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MINISTRY OF NATURAL RESOURCES AND TOURISM

WILDLIFE DIVISION
COMMUNITY BASED CONSERVATION TRAINING CENTER (CBCTC)
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TOOLKIT AND GUIDE ON WILDLIFE POLICIES, LAWS AND REGULATIONS IN TANZANIA



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INTRODUCTION

1.0 Background

It is undeniable that the wildlife sector brings little revenue compared to its potential as most of the revenue goes uncollected and unremitted to the government and the community. Although hunting blocks are established on village lands majority of them operate without the consultation and authorization of villagers resulting into violation of village land rights and mandates vested to Village Councils.

It has also been noted that the general wildlife policy and legal frame work is ill-defined with the unique feature of multiplicity of laws and institutions charged with management of wildlife resources. For instance, the Wildlife Conservation Act confers jurisdiction on the management of wildlife resources outside national parks and Ngorongoro Conservation Area to the Wildlife Department and newly created Tanzania Wildlife Authority (TAWA). Village governments, which enjoy natural resources management powers in their respective villages, are largely ignored by the Wildlife Division, TAWA, and even TANAPA. The Wildlife Department creates hunting blocks on village lands and in areas bordering national parks, undermining the authority of village assemblies and also the integrity of national parks which contribute to wildlife conflicts.

It remains clear that despite its infinite potential to contribute to the national economy and villagers' efforts in fighting poverty the wildlife sector has been plagued with insufficient resources to finance management and protection of wildlife resources. Lack of financial resources goes in tandem with lack of human resources as wildlife management institutions are understaffed and are lacking in certain capacities including law enforcement and holistic wildlife management. Also, most of the wildlife officers lack legal training on wildlife laws and their interface with criminal law and effective prosecution of wildlife crimes.

The involvement of local communities in wildlife management through creation of Wildlife Management Areas (WMAs) which was lauded as a new mechanism in wildlife management bears mixed results. Some considers it a success while others see it as failure. These mixed results are largely contributed by inadequate participation of village governments and villagers in wildlife conservation due to lack of adequate knowledge regarding their wildlife resources rights and mandates under the Village Land Act, Local Government District Authorities Act, Land Use Planning Act, and the Environmental Management Act, to mention but a few.

One of the problems that challenge the conservation of wildlife in Tanzania begins at the community level whereby villagers and the WMA managers fall into conflicts as a result of inadequate understanding of land use, livelihoods and wildlife laws and policies. This tailor-made toolkit is developed to raise awareness of villagers on wildlife policy, legal and regulatory framework, and how they could participate actively in wildlife management and protection using them. The benefits of the toolkit are multifold but in particular it will help in raising awareness of villagers on wildlife policy, legal and regulatory framework, and how they could participate actively in wildlife management and protection. It will also make them more aware of their natural resources rights and how to enforce

them and enhance their negotiating capacity in wildlife related investments. At the same time, the toolkit will help bring together an understanding among other wildlife management stakeholders including but not limited to game officials and state apparatus on wildlife policies, regulation and management decisions.

Toolkit Layout

The toolkit is divided into eight parts. Part I gives an introduction and provide a general view on what wildlife, wildlife management, and conservation mean. It outlines the reasons for conservation, ownership, challenges of conservation and categories of conservation areas. Part II define policies and explain the wildlife policy as well as other policies in relation to the wildlife management in Tanzania. Part III provides the laws that govern wildlife management in Tanzania. It addresses issues such as establishment of wildlife protected areas and the laws applicable and the significance of each Law in wildlife conservation. Part IV deals with regulation applicable in the wildlife sector. The regulations form part of the body of legal framework for wildlife conservation discussed previously. It begins by providing a definition of what regulation are and proceeds to explain the essential wildlife regulations in Tanzania. Part V explores the wildlife management institutions in Tanzania and their respective mandates. It also shows the administrative structure and protection authorities in the wildlife sector which are divided into 7 listed categories.

Part VI elaborates on the mandate and roles of community based organization in relation to Wildlife Conservation. It provides the process of establishing WMAs, roles WMAs in wildlife conservation and the mandates of CWMAC and AAs in conservation. Part VII deals with rights, obligations and offences related to wildlife. It provides the basis of legal rights and the various rights and obligations that are vested to village governments on wildlife resources. Part VIII is the last part and it provides for ways, tools and mechanisms/skills that WMAs and villagers should know and go through before and during entering into any investment negotiations.

ACRONYMS

AA	Authorized Association
CBO	Community Based Organization
CITES	Convention on International Trade on Endangered Species of Wild Fauna and Flora
CWMAC	Community Wildlife Management Area Consortium
EIA	Environmental Impact Assessment
EMA	Environmental Management Act no. 20 of 2004
GCA	Game Controlled Areas
GN	Government Notice
LA	Land Act no. 4 of 1999
LEAT	Lawyers' Environmental Action Team
LGA	Local Government Authority
LUPA	Land Use Planning Act of 2007
MNRT	Ministry of Natural Resources and Tourism
NCAA	Ngorongoro Conservation Area Authority
NEMC	National Environmental Management Council
NP	National Park
PA	Protected Area
PROTECT	Promoting Tanzania's Environment Conservation and Tourism
R.E.	Revised Edition
TANAPA	Tanzania National Parks
TAWA	Tanzania Wildlife Authority
TWPF	Tanzania Wildlife Protection Fund
USAID	United States Agency for International Development
VC	Village Council
VGA	Village General Assembly
VGS	Village Game Scout
VLA	Village Land Act no. 5 of 1999
WCA	Wildlife Conservation Act no. 5 of 2009
WD	Wildlife Division
WMA	Wildlife Management Area

PART I: WILDLIFE MANAGEMENT AND CONSERVATION

1.0 Introduction

This part gives a general view on what wildlife, wildlife management, and conservation mean. It outlines the reasons for conservation, ownership, challenges of conservation and categories of conservation areas.

1.1 What is Wildlife?

According to the International Union for the Conservation of Nature, wildlife means living things that are neither human nor domesticated [IUCN, 2015]. Section 3 of the Wildlife Conservation Act No. 5 of 2009 (WCA), defines wildlife as “any wild and indigenous animals and plants, and their constituent habitats and ecosystems found on land, or in land or water as well as exotic species that have been introduced in Tanzania and established in the wild, and includes wild animals on transit, temporary maintained in captivity or have become established in the wild”.

Wildlife refers to: -

- *wild animals and plants in their natural habitats (in-situ), and*
- *wild animals and plants outside their natural habitats (ex-situ).*

1.2 Wildlife Conservation and Management

Wildlife conservation means caring for trees, plants, water sources and wild animals so that they continue to be there for our benefit and the benefit of future generations (sustainable utilization). It involves the totality of processes aimed at restoring or maintaining wildlife species in their diverse landscapes and habitats for the benefit of the society. It involves maintaining wildlife populations in their diversity and their habitats in the ecological surroundings. It involves the practice of protecting wild plant and animal species and their habitats. The goal of wildlife conservation is to ensure that nature will be around for future generations to enjoy and also to recognize the importance of wildlife and wilderness for humans and other species alike. [Wildlife Policy 2007:8].

1.3 Why Conserving Wildlife?

- Wildlife Conservation helps to:- Preserve representative samples of both terrestrial and aquatic species and their habitats.
- Conserve viable populations of species of fauna and flora especially endangered, threatened, endemic species and their habitats.
- Protect areas of scenic beauty and special or cultural values.
- Provide public opportunity for recreation and enjoyment.
- Ensure sustainability of natural resources.
- Ensure rehabilitation of habitats and species.

Wildlife management: Refers to the protection of wildlife species (endangered and threatened and subspecies) and their habitats. It takes into consideration sustainable and ecological principles such as carrying capacity of the habitat, preservation and control of habitat, reforestation,

predator control, re-introduction of extinct species, capture and reallocation of abundant species and management of desirable or undesirable species. The concept focuses on wildlife as a renewable natural resource in a holistic way.

1.4 Significance of wildlife

Wildlife has several values to human life such as

- i. Financial and economic value: Wildlife Increases country's GDP through tourism as well contributes to the increase of foreign currency in Tanzania.
- ii. Environmental sustainability and Ecological value: Wildlife in some areas live with human beings, such as the Maasai are famous for cohabiting with animals in Ngorongoro area;
- iii. Social-cultural value: Through tourism, many foreigners come to Tanzania to learn on the culture and ways of life in the local communities around protected areas;
- iv. Nutritional value: Some wildlife and wildlife products are food for people and some are used in making medicines;
- v. Aesthetic value: wildlife is a source of wonder and inspiration.

1.5 Who owns wildlife?

Generally, natural resources in Tanzania are public owned but vested in the President as a trustee. According to section 4(1) of the Wildlife Conservation Act, all animals (wildlife) are public property and are vested in the President. The law provides that all animals in Tanzania shall continue to be public property and remain vested in the President as a trustee for and on behalf of the people of Tanzania.

A person can own wildlife if he follows certain legal procedures as provided under section 4 (2) - (4) of the WCA.

- i. Section 4(2), where he has lawfully taken a wild animal, he becomes the owner of such animal.
- ii. Section 4 (3), where a person has taken a protected wild animal species lawfully under a permit or a license issued or wildlife user right granted or issued under the Act.
- iii. Section 4 (4), where the wild animal lawfully vested in the person before the commencement of the Act.

1.6 Challenges in Wildlife Management and Conservation

Various challenges affect the management of wildlife in Tanzania. These challenges include:

i. Governance and Institutional challenges,

- Lack of adequate personnel in the conservation activities, example in fighting poaching;
- Corruption and lack of proper handling of wildlife criminal cases at the court of laws;
- Lack of adequate personnel in the conservation activities, example in fighting poaching;
- Failure of the wildlife conservation as a form of land use to compete adequately with other forms of land use, especially to the rural communities.
- Lack of wildlife conservation awareness by planners and decision makers and hence low priority on land and wildlife resource in the planning process

- The existing land tenure system and the wildlife resource ownership by the State, hinders investment in, and development of wildlife industry by private sector.
- Inadequate capacity to control problem animals.
- Inadequate involvement of local communities' participation in wildlife conservation in and outside the PA network;

ii. Ecological challenges,

- Habitat loss due to climate change, for example some rivers have been drying causing species that depend on water to hardly survive;
- Escalating illegal wildlife off-take and trade.
- Limited human resource to carry-out wildlife conservation activities
- Inadequate wildlife use rights especially to the rural communities.

iii. Human related challenges,

- Pollution caused by human activities such as mining, industries, agriculture and, settlements, charcoal burning, agriculture, urbanization;
- Lack of knowledge on conservation of wildlife and its laws in Tanzania.
- Existence of poaching activities
- Increased human-wildlife-conflict especially to the societies that are neighbours to the wildlife protected areas;
- Loss of wildlife habitats to settlement, agriculture, grazing, mining, and logging due to human population increase.

iv. Financial related challenges

- Inadequate financial and human resources to enable the government to devolve wildlife management responsibilities to the rural people countrywide
- Low budgetary allocation for conservation and development of the wildlife sector.
- (xi) Poor remuneration which results in low staff morale performance and erosion of professional ethics.

1.7 Wildlife Protected Areas in Tanzania

What are the wildlife protected areas?

Wildlife protected areas are defined under section 3 by the WCA to include "national parks, game reserve, game controlled areas Ngorongoro Conservation Area and wildlife management areas."

Wildlife protected areas are divided into four different categories and each category is managed under specific laws or legal provisions.

National Parks (NP)

These are any areas of land constituted, or included within, a national park that are declared to be national parks. These areas are managed by Tanzania National Parks Authority.

Ngorongoro Conservation Area (NCA)

This is the Area that was established under the Ngorongoro Conservation Area Act of 1959 to be managed under the Ngorongoro Conservation Area Authority. The Authority deals with the conservation and development of the natural resources of the Area.

Game Reserves (GRs)

The GRs are reserved areas established by the President after consultation with relevant local authorities and by order in the gazette. Currently, there are 28 GRs in Tanzania.

Game Controlled Areas (GCAs)

These are all areas that are declared by the Minister to be GCAs after consultations with the relevant authorities, and by order in the Gazette. In 2009, when the WCA came to operation, the Minister was required to review the list of GCAs within 12 months after the coming into force of this Act for the purpose of ascertaining potentiality, justifying continuation of control of any of such area. Minister was required to do so after consultation with the relevant authorities, and that in so doing he had to ensure that no land falling under the village land was included in the GCAs.

Wildlife Management Areas

This are areas created outside core protected areas (NPs, GRs & NCA) for the purpose of implementing community wildlife management in Tanzania. WMAs consist of portions of village land set aside for purposes of wildlife conservation and the development of wildlife-based enterprises such as photographic and hunting tourism. In order to establish WMAs, villages must develop land use plans and by-laws, as well as establish a community-based organization (CBO) that is granted user rights to wildlife by the Wildlife Division of the Ministry of Natural Resources and Tourism. WMAs have two key purposes: - (i) to protect Tanzania's wildlife and ecology, and (ii) to bring benefits to local communities.

Wetlands Areas

These are areas where water covers the soil, or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season. Water saturation determines how the soil develops and the types of plant and animal communities living in and on the soil. Wetlands may support both aquatic and terrestrial species. The continued presence of water creates conditions that favor the growth of specially adapted plants and promote the development of characteristic wetland soils. Generally, wetlands vary widely because of differences in soils, topography, climate, hydrology, water chemistry, vegetation and other factors, including human disturbance. Two general categories of wetlands are recognized: coastal or tidal wetlands and inland or non-tidal wetlands.

Wetlands are of different forms including marshes, estuaries, mudflats, mires, ponds, fens, pocosins, swamps, deltas, coral reefs, billabongs, lagoons, shallow seas, bogs, lakes, and floodplains. There are also human-made wetlands such as fish and shrimp ponds, farm ponds, irrigated agricultural land, salt pans, reservoirs, gravel pits, sewage farms and canals.

Some of the wetlands in Tanzania include major lakes such as Tanganyika, Nyasa and Victoria; and small lakes such as Rukwa, Manyara, Eyasi, Natron, Kitangiri, Burigi, and Ikimba. There are also many permanently flowing rivers whose catchments cover a wide area of the high altitudes of inland Tanzania. Most of the rivers run through extensive basins which have either permanent marshes or are temporarily inundated by flood waters to form floodplains or swamps during the rainy season.

Marine Parks and Reserves

Marine parks are parks consisting of an area of sea or ocean protected for recreational use, preserve specific habitat, natural scenic, scientific or historical value for the purpose of ensuring that the ecosystem is sustained. Marine reserves are areas legally protected against fishing or development to inter alia protect conserve, and restore the species and genetic diversity of living and non-living marine resources and the ecosystem processes of marine and coastal areas. The benefits of protection of marine parks and reserves include increases in the diversity, density, biomass, body size and reproductive potential of fishery and other species within their boundaries.

PART II: WILDLIFE RELATED POLICIES

2.0 Introduction

This part defines what Policies means and explain on wildlife policy and other policies in relation to the wildlife management in Tanzania.

2.1 Definition of Policy

A policy is a statement of intent, and is implemented as a procedure or protocol. It is course or principle of action adopted or proposed by a government, party, business, or individual. A 'policy' can be used to describe any course of action which intends to change a certain situation.

Government uses policy to tackle a wide range of issues like, how we manage our natural resources, how much tax you pay, parking fines, pensions etc. A policy is important as it provides strategic direction, guidance and policy statements to be acted upon. Any effective biological and non-biological resource management requires careful consideration of the relevant policies. Although a policy has no force of law since a person who contravenes a policy cannot be sued in court a person who contravenes it can be held accountable under general social accountability by the community. It is important that policies should be enacted into law to ensure more accountability.

2.2 Wildlife related Policies

Relevant policies in the wildlife sector in Tanzania include the following:

- The Wildlife Policy (1998)
- National Land Policy (1995)
- Environmental Policy (1997)
- National Forest Policy (1998)
- Water Policy (2002)
- National Fisheries Policy (2015)
- National Beekeeping Policy (1998)
- National Tourism Policy (1997)
- National Livestock Policy (2006)
- Mineral Policy (2009)
- National Agriculture Policy (2013)

2.3 Wildlife Policy (1998) and its role to Wildlife Management

The Wildlife Policy (1998) is the sector Policy that governs the Wildlife in Tanzania. The Policy recognizes the protected areas in Tanzania and provides different forms of wildlife utilization. These forms include game viewing, tourist hunting, resident hunting and ranching and farming.

Among the key objectives that are addressed under the wildlife policies are:

- i. Increasing the establishment of wildlife protected areas and promoting conservation of wildlife and its habitats outside the core areas by establishing Wildlife Protected Areas;

- ii. Causing transfer of management of WMA to local communities so as to take care of corridors, migration routes and buffer zones and ensure that the local communities obtain substantial tangible benefits from the wildlife;
- iii. To promote the use of PAs so as to contribute to government revenue, increase employment, income, food and other benefits to the community.

In order to address challenges in the sector, the policy recognises the need to:

- i. Involve more people in conserving wildlife, particularly people from the villages and the private sector;
- ii. Encourage local people to participate to protect and conserve wildlife outside Protected Areas (PAs) through WMAs;
- iii. Conferring more user rights to people who are affected by wildlife;
- iv. Encouraging more people in the public and private sector to invest in the wildlife industry;
- v. Ensuring various actor like rural communities, the private sector etc are well coordinated and can work together to conserve wildlife resources.

The Policy outlines the roles of various actors. The role of the Government is to act as a regulator of wildlife laws and regulations and facilitate activities in the wildlife industry. In case of problem animals; as the government also acts as a service provider to control problem animals all over the country. The private sector, NGOs and the public at large is also considered vital in the conservation of wildlife in Tanzania. The policy encourages involvement of local communities in conservation wildlife resources and sharing of benefits generated from wildlife resources.

The Wildlife Policy recognise and stresses the importance of the local people to be involved in protecting the nation's wildlife. They are given greater responsibility for managing the resources on their land as well as benefiting from the wildlife and the best way to realise this policy vision is to facilitate communities to establish WMAs on village land.

WMAs are set aside by village governments in order to:

- i. Conserve and manage wildlife
- ii. Give local people the responsibility to conserve and manage wildlife
- iii. Enable local people to benefit from wildlife resources
- iv. Bring together wildlife management in other forms of land use
- v. Benefit the people financially so they see the value of and appreciate conservation of wildlife.

2.4 National Land Policy (1995) and its role to Wildlife Management

It is clear that all terrestrial wildlife resources in Tanzania are found on land. The National Land Policy governs land matters in Tanzania. Creation and management of conservation areas must take into account land principles. The Land Policy provides for the following major land principles:-

- i. Land in Tanzania is public land vested in the President as a trustee on behalf of all citizens;
- ii. Land has value;
- iii. In case of land acquisition, the citizens are entitled to compensation of any loss suffered;

-
- iv. Men and women have equal rights to own, possess or inherit land in the United Republic of Tanzania;
 - v. Land in Tanzania, must be utilized in a way that benefit the people of the United Republic of Tanzania; and
 - vi. The need to ensure proper land use planning and mechanisms to settle land disputes whenever they arise. All the above principles are relevant to wildlife conservation since inadequate consideration of the principles or poor land management poses challenge to wildlife management such as encroachment to conservation areas, poaching and human - wildlife related conflicts.

2.5 Environment Policy of (1997) and its role to Wildlife Management

The Policy that deals with overall environmental management in Tanzania is the National Environmental Policy of 1997. Since wildlife resources are part of the environment and exists on the environment, any discussion of wildlife resources management calls for consideration of the Environmental Policy. The Policy recognizes the relationship between human beings and the environment. Human life depends on the environment and there is a corresponding responsibility for every citizen of Tanzania to make sure that the environment is managed. The policy provides some critical environmental problems which can seriously affect the society. The problems include;

- i. Land degradation;
- ii. Shortage of clean and safe water both in rural and urban areas;
- iii. Environmental pollution;
- iv. Loss of biodiversity;
- v. Deforestation due to a number of factors such as agricultural activities, human settlements; and population growth.

The Policy calls for the local governments to be full responsible in facilitating for environmental management in their jurisdictions. It calls them to supervise all activities like formulation of by laws on environmental management, forming up Environmental Committees to operate under the district authorities, ward and village governments.

2.6 National Forest Policy (1998) and its role to Wildlife Management

Forests in Tanzania are governed by the National Forest Policy (1998). Since forests form part of the wildlife resource addressing the wildlife sector requires consideration of the Forest Policy on how it complements wildlife conservation and also existence of wildlife solely depends on the habitat which comprised of forest. The Policy outlines the major goals relevant to conservation of wildlife to be achieved in the forest sector such as;

- i. Ensure sustainable supply of products and service by maintaining sufficient forest area under effective management;
- ii. Ensure ecosystem stability through conservation of forest biodiversity, water catchments and soil fertility; and

- iii. Enhanced national capacity to manage and develop the forest sector in collaboration with other stakeholders.

2.7 National Beekeeping Policy (1998) and its role to Wildlife Management

Wildlife policy defines wildlife as all species in the wild and its constitute habitat; which means bees are wildlife and therefore the management of bees and its habitat appraise the wildlife policy. In other hand beekeeping in Tanzania is governed by the National Beekeeping Policy of 1998. The Beekeeping Policy provides that bee reserves and apiaries are part of natural resources of Tanzania. One of the objectives of the policy is to improve biodiversity by promoting honeybees and bee reserves. It advocates for communal tenure of village land under village councils that provide good legal environment for the development of community based woodland, management of bee reserves, apiaries and development of Beekeeping agro-forestry systems. As a necessary conservation activity, beekeeping has been undertaken in forests and game reserves. Wildlife Conservation needs to look at the beekeeping industry as important conservation initiative which enhances biodiversity conservation.

2.8 National Tourism Policy (1999) and its role to Wildlife Management

The principal policy that governs the tourist sector in Tanzania is the National Tourism Policy of 1999. The policy provides for various conservation and tourist objectives. It aims to promote and develop tourism that is ecologically friendly and environmentally sustainable. It also aims to promote and develop land for tourism. It promotes Tanzania's cultural and natural heritage as tourist attraction for the present and future generations. The success of the policy is sustainable management of cultural and wildlife resources; but also, the tourist sector generates revenue which helps in wildlife conservation. In line with this Policy, the Wildlife Conservation Act (2009) provides for non-consumptive wildlife tourism which includes game viewing, walking safaris, camping, balloon safaris, canoe rafting, bird watching, sport fishing, hiking, mountain climbing, expeditions, documentary and commercial photographing, video shooting, filming, and cinematograph.

2.9 Water Policy (2002) and its role to Wildlife Management

Water resources management is governed by the Water Policy of 2002. The Policy provides that depletion in water resources and rising demand on limited water supplies hence creating conflicts amongst the users including disturbance to ecosystems and wildlife. The Policy recognises tourism as among the sectors with great economic growth potential for Tanzania. Depletion of water flow in rivers disrupts the lives of animals, and thus, results in serious consequences to the tourism industry and the national economy. Deliberate efforts are, therefore, needed towards protection and sustaining the resource and to ensure that it is used efficiently and effectively for the benefit of wildlife in the present and future generations.

2.10 Fisheries Policy (2015) and its role to Wildlife Management

Wildlife includes fisheries resources since wildlife is not only confined to wild animals and plants but also their constituent habitats and ecosystems found on land, in land or water. The Wildlife Conservation Act (2009) acknowledges Marines Parks and Reserves as forming part of wildlife

sanctuaries and conservation area. The policy notes that one of the tools for fisheries resource management was the establishment of Marine Parks and Reserves Unit for the purpose of managing and administering marine protected areas in the country. Also, an authorized officer under the Wildlife Conservation Act includes an employee of the Fisheries Division and employees of the Marine Parks and Reserve of the specified ranks. Thus, the Fisheries Policy, promotes inter alia effective management and sustainability of fisheries resources and aquatic environment which is integral part of wildlife resources.

2.11. National Livestock Policy (2006) and its role to Wildlife Management

The National Livestock Policy (2006) is the policy that deals with the livestock sector. The overall objective of the Policy is to develop a competitive and more efficient livestock industry that contributes to the improvement of the well-being of the people whose principal occupation and livelihood is based on livestock. It aims to promote integrated and sustainable use and management of natural resources related to livestock production in order to achieve environmental sustainability. It also aims to mainstream cross-cutting and cross-sectoral issues such as gender, land and environment. The policy acknowledges that weak pastoral and agro-pastoral organisations, inadequate livestock support services, socio-economic services and weak infrastructure limits utilization of rangelands. In that end, it aims to improve range management and utilization in order to support sustainable productivity of livestock and improvement of pastoral and agro-pastoral livelihood [since pastoral wildlife conflicts have been on the increase].

2.12 Mineral Policy (2009) and its role to Wildlife Management

The Mineral Policy of 2009 is the guiding policy in the mining sector. The Policy seeks to address the challenges of the mineral sector with a purpose to increase the mineral sector's contribution to the GDP and alleviate poverty by integrating the mining industry with the rest of the economy. It gears towards establishing transparent and adequate land compensation, relocation and re-settlement schemes in mining operations; as well as strengthening involvement and participation of local communities in mining projects and encourage mining companies to increase corporate social responsibilities. Since mining can be undertaken in reserved and conservation areas, it is an important Policy to be considered in the wildlife sector especially on the need for involvement of communities and manner for compensation of people affected with proposed mining activities.

2.13 National Agriculture Policy (2013) and its role to Wildlife management

This is the Policy that governs the agricultural sector. The policy notes that agricultural development is strongly dependent on environmental resources such as land, forest, air and water. Sustainable utilization of the resources in agriculture is therefore vital to safeguard the environment. It focuses on among other things, protecting and promoting integrated and sustainable utilization of agricultural lands. The policy provides for the need for public awareness on sustainable environmental conservation and environmental friendly crop husbandry practices; enforcement of environmental laws and regulations that minimize environmental degradation as of result of agricultural activities. Given the challenge of wildlife, farmers and pastoralists conflicts this policy becomes one of the important to be considered in the wildlife sector.

PART III: LAWS RELATED TO WILDLIFE CONSERVATION AND MANAGEMENT IN TANZANIA

3.0 Introduction

This part discusses the laws that govern wildlife management in Tanzania. It addresses issues such as establishment of wildlife protected areas and the laws applicable and the significance of each Law in wildlife conservation.

3.1 Meaning of Law

Law is a system of rules that a community recognises as regulating the actions of its members. In Tanzania, a Law is enacted in the parliament as a bill of law and signed by the president to become an effective and the government is responsible for enforcing it. A law is made to govern the implementation of the policy. It defines how various actions are handled and pose penalties to those contravene the provisions in the respective law in other words "Laws are enforced by the imposition of penalties". It provides for rights and duties and regulates conducts between various subjects within a society. Under the United Republic of Tanzania Constitution (1977 as amended) there are two sovereign legislative bodies in Tanzania. These are the Union Parliament (NA) and the House of Representatives of Zanzibar. These sovereign legislative bodies are vested with mandate to enact laws including those that touches on wildlife conservation. Besides, there are other authorities vested with duties to make subsidiary legislation such as local government authorities which includes village councils.

3.2 Wildlife Laws in Tanzania

The wildlife sector in Tanzania is regulated by various laws. These laws provide the general legal framework for wildlife conservation in the country. The laws can be divided into two namely wildlife laws and wildlife related laws. Wildlife laws refer to the laws which deal directly with wildlife resources while wildlife related laws are laws which regulate other sectors but have an impact on wildlife resources.

Wildlife Laws: -

- Constitution of United Republic of Tanzania 1977 as mended,
- Wildlife Conservation Act No.5 of 2009,
- Forest Act No.14 of 2002,
- National Parks Act, Cap 282,
- Ngorongoro Conservation Area Authority Act, Cap. 284.
- Marine Parks and Reserves Act No. 29 of 1994, Cap. 146,

Wildlife related Laws: -

- Land Act No. 4 of 1999,
- Village Land Act No.5 of 1999,
- Local Government (District Authorities) Act No.7 of 1982,
- Environmental Management Act No. 20 of 2004,
- Land Use Planning Act, No. 6 of 2007,
- Mining Act, No. 14 of 2010,

- Water Resources Management Act, No. 11 of 2009,
- Fisheries Act, No 22 of 2003.
- Tanzania Investment Act, No. 26 of 1997
- Economic and Organised Crimes Control Act, [CAP. 200 R.E. 2002]
- Penal Code, [CAP. 16 R.E. 2002] and the Criminal Procedure Act [CAP. 20 R.E. 2002].

All these laws are explained in the next part.

3.2.1 *Wildlife Laws*

3.2.1.1 The Constitution of United Republic of Tanzania

The United Republic of Tanzania Constitution is the fundamental law of the country. This law overrides all other laws. Any provision of law which goes against the constitution or conflicts with it will be declared unconstitutional. Unconstitutional law/provision is void. Decisions made based on unconstitutional law or provision also becomes null and void. The 1977 Constitution of Tanzania provides clearly on the need and responsibility to manage Tanzanian natural resources. Article 27 (1) and (2) of the URT Constitution provides an opportunity for the public to be involved in wildlife conservation. The article clearly imposes a duty to all Tanzanians to protect and manage Tanzania natural resources. Under the provision all people are responsible for natural resources protection, and fight any sort of forms of abuse and mismanagement. The section opens the door for the public to participate in natural resource management activities.

3.2.1.2 Wildlife Conservation Act No.5 of 2009

The Wildlife Conservation Act was enacted in 2009 to regulate all matters in relation to wildlife management. It provides for the institutional arrangement of the wildlife management authorities and establishes the wildlife protected areas. It also provides for consumptive and non-consumptive uses of wildlife. It addresses on human-wildlife conflicts, handling of trophies, wildlife ranching, farming, breeding and sanctuaries and provides for wildlife offences, and penalties.

The Act provides for responsibilities and restrictions to local communities, users and other beneficiaries of wildlife resources. Some of the restrictions are:-

- Any person other than a person travelling along a highway or designated water way cannot enter a game reserve without seeking and obtaining a written authority of the Director of Wildlife (section 15 (1)).
- Possession of fire arms, bow, arrow or any other weapons in a game reserve before seeking and obtaining a written permission of the Director is prohibited (section 17 (1)).
- Any act that may cause bush or grass fire, or fell, cut, burn, injure, or remove any standing tree, shrub, grass, sapling, seedling or any part in the reserve except with a written permission of the Director is prohibited (section 18 (1)).
- Grazing of livestock in a game reserve and wetlands is prohibited (Section 18(2)).

- v. Hunting, burning, capturing, killing, wounding or molesting of any animal or fish in any game reserve, game controlled area or wetlands reserve without an obtaining permission of the Director is prohibited (Section 19(1)).
- vi. The law also restricts the following activities in game reserves, game controlled areas and wetland reserves:
 - Digging, laying, or constructing any pitfall, net, trap, snare or use other devices that are capable of killing, capturing or wounding any animal.
 - Carry, possess, carrying, possessing or having under control any weapon in respect in which the person fails to justify to the Director that such weapons were not intended for the purpose other than hunting, killing, wounding and capturing of animals.
 - Conducting crop cultivation (Section 20(1)).
- vii. The law further restricts grazing livestock in Game Controlled Areas (Section 21(1)).
- viii. The law provides that all activities that are conducted under the Wildlife Management Areas must be in conformity with Forest Act, Beekeeping Act, The Fisheries Act, the Environmental Management Act or any other relevant laws (section 31 (6)).

The Act empowers the Minister to establish Wildlife Protection Units after consultation to the relevant authorities and with the consent of the President. The administration of the Unit is vested in the Director of Wildlife and its functions and rights are such as follows;

- Unlawful utilization relating to hunting, capturing and photographing of wildlife and securing trophies;
- The Unit has the rights to possess and use suitable and appropriate fire arms and ammunition;

The Act further provides for the wildlife conservation areas and authorities that include:

- All National Parks that are managed under the Tanzania National Parks Authorities (TANAPA).
- The Ngorongoro Conservation Area managed by the Ngorongoro Conservation Area Authority (NCAA).
- All other protected areas managed under the authority of Tanzania Wildlife Authority (TAWA) – Section 8.
- All the community based wildlife management areas managed under the Authorized Associations (AAs) which have been given the status of Wildlife Management Area and have been entitled the user rights. (Part V of the Act).

3.2.1.3 The National Parks Act, Cap 282

National Parks in Tanzania are regulated by the National Parks Act. The Act provides the framework for establishment and management of national parks in the country.

It establishes a Board of trustees, a board corporate to manage, control and maintain the affairs of national parks in the country.

The Act allows the President, with the consent of the Parliament, to declare an area to be a national park. It also allows the President to alter the boundaries of national park. Unlike other pieces of legislation which allow the President to act unilaterally, this piece of legislation is a unique one in terms of putting mechanisms where the acts of the President need to be checked by the Parliament.

The day to day activities of managing national parks are exercised by TANAPA. TANAPA is an agency/ parastatal organization of the government tasked with conservation of the national parks. TANAPA is governed by a number of laws namely; the National Parks Act, Cap 282 [R. E. 2002] and the Wildlife Conservation Act No. 5 of 2009. Currently, the TANAPA manages 16 national parks. The primary and core business of TANAPA is the conservation of Tanzania's wildlife resources.

The Act allows people who have been affected by the declaration of the President to be compensated. The President is also allowed by the law to grant any rights to any persons, within a national park. Mining rights, for example, may be granted by the President.

The law establishes restrictions in the national parks such as: carrying weapon in the national park, hunting, killing, molesting any animal, digging, laying, or constructing any pitfall, net, trap, snare or other device whatsoever, capable of killing, capturing or wounding any animal etc. The people who are found exercising the forbidden acts can be prosecuted and if found guilty the can be imprisoned or fines under the compounding provisions. From the foregoing, the main activity undertaken in national parks is tourism unlike in other conservation areas.

3.2.1.4 Ngorongoro Conservation Area Authority Act, Cap. 284

This is a special law that is dedicated to managing the Ngorongoro Conservation Area (NCA). The NCA was established in 1959 by the NCA Ordinance No 413 of 1959. The Authority may, with consent of the Minister, make rules prohibiting, restricting and controlling entry into and residence within the Conservation Area. The Conservator may issue permits permitting persons to enter, or to enter and reside within, the area to which those rules apply, subject to any terms and conditions which the Authority may think fit.

The Authority may issue orders;

Prohibiting, restricting or controlling the use of land for any purpose;

Prohibiting, restricting, limiting or controlling—

- i. The introduction, grazing, watering or movement of stock;
- ii. The firing, clearing or destruction of vegetation including stubble;

- iii. The use of wells, boreholes, waterholes, water-courses, streams, rivers or lakes;
 - iv. The gathering of honey or forest produce;
 - v. The exercise of any rights in relation to forest produce determined under the provisions of the Forests Act;
 - vi. The introduction or removal of flora or fauna;
 - vii. The use of agricultural implements or machinery.
- But generally, land uses allowed in the area include the customary conservation of natural resources, livestock production, agro-pastoralism, small scale cultivation and tourism.

3.2.1.5 Marine Parks and Reserves Act No. 29 of 1994, Cap. 146.

This Act deals with establishment, management and monitoring of marine parks and reserves.

The purposes of designing designating marine parks or reserve are: -

- i. To protect, conserve, and restore the species and genetic diversity of living and non-living marine resources and the ecosystem processes of marine and coastal areas;
- ii. To stimulate the rational development of underutilized natural resources;
- iii. To manage marine and coastal areas so as to promote sustainability of existing resource use, and the recovery of areas and resources that have been over exploited or otherwise damaged;
- iv. To ensure that villages and other local resident users in the vicinity of or dependent on, a marine park or marine reserve are involved in:
 - all phases of the planning, development and management of that marine park or marine reserve,
 - share in the benefits of the operation of the protected area, and have priority in the resource use and economic opportunity afforded by the establishment of the marine park or reserve;
- v. To promote community oriented education and dissemination of information concerning conservation and sustainable use of the marine parks and reserves; and
- vi. To facilitate research and to monitor resource conditions and uses within the marine park and reserves.

Declaration of a marine park can only be done after consultation with the relevant local government authorities and by notice published in the Gazette. Factors that can justify declaration of marine park or marine reserve are:-

- a. Its protection will further the objectives of the Act as set out in section 10;
- b. The area is of natural scenic, scientific historical or other importance or value; or
- c. Preservation or management of the area is necessary to properly protect, permit access to, or allow public viewing of enjoyment of the area.

The Minister responsible for national parks may after consultation with the relevant local government authorities; declare any marine park or any part of a marine park to be a national park as per the provisions of section 3 of the National Parks Act. The Minister must ensure that, the Marine Parks and Reserves Act shall continue to apply in the area and the creation and review of regulations for such area shall be made in accordance with sections 8, 11 and 15 of the Act.

Each marine park or marine reserve has a unit manager / Warden. The Manager/ Warden are required to specify a list of villages in the vicinity of that marine park or reserve, which affects or is affected by the marine park or reserve. Villages that border marine parks (as the Minister may specify) have the right to be included in the preparation of general management plan for the area. Each village council has the right to be involved fully in all aspects of: -

- Development or any amendment of the regulations,
- Zoning and general management plan for the marine park, whether by formal planning, regulation or amendment procedures, or by informal decision or special order which shall have the effect of regulating or amending these issues.

3.2.1. 6. The Natural Wealth and Resources (Permanent Sovereignty) Act 2017

The Natural Wealth and Resources (Permanent Sovereignty) Act, No. 3 of 2017 provides for a legal framework to vest permanent sovereignty over all natural wealth and resources to the people of the United Republic of Tanzania per section 5. Consequently, the government through the President will remain to be an overseer or custodian but the ownership and control belongs to the people. In its mandate, the government will have the power to make appropriate decisions on the resources for and on behalf of the people. The law also makes it clear that such ownership of the resources is inalienable in any manner.

Under section 6, any arrangement or agreement for extraction, exploitation or acquisition and use of natural wealth and resources that undermines the interest of the people shall be in contravention of Art 9 (c) (i) of the URT Constitution 1977 (as amended). In any arrangement of international or bilateral nature, permanent sovereignty of the people of Tanzania shall override and can be enforced in Tanzanian courts of law as per section 11. Apart from the principle of permanent sovereignty which it upholds, the Act also promotes the principles of guarantee of returns from natural resources, participation of the people, retention of earning and process of review of agreements by National Assembly.

3.2.2 Wildlife Related Laws

3.2.2.1 Land Act No. 4 of 1999

The Land Act is the principal law that governs matters of land in Tanzania. The Act provides the framework for land management, essential land principles and the institutional framework. The Act declares all land in Tanzania to be public land. The categories of public land are:

- General Land;
- Village Land; and
- Reserved Land.

General Land refers to all the land that does not either fall in the category of the Village Land or the Reserved Land. The General Land comprises of two percent (2%) of the whole of Tanzania land and is managed under the Authority of the Commissioner of Lands. This category includes most of the land in urban areas, the land owned under license, and all land that is owned under the right of occupancy provided by the Commissioner of Land.

Village Land refers to all land that falls within the boundaries of the village in which the Village Councils and Village Assemblies are given power to manage and it includes:

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- The area within the boundaries of a registered village.
- The area designated as village land under the Land Tenure (Village Settlements) Act of 1965.
- The area demarcated under any procedure or program since then, and irrespective of whether this has been formally approved or not.
- The area as agreed between the village council and neighbouring village councils or the area as agreed by the village council with the Commissioner of Lands, the District Council, the Town Council or Forestry/Wildlife Division or any other body in charge of land which borders the village land and where the land is not reserved and has been occupied and used by villagers for twelve years as a village land.

Reserved Land is the category of land designated for national protection/conservation. It includes areas such as wildlife reserves, forest reserves, road reserves, hazardous land, wetland reserves and any other as the President may declare from time to time. It is estimated that reserved land comprises of not less than 28% of all public land. Every sub-category of reserves under the reserved land is regulated by its specific laws, for instance, the wildlife reserves are regulated by the Wildlife Conservation Act No. 5 of 2009, while the Forest Reserves are being regulated by the Forest Act No. 14 of 2012.

The Minister may declare any area of land to be **Hazard Land** which he considers too dangerous to occupy or which may be spoilt by being occupied. This land includes:

- Mangrove swamps,

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- Wetlands,
 - Land set apart for the dumping of hazardous waste,
 - Land within sixty metres of a river bank or a lake,
 - Land which should not be developed because it is fragile,
 - Land which should not be developed because of its importance to the environment.

Before the Minister can declare hazard land, he must:

- Show the boundaries of the area,
- Publish the details of the proposed hazard land in the Gazette,
- Let the local authorities know,
- Let all the people occupying the proposed hazard land know,
- Let the President know if it is occupied by people with customary rights. The President may then arrange to pay compensation to get the rights of occupancy.

The Land Act provides clearly that in case of any conflicts between the Land Act and any other laws of Tanzania on matters related to land, then the Land Act No. 4 of 1999 will prevail.

3.2.2.2 Village Land Act No.5 of 1999

The Village Land Act No. 5 of 1999 regulates all land matters on Village Land in Tanzania. The Village Land Act (VLA) provides that the village council is the authority that manages the village land on behalf of villagers. Villagers hold rights called "*customary rights of occupancy*" which means that if they have lived on the land for many years they have the right to own it. The Village Land Act gives people who have customary rights of occupancy the same legal protection as those who have what is called "*granted rights of occupancy*" under the Land Act.

Village Councils must remember these important points as they manage village lands:

- The land must be used in such a way that it can continue to grow crops.
- The trees, water supply and other resources in and around the village must be looked after properly.
- Village land lies within a local authority so that local authority must be asked for its views.
- The Village Councils are required to ensure that natural resources in the land that they manage are sustainably utilized. This may be achieved by developing Land Use Plans and also by formulating bylaws that directly regulate the management of each available natural resource in the particular villages.
- Where there are conflicts, the village councils may coordinate with the district authorities in resolving such land conflicts.

The Village Land Act 1999, governs village land, which falls into one of three categories: (1) communal land (e.g., public markets and meeting areas, grazing land, burial grounds); (2) occupied land, which is usually an individualized holding or grazing land held by a group; and (3) vacant land, which is available for future use as individualized or communal land (specifically encompassing unoccupied land within the ambit of village land, as opposed to general land). The Act does not recognize grazing land as a separate category, but pastoralists can assert customary rights of occupancy to grazing land.

The certificates of customary rights of occupancy are provided for through Village Land Act only to Tanzanians. Customary rights can be held in perpetuity and they can be registered and a certificate of customary rights may be issued, for which a formal survey is not required. Customary rights may also be mortgaged and sold. To ensure that land rights are protected, registration will be encouraged but is not compulsory. Certificates of customary right of occupancy are issued through the process of village land use planning. Granted rights of occupancy are provided for under the Land Act and are allocated by the Commissioner of Lands. They are rights granted by the state for a fixed term of no more than 99 years but usually for less than this. Non-citizens may acquire granted rights. The land has to be surveyed and registered.

Who does what on land?

President	<i>Trustee on behalf of citizens of all land in Tanzania Can take away a person's right to occupy land Can get land for the benefit of the people</i>
Minister of Lands	<i>Helps the President and oversees the Commissioner on land administration</i>
Commissioner of Lands	<i>Main person in charge of land matters Helps the President put land laws into practice Can ask other people or institutions to do certain tasks Makes important decisions about how land is distributed</i>
District Councils	<i>Help to inform the relevant institutions about land management decisions</i>
Village Councils	<i>Manage village lands on behalf of Village Assemblies Make decisions about applications for land Allocate village land after approval from Village Assemblies Give certificates to people to show they have the right to live where they do</i>

Village Assemblies	<i>Check that the Village Councils manage village lands properly Agree on what decisions concerning village life need to be acted on</i>
Village Adjudication Committees	<i>Mark land boundaries Find out what land belongs to whom Settle disputes if people think a mistake has been made Report to the Village Council</i>
Village Land Councils	<i>Settle disputes over land matters on village lands</i>

3.2.2.3 Local Government (District Authorities) Act No.7 of 1982

This law was enacted to in line with section 145 and 146 of the United Republic of Tanzania Constitution 1977 (as amended). This Act requires responsible Minister to establish the District Authorities, Township authorities, Divisions village councils and Wards. Under the law village councils are responsible for managing the village land and in so doing they are supposed to report to the village assembly. Such management of village land includes any conservation areas on village land.

Some of the responsibilities that are established under this law are;

- They are supposed to do everything necessary to ensure the economic and social development of the village;
- They should initiate and undertake tasks, ventures or enterprises that are designed to ensure the welfare and well-being of the residents of the village;
- plan and co-ordinate the activities of the village in matters related to agriculture, horticultural, forestry etc;
- Provide assistance and advice to the residents of the village engaged in agricultural, horticultural, forestry or other activity or industry of any kind;
- Encourage their people to undertake and participate in communal enterprises;
- To participate, by way of partnership or any other way, in economic enterprises with other village councils; and
- The Village Government has the authority to formulate bylaws on specific issues that need to be regulated, for example, a bylaw on wildlife/ natural resources management.

The Village Council being a legal entity, it can enter into various wildlife related contracts with investors. In making decision, the Village Council must obtain the approval of the Village Assembly.

3.2.2.4 Environmental Management Act (EMA) No. 20 of 2004

This is the framework law on environmental matters in Tanzania. It regulates all matters pertaining to environment management in the country. It cuts across all other natural resources related sectors such as water, fisheries, wildlife, forestry, land matters, beekeeping, wetlands, mining, to mention a few. It provides the general legal framework, rights, responsibilities and procedures for environmental management in Tanzania while specific matters on each kind of natural resources are being managed in accordance with their specific laws. Section 65 (2) and (3) of EMA stipulates that Wildlife resources are managed by wildlife laws (in this case WCA).

The EMA also provides for the procedures for settling conflicts of laws or in management of any matter that relates to the natural resources sectors. It requires all Ministries that deal with natural resources sectors in Tanzania to have special sector environmental section to deal with all issues in relation to the particular natural resource sector. (See section 30 of EMA). The Act Coordinates all Ministries with the Vice President's Office and the National Environmental Management Council (NEMC). Each Ministry is required to report to Ministry responsible for Environment to get advice and ensure compliance by other Ministries, collaboration with other bodies and implement relevant the Government policies on environment.

The Law under section 49 of the Act provides that national protected areas are governed and managed in accordance with their respective laws. Each managing authority has to prepare and implement an environmental management plan. Some of the features of the Environmental Management Plan are;

- To identify area of biological diversity;
- To show the community or users involved in such area;
- To define the boundaries of the national protected area (Section 49 (2) of EMA)

The EMA provides about Environmental Impact Assessment under section 81. This section requires that any developer of the project must make sure he undertakes Environmental Impact Assessment. One notable aspect about the EIA is the involvement of the public (community).

3.2.2.5 Forest Act No.14 of 2002

The Forest Act governs all matters on Forest management in Tanzania. It establishes the Authorities for such management and stipulates the procedures, responsibilities and rights in relations to forests management. This law lays down the rights and responsibilities of communities in forest management, how they benefit from management of forests, thus this avoids conflict of interest in the sector.

The Act also conforms to the National Forest Policy in that it provides the community with the rights to manage their forests through their local governments and sharing of the benefit of forest resources that they manage.

Furthermore, the Forest Act analyses four types of forests such as;

- i. National forest reserves which include the forest reserves, the nature forest reserves and forests on general land;
- ii. Local authority forests reserves that include local authority forest reserves and forests on general land;
- iii. Village Forests which consists of: Village land forest reserves, community forest reserves created out of village forests and forests which are not reserved but fall on the village land and their management is vested on the village councils; and
- iv. Private forests which are: forests on village land that are owned by one or more individuals under the customary right of occupancy; and forests on general or village land which its right of occupancy or lease has been granted to a person, partnership, corporate body, or organization for the purpose of managing the forest in accordance with the Forest Act.

Since wildlife and forest resources co-exist or may be adjacent to each other there is need for close collaboration in the management of wildlife resources and forests. Also, the Act under section 68(b) provides that no one is allowed to kill, injure, drug, capture or do any other acts as without the license from the Wildlife authorities responsible for that purpose.

3.2.2.6 Land Use Planning Act, No. 6 of 2007

Land use planning is regulated specifically by the Land Use Planning Act 2007. The Act was enacted with a view of making sure that land is optimal used, sustainably utilized and land based conflicts are reduced. It also aimed to make sure that security of tenure amongst various landholders is protected. One of the principles that the Act upholds is ensuring that the environment of human settlements and of ecosystems is protected from pollution, degradation and destruction in order to attain sustainable development. Among the objectives of the Act are to:-

- facilitate efficient and orderly management of land use;
- promote sustainable land use practices,
- ensure security and equity in access to land resources; and
- facilitate the establishment of a framework for the prevention of land use conflicts

The Act establishes various planning authorities which are: a village council; a district council; the National Land Use Commission and any other body/organ as the Minister for lands may decide. All these authorities are the planning authorities at the respective level. The National Land Use Planning Commission oversees land use plan in the entire country. The Village Council must get its mandate/approval from the respective village assemblies.

In relation to the wildlife management/conservation issues, the Act introduces several issues to be considered by various planning authorities in the course of making land use plan. The Act provides that each planning authority must, inter alia, include;

creation or maintenance of migration corridors for wildlife; creation of buffer zones for the protection of natural forests, forest reserves, water catchments areas, rivers, dams and river banks during planning.

The Act also allows the Commission to order landholder who has used the land in the manner that harms it to restore it. The restoration may also call for the compensation for the harm to others who have been affected by the actions of the former, landholder/user.

3.2.2.7 Water Resources Management Act, No. 11 of 2009

The Act is enacted to provide for institutional and legal framework for sustainable management and development of water resources. In addition, it

- Outlines the principles for water resources management;
- Provides for the prevention and control of water pollution;
- Provides for participation of stakeholders and the general public in implementation of the National Water Policy, repeal of the Water Utilization (Control and Regulation) Act and related matters.

The Water Resources Management Act places the radical title over resources into the hands of the President as a trustee. The Minister has the power to allocate water resources, save for the customary rights. He is also responsible for strategy and policy formulation for the execution of the Act. The Act ensures that water resources in the country are used, protected, developed, conserved and managed in a sustainable manner and meets the principle of equal access to water; and protects biodiversity.

The Act calls for the application of the international established environmental principles, notably: the precautionary principle:

- public participation in decision making in matters related to water resources;
- polluter pays principle;
- international cooperation principle; and
- Common but differentiated responsibilities.

The Act places the duty to protect water resources into the hands of all Tanzanians. In allocating water resources for use, the Act places the first priority to human needs, followed by environmental needs and lastly economic development.

The Act requires any development project that intends to use water resources to firstly conduct environmental impact assessment (EIA) before the project starts. This puts into use the environmental principle of precautionary principle. The EIA is supposed to be done in the manner that is in compliance with the Environmental Management Act, 2004.

The Act establishes Water Basin Boards in each water basin. They are body corporate and are having several functions such as: prepare water management plans; resolve intra-basin conflicts; approve and issue or revoke water use permits, among others.

The current 9 Basin Water Boards (BWB) were established under the Water Utilisation (control and regulation) Act, Cap. 331. These are: Pangani; Wami/Ruvu; Rufiji; Ruvuma and southern coast; Lake Rukwa; Lake Tanganyika; Lake Victoria; Lake Nyasa; Internal drainage basin of lake Eyasi, Manyara and Bubu depression.

The use of water from these basins is restricted without a valid license, except for the use that is meant for domestic and the right to use recycled water. Other use of water uses, including construction or diversion of water sources is prohibited, unless one gets a license for that use.

The Act prohibits human activities near water sources: distance within 60m from the water source. This is also provided under the Environmental Management Act. The Act creates offences for water resources related conducts. Some of the offences established by the Act are: -

- Use of water in excess of the agreed amount;
- Failure to obtain ground water permit;
- Water pollution;
- Assault, threaten, resist, hinder, delay an authorized officer; and
- Making false statement in order to procure permit.

Poor management of water resources affects wildlife resources and their habits. It is crucial for water resources to be effectively managed to ensure survival of the wildlife resources.

3.2.2.8 The Mining Act, No. 14 of 2010

The Act vests property and control over minerals on, in or under the land in the United Republic of Tanzania. The law establishes how mechanisms for one to get mining rights, explore, prospect and develop are granted. The licensing mechanisms are also made clear and transparency is enhanced in the first come, first served basis. The conditions and how licenses are issued are stipulated. Any mining activity without a valid license is made illegal. Some of the conditions for one to get mining are: one to be of age majority, not minors, company which is not in liquidation or not in the process of winding up.

The holder of a Mineral Right cannot exercise any of his rights under his license or under the Act except with the written consent of the responsible Minister where the area involved is a reserved area including wildlife protected areas. In written consent of the authority having control over the park, reserve or area will be needed in case of land in;

- A national park declared under the National Parks Act,
- In any forest reserve declared under the Forests Act,
- In any game reserve declared under the Wildlife Conservation Act,
- In a range development area declared under the Range Development and Management Act, or in the Ngorongoro Conservation Area Act,

Mining companies are supposed to have an environmental management plan before acquiring a mining license. This is meant to avoid threat to the environment as communities in the mining areas depend for their livelihoods on the area. Disrupting the environment by mining pollutants affects their livelihoods and fundamental right to live which is protected under the URT Constitution (1977 as amended) and the Environmental Management Act, 2004.

3.2.2.9 Fisheries Act, No. 22 of 2003

The Act was enacted in 2003 and is applicable in Tanzania Mainland only. The Act provides for promotion and support to all initiatives leading to the development and sustainable use of the fish stock and aquatic resources through measures such as: -

- i. Provision of investment guidelines in the fisheries sector;
- ii. Facilitation of development and maintenance of fisheries and related infrastructure;
- iii. Provisions of the establishment of a code of practice for aquaculture development and fish processing;
- iv. Facilitation of artisanal fishing, semi-intensive aquaculture with simple technologies and low capital investment including pre-evaluation of the effects of aquaculture on genetic diversity and ecosystem integrity, based on the best available scientific information and through development of short, medium and long-term fisheries scientific research plans;
- v. Promotion of sound utilization of the ecological capacity of water-based areas, as a means of generating income and food;
- vi. encouragement of the involvement of stakeholders in the planning, development and management of fishery resources;
- vii. Facilitation of the availability, accessibility exchange of fisheries information and storage;
- viii. facilitation of initiatives geared towards availability of fisheries inputs;
- ix. Pursuing continuation and introduction of fisheries integrated program of effective management of coastal zone to meet the ecological and social economic needs of the present and future generation.

This Act is important to wildlife conservation since fish forms part of wildlife. Effective management of fisheries resources and their habitat such as marine parks and reserves promotes wildlife conservation.

3.2.2.10 Tanzania Investment Act, 1997

The Act was enacted in 1997 to govern all investment matters in Tanzania. The Act establishes an Investment Centre known as Tanzania Investment Centre which is a government agency. Section 15 of the Act provides that the Centre shall in liaison with relevant ministries and other authorities determine investment opportunities available in the country and the modality to access them. The law provides further under section 16 on the relationship between the Centre, Ministries and other public authorities in all matters pertaining to investment. The Centre has to be consulted by investors who would like to invest in the wildlife sector such as wildlife hunting, wildlife photographing etc. The Minister for wildlife may consult the Centre on available investment opportunities in the wildlife sector.

3.2.2.11. Economic and Organised Crimes Control Act, [Cap 200 R.E. 2002]

The Act provides for what is deemed to be an economic offence. The 1st Schedule to the Act as amended by the Written Laws (Miscellaneous Amendment) Act No 3 of 2016 provides for economic offences under the Act. A person who commits an offence under sections 17, 19, 24, 26, 28, 47, 53, 103, 105, Part X or Part XI of the Wildlife Conservation Act or section 16 of the National Parks Act shall be guilty of an offence. This Act is important to wildlife conservation as it provides for severe punishment to wildlife criminals which may help to minimize poaching.

3.2.2.12 Penal Code, [Cap. 16R.E 2002] and the Criminal Procedure Act [Cap. 20 R.E. 2002]

The Penal Code [Cap. 16 R. E. 2002] is the substantive law that provides for criminal offences. It defines what conducts or omissions are deemed to be crimes under the law. A sister statute to the Penal Code is the Criminal Procedure Act (CPA), [Cap 20 R. E. 2002]. The Criminal Procedure Act provides for procedural steps involved in dealing with a criminal matter. It provides for instance, procedures in arresting, conducting search, who can arrest and conduct search, how a culprit is brought before a court of law, rights of a criminal suspect and the court procedures in dealing with criminal matters. Section 257(4) of the Penal Code provides for theft of wild animals. According to the section, animals that are wild by nature, of a kind which is not ordinarily found in a condition of natural liberty in Mainland Tanzania, which are the property of any person and which are usually kept in a state of confinement, are capable of being stolen, whether they are actually in confinement or have escaped from confinement. Confinement could include a den, cage, sty, tank or other small enclosure (like a zoo) or a place where the animal cannot escape, and that its owner can take it when he feels. However, if wild animals are in their natural liberty (habit) they are not capable of being stolen but their dead bodies are capable of being stolen and everything produced by or forming part of the body of an animal capable of being stolen can also be stolen. Section 321 makes it an offence for any person to willfully and unlawfully set fire to inter alia indigenous product of the soil whether standing or cut; any standing

trees, saplings or shrubs, to be guilty of an offence and liable to imprisonment for fourteen years.

Under the Criminal Procedure Act, section 11(1) provides that in making an arrest the police officer or other person making the arrest shall touch or confine the body of the person being arrested unless there is a submission to the custody by word or action. If the person to be arrested forcibly resists the endeavor to arrest him, or attempts to evade the arrest, the police officer or other person may use all means necessary to affect the arrest (Section 11(2)). The person arrested shall not be subjected to more restraint than is necessary to prevent his escape (Section 12). A police officer or other person shall not, in the course of arresting a person, use more force or subject the person to greater indignity than is necessary to make the arrest or to prevent the escape of the person after he has been arrested (Section 21(1)). In the course of arresting a person, the police officer shall not do an act likely to cause the death of that person, unless he believes on reasonable grounds that the doing of that act is necessary to protect life or to prevent serious injury to some other person. Under section 23, at the time of the arrest, the person who arrests must inform him of the offence for which he is arrested. In case where a woman is to be searched, the search shall be made by another woman with strict regard to decency (Section 26). A police officer or other person making an arrest may take from the person arrested any offensive weapons which he has and shall deliver it to the court or officer before which or whom the officer or person making the arrest is required by law to produce the person arrested, all weapons taken (Section 27). In addition, any private person arresting a person without a warrant shall without unnecessary delay hand over the person so arrested to a police officer or to the nearest police station or, in the absence of either, to the Ward Secretary or the Secretary of the Village Council for the area where the arrest is made (Section 31(1)). [Mention a link to WL then....](#)

PART IV: WILDLIFE REGULATIONS IN TANZANIA

4.0 Introduction

*This part deals with regulation applicable in the wildlife sector. The **regulations** form part of the body of legal framework for wildlife conservation discussed previously. It begins by providing a definition of what regulation are and proceeds to explain the essential wildlife regulations in Tanzania.*

4.1 Meaning of Regulation

Literally, the term regulation may mean the law that is made under the principal legislation (Act). They may have many names such as delegated legislation subsidiary legislation or secondary legislation.

The legal definition of the term regulation may be gathered from the Interpretation of Laws Act, Cap 1, which defines it as follows;

“Regulation means ‘a regulation made under the Act in which the term is used’. Further meaning from the Oxford Companion to Law defines delegated legislation’ as legislation made not by Parliament but by persons or bodies on whom Parliament has conferred power to legislate on specified subjects.”

There can be regulations made by Ministers, Local Governments, Directors, Commissions, Boards, the Chief Justice, and the Speaker of the National Assembly, the President or as the case may be. Usually, regulations are made by the Minister setting out in detail how an Act of the Parliament is to be implemented. There must be enabling provisions for the Minister to establish regulations.

Usually, regulations provide details on how an Act of Parliament (legislation) is to be implemented. In that case, there must be an enabling provision for the relevant authority to act upon in establishing regulations.

In Tanzania, each Act of Parliament has its own set of regulations which detail how the parent law/Act will be put into effect. Normally formulation of regulations is detailed involving various stakeholders. In all times, regulation must be consistent with the parent Act otherwise it will be declared null and void.

4.2 Wildlife Regulations in Tanzania

There are various Wildlife Regulations made by the Minister for Wildlife. Similar regulations can also be found under the statutory mandate of the Ngorongoro Conservation Area Authority and Tanzania National Park Authority. The regulations ensure that the objectives of the Wildlife Policy and the Wildlife Act are effectively implemented. Relevant authorities are supposed to ensure that the objectives of the Policy and the Act are not hindered by lack of appropriate regulation(s).

Among the Regulations in the Wildlife Sector are: -

- Wildlife Conservation (Wildlife Management Areas) Regulations of 2012
- Wildlife Conservation (Resident Hunting) Regulations, 2010
- Wildlife Conservation (Tourist Hunting) Regulations of 2015
- Wildlife Conservation (Non-Consumptive Wildlife Utilization) Regulations GN. No. 181 of 2016

4.3 Wildlife Conservation (Wildlife Management Areas) Regulations of 2012

These are the regulations made under the WCA, 2009 to detail how the Act will be applied, especially in respect of sections 31 and 121. The Wildlife Conservation (Wildlife Management Areas) Regulations of 2012, for example, elaborates how a village that intends to establish WMA can do it in order to fulfil its intention. The regulations provide the way in which communities may follow in order to participate in the wildlife conservation through the establishment of WMAs.

The Wildlife Conservation (WMA) Regulations, 2012,

- *Provide for the creation of WMAs on village lands and implementation of the Wildlife Policy's objectives.*
- *Allows communities to become corporate entities and participate and benefit from wildlife utilization, in WMAs. In order to use any other natural resource products like fish, forest or bees, one needs to consult sectoral policies, laws and regulations regulating that particular resource.*
- *Spells out the process that the communities must follow in order to qualify for being granted wildlife user rights. This process can be summarized as follows: -*
- *1st a Village Assembly meeting or meetings in the relevant village or villages must decide to form a WMA on the village lands. Once this has happened the villages must form a CBO to represent the community members and manage the WMA. This CBO must have a constitution, rules of membership, qualifications of office bearers, financial management procedures, etc.*
- *2nd the CBO is to prepare Land Use Plans (LUPs) for the relevant villages. These LUPs should show where the proposed WMA will lie in the village or villages' lands; they should follow the procedures laid out by the National Land Use Planning Commission.*
- *3rd the CBO must form a General Management Plan, or alternatively as an interim measure (for up to five years) can compose a more basic Resource Management Zone Plan providing for the zonation of resource uses in the proposed WMA.*
- *4th the CBO can apply to the Director of Wildlife for the Minister to declare for the CBO to become an AA and gazette the WMA. If the application is approved by the Director, and the WMA is gazetted, the CBO becomes an Authorized Association (AA), which then applies for a user right.*
- *For communities in Game Controlled Areas, they require they must have their land moved from reserved/conservation land to village land prior to having WMAs established. This is considered a must since WMAs can only be established on village land, and not on any category of Protected Areas. If the WMA application is approved by the Director of Wildlife, and the WMA gazetted, then: -*

The AA will apply for User Right. After acquiring the User Right, the AA cannot transfer it. The AA can enter into contracts with other entities for use of wildlife resources in the WMA. For investments in WMAs, the Regulations state that all investments must be approved by the Director of Wildlife. In terms of tourist hunting, the AA can ask the Director to designate all or part of a WMA to be a hunting block. Regarding benefit sharing, in WMAs the proportion that the AA gets, the Regulations state that: -

- *At least 15% must be reinvested for resource development of the WMA.*
- *At least 50% must be given to member villages in the WMA.*
- *At least 25% must be reinvested in strengthening the AA.*

The Regulations also provides leeway for an AAs to decide on the actual allocation as the stipulated limits. The District Natural Resources Advisory Board is charged with advising the AA on wildlife and natural resource management in the WMA.

4.4 The Wildlife Conservation (Non-Consumptive Wildlife Utilization) Regulations -GN. No. 181 of 2016

These Regulations are made the under sections 54 and 121 of the Wildlife Conservation Act. They are made to: -

- Provide rules or practical ways in which non-consumptive tourism (not involving the taking of wildlife specimen).
- Provides ways on how permits for non-consumptive can be applied be used. Permits are directed to be made/applied for and granted by the Director of Wildlife.
- Set out criteria for the designation of areas for non-consumptive use and provide for creation and use of buffer zones, wildlife corridors, and migratory routes, etc. and benefit-sharing of resources.
- Mandate the Director to collect fees prescribed under the Regulations on behalf of the Authorized Associations and the Local Government Authority and such fees shall be subjected to the benefit sharing formula specified under the Regulations.
- Stipulate penalty where a person who fails to pay fees within the prescribed time shall pay an additional 10% of the fee due within 14 days of notification. If he fails to pay within 14 days he shall be liable to pay additional 30% of the prescribed fee within fourteen days of notification. A person who fails to comply commits an offence and shall be liable upon conviction to a fine of five million shillings or to imprisonment for a term of one year or both. Local Authority or any other Authority cannot charge or establish other fees related to non-consumptive wildlife utilization except with the written permission of the Director.
- Provides manner of conducting non-consumptive tourism activities in a Wildlife Management Areas by Authorized Associations which must conform to the Wildlife Conservation (Non-Consumptive Wildlife Utilization) Regulations, 2008 and other relevant laws and regulations.
- Provides guiding tools in carrying out non-consumptive tourism activities in Wildlife Management Areas namely; approved Resources Zone Management Plans, General Management Plans, and the relevant laws and regulations.

The revenue accrued from non-consumptive wildlife utilization activities or business shall be distributed as follows: -

(a) Game Controlled Areas

- (i) 50% shall be directed to the Director;*
- (ii) 30% shall be directed to the District Council(s) of the respective area; and*
- (iii) 20% shall be directed to the Village Government(s) surrounding the respective Game Controlled Area.*

(b) Wildlife Management Areas:

- (i) 70% shall be directed to the Authorized Association managing the WMA;*
- (ii) 25% shall be directed to the Director; and*
- (iii) 5% shall be directed to the District Council.*

(c) Other conservation areas except Game Reserves,

Game Controlled Areas and Wildlife Management Areas

- (i) 25% shall be directed to the Director;*
- (ii) 15% shall be directed to the District Council of the respective area; and*
- (iii) 60% shall be directed to the Village Government of the respective area*

Authorized Associations shall conduct non-consumptive tourism activities in a Wildlife Management Areas in accordance with the Wildlife Conservation (Non-Consumptive Wildlife Utilization) Regulations, 2008 and other relevant laws and regulations.

Non-consumptive tourism activities in Wildlife Management Areas shall be done in accordance with the approved Resources Zone Management Plans, General Management Plans, and the relevant laws and regulations.

Off-take Quota by AAs

- i. The off-take quota applied for by an Authorized Association must specify the mode of disposal.
- ii. An application for off-take quota by a new Authorized Associations AA has to reach the office of the Director 30 days before the end of the hunting season.
- iii. AAs that were issued with off-take quota for previous hunting season shall submit application for off take quota together with the status of the previous quota utilization to the Director 30 days before the end of the hunting season.
- iv. The Director has to respond to the request for animal off-take quota in 15 days after the end of the hunting season.
- v. The Director must endorse the WMA off-take quota.
- vi. The Authorized Association shall supervise AA supervises the hunting company not to exceed the hunting quota issued to a hunting company.
- vii. Every hunting company must control hunting quota within its hunting block, and cannot exceed the hunting quota issued to the company.

-
- viii. Hunting for meat by an Authorized Association shall AA must be carried out under the supervision of a District Game Officer.
 - ix. Hunting for meat should utilize the off-take quota issued to the AA.
 - x. Hunting for the provision of meat by Authorized Association AA shall be conducted during the hunting season.

Benefit sharing in Wildlife Management Areas WMAs shall comply with circulars issued by the Government from time to time and shall adhere to mechanisms of equitable distribution of costs and benefits targeted at promoting wildlife conservation, enhancing economic development and poverty eradication. The Authorized Association shall ensure that-

- i. At least 15% of its annual gross revenue is re-invested for resource development;
- ii. At least 50% of its annual gross revenue is directed to villages forming part of the Wildlife Management Area; and
- iii. At least 25% of its annual gross revenue is used to strengthen the Authorized Association.

4.5 The Wildlife Conservation (Resident Hunting) Regulations, 2010

The Regulations provide inter alia age restriction on hunting at country level. Under the Regulations, the Director of Wildlife allocates animal quota to the Districts with game controlled areas and areas outside protected areas that are not allocated for tourist hunting. The Director enters into joint management agreement with the District Councils or registered resident hunters' association to manage the area designated for resident hunting. The District Game Officer is authorized to issue resident's hunting licenses in accordance with the animal quota allocated by the Director to the District. Where a resident hunter has hunted an animal, he is required to produce the license and hunting identity card within 30 days to authorized officer. The officer is required by the Wildlife Conservation Resident Hunting Regulation 2010 to record all animals hunted. Regulations 24(5) (a) and 24(6) stipulate that no hunting of lion of an age below six years. Any professional hunter who guides a client to hunt any lion in contravention of the Regulations commits an offence and upon conviction is liable for penalties, including cancellation of professional hunters' license. The Regulations provide further that;

- An AA can only issue a resident hunter's permit to a holder of a resident hunting license for purposes of hunting in a Wildlife Management Area.WMA.
- A holder of a resident hunting license must at all times be supervised by a Wildlife Officer or Village Game Scout in a Wildlife Management Area.WMA.
- An AA must certify resident hunter's license before and after hunting.
- An AA must maintain a register of used resident hunter's license in the format provided for in the 10thSchedule of these Regulations.
- The income generated from resident hunting in a WMA is shared as follows: -
 - (a) Authorized Association 40%; and
 - (b) responsible District Council 60%.

4.6 The Wildlife Conservation (Tourist Hunting) Regulations of 2015

This is a subsidiary legislation to the Wildlife Conservation Act and it is very crucial to wildlife management. The Regulation deals with hunting blocks in game reserves, game controlled areas and other areas outside protected areas.

The law under Regulation 3(3) requires the Director to consult other stakeholders before he establishes a hunting block in areas outside protected areas. Any other allocation of village land for use by any person whether the villager or non-villager must be submitted to the village council and get approved by the Village Assembly.

The Hunting Regulations, when read together with the Village Land Act shows a conflict in two institutions such as the Village Council and the Director for Wildlife. The Tourist Hunting Regulations provides that the Director may establish hunting blocks in a village land while the Village Land Act vests the Village Council with all the village management powers under supervision of the Village Assembly. The planning and utilization of village land remains in the village council and the hunting quotas issued to AAs in the WMAs do not automatically turn the area into hunting block within the meaning of these Regulations.

4.7 Wildlife Conservation (Dangerous Animals Damage Consolation) Regulation 2011

This Regulation was formulated for the purpose of consoling people who have been injured or their properties have been damaged by the dangerous animals. The definition of consolation according to this law includes the alleviation of misery, distress of mind or grief in either pecuniary or non-pecuniary terms with a view to providing support, comfort and relief from damage.

Under this Regulation, a person who suffered damage or destruction of the crops or livestock caused by dangerous animals is eligible for consolation. For one to be eligible for applying for consolation is required to do the following;

Criteria for one to apply for consolation:

- Report incidence to the nearest Village Executive Officer in the area where the incidence occurred within three days;
- All applications for consolation shall made to the Director in the forms set out in the First and Second schedule of the Regulation within seven days and be verified by a wildlife officer, agriculture or livestock officer, village executive officer or ward executive officer, two independent witnesses within the area and in the case of human injury or death a medical practitioner of a rank of clinical officer and above;
- The director may require more information from the applicant upon receiving an application; and conduct more inspection;
- It is an offense to provide incorrect or false information.

An applicant will only be eligible for consolation where the damage caused by the dangerous animals listed in the third schedule of the Regulation. A person shall not be entitled to consolation where he fails to apply in a manner prescribed above.

In some cases, application for consolation will not be considered by the relevant authorities. The following are the factors for non-consideration of application;

- Loss or damage of crops on land in excess of five acres;
- Damage, loss, injury or death to which the application relates occurred in the course of committing an offense in WCA, its Regulations or any other written laws;
- Where any portion of the damaged crops is harvested before inspection is conducted by the Director in accordance with law;
- The damaged crops were stunted and no harvest where expected;
- A payment has been made under any other arrangements or law for the same crop, property, or life with respect to the same location, property, or person for which consolation or similar scheme for relief is required;
- The claimant contravenes the law with regard to handling of the animal killed; and
- The damaged to livestock or crops occurred outside the boundaries of the village, or within the boundaries of the village but in contravention of land use plan and in any area within the buffer zone, migratory routed, wildlife corridors and dispersal areas.

Upon verification of claims, the Director will pay the applicant/ claimant in accordance with rates set out in the Fourth Schedule.

Where the applicant is aggrieved by the decision of the Director he will request the Director to reconsider the decision within 30 days from the date of the decision. The Director may reverse the decision upon:

- Re-verification of damage;
- Satisfaction that the first decision was incorrect;
- Such revision of decision may be completed within one year

PART V: WILDLIFE MANAGEMENT INSTITUTIONS

5.0 Introduction

This part explores the wildlife management institutions in Tanzania and their respective mandates. The administrative structure of conservation authorities in the wildlife sector is divided into several categories. The categories are dealt with below:

5.1 The President

All wild animals in Tanzania are public resource and are vested in the President as a trustee for the benefit of the citizens of Tanzania. He has also been mandated to declare any area of land to be a national park under the National Parks Act. The President has an obligation to ensure that the management and use of the wildlife resources is for the benefit of the people. Any use or management which is not intended to benefit the people can be challenged by any public spirit individual on the basis of breach of the trust by the government.

5.2 The Ministry of Natural Resources and Tourism (MNRT)

The MNRT is an apex body vested with an overall mandate to oversee wildlife resources in Tanzania. It is charged with many responsibilities which are carried out within its divisions. The Ministry deals with natural resources in three main divisions based on forest, wildlife, and antiquities.

The following are general roles of the MNRT in wildlife conservation;

- i. Administer the wildlife laws and regulations;
- ii. Pursuing and promote sound economic and wildlife management policies that are conducive to private and local communities' investments;
- iii. Issuing and administering all types of wildlife resources use rights and trading licenses and permits;
- iv. Developing management plans for wildlife protected areas.

After 2016, most of management authorities which were executed by the MNRT were shifted to the Tanzania Wildlife Authority (TAWA) leaving the Ministry with only matters related to policy and outreach.

5.3 Wildlife Division

Wildlife Division is headed by the Director of Wildlife. The establishment of the TAWA took over most of the wildlife management authorities from the Wildlife Division namely; conservation, management, development and sound utilization of wildlife resources in Tanzania.

The WD is responsible for;

- i. All matters related to conservation and management of wildlife products;
- ii. Designating wildlife officers to be licensing officers;
- iii. Initiating process for the establishment and process of declaration of Wildlife Management Areas;
- iv. Facilitating contractual agreements or Memorandums of Understanding of Authorized Associations on the management of WMAs;

- v. Overseeing activities in the WMAs and ensure allocation of animal quota;
- vi. Approving consumptive and non-consumptive use in WMAs;
- vii. Promoting anti-poaching activities and problem animal control; and
- viii. Determining the continuation of WMAs.

5.4 Tanzania Wildlife Authority (TAWA)

The TAWA is established by the GN No. 135 of 2014 as an autonomous body and charged with the protection, management and administration of wildlife resources and conservation of biodiversity in areas outside National Parks and NCA. In doing so, it has the following functions;

- i. To manage all areas designated as GR and GCA
- ii. To manage and protect wildlife in corridors, dispersal areas, wetlands, open areas and public land
- iii. Oversee management of wildlife in village land, WMAs, zoos, wildlife sanctuaries, ranches, and wildlife farms as advised by the Director of Wildlife.
- iv. Manage human wildlife conflict in collaboration with other wildlife management institutions. Liaise with other institutions and agencies on matters related to wildlife conservation.

In order to execute its functions, the TAWA has the following responsibilities;

- i. Improving the management and administration of GRs and GCAs;
- ii. Collecting revenues from various sources for improvement of wildlife management;
- iii. Realizing wildlife economic potential;
- iv. Conserving wildlife population effectively and efficiently;
- v. Improving human, physical financial and information resources required for managing wildlife and natural resources;
- vi. Motivating human resource to ensure effectiveness and efficiency.

5.5 Tanzania National Parks (TANAPA)

TANAPA was established in 1959 by the Tanzania National Parks Act (under section 3) to manage all National Parks in Tanzania. The law provides that the President has the powers to declare any area of the land to be a national park. Currently, Tanzania has 16 national parks which cover approximately 57,024 square kilometres. These national parks are regulated by the National Parks Act, CAP. 282 of 2002.

All affairs and activities of National Parks are managed under the established Board of Trustees. The functions of the Board are as follows: -

- i. To establish, operate and manage offices and services for the purpose of their duties and functions under the law, the publicizing of their activities;
- ii. To promote the conservation of fauna and flora in the National Parks;
- iii. To conduct patrols within the national parks boundaries;
- iv. To solve conflicts over land such as boundaries disputes;
- v. To provide assistance of visitors to national parks;
- vi. To establish, operate or manage or grant concessions or licenses to other persons;
- vii. To operate or manage on their behalf, any rest camps, lodges, restaurants or other places for the

- accommodation of visitors travelling to or from any national park, or for the accommodation of visitors to any place of aesthetic, geological, prehistoric, archaeological, historic, scientific, faunal or botanical interest, which may conveniently be operated in connection with any national park; and
- viii. To operate transport services for the conveyance of visitors to and from national parks or other places managed or operated by or on behalf of the Trustees.

5.6 Ngorongoro Conservation Area Authority

This was established by the Ngorongoro Conservation Area Ordinance of 1959 for the purpose of conservation and it is headed by an appointed conservator. Its responsibilities are as stipulated below;

- i. It has the responsibility of protecting the natural resources and the Maasai community that resides in the Ngorongoro Area;
- ii. It manages all conservation activities within Ngorongoro Area;
- iii. The Ngorongoro Conservation Authority is responsible for all patrols in Ngorongoro Area;
- iv. The Authority also contributes in all development projects in the communities that surround it.

5.7 Local Government Authorities

Powers and mandate to manage wildlife are also devolved to local government authorities such as the District Councils and Village Governments. See sections 31, 32, 33 of WCA. Under the District level, there are two entities that are directly involved in the wildlife management, such as the District Natural Resources Advisory Body and District Game Officers. Their responsibilities are as follows

- i. District Game Officers who are responsible for all matters on wildlife in their districts.
- ii. There are also established District Natural Resources Advisory Body who are there for the purpose of advising the authorized associations and the respective local authorities on matters relating to co-ordination and administration of a Wildlife Management Area.
- iii. They facilitate the establishment of Wildlife Management Areas in collaboration with the Wildlife Division, Non-Governmental Organizations and where applicable Tanzania National Parks and Ngorongoro Conservation Authority;
- iv. They facilitate applications by a community-based organization to become and authorized association and to establish a Wildlife Management Area;
- v. Approve village natural resources by-laws;
- vi. Advice and give guidance to Village Land Use Plans;
- vii. The District Councils monitor enforcement of wildlife laws inside and outside Wildlife Management Areas;
- viii. Participate in the process of signing agreements between the Authorized Association and potential investors;
- ix. Issue resident hunting license to the Authorized Association.

5.7.1 Village Councils

Section 8 of the Village Land Act vests management of all village land to Village Councils. This makes them relevant authority when managing wildlife resources on village land.

-
- a. Powers of the Village councils over their natural resources include to coordinate all natural resource activities in the village level;
 - b. Powers of the Village Council to Plan and Decide on Matters related to wildlife Resources
 - Village Authorities responsible for Wildlife Protection (e.g., Village Game Scout- (VGS) and Village Natural Resources Committee (VNRCM)).
 - The village councils provides land for the designation and establishment of a WMA;
 - The village councils formulate the natural resources management laws;
 - It monitors the activities of the Authorized Association and report to the village Assembly and District Council;
 - They also ensure that AAs implement sectoral policies while entering into agreements on the management of WMAs.

5.8 Private Sector and NGOs

The Private sector and NGOs are important in wildlife conservation. The Private sector can help on efforts to deal with poaching and engage in sustainable investments in the wildlife sector.

The private sector can particularly: -

- Contributes to sustainable economic growth,
- Helps minimize conservation risks by adopting precautionary measures,
- Improve access to investment capital in the wildlife sector.

NGOs have proved to be crucial in building the capacity of local communities to wildlife conservation through: -

- Training, creating awareness on current environmental issues and solutions.
- Facilitating the participation of various stakeholders in issues of conservation
- Help in monitoring negative trends of conservation
- Help in sharing and transferring conservation information through newsletters, brochures, articles, audio visuals, organizing seminars, lectures and group discussion for promotion of environmental awareness.

Helping local communities in preparation and management of conservation projects.

5.9. Training Institutions

5.9.1 Tanzania Wildlife Research Institute (TAWIRI)

The TAWIRI administers wildlife research in Tanzania with an overall objective of providing scientific information. It advises the government and wildlife management authorities on the sustainable conservation of wildlife.

5.9.2 College of African Wildlife Management MWEKA (CAWM)

It provides need-based training to protected area and wildlife managers by offering a variety of awards for long courses in Wildlife Management.

5.9.3 Pasiansi Wildlife Training Institute (PWTI)

The Pasiansi Wildlife Training Institute (PWTI) is a training institution established since 1966 for training game scouts/rangers. The college is the only institute offering paramilitary training in Wildlife Management for the majority of operational level staff in the wildlife sub-sector in Tanzania.

5.9.4 Community Based Conservation Training Centre (CBCTC-LIKUYU)

The Likuyu Community Based Conservation Training Centre (CBCTC) was established in July 1995 by the Wildlife Division. The Centre is established for the purpose of training people from rural communities in the management of natural resources, especially wildlife. The centre train on among other things village Game Scouting, Community-based Conservation approaches and strategies to Village Leaders, Natural Resources Committees and Community Based Organizations.

5.9.5 National College of Tourism (NCT)

The National College of Tourism (NCT) is a Government College in Tanzania Mainland under the Ministry of Natural Resources and Tourism which offers hospitality and tourism training. NCT is fully accredited with National Council for Technical Education (NACTE) to offer Ordinary Diploma and certificate training in hospitality and tourism as well as research and consultancy services in related matters in the country.

5.9.6 Other Government Training Institutions

Various Higher Learning Institutions such as university of Dar es Salaam has various wildlife related programmes for both undergraduate and postgraduate levels. The Sokoine University also has various programmes related to wildlife conservation. The university has a specific college, College of Forestry, Wildlife and Tourism which caters for the fields of forestry, wildlife and natural resources management. The college has programmes for both undergraduate and postgraduate levels.

5.9.7 Private Training Institutions

Besides the government institutions, there are also various private institutions that offer wildlife management and conservation related trainings.

PART VI: COMMUNITY WILDLIFE MANAGEMENT AREAS CONSORTIUM AND AUTHORIZED ASSOCIATIONS (AAs):

6.0 Introduction

This part will elaborate on the Mandate and Roles of community-based organization in relation to Wildlife Conservation. It focuses on mandates of CWMAC and AAs in conservation.

6.1 Management of Wildlife Management Areas (WMAs)

As noted, WMAs are established under the Wildlife Conservation Act and are regulated by the Regulations established under WCA. Generally, representatives from the WMA village or villages will form a Community Based Organisation (CBO) will have to acquire an AA status.

6.2 The roles and mandates of AAs in wildlife protection

An authorized Association are accountable to the Village Council; the following are their roles in conservation:

- i. An AA is the one that acquires user rights;
- ii. It enters into agreement with the Village Councils on the management of WMAs;
- iii. Manage the WMAs in accordance with an existing General Management Plan or Resource Management Zone Plan and the WMAs Regulations;
- iv. Recruit village game scouts in accordance with the law;
- v. Negotiate and enter into contractual agreements relating to the utilization of wildlife resources and investment in a WMA;
- vi. In appointment for good investors, the AA has to develop a mechanism, modality or system that is transparent and in the line with principles of good governance;
- vii. Keep government trophies in safe custody;
- viii. Issue permits for utilization of wildlife resources in a WMA in accordance with the Wildlife Conservation Act and its Regulations;
- ix. Propose quota to the District Natural Resources Advisory Body.

6.3 Community Wildlife Management Associations Consortium (CWMAC)

CWMAC is an apex body for all Authorized Associations managing Wildlife Management Areas (WMAs) in Tanzania. The Consortium is a civil society organization intended to provide a platform to the AAs to articulate their views and concerns of different stakeholders, plan and decide on matter of their common interests. The organization is registered under the Societies Act [Cap. 337 R.E. 2002], as an umbrella for all WMAs with AA status. The body is mandated to operate within the framework of Wildlife Conservation Act (2009) and Wildlife Management Areas Regulations (2012).

The main objective of the Consortium is to provide services to AAs members and non-members in Tanzania and improving members' social and economic welfare.

The specific objectives of Consortium include: -

- Conservation and sustainable utilization of natural resources in the respective WMAs;

- Fundraising and lay down procedures for use of financial resources in order to improve social services such as schools, infrastructure and hospitals around member WMAs;
- Providing advisory services to AA members particularly during planning of development projects, marketing research and control of illegal off take of natural resources;
- Liaison with government, non-governmental organization and/or private sectors in all matter that affect its members positively or negatively;
- Dealing with issues related to licenses, permits and fees for natural resources based investments/businesses;
- Ensuring good public relationships with governments, NGOs and other institutions that work together with member AAs;
- Creating an enabling environment for tourism and hunting business in WMAs;
- Law enforcement and ensuring that there is rule of law in all WMAs; and
- Dealing with all other issues for the benefits of its members but in compliance with existing policies and legislations.

6.4 Responsibilities of AAs to CWMAC

- To implement the legal decisions passed in different meetings in accordance with CWMAC constitution;
- To pay all subscription fees and other contributions as provided in the constitution and in accordance with the resolutions reached through legal meetings of the consortium;
- To participate in all legal activities which will result to the efficiency of the implementation of the consortium activities and
- To protect and conserve natural resources and ensure that the community benefits from those natural resources.

6.5 Responsibilities of Village Council in the management of Wildlife Management Areas

Village Councils have the following responsibilities in the management of WMAs:

- Providing land for the designation and establishment of a WMA;
- Coordinating natural resources activities at the village level;
- Preparation of Land Use Plans;
- Formulating natural resources management bylaws;
- Approving mechanism for benefit sharing among the villages forming the WMA in accordance with guidelines issued by the Government from time to time;
- Initiate selection of Village Game Scouts and forward to the Village Assembly for approval;
- Monitoring the activities of AAs and report to the Village Assembly and District Council;
- Promote a secure and favourable business environment in WMAs; and
- Ensuring that Authorized Associations AAs implement sectoral policies while entering into agreements on the management of a WMA.

6.6 Responsibilities of District Councils in the management of WMAs

District Council shall undertake the following responsibilities:

- To facilitate establishment of WMAs in collaboration with the Wildlife Division, NGOs and where applicable Tanzania National Parks and Ngorongoro Conservation Area Authority;

- ii. To facilitate applications by a Community-Based Organization (CBO) to become an AA and to establish WMAs;
- iii. To facilitate the District Advisory Body to carry-out its functions;
- iv. To link the AA and the Director on issues specified in these Regulations;
- v. To approve village natural resource by-laws;
- vi. To advise and give guidance on village Land Use Plans;
- vii. To monitor enforcement of wildlife laws inside and outside the WMA;
- viii. To participate in the process of negotiation and the signing of agreements between the AA and potential investors;
- ix. To monitor investment in the WMA;
- x. To issue resident hunting license to AA.

6.7 Responsibilities of District Natural Resources Advisory Body in the Management of WMAs

The District Natural Resources Advisory Body shall have the responsibility to-

- i. Act as a forum of arbitration and resolution of conflicts;
- ii. Provide technical advice to AAs;
- iii. Provide legal advice in contractual undertakings by Authorized Associations;
- iv. Scrutinize proposed quota from AAs and forward to the Director with recommendations;
- v. Appraise the District Council Committee dealing with natural resources matters on the deliberations of the District Natural Advisory Body;
- vi. Advise the District Council on investments in WMAs;
- vii. Oversee and administer cross-sectoral issues;
- viii. Carry out such other activities necessary for the better performance of the functions of the Body.

6.8 Responsibilities of the Director in the Management of WMAs

The District Director shall have responsibilities as follows -

- i. To facilitate the initiation process for the establishment of WMAs;
- ii. To facilitate the process of declaration of WMAs;
- iii. To enter into contractual agreements or Memorandums of Understanding with AAs on the management of WMAs;
- iv. To oversee the performance of AAs in the management of WMAs;
- v. To oversee conservation activities in WMAs;
- vi. Set and allocating animal quota;
- vii. To participate in the entire process of negotiation and signing of agreements between AAs and potential investors;
- viii. To approve consumptive and non-consumptive use in the WMAs;
- ix. To provide support in the protection and utilization of natural resources;
- x. To develop a syllabus and setting standards for training Village Game Scouts in all institutions providing training in wildlife conservation;
- xi. To support resource monitoring and inventory;
- xii. To facilitate development activities;
- xiii. Support training;

- xiv. Monitor and evaluating development trends;
- xv. Support anti-poaching activities;
- xvi. Support problem animal control;
- xvii. Determine the continuation of a WMA; and
- xviii. Carry out such other activities as may be directed by the Minister.

6.9 Responsibilities of NGO in the Management of WMAs

Non-Governmental Organizations have various functions in the management of WMAs once they obtain a written approval of the Minister. They may: -

- i. Facilitate establishment of WMAs in collaboration with the Director, TANAPA, NCAA and the District Council;
- ii. Collaborate with the Director and District Councils in supporting management of WMAs;
- iii. Support villages in preparing Land Use Plans, Resource Management Zone Plans and General Management Plans;
- iv. Provide technical advice to Authorized Associations;
- v. Facilitate preparation of by-laws;
- vi. Undertake capacity building;
- vii. Collaborate with law enforcement agencies in protection of natural resources.

6.10 Responsibilities of Private Sector in the Management of WMAs

The private sector shall have the following responsibilities-

- i. To enter into investment agreements on resource utilization in the Wildlife Management Area;
- ii. To promote and support AA in developing responsible practices on resource utilization;
- iii. To participate in investments and development initiatives of the AAs;
- iv. To market and promote resources of the WMA;
- v. to collaborate with law enforcement agencies in the protection of natural resources; and
- vi. To ensure it pays AAs and the Government dues fully and promptly.

6.11 WMA Management Tools

- i. Land Use Plan;
- ii. General Management Plans or Resource
- iii. Management Zone plan;
- iv. Adherence to the hunting quota issued by the Director;
- v. Environmental Impact Assessment where applicable; and
- vi. Any other tools that may be recommended by the Director from time to time

PART VII: RIGHTS, OBLIGATIONS AND OFFENSES ON WILDLIFE

7.0 Introduction

This part deals with rights, obligations and offences related to wildlife. It provides the basis of legal rights and the various rights and obligations that are vested to village governments on wildlife resources.

7.1 What is a right?

Rights are legal, social, or ethical principles of freedom or entitlement. They are essential rules about what is allowed of people or owed to people. The Constitution of the United Republic of Tanzania provides for rights such as rights for equality, rights to life, rights to freedom of conscious, and rights to work. Right to own property, is found within a right to work.

The rights of villagers on wildlife resources are all entitlements that villagers have through legal provisions under the Wildlife Management Act and other laws and regulations that relate to it. One of the villager's rights include the right to be informed on issues that affect their lives as per the Article 18 (2) of the Constitution of United Republic of Tanzania.

Villagers have the rights to: -

- i. Participate in the wildlife management through the establishment of Wildlife Management Areas (section 31 of WCA, 2009), WMAs;
- ii. Benefit from wildlife resources/animals that are in their jurisdiction (WMAs).
- iii. Be compensated once their land areas/rights are extinguished for the purposes of conserving wildlife resources/animals. Section 6 and 7 of the National Parks Act, for instance, are very clear that once someone's rights are extinguished she/he is entitled to compensation.
- iv. Traditional communities, may also be given the right, to access wildlife for utilization.
- v. At the discretion of the Minister one may enjoy a right for consolation. This is in case any person, including villagers are suffer any harm, loss for life, crops or any injury, caused by wildlife/dangerous animals, the WCA, 2009 (section 71).
- vi. Villagers and other individuals have the right to kill animals in exercising their rights to self-defence, either to save their lives or their livestock's lives. This right is however restricted and shall be exercised as per the law, section 73 of the WCA, 2009.

7.2 What is Obligation?

In a simple term, an obligation is a legal duty to do something. Where there are rights there have to be obligations. Thus, despite the rights provided under the Constitution of the United Republic of Tanzania there are also corresponding duties to the citizens. Such duties include duties to participate in work, duties to abide by the laws of the land, duties to safeguard public property and duty to defend the nation.

Every Tanzanian is duty bound to protect the country's resources and make sure that they are widely used for the benefit of all Tanzanians. This is a constitutional duty entrusted to all Tanzanians as per the article 27(1-2) of the Constitution of Tanzania. The Constitution, Article 27

(1-2), provides as follows:

“(1) Every person has the duty to protect the natural resources of the United Republic, the property of the state authority, all property collectively owned by the people, and also to respect another person’s property.

(2) All persons shall be required by law to safeguard the property of the state authority and all property collectively owned by the people, to combat all forms of waste and squander, and to manage the national economy assiduously with the attitude of people who are masters of the destiny of their nation”.

As per the WCA, 2009, section 4 (1), for example, wildlife resources/animals are public property placed on the hands of the President as a trustee for the benefits of all Tanzanians. It is therefore true that villagers and other citizens of this country have responsibility to protect wildlife resources/animals as all are public property as stipulated by the Constitution and other statutes such as the WCA 2009 for their benefit and the generations to come.

7.3 What is an Offence and penalties

An offence is an act that is wrong to the community and the state at large. One commits an offence when he acts against the provisions of the law. In wildlife matters, an offence is committed when one goes against the laws that regulate wildlife such as the WCA.

Penalties are simply legal punishments that are imposed to the person who has committed an offence, or has acted or not acted in a manner that breaches the law.

There are many offences and penalties that are established by various pieces of legislation for managing wildlife resources. Below are some of the offences and the corresponding penalties.

Offences and Corresponding Penalties

	LAW	SECTION	OFFENSE	PENALTY/FINE
1.	The Wildlife Conservation Act, 2009	section 15 (2)	Entry to game reserve without Director’s permission	Not less than 100, 000/- shillings or imprisonment for a term of not less than 1 year, but not exceeding 3 years or both.
		Section 17 (2)	Possession of fire arms bow, arrow or any other weapons in the game reserve without a Director’s permission	A fine not exceeding 200,000/-T. , shillings or to imprisonment term not exceeding 3 years or both.
		Section 18 (1) (3)	Causing bush or grass fire, or fell, cut, burn, injure or remove any standing tree, shrub, bush, grass, sapling, seedling or any part in game reserve without the written permission of the Director.	A fine of not less than shillings 300,000/- or imprisonment for a term of not less than 3 years but not exceeding 5 years, or both.

	LAW	SECTION	OFFENSE	PENALTY/FINE
		Section (2) & (4)	Grazing any livestock in game reserve or wetland reserve	Fine of not less than T. shillings 300,000/- and not exceeding 5,000,000/- or imprisonment for a term of not less than 2 years but not exceeding 5 years or to both.
		Section 19 (1), (2)	Hunting in game reserve, game controlled areas and wetland reserves without the Director's permission.	Where conviction relates to hunting, capture and killing of animals in the: First schedule of the WCA: imprisonment for a term not less than 5 years, but not exceeding 10 years and the court may impose the fine of 500,000/-T. shillings but not exceeding 2,000,000/-T. shillings; Second Schedule of the Act: imprisonment of not less than 2 years but not exceeding 5 years and the court may impose a fine of not less than T. shillings 300,000/- but not exceeding 500,000/-T. shillings; Third III schedule of the Act: imprisonment of not less than 1 year but not exceeding 3 years, in addition, the court may impose a fine of not less than T. shillings 100,000/- but not exceeding 1,000,000/- T. shillings; In case of any other offense: A fine of not less than T. shillings 200,000/- but not exceeding 500,000/-T. shillings or imprisonment for a term not exceeding 6 months.
		Section 20 (1), (2), (3),	(1) To dig, lay, construct a pitfall, net, trap, snare or use other devices capable of killing, capturing and wounding of any animal; When one carries or possesses any weapon that he fails to satisfy the director that the weapon was not intended to be used for hunting, killing, wounding and capturing of animals.	

	LAW	SECTION	OFFENSE	PENALTY/FINE
			Conducting crop cultivation. (2) Collecting sand, prospect or mine on any game reserve (serve for the proviso in s. 20 (3)).	Liabe for a fine of not less than 100,000/- but not exceeding 500,000/- T. shillings or imprisonment for a term of not less than 1 year but not exceeding 5 years, or both.
		Section 21 (1) (2)	Grazing in game controlled areas	A fine of not less than 100,000/- T. shillings but not exceeding 500,000/- T. shillings or imprisonment for a term of not less than 1 year but not exceeding 5 years, or both.
		Section 24 (1) & (2)	To cut or burn vegetation, hunt, capture, wound, injure, molest or kill any protected species in species management areas, commits and offence and on conviction shall liable.	For hunting, capturing or killing a protected animal, to imprisonment of a term of not less than 3 years but not exceeding 7 years, or to payment of a fine of not less than twice the value of the animal hunted, killed and captured, or both; In any other case- a fine of not less than 100,000/- T. shillings but not exceeding 500,000/- T. shillings or to imprisonment for a term of not less than 3 months but not exceeding 2 years.
		Section 26	Hunting, killing, capture, wound or molest a national game.	If a case relates to hunting, capturing or killing of a national game: a fine of not less than the value of the animal hunted, killed or captured, or imprisonment for a term of not less than 1 year and not exceeding 5 years; In any other case, to a fine of not exceeding T. shillings 1,000,000/- or to imprisonment for a term of not less than 12 months but not exceeding 3 years.
		Section 28 (1), (2) and (3)	Restrictions to hunt capture or kill any animal during a closed season without a permission of the Director.	Where the conviction relates to hunting, capture or killing of a national game: a fine of not less than twice the value of the animal or imprisonment for a term not less than 3 years but not exceeding 5 years

	LAW	SECTION	OFFENSE	PENALTY/FINE
				<p>Where the conviction relates to animals in part II of the first schedule of the Act: Imprisonment for a term of not less than 2 years but not exceeding 5 years</p>
		Section 47 (a)	<p>Where a person who is not the holder of the licence hunts, kills or wounds any specified animal or scheduled animal; OR</p> <p>Being a holder of hunting license, hunts, kills or wounds:</p> <p>A specified animal or scheduled animal of a species category, type or description other than that specified in the licence; or A number of specified animals or scheduled animals larger than those authorized by the licence; or A specific animal or scheduled animal in an area other than the area specified in the licence, commits an offense.</p>	<p>If the animal is specified under part I of the First Schedule to the Act: Imprisonment for a term of not less than 3 years but not exceeding 10 years. The court may additionally impose a fine of an amount not less than twice the value of the animal hunted or killed;</p> <p>If the animal is specified under part II of the First Schedule to the Act: Imprisonment for a term of not less than 2 years but not exceeding 5 years. The court may additionally impose a fine of an amount not less than twice the value of the animal hunted or killed;</p> <p>If the animal is specified under part III of the First Schedule to the Act: Imprisonment for a term of not less than 12 months but not exceeding 3 years. The court may additionally impose a fine of an amount not less than twice the value of the animal hunted or killed;</p> <p>If the conviction relates to wounding animal, the person will be convicted to a fine not less than twice the value of the animal or imprisonment for a term of not less than 12 months.</p>
		Section 53	<p>Any person not being a holder of a capture permit, captures any animal; OR</p> <p>Being a holder of a capture permit, captures;</p> <p>A category, type or description of an animal</p>	<p>If the animal is specified under part I of the First Schedule to the Act: Imprisonment for a term of not less than 3 years but not exceeding 5 years. The court may additionally impose a fine of an amount not less than twice the value of the animal captured;</p>

	LAW	SECTION	OFFENSE	PENALTY/FINE
			<p>other than that specified in the permit; or</p> <p>A number of animals more than those authorized in the permit; or</p> <p>An animal in an area other than the area specified in the permit.</p>	<p>If the animal is specified under part II of the First Schedule to the Act: Imprisonment for a term of not less than 2 years but not exceeding five years. The court may additionally impose a fine of an amount not less than twice the value of the animal captured;</p> <p>If the animal is specified under part III of the First Schedule to the Act: Imprisonment for a term of not less than 12 months but not exceeding three years. The court may additionally impose a fine of an amount not less than twice the value of the animal captured;</p> <p>If the conviction relates to wounding animal in the cause of capturing it, the person will be convicted to a fine not less than twice the value of the animal wounded or imprisonment for a term of not less than 5 months but not exceeding 12 months.</p>
2.	National Parks Act, Cap. 282	Section 16	<p>Restriction of Hunting, killing, capture, wound or molest any animal including fish or disturb any egg or nest within a national park or be in possession or control of any animal egg or nest within the confines of the park except for the domestic animal or egg introduced in a national park.</p>	<p>If the conviction relates to the hunting, capture or killing of an animal specified in Part 1 of the first schedule to the WCA,1974to imprisonment less than 3 years but not exceeding 7 years and the court may in addition there to impose a fine not exceeding five hundred shillings.</p> <p>If the conviction relates to the hunting, capture or killing of an animal specified in Part 11 of the first schedule to the WCA,1974to imprisonment not less than 2 years but not exceeding 5 years and the court may in addition there to impose a fine not exceeding five hundred shillings.</p>

	LAW	SECTION	OFFENSE	PENALTY/FINE
				If the conviction relates to the hunting, capture or killing of an animal specified in Part 111 of the first schedule to the WCA, 1974 to imprisonment less than 1 year but not exceeding 3 years and in addition thereto the court may impose a fine not exceeding two hundred shillings.
3	Environmental Management Act, 2004	Section 184	A person who trades; possesses, or disturbs the habitat, of a component of biological diversity in contravention of guidelines and measures prescribed under sections 66, 67 and 68 or other provisions, of the Act commit an offence.	Fine not exceeding 10,000,000/- T. shillings or to imprisonment for a term not exceeding 5 years or to both.
4.	Economic Organised Crimes Act, Cap 200	Section 17(1)(a) and (b) Paragraph 3(a), (b), (c) and (d) of the First Schedule of Economic Organised Crime Act made under Section 57(1)	Restriction to dig, lay or construct pitfall, net, trap, capable of killing, capturing or wounding any animal Restriction to carry in possession of any weapon and fail to satisfy the authorised officer the weapon used for purpose other than hunting, killing, wounding or capturing of an animal. Unlawfully capture, hunts or traps of animals in a game reserve or game controlled area Unlawfully deals in trophies or in government trophies Unlawfully possession of weapons in certain circumstances Unlawful possession of trophy contrary to section	Liabie of conviction and fine not exceeding hundred thousand shillings or to imprisonment for a term not exceeding two years or both fine and imprisonment

	LAW	SECTION	OFFENSE	PENALTY/FINE
			13, 14, 17, 38, Part VI, Sec 70 & 78 of Wildlife Conservation Act contrary to section 16 of the National Parks Act	
5.	Ngorongoro Conservation Area Act, Cap. 284	Sections 23, 24, and 25	<p>Restriction or control residence or settlement in any part of conservation area other than land held under a right of occupancy granted under the Land Act or Land which is subject of a claim made or a mining lease granted under the mining laws for the time and in the manner which he thinks fit.</p> <p>Prohibition, restriction or control use of land in the Conservation Area,; this also includes;</p> <ul style="list-style-type: none"> • The introduction, grazing, watering or movement of stock; • Firing, clearing or destruction of vegetation including stubble, • The use of well, boreholes, waterholes, water-courses, streams, rivers or lakes, • The gathering of honey or forest produce; • The exercise of any rights in relation to forest produce determined under the provision of Forest Act; • The introduction or removal of Flora and fauna; • The use of agricultural implements or machinery; • The carrying or use of weapons, snares, traps, nets or poison; 	<p>Section 38: In case of first conviction, to a fine not exceeding five thousand shillings or to imprisonment for a long term not exceeding 2 years or both the fine and imprisonment;</p> <p>In case of a second or subsequent conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding 5 years or to both the fine and imprisonment.</p>
6	Forest Act, Cap. 324	Sections 91 & 85	A person who lights or assists in lighting or uses, rekindles or adds fuel to any fire or causes any of these activities to take place;	Fine of not less than 50,000/- T shillings and not exceeding 1,000,000/- T. shillings or to imprisonment for a term not exceeding 1 year or

	LAW	SECTION	OFFENSE	PENALTY/FINE
			<p>(b) leaves unattended a fire which he, with or without authority has lighted or assisted in lighting or used or rekindled or to which he has added fuel before such fire is thoroughly extinguished.</p> <p>A person who fells, cuts, lops damages, removes or sells any reserved tree or any part thereof on unreserved land commits an offence.</p>	<p>to both such fine and imprisonment.</p> <p>A fine of not less than 50,000/-T. shillings and not exceeding 1,000,000/-T. shillings or to imprisonment for a period not exceeding 1 year or to both such fine and imprisonment.</p>
7	Marine Parks & Reserves Act, Cap. 146	Section 25	Killing or wounding non-domesticated animal in a marine without reporting the event at the earliest possible moment to the nearest authorized officer constitutes an offence.	1 st offence a fine not exceeding 200,000/- shillings or to imprisonment for a term not exceeding 2 years or to both, in case of a subsequent offence, to a fine not exceeding 400,000/-T. shillings or imprisonment for a term not exceeding 4 years or to both.
8	Water Resources Management Act, 2009	Section 102(2)	Person who pollutes water in any river, stream or water course or in any body of surface water to such extent as to be likely to cause injury directly or indirectly to public health, to livestock or fish, to crops, orchards or gardens which are irrigated by such water or to any products in the processing of which such water is used commits an offence.	Fine not exceeding 5,000,000/-T. shillings or to imprisonment for a term not exceeding 2 years or to both and in case of continuation of the offence, to an additional fine not exceeding 50,000/-T. shillings in respect of every day during which the offence continues.
9	Fisheries Act, 2003	Section 44	A person, found in possession of poison within the vicinity of any water body containing fish, commits an offence.	Imprisonment for a term of not less than 7 years.
		Section 43(1)	A person, who uses explosives to kill fish or, destroys aquatic flora, commits an offence.	Imprisonment for a term of not less than 5 years and not exceeding 10 years.

PART VIII: NEGOTIATING TOOLS AND SKILLS

8.0 Introduction

Generally, negotiation skills for local communities engaged in wildlife conservation is potential for meaningful benefit sharing. This part deals with negotiation tools and skills that local communities need. The tools and skills may enable communities to take active role in negotiations with investors to enhance their bargaining power. Without negotiation skills, communities are left at the mercy of the investors rendering them vulnerable to unprofitable investment deals.

8.1 Negotiating Strategies and Skills

Any good negotiation requires negotiation strategies and skills. Clear negotiation strategies and skills enable the relevant party to get a better deal out of the negotiation. It enhances the bargaining power and hence the chances for a better deal. This part attempts to look at some of the essential negotiating strategies that communities could consider before engaging a natural resource negotiating endeavour.

8.1.1 *Appreciating and exercising Powers vested under relevant laws*

In natural resources management, the Local Government (District Authorities) Act of 1982 establishes the village council as an entity with executive powers in respect of affairs and business of the village. The power vested to the village council in terms of management of the affairs of the village is immense. The Village Councils needs to appreciate the substance of such power and exercise it judiciously for the betterment of the community in any business deal involving village resources. Such power should however be subjected to the oversight mandate of the village assembly.

The Village Council is empowered to: -

- (a) do all such acts and things for the economic and social development of the village;*
- (b) initiate and undertake any task, venture or enterprises designated to ensure the welfare and wellbeing of the residents of the village;*
- (c) plan and co-ordinate the activities of and render assistance and advice to the residents of the village engaged in economic activity or industry of any kind;*
- (d) encourage the residents of the village in undertaking and participating in communal enterprises;*
- (e) participate, by way of partnership or any other way, in economic enterprises with other village councils.*

Apart from powers to plan and initiate all economic and social development related activities, the Village Land Act provides power to the village council to manage and plan on the village land subject to the approval of the village assembly.

The village council will propose on the village land use planning to the village assembly and upon the VA approval, the village council has to do the following;

- i. Prepare detailed land use plans for implementation in its respective area of jurisdiction;
- ii. Ensure that the objectives of the Village Land Act, are achieved;
- iii. Secure the orderly and environmental sustainable development in the village;
- iv. Ensure productive use of village land;
- v. Preserve village land resources including forests and wildlife; and
- vi. Review or evaluate all applications for land within the village to determine the extent of its conformity with approved land use plans and to advice the Village Assembly accordingly.

The Land Use Planning Act also recognizes the village council as a land planning authority and it does so under the guidance of the Village Land Act in ensuring a participatory village land use planning and provides the following:-.

The Village Council can do the following in relation to the village land;

- i. Grant a derivative right on the village land. The Village Council is the one that receives the application in a manner that is provided for under section 32 (2) (b) – (e) of the VLA*
- ii. A village council, subject to approval of the village assembly, may allocate land for investment and provide a derivative title to its applicants;*
- iii. Section 11 of the VLA gives the village council the right to into an agreement with any other villager which is known as a joint land management;*
- iv. In exercising all these powers, the District Council may play advisory role to the village council.*

8.1.2 Adequate Knowledge on Value of Resources

Before entering into any investment agreements, villagers or WMAs are supposed to have adequate knowledge on the value of the resources found in the area in question. The value of their resources will determine the following: -

- i. The value will help to weigh the promised benefit for investment and the current value of the villagers' asset (natural resources). If the investor's promised benefit seems too minimal compared to the current usefulness of the resources to the village, then there will not be benefits on the side of the village;
- ii. The actual opportunity cost that the village/WMA will have to forego during the whole time of such investment. For instance, in case of the mining activities, the WMA Regulations (R.58 (d)) provides that the mining investor has to pay an AA an actual opportunity cost foregone to allow the extraction of minerals;
- iii. It will determine the compensation on loss of any social-economic value of the investment area in the village;

8.1.3 Conduct of Due Diligence Prior to Entering into Agreements

Communities need to conduct due diligence regarding the intended investment. Due diligence involves: -

- Assessing possible risks and challenges regarding the agreement;
- Identifying ways to manage such risks and impacts;
- Identifying relevant stakeholders/experts to be involved; and
- Engaging the stakeholders and experts to advise and assist in the negotiation process.

8.1.4 Engaging an Expert on Every Technical Procedure

In the matters that need expertise, the villages are advised to hire a professional on the relevant technical matters so as to bring the best result. The law allows the village governments to hire its own personnel so as to carry out some official obligations as it assigns. Experts of the following professions should be hired so as to ensure that villages enter into clean and beneficial deals;

- An investment/natural resources/environmental lawyer;
- A land valuation expert;
- An economist;
- An environmental engineer; and
- A socio-economic impact assessment expert.

8.1.5 Ensure Compliance with Environmental Principle of Sustainability

In entering into agreements, villagers must not only focus on development but rather sustainable development. The EMA defines sustainable development to mean development that meets the needs of the present generation without compromising the ability of the future generation to meet their needs by maintaining the carrying capacity of the supporting ecosystems.

In this aspect, villagers / WMAs should be able to analyse the importance of the project while ensuring that they do not deny future generation to enjoy such resources.

8.1.6 Ensure Conduct of EIA

It is a legal requirement under section 81 of the Environmental Management Act (2004) that, any person who wishes to develop a project or undertake certain activities must undertake EIA. For instance, any of the following activities must carry an EIA: -

- Generally: -
 - Any activity out of character with its surroundings;
 - Any structure of scale not in keeping with its surroundings; and
 - Major changes in the land use.
- Urban development;
- Transportation;
- Dams, rivers and water resources;
- Aerial spraying
- Mining, including quarrying and open-cast extraction;
- Forest related activities;
- Agriculture including animal production
- Processing and manufacturing industries;

-
- x. Electrical infrastructure;
 - xi. Management of hydrocarbons including the storage of natural gas and combustible or explosive fuels;
 - xii. Waste disposal;
 - xiii. National conservation areas;
 - xiv. Nuclear reactors;
 - xv. Major development in biotechnology including the introduction of testing of genetically modified organisms; and
 - xvi. Any other activities prescribed in the EIA regulations.

To satisfy themselves on the EIA conducted by the investor, villagers are advised to consult experts who guide them on determining the extent of impact and advise them on the consequences if any. Villagers/WMAs should consider sustainable development in the first place rather than promises.

8.1.7 Exploring Investor's Capital Ratio.

Communities must undertake investor capital ratio to know the fiscal status of the investor. In doing so, the community has to look at the following: -

- Assess the debt/capital ratio;
- Review the track record of the investor;
- Consider whether the investor operates on capital/ loan;
- Find out the nature or type of the loan and its conditions;
- Assess the possible impact of breach loan terms to the village.

8.2 Negotiating Tools

WMA communities need to consider certain tools before entering into negotiation. They need to know the scope of their mandate and any specific requirements in the laws, regulations, bylaws, guidelines etc. The following are potential tools that could be taken into account: -

- Relevant laws and policies,
- Regulations and Village by-laws,
- WMA Constitution,
- Business plan,
- Any issued Circulars and Guidelines,
- Land use plans and General Management and Resource Plans,
- Basic investment contract package (model checklist).

8.3. Negotiating Skills

1. Negotiation is an art and requires special skill.
2. Do not to take anything for granted.
3. Take time to digest before responding (if complex scenario ask for postponement).
4. Make initial preparations: need to have a pen and writing diary /notebook.
5. Prepare your prior position with the best alternative scenario in case the initial position fails.
6. Arrive before time on the venue and get time to recompose.

7. Be clear and audible.
8. Avoid rushing to quick decisions.
9. Do not aim to impress the other party but to get the best deal.
10. Be organized and build your case logically supported with vivid justification. (known experiences could be useful).
11. If it is a team, choose the key speaker (agree who will speak next- avoid conflicting positions).

8.4 Negotiating Qualities and Values

- **Qualities**

Since negotiating is an important part of a successful investment deal the negotiator needs to possess certain qualities. The qualities may provide him leverage in the negotiation.

- The negotiating team must:-

- Be of good communicators
- Be of good listeners
- Possess
 - acute understanding,
 - quick perception,
 - retentive memory,
 - sound judgment,
- Be capable of exercising due vigilance in the discussion,
- Be cautious and active in the discussion, and
- Have ability to speak about their resource effectively in a business manner.

- Negotiating Values

Negotiating is an art that requires certain values. The values are important to ensure that those who are involved do not take the exercise for granted. They must be doing on behalf and for the benefit of the community. The negotiating team needs to observe the following values: -

- o Obtain prior consent/authority from WMA/VC;
- o Share progress through appropriate forums with the members of the Community to enhance transparency;
- o Have a sense of community accountability;
- o Provide feedback to the community to enhance its participation;
- o Work within agreed timelines;
- o They need to know scope of their mandate and any specific requirements in the laws, regulations, bylaws, guidelines etc.

- WMA communities need to consider certain tools before entering into negotiation. Potential tools that could be taken into account: -

- o Relevant laws and policies,
- o Regulations and Village by-laws,
- o WMA Constitution,
- o Business plan,
- o Any issued Circulars and Guidelines,
- o Land use plans and General Management and Resource Plans,
- o Basic investment contract package (model checklist if any).

- The team must remember that negotiating is a business deal so it must behave in a business like-manner. Where need arise, it may suspend the negotiation to seek appropriate guidance.

8.5 Roles to be Played by Different Organs on Investment Issues

The investors in the WMAs are appointed on the basis of selective tender system provided under the WMA Regulations Therefore, to facilitate the process, an AA may form a Tender Evaluation Committee which is comprised of not more than seven members appointed amongst members of the particular AA, District Natural Resources Advisory Board, a representative of the Director and two advisors if appointed. This means that an AA/ WMA have a room to select two more advisors in the Tender Evaluation Committee. (R. 50)

For an AA to obtain a tourist hunting company, to conduct tourist activities in its Wildlife Management Area will do so in a way and manner stipulated below;

- Advertising the hunting block in a widely circulated newspaper.
- In obtaining a tourist hunting company, an AA will work with the representative of the Director and the District Council following the criteria provided in Regulation 10(2) of the Wildlife Conservation (Tourist Hunting) Regulations, 2010 and requirement of sections 38 (7), 39 (3) and (5) of the WCA.
- After selecting and negotiating with the potential tourist company submit to the Director copies of all relevant application documents together with a draft investment Agreement for vetting;
- The Director shall within 30 days from the date he received the documents, vet and accordingly advice the AA;
- Upon receiving the advice of the Director, the AA will appoint and sign an investment agreement (in a prescribed form in eleventh schedule to the Regulations) with a successful tourist hunting company;
- The tenure of ownership of a hunting block in a WMA is of a period of five years subject to renewal and that if the applicant has attained a minimum score there will not be any renewal of time;
- In all these procedures, an AA will ensure that there is transparency; and
- The income generated in the tourist hunting activities in WMA shall be shared as provided for under 12th Schedule of the Regulations. (Regulation 51).

8.5.1 Responsibilities of NGOs and Private Sector: Regulation 28:

The Private sector:

- to enter into investment agreements on resource utilization in the Wildlife Management Area;
- to participate in investments and development initiatives of the Authorized Associations.

NB: Regulation 2 defines investment to mean the flow of capital to develop or improve infrastructure and services with a view of securing income or profit in a Wildlife Management Area.

8.6 Procedure in Mining Activities

In respect of investment in mining activities, the Regulations provide the following procedure; (R. 58)

- An EIA is conducted in accordance with EMA and an Environmental Impact Certificate issued;
- An AA reviews the Resource Management Zone Plan and General Management Plan to accommodate the new land use which should be approved;
- The company pays for the costs for review and approval of Resources Management Zone Plan and General Management Plan to accommodate a new land use;
- The mining company pays the AA an actual opportunity cost that it has foregone to allow the extraction of minerals;
- The company pays an AA protection and restoration cost of 20% of the total cost of investment which have to be paid by the investor;
- The investor pays for concession and conservation fees in the terms agreed upon;
- extraction of sand, gravel, stones and mineral resources of a similar nature shall be done in accordance with the approved General Management Plan or the Resource General Management Plan

The WMA/ AA are the ones given power to appoint an investor. Regulation 18 of the WMA Regulations provide that, some of the functions of an AA are;

- To appoint a potential investor in the WMA and to develop a mechanism, modality or system that is transparent and in line with the principles of good governance;
- To negotiate and enter into contractual agreements relating to the utilization of the wildlife resources and investment in the WMA;
- To communicate the investment activities to the village assembly (ies) prior to signing of investment agreements; and'
- To oversee investment and development activities within the WMA;

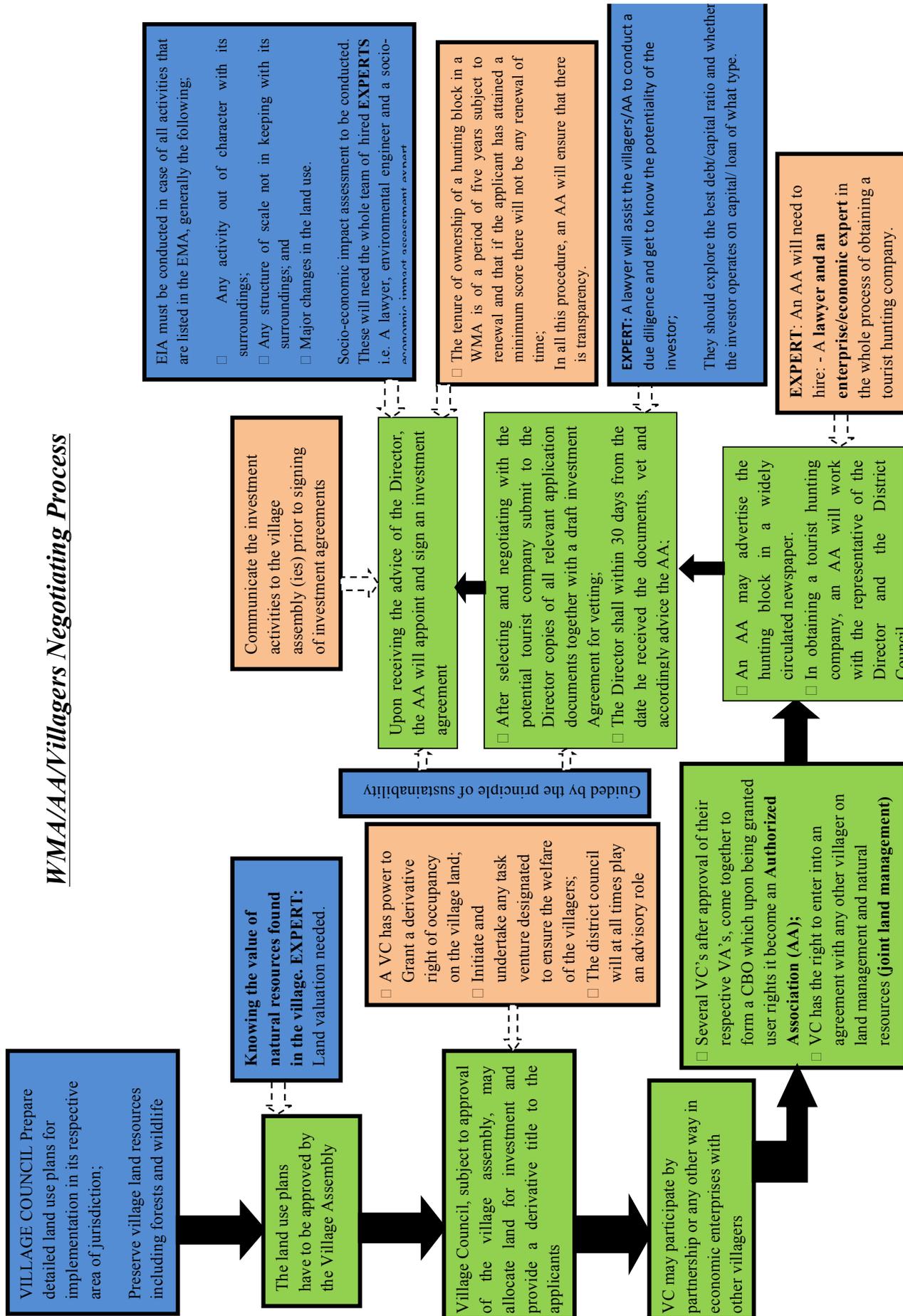
The District Council also has a role to play in the investment process such as provided below in accordance with Regulation 22 of the WMA Regulations;

- To participate in the process of signing agreements between an Authorized Association and a potential investor;
- To monitor investment in the WMAs.

According to Regulation 25 of the WMA Regulations, the District Natural Resources Advisory Board is supposed to advice the District Council on investment in WMAs.

The Director has the responsibility (Regulation 26) to participate in the entire process of negotiation and signing of agreements between Authorized Associations and potential investor.

WMA/AA/Villagers Negotiating Process







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