife conservation and management.

The KNCHR was of the view that the amendment will broaden and clarify the scope of applicability and responsibility. Sometimes, the State also partners with the private sector in ensuring wildlife conservation and management. Therefore, parties to a public-private partnership in wildlife conservation and management should bear equal responsibility.

- (ii) **Representation of indigenous and local communities in the governing body responsible for overseeing and managing the Wildlife Conservation Trust Fund-** The Natural Justice – Lawyers for Communities and the Environment proposed that the Bill be amended by inserting a further amendment to section 23 (2) of the Principal Act to include a representative of indigenous and local communities in the governing body responsible for overseeing and managing the Wildlife Conservation Trust Fund.

The organization was of the view that since the clause proposes to use the Wildlife Conservation Trust Fund to support local communities negatively affected by activities undertaken with respect to wildlife conservation and management, it is important to have a representative of such communities within the governing body. This will ensure that the interests of communities, who are often owners and managers of lands where biodiversity and wildlife occur are effectively involved and engaged in the management and conservation of biodiversity.

Clause 5- Amendment to section 25 (3), (4), (5) and (6) of the Act- Compensation for personal injury or death or damage to property

The submissions by stakeholders on Clause 5 of the Bill were as follows-

- (i) **Amend the Clause to include that specific and relevant documentations and clarifications of incidence narratives by those making claims-** The Kenya National Commission on Human Rights (KNCHR) proposes that Clause 5 of the Bill be amended to insert a provision to ensure that specific and relevant documentations and clarifications of incidence narratives are provided by those making claims for compensation to reduce cases of attacks/deaths and no compensation to reduce cases of attacks/deaths and no compensation.

KNCHR was of the opinion that the amendment will reduce cases of injury/death and destruction of crops and livestock without compensation due to incoherent accounts of wildlife attacks by those injured, thereby exacerbating human-wildlife conflict.

- (ii) **Amended the Clause to obligate the State and private conservancies to take precautionary steps to stop/mitigate wild attacks on humans-** KNCHR further proposes that the Bill be amended to obligate the State and private conservancies to take clear and specific precautionary steps, including fencing, to stop/mitigate wild attacks on humans. KNCHR was of the view that clear and specific precautionary

measures by the State and private conservancies will guarantee responsibility and accountability. For far too long, wild animals have left parks and reserves on account of lack of fences thereby wreaking havoc to the surrounding communities.

Clause 6- Amendment to Section 76 (4) of the Act- Guidelines on incentives and Benefit-sharing

The submissions by stakeholders on Clause 6 of the Bill were as follows-

- (i) **Amend the Clause to include requirement for the Cabinet Secretary to consult ‘relevant stakeholders’**-The Kenya National Commission on Human Rights (KNCHR) proposed that the Bill be amended in the proposed new section 76(4) to read as follows—

(4) The Cabinet Secretary shall, in formulating the guidelines after consultations with the relevant stakeholders, ensure that the guidelines comply with the condition that a minimum of five percent of the benefits from national parks and national reserves shall be allocated to local communities neighbouring or negatively affected by activities undertaken for the preservation of the national parks.

KNCHR was of the view that as stated in Article 10 of the Constitution of Kenya, 2010, public participation and inclusivity are key national values and principles of governance. It goes against the spirit of constitutionalism to have the Cabinet Secretary formulates such guidelines on his/her own without the input of relevant stakeholders.

- (ii) **Amend the Clause to increase of the minimum percentage of benefits allocated to local communities**- The Natural Justice – Lawyers for Communities and the Environment proposed that the Bill be amended to increase of the minimum percentage of benefits allocated to local communities. Kenya’s laws on benefit sharing are fragmented, with some sector specific laws prescribing the benefit sharing ratios

between the national and county governments on one hand and local communities on the other hand.

It is important to ensure that communities, who bear the greatest burden from the impacts of resources exploitation, obtain equitable benefits from resources found within their territories. The basis upon which and the rationale for placing benefit sharing at the 5% rate remains unclear.

- (iii) **Specific provisions for other non-monetary forms of benefits** -The Natural Justice – Lawyers for Communities and the Environment further proposed that the Bill should also make specific provisions for other non-monetary forms of benefits which will bring longer-term benefits to communities such as community trainings and capacity building on access and benefit sharing aspects of wildlife conservation and management. Good and fair practice also dictates that benefits should not only be viewed in terms of monetary rewards but rather incorporate other non-monetary forms of compensation which can have longer-term positive impacts on the community.

Clause 7- Amendment to the Third Schedule- Wildlife Species in Respect of which compensation may be paid

Amendment to Part A of the Third Schedule- Kenya National Commission on Human Rights (KNCHR) noted that most of the animals proposed already exist in the Principal Act and proposed that the Bill be amended in clause 7 to read as follows—

7. The Third Schedule to the principal Act is amended in Part A by inserting the words “dangerous snakes, wild dog” immediately after the word “wild pig”.

General Proposal

Amend the Principal Act further to do away with amendment made under the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018- Mr. Gilbert Odira Awuonda proposed that the Bill be amended to further amend Principal Act to do away with some of the

amendments in the Miscellaneous Amendments of 2018, e.g. such as those repealing parts of sections 18 and 19 of the original Act.

Mr. Awuonda was of the view that the amendments of 2018 to the Principal Act that mutilated the original Act, 2013 that envisaged the strengthening of devolution in wildlife matters, disbanded their functions and put their running in the hands of the Provincial Administration, i.e. the Central Government and its functionaries instead of local community members where the chair had to be a locally competitively selected person.

The Committee considered the proposal by Mr. Gilbert Odira Awuonda amended to further amend Principal Act to do away with some of the amendments in the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018. The Committee observed that the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018, which amended the Principal Act, was declared unconstitutional thus null and void by the High Court in Constitutional Petition No. 284 of 2019 (*The Senate of the Republic of Kenya & 4 Others v The Speaker of the National Assembly & Another*).

The Committee further observed that notwithstanding the fact that the High Court decision has been challenged in the Court of Appeal, a decision is yet to be rendered by the Court of Appeal and it will therefore be premature to amend the principal Act without taking into account the effect of the said High Court decision. As it stands, the amendments to the Principal Act contained in the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 will be null and void by 30th July, 2021 and the amendment proposed will therefore not be necessary.

CHAPTER THREE

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.0 OBSERVATIONS

The Committee made the following observations in line with the submissions from the different stakeholders –

Clause 2- Amend to insert section 21A of the Act-Provision of Funds for Community Wildlife Conservation Committees

The submissions by stakeholders on Clause 2 of the Bill were as follows-

(i) Proposal to provide mechanism for lodging complaint for non-payment within the twelve months

The Committee noted that the Kenya National Commission on Human Rights proposed that the Bill be amended to provide a mechanism for lodging complaint for non-payment within the twelve months to enhance enforceability of the proposed provisions. However, the Committee observed that the provisions of the Bill and the Principal Act are sufficient.

The Committee observed that non-compliance of the timelines by the Cabinet Secretary will be in breach of statute and may be addressed by Court. Further, that a person dissatisfied with the timely actions of the Cabinet Secretary in accordance with the proposed clause would be at liberty to lodge a complaint to the Commission of Administrative Justice. The proposal was therefore rejected.

(ii) Proposal to clarify the phrase “adequate funds”

The Committee noted the proposal by the Natural Justice – Lawyers for Communities and the Environment to further clarify the phrase ‘adequate funds’. The Committee however observed that the provisions of the Bill are sufficient. The term “adequate” is not ambiguous and

suffices for the purposes of the provision. The Bill cannot stipulate a percentage of budget as this would be too prescriptive and premature noting the changes in budget amounts.

(iii) Inclusion of paragraph (e) to Section 19 on the functions of the Community Wildlife Management Committee

The Committee considered the proposal by the Natural Justice – Lawyers for Communities and the Environment to amend Section 19 which outlines the functions of the Community Management Committees to include “receiving and holding monies allocated by the Cabinet Secretary for the management of its affairs” to correspond with the insertion of the new Clause 21A.

The Committee however observed that it was not necessary to include a function for the Community Wildlife Conservation Committees as the act of “receiving and holding funds” is not, strictly speaking, a function. The funds facilitate the carrying out of the functions of the committees. In any event, the proposed section 21A makes provisions on the County Wildlife Conservation and Compensation Committee and not Community Wildlife Conservation Committees.

(iv) Proposal to revert to the previous amendment

The Committee noted the proposal by Mr. Gilbert Odira Awuonda that Clause 2 of the Bill be amended to further amend the proposed new section 21A to revert to the provision originally passed by Parliament when the Bill was enacted.

However, the Committee observed that the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018, which amended the Principal Act, was declared unconstitutional thus null and void by the High Court in Constitutional Petition No. 284 of 2019 (*The Senate of the Republic of Kenya & 4 Others v The Speaker of the National Assembly & Another*).

The Committee further observed that notwithstanding the fact that the High Court decision has been challenged in the Court of Appeal, a decision is yet to be rendered by the Court of

Appeal and it would therefore be premature to amend the principal Act without taking into account the effect of the pending Court of Appeal decision. As it stands, the amendments to the Principal Act contained in the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 will be null and void by 30th July, 2021 and the amendment proposed will therefore not be necessary.

Clause 3- Amendment to section 23 (4) of the Act by inserting a new paragraph (fa)-The Wildlife Conservation Trust Fund

The submissions by stakeholders on Clause 3 of the Bill were as follows -

(i) Proposal to broaden and clarify the scope of applicability and responsibility

The Committee noted the proposals from the Kenyan National Commission on Human Rights (KNCHR) to amend Clause 3 to broaden and clarify the scope of applicability and responsibility to include ‘actors, public and/or private’. However, the Committee observed that provisions of the Bill are sufficient and that the proposed amendment does not add any value to the Bill. The proposal was therefore rejected.

(ii) Representation of indigenous and local communities in the governing body responsible for overseeing and managing the Wildlife Conservation Trust Fund

The Committee noted the proposal by the Natural Justice – Lawyers for Communities and the Environment to amend section 23(2) of the Act to include a representative of indigenous and local communities in the governing body responsible for overseeing and managing the Wildlife Conservation Trust Fund. However, the Committee observed that it may not be feasible to add a representative of all indigenous and local communities in the membership of the governing body of the Wildlife Conservation Trust Fund. For instance, the process of identifying a representative from diverse communities in Kenyan would be a challenge.

The Committee however noted that County Governments are well- placed to represent the views and interests of local Communities in the Wildlife Conservation Fund. The Committee

therefore proposes that the Bill be amended to include a representative of county governments among the persons appointed to the membership of the governing body of the Wildlife Conservation Trust Fund under section 23(2)(e) of the Wildlife Conservation and Management Act.

Clause 5- Amendment to section 25 (3), (4), (5) and (6) of the Act- Compensation for personal injury or death or damage to property

The submissions by stakeholders on Clause 5 of the Bill were as follows-

(i) Proposal to include that specific and relevant documentations and clarifications of incidence narratives by those making claims

The Committee noted the proposals by KNCHR to amend the Clause to insert a provision to ensure that specific and relevant documentations and clarifications of incidence narratives are provided by those making claims.

However, the Committee observed that the provisions of the Bill are sufficient. The County Wildlife Conservation and Compensation Committee should be accorded the opportunity to determine the validity of claims. In any event, section 25(3) of the principal Act allows the Cabinet Secretary responsible for wildlife to prescribe any necessary and appropriate regulations and guidelines to effect compensation for personal injury or death or damage to property occasioned by wildlife. The proposal was therefore rejected.

(ii) Proposal to obligate the State and private conservancies to take precautionary steps to stop/mitigate wild attacks on humans

The Committee considered the proposal by KNCHR to obligate the State and private conservancies to take clear and specific precautionary steps, including fencing, to stop or mitigate wild attacks on humans.

The Committee observed that the obligations of the State and private conservancies to protect communities and their livelihoods is inherent and fundamental in the Principal Act and does not need to be reiterated by the Bill.

Clause 6- Amendment to Section 76 (4) of the Act- Guidelines on incentives and Benefit-sharing

The submissions by stakeholders on Clause 6 of the Bill were as follows-

(i) Proposal to include requirement for the Cabinet Secretary to consult ‘relevant stakeholders’

The Committee noted a proposal by KNCHR to amend the Clause to include a requirement for the Cabinet Secretary to consult ‘relevant stakeholders’. However, the Committee observed that the provisions of the Bill are sufficient. The requirement for public participation is well entrenched in the Constitution and is therefore not necessary in the provision. In any event, consultation with “relevant stakeholders” narrows the public participation exercise to a few identified “stakeholders”.

Additionally, Regulations are scrutinised by the Committee on Delegated Legislation which has a mandate to ascertain whether public participation has been undertaken. The proposal was therefore rejected.

(ii) Proposal to increase the minimum percentage of benefits allocated to local communities and include other non-monetary forms of benefits

The Committee considered proposal by The Natural Justice – Lawyers for Communities and the Environment to amend the Clause to increase the minimum percentage of benefits allocated to local communities. The Committee further considered the proposal to include specific provisions for other non-monetary forms of benefits.

The Committee observed that the provisions of the Bill are sufficient. The five percent benefit to the local community is adequate. In any event, an increase of the percentage may subject the Bill to Constitutional conditions and/or debate as a money Bill. The proposal was therefore rejected.

Clause 7- Amendment to the Third Schedule of the Act- Wildlife Species in Respect of which compensation may be paid

Amendment to Part A of the Third Schedule

The Committee considered the proposal by KNCHR to amend Part A of the Third Schedule to add “*dangerous snakes, wild dog*” noting that the animals proposed in the Bill already exist. However, the Committee observed that the animals proposed to be included in Part A of the Third Schedule to the Principal Act do not “already exist” in the Act. The similarities are in Part B of the Schedule. The amendment contained in the Bill is therefore proper and sufficient and ought to remain as is.

General Proposal

Amend the Principal Act further to do away with amendment made under the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018

The Committee considered the proposal by Mr. Gilbert Odira Awuonda to further amend the Principal Act to do away with some of the amendments in the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018. The Committee observed that the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018, which amended the Principal Act, was declared unconstitutional thus null and void by the High Court in Constitutional Petition No. 284 of 2019 (*The Senate of the Republic of Kenya & 4 Others v The Speaker of the National Assembly & Another*).

The Committee further observed that the High Court decision has been challenged in the Court of Appeal and that a decision is yet to be rendered by the Court of Appeal thus it would be premature to amend the principal Act without taking into account the effect of the said High

Court decision. As it stands, the amendments to the Principal Act contained in the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 will be null and void by 30th July, 2021 and the amendment proposed will therefore not be necessary.

3.1 RECOMMENDATIONS

The Committee therefore makes the following recommendations on the Bill and proposes to make the following amendments to the Bill -

1. Clause 2- *Amend to insert section 21A of the Act on Provision of Funds for Community Wildlife Conservation Committees*

The Committee recommends that Clause 2 be retained as proposed in the Bill.

2. Clause 3- *Amendment to section 23 (4) of the Act by inserting a new paragraph (a) on the Wildlife Conservation Trust Fund*

The Committee recommends that the Bill be amended to include a representative of county governments among the persons appointed to the membership of the governing body of the Wildlife Conservation Trust Fund under section 23(2)(e) of the Wildlife Conservation and Management Act.

3. Clause 4- *Amendment of Section 24(1) of the Act on the Wildlife Compensation Scheme*

The Committee recommends that Clause 4 be retained as proposed in the Bill.

4. Clause 5- *Amendment to section 25 (3), (4), (5) and (6) of the Act on Compensation for personal injury or death or damage to property*

The Committee recommends that Clause 5 be retained as proposed in the Bill.

5. Clause 6- *Amendment to Section 76 (4) of the Act on Guidelines on incentives and Benefit-sharing*

The Committee recommends that Clause 6 be retained as proposed in the Bill.

6. Clause 7- *Amendment to the Third Schedule of the Act on Wildlife Species in respect of which compensation may be paid*

The Committee recommends that Clause 7 be retained as proposed in the Bill.

APPENDICES

Annex I: Minutes of the meetings

Annex II: Amendments

Annex III: Newspaper Advert

ANNEX I

MINUTES OF THE 21ST SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 8TH APRIL, 2021 VIA ZOOM ONLINE PLATFORM AT 10.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Mwaruma Johnes, MP
3. Sen. Sylvia Kasanga, MP
4. Sen. Ndwiga Peter Njeru, EGH, MP

PRESENT

- **Chairperson**
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Boy Issa Juma, MP
5. Sen. (Dr.) Lelegwe Ltumbesi, MP

- **Vice Chairperson**
- Member
- Member
- Member
- Member

IN ATTENDANCE

SECRETARIAT

- | | |
|-------------------------|---------------------------|
| 1. Ms. Veronicah Kibati | - Clerk Assistant |
| 2. Mr. Victor Bett | - Clerk Assistant |
| 3. Mr. Mitchell Otoro | - Legal Counsel |
| 4. Ms. Clare Kidombo | - Research Officer |
| 5. Mr. Wilson Bosmet | - Serjeant-At-Arms |
| 6. Ms. Lucianne Limo | - Media Relations Officer |
| 7. Mr. James Kimiti | - Audio Recording Officer |

MINUTE SEN/SCLENR/112/2021: PRELIMINARIES

The meeting was called to order at 11.21 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/113/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Sylvia Kasanga, MP and seconded by Sen. Ndwiga Peter Njeru, MP as follows –

1. Preliminaries – *Prayer*
2. Adoption of the Agenda
3. Confirmation of Minutes of Previous Sitzings;
4. **Consideration of stakeholder submissions on the Wildlife Conservation and Management (Amendment) Bill, Senate Bills No. 30 of 2020.**
 - Presentation by the Legal Counsel
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/114/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The confirmation of Minutes was deferred to the next housekeeping meeting.

MINUTE SEN/SCLENR/115/2021: CONSIDERATION OF STAKEHOLDER SUBMISSIONS ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, SENATE BILLS NO. 30 OF 2020

The Committee considered the Stakeholder Matrix as presented by the Committee Legal Counsel and resolved as follows;

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
2	Kenya National Commissi on on Human Rights	The Bill be amended to provide a mechanism for lodging complaint for non-payment within the twelve months.	The amendment will enhance enforceability of the proposed provisions.	<u>Proposal rejected</u> The provisions of the Bill and the Principal Act are sufficient. Non-compliance of the timelines by the Cabinet Secretary will be in breach of statute and may be addressed by Court. In any event, a person dissatisfied with the timely actions of the Cabinet Secretary in accordance with the proposed clause would be at liberty to lodge a complaint to the Commission on Administrative Justice.

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
	Natural Justice – Lawyers for Communities and the Environment	<p>1) The Bill be amended to clarify the phrase “adequate funds” by substituting it with more definite terms stating the percentage of the budget that should be dedicated to the County Wildlife Conservation and Compensation Committees.</p> <p>2) The Bill be amended by inserting a further amendment to section 19 of the Principle Act to be in line with the proposed amendment to Section 21A i.e. by the inclusion of paragraph (e) to Section 19 on the functions of the Community wildlife management committee to</p>	<p>1) The phrase “adequate funds” is ambiguous and may be subject to misinterpretation and sometimes provide an avenue for the abuse of discretionary powers. The clarity will promote transparency and accountability in the budgeting process, which will also help manage expectations.</p> <p>2) The Bill proposes the inclusion of Section 21A which provides for allocation of adequate funds by the Cabinet Secretary to the community wildlife management committee for management of its affairs. With the inclusion of this new power/function, there is a corresponding need to amend Section 19 which outlines the functions of the community management committees to reflect this.</p>	<p><u>Proposals rejected</u></p> <p>The provisions of the Bill are sufficient. The term “adequate” is not ambiguous and suffices for the purposes of the provision.</p> <p>The Bill cannot stipulate a percentage of budget as this would be too prescriptive and premature noting the changes in budget amounts.</p> <p>It is further not necessary to include a function for the Community Wildlife Conservation Committees as the act of “receiving and holding funds” is not, strictly speaking a function. The funds facilitate the carrying out of the functions of the committees. In any event, the proposed section 21A makes provisions on the County Wildlife Conservation and Compensation Committee and not Community Wildlife Conservation Committees.</p>

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
		include “receiving and holding monies allocated by the Cabinet Secretary for the management of its affairs”.		
	Gilbert Odira Awuonda	The Bill be amended to further amend the proposed new section 21A to revert to the provision originally passed by Parliament when the Bill was enacted.	Amendments of 2018 to the Principal Act that mutilated the original Act, 2013 that envisaged the strengthening of devolution in wildlife matters, disbanded their functions and put their running in the hands of the Provincial Administration, i.e. the Central Government and its functionaries instead of local community members where the chair had to be a locally competitively selected person. The original section of the Act that had County Wildlife Conservation and Compensation Committees (CWCCCs) ought to be reverted to.	<p><u>Proposal rejected</u></p> <p>The Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018, which amended the Principal Act, was declared unconstitutional thus null and void by the High Court in Constitutional Petition No. 284 of 2019 (The Senate of the Republic of Kenya & 4 Others v The Speaker of the National Assembly & Another).</p> <p>Notwithstanding the fact that the High Court decision has been challenged in the Court of Appeal, a decision is yet to be rendered by the Court of Appeal and it will therefore be premature to amend the principal Act without taking into account the effect of the said High Court decision.</p> <p>As it stands, the amendments to the Principal Act contained in the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 will be null and void by 30th July, 2021 and the amendment</p>

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
				proposed will therefore not be necessary.
3	Kenya National Commission on Human Rights	<p>The Bill be amended in the new paragraph (fa) to read as follows—</p> <p><i>(fa) provide support to local communities negatively affected by activities undertaken by actors, public and/or private, with respect to wildlife conservation and management.</i></p>	<p>The amendment will broaden and clarify the scope of applicability and responsibility.</p> <p>Sometimes, the State also partners with the private sector in ensuring wildlife conservation and management. Therefore, parties to a public-private partnership in wildlife conservation and management should bear equal responsibility.</p>	<p><u>Proposal rejected</u></p> <p>The provisions of the Bill are sufficient. The proposed amendment does not add any value to the Bill.</p>
	Natural Justice – Lawyers for Communities and the Environment	<p>The Bill be amended by inserting a further amendment to section 23 (2) of the Principal Act to include a representative of indigenous and local communities in the governing body responsible for overseeing and managing the Wildlife Conservation Trust Fund.</p>	<p>Since the clause proposes to use the Wildlife Conservation Trust Fund to support local communities negatively affected by activities undertaken with respect to wildlife conservation and management, it is important to have a representative of such communities within the governing body.</p> <p>This will ensure that the interests of communities, who are</p>	<p><u>Proposal accepted with amendment</u></p> <p>It may not be feasible to add a representative of all indigenous and local communities in the membership of the governing body of the Wildlife Conservation Trust Fund. For instance, how would such a person be identified.</p> <p>The Bill be amended to include a representative of county governments among the persons appointed to the membership of the governing body of the Wildlife</p>

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
			often owners and managers of lands where biodiversity and wildlife occur are effectively involved and engaged in the management and conservation of biodiversity.	Conservation Trust Fund under section 23(2)(e) of the Wildlife Conservation and Management Act.
5	Kenya National Commission on Human Rights	<p>The Bill be amended to—</p> <p>(a) insert a provision to ensure that specific and relevant documentations and clarifications of incidence narratives are provided by those making claims for compensation to reduce cases of attacks/deaths and no compensation.</p> <p>(b) obligate the State and private conservancies to take clear and specific precautionary steps, including fencing, to</p>	<p>(a) The amendment will reduce cases of injury/death and destruction of crops and livestock without compensation due to incoherent accounts of wildlife attacks by those injured, thereby exacerbating human-wildlife conflict.</p> <p>(b) Clear and specific precautionary measures by the State and private conservancies will guarantee responsibility and accountability. For far too long, wild animals have left parks and reserves on account of lack of fences thereby wreaking havoc to the surrounding communities.</p>	<p><u>Proposal rejected</u></p> <p>The provisions of the Bill are sufficient. The County Wildlife Conservation and Compensation Committee should be accorded the opportunity to determine the validity of claims. In any event, section 25(3) of the principal Act allows the Cabinet Secretary responsible for wildlife to prescribe any necessary and appropriate regulations and guidelines to effect compensation for personal injury or death or damage to property occasioned by wildlife.</p> <p>The obligations of the State and private conservancies to protect communities and their livelihoods is inherent and fundamental in the Principal Act and does not need to be reiterated by the Bill.</p>

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
		stop/mitigate wild attacks on humans.		
6	Kenya National Commission on Human Rights	<p>The Bill be amended in the proposed new section 76(4) to read as follows—</p> <p><i>(4) The Cabinet Secretary shall, in formulating the guidelines after consultations with the relevant stakeholders, ensure that the guidelines comply with the condition that a minimum of five percent of the benefits from national parks and national reserves shall be allocated to local communities neighbouring or negatively affected by activities undertaken for the preservation of the national parks.</i></p>	As stated in Article 10 of the Constitution of Kenya, 2010, public participation and inclusivity are key national values and principles of governance. It goes against the spirit of constitutionalism to have the Cabinet Secretary formulates such guidelines on his/her own without the input of relevant stakeholders.	<p><u>Proposal rejected</u></p> <p>The provisions of the Bill are sufficient. The requirement for public participation is well entrenched in the Constitution and is therefore not necessary in the provision. In any event, consultation with “relevant stakeholders” narrows the public participation exercise to a few identified “stakeholders”.</p>
	Natural Justice –	1) The Bill be amended to	Kenya’s laws on benefit sharing are fragmented,	<p><u>Proposal rejected</u></p> <p>The provisions of the Bill are</p>

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
	Lawyers for Communities and the Environment	<p>increase of the minimum percentage of benefits allocated to local communities.</p> <p>2) The Bill should also make specific provisions for other non-monetary forms of benefits which will bring longer-term benefits to communities such as community trainings and capacity building on access and benefit sharing aspects of wildlife conservation and management.</p>	<p>with some sector specific laws prescribing the benefit sharing ratios between the national and county governments on one hand and local communities on the other hand.</p> <p>It is important to ensure that communities, who bear the greatest burden from the impacts of resources exploitation, obtain equitable benefits from resources found within their territories.</p> <p>The basis upon which and the rationale for placing benefit sharing at the 5% rate remains unclear. Good and fair practice also dictates that benefits should not only be viewed in terms of monetary rewards but rather incorporate other non-monetary forms of compensation which can have longer-term positive impacts on the community.</p>	sufficient. The five percent benefit is adequate. In any event, an increase of the percentage may subject the Bill to Constitutional conditions/debate of a money Bill.
7	Kenya National Commission on Human Rights	<p>The Bill be amended in clause 7 to read as follows—</p> <p>7. <i>The Third</i></p>	Most of the animals proposed already exist in the Principal Act.	<p><u>Proposal rejected</u></p> <p>The animals proposed to be included in Part A of the Third Schedule to the Principal Act do not “already exist” in the Act.</p>

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
		<i>Schedule to the principal Act is amended in Part A by inserting the words “dangerous snakes, wild dog” immediately after the word “wild pig”.</i>		The similarities are in Part B of the Schedule. The amendment contained in the Bill is therefore proper and sufficient and ought to remain as is.
General	Gilbert Odira Awuonda	The Bill be amended to further amend Principal Act to do away with some of the amendments in the Miscellaneous Amendments of 2018, e.g. such as those repealing parts of sections 18 and 19 of the original Act.	Amendments of 2018 to the Principal Act that mutilated the original Act, 2013 that envisaged the strengthening of devolution in wildlife matters, disbanded their functions and put their running in the hands of the Provincial Administration, i.e. the Central Government and its functionaries instead of local community members where the chair had to be a locally competitively selected person.	<p><u>Proposal rejected</u></p> <p>The Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018, which amended the Principal Act, was declared unconstitutional thus null and void by the High Court in Constitutional Petition No. 284 of 2019 (The Senate of the Republic of Kenya & 4 Others v The Speaker of the National Assembly & Another).</p> <p>Notwithstanding the fact that the High Court decision has been challenged in the Court of Appeal, a decision is yet to be rendered by the Court of Appeal and it will therefore be premature to amend the principal Act without taking into account the effect of the said High Court decision.</p> <p>As it stands, the amendments to the Principal Act contained in the Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 will be null and void by 30th</p>

CLA USE	STAKEH OLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
				July, 2021 and the amendment proposed will therefore not be necessary.

MINUTE SEN/SCLENR/116/2021: ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/SCLENR/117/2021: DATE OF NEXT MEETING

The meeting was adjourned at 11.12 am and the date of the next meeting was to be held on thereafter.

Signed: 

Date: 7 /5/2021

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

**MINUTES OF THE 23RD SITTING OF THE SENATE STANDING COMMITTEE
ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON
FRIDAY, 7TH MAY, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.**

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. (Dr.) Lelegwe Ltumbesi, MP
5. Sen. Boy Issa Juma, MP
6. Sen. Mwaruma Johnes, MP
7. Sen. Sylvia Kasanga, MP

PRESENT

- **Chairperson**
- **Vice Chairperson**
- Member
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Ndwiga Peter Njeru, EGH, MP
 2. Sen. George Khaniri, MGH, MP
- Member
 - Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett
 2. Mr. Mitchell Otoro
 3. Mr. James Kimiti
- Clerk Assistant
 - Legal Counsel
 - Audio Recording

MINUTE SEN/SCLENR/124/2021: PRELIMINARIES

The meeting was called to order at 11.04 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/125/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Sylvia Kasanga, MP and seconded by Sen. Boy Issa Juma, MP as follows –

1. Preliminaries – *Prayer*
2. Adoption of the Agenda
3. Confirmation of Minutes of Previous Sitzings;
4. **Consideration and adoption of the Committee Report on the Wildlife Conservation and Management (Amendment) Bill, Senate Bills No. 30 of 2020.**
5. Any other Business;

6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/126/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Minutes of the 21st sitting held on 8th April, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Sylvia Kasanga, MP and seconded by Sen. Mwaruma Johnes, MP respectively.

MINUTE SEN/SCLENR/127/2021: CONSIDERATION AND ADOPTION OF THE COMMITTEE REPORT ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, SENATE BILLS NO. 30 OF 2020

The Committee therefore makes and adopts the following recommendations on the Bill and proposes to make the following amendments to the Bill -

1. **Clause 2- *Amend to insert section 21A of the Act on Provision of Funds for Community Wildlife Conservation Committees***

The Committee recommends that Clause 2 be retained as proposed in the Bill.

2. **Clause 3- *Amendment to section 23 (4) of the Act by inserting a new paragraph (a) on the Wildlife Conservation Trust Fund***

The Committee recommends that the Bill be amended to include a representative of county governments among the persons appointed to the membership of the governing body of the Wildlife Conservation Trust Fund under section 23(2)(e) of the Wildlife Conservation and Management Act.

3. **Clause 4- *Amendment of Section 24(1) of the Act on the Wildlife Compensation Scheme***

The Committee recommends that Clause 4 be retained as proposed in the Bill.

4. **Clause 5- *Amendment to section 25 (3), (4), (5) and (6) of the Act on Compensation for personal injury or death or damage to property***

The Committee recommends that Clause 5 be retained as proposed in the Bill.

5. **Clause 6- *Amendment to Section 76 (4) of the Act on Guidelines on incentives and Benefit-sharing***

The Committee recommends that Clause 6 be retained as proposed in the Bill.

6. **Clause 7- *Amendment to the Third Schedule of the Act on Wildlife Species in respect of which compensation may be paid***

The Committee recommends that Clause 7 be retained as proposed in the Bill.

NOW THEREFORE;

CLAUSE 3

THAT the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

Amendment of
section 23 of
No. 47 of 2013.

3. Section 23 of the principal Act is amended —

- (a) in subsection (2) by inserting the words “and one of whom shall be nominated by the council of county governors” immediately after the words “wildlife conservancy body” appearing in paragraph (e); and
- (b) in subsection (4) by inserting the following new paragraph immediately after paragraph (f)—
 - (fa) provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management;

The Report of the Committee on the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020) was therefore adopted after having been proposed and seconded by Sen. Sylvia Kasanga, MP and Sen. Mwaruma Johnes, MP respectively.

MINUTE SEN/SCLENR/128/2021: ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/SCLENR/129/2021: DATE OF NEXT MEETING

The meeting was adjourned at 11.30 am and the date of the next meeting was to be held on thereafter.

Signed:



Date: 7/5 /2021

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

ANNEX II

15th April, 2021

The Clerk of the Senate

Parliament Buildings

NAIROBI

RE: COMMITTEE STAGE AMENDMENTS TO THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 30 OF 2020)

NOTICE is given that Sen. Paul Mwangi Githiomi, the Chairperson to the Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Wildlife Conservation and Management (Amendment) Bill, Senate Bills No. 30 of 2020, at the Committee Stage—

CLAUSE 3

THAT the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

Amendment of
section 23 of
No. 47 of 2013.

3. Section 23 of the principal Act is amended —

- (a) in subsection (2) by inserting the words “and one of whom shall be nominated by the council of county governors” immediately after the words “wildlife conservancy body” appearing in paragraph (e); and
- (b) in subsection (4) by inserting the following new paragraph immediately after paragraph (f)—
 - (fa) provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management;



.....
Sen. Mwangi Paul Githiomi, MP,
Chairperson,
Committee on Land, Environment and Natural Resources.

ANNEX III

REPUBLIC OF KENYA



TWELFTH PARLIAMENT | FIFTH SESSION THE SENATE

INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA

At the sitting of the Senate held on Thursday, 4th March, 2021, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 140 (5) of the Standing Orders of the Senate, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The Memoranda may be sent **by email** on the address: csenate@parliament.go.ke and copied to the respective Committee email addresses indicated at the fourth column below, to be received on or before **Wednesday, 31st March, 2021 at 5.00pm**.

	Bill	Committee Referred To	Email Address
a)	The Mental Health (Amendment) Bill (Senate Bills No. 28 of 2020)	Standing Committee on Health	senatekehealth@gmail.com
b)	The Persons with Disabilities (Amendment) Bill (Senate Bill No. 29 of 2020)	Standing Committee on Labour and Social Welfare	senatecommittee.labour@parliament.go.ke
c)	The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020)	Standing Committee on Land, Environment and Natural Resources	senlandenviron@gmail.com
d)	The Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 31 of 2020)	Standing Committee on Finance and Budget	scfinanceandbudget@gmail.com
e)	The County Licensing (Uniform Procedures) Bill (Senate Bills No. 32 of 2020)	Standing Committee on Tourism, Trade and Industrialization	senatetourismandtrade@gmail.com
f)	The Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No. 33 of 2020)	Standing Committee on Justice, Legal Affairs and Human Rights	senatejlahrc@gmail.com
g)	The Community Health Services Bill (Senate Bills No. 34 of 2020)	Standing Committee on Health	senatekehealth@gmail.com
h)	The Political Parties Primaries Bill (Senate Bills No. 35 of 2020)	Standing Committee on Justice, Legal Affairs and Human Rights	senatejlahrc@gmail.com

The Bills may be found on the Parliament website at <http://www.parliament.go.ke/the-senate/senate-bills>.

**J.M. NYEGENYE, CBS,
CLERK OF THE SENATE.**

COPY OF THE BILL

REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 30 of 2020)



**THE WILDLIFE CONSERVATION AND
MANAGEMENT (AMENDMENT) BILL, 2020**

(A Bill published in the Kenya *Gazette* Supplement No. 217 of 4th December, 2020 and passed
by the Senate, with amendments, on 5th August, 2021.)

**THE WILDLIFE CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL, 2020**

A Bill for

**AN ACT of Parliament to amend the Wildlife Conservation and
Management Act; and for connected purposes.**

ENACTED by the Parliament of Kenya, as follows —

Short title.

1. This Act may be cited as the Wildlife Conservation and Management (Amendment) Act, 2020.

Insertion of
section 21A in
No. 47 of 2013.

2. The Wildlife Conservation and Management Act, in this Act referred to as “the principal Act”, is amended by inserting the following new section immediately after section 21 —

Provision of
funds for
Community
Wildlife
Conservation
Committees.

21A (1) The Cabinet Secretary shall, as the case may be and in each financial year, provide adequate funds for the management of the affairs of each Community Wildlife Conservation Committee.

(2) The Cabinet Secretary shall, where no appeal has been lodged under this Act, ensure that compensation required to be paid under this Act is undertaken within twelve months of a determination of the respective Community Wildlife Conservation Committee.

Amendment of
section 23 of No.
47 of 2013.

3. Section 23 of the principal Act is amended —

- (a) in subsection (2) by inserting the words “and one of whom shall be nominated by the council of county governors” immediately after the words “wildlife conservancy body” appearing in paragraph (e); and
- (b) in subsection (4) by inserting the following new paragraph immediately after paragraph (f)—
 - (fa) provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management.

Amendment of
section 24 of No.
47 of 2013.

4. Section 24 of the principal Act is amended in subsection (1) by —

- (i) deleting the word “Government” appearing in the introductory clause and substituting therefor the words “Cabinet Secretary”;
- (ii) deleting paragraph (a) and substituting therefor the following new paragraph —
 - (a) monies annually allocated for this purpose by the National Assembly;

Amendment of
section 25 of No.
47 of 2013.

5. Section 25 of the principal Act is amended —

- (a) in subsection (3) by inserting the words “within twelve months of the recommendations” immediately after the words “and where appropriate” in the introductory clause;
- (b) in subsection (4) by deleting the words “due consideration” appearing immediately after the words “the service for” and substituting therefor the words “the purpose of processing the payment for compensation”;
- (c) in subsection (5) by inserting the words “within twelve months” immediately after the words “award and pay” in the introductory clause; and
- (d) in subsection (6) by —
 - (i) deleting the word “either” appearing immediately after the words “of compensation by”; and
 - (ii) deleting the words “or the Service” appearing immediately after the words “and Compensation Committee”.

Amendment of
section 76 of No.
47 of 2013.

6. Section 76 of the principal Act is amended —

- (a) by deleting subsection (4) and substituting therefor the following new subsection —
 - (4) The Cabinet Secretary shall, in formulating the guidelines, ensure that the guidelines comply with the condition that a minimum of five percent of the benefits from national parks and national reserves shall be allocated to local communities

Wildlife Conservation and Management (Amendment) Bill, 2020

neighbouring or negatively affected by activities undertaken for the preservation of the national parks.

- (b) by inserting the following new subsection immediately after subsection (4) —

(4A) The determination of the minimum percentage of the benefits to be allocated to local communities under subsection (4) shall be based on the gross total revenue and fees collected with respect to the protected area.

Amendment of
the Third
Schedule to No.
47 of 2013.

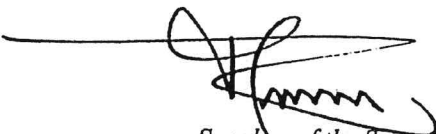
7. The Third Schedule to the principal Act is amended in Part A by inserting the words “poisonous snakes, dangerous snakes, shark, stone fish, whale, sting ray, wild pig” immediately after the word “buffalo”.

Wildlife Conservation and Management (Amendment) Bill, 2020

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 5th August, 2021.


Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 156 of the Senate Standing Orders.


Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE

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