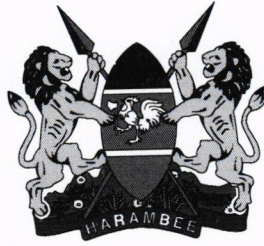


SCANNED

REPUBLIC OF KENYA

PARLIAMENT
OF KENYA
LIBRARY



THE SENATE

Approved
[Signature]
26/5/21

COG

Recommended for approval
for tabling -

[Signature]
31/05/21

TWELFTH PARLIAMENT

FIFTH SESSION

2021

SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND
NATURAL RESOURCES

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

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

MAY, 2021

TABLE OF CONTENTS

TABLE OF CONTENTS	1
PREFACE.....	2
Establishment of the Committee.....	2
Membership of the Committee	2
Acknowledgement	4
CHAPTER ONE	5
INTRODUCTION.....	5
1.0 Background.....	5
1.1 The Object of the Bill	5
1.2 Overview of the Bill	6
CHAPTER TWO	15
PUBLIC PARTICIPATION.....	15
2.0 Attendance by Stakeholders	15
2.1 Submissions from Stakeholders.....	15
CHAPTER THREE.....	22
COMMITTEE OBSERVATIONS AND RECOMMENDATIONS	22
3.0 OBSERVATIONS.....	22
3.1 RECOMMENDATIONS.....	29
APPENDICES.....	30

PREFACE

Establishment of the Committee

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

Membership of the Committee

The Committee is comprised of the following members:-

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

Mr. Speaker,

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

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

Acknowledgement


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

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

Mr. Speaker,

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

Signed.....



Date 7/05/2021

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

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

CHAPTER ONE

INTRODUCTION

1.0 Background

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

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

1.1 The Object of the Bill

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

1.2 Overview of the Bill

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

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

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

Section 21 of the Act provides as follows -

“Remuneration of Committee members

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

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

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

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

Section 23 of the Act provides as follows-

"The Wildlife Conservation Trust Fund

- (1) There is established a Wildlife Conservation Trust Fund that shall be vested in a governing body established in accordance with subsection (2)—*
- (2) The governing body referred to in subsection (1) shall serve as a public private partnership and comprise—*
 - (a) a Chairperson being appointed by the President;*
 - (b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife;*
 - (c) the Principal Secretary in the State Department for the time being responsible for matters relating to finance;*
 - (d) the Director General of the Service who shall be the Secretary;*
 - (e) four representatives from the private sector, who shall have technical experience in either philanthropy, law, natural resources, finance, business and investment matters, one of whom shall be a representative nominated by an umbrella wildlife conservancy body; and*
 - (f) a representative from the office of the Attorney General.*
- (3) There shall be paid into the Wildlife Conservation Trust Fund—*
 - (a) moneys appropriated by Parliament;*

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

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

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

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

Section 24 of the Act provides as follows-

“The Wildlife Compensation Scheme

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

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

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

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

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

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

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

There were no stakeholder submissions to amend Clause 4.

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

Section 25 of the Act provides as follows -

“Compensation for personal injury or death or damage to property

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 76 of the Act provides as follows-

“Guidelines on incentives and benefit-sharing

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

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

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

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

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

The Third Schedule provides as follows-

WILDLIFE SPECIES IN RESPECT OF WHICH COMPENSATION MAY BE PAID

A. Death and Injury

Elephant
Lion
Leopard
Rhino
Hyena
Crocodile
Cheetah
Buffalo

B. Crop, livestock and property damage

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

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

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

CHAPTER TWO

PUBLIC PARTICIPATION

2.0 Attendance by Stakeholders

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

The Committee received written submissions from —

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

2.1 Submissions from Stakeholders

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

General Proposal

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

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

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

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

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

CHAPTER THREE

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.0 OBSERVATIONS

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Proposal to revert to the previous amendment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amendment to Part A of the Third Schedule

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

General Proposal

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

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

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

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

3.1 RECOMMENDATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

APPENDICES

Annex I: Minutes of the meetings

Annex II: Amendments

Annex III: Newspaper Advert

ANNEX I

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

MEMBERS

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

PRESENT

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

ABSENT WITH APOLOGY

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

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

IN ATTENDANCE

SECRETARIAT

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

MINUTE SEN/SCLNENR/112/2021: PRELIMINARIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There was no other business discussed.

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

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

Signed:.....



Date: 7/5/2021.....

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

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

MEMBERS

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

PRESENT

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

ABSENT WITH APOLOGY

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

IN ATTENDANCE

SECRETARIAT

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

MINUTE SEN/SCLN/124/2021: PRELIMINARIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOW THEREFORE;

CLAUSE 3

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

Amendment of
section 23 of
No. 47 of 2013.

3. Section 23 of the principal Act is amended —

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

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

MINUTE SEN/SCLNLR/128/2021: ANY OTHER BUSINESS
There was no other business discussed.

MINUTE SEN/SCLNLR/129/2021: DATE OF NEXT MEETING
The meeting was adjourned at 11.30 am and the date of the next meeting was to be held on thereafter.

Signed:.....

Date:.....7/5/2021.....

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

ANNEX II

15th April, 2021

The Clerk of the Senate
Parliament Buildings

NAIROBI

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

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

CLAUSE 3

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

Amendment of
section 23 of
No. 47 of 2013.

3. Section 23 of the principal Act is amended —

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



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

ANNEX III

REPUBLIC OF KENYA



TWELFTH PARLIAMENT | FIFTH SESSION THE SENATE

INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA

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

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

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

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

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

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