



# Discussion Paper on Kenya's Wildlife Economy

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## 0. Overview

Kenya's diverse biological assets, significant ecological zones, and habitats hold great potential to realise a sustainable national wildlife economy. Such an economy can contribute to multiple environment and development goals including poverty alleviation, creation of decent and green jobs, income generation and alternative livelihoods for local communities, enhanced conservation of biodiversity, and protection for important wildlife spaces. A robust wildlife economy will promote peace and stability of the nation and enable growth and development.

This discussion paper has been prepared to support a national consultation on the wildlife economy engaging key stakeholders in contributing to the development of new national wildlife economy strategy that will:

- support improved livelihoods for the local people;
- enhance “user” rights and involvement of communities; and
- create opportunities for private sector investment in wildlife conservation practices

Section 1 introduces the concept of wildlife economy vis-à-vis the concept of conservation and positions it in the Kenyan context. A key observation is that crops and cattle are out competing wildlife in Kenya and for wildlife to compete, it must provide greater economic returns, especially to rural communities and landowners.

Section 2 looks at the policy and legal framework for unlocking and diversifying the wildlife economy. It includes a review of key elements of Kenya's wildlife law as well as the country's commitments under international treaties and strategies. This review indicates that Kenya has robust policies, strategies, goals, and action plans in place to develop its wildlife economy.

Section 3 describes potential for Kenya's wildlife economy and illustrates a diversity of wildlife economy value chains. These examples demonstrate that the country already has a strong basis on which it can build a stronger and more inclusive wildlife economy sector.

Section 4 is based on a recent academic study which sets out several barriers to unlocking the wildlife economy particularly with respect to consumptive wildlife utilisation. The section notes that while not all aspects of the wildlife economy relate to consumptive use, the centrality of ownership and use rights regarding consumptive use is also critical to other economics activities such as securing mangrove carbon credits, restocking a community conservancy, or the responsible harvesting on non-timber forest products.

Section 5 asks what is to be done leading into the wildlife dialogues with key stakeholder groups. Tough questions need to be asked and considered and hard decisions need to be made.

Finally, Annex 1 present comments for consideration regard revision of the Wildlife Conservation and Management Act, 2013. Though the wildlife economy goes beyond the legal framework set out in this Act, it's revision has the potential to create the needed enabling environment for unleashing an inclusive and sustainable wildlife economy.

## 1. The wildlife economy challenge in Kenya

### 1.1 From wildlife conservation to wildlife economy

What we are today referring to as the wildlife economy has origins as far back as the launch of the '**World Conservation Strategy - Living Resource Conservation for Sustainable Development.**' Published in 1980 by IUCN in cooperation with UNEP, WWF, FAO, and UNESCO, the World Conservation Strategy (WCS) directly linked developed and conservation:

"Conservation, like development, is for people; while development aims to achieve human goals largely through use of the biosphere, conservation aims to achieve them by ensuring that such use can continue...

That conservation and sustainable development are mutually dependent can be illustrated by the plight of the rural poor. The dependence of rural communities on living resources is direct and immediate."

It set out three conservation objectives to ensure that development is sustainable:

"a. **to maintain essential ecological processes and life-support systems** (such as soil regeneration and protection, the recycling of nutrients, and the cleansing of waters), on which human survival and development depend;

b. **to preserve genetic diversity** (the range of genetic material found in the world's organisms), on which depend the functioning of many of the above processes and life-support systems, the breeding programmes necessary for the protection and improvement of cultivated plants, domesticated animals, and microorganisms, as well as much scientific and medical advance, technical innovation, and the security of the many industries that use living resources;

c. **to ensure the sustainable utilization of species and ecosystems** (notably fish and other wildlife, forests and grazing lands), which support millions of rural communities as well as major industries."

Importantly, sustainable utilisation is a core conservation objective which directly links how we manage our living planet to how we develop our societies:

“For a subsistence society, sustainable utilization of most, if not all, its living resources is essential... Sustainable utilization is also necessary for the rational planning and management of industries dependent on the resources concerned (for example, timber, fish). Sustainable utilization is somewhat analogous to spending the interest while keeping the capital. A society that insists that all utilization of living resources be sustainable ensures that it will benefit from those resources virtually indefinitely.”

In the 1980s what today we are calling the wildlife economy would have been more commonly called wildlife conservation. This is because conservation was understood then as the management of our living planet for sustainable human benefit. The WCS stated:

“Conservation is defined here as: **the management of human use of the biosphere so that it may yield the greatest sustainable benefit** to present generations while maintaining its potential to meet the needs and aspirations of future generations. Thus, conservation is positive, embracing preservation, maintenance, sustainable utilization, restoration, and enhancement of the natural environment.”

For many today, however, the concept of conservation has become analogous with protection or preservation. This is in part due to the separation of conservation from sustainable use in the reformulation of the WCS conservation objectives into the biodiversity objectives of the Convention on Biological Diversity with conservation set out as a separate objective from sustainable utilisation. This separation is more recently reflected in the Sustainable Development Goals 14 and 15 which call for the conservation and sustainable utilisation of marine and terrestrial ecosystems.

Hence the term 'wildlife economy' attempts to align the conservation objectives of preservation, maintenance, and sustainable utilisation once again in support of sustainable and inclusive development. The African Wildlife Economy Institute at Stellenbosch University presents a definition of this term as follows:

“**Wildlife** includes undomesticated terrestrial and marine animals, plants, and other life forms, as well as their abiotic and biotic interactions. Wildlife is linked to the habitats and ecosystems where it naturally lives.

The **economy** is the set of human interactions that produce, trade, and consume goods and services. Living natural resources, including wildlife, are key factors of production for many goods and services such as food and tourism.

A **wildlife economy** utilises undomesticated animals and plants and the ecosystems in which they live to produce goods and services for human benefit.”

For the purposes of this discussion paper, we will reflect on the goal of the WCS -- i.e., "the integration of conservation and development to ensure that modifications to the planet do indeed secure the survival and wellbeing of all people -- through exploring opportunities for unlocking and scaling up Kenya's wildlife economy.

## 1.2 Core elements of Kenya's wildlife economy

Kenya's diverse biological components, significant ecological zones, and habitats hold great potential to realize a sustainable national wildlife economy. Such an economy can contribute to multiple conservation and development aims including:

- Generating income and alleviating poverty;
- Creating decent and 'green' employment;
- Improving nature-based livelihoods for rural communities;
- Enhancing wildlife user rights involving landowners and communities;
- Incentivising increasing habitat for wildlife and wildlife numbers;
- Engaging the private sector investment in wildlife conservation; and
- Promoting inclusive sustainable development and peace.

Additionally, a robust wildlife economy in Kenya supports the commitments under the **African Convention on the Conservation of Nature and Natural Resource**<sup>1</sup> including the following:

- "adopt scientifically-based conservation, utilization and management plans of forests and rangeland....
- ensure conservation, wise use and development of faunal resources and their environment, within the framework of land-use planning and of economic and social development...; and
- manage exploitable wildlife populations outside [protected] areas for an optimum sustained yield, compatible with and complementary to other land uses..."

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<sup>1</sup> See: [https://au.int/sites/default/files/treaties/7763-treaty-0003\\_-\\_african\\_convention\\_on\\_the\\_conservation\\_of\\_nature\\_and\\_natural\\_resources\\_e.pdf](https://au.int/sites/default/files/treaties/7763-treaty-0003_-_african_convention_on_the_conservation_of_nature_and_natural_resources_e.pdf)

Regarding the **African Strategy on Combating Illegal Exploitation and Illegal Trade in Wild Fauna and Flora in Africa**<sup>2</sup>, the wildlife economy is hindered by illegal trade:

“The illegal trade in wild fauna and flora also hinders the development of legal and sustainable activities and uses of wildlife, resulting in a significant loss of potential revenue to African States...”

However, one of its key objectives is to establish a more inclusive alternative which can enhance local livelihoods:

“Promote the participatory approach with economic development and community livelihoods through sustainable use of wild fauna and flora...”

Further, a wildlife economy in Kenya will support the **African Ministerial Declaration on Biodiversity**<sup>3</sup> at the 2018 African Ministerial Summit on Biodiversity, particularly with respect to implementing the

“Pan-African Action Agenda on Ecosystem Restoration for Increased Resilience in order to:

- (a) Combat land degradation and enhance ecosystem restoration in the region;
- (b) Facilitate strengthening of biodiversity mainstreaming initiatives to address the sectoral drivers of land degradation and biodiversity loss;
- (c) Work towards implementation of sustainable food systems for the well-being of people and nature.”

Kenya's national commitments/policies relevant to the wildlife economy are reflected in its **Fifth National Report to the Conference of the Parties of the Convention on Biological Diversity** (2015)<sup>4</sup> which highlights the economic contributions of biodiversity utilisation in the following sectors:

- **Agricultural sector** - “The ASAL [arid and semi-arid] is predominantly livestock producing zone holding over 70% of the country's livestock with an estimated value of over Kshs 70 Billion...These livestock do rely on forages (plant biodiversity) to grow and produce goods and services for human wellbeing.” [The latest statistics from Nyariki & Amwata (2019) show that ASALs hold over 75% of the country's livestock with an estimated value of KES 106 billion.]

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<sup>2</sup> See: [https://au.int/sites/default/files/documents/33796-doc-african\\_strategy\\_strategy\\_africaine\\_au.pdf](https://au.int/sites/default/files/documents/33796-doc-african_strategy_strategy_africaine_au.pdf)

<sup>3</sup> See: <https://www.cbd.int/doc/c/cecc/efc0/a1d1f03092d93a286193f3b6/cop-14-afr-hls-02-final-en.pdf>

<sup>4</sup> See: <https://www.cbd.int/doc/world/ke/ke-nr-05-en.pdf>

- **Tourism sector** - "The sector contributes 10 percent of the GDP and 9 percent of total formal employment (GOK, 2007). Tourism industry is maintained by a few attractions that include biodiversity (mainly wildlife), coastline beaches, diverse cultural and natural landscapes (e.g., Mt. Kenya) and eco-tourism (sport tourism, cultural tourism, scientific tourism, etc)."
- **Energy sector** - "Perhaps the biggest contribution of plant biodiversity to rural and urban poor is the provision of bio-energy in form of fuelwood and charcoal. In Kenya, 68% of Kenya's population depend on biomass fuel (firewood, charcoal and agricultural residue) as a source of energy..."
- **Fisheries sector** - "Kenya's fisheries sector is mainly composed of freshwater (lakes, rivers and dams) and marine (Indian Ocean), with aquaculture still at infancy... Fishing is both a food production as well as a cultural activity (sport) and therefore its potential is enormous." [According to KNBS (2020), the estimated value was USD 222 million in 2019, contributing around 0.5% of GDP and employing 2 million people, 80,000 directly.]
- **Forestry sector** - "Excluding intangible benefits, the sector contributes in excess of KES 20 billion worth of goods to the economy annually and employs over 50,000 people directly and another 300,000 indirectly (KFS, 2009). In addition, millions of people living adjacent to forests benefit from forests through livestock grazing, fishing, honey production, farming, and herbal medicine among other benefits."
- **Health sector** - "This sector benefits from biodiversity in a number of ways. The nutrition needed for healthy living is largely met by biodiversity from plant-based and animal-based foods... Over a thousand species of plants are used as traditional foods in Kenya either as fruits, vegetables, tubers, food additives (spices) etc. though only a couple of them are domesticated/cultivated." [They are also used as herbal medicine for over 80% of the population.]
- **Trade and Industry** - "There are a number of small and medium scale firms, Community Based Organisations, NGOS and individuals involved in trade on biodiversity in Kenya. Some of these are involved in trade in fauna e.g., Ostrich farming, reptile farming (Snakes, tortoise, and chameleons), butterflies both for local and international markets... Trade in the above biodiversity could either be as whole or parts of the organism e.g., skin, hides or leaves, bark, roots, etc."

In the **Kenya Vision 2030**<sup>5</sup>, most of the programmes and initiatives relevant to wildlife focus on tourism. These include an Under-Utilised Parks Initiatives, Premium Parks Initiatives, Development of Coastal Beach Ecosystem Management. There is also a programme on Fisheries Development and Management strengthening fisheries and fish farming. Programmes on Arid and Semi-Arid Area Development and Agricultural Priority Programmes focus mostly on crop farming and domesticated livestock. However, these

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<sup>5</sup> See: <http://vision2030.go.ke/>



could accommodate game farming and game ranching activities as envisioned under the above-mentioned Act.

Kenya's **Big 4 Agenda**<sup>6</sup> includes Food Security which highlights key opportunities in large scale agriculture production such as Fisheries (aquaculture, inland and ocean) and Animal production (dairy and meat). Complementing fisheries and fish farming of marine wildlife, the Agenda provides a potential opportunity to develop ranching and farming operations for terrestrial wildlife.

In this context and as a step in a process to establish a clear roadmap for realization of the wildlife economy in Kenya, this discussion paper eventually aims to:

- Analyse the status of Kenya's wildlife economy;
- Analyse the potential for expansion of existing and new value chains and improvements; and
- Make recommendations to:
  - foster improved community engagement including issues of access, rights, and capacity; and
  - opportunities for private sector investment through innovative mechanisms like wildlife credit schemes and blue or green bonds.

### **1.3 The potential of the wildlife economy in Kenya**

The potential of the wildlife economy in Kenya is evidenced in the success of wildlife economies elsewhere in Africa, such as Namibia. A Namibia government discussion paper<sup>7</sup> published in 1996 stated:

"Namibia has good potential for expansion of sustainable wildlife use, which can contribute positively to national economic growth, and more than double its economic value over the next ten to 20 years."

In the country's 2nd National Biodiversity Strategy and Action Plan (2013-2022)<sup>8</sup>, there is clear evidence of the positive impacts in Namibia from unlocking its wildlife economy:

"Biodiversity and the natural environment are of critical importance to Namibia. Natural resource-based sectors including mining, fisheries, agriculture, and tourism are the basis of the Namibian economy, and around 70% of Namibia's population

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<sup>6</sup> See: <https://big4.delivery.go.ke/>

<sup>7</sup> See: Wildlife Use for Economic Gain: The potential for wildlife to contribute to development in Namibia, Ministry of Environment and Tourism Paper Number 12, September 1996 - See: <https://www.cbd.int/financial/values/namibia-economwild.pdf>

<sup>8</sup> See: [http://www.met.gov.na/files/downloads/168\\_NBSAP%202%20Namibia.pdf](http://www.met.gov.na/files/downloads/168_NBSAP%202%20Namibia.pdf)

is directly dependent on the natural resource base for income; food; medicinal and health needs; fuel and shelter. This situation demands that biodiversity, and the ecosystem services it provides, are maintained, and enhanced as far as possible for sustainable development...

Conservation has emerged as an increasingly viable land use in Namibia, particularly since rights to the conditional use of wildlife were devolved to local communities through conservancies in 1996. It was estimated in 2012 that conservancies employed around 900 people permanently and 3,500 on a temporary basis, with over N\$50 million [USD3,00,000] being generated by conservancies in 2011, mainly through trophy hunting, accommodation establishments, and the harvesting and sale of natural resource products and crafts."

The reason for this success has much to do with devolving wildlife use rights, responsibilities and returns to landowners, specifically to communities:

"Namibia has consistently linked the need for conservation with the generation of benefits for its people through the sustainable use of biodiversity. The devolution of rights and management over resources such as water, wildlife and forests to the community level has been an important step in this process. Conservancies are proving that wildlife will be well conserved once benefits from this conservation reach the local community."

Like Namibia and other countries which could be highlighted including South Africa and Zimbabwe, Kenya has the potential to develop a robust wildlife economy utilising its marine and terrestrial wildlife to produce marketable goods and services, create jobs, and enhance livelihoods, particularly in rural communities.

#### **1.4 Statement of the problem**

A robust wildlife economy is one that is centred on the sustainable use of marine and terrestrial wildlife and natural habitat to ensure that wildlife remains a competitive land use option. Ideally, this is done through the cooperation between national government authorities, local communities, and the private sector in wildlife conservation investments that results in sustainable ecological and economic benefits for the country and its people. Benefits from wildlife resources are a critical part of Kenya's economy.

In the past three decades, the country has lost more than half of its wildlife (ungulate) biomass according to data from the Directorate of Resources, Surveys and Remote Sensing (DRSRS) (Richard et al, 2019)<sup>9</sup>. The actual research was by Ogutu et al (2016) which reported 70% decrease in wildlife biomass for mammals over 2 kgs. More worrying is that even three decades ago, the importance of utilising wildlife to conserve it was

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<sup>9</sup> See: <http://documents1.worldbank.org/curated/en/465881576053357383/pdf/When-Good-Conservation-becomes-Good-Economics-Kenya-s-Vanishing-Herds.pdf>

already widely discussed in Kenya. In an article<sup>10</sup> published in 1995 on 'Wildlife utilization: use or it lose it,' Richard Kock from the Kenya Wildlife Service wrote:

"Sustainable consumptive utilization of wildlife as an alternative or adjunct to domestic animal ranching, farming or use of communal land has a number of benefits. Species which otherwise would be removed from land as competitors to livestock are conserved, thereby reducing risks of extinction. Consumptive wildlife utilization can lead to a better and more economic use of the land and in the process reduces degradation. The use and development of this resource in Kenya has the support of the International Union for Conservation of Nature and Natural Resources and most conservation organizations...

"There is potential for developing consumptive wildlife utilization in Kenya... There is capacity for the development of many areas including intensive game farming of crocodiles and ostriches, hunting, game ranching and community utilization schemes...

The Fifth National Report referenced above summarizes the drivers of wildlife loss. These can be understood as the replacement of wildlife and natural habitat with land uses that can be utilised for human benefit:

Human encroachment on critical biodiversity sites for agricultural expansion has since the 1970s and 1980s shifted to low potential rangelands which coincidentally are the prime wildlife ecosystems leading to competition for water resources, human-wildlife conflicts, habitat fragmentation and blocking of wildlife migratory routes and dispersal areas and negative perception towards conservation.

Agriculture and livestock production remain the main sources of livelihood for the majority of Kenyans, thus average land holding per rural household had dropped to less than 1/5 hectare... Agriculture is the main stay to Kenya's economy and contributes over one-third of the country's Gross Domestic Product (GDP). It also supplies most of Kenya's exports, the most important being coffee, tea, pyrethrum, sisal, and horticultural products.

In short, crops and cattle are out competing wildlife in Kenya. For wildlife to compete, it must provide greater economic returns, especially to rural communities and landowners, than currently being delivered by a photographic tourism industry centred on visiting legally protected and conserved areas.

The decline in biodiversity in Kenya over the past decades indicates that the traditional avenues of benefit realization from the wildlife sector - essentially through photographic tourism and donor funding - can no longer guarantee sustained livelihoods for most of the citizens who provide their land for the public good of wildlife conservation. There is

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<sup>10</sup> See: <https://rd.springer.com/article/10.1007/BF00055971>

thus an urgent need for expansion of the wildlife economy to meet the livelihood needs of communities as well as the macroeconomic needs of the country at large.

## 1.5 Definition of terms

In this discussion paper, we are using the following definitions:

- **Animal** - any species or the young or egg thereof, but does not include a human being or any animal which is commonly considered to be a domestic animal or the young or egg thereof
- **Biodiversity** - the variability among living organisms from all sources including ecosystems and the ecological complexes of which they are a part, compassing ecosystem, species and genetic diversity
- **Biological resources** - includes genetic resources, organisms, or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity
- **Community** - a group of individuals or families who share a common heritage, interest, or stake in unidentifiable land, land-based resources or benefits that may derived therefrom
- **Game farming** - the rearing of wildlife in an enclosed and controlled environment for wildlife conservation, trade, and recreation
- **Game ranching** - the keeping of wildlife under natural extensive conditions with the intention of engaging in wildlife conservation, recreation, and trade
- **Habitat** - a place or site where wildlife naturally occurs, and which provides food, cover and water on which wildlife depend directly or indirectly
- **Intra-generational equity** - the right of the people within the present generation to benefit equitably from the exploitation of wildlife resources
- **Meat** - the fat, flesh, or tissue of any wild species whether fresh or dry, pickled or otherwise preserved or processed
- **Sustainable use** - present use of the wildlife resources, which does not compromise the use of the same by future generations or degrade the carrying capacity of wildlife ecosystems and habitats
- **Sustainable management** - in relation to wildlife, means management of wildlife resources to permit only such use of it as constitutes sustainable use

- **Wildlife** - undomesticated terrestrial and marine animals, plants, and other life forms, as well as their abiotic and biotic interactions; linked to the habitats and ecosystems where it naturally lives
- **Wildlife conservancy** - land set aside by an individual landowner, body corporate, group of owners or a community for purposes of wildlife conservation
- **Wildlife economy** - utilisation of undomesticated animals and plants and the ecosystems in which they live to produce goods and services for human benefit

## 1.6 Methodology

For this discussion paper, we have conducted a desktop study, which builds on a literature review of relevant documents, reports, and online articles. Informal discussions with stakeholders also informed the analysis.

## 2. An overview of the policy and legal framework

The legal and policy framework for Kenya's wildlife economy is complex with international, regional, and national elements. This section aims to highlight some of the key elements that will need to be considered and addressed in developing legislation and regulations to enable the country's wildlife economy to further develop.

### 2.1 National wildlife policy and strategy

#### 2.1.1 Early developments in Kenya's wildlife policy

Kenyans, like other peoples, were hunters and gatherers in early times harvesting wild fauna and flora for food and other livelihood needs. Under the Portuguese in the 16th and 17th centuries and the Omanis in the 18th century, the country also exported wildlife products, notably ivory. With the arrival of the British in the late 19th century, new regulations were established:

"In 1895, the colonial British government began the implementation of formal wildlife policy in Kenya as the administrator of the protectorate. Ordinances were constructed to regulate the extraction of wildlife, control the trade in ivory, and enable game hunting for the white settlers..."<sup>11</sup>

Regulation of wildlife and habitats for both protection and use featured throughout the 78 years of British rule:

"Following the formal declaration of the British East Africa Protectorate in 1896, the colonial government issued a declaration to set up wildlife game reserves. The

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<sup>11</sup> See: <https://www.ecologyandsociety.org/vol25/iss2/art15/>

South Game Reserve (13,000 square miles) and North Game Reserve (13,800 square miles) were established.

With the entrenchment of British rule in the East Africa Protectorate, the need arose to set up more areas under protection and this led to the formation of a game department in 1906. In 1945, the British Protectorate passed the **National Parks Ordinance** that paved the way for the establishment of more protected areas. This was followed by the establishment of Nairobi Royal Park the following year...

The National Parks Ordinance of 1945 provided the energy with which the game department drove the establishment of protected areas in the country. Aberdare Royal Park and Mount Kenya Royal Park (later renamed National Parks) were established not only for protection of wildlife but also to offer exclusive recreation to the settlers."<sup>12</sup>

Another example is the 1928 Game Ordinance which made it illegal for landowners to conserve game if it was a nuisance to their neighbours. It also prohibited the capture of game or hunting on private land without the consent of the owner or occupier of such land. The colonial administration thus released the control of game on settler lands but not on native lands.

Also, in 1937, amendments were made to the existing legislation on wildlife, aimed at tightening restrictions on hunting, reducing poaching, and dealing with the hunting of animals using automobiles and airplanes. This legislation made the conditions for hunting by settlers of animals destroying their crops more stringent and increased regulation on capturing of animals.

### **2.1.2 Wildlife (Conservation and Management) Act, 1976**

At the time of independence in 1963, there were established wildlife laws and several government agencies in place to manage the protection and use of wildlife:

"Following independence, wildlife management fell under several different administrative units: Game Department in charge of wildlife found outside PAs; National Parks Board in charge of running the National Parks; and County Councils—under Ministry of Local Government—in charge of national reserves."<sup>13</sup>

In 1975, the post-colonial Government released its first major wildlife policy - **Sessional Paper No. 3** of 1975 entitled 'A Statement on Future Wildlife Management Policy in Kenya. Francis Mwaura<sup>14</sup> later explains that:

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<sup>12</sup> See: <http://www.georgewright.org/291chongwa.pdf>

<sup>13</sup> See: <https://online.ucpress.edu/cse/article/3/1/1/108916/Transformations-Changes-and-Continuities-in>

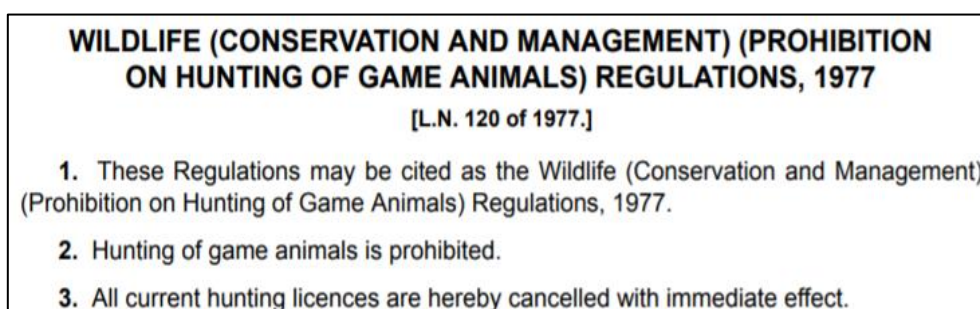
<sup>14</sup> See: <https://discovery.ucl.ac.uk/id/eprint/1519656/1/Conservation-of-Cultural-and-Natural-Heritage-in-Kenya.pdf>

“The policy recognized that wildlife needed space outside the protected areas if it were to flourish and envisioned the need to find ways through which such additional space for wildlife conservation could be secured from the landowners willing to accommodate wildlife.”

The Paper became the **Wildlife (Conservation and Management) Act** in 1976.<sup>15</sup> It centralised wildlife management by merging the Game Department with the Wildlife Management Board under a new Wildlife Conservation and Management Department (WCMD) of the Ministry of Tourism and Wildlife. However, as noted in a World Bank paper by Joyce Poole and Richard Leakey published in 1996:

“The merger was not a success. The government department was not permitted to retain revenue from park entrance fees and concessions and was unable to obtain adequate funds through the ministry... the result was that over a relatively short period, wildlife management became inefficient and corrupt, and it was during this period that close to 90 percent of Kenya's elephants disappeared.”<sup>16</sup>

Importantly, the 1976 Wildlife Act also recognised a role for “both community and private participation in wildlife management”<sup>17</sup> and set out a detailed set of regulations for the “control of hunting.”<sup>18</sup> These regulations become redundant, however, with a new regulation added to the Act in 1997 that prohibited the hunting of game animals.<sup>19</sup>



### 2.1.3 Amendment 16 - Kenya Wildlife Service, 1989

Regarding the management of wildlife, the WCMD was replaced with the Kenya Wildlife Service by **Amendment 16 to the Wildlife Act** in 1989.<sup>20</sup> As Poole and Leakey explained in a report for the World Bank:

<sup>15</sup> See: <http://extwprlegs1.fao.org/docs/pdf/ken7750.pdf>

<sup>16</sup> See: <http://documents1.worldbank.org/curated/en/736041468027603116/pdf/multi-page.pdf>

<sup>17</sup> See: <https://kwcakenya.com/wp-content/uploads/2018/01/REVISED-DRAFT-NATIONAL-WILDLIFE-MANAGEMENT-CONSERVATION-POLICY-2017-1.pdf>

<sup>18</sup> See: <http://extwprlegs1.fao.org/docs/pdf/ken7750.pdf>.

<sup>19</sup> See: <http://extwprlegs1.fao.org/docs/pdf/ken62317.pdf>

<sup>20</sup> See: <https://www.ecolex.org/details/legislation/wildlife-conservation-and-management-amendment-act-1989-no-16-of-1989-lex-faoc017710/>

"In 1990, the WCMD was transformed into a new parastatal known as the Kenya Wildlife Service (KWS). This new organization was to retain revenue earned and was given a broad and independent mandate...

In 1991, the KWS and the Forestry Department entered into a memorandum of understanding whereby the KWS would jointly manage indigenous forests. Under the memorandum, the KWS would encourage revenue-generating activities within indigenous forests and would retain the revenue for forest management."

Effectively, Kenya's wildlife economy - the production of wildlife goods and services except for game hunting and the revenues earned from these products - were placed under the control of a semi-autonomous government agency.

Regarding the ban on game hunting and utilisation, in 1996, KWS, with support from the African Wildlife Foundation, produced a **Wildlife Utilisation Study**<sup>21</sup> which questioned the effectiveness of the hunting ban and highlighted the urgency of legalising consumptive utilisation:

"In 1977, the Government banned sport hunting in Kenya and two years later, followed with a ban on the sale of trophies and wildlife curios, thereby putting an end to a once thriving consumptive wildlife utilisation industry that was getting well established in the country... Despite the ban, the population of almost all key wildlife species continued to decline—mainly due to continued poaching so that by 1989, the population of Black Rhino and Elephant had been reduced by 97 percent and 85 percent respectively (Kock, 1995) ...

This experience puts into serious doubt the view held by some policy makers as well as other individuals in the conservation community that the continued ban on consumptive utilisation—which forms the basis of the Government's current policy— would lead to sustainable conservation of wildlife, with stable or increasing populations...

In 1974, when hunting was allowed, Group Ranches in Kajiado district earned about USD30,000 net of taxes from fees and concessions. The ban on hunting effectively took away this opportunity and converted an asset to a liability since wildlife was now taking the place of other potential income generating forms of land use. The ban therefore increased the incentive to find alternative forms of land use. Moreover, the ban meant that landowners in these areas with wildlife did not have the incentive to protect wildlife."

Written 25 years ago, the KWS report warned:

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<sup>21</sup> KWS with AWF, 1996. Wildlife Utilisation Study Report No. 2 Economic Analysis. Copy available upon request.



“There is a real possibility that Kenya will lose a substantial portion of her wildlife resources unless urgent measures are taken to eliminate the existing regulatory and policy constraints that make wildlife utilisation—particularly consumptive use—economically an unattractive or even impossible land use option. While the economic consequences are enormous, the loss of biodiversity and the ecological impact are equally threatening.

In this report, we have noted that Kenya faces a major challenge in her effort to conserve wildlife in a way that ensures that those who bear most of the costs of conservation generate maximum returns from the resource. The current policy regime outside protected areas promotes forms of utilisation that even though they are highly profitable to the nation as well as other stakeholders, provide little or no direct benefit to the landowners who must bear the costs. As a result, landowners are opting for other land uses that are not consistent with conservation of wildlife, such as sub-division of range land for agriculture, and settlements. Consequently, wildlife populations are being depleted at a rate that threatens their future. There is, therefore, a need to address the issue before it is too late.”

### **2.1.4 Wildlife Conservation Management Act, 2013**

The 1990s to the 2010s did not see much change in the wildlife law. Since the 1990s, however, the country continued to recognise the importance of sustainable utilisation but has struggled with putting in place an institutional and regulatory framework that would open the wildlife economy. This became increasingly material as during this period there was a proliferation of private and community conservancies with limited opportunities to secure economic benefits from conserving wildlife.

The adoption of the Kenya's new constitution in 2010 provided the basis for new developments in wildlife policy. As highlighted in the National Environmental Policy, 2013:

“The promulgation of The Constitution of Kenya 2010 and other new developments like climate change marked an important chapter in Kenya's environmental policy development. Hailed as a 'Green' Constitution, it embodies elaborate provisions with considerable implications for sustainable development.”

This included implications for wildlife policy. The preamble of the 2010 **Constitution of Kenya**<sup>22</sup> states:

“Respectful of the environment, which is our heritage, and determined to sustain it for the benefit of future generations...”

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<sup>22</sup> See: <https://www.wipo.int/edocs/lexdocs/laws/en/ke/ke019en.pdf>

This explicit recognition of the need to sustain natural resources for posterity is further supported by Article 69.(1),(2) which states:

“Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.”

This recognition of national responsibility is further articulated in Article 69.(1) (a):

“The State shall... ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;”

And the Fourth Schedule specifies the following function for national government:

“Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular  
(a) fishing, hunting and gathering;  
(b) protection of animals and wildlife...”

There, therefore, was a constitutional underpinning that allowed policy makers, in consultation with Kenyan citizens, to develop roadmaps for the management, conservation and sustainable utilization of wildlife resources.

Following the adoption of the Constitution, the **Tourism Act, 2011**<sup>23</sup> was adopted. This piece of legislation was particularly important to the wildlife sector as tourism is the major commercial use of wildlife. As explained in a 2016 Sustainable Tourism Report:<sup>24</sup>

“This is an Act of Parliament to provide for the development, management, marketing and regulation of sustainable tourism and tourism-related activities and services, and for connected purposes. The Act provides for the formulation of a national sustainable tourism strategy that is to be revised after every 5 years. It also provides for the establishment of agencies that will regulate, promote, finance, train and inform sustainable tourism development in Kenya.”

This new Constitution also provided the basis for adopting new wildlife regulations - the **2013 Wildlife Conservation Management Act** and subsequent amendments in 2017.<sup>25</sup> This Act sets out the following key principles to further develop the wildlife economy:

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<sup>23</sup> See: <https://tourismauthority.go.ke/index.php/resource-centre/downloads/category/2-act-regulations>

<sup>24</sup> See: <http://ktb.go.ke/wp-content/uploads/2014/03/KTB%20Sustainable%20Tourism%20Brochure.pdf>

<sup>25</sup> See: <https://www.ecolex.org/details/legislation/wildlife-conservation-and-management-act-2013-no-47-of-2013-lex-faoc134375/>

- "Wildlife conservation and management shall be devolved, wherever possible and appropriate to those owners and managers of land where wildlife occurs; ...
- Wildlife conservation and management shall be encouraged and recognized as a form of land use on public, community and private land;
- Benefits of wildlife conservation shall be derived by the land user in order to offset costs and to ensure the value and management of wildlife do not decline;..."

It also specifies what sustainable utilisation activities are permitted or not. Those permitted include the following:

- wildlife-based tourism;
- commercial photography and filming;
- educational purposes;
- research purposes;
- cultural purposes;
- religious purposes;
- game farming;
- game ranching;
- live capture and sale;
- research involving off-take;
- cropping;
- culling;
- multiple use of marine resources; and
- subsistence fishing.

The Act prohibits sport, recreational, or subsistence hunting:

**Sport Hunting**

(10) Sport hunting is prohibited and any person engaging in sport hunting or any other recreational hunting will be committing an offence and shall be liable on conviction to a fine or to imprisonment or to both such fine and imprisonment.

**Subsistence Hunting**

(11) Hunting for the purposes of subsistence or facilitating the trade in wildlife products, particularly the bushmeat trade, is prohibited and any person engaging in such activity will be committing an offence and is liable on conviction to a fine or to imprisonment for a term or to both such fine and imprisonment.

Also, in line with the new Constitution, in 2-16 the **Community Land Act, No. 27**<sup>26</sup> repealed previous laws regarding communal land ownership and introduced new

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<sup>26</sup> See: <http://landcommission.go.ke/media/erp/upload/communitylandact27of2016.pdf>

management rights regarding sharing and utilization structures that affect wildlife. The Act states clearly that "A registered community shall put in place measures necessary to conserve resources in community land." This gives the community rights to wild fauna and flora with the expectation that:

- "natural resources found in community land shall be used and managed—
- (a) sustainably and productively;
  - (b) for the benefit of the whole community including future generations;
  - (c) with transparency and accountability; and
  - (d) on the basis of equitable sharing of accruing benefits."

The framework legislation is now in place in Kenya to unlock the wildlife economy. However, regulations will need to be drafted to make this happen.

### **2.1.5 National Wildlife Strategy 2030**

Over the years since the sessional paper No. 3 of 1975, Kenya's wildlife conservation policy has evolved, culminating in the release of a new **National Wildlife Strategy 2030** in 2018.<sup>27</sup> It aims to:

"provide an overarching framework that prioritizes, coordinates, and inspires participation for the transformation of the wildlife sector in Kenya."

Goal 4 on 'Access, Incentives, and Sustainable Use' is to:

"Provide incentives for access and sustainable use of wildlife resources, while ensuring equitable sharing of benefits."

The Goal includes a Strategy 4.2 to:

"Develop and promote innovative and strategic investment for the sustainable use of wildlife resources and biodiversity."

Planned activities in to implement this strategy include the following:

"Activity 4.2.1 Conduct a market study, including a review of past and current efforts, to establish and inform the sustainability of consumptive wildlife utilisation including game farming and game ranching

Activity 4.2.2 Develop and implement a comprehensive incentives package to encourage voluntary conservation through wildlife conservancies, sanctuaries, game farms, game ranches, and other green spaces, including use of land leasing, conservation easements and offsets, land banking and other means,

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<sup>27</sup> See: <http://www.tourism.go.ke/wp-content/uploads/2018/06/WILDLIFE-STRATEGY2030-ABRIDGED-VERSION-Final-June-12-2018-1.pdf>

Activity 4.2.3 Develop and pilot local industry for value addition and marketing of wildlife and wildlife products

Activity 4.2.4 Provide education and extension services, including pilot programs, demonstrations, to promote opportunities for wildlife based enterprises

Activity 4.2.5 Create opportunities for employment and participation for local communities in biodiversity conservation activities and sustainable use”

Other relevant activities set out under Goal 4 include:

- “1. Develop and gazette regulations to facilitate equitable and effective benefit sharing for sustainable livelihoods.
2. Develop tax-incentives to promote investments in wildlife conservation.
3. Undertake comprehensive assessment for wildlife utilization opportunities.
4. Develop land based incentives to encourage voluntary conservation.
5. Provide extension services to promote opportunities for wildlife based enterprises.
6. Create opportunities for investment and employment of local communities in biodiversity conservation.
7. Pilot and support sustainable utilization and management of marine and coastal resources.
8. Promote innovative approaches for catalysing investment in marine and coastal ecosystems.”

Kenya now has robust policies, strategies, goals, and action plans in place to develop its wildlife economy.

### **2.1.6 Summary of relevant policies and laws**

All the following support the development of the wildlife economy in Kenya:

<b>Policy/Law</b>	<b>Description</b>
<b>Marine Zones Act 1989</b>	Provides for the exploration, exploitation, conservation, and management of the resources of the maritime zones including the Exclusive Economic Zone (EEZ) including

<b>Policy/Law</b>	<b>Description</b>
	marine fisheries as provided for in the Fisheries Act. The State Department of Fisheries, Aquaculture and Blue economy is the executing agency
<b>Paper No. 3, 1975</b>	This paper served as the first attempt at a comprehensive policy on wildlife management in Kenya and recognized the need for wildlife to flourish outside of protected areas. Identified the primary goal of wildlife conservation as the optimization of returns from wildlife defined broadly to include aesthetic, cultural, scientific, and economic gains, taking into account the income from other land uses (Onguogo et al., 2014)
<b>National Land Policy, 2009</b>	Also known as "Sessional paper No.3 of 2009", this policy stands as the primary framework that aimed "to guide the country towards efficient, sustainable and equitable use of land for prosperity and posterity" Recognised investments in land related ventures as important avenues for creating wealth and encourages the development of wildlife sanctuaries and
<b>Kenya Constitution, 2010</b>	The Constitution, the supreme law of the Republic of Kenya, supports the protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including the protection of animals and wildlife. Article 69. (1),(2) provides that the State shall ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits
<b>Tourism Act 2011</b>	Provides for the development, management, marketing and regulation of sustainable tourism and tourism-related activities and services. Creates several institutions to manage tourism including the Tourism Regulatory Authority; Tourism Marketing Board; Utalii College and various financing instruments.
<b>Kenya Wildlife Policy, 2012</b>	This framework stands as the major roadmap which addressed the loopholes in Paper No. 3, 1975 and focuses on community conservancies in Kenya Facilitated the devolution of both power and responsibility over wildlife conservation thereby enlisting more stakeholders in conservation with a specific focus on communities.

<b>Policy/Law</b>	<b>Description</b>
<b>County Governments Act, 2012</b>	It mandates the County Government to make legislation for the management and exploitation of county resources. Critical for coordinating the management of wildlife economy options at the county level.
<b>Wildlife Conservation and Management Act, 2014</b>	This act provides the legal framework for management of wildlife and conservancies in the country and for connected purposes. Economic activities such as game farming, game ranching, ecotourism, commercial photography, and filming are supported under this Act
<b>Forest Policy, 2014</b>	This policy primarily aims to provide guidance to halt and reverse the pace of deforestation and forest degradation in the country and increase forest cover. It also explores emerging opportunities for sustainable forest financing both at national and international level. Recognises wildlife conservation as one of the key means which should support the management and conservation of indigenous forests as well as creating an avenue for citizens to benefit economically from certain timber and NTFPs
<b>Forest Management Act, 2016</b>	This act provides for the management of wildlife occurring in forests. Does not explicitly address the WE but rather focuses on private investments in forests as an avenue of accruing economic benefits
<b>Fisheries Management and Development Act 2016</b>	Provides for the conservation, management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing. The State Department of Fisheries, Aquaculture and Blue economy is the executing agency
<b>Kenya Wildlife Strategy 2030, 2018</b>	This Strategy is a roadmap aligned to Kenya's Vision 2030 and the Government's Big Four Agenda. Recognises the tourism sector in the national economy and invites all Kenyans to join in the delivery of wildlife management and conservation that will drive the country's economy forward

Source: MoTW (2018), National Council of Law Reporting Database

## 2.2 International wildlife policy and strategy

Kenya has ratified over 16 international conventions and agreements that govern international obligations for conservation of the environment and natural resources including the Convention of International Trade in Endangered Species (CITES), the Ramsar Convention on Wetlands; the World Heritage Convention; the UN Framework Convention on Climate Change UNFCCC); the Convention of Biodiversity Diversity (CBD); the Convention on Conservation of Migratory Species; and the UN Convention to Combat Desertification (UNCCD). These directly impact national implementation of policies and laws affecting a wildlife economy. This section highlights some of the relevant agreements.

### 2.2.1 International Union for the Conservation of Nature (1963)

Kenya joined the **International Union for the Conservation of Nature and Natural Resources** (IUCN) in 1963 as its 19th Member State.<sup>28</sup> In the same year, it also hosted IUCN 8th General Assembly where there was an expression of “warm appreciation to the adherence to the Union of the Government of Kenya.” In his opening remarks to the Assembly, Joseph Murumbi, the Kenyan Minister of State, made clear the government’s intention to move away from hunting and to move toward tourism as the focus of the country’s wildlife economy backed by international support:

“In the past it has been considered the epitome of bravery to be a big game hunter... If people really wish to prove their courage, then nay I recommend to them that they hunt their lion armed only with a Masai spear and shield and accompanied only by one or two Masai. A trophy earned in such a way could indeed be claimed as a mark of bravery. Incidentally, it should be remembered that the Masai do not kill lion wantonly, but only in protection of their herds.

Hunters have come here in the past from many countries, and we would now like to see as many of those countries as possible joining with us and contributing something towards preserving wildlife...

On the material side I would like to refer particularly to the relationship between wildlife conservation and our burgeoning tourist industry... There is a need for us to diversify our economy and we are doing this by the encouragement of secondary industries and the promotion of tourism. We want visitors to come here and enjoy themselves, not only because of the immediate material benefits they bring, but also because of the greater understanding that comes from person-to-person exchanges when frontiers are crossed. The cornerstone of our tourist industry is wildlife, but we are faced with the conflict of interests between the immediate needs of agricultural man and the animals with whom he shares living space.”

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<sup>28</sup> See: <https://portals.iucn.org/library/efiles/documents/NS-SP-001.pdf>



Since then, Kenya, as well as Kenyan government agencies and Kenyan-based NGOs, have been active players in the IUCN community engaging in IUCN's policy processes and programmes. The country also hosts IUCN's Regional Office for East and Southern Africa.

### **2.2.2 African Convention on the Conservation of Nature and Natural Resources (1968)**

Also known as the **Algiers Convention**,<sup>29</sup> named after the city where it was signed in 1968, this continental agreement was ratified by Kenya the following year. It sets out key commitments with respect to the sustainable use of Africa's wild resources including the following:

"The Contracting States shall ensure conservation, wise use and development of faunal resources and their environment, within the framework of land-use planning and of economic and social development. Management shall be carried out in accordance with plans based on scientific principles, and to that end the Contracting States shall:

(a) manage wildlife populations inside designated areas according to the objectives of such areas and manage exploitable wildlife populations outside such areas for an optimum sustained yield, compatible with and complementary to other land uses; and

(b) manage aquatic environments, whether in fresh, brackish or coastal water, with a view to minimise deleterious effects of any water and land use practice which might adversely affect aquatic habitats."

It also sets out conditions for countries to "adopt adequate legislation on hunting, capture and fishing" and to "regulate trade in and transport of specimens and trophies." The Convention was revised in 2003, Kenya signed the revision, but has yet to ratify it.<sup>30</sup> Regarding sustainable utilisation, the concept now features throughout as in "conservation and sustainable use" reflecting the change in our use of terminology since the adoption of the Convention on Biological Diversity. The text has also changed somewhat, but covers the same topics as above, e.g.:

"manage harvestable populations outside such areas in a sustainable manner, compatible with and complementary to other sustainable land uses...

adopt legislation regulating all forms of taking, including hunting, capture and fishing and collection of whole or parts of plants"

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<sup>29</sup> See: [https://au.int/sites/default/files/treaties/7763-treaty-0003\\_-\\_african\\_convention\\_on\\_the\\_conservation\\_of\\_nature\\_and\\_natural\\_resources\\_e.pdf](https://au.int/sites/default/files/treaties/7763-treaty-0003_-_african_convention_on_the_conservation_of_nature_and_natural_resources_e.pdf)

<sup>30</sup> See: <https://au.int/en/treaties/african-convention-conservation-nature-and-natural-resources-revised-version>

Though this Convention provides a legal basis for the wildlife economy across the continent, it does not seem to be a driver for policy development.

### **2.2.3 Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973)**

Kenya ratified the **Convention on International Trade in Endangered Species of Wild Fauna and Flora** (CITES)<sup>31</sup> in 1978, not long after it had been established. CITES recognised that “international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade.” It established a mechanism for the Parties to set provisions for the trade in wild species:

“The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.”

Kenya is an active participant in CITES with the Kenya Wildlife Services as the CITES management authority and scientific authority. For example for the CITES meeting in 2016, Kenya “submitted fourteen proposals covering a wide range of wild species, including the African elephant, African Pangolins, species of snakes endemic to Kenya, the thresher Sharks, species of chameleons, plant species and others on measures to combat illegal wildlife trafficking.”<sup>32</sup> And at the most recent meeting in 2018, Kenya opposed proposals to allow the export of black rhino trophies from South Africa and the down listing of white rhinos in Namibia and elephants in Zambia from Appendix I to Appendix II.<sup>33</sup> Thus, Kenya is active not only with respect to its own wildlife but also with respect to the trade in wildlife from other African countries.

### **2.2.4 Treaty for the Establishment of the East African Community (1999)**

The Treaty for the Establishment of the East African Community<sup>34</sup> was signed by Kenya, Tanzania, and Uganda in 1999 and entered into force in 2000. Burundi and Rwanda joined in 2007. South Sudan joined in 2016.

Under Article 114 on the Management of Natural Resources, “the Partner States agreed “management and the sustainable utilisation of natural resources within the Community” including forests and water and marine resources. Article 115 on Tourism commits to developing “a regional strategy for tourism promotion,” while under Article 116 on Wildlife Management the Partner States commit to “harmonise their policies for the conservation of wildlife, within and outside protected areas.”

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<sup>31</sup> See: <https://www.cites.org/eng/disc/text.php>

<sup>32</sup> See: <https://www.environment.go.ke/?p=2627>

<sup>33</sup> See: <https://enb.iisd.org/vol21/enb21101e.html>

<sup>34</sup> See: [https://www.wipo.int/edocs/lexdocs/treaties/en/eac/trt\\_eac.pdf](https://www.wipo.int/edocs/lexdocs/treaties/en/eac/trt_eac.pdf)

The treaty provides a basis for attaining policy coherence regarding wildlife conservation including sustainable utilisation in the region. By way of example, the Community, in conjunction with USAID, has recently launched an effort towards the protection of transboundary natural resources which will “establish and operationalize an effective regional coordination mechanism to strengthen inter-agency collaboration on wildlife conservation at regional and international level.”<sup>35</sup>

### **2.2.5 Convention on Biological Diversity (1992)**

Kenya signed the Convention on Biological Diversity (CBD)<sup>36</sup> when it was launched at the Rio Conference in 1992 and ratified it two years later. It has been an active Party in the implementation of the CBD since the first Conference of the Parties in the Bahamas in 1994.

The CBD provides an overarching framework of policies, programmes, and initiatives in support of the conservation of biodiversity including sustainable utilisation in the context of economic development.

For example, Article 10 on the **Sustainable Use of Components of Biological Diversity** calls on Parties to:

“Integrate consideration of the conservation and sustainable use of biological resources into national decision-making; ...

Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and

Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.”

The CBD has adopted several decisions relevant to the wildlife economy including the following:

- COP 5 Decision V/24 on ‘**Sustainable use as a cross-cutting issue**’ called on Parties to “to increase their capacity to implement sustainable-use practices, programmes and policies at regional, national and local levels, especially in pursuit of poverty alleviation.”
- COP 7 Decision VII/12 on ‘**Sustainable Use (Article 10)**’ adopted the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity<sup>37</sup> and called on Parties “in collaboration with relevant organizations, including the private sector,

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<sup>35</sup> See: <https://www.eac.int/energy/112-sector/environment-natural-resources-management/natural-resources-management>

<sup>36</sup> See: <https://www.cbd.int/convention/text/>

<sup>37</sup> See: <https://www.cbd.int/doc/publications/addis-gdl-en.pdf>

to develop and transfer technologies and provide financial support to assist in the implementation of the Addis Ababa Principles and Guidelines at the national level to ensure that the use of biological diversity is sustainable.”

- COP 7 Decision VII/14 on '**Biological Diversity and tourism**' adopts the Guidelines on Biodiversity and Tourism Development<sup>38</sup> and calls on Parties to “integrate these Guidelines in the development or review of their strategies and plans for tourism development, national biodiversity strategies and action plans, and other related sectoral strategies, at appropriate levels in consultation with interested stakeholders including tourism operators and all members of the tourism sector.”
- COP 10 Decision X/1 on '**Access to genetic resources and the fair and equitable sharing of benefits arising from their utilization**' adopts the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization which is ratified by Kenya in 2014.
- COP 14 Decision XIV/7 on '**Sustainable wildlife management**' adopts “Voluntary Guidance for a Sustainable Wild Meat Sector<sup>39</sup> and calls on Parties to “provide, on a voluntary basis, best practices from their existing national programmes that promote sustainable wildlife management, while contributing to poverty reduction, food security and employment generation, in line with the Sustainable Development Goals and sustainable use of biological diversity.”

Under the CBD processes, there are numerous decisions, guidelines, and processes in support of developing sustainable and inclusive wildlife economies. As noted, in a previous section above, Kenya reports on its contributions in this respect across several economic sectors including agriculture, tourism, energy, fisheries, forestry, health, and trade and industry.

### 2.2.6 2030 Agenda for Sustainable Development

**Transforming our world: The 2030 Agenda for Sustainable Development**<sup>40</sup> was adopted by the United Nations General Assembly in 2015 through Resolution 70/1. It sets out an ambition plan for the planet in which there is a clear role for the sustainable utilisations of biodiversity and the development of wildlife economies in both marine and terrestrial ecosystems. Extracts with phrases in bold follow:

“We envisage a world in which every country enjoys sustained, inclusive and sustainable economic growth and decent work for all. A world in which

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<sup>38</sup> See: <https://www.cbd.int/doc/publications/tou-gdl-en.pdf>

<sup>39</sup> See: <https://www.cbd.int/doc/decisions/cop-14/cop-14-dec-07-en.pdf>

<sup>40</sup> See: <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

consumption and production patterns and **use of all natural resources** – from air to land, from rivers, lakes and aquifers to oceans and seas – **are sustainable**...

We are therefore determined to **conserve and sustainably use** oceans and seas, freshwater resources, as well as forests, mountains, and drylands...

Goal 14. **Conserve and sustainably use** the oceans, seas, and marine resources for sustainable development...

Goal 15. **Protect, restore and promote sustainable use** of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss..."

In Kenya's **Second Voluntary National Review on the Implementation of the Sustainable Development Goals**<sup>41</sup> released in June 2020, the country reports the following on the priorities of its Medium Term Plan (MTP) III against the Sustainable Development Goals. Regarding Goals 14 and 15, it states:

"MTP III highlights the importance of **achieving sustainable use of aquatic and marine spaces** including oceans, seas, coasts, lakes, rivers, and underground water.

MTP to **encourage sustainable exploitation, utilisation, management and conservation of the environment and natural resources** to ensure equitable benefits through sustainable management of land, water, forest resources and halting bio-biodiversity loss."

Regarding Goal 14, the report further states: "A key emerging area is the development of the blue economy in collaboration with our neighbouring countries."

International biodiversity-related agreements provide further policy support and guidance for Kenya to develop its economy in partnership with international stakeholders including multilateral institutions, other national governments, and the private sector.

### 2.3 General remarks

Currently, the country's wildlife conservation laws, while progressive in certain areas such as devolution and citizen participation in wildlife conservation, are still mainly focused on government participation through the national park system. Additionally, community and private landowners who want to participate and benefit from wildlife conservation can only do so through the often bureaucratic regulation of conservancies and the licensing of trade in wildlife and wildlife products by the Kenya Wildlife Service.

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<sup>41</sup> See:

[https://sustainabledevelopment.un.org/content/documents/26360VNR\\_2020\\_Kenya\\_Report.pdf](https://sustainabledevelopment.un.org/content/documents/26360VNR_2020_Kenya_Report.pdf)

Kenya needs a legal conservation framework that promotes the preservation and maintenance of wildlife while also supporting the social, economic, and cultural aspirations of community and private landowners through the restoration, sustainable utilisation, and enhancement of wild resources. Even though Kenyan law and policy provides for a plethora of wildlife-based economic activities, private citizens, public institutions, and local communities have consistently only been allowed to explore a fraction of the available options.

There is also an opportunity for stakeholders and indeed the country to benefit from promoting policy coherence across legislation and policy scattered across the forestry, carbon, land, water, tax, tourism, wildlife, agriculture, and fisheries sectors.

A legal framework to achieve harmony across sectors and secure benefits from the sustainable use of wildlife could include the following:

- Establishment of a wildlife economy agency/directorate responsible for coordination and implementation of policy and regulations policy and legislation across all the different sectors to unlock the diverse opportunities from the wildlife economy.
- Enactment of pending and new regulations under the WCMA and the Community Land Act to catalyse a wide range of wildlife economic activities for communities and private landowners.
- Enactment of fiscal regulations that remove environmentally harmful subsidies and offer tax incentives for participation in a wildlife economy.

### **3. Opportunities for diversifying the wildlife economy**

The aim of this section is to demonstrate the vast array of opportunities that are available from further development of Kenya's wildlife economy. It presents an overview of the potential areas for diversification and case studies of wildlife economy opportunities based on Kenyan experiences.

The case studies are largely drawn from research for the Africa Wildlife Economy Research Project of the ALU School of Wildlife Conservation.<sup>42</sup> More details on the references cited below will be found in the Kenya Case Study.

#### **3.1 Wildlife economy value chains**

The Government of Kenya has demonstrated the potential for the wildlife economy in several reports, notably its National Report to the CBD process and as well as within the 2013 Wildlife Conservation Management Act. Building on these two reports, one can see

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<sup>42</sup> For more information on this research project, please see:

<https://sowc.alueducation.com/programs/research/>.

the potential for enhancing a diverse array of economic value chains based on the responsible use of wildlife.

The following table is structured in the same way as the Report to the CBD and contains the potential economic areas set out in the 2013 Act. It shows a wide range of opportunities, some of which such as tourism are already realised, while others are yet to be developed.

<b>The Potential for Kenya's Wildlife Economy</b>	
<b>1 Agricultural sector</b> 1.1 Crops and livestock 1.2 Game farming and game ranching 1.3 Live capture and sales 1.4 Cropping and culling 1.5 Wild harvesting	<b>5 Forestry sector</b> 5.1 Timber 5.2 Non-timber forest products 5.3 Forest-based carbon credits
<b>2 Tourism sector</b> 2.1 Wildlife-based tourism 2.2 Coastal tourism 2.3 Recreation 2.4 Sport/trophy fishing	<b>6 Health sector</b> 6.1 Medicinal plants 6.2 Nature-based therapy
<b>3 Energy sector</b> 3.1 Fuelwood and charcoal 3.2 Hydroelectric 3.3 Wave energy	<b>7 Trade and Industry</b> 7.1 Commercial photography and filming 7.2 Wildlife products 7.3 Nature-based carbon credits 7.4 Other payments for ecosystem services 7.5 Other conservation-related services
<b>4 Fisheries sector</b> 4.1 Multiple use of marine resources 4.2 Freshwater fisheries 4.3 Aquaculture and fish ranching 4.4 Subsistence fishing	<b>8 Other</b> 8.1 Educational activities 8.2 Research activities, including research involving offtake 8.3 Cultural activities 8.4 Religious activities

For each of these areas of opportunity, at some point in the process, it will be useful to be clear about the status of the opportunity, e.g., whether it is currently permissible in law or not, and, if whether it has a 'robust' implementing or regulatory framework, or the framework requires further development.

## **3.2 Kenyan examples of wildlife economy value chains**

This section, building on research undertaken by the ALU School of Wildlife Conservation for a State of the Wildlife Economy in Africa report, provides a few examples to demonstrate the potential for the wildlife economy in Kenya to contribute to conservation and sustainable development. As indicated by the table above, these cases are not inclusive of all the opportunities. They are presented here to demonstrate that Kenya already has a vibrant wildlife economy on which more opportunities could be unlocked with the appropriate mix of facilitating policies and regulations.

### **3.2.1 Wildlife tourism**

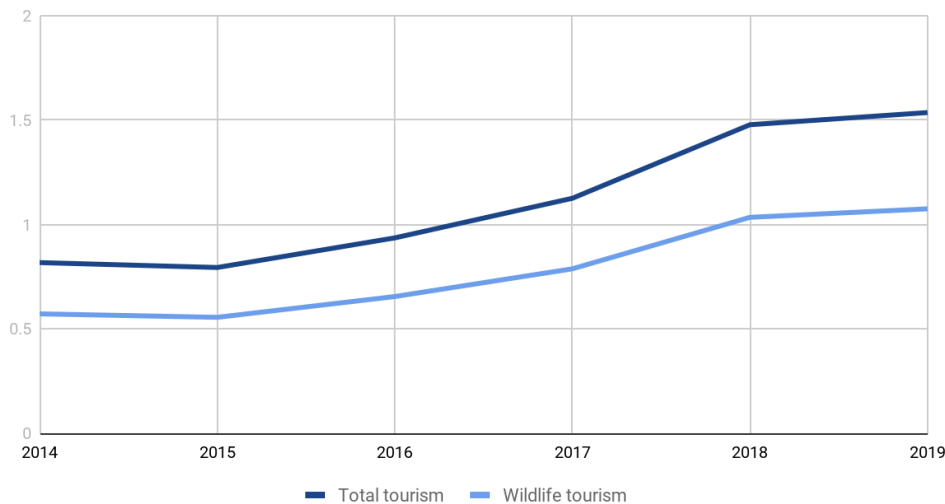
Kenya is one of the top wildlife tourism destinations of the world and third largest tourism economy in sub-Saharan Africa (WTTC, 2018). It is recognized as the pioneer for safari tourism and ecotourism in Africa with a well-developed tourism industry. The tourism sector, which is largely wildlife-based, contributes significantly to socio-economic development and poverty reduction. The sector is well integrated into the Kenyan economy with extensive backward and forward linkages with various sectors including transport, trade, entertainment, agriculture, and education with high pro-poor distributional impacts especially in rural areas (World Bank, 2018).

Tourism is a major source of government revenue through taxes, fees, and foreign exchange earnings. It is the third largest contributor of foreign earnings and accounts for 8-14% of gross domestic product (Republic of Kenya, 2019). The sector has been steadily growing over the years and in 2019, it grew at 3.5%, which is above the global growth rate of 2.5% (WTTC, 2020). Tourism growth has been driven by revitalized marketing efforts, improved security and withdrawal of travel advisories, growth in aviation with increased flights into Kenya, improved investor confidence due to improved World Bank ease of doing business ranking (from 129 in 2014 to 56 in 2019), increased conference visitation and growth in domestic tourism (MOTW, 2019).

Revenue from tourism has been increasing since 2015 and in 2019, tourism earned the country KES 164 billion (USD 1.54 billion), (KNBS, 2020). Given that safari tourism is the main product that dominates growth and accounts for 70% of all tourism income (WTTC, 2019), this translates to an estimated KES 115 billion (USD 1.08 billion) in 2019 (author calculations). Figure x shows tourism revenue including the share of wildlife tourism from 2014. There is room for Kenya to increase benefits from tourism. A recent economic valuation study estimated that conservation with tourism as a key driver could generate an estimated USD 2.1-2.4 billion per year or higher to the economy (McKinsey, 2019).



Total Tourism Income (2014-2019) in USD billions



Kenya operates a high-volume low-value model of tourism that emphasizes growth in visitor numbers to drive value (World Bank, 2018). On average, a visitor stays for 12 days (KNBS, 2020) spending an average of USD 200 per day (Kiptalaa et al, 2019). There are 29.8 million bed nights available in Kenya, of which 9.16 million (30.8%) were occupied in 2019 (KNBS, 2020). Considering that there is a high proportion of revenue leakages (up to 70%) to international corporations (Okello, 2014), there is pressure to increase numbers to maximize value. As a result, Kenya aims to grow visitor numbers to five million international visitors by 2030 (Government of Kenya, 2008).

Tourism is also significant source of employment with pro-poor distributional impacts especially for the rural sector where many protected areas including conservancies are located (KNBS, 2019; World Bank, 2018, KWCA, 2016). In 2019, the tourism industry employed 1,579,500 people representing 8.5% of the national workforce (WTTC, 2020). This represents a steady and huge increase from 219,000 people it employed in 2012 (Republic of Kenya, 2012). Conservancies, which enable landowners in rural areas to benefit from wildlife, employ about 5,000 people mostly youth and benefit over 700,000 households across Kenya (KWCA, 2016). Given its strong multiplier effects, tourism has the potential to provide economic opportunities in rural areas and contribute to poverty reduction.

So important is the sector to the economy that a World Bank study estimated that an 80% decline in revenue from foreign tourists would result in a decline of 11-15% of government taxation, 8-12% in GDP, 9-12% decline in incomes of rural poor (World Bank, 2018). Already the adverse impacts of COVID on the Kenyan tourism industry have been far reaching following the complete closure of tourism. A Kenya government survey has estimated that tourism has so far lost KES80 billion (USD750 million) and almost 1.3 million jobs in the travel industry. Over 81% of tourism companies have reduced staff and about 85% have implemented pay cuts for employees. The survey projects that by the end of the year, Kenya will lose an estimated USD2 billion.

The current pandemic has demonstrated that Kenya needs to review its tourism strategy to improve resilience of its tourism industry. The current tourism model is likely to lead to congestion, overcrowding, environmental degradation further reducing the pull of the destination in the face of competition. Kenya needs to explore a differentiated strategy that has both mass tourism and high value tourism based on suitability of in-country destinations to maximize economic value from tourism (World Bank, 2018).

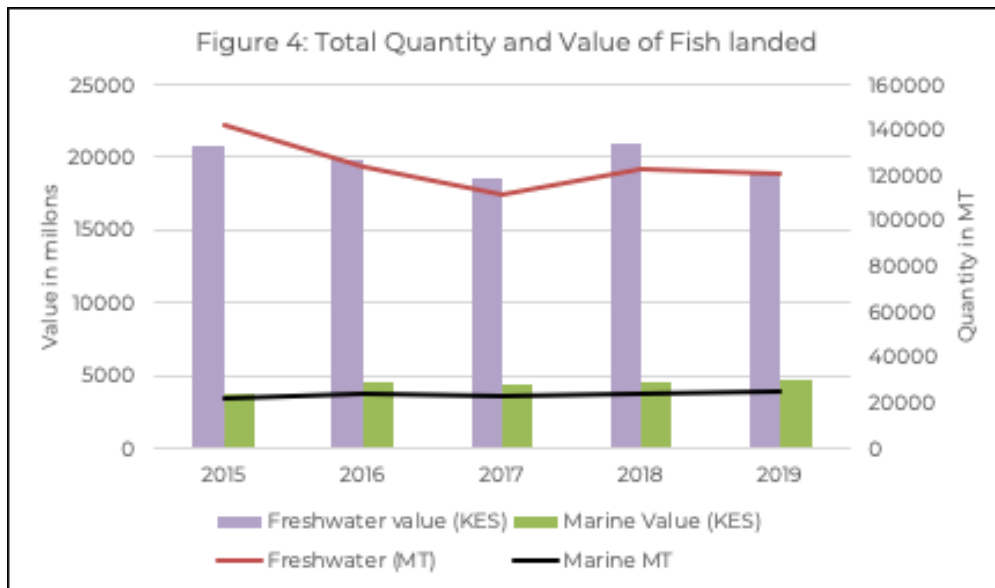
### **3.2.2. Fisheries**

Fish plays an important role as a source of food and income for local fishing communities as well as for the export market. Fisheries sector contributes 0.5% to GDP (KNBS, 2020), is largely artisanal and subsistence, employs more than 2 million people, 80,000 directly in key activities in the fisheries value chain and supports livelihoods of a further 2.3 million people (FAO, 2015).

Kenya has rich fisheries biological diversity in habitats ranging from deep sea to inland freshwaters. There are 640 km of coastline with exclusive economic zones covering 142,400 km<sup>2</sup> (KMFRI, 2018). Only 0.76% of this area is protected through 14 marine protected areas (World Database of Protected Areas, 2020). There are 197 landing sites along the coast that are used by about 3,500 fishers to access 13 major fishing grounds using non-motorized boats (GoK, 2016). The low craft technology limits catch because fishers are not able to venture beyond the reef into the fish-rich territorial waters (GoK, 2016).

There are 13,600 km<sup>2</sup> of inland lakes and various rivers, swamps, and wetlands. Lake Victoria and Lake Turkana are the two major lakes for fisheries. Kenya's portion of Lake Victoria, the second largest freshwater lake in the world, is only 6%. Lake Victoria has 307 fish landing beaches that are used by about 44,000 fishers who operate in the lake using mostly paddle powered craft (FAO, 2015).

About 95% of total fish landings in Kenya come from freshwater lakes, 3% from marine sources, and 1% from aquaculture (KNBS, 2019). Lake Victoria produces the bulk (90%) of the country's annual fish landings mostly composed of Nile perch for export. Figure x shows the quantity and value of fish landed for the last five years. The number of freshwater fish landed has been declining from 141,698 Metric Tonnes (MT) in 2015 to 120,873 MT in 2019 while the amount of fish landed from marine resources is far lower but has stabilized at around 20,000MT.



Total value of fish landed has followed the same trend with freshwater value declining from USD 195 million in 2015 to USD 178 million in 2019 while the value of marine fish increased from USD 35.7 million in 2015 to USD 44.1 million in 2019 (KNBS, 2020). Losses in value are compounded by the USD 100 million lost through illegal, unlicensed, and unregulated fishing to international organized networks (KMFRI, 2018). Current value is only a small portion of the estimated potential of Kenyan marine fisheries at USD 4.1 billion per year (UNDP, 2018)

Fish stocks are declining especially in Lake Victoria because of heavy pollution, proliferation of invasive species, overfishing, use of illegal/undersized gears and restrictions on fishing in neighbouring countries – Uganda and Tanzania (Njiru et al, 2018).

According to the Kenya Economic Survey (2019), the main opportunity for improving fisheries in Kenya include the following:

- Strengthening co-management of freshwater fisheries through functional beach management units;
- Ensuring an ecosystem approach to freshwater management to enhance the recovery of fish stocks in natural ecosystems; and
- Developing the tuna fish industry in the exclusive economic zone that has potential to produce 150,000MT of fish p.a.

### 3.2.3 Game ranching

Game ranching is suitable in rangelands that cover 80% of the land area of Kenya and provide habitat for almost 70% of the total wildlife. Most commercial game ranches were

established during the colonial period for livestock production even though they hosted wildlife (Kinyua et al, 2000). For many years, wildlife policy provided no economic incentives for ranchers to conserve wildlife. After 1990, changes in legislation provided conditional use rights for economic and sustainable use of state-owned wildlife on private land. This together with reduced profitability of livestock ranching led to a shift in land use from purely commercial livestock ranches to integrated livestock-wildlife ranches and pure game ranches (Kinyua et al, 2000). This shift was accelerated by experience from Southern Africa as well as a study by Elliott and Mwangi (1998) showing that integrated livestock, wildlife tourism and sustainable use was more profitable providing returns of USD 4.30-5.80 per hectare compared to USD 0.20-0.40 per hectare for livestock alone.

Recent additional policy changes have created conservancies which integrate livestock and wildlife production (KWCA, 2016), increase economies of scale in management and financial returns, create partnerships with local communities and secure higher social and political sustainability in the face of increased land conflicts (Lindsey et al, 2009). Today Kenya has 250 ranches up from 180 at independence (Republic of Kenya, 2019). Of these 45 have converted to private conservancies covering 563,844 hectares or 9% of the total area of all conservancies in Kenya (KWCA, 2019).

In Laikipia County, livestock and wildlife ranching is the most viable land-use. There are 48 large scale commercial ranches that cover 937,582 acres or 40.3% of total area of the county with 5% of the area strictly dedicated to conservation and tourism (Letai, 2011). The ranches hold over 123,000 heads of livestock (FAO, 2018). They also have 38 tourism facilities with 1,106 beds that offer mostly low-high value tourism, employ 1,300 people, and generate USD 27.2 million annually (Graham, 2012). Tourism together with livestock generates over USD 37.6 million in economic benefits annually (Graham, 2012).

As set out in the Kenyan legislation, there are tangible opportunities for improving and expanding game ranching across Kenya include the following:

- Wildlife breeding;
- Live game sales;
- Wild meat products; and
- Non-meat wildlife products.

To capture these opportunities, communal and private landowners will need to be granted secure ownership and use rights to their wildlife so that they can produce, harvest, and trade wildlife and wildlife products.

### **3.2.4: Non-timber forest products: honey production**

Bee-keeping produces honey and various other products such as pollen, wax, propolis, royal jelly, venom, etc. that are widely used industrially for cosmetics, pharmaceuticals, textiles and in the candle making and leather industries. Beyond these direct products, the contribution of bee-keeping to the economy is significant. For example, every year, bees pollinate food worth USD 8.74 million in three major farming ecosystems in Kenya (Kiprop et al, 2019).

Bee-keeping and honey production is conducted in rangelands which cover 80% of Kenya. Therefore, bee-keeping has the potential to provide employment especially for the youth, increase household incomes, support crop pollination, increase yields for food security and enhance biodiversity.

The industry is still traditional with slow adoption of modern bee-keeping technologies. There are slightly under two million beehives of which 80% are traditional and the rest modern (Chemwok, et al, 2019). Most of the production is consumed locally to meet high local demand with only 2% exported although Kenyan honey has been found to be of high quality that generally meets standards of local, regional, and international markets (Warui et al, 2019).

Kenya is the third largest producer of honey and bee products in Africa after Ethiopia and Tanzania. Honey production has been steadily growing and has now reached 25,000 MT annually valued at USD 40.4 million (MoALF, 2019). This is below the production potential of 100,000 MT per year with estimated value of USD 1.72 billion (author calculations). The current annual value of wax is estimated at USD 12.8 million (Nyariki & Amwata, 2019). The bee-keeping sector employs 91,000 people directly and supports livelihoods of 547,440 people (Kitparus et al, 2011).

Production of honey in Kenya has great potential given the large area suitable for production, the high local demand, low levels of investment required and ability to provide complementary income and employment for rural populations. Bee-keeping is also a complementary land use to wildlife and livestock keeping and has been proven to be useful for mitigating elephant human conflict among rural farmers (King et al, 2010). Therefore, Kenya needs to invest in and modernize its bee-keeping industry to meet this potential.

### **3.2.5 Film and photography**

Studies have shown that films can be instrumental for promoting tourism by displaying images of destinations, as Hollywood and Bollywood have both proved (Heva, 2018). Use of films is now emerging as a marketing strategy for promoting tourism. Kenya has hosted over 80 internationally acclaimed films and TV programs such as *Out of Africa*, *Survivor Africa*, *I Dreamed of Africa*, *Born Free*, *White Mischief*, *CryFreedom*, etc. Kenyan

wildlife has long been featured on TV and film screens (e.g., Big Cat Diaries Series) through major film producers and distributors such as Discovery, Animal Planet and National Geographic. However, the film industry is still nascent but with tremendous potential for growth especially in support of tourism.

The film industry contributes about 2.45% of GDP and employs 4,898 people (Kenya Film Commission, 2013). The direct contribution from films is USD 3.4 million with related services indirectly contributing the rest of the value. Compared to Nigeria where film contributes USD 600 million to GDP and employs a million people (Oguyemi, 2018), this industry is still very nascent. Three major foreign owned film production companies dominate the general film industry in Kenya and in 2016, they generated USD 8.67 million in revenue, made local purchases worth USD 3.4 million and employed 2,327 people (Heva, 2018).

For many years, Kenyan wildlife has graced international film and TV productions educating millions of people worldwide. However, the wildlife segment of the film industry in Kenya is undervalued and undeveloped. For example, between 2015 and 2017, 224 filming permits were issued earning KWS a paltry USD 30,000 (MOTW, 2018). There are growing calls for film producers who extract profits from nature to pay for ecosystem services beyond their philanthropic contributions to finance conservation (Jepson et. al, 2011). Animal Planet has approximately 284 million subscribers globally with total revenue of USD 9.5 billion in 2019 (Discovery Incorporated, 2019). Nat Geo Wild has 375 million subscribers across the world and generates millions of dollars. Thus, they need to provide fair value from their productions to support the wildlife economy.

Various opportunities exist to grow the wildlife film industry as has been demonstrated by Nollywood in Nigeria. These include a large market of consumers across the world increasingly concerned about species extinctions, technological shifts that have changed film production (e.g., cheaper equipment) and consumption (e.g., on-demand platforms like Netflix) among others. Kenya must also develop sustainable ways of producing wildlife films and build effective channels for reaching audiences and markets (Oguyemi, 2018) and train local filmmakers and presenters to present wildlife documentaries, etc.

### **3.2.5 Carbon finance**

Forests comprising natural forests, woodlands and mangrove forests cover 7.4% of the land area of Kenya (GoK, 2018). Forests are important for various ecological functions and services, economic, social, and cultural services that they provide. Forests contribute an estimated USD 66 million annually to the economy, employ 50,000 people directly and 300,000 indirectly, supply 75% of water in Kenya and 80% of fuelwood energy (GoK, 2018). An economic valuation study of three major forest blocks in Western Kenya found that they contributed USD 3.5 billion in total economic value, (equivalent to 5% of GDP) that included regulating services, water for various uses, wood, hydropower, and agricultural production support services (GoK, 2018c).

Current forest degradation and deforestation releases large quantities of GHGs estimated at 32% of all emissions in Kenya (GoK, 2018). In its National Climate Change Action Plan 2018-2022, Kenya has committed to reduce GHG emissions of 10.4 MtCO<sub>2</sub>e by 2023, through forest restoration, afforestation, and reforestation, and reducing deforestation (GoK, 2018c). Assuming the price of carbon of USD 3 per ton, this could potentially provide an estimated USD 31.2 million through carbon sales annually.

Kenya has over 15 registered forestry sector projects participating in the voluntary carbon markets (see table 4). This includes the Kasigau Corridor REDD+ that was the first in the world to be issued Voluntary Emission Reductions (VERs) under both the Verified Carbon Standard (VCS) and the Climate Community and Biodiversity standard (CCB) (Sena, 2015).

### Carbon projects in Kenya under voluntary carbon markets

Project name	Key stakeholders	Annual emission reductions (tCO <sub>2</sub> )	Total emission reductions (tCO <sub>2</sub> )/ Duration (years)	Estimated Total Revenue
Kasigau Corridor (I&II)	Wildlife works, Community ranches	1,866,391	55,991,730 tCO <sub>2</sub> e over 30 years	USD 1 million per year
International Small Group & Tree Planting Programme (TIST) – 7 projects	Clean Air Corporation, 10,839 groups with 76,442 members in Kenya	489,116	4.2 million tCO <sub>2</sub> e over 20 years	USD42 million
Mikoko Pamoja Mangrove restoration	Mikoko Pamoja Conservation organization,	9,880	106,929 tCO <sub>2</sub> e over 20 years	USD400,000 (USD76,253 paid to communities)
Chyulu Hills REDD+ Program	Chyulu Hills Conservation Trust, 140,000 beneficiaries	1,100,943	18,452,476 tCO <sub>2</sub> e over 30 years	USD 6 million per year
Northern Kenya Grasslands project	Northern Rangelands Trust, 14 conservancies, 112,483 people	1,797,493	53,924,788 tCO <sub>2</sub> e over 30 years	USD161,744,364

Kenya Agricultural Carbon Project	VI Agroforestry Programme, 60,000 farmers	99,004	1,980,088 tCO <sub>2</sub> e over 20 years	USD750,000
The Forest Again Kakamega Forest	Eco2librium LLC, Kenya Forest Service, communities	-	426,083 for 40 years	USD1,323,000- USD 3,087,000
Efficient Cook stove programme	CO <sub>2</sub> balance Ltd	50,761	355,332 tCO <sub>2</sub> e for 7 years	No data
Paradigm Kenya clean Cookstove project	The Paradigm project	49,416	1,354,240 tCO <sub>2</sub> e for 7 years	No data

Sale of carbon credits are emerging as an innovative option for communities and landowners to generate income from wildlife resources. Data on income earned is still hard to find. However, several challenges hinder the development of carbon projects in Kenya including lack of local capacity to develop projects; high cost of developing and qualifying projects; lack of resource tenure rights affecting benefit sharing (Bouyer and Gachanja, 2013; Duchelle et al, 2018). To address these and create the environment for carbon projects, Kenya needs to improve engagement with local communities to achieve project outcomes, increase funding to strengthen field interventions; address tenure issues for wildlife resources and carbon, and improve implementation and evaluation of project outcomes (Duchelle, 2018).

#### 4. Barriers to developing the wildlife economy

This section builds on the research and analysis of a recently published academic paper entitled "Incorporating social-ecological complexities into conservation policy."<sup>43</sup> The paper's authors are affiliated with the Department of Geography, University of Cambridge; the Wildlife Conservation Research Unit, University of Oxford; the Kenya Wildlife Conservancies Association; the African Conservation Centre; and the South Rift Association of Landowners.

One of the co-authors explained the rationale for and approach of their research as follows:

"Two years ago, the Kenyan Ministry of Tourism and Wildlife called for public comment on a potential policy change. The government was considering the reintroduction of the trade and sale of meat and other products from wildlife (trophy hunting was not considered) ... Our methodology used Nobel Prize winner

<sup>43</sup> See: <https://www.sciencedirect.com/science/article/pii/S0006320720307552>.



Elinor Ostrom's Social-Ecological Systems Framework to delve into the complexities of this potential policy change."<sup>44</sup>

The study identified "seven barriers to the successful implementation of consumptive wildlife utilisation in Kenya" and consideration of these barriers could prove to be the road map needed to find a way to unlock the potential of the wildlife economy in Kenya. Of course, not all aspects of the wildlife economy relate to consumptive use, but the centrality of ownership and use rights regarding consumptive use is also critical to other economic activities such as securing mangrove carbon credits by a coastal community, restocking a conservancy for photographic tourism offering, or the responsible harvesting of non-timber forest products.

#### **4.1 Ownership and wildlife movement**

The authors write:

"The ownership and mobility of wildlife pose a significant barrier to the successful implementation of consumptive utilisation of wildlife for game ranching, particularly on community-owned land."

Ownership and movement are two interrelated and critical issues to address. Regarding ownership, landowners - whether community or private - are unlikely to invest in wildlife ranching without adequate ownership or use rights. Ownership of a wild resource, however, is most easily maintained by fencing in the resource on one's property. This in turn has implications for wildlife movement.

Ownership and use rights to wildlife can take several forms.<sup>45</sup> In Kenya, for the most part, wildlife is state property. In some countries such as Morocco and South Africa before the early 1990s, wildlife was classified as *res nullius* meaning it belonged to no one. However, according to customary law, if a wild animal comes on one's land, the landowner may harvest it. In other countries such as many in Western Europe and in South Africa since the early 1990s, wildlife is the property of the landowner. Subject to government regulations regarding the size of the property and the stock of wildlife, it can be managed and harvested by the landowner. In France, for example, small adjacent landowners are required to work as a collective and set up a communal hunting association to exercise their hunting rights.

Under Kenyan law, ownership and use rights can be devolved to landowners - private or community - and associated regulations can be put in place to address issues regarding the size of land holdings, the stock of wild game, and other ecological considerations. The challenge is for policy makers to devolve ownership and use rights to landowners in such a way that it encourages them to maintain wildlife and wild habitats and indeed to grow the stock of wildlife and to rewild degraded or converted habitats.

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<sup>44</sup> See: <https://www.wildcru.org/news/ensuring-conservation-policy/>

<sup>45</sup> See: <http://www.fao.org/3/Y3844E/y3844e06.htm>.

In this regard, fencing makes management of wildlife - including utilisation - more effective and efficient. Just as Nairobi National Parks uses fences on its urban border to keep its wildlife contained, so can landowners. There are, however, ecological implications especially for migratory species and for predators such as cheetah which cover large amounts of territory. Hence, as noted above, countries like France require small landowners to form cooperatives to manage and utilise their wildlife. Such an approach is already evident in Kenya in the community-owned conservancies.

For policymakers, fencing be an appropriate tool for wildlife management if it encourages landowners to prefer wild habitat to crop farming and wildlife to livestock. Likewise, the breeding and live sales of wild animals can also be appropriate activities in a wildlife economy if it facilitates rewilding and restocking of wildlife.

## **4.2 Market-based challenges**

The authors write:

“The consumptive use of wildlife results in different wildlife products that can be sold to consumers. These products include primary products, such as game meat, horns, skin, and bone, but further processing can also provide secondary products such as treated hides and ornaments... A successful economic model of the consumptive use of wildlife relies on the assumption that there exists a large market that values these products.”

If policymakers are committed to enabling markets in wildlife goods and services - national and international - they need to address specific barriers to the development of these markets. For example, the domestic production and sale of wild meat will need to comply with Kenya's Meat Control Act.<sup>46</sup> Exports of wild meat will require compliance with Kenya's Sanitary and Phytosanitary Systems.<sup>47</sup> Extension services and training for wildlife ranchers - akin to those provided to livestock ranchers - may be needed to meet these market-access requirements.

Like the support provided for the tourism sector, similar support may be needed to open both domestic and international markets for Kenyan wildlife products. Another perhaps bolder example could be the non-consumptive harvesting of rhino horn for legal export to lucrative overseas markets. As an Appendix I listed species under CITES, trade in rhino horn would require the following confirmations from the Government of Kenya and the importing country:

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<sup>46</sup> See: [https://infotradekenya.go.ke/media/Meat%20Control%20Act%20Cap%20356\\_2.pdf](https://infotradekenya.go.ke/media/Meat%20Control%20Act%20Cap%20356_2.pdf)

<sup>47</sup> See:

[https://www.agrilinks.org/sites/default/files/resources/kenya\\_sps\\_capacity\\_building\\_needs\\_assessment\\_2018.pdf](https://www.agrilinks.org/sites/default/files/resources/kenya_sps_capacity_building_needs_assessment_2018.pdf)

<b>Export of a Product from a CITES Appendix I Species<sup>48</sup></b>	
<b>Exporting Country</b>	<b>Importing Country</b>
<ul style="list-style-type: none"> <li>• Scientific Authority advises that the export will not be detrimental to the survival of that species</li> <li>• Management Authority is satisfied that the specimen was not obtained in contravention of the law and that an import permit has been granted</li> </ul>	<ul style="list-style-type: none"> <li>• Scientific Authority advises that the import will not be detrimental to the survival of that species</li> <li>• Management Authority is satisfied that the specimen is not to be used for primarily commercial purposes</li> </ul>

An enabling wildlife framework would explore such possibilities for legal and sustainable trade.

### **4.3 Unintended conservation consequences**

In addition to facilitating market access, policy makers will also need to consider the potential impacts of market processes on landscape management and wildlife stocks. For example, if consumers prefer to eat zebra but not wildebeest will this signal farmers to stock the former and not the latter? The authors write:

“Game ranching can potentially ensure that landscapes remain in a state which benefits conservation. However, there may be uneven importance assigned to some species with greater market value. As the market for wildlife products grows, there could be a drive to decrease the number of species that serve no economic purpose as cropped wildlife and are instead seen as an additional ‘economic cost’ due to competition or predation.”

In this respect, as noted above, the allocation of use rights and associated regulations can address such concerns. Standards and even certification schemes for best practice can be put in place. Importantly, however, encouraging wildlife ranching on private and community lands - even if it is more intensive and less diversified than a wild landscape - must be seen from the perspective of the landowners.

If the requirements to ranch wildlife to deliver desired conservation outcomes are too onerous, they may well decide to convert their lands to crop farming or livestock ranching. A key question for policy makers will be whether more wildlife and wildlife habitat - even if it is not pristine wilderness - is preferred to converting lands to crops and cattle.

<sup>48</sup> See: <https://cites.org/eng/disc/text.php>

#### **4.4 Equity and conflict between actors**

The authors write:

“Differences in historical perceptions between actors are also likely to have an impact on the support for the consumptive utilisation of wildlife in Kenya. Private landowners saw the greatest benefit under the previous wildlife cropping program, and many are in favour of the return of wildlife cropping and trade. Many community landowners, however, report that they saw little benefit from the program, and are averse to the re-adoption of a system that has historical failures, and that can clash with cultural values attached to wildlife.”

Concerns about inequity and conflict between key stakeholders - primarily between community landowners and private landowners - could impact both the ability of policy makers to move forward with unlocking the wildlife economy and the stable functioning of the wildlife activities once allowed. Hence, it is critical to ensure that steps to develop the wildlife economy are inclusive and equitable.

In the early stages of opening up the wildlife ranching industry, for example, the government could establish public-private partnerships with interested private landowners to facilitate the development of value chains that include stocking and harvesting game from community-owned conservancies. Regional associations such as the Northern Rangelands Trust, the Laikipia Wildlife Forum, or the Southern Rangelands Association of Land Owners could play a catalytic role.

For some conservancies partnerships with private landowners may enable them to supply wild meat and other wildlife products to the market. For others, however, there will most likely be a need to restock wildlife and build management capacity. Government-supported extensions services and development financing could facilitate the expansion of wildlife ranching opportunities to the less developed community-owned conservancies.

#### **4.5 Contribution towards national goals**

The authors highlight two goals - food security and the national economy.

Regarding food security, they write:

“In Kenya, where livestock already represent the vast majority of rangeland biomass, food security would be better addressed through provisions to increase the efficiencies of livestock systems, rather than the exploitation of game meat.”

Government policies to increase the efficiency of livestock systems, however, will only provide further incentives for landowners to convert land from wildlife to livestock. If a

key aim of expanding the wildlife economy is to change the rangeland biomass ratio in favour of wildlife, then policies rather need to increase the efficiencies of wildlife systems.

Further, the reality is that across much of Africa, including Kenya, wild meat remains an important source of protein whether it is obtained legally, informally, or illegally. The role it already plays in enhancing food security, however, is still not well understood as noted in a recent academic article<sup>49</sup> on the 'bushmeat' and food security nexus:

“While the importance of bushmeat as a protein provider is well documented, relatively few studies have emphasised the overall contribution of bushmeat consumption to the basic nutrition of its consumers. This can be partially attributed to the fact that the current understanding of the macro- and micro-nutritional properties of wild foods lags far behind that of domestic livestock and cultivated crops. Nonetheless, that information that can be gleaned on the nutritional composition of bushmeat suggests that this is comparable or even superior to domestic meat sources, indeed being high in protein, as well as readily assimilable amino acids and essential fatty acids.”

Both livestock and wildlife can support food security goals. The latter, however, is likely to better support goals related to sustainable landscape management and wildlife conservation.

Regarding the national economy, the authors write:

“If consumptive utilisation of wildlife does not provide financial revenue to the national treasury (either through taxation, employment etc.), it will likely be sidelined in national development plans, impacting the long-term sustainability of these systems.”

The expectation that land use options should be contributing revenue to the national treasury is most relevant, particularly considering the lack of treasury contributions from Kenya's protected areas and indeed their dependency on both national subsidy and international aid. With respect to wildlife ranching on private lands - whether communal or private - one would expect that the landowner would convert from the current land use, e.g., livestock ranching, to wildlife ranching if it were economically attractive, and, if this were the case, then the treasury's share in this revenue stream would also be attractive.

Of course, if wildlife ranching contributes to rewilding and increases the stock of wildlife, the government may be willing to subsidize it. A key point of the wildlife economy, however, is to align private ambitions for income and enhanced livelihoods with public goals for landscape restoration and wildlife conservation, thus making subsidies unnecessary. A similar logic could also be applied to the management of legally

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<sup>49</sup> See: <https://www.sciencedirect.com/science/article/pii/S0963996915001301>

protected areas where enabling a diversification of wildlife activities beyond tourism could reduce their dependence on subsidy and aid.

#### **4.6 Logistical, infrastructural, and regulatory sustainability**

The authors highlight two challenges: setting offtake quotas and the harvesting process.

Regarding setting offtake quotas, they write:

“In Kenya's current policies, it is not clear which government institution should have the mandate to set quotas on wildlife cropping and regulate trade, both issues where clarity and consent need to be clear.”

As discussed above, allocation of wildlife ownership and use rights to landowners is a key element in developing the wildlife economy, particularly with respect to encouraging landowners to manage wildlife production and use. Devolved property rights to landowners should include setting their quotas for cropping and for live sales of their game.

The trade in wildlife goods and services, however, needs to be undertaken in the context of an enabling regulatory environment established by the government, as is done for the agriculture sector. The question of which government institution should take on this responsibility is important. Unlike the agriculture, forestry and fisheries sectors, the Kenyan ministries are not currently structured to support the development of the wildlife economy.

The Ministry of Tourism and Wildlife, however, is perhaps best positioned to take on this responsibility. Its mission is “To facilitate good governance for sustainable development, management and marketing of tourism and wildlife.” A more encompassing mission might read “To facilitate good governance for sustainable development, management and marketing of the wildlife economy.” With a ministry mandated to support the wildlife economy, it might then be possible to define the role of the Kenya Wildlife Service more clearly with respect to managing legally protected areas and the wildlife within these areas.

Regarding the harvesting process, the authors write:

“The previous attempt at wildlife cropping on game ranches in Kenya faced several harvesting issues which continue to act as barriers... These barriers might be overcome with clear harvesting rules, regulations, and governance structures...”

Indeed, there is a role for both the landowners and the government to develop and agree on sustainable and responsible harvesting procedures. Interestingly, this was recognised by the Convention on Biological Diversity in 1992 where the only mention of the private sector relates to this challenge. Article 10 (e) reads:

“Each Contracting Party shall, as far as possible and as appropriate... encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.”

In Kenya's case, cooperation between governmental authorities and private landowners could be mandated to ensure that the special needs of community-owned conservancies are addressed.

#### **4.7 Economic and demographic development**

The authors write:

“Geographic areas with the highest opportunity cost of conservation to game farmers and game ranchers are usually those with the highest cultivation and development potential. The potential for cultivation coincides with high rainfall and high ecosystem productivity. With increasing demands for food production, the cost of forgoing development may not outweigh the costs of utilizing wildlife.”

The concern here is about the absolute vs comparative advantage of wildlife ranching in different parts of the country. One county, e.g., Laikipia, may have an absolute advantage in wildlife ranching over another county, e.g., Marsabit. This means that Laikipia can produce and process wildlife at a lower cost than Marsabit.

However, if crop farming is relatively more attractive in Laikipia than it is Marsabit, then the opportunity cost of wildlife ranching is lower in Marsabit than it is in Laikipia. This means that Marsabit has a comparative advantage in wildlife ranching, and it would make sense for it to specialise in this activity while Laikipia specialised in crop farming. And then more economic value would be generated, and both would benefit from trade between the two counties.

In the Kenyan context, the comparative advantage of drylands in wildlife ranching indicates that areas such as northern counties - which are often under the management of community-owned conservancies - may be better suited for development of the wildlife economy. By way of comparison, this seems to be the case in South Africa, where most of the wildlife economy has developed in its northern drylands bordering Botswana and Zimbabwe.

### **5. What is to be done?**

The aim of this discussion paper is to support the Ministry of Tourism and Wildlife in developing a road map, and indeed a strategic programme, to unlock the full potential of the wildlife economy in Kenya.

Section 1 set out the challenge and provided an operational definition of a wildlife economy. Though this definition encompasses the use of both marine and terrestrial wild species, the paper put more emphasis on those species for which utilisation in Kenya has been limited over the past decades, i.e., terrestrial wild mammals.

Section 2 provided an historical overview of relevant wildlife strategies and policies both at the national and international levels. The take-home message from this overview is that - except for disallowing the hunting of terrestrial wildlife - strategies and policies are in place for Kenya to further develop its wildlife economy. And, importantly, these strategies and policies are a coherent evolution of how wildlife has been managed in the country over the past century.

Section 3 presented the diverse array of wildlife economy opportunities that have been officially recognised by the Government of Kenya. The examples provided further demonstrate that Kenya is already well-established in some key sectors, such as photographic tourism and fishing. Though there is room for further development in existing sectors, the success of these sectors also provides a basis for moving forward with unlocking other sectors such as wildlife ranching and the associated marketing of live game and wildlife products.

Section 4 built on a most insightful recent academic paper to review key barriers to further developing the wildlife economy, and it reflected on how these barriers can be addressed. The take-home messages from this review are that the key barriers are recognised and that these barriers can be tackled systematically and strategically.

Throughout these four sections, the discussion paper commented on matters for further consideration. These comments are intended to provide a starting point for reflection on how to move forward.

So, what is to be done?

Kenya is now in a position where strong leadership from the Ministry of Tourism and Wildlife, and indeed from the Presidency, is needed to set out the road map for unlocking the wildlife economy.

A dedicated and committed inter-ministerial task force should be to be put in place to develop this road map. Focused consultation on the road map should then be undertaken, particularly with Kenyan citizens who have real 'skin in the game' - i.e., the communities and private landowners who could be encouraged to enhance their wildlife stocks and wild habitats by the diversification of the wildlife economy.

Tough decisions - such as the role, if any, of KWS in the wildlife economy outside of legally protected areas - need to be made. And then the Ministry needs to get on the road and unlock the huge potential of Kenya's wildlife economy, mile by mile, hectare by hectare.



## **Annex 1 Comments for consideration on Kenya's Wildlife Conservation and Management Act, 2013**

This annex contains a number of comments on the Wildlife Act for consideration by the Ministry of Tourism and Wildlife and key stakeholders in Kenya's wildlife economy. Key areas for consideration include the following:

- **The meaning of conservation** – Adopt the IUCN World Conservation Strategy definition: "Conservation is the management of human use of the biosphere so that it may yield the greatest sustainable benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations. Thus, conservation is positive, embracing preservation, maintenance, sustainable utilization, restoration, and enhancement of the natural environment."
- **Modalities for wildlife use** – Align and clarify the definitions of cropping, culling, harvesting, hunting, and fishing, and apply these consistently to modalities for using wild marine and terrestrial fauna and flora.
- **Allocation of wildlife use rights** – Allocate wildlife use rights to KWS for those areas under its jurisdiction. Devolve wildlife use rights to community and private landowners with country-level regulatory systems as needed.
- **Devolve wildlife management and regulations** – Empower community and private landowners to manage the wildlife in their areas with county-level regulatory systems as needed.
- **Strengthen wildlife research and training in universities** – Akin to university research and training for agriculture, forestry, and fisheries, support wildlife economy schools and faculties in the Kenyan university system.
- **Allow for hunting, fishing, and harvesting of wild fauna and flora** – Building on Kenya's policies and practices for marine and freshwater fishing and for harvesting of timber and non-timber forest products, establish aligned policies and practices for hunting terrestrial mammals and birds, for multiple human benefits including sustenance and recreation.
- **Promote policy coherence for a sustainable wildlife economy** – Update the Act to align wildlife policies with the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals, the African Union Agenda 2063, the Kenya Vision 2030, and other relevant strategies and policy frameworks.

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
Page 1242	
2. This Act shall apply to all wildlife resources on public, community and private land, and Kenya territorial waters.	Does territorial waters need to be defined?
"animal" means any species or the young or egg thereof, but does not include a human being or any animal which is commonly considered to be a domestic animal or the young or egg thereof;	Normally animals include domestic animals. Revise to align with the meaning of 'animal' in other relevant legislation.
Page 1243	
"competent authority" means-	Specify for community land and territorial waters.
"conservation area" means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes;	<p>Define conservation. See the IUCN World Conservation Strategy which defines conservation as:</p> <p><i>"the management of human use of the biosphere so that it may yield the greatest sustainable benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations. Thus, conservation is positive, embracing preservation, maintenance, sustainable utilization, restoration, and enhancement of the natural environment."</i></p> <p>If this definition is adopted, then conservation is about how an area is being managed and not its legal status. Revise this definition, e.g., a conservation area is managed to ensure its living natural resources deliver sustainable human benefit.</p>
"cropping" means harvesting of wildlife for a range of products; "culling" means selective removal of wildlife based on ecological scientific principles for management purposes;	'Cropping' refers to 'harvesting' wildlife for products, whereas 'culling' refers to 'removal' of wildlife for management purposes. Wildlife could be taken for both purposes – products and management.

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
	Further, harvesting and removal of wild fauna is also commonly called hunting or fishing.
"dealer" means any person who, in the ordinary course of any business or trade carried on by him, whether on his own behalf or on behalf of any other person-	Here a 'dealer' is defined as someone connected with the preparation, transport, or trade of a trophy. However, dealers can also trade in other wildlife goods and wildlife services such as tourism or carbon credits.
Page 1245	
"domestic animal" includes any dog, sheep, pig, goat, cat, guinea pig, donkey, horse, camel, European rabbit, bull, cow, ox, ram or the young of such animal; "domestic bird" means any chicken, duck, goose, turkey, rock pigeon, or the eggs or young thereof;	Domestic animal, as opposed to animal as noted above, is here defined as a schedule of specific species. Consider describing attributes to domesticity.
"ex-situ conservation" means conservation outside the natural ecosystem and habitat of the biological organism;	This definition requires a definition of conservation as discussed above.
Page 1246	
"game farming" means the rearing of wildlife in an enclosed and controlled environment for wildlife 'conservation. trade and recreation; "game ranching" means the keeping of wildlife under natural extensive conditions with the intention of engaging in wildlife conservation, recreation and trade;	As the terms game ranching and game farming are critical to diversification of the wildlife economy, they need to be carefully and clearly defined. First, game' needs to be defined. Second, an 'enclosed and controlled environment' vis-à-vis a 'natural extensive conditions' needs to be defined. For example, could Nairobi National Park be considered a game farm? Finally, recreation is a traded ecosystem/wildlife service. Other ecosystem/wildlife goods and services could also be mentioned.
"harvesting" means the felling, trimming, docking, splitting, debarking, extracting or uprooting of any plant or plant substance;	Include animals as well as plants as both fauna and flora can be harvested.

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
"in-situ conservation" means conservation within the natural ecosystem and habitat of the biological organism;	This definition requires a definition of conservation as discussed above.
Page 1247	
<p>"marine park" means a protected marine area where no fishing, construction work or any disturbance is allowed unless with written permission of the Director-General;</p> <p>"marine protected area" means any park or reserve covering the area of intertidal or sub-tidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law, and includes any dry land found within the gazetted boundary;</p> <p>"marine reserve" means a marine protected area where subsistence fishing is permitted;</p>	A marine protected area has two sub-categories – a marine park and a marine reserve. The former does not allow fishing without written permission whereas the latter allows for subsistence fishing. First, this language needs to be aligned with classifications of terrestrial protected areas, e.g., is there a classification of a terrestrial reserve that allows for subsistence harvesting/hunting? Second, the concept of subsistence needs to be defined.
Page 1248	
"national reserve" means an area of community land declared to be a national reserve under this Act or under any other applicable written law;	The criterion for a national reserve that it is declared for community land. How the reserve is managed or for what purpose is not clear, unlike the definition above for a marine reserve.
Page 1249	
"sanctuary" means an area of land or of land and water set aside and maintained by government, community, individual or private entity for the conservation and protection of one or more species of wildlife;	Sanctuary, unlike the way conservation area is defined above, encompasses voluntary area-based conservation. If conservation is redefined as proposed, then there may be no need for a legal definition of sanctuary.
"sport hunting" means authorized pursuit and killing of wildlife for recreation and trophy collection;	Does sport hunting include hunting marine and aquatic animals, e.g., sport fishing?
"trophy" means any wild species alive or dead and any bone, claw, egg, feather,	Does this include definition include meat, fat, and gelatine?

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
hair, hoof, skin, tooth, tusk or other durable portion whatsoever of that animal whether processed, added to or changed by the work of man or not, which is recognizable as such;	
Page 1250	
"wildlife" means any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya;	This definition covers all fauna and flora – terrestrial and marine, indigenous, and introduced. The species defined as domestic animals are presumably excluded. Should there also be a list of domestic plants?
"wildlife conservancy" means land set aside by an individual landowner, body corporate, group of owners or a community for purposes of wildlife conservation in accordance with the provisions of this Act; "wildlife conservation area" means a tract of land, lake or sea that is protected by law for purposes of wildlife and biological diversity conservation and may include a national park, national reserve, game reserve or sanctuary;	These definitions could be covered by redefining conservation areas as discussed above.  A distinction, however, might be made between a legal conservation area and a voluntary conservation area.
"wildlife user rights" includes user rights exercised by an individual landowner, body corporate, group of owners or a community under the provisions of the Act.	User rights should set out clear wildlife ownership and use rights.  Also, consider including a definition of wildlife economy.
Page 1251	
(a) Wildlife conservation and management shall be devolved, wherever possible and appropriate to those owners and managers of land where wildlife occurs;	If conservation is defined as management as set out in the IUCN definition above, then this could be reworded. Further, devolution of management responsibilities requires devolution of ownership and use rights.
(d) Wildlife conservation and management shall be encouraged and	This should make clear that the land use activities can include <i>"preservation, maintenance, sustainable utilization,</i>

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
recognized as a form of land use on public, community and private land;	<i>restoration, and enhancement of the natural environment.</i> " (IUCN)
(e) Benefits of wildlife conservation shall be derived by the land user in order to offset costs and to ensure the value and management of wildlife do not decline; (f) Wildlife conservation and management shall be exercised in accordance with the principles of sustainable utilization to meet the benefits of present and future generations;	These principles make clear that the landowner/user has both the right and the obligation to manage wildlife for sustainable net benefit.
(g) Benefits accruing from wildlife conservation and management shall be enjoyed and equitably shared by the people of Kenya.	This principle, however, seems to imply that the landowner/user is not entitled to the benefits derived from sustainable wildlife management as set out above, but that rather that these benefits must be redistributed, presumably through Government, to everyone. There is a contradiction here which needs to be addressed.
5. (1) The Cabinet Secretary shall, subject to subsection (5), formulate and publish in the Gazette a national wildlife conservation and management strategy at least once every five years, in accordance with which wildlife resources shall be protected, conserved, managed and regulated.	This strategy should be integrated into the country's National Biodiversity Strategy and Action Plan. A revised act could align biodiversity-related strategy commitments under Kenya's membership in various multilateral biodiversity-related agreements.
Page 1254	
6. (1) There is established a Service to be known as the Kenya Wildlife Service. (2) The Service shall be a body corporate with perpetual succession and a common seal a...	A revision of the Act provides an opportunity to review establishment of KWS as a parastatal organisation rather than as a ministerial division.
(c) set up a county wildlife conservation committee in respect of each county;	As "Wildlife conservation and management shall be devolved, wherever possible," the decision to have such a committee should be left with the counties.

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
(d) promote or undertake commercial and other activities for the purpose of achieving sustainable wildlife conservation; (e) collect revenue and charges due to the national government from wildlife and, as appropriate, develop mechanisms for benefit sharing with communities living in wildlife areas; (f) develop mechanisms for benefit sharing with communities living in wildlife areas;	These functions should be clearly limited to the "national parks, wildlife conservation areas, and sanctuaries under its jurisdiction."
Page 1255	
(h) coordinate the preparation and implementation of ecosystem plans;	Ecosystem plans link the wildlife conservation strategy mentioned above should be a component of the country's National Biodiversity Strategy and Action Plan. KWS can contribute to this effort for the areas under its jurisdiction.
(j) assist and advise in the preparation of management plans for community and private wildlife conservancies and sanctuaries;	As "Wildlife conservation and management shall be devolved, wherever possible," assistance or advice from KWS should be at the discretion of community and private landowner/users.
(k) undertake and conduct enforcement activities...	As above, these activities should be limited to the areas under KWS jurisdiction.
(l) conduct and co-ordinate, all research activities in the field of wildlife conservation and management and ensure application of research findings in conservation planning, implementation and decision making;	KWS should not have a sole mandate for research and application of research findings. Other institutions should be empowered and indeed encouraged to undertake research and apply the finds, notably community and private landowners and academic institutions.
(o) identify user rights and advise the Cabinet Secretary thereon;	Identification of wildlife use rights outside of the areas under its jurisdiction should not be the responsibility of KWS.
(r) monitor the compliance of terms and conditions of licences;	KWS should only be responsible for licenses within the areas under its jurisdiction.

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
(s) perform such other functions as the Board may assign the Service or as are incidental or conducive to the exercise by the Service of any or all of the functions provided under this Act.	Regarding implementation of the Wildlife Act, functions should be assigned by the Cabinet Office or the appropriate Ministry and not by the KWS Board of Trustees.
Page 1257	
9. The functions of the Board of Trustees shall be to- (a) oversee the effective implementation of the national wildlife policy;	KWS should not have the mandate to implement a national wildlife policy, and so the Board should oversee the effective management of the areas under KWS jurisdiction.
Page 1259	
14. The funds of the Service shall comprise of – ... (c) any sums lent or donated to the service revenue from joint partnerships on bio-prospecting.	Revenues from bioprospecting should be limited to those areas under KWS jurisdiction.
Page 1260	
(a) payment of salaries, allowances, pensions, gratuities and other charges in respect of... regional wildlife conservation area committees and community wildlife scouts; (b) payment of salaries, allowances, pensions, gratuities and other charges in respect of the county wildlife conservation and compensation committees, as the case may be;  (c) payment of allowances in respect of the County Wildlife Conservation and Compensation Committees;	KWS should limit its payments to the salaries to its staff. Payments to people working at the county or local levels should be devolved to the relevant country or local authority or landowner/user.
(3) The members of the County Wildlife Conservation and Compensation Committee shall be paid such allowances as may be approved by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.	These Committees should be constituted and paid at the country level, not by KWS.
Page 1261	



<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
18. Each county shall have a County Wildlife Conservation and Compensation Committee,	The establishment of these committees could be allowed and even encouraged by the Act, but their establishment should be at the discretion of the counties.
Page 1262	
19. The functions of the County Wildlife Conservation and Compensation Committee shall be to-	If a country does not establish such a committee, the allocated function will remain with the relevant Ministry. Further, the functions may well involve collaboration with KWS with respect to any KWS-managed areas within the country, but the committee will not be mandated by KWS to implement plans.
Page 1263	
22. (1) No person may, without a permit from the Cabinet Secretary on the advice of the Service— (a) engage in bio-prospecting involving any wildlife resources; or (b) export from Kenya any wildlife resources for the purpose of bio-prospecting or any other kind of research.	Permits for bioprospecting in areas outside KWS jurisdiction should be based on advice from the Country, not KWS. In general, the Act needs to be revised to ensure that KWS has the authority to manage bioprospecting on the areas under its jurisdiction and that countries, or where appropriate community and private landowners/users, have the right for the areas under their jurisdiction.
Page 1265	
(b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors...	Regarding the Wildlife Endowment Fund, the right of KWS to levy payments for environmental services should be limited to the areas under its jurisdiction. Levies for such services outside of KWS-managed areas could be devolved to counties or local landowners/users.
Page 1266	
(3) The functions of the Wildlife Endowment Fund shall be to-	These functions should be limited to the areas under KWS jurisdiction.
(2) The Wildlife Compensation Scheme shall be used for financing compensation claims for human death	With the devolution of user rights comes the devolution of user responsibilities. The relevant landowner/user – e.g., KWS, a community, or an individual – should be

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
or injury or crop and property damage caused by wildlife.	responsible for any compensation claims. The Act should include a mechanism for determining compensation aligned with other such mechanisms in place in the country and should enable insurance schemes for landowners/users to mitigate financial risks.
Page 1268	
26. (1) The provisions of this Act with respect to conservation, protection and management of the environment shall be in conformity with the provisions of the Environmental Management and Coordination Act.	If conservation is defined as above as management of the biosphere including preservation or protection, then rewording is needed here. As well, the alignment with any amendments to the Environmental Management and Coordination Act will need to be considered.
Page 1269	
29. The holder of a permit or licence under this Act shall use the land in question in accordance with the requirement for sustainable use of land.	Sustainable use of the land should include sustainable use of the wild fauna and flora on the land.
Page 1270	
(2) Notwithstanding the provisions of subsection (2), a marine protected area shall adopt a system of zoning that caters for multiple use of marine resources for any or all of the following: (a) extraction or no extraction zones in respect of marine resources...	Align protected area zoning – whether it is marine or terrestrial – to allow for extraction and no extraction zones for wild resources
Page 1271	
Provided that there shall be no recommendation unless - (a) they are satisfied that such variation of boundary or cessation of national park proposed by the notice -... (iv) does not prejudice biodiversity conservation, cultural site protection, or its use for educational, ecotourism, recreational, health and research purposes;	Include other uses such as food, fuelwood, and carbon sequestration.
Page 1273	

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
(3) Notwithstanding the provisions of subsection (2), a marine conservation area shall adopt a system of zoning that caters for multiple use of marine resources for any or all of the following...	Zoning for multiple use of wild resources should also be allowed for terrestrial conservation areas.
Page 1275	
39. Any person or community who own land on which wildlife inhabits may individually or collectively establish a wildlife conservancy or sanctuary in accordance with the provisions of this Act.	In this regard, the rights of the person or community to use wildlife resources sustainably should be specified.
40. (1) Communities, landowners, groups of landowners and existing representative organizations may establish a community wildlife association and register under the appropriate law or in the case of an individual owner, may be registered as a recognized wildlife manager by the County Wildlife Conservation and Compensation Committee.	Through this clause, conservation activities including sustainable utilisation, restoration, and enhancement of the living environment can be allowed for recognised community and private landowners.
Page 1282	
PART VII—ESTABLISHMENT OF THE WILDLIFE RESEARCH AND TRAINING INSTITUTE	Consideration should be given to enhancing research and training capacity on the wildlife economy within one of more of Kenya's university alongside or integrated with academic capacities in agriculture, forestry, and fisheries.
Page 1291	
65. (1) Wildlife conservation easements may be created by voluntary private arrangement or upon appropriate application to the Environment and Land Court.	Wildlife conservation easements provide a legal basis for landscape restoration including wild species of fauna and flora based on sustainable utilisation.
Page 1294	
70. (1) Every person has the right to practice wildlife conservation and	This provides the legal basis for diversifying the wildlife economy.

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
management as a form of gainful land use.	
Page 1295	
72. (1) Utilisation and exploitation of wildlife resources by any person whether individual land owner or in a conservation area, and wherever else shall be practised in a manner that is sustainable and in accordance with regulations made under this Act.	The regulations made under this Act should support sustainable utilisation and exploitation.
Page 1297	
80. (1) The Cabinet Secretary may, upon successful registration _of the applicant with the County Wildlife Conservation and Compensation Committee grant a general permit for non consumptive wildlife user rights, including – (a) wildlife-based tourism; (b) commercial photography and filming; (c) educational purposes; (d) research purposes; (e) cultural purposes; and (1) religious purposes.	The permitting of all forms of wildlife use, including so-called consumptive and non-consumptive can be done at the County level or the rights can be allocated directly to community and private landowners.
Page 1298	
(3) The Cabinet Secretary may, upon successful registration of the applicant with the County Wildlife Conservation and Compensation Committee grant a licence in accordance with the provisions set out in the Eighth Schedule with regard to consumptive wildlife use activities, including - (a) game farming; (b) game ranching; (c) live capture; (d) research involving off-take; (e) cropping; and (f) culling.	Consider dropping the distinction between consumptive and non-consumptive uses. For example, game ranching may include tourism, commercial filming, and education. Research may cover many aspects of a multi-use integrated wildlife and land management. Further, permitting of uses for terrestrial wildlife should be aligned with that for aquatic wildlife – both freshwater and marine.
(2) The Service shall decline any application for assignment of a licence if, in the opinion of the Service, such assignment would derogate from the	KWS should not play a role in the allocation or management of use rights by community and private landowners. Rather use rights can be allocated directly to

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
main objectives and purposes set out in the instrument granting the wildlife user rights.	these landowners and thorough a county-level permitting system.
Page 1299	
83. (1) Except as otherwise provided for in the Eighth Schedule, the following shall be Government trophies and the property of the Government--	Except for trophies acquired illegal, trophies should be the property of the landowner.
Page 1300	
85. (1) No person shall import, export, re-export, or otherwise trade in any wildlife species without a permit issued by the Service.	The trade in wildlife goods and services outside of legally protected areas should not be regulated by KWS. The legal right to trade should be granted directly to community and private landowners or facilitated through a country-level permitting system.
Page 1304	
<p>96. (1) A person who engages in sport hunting or any other recreational hunting commits an offence and shall be liable, on conviction, to--...</p> <p>97. A person who engages in hunting for the purposes of subsistence commits an offence and shall be liable on conviction to a fine...</p> <p>98. A person who engages in hunting for bushmeat trade, or is in possession of or is dealing in any meat of any wildlife species, commits an offence and shall be liable on conviction to a fine...</p>	As discussed further below, hunting of marine or terrestrial wildlife and the trade in wildlife goods and services should be enabled under a revised Act and thus would not be an offence.
99. (1) No person shall trade in, import, export, re-export or introduce any specimen of a wildlife species into or from Kenya without a permit issued by the Service under this Act.	KWS should not be control the trade in wildlife species outside of the areas under its jurisdiction. The right to trade can be allocated to community and private landowners or regulated under a county-level permitting system.
Page 1310	

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
(3) The Service shall keep a register of all international treaties, agreements or conventions relating to the conservation and management of wildlife to which Kenya is a party.	KWS should be responsible for implementation of international responsibilities in the areas under their jurisdiction. A Ministry, however, should maintain the registry of all wildlife and biodiversity-related international commitments.
Page 1328	
THIRD SCHEDULE (S.25) WILDLIFE SPECIES IN RESPECT OF WHICH COMPENSATION MAY BE PAID	With the devolution of wildlife use rights to community and private landowners, the liability for damages also needs to be devolved.
Page 1333	
SIXTH SCHEDULE (s.47) NATIONALLY LISTED CRITICALLY ENDANGERED, VULNERABLE, NEARLY THREATENED AND PROTECTED SPECIES	Wild marine fauna and flora should be included in these lists where appropriate.
Page 1344	
(1) In considering the license application for consumptive wildlife utilization, the Service shall have regard to the material considerations which include:	KWS should be responsible for managing utilisation of any sort in the areas under its jurisdiction. Outside of these areas, use rights should be devolved to community and private landowners or regulated through a county-based permitting system.
Cropping	In addition to devolving cropping rights to community and private landowners or regulating these rights to a country-based permitting system, the modalities of cropping – sometimes called harvesting, picking catching, hunting, or fishing – also need to be devolved. As the Act currently defines cropping as “harvesting of wildlife for a range of products,” the means of harvesting could include hunting or fishing for food or recreation.
Page 1345	
Culling	Culling of wildlife as a management tool can be aligned with the cropping of

<b>Wildlife Act, 2013</b>	<b>Comments for consideration</b>
	wildlife for a range of products and may also involve various modalities of cropping.
(8) The Service may, on recommendation of the Service, authorize local processing and sale of wildlife trophies from the cropping activities under the supervision of the Service.	Processing and sale of trophies should be devolved to community and private landowners or regulated through a country-based permitting system.
(10) Sport hunting is prohibited and any person engaging in sport hunting or any other recreational hunting will be committing an offence and shall be liable on conviction to a fine or to imprisonment or to both such fine and imprisonment.	Sport harvesting/fishing of wild flora and marine wildlife is allowed in Kenya. Likewise, the sport hunting of wild birds and mammals should be allowed with the use rights devolved to community and private landowners through a county-level permitting system.
(11) Hunting for the purposes of subsistence or facilitating the trade in wildlife products, particularly the bushmeat trade, is prohibited and any person engaging in such activity will be committing an offence and is liable on conviction to a fine or to imprisonment for a term or to both such fine and imprisonment.	Subsistence harvesting/fishing of wild flora and marine wildlife is allowed in Kenya. Likewise, subsistence hunting of wild birds and mammals should be allowed with the use rights devolved to community and private landowners through a county-level permitting system.
Page 1347	
TENTH SCHEDULE (s.80(4)) WILDLIFE SPECIES FOR WHICH GAME FARMING MAY BE ALLOWED	Further consideration is needed on the distinction between game ranching and game farming including encouraging wildlife use which facilitates community and private landowners to restore and maintain diversified and resilient wildlife habitats.