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THE SENATE

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Clerk of the senate/secretary, PSC
Date: 06/08/24

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THIRTEENTH PARLIAMENT

THIRD SESSION, 2024

SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

COMMITTEE REPORT

ON

THE WILDLIFE CONSERVATION
AND MANAGEMENT (AMENDMENT) BILL 2023
(SENATE BILLS NO. 49 OF 2023)

[Handwritten signature]
07/08/24

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

APPROVED
RT. HON. SEN JULY, 2024
AMASON J. KINGI

PAPERS	
DATE	07.08.2024
TABLED BY	SEN. METHU
COMMITTEE	
REPORT THE TABLE	ANGELA

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LIST OF ABBREVIATIONS AND ACRONYMS

COG

-Council of Governors

NP

- National Parks

NR

- National Reserves

LIST OF ANNEXURES

1. Minutes
2. Committee Stage Amendments
3. Copy of the newspaper advertisement for public participation
4. Wildlife Conservation and Management (Amendment) Bill, 2023(Senate Bills No. 49 of 2023)
5. Stakeholder submissions

PREFACE

Establishment of the Committee

The Standing Committee on Land, Environment and Natural Resources is established under standing order 228(3) of the Senate Standing Orders. The mandate and the functions of the Committee are set out under the Fourth Schedule of the Senate Standing Orders which mandates the Committee to consider all matters relating to lands and settlement, environment, forestry, wildlife, mining, water resource management and development.

Membership of the Committee

The Committee is comprised of the following members -

1. Sen. John Muhia Methu, MP - **Chairperson**
2. Sen. (Dr.) Steve Lelegwe Ltumbesi, MP - **Vice - Chairperson**
3. Sen. William Cheptumo Kipkiror, CBS, MP
4. Sen. Johnes Mwashushe Mwaruma, MP
5. Sen. Issa Juma Boy, MP
6. Sen. Agnes Kavindu Muthama, MP
7. Sen. Wamatinga Wahome, MP
8. Sen. Mariam Sheikh Omar, MP
9. Sen. Beatrice Akinyi Ogola, MP

Mr. Speaker,

The Wildlife Conservation and Management (Amendment) Bill, 2023(Senate Bills No. 49 of 2023) (*Refer to Annex IV*), aims to facilitate collaborative management of national parks and revenue-sharing between the county governments, where these parks are located, and the National Government. The proposed amendments are intended to ensure

that the counties hosting the parks receive financial benefits from the parks situated in their areas. The objective of the Bill is to boost local economies and ensure a fair distribution of the resources generated from wildlife conservation efforts.

Mr. Speaker Sir,

The Bill was published on 15th November, 2023, and read a First Time in the Senate on 21st March, 2024. Following the First Reading in the Senate, the Bill stood committed, pursuant to standing order 145(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 145(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 Tuesday, 26th March, 2024 (*Refer to Annex III*).

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Standing Committee on Land, Environment and Natural Resources on its consideration of the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) which was published on 15th November, 2023 (*Refer to Annex IV*). The Bill went through the First Reading on 21st March, 2024 and was thereafter committed to the Land, Environment and Natural Resources Committee for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) represents a significant step towards a more inclusive and equitable management of Kenya's national parks. The Bill aims to foster a collaborative approach between county governments and the National Government in managing and sharing revenue from national parks. The proposed amendments are designed to ensure that counties hosting these parks receive a fair share of the financial benefits derived from wildlife conservation and tourism activities, thereby boosting local economies and promoting fair distribution of resources.

Currently, the management and revenue-sharing framework for national parks in Kenya is centralized, with the National Government retaining full control. This system has resulted in economic disparities, as host counties do not receive adequate compensation for the conservation and tourism activities within their jurisdictions. The Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) addresses these challenges by proposing changes to the Wildlife Conservation and Management Act. These changes aim to align the management of national parks with the devolved governance structure envisioned by the Constitution, particularly under Part 2

of the Fourth Schedule, which emphasizes local tourism regulation and the management of county parks and public amenities.

This Bill is a critical step towards realizing a more balanced approach to wildlife conservation in Kenya, ensuring that the benefits of conservation efforts are shared more equitably among all stakeholders.

Mr. Speaker,

It is now my pleasant duty, pursuant to standing order 148 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, 2023 (Senate Bills No. 49 of 2023).

Signed:  Date: 29/7/2024

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON

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

CHAPTER ONE

INTRODUCTION

1.0 Purpose of the Bill

1. The objective of the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023), is to facilitate collaborative management and revenue sharing of national parks between county governments hosting them and the national government. The amendments seek to ensure that host counties financially benefit from the parks under their authority, thus increasing local economic effect and ensuring equitable distribution of resources earned by wildlife conservation efforts.

2.0 Background

The Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) addresses the current challenges faced in the management and revenue-sharing of national parks in Kenya. Under the existing framework, the management and operations of national parks fall exclusively under the National Government, despite these parks being located within counties. This arrangement has led to disparities in revenue distribution, with host counties not receiving their fair share of the income generated from tourism and conservation activities.

Hence, by amending the Wildlife Conservation and Management Act, ('the Act'), this Bill seeks to align the management of national parks with the spirit of the Constitution, which provides for devolved functions under Part 2 of the Fourth Schedule, including the regulation of local tourism and the management of county parks and public amenities.

3.0 Overview of the Bill

The Bill contains the following five (5) clauses:

Clause 1 of the Bill provides for the long title of the Bill.

Clause 2 of the Bill seeks to amend Section 32 of the principal Act which provides for the declaration of a national park. The proposed amendment seeks to delete the current provisions and insert new provisions that:

- (a) allow the Cabinet Secretary upon recommendation and consultation, to declare unalienated public land or land acquired by the Government as a national park.
- (b) require the declaration to be submitted to and approved by both the National Assembly and the Senate before publication in the Gazette.
- (c) mandate that national parks be managed by the National Government in collaboration with the respective county government, facilitated by an intergovernmental agreement that must also be approved by Parliament and published in the Gazette.

Clause 3 of the Bill seeks to amend section 76 of the Act which provides for the guidelines on incentives and benefit-sharing. This clause proposes that subsection (1) be deleted and a new provision be made to include county governments in the formulation of guidelines regarding incentives and benefit-sharing.

Clause 4 of the Bill seeks to amend section 119 of the Act which provides for transitional provisions. This proposed amendment seeks to include a new subsection that provides that any agreements regarding management and administration of national parks deemed to have been entered into shall remain in force until revoked in accordance with any terms set out in the agreements.

Clause 5 of the Bill seeks to amend the eleventh schedule of the Act in the following manner:

- (a) in the table titled National Parks (N.P.) by deleting item 6 which is Amboseli National Park from the list of National Parks, Marine Protected Areas and Sanctuaries; and,
- (b) in the table titled National Reserves (N.R.) by inserting Amboseli (392 Sq Km) as a National Reserve.

4.0 Consequences of the Bill

Overall, the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) seeks to create a more equitable, efficient, and locally-responsive framework for the management of Kenya's national parks, which could lead to improved conservation outcomes and socio-economic benefits for the local communities. The Bill aims to address several key challenges in the management and revenue-sharing of national parks in Kenya, which are:

- i) The Bill proposes changes to ensure that host counties receive a fairer share of the revenue generated from national parks. This is expected to promote more balanced economic development and provide counties with more resources to invest in local projects and services.
- ii) The Bill seeks to devolve certain management functions to county governments, aligning with the spirit of the Kenyan Constitution. This can lead to more responsive and locally-tailored management practices, improving the overall conservation efforts and visitor experiences in national parks.
- iii) By amending the Wildlife Conservation and Management Act, the Bill aims to bring the management of national parks in line with the constitutional mandate for devolved governance. This alignment is expected to foster greater cooperation

between national and county governments and ensure that the management of natural resources is more in tune with local needs and priorities.

- iv) By involving county governments more directly in the management of national parks, the Bill could encourage greater local engagement and support for conservation initiatives. This could lead to better protection of wildlife and natural habitats through community-driven efforts.
- v) While the Bill aims to address existing disparities, its implementation will require careful planning and collaboration to ensure that county governments are adequately prepared to take on their new roles and responsibilities.

CHAPTER TWO

PUBLIC PARTICIPATION

2.1 Attendance by Stakeholders

1. The Committee, pursuant to Article 118 of the Constitution and standing order 145(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 Tuesday, 26th March, 2024 (*Refer to Annex III*).
2. The submissions received were following an invitation done to the Ministry of Tourism, Wildlife and Heritage and presented by the Cabinet Secretary at a meeting held on Tuesday, 14th May, 2024 (*Refer to Annex I*).
3. The Committee had previously planned a targeted stakeholder retreat on the Bill, but the meeting did not occur. Instead, the Committee received written submissions from the Council of Governors and Nature Kenya, which were considered by the Committee (*Refer to Annex V*).
4. The Committee held a total of the four (4) Meetings and attached to this report are the corresponding record of proceedings. (*Refer to Annex I*)

3.1 Submissions from stakeholders and committee observations and determinations on stakeholder proposals

A. Ministry of Tourism, Wildlife and Heritage

5. The Committee received overall submissions from the Ministry of Tourism, Wildlife and Heritage on the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) (*Refer to Annex V*) as follows-

- (a) The experience from implementing the Wildlife Conservation and Management Act (WCMA) 2013 has revealed its many serious shortcomings, including inconsistencies in definitions as well as use and application of terms and phrases, high and unsustainable costs of implementation, especially on compensation claims, poor and confusing cross-referencing between the body of the Act, various sections and the schedules, typographical errors and redundancies and lack of clarity on roles and responsibilities of the implementing institutions;
- (b) Piecemeal attempts to revise the Act have failed to cure its many shortcomings. It also causes considerable uncertainty in the application of the law, and inconveniences stakeholders and institutions involved in law reform. It has emerged that nothing short of a comprehensive revision of the Act would suffice. These calls for a complete overhaul of the WCMA in order to address the emerging issues and challenges.
- (c) There is a draft Bill to comprehensively review the Wildlife Conservation and Management Act No.47 of 2013 being undertaken. The proposed amendments are being looked into comprehensively and it is in the interest of the public and relevant stakeholders to carry out this comprehensive review with the view of repealing the current Act and coming up with a new law that effectively address the issues being proposed to avoid piece meal amendments.

- (d) In view of the above, the request is for the withdrawal of the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 46 of 2023) and the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) and request Honorable Senators to forward the proposed amendments to the Ministry for inclusion in the new Bill being developed.
6. His Excellency the President on 23rd August, 2023 issued a Directive to transfer Amboseli National Park to County Government of Kajiado. Consequently, through the Kenya Gazette Vol. CXXVI - No. 22 - Page 586 -587 dated 23rd February, 2024, the Cabinet Secretary, Ministry of Tourism and Wildlife appointed an Advisory Committee on the transfer of the Amboseli National Park to the County Government of Kajiado with clear terms of reference. The Committee deliberation is at an advance stage and the report shall be ready in due course.
7. However, following deliberations between the Committee and the Cabinet Secretary, an agreement was arrived at that the Committee proceeds with consideration of the proposed Bills and that the Ministry supports the Bill since the Ministry's proposed version of the Bills are not yet ready.

B. The Council of Governors

8. The Committee received written submissions from the Council of Governors (COG) on the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) (*Refer to Annex V*) as follows-
9. In the memorandum, they proposed the following amendments to the Bill-

Clause 2: Provision on the amendment of Clause 32 of the Act on Declaration of a National Park

Propose –

10. Amend the section to read as follows:

...The Cabinet Secretary may, upon the recommendation of the Service, after consultation with the County Governments within its jurisdiction and the National Land Commission, and with the approval of the National Assembly...

Justification –

11. County governments hold public land in trust for the people of Kenya as is provided in Article 62 (2) of the Constitution and therefore should be consulted within their jurisdiction in line with Article 6(2) of the Constitution.

Committee's Observation/Recommendation

12. Article 62(2) of the Constitution states that:

"Public land shall vest in and be held by a county government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission..."

13. While County Governments hold public land in trust for their residents, it is essential to acknowledge that the National Land Commission is responsible for its administration. Additionally, this clause as provided for in the Bill already provides for extensive collaboration with the respective county government for the effective

management and administration of national parks, including entering into intergovernmental agreements. Therefore, the Committee did not carry this proposal.

Clause 3: Seeking to amend Section 76 of the Principal Act

Propose –

14. Amend the section to read as follows:

(4) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation and the relevant county government formulate guidelines regarding incentives and benefits sharing while ensuring that fifty (50) percent of the benefits from National Parks are allocated to the host County Governments.

15. Amend the section to read as follows;

(4(a) The guidelines on benefit sharing shall further 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; and a minimum of fifteen percent of benefits from national reserves shall be allocated to adjacent communities. Such monies shall be utilized to enhance efforts including- community conservation, livelihood improvement and human wildlife conflict mitigation measures.

Justification-

16. This is in line with the Presidential directive made regarding the 50:50 sharing of revenue from the National Parks between the National government and host County Governments recognizing the crucial role Counties play in Wildlife Conservation and management.

17. There are only 2 planning authorities i.e. National and County Governments as such any community support should be channelled through the County governments as community priorities are captured in the County Integrated Development Plans.

18. Consequently, County Governments, as part of their mandate to coordinate community participation in local governance, are tasked with ensuring that a

percentage of the benefits accrued from National Parks is shared with local communities based on mutually agreed terms.

19. There exists gap on the legal requirement for benefit sharing from national Reserves to adjacent communities. This dis-incentivizes community support to conservation in majority of national Reserves.

Committee's Observation/Recommendation

20. The Committee did not carry this proposal due to the complexity involved in the manner of implementation. Allocating fifty percent of the benefits from National Parks to host County Governments presents significant administrative and logistical challenges. The current framework and processes may not adequately support such a distribution, potentially leading to inefficiencies and difficulties in ensuring equitable benefit-sharing. Additionally, the proposal might require extensive restructuring of existing guidelines and mechanisms, which could impede effective wildlife conservation and management efforts. Therefore, while the intent of the proposal is commendable, the practicalities of its implementation necessitate further consideration and refinement.

New Clause 2A: Declaration of a National Reserve

Propose –

21. Amend the section to include a new subsection immediately after 35(2) to read as follows:

“2A. Every national reserve shall be managed by the respective County Government in accordance with an up-to-date management plan that includes a revenue generation plan, and complies with the requirements of this Act”.

Justification-

22. The role of county government in reserve management is silent, except for provisions on co-management with Kenya Wildlife Service.

Committee's Observation/Recommendation

23. The Committee observed that section 35(2) of the Wildlife Conservation and Management Act, Cap 376 provides that:

(2) The national reserve declared under subsection (1) shall be managed by the relevant county government in accordance with the provisions of this Act.

24. While the Act already provides for the management of national reserves by county governments, the proposal to include specific requirements for an up-to-date management plan and revenue generation plan does add value by providing clarity, promoting standardization, enhancing accountability, and focusing on economic benefits. The Committee adopted the proposal.

General Comments

25. The Bill references the Community Wildlife Compensation Committees, whereas the principal Act establishes the County Wildlife Compensation Committees. It is therefore necessary to harmonize the provisions of these legislations to mitigate potential confusion arising from disparate frameworks.

26. The Council acknowledges multiple amendments to the Wildlife Conservation and Management Act of 2013. In light of this, the Council advocates for a comprehensive review exercise aimed at consolidating all proposed amendments into a singular bill, thereby streamlining legislative modifications for enhanced clarity and coherence.

C. Nature Kenya

27. The Committee received written submissions from Nature Kenya on the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) as follows –

- 1. Clause 2: Amendment to section 32 (Declaration of a national park) of the principal Act**

Propose –

28. Section 32 of the principal Act should only be slightly amended to recognize the Senate in 32 (1) to read:

*"The Cabinet Secretary may upon the recommendation of the Service and after consultation with the National Land Commission and following **proper** public consultation, and with approval of the National Assembly and **the Senate**, by notice in the Gazette, declare - "*

Justification –

29. Eliminate all requirements for signing of intergovernmental collaboration agreements between national government and county governments for management and administration of parks. Instead, focus to address the root cause. Aim at a legal solution that promotes the overall goal of why national parks were established. The current law is clear on who manages National Parks and who manages reserves.

Committee's Observation/Recommendation

30. The Committee did not carry this proposal as it had already been provided for under clause 32 (2) which provides that –

"The declaration in subsection (1) shall be submitted to the National Assembly and the Senate for approval before publication in the Gazette."

2. Clause 3: Amendment to section 76 (1) (Guidelines on incentives and benefit sharing) of the principal Act

Propose –

31. They support the principle of revenue sharing between national and county government to enhance adequate incentives to communities, fairness, and equitable benefit sharing. This is an existing gap that this Bill should aim to address as opposed to downgrading National Parks. Nature Kenya recommends the following:

- i. The Bill should clearly define "benefit sharing" to mean, "the sharing of any benefits arising from the exploitation of natural resources within parks or reserves in a fair and equitable manner where the costs accruing to communities conserving the resource, as the most important custodians, are offset for local communities to see net benefits from natural resources projects in order to preserve the natural resources".
- ii. The Bill should clearly define the term "revenue" to mean, "Profits after costs of park or reserve management are met by the manager of the resource".
- iii. Recognize the principle of costs and cost sharing. Those costs should be included to cushion communities that have suffered without any form of compensation.

Justification –

- (a) Benefit Sharing - There should be adequate incentives for local communities as they bear the greatest responsibility towards protection of natural resources.
- (b) Revenue - Recognize that natural resources do not manage themselves. Hence the cost incurred by management agencies need to be met before the sharing of benefits accrued. The managers include mandated government agencies, national non-governmental and civil society organizations, and others who can demonstrate their contribution to conservation and management of natural resources. It makes no sense for the national government to be receiving revenue from a park that is poorly managed because of lack of financial resources.
- (c) Recognize the principle of costs and cost sharing. Those managing conservation areas incur huge costs including human injuries, deaths, livestock predation and destruction of property.

Committee's Observation/Recommendation

32. The Committee did not carry this proposal as the terms "benefit sharing" and "revenue" have their ordinary meanings and do not require further definition within the Bill.

3. Clause 3: Amendment of the 11th schedule of No. 47 of 2013 (National parks, marine protected areas and sanctuaries)

Propose –

33. Strongly Object to the Legal downgrading of Amboseli National Park.

Justification –

34. This is retrogressive. World over, governments are looking for more places to protect wildlife. The action is against Kenya's image as a wildlife conservation leader in the region. Amboseli National Park is a globally recognized Key Biodiversity Area (KBA), part of a connected conservation system linking to Chyulu Hills National Park KBA. The decision to downgrade the park needs to be evaluated considering the cumulative ecosystem and social impacts. Restitution of parks will lead to a cascading insecurity on land resources in Kenya.

35. The site, currently faced with threats, including ongoing subdivision of surrounding group ranches, risks losing its ecosystem support potential with far reaching impacts should the bill be passed. The cost of addressing rising cases of human wildlife conflicts, negative impacts on genetic diversity and gene pool, population declines, susceptibility to diseases, loss of livelihoods and maintaining ecological functions from this decision will be unbearable to both the national and county governments. We urge the government to rethink this decision.

Committee's Observation/Recommendation

36. The Committee did not accept the proposal as the transfer of Amboseli National Park to Kajiado County is seen as a strategic move towards more inclusive and sustainable conservation practices, rather than a downgrade. This proposed transition aims to balance conservation with community development, enhancing local involvement and accountability. It is expected to bring economic benefits through tourism revenue, support development projects, and effectively mitigate human-wildlife conflicts. By

fostering a sense of ownership and responsibility, the local community will engage more actively in conservation efforts, ensuring both wildlife protection and community well-being.

37. **Overall Comments by Nature Kenya:** Having three bills (two at the Senate and one at the Ministry) at the same time for a similar law is concerning. They called for synergy by the Ministry and Legislature in reviewing the Wildlife Conservation and Management Act, 2013 to save public resources and maximize on stakeholders and experts engagement.

Committee's Observation/Recommendation

38. The Committee concurred with this observation.

CHAPTER THREE

COMMITTEE OBSERVATIONS

The Committee made the following observations in line with its consideration of the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) –

General Observation:

39. There were two Bills before the Senate, both seeking to amend the Wildlife Conservation and Management Act, Cap 376. The similarities between these Bills may have contributed to reduced public engagement through written submissions, as stakeholders might have found it challenging to differentiate between the two and provide distinct feedback for each.

Specific Observation:

40. New Clause 2A

The Committee observed that the Wildlife Conservation and Management Act, Cap 376, is silent on the specific requirements for county governments in managing national reserves. While section 44 of the Act mandates that every national park, marine protected area, wildlife conservancy, and sanctuary (excluding national reserves) must be managed in accordance with a management plan as prescribed under the Fifth Schedule, there is no such requirement for national reserves. This gap highlights the need to align the Act's provisions to ensure that county governments managing national reserves are also required to develop and implement a management plan and a revenue generation plan.

CHAPTER FOUR
COMMITTEE RECOMMENDATIONS

The Committee having reviewed the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) and conducted public participation, makes the following recommendation and attached to this report are the Committee stage amendments. (*Refer to Annex II*):

41. New Clause 2A

The Committee recommended amending the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023), to require county governments managing national reserves to develop and implement an up-to-date management plan and a revenue generation plan. This amendment will align the management requirements for national reserves with those of national parks, marine protected areas, wildlife conservancies, and sanctuaries, ensuring consistent and effective management across all protected areas.

APPENDICES

- Annex I: Minutes of the meetings**
- Annex II: Committee Stage Amendments**
- Annex III: Newspaper Advert**
- Annex IV: Wildlife Conservation and Management (Amendment) Bill,
2023 (Senate Bills No. 49 of 2023)**
- Annex V: Stakeholder Submissions/Public Views**

ANNEX I - MINUTES



MINUTES OF THE TWENTY EIGHTH (28TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, 23RD JULY, 2024 IN COMMITTEE ROOM 8, FIRST FLOOR, BUNGE TOWER BUILDING AT 9:00 AM

PRESENT

- | | |
|---|--------------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP | - Vice Chairperson |
| 3. Sen. Agnes Kavindu Muthama, MP | - Member |
| 4. Sen. Beatrice Akinyi Ogola, MP | - Member |
| 5. Sen. Mariam Sheikh Omar, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|----------|
| 1. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
| 2. Sen. Issa Juma Boy, MP | - Member |
| 3. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 4. Sen. Wamatinga Wahome, MP | - Member |

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Ivy Nyambura
3. Ms. Angela Kagunyi
4. Ms. Shirley Milimu
5. Ms. Sarah Rukwaro

SECRETARIAT

- Clerk Assistant I
- Clerk Assistant III
- Legal Counsel II
- Audio Officer III
- Serjeant at Arms

MINUTE SEN/LENR/139/2024:

PRELIMINARIES

The Chair called the meeting to order at 9.10 am. This was followed by a word of prayer.

MINUTE SEN/LENR/140/2024:

ADOPTION OF AGENDA

The agenda was adopted after having been proposed by Sen. Beatrice Akinyi Ogola, MP and seconded by Sen. Agnes Kavindu Muthama, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Consideration of Committee Reports on:**

- i. The Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 46 of 2023); and*
 - ii. The Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023).*
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/141/2024:

**CONSIDERATION OF THE COMMITTEE
REPORT ON THE WILDLIFE
CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL, 2023 (SENATE
BILLS NO. 46 OF 2023)**

The Secretariat took the Committee through the draft committee report highlighting submissions on proposed amendments and proposals from the following institutions and individuals;

- i. Ministry of Tourism, Wildlife and Heritage*
- ii. Council of Governors (COG)*
- iii. County Government of Kilifi*
- iv. Mwambogo wa Mcharo*
- v. Nature Kenya*

The Committee having reviewed the Wildlife Conservation and Management (Amendment) Bill 2023 (Senate Bills No. 46 of 2023) and conducted public participation, made the following recommendations:

Clause 3

- (a) The Committee recommended amending this clause by increasing the number of representatives nominated by the Council of Governors to sit in the governing body of the Wildlife Conservation Trust Fund from one to two, ensuring one man and one woman to promote gender inclusivity and equitable representation.
- (b) The Committee recommended further amending this clause to include ‘facilitating county government-based initiatives’ as one of the purposes of the Wildlife Conservation Trust Fund, to support conservation efforts and empower county governments in wildlife management within their jurisdictions.

The Committee adopted the report having been proposed and seconded by Sen. Beatrice Akinyi Ogola, MP and Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP respectively.

MINUTE SEN/LENR/142/2024:

**CONSIDERATION OF THE COMMITTEE
REPORT ON THE WILDLIFE
CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL, 2023 (SENATE
BILLS NO. 49 OF 2023)**

The Secretariat took the Committee through the draft committee report highlighting submissions on proposed amendments and proposals from the following institutions;

- i. *Ministry of Tourism, Wildlife and Heritage;*
- ii. *Council of Governors (COG) and*
- iii. *Nature Kenya*

The Committee having reviewed the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) and conducted public participation, made the following recommendation:

New Clause 2A

The Committee recommended amending the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023), to require county governments managing national reserves to develop and implement an up-to-date management plan and a revenue generation plan. This amendment will align the management requirements for national reserves with those of national parks, marine protected areas, wildlife conservancies, and sanctuaries, ensuring consistent and effective management across all protected areas.

The Committee adopted the report having been proposed and seconded by Sen. Agnes Kavindu Muthama, MP and Sen. Beatrice Akinyi Ogola, MP respectively.

MINUTE SEN/LENR/143/2024

ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/144/2024

**ADJOURNMENT AND DATE OF NEXT
MEETING**

The meeting was adjourned at 10:10 am. The date of the next meeting was to be called on notice.

Signed  _____ Date 29/07/24 _____

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON,

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



MINUTES OF THE TWENTY SEVENTH (27TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 18TH JULY, 2024 IN COMMITTEE ROOM 4, FIRST FLOOR, MAIN PARLIAMENT BUILDING AT 11:00 AM

PRESENT

- | | |
|---|--------------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP | - Vice Chairperson |
| 3. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 4. Sen. Wamatinga Wahome, MP | - Member |
| 5. Sen. Mariam Sheikh Omar, MP | - Member |
| 6. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|----------|
| 1. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
| 2. Sen. Issa Juma Boy, MP | - Member |
| 3. Sen. Agnes Kavindu Muthama, MP | - Member |

IN ATTENDANCE

A. FRIEND OF THE COMMITTEE

- | | |
|-------------------------------|-------------------------|
| 1. Sen. Fatuma Dullo, CBS, MP | -Senator, Isiolo County |
|-------------------------------|-------------------------|

B. SECRETARIAT

- | | |
|------------------------|--------------------------------|
| 1. Mr. Victor Bett | - Clerk Assistant I |
| 2. Ms. Ivy Nyambura | -Clerk Assistant III |
| 3. Ms. Angela Kagunyi | - Legal Counsel II |
| 4. Ms. Janice Naserian | - Research Officer III |
| 5. Ms. Lydia Kagumba | -Public Communications Officer |
| 6. Mr. Jack Lemeteki | - Media Relations Officer |
| 7. Ms. Shirley Milimu | - Audio Officer III |
| 8. Ms. Sarah Rukwaro | - Serjeant at Arms |

MINUTE SEN/LENR/132/2024: PRELIMINARIES

The Chair called the meeting to order at 11.28 am. This was followed by a word of prayer.

MINUTE SEN/LENR/133/2024: ADOPTION OF AGENDA

The agenda was adopted after having been proposed by Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP and seconded by Sen. Johnes Mwaruma, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Previous Minutes;
4. Matters Arising;
5. **Meeting with the National Land Commission Chairperson to consider a Bill, eight (8) Statements and four (4) Petitions pending before the Committee;**
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/134/2024: CONFIRMATION OF PREVIOUS MINUTES

The Committee confirmed the following minutes -

- i. Minutes of the nineteenth (19th) sitting held on Tuesday, 14th May, 2024 at 8.00 am as proposed by Sen. Beatrice Akinyi Ogola, MP and seconded by Sen. Mariam Sheikh, MP respectively;
- ii. Minutes of the twentieth (20th) sitting held on Friday, 14th June, 2024 at 9.00 am as proposed by Sen. Beatrice Akinyi Ogola, MP and seconded by Sen. Johnes Mwashushe Mwaruma, MP respectively;
- iii. Minutes of the twenty first (21st) sitting held on Friday, 14th June, 2024 at 2.00 pm as proposed by Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP and seconded by Sen. Mariam Sheikh Omar, MP respectively;
- iv. Minutes of the twenty second (22nd) sitting held on Saturday, 15th June, 2024 at 9.00 am as proposed by Sen. Beatrice Akinyi Ogola, MP and seconded by Sen. Johnes Mwashushe Mwaruma, MP respectively;

- v. Minutes of the twenty third (23rd) sitting held on Saturday, 15th June, 2024 at 2.00 pm as proposed by Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP, and seconded by Sen. Beatrice Akinyi Ogola, MP respectively;
- vi. Minutes of the twenty fourth (24th) sitting held on Sunday, 16th June, 2024 at 9.00 am as proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Beatrice Akinyi Ogola, MP respectively; and
- vii. Minutes of the twenty sixth (26th) sitting held on Tuesday, 25th June, 2024 at 9.00 am as proposed by Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP and seconded by Sen. Mariam Sheikh Omar, MP respectively.

MINUTE SEN/LENR/135/2024: MATTERS ARISING

There were no matters arising from the previous minutes.

MINUTE SEN/LENR/136/2024: MEETING WITH THE NATIONAL LAND COMMISSION CHAIRPERSON TO CONSIDER A BILL, EIGHT (8) STATEMENTS AND FOUR (4) PETITIONS PENDING BEFORE THE COMMITTEE

The Chairperson began noting the presence of the National Land Commission (NLC) and requested directed that a round of introductions be done. Thereafter, members raised a point of order regarding the delay in circulation of responses by the NLC which was done as the meeting was ongoing. The concern was that members did not get adequate time for Members to interrogate the responses thoroughly.

Further, the Committee through in the presence of the requester, expressed dissatisfaction with the tabled response on a Statement requested regarding the status of compensation to landowners displaced in the construction of the Horn of Africa Gateway Development Project. The requestor noted that the other than the response having taken too long it was inadequate as it lacked a detailed list of individuals compensated as well as the actual figures.

The NLC responded by conveying apologies on the delay in transition of responses attributed to internal challenges such as budgetary and logistical constraints. The Committee was informed that the Commission would be sending a team to go and assess the status from 22nd July, 2024 and therefore request for additional time to enable them give a comprehensive response.

The Committee gave guidance to NLC that, there was need for additional comprehensive responses on all the pending legislative matters sent to the Commission.

On further deliberation the Committee resolved that-

1. The National Land Commission sends additional comprehensive responses on the, eight (8) Statements and four (4) Petitions within seven (7) days as the Committee expressed dissatisfaction with the tabled responses;
2. A meeting is scheduled with the National Land Commission in the next fourteen (14) days to respond to the aforementioned Statements and Petitions; and
3. Communication done to the National Land Commission highlighting the key areas on the memoranda submitted regarding the Land (Amendment) Bill, 2022 (National Assembly Bills No.40 Of 2022).

MINUTE SEN/LENR/137/2024

ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/138/2024

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 12:21 pm. The next meeting shall be called by notice.

Signed _____



Date 18/7/24

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES.



MINUTES OF THE TWENTY FOURTH (24TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON SUNDAY, 16TH JUNE, 2024 IN PRIDE INN PARADISE HOTEL, MOMBASA COUNTY AT 9:00 AM

PRESENT

- | | |
|---|---------------------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP | - Vice Chairperson |
| 3. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 4. Sen. Issa Juma Boy, MP | - Member |
| 5. Sen. Agnes Kavindu Muthama, MP | - Member |
| 6. Sen. Wamatinga Wahome, MP | - Member |
| 7. Sen. Mariam Sheikh Omar, MP | - Member |
| 8. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|----------|
| 1. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
|--|----------|

IN ATTENDANCE

SECRETARIAT

- | | |
|-----------------------|---------------------------------|
| 1. Mr. Victor Bett | - Clerk Assistant I |
| 2. Ms. Ivy Nyambura | - Clerk Assistant III |
| 3. Ms. Angela Kagunyi | - Legal Counsel II |
| 4. Mr. John Gichia | - Research Officer III |
| 5. Ms. Lydia Kagumba | - Public Communications Officer |
| 6. Mr. Jack Lemeteki | - Media Relations Officer |
| 7. Ms. Shirley Milimu | - Audio Officer III |
| 8. Ms. Sarah Rukwaro | - Serjeant at Arms |

MINUTE SEN/LENR/117/2024:

PRELIMINARIES

The Chair called the meeting to order at 9.29 am. This was followed by a word of prayer.

MINUTE SEN/LENR/118/2024: CONSIDERATION OF PUBLIC VIEWS MATRIX OF THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 49 OF 2023)

The Secretariat took the Committee through the draft committee report highlighting submissions on proposed amendments and proposals from the following institutions;

- i. *Ministry of Tourism, Wildlife and Heritage;*
- ii. *Council of Governors (COG) and*
- iii. *Nature Kenya*

A. The Ministry of Tourism, Wildlife and Heritage

Committee considered the submissions among which were the submissions from the Ministry of Tourism, Wildlife and Heritage which were presented by the Cabinet Secretary at the Committees meeting previously held on Tuesday, 14th May, 2024.

The Submissions received from the Council of Governors received were following a proposed Retreat that failed to take off.

B. The Council of Governors

The Committee received written submissions from the Council of Governors (COG) on the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) as follows -

In the memorandum, they proposed the following amendments to the Bill-

Clause 2: Provision on the amendment of Clause 32 of the Act on Declaration of a National Park

Propose –

Amend the section to read as follows:

...The Cabinet Secretary may, upon the recommendation of the Service, after consultation with the County Governments within its jurisdiction and the National Land Commission, and with the approval of the National Assembly...

Justification –

County governments hold public land in trust for the people of Kenya as is provided in Article 62 (2) of the Constitution and therefore should be consulted within their jurisdiction in line with Article 6(2) of the Constitution.

Committee's Observation/Recommendation

Article 62(2) of the Constitution states that:

“Public land shall vest in and be held by a county government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission...”

While County Governments hold public land in trust for their residents, it is essential to acknowledge that the National Land Commission is responsible for its administration. Additionally, this clause as provided for in the Bill already provides for extensive collaboration with the respective county government for the effective management and administration of national parks, including entering into intergovernmental agreements. Therefore, the Committee did not carry this proposal.

Clause 3: seeking to amend Section 76 of the Principal Act

Propose –

Amend the section to read as follows:

(4) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation and the relevant county government formulate guidelines regarding incentives and benefits sharing while ensuring that fifty (50) percent of the benefits from National Parks are allocated to the host County Governments.

Amend the section to read as follows;

(4(a) The guidelines on benefit sharing shall further 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; and a minimum of fifteen percent of benefits from national reserves shall be allocated to adjacent communities. Such monies shall be utilized to enhance efforts including- community conservation, livelihood improvement and human wildlife conflict mitigation measures.

Justification-

This is in line with the Presidential directive made regarding the 50:50 sharing of revenue from the National Parks between the National government and host County Governments recognizing the crucial role Counties play in Wildlife Conservation and management.

There are only 2 planning authorities i.e. National and County Governments as such any community support should be channelled through the County governments as community priorities are captured in the County Integrated Development Plans.

Consequently, County Governments, as part of their mandate to coordinate community participation in local governance, are tasked with ensuring that a percentage of the benefits accrued from National Parks is shared with local communities based on mutually agreed terms.

There exists gap on the legal requirement for benefit sharing from national Reserves to adjacent communities. This dis-incentivizes community support to conservation in majority of national Reserves.

Committee's Observation/Recommendation

The Committee did not carry this proposal due to the complexity involved in the manner of implementation. Allocating fifty percent of the benefits from National Parks to host County Governments presents significant administrative and logistical challenges. The current framework and processes may not adequately support such a distribution, potentially leading to inefficiencies and difficulties in ensuring equitable benefit-sharing. Additionally, the proposal might require extensive restructuring of existing guidelines and mechanisms, which could impede effective wildlife conservation and management efforts. Therefore, while the intent of the proposal is commendable, the practicalities of its implementation necessitate further consideration and refinement.

New Clause 2A: Declaration of a National Reserve

Propose –

Amend the section to include a new subsection immediately after 35(2) to read as follows:

“2A. Every national reserve shall be managed by the respective County Government in accordance with an up-to-date management plan that includes a revenue generation plan, and complies with the requirements of this Act”.

Justification-

The role of county government in reserve management is silent, except for provisions on co-management with Kenya Wildlife Service.

Committee's Observation/Recommendation

The Committee observed that section 35(2) of the Wildlife Conservation and Management Act, Cap 376 provides that:

(2) The national reserve declared under subsection (1) shall be managed by the relevant county government in accordance with the provisions of this Act.

While the Act already provides for the management of national reserves by county governments, the proposal to include specific requirements for an up-to-date management plan and revenue generation plan does add value by providing clarity, promoting standardization, enhancing accountability, and focusing on economic benefits. The Committee adopted the proposal.

General Comments

The Bill references the Community Wildlife Compensation Committees, whereas the principal Act establishes the County Wildlife Compensation Committees. It is therefore necessary to harmonize the provisions of these legislations to mitigate potential confusion arising from disparate frameworks.

The Council acknowledges multiple amendments to the Wildlife Conservation and Management Act of 2013. In light of this, the Council advocates for a comprehensive review exercise aimed at consolidating all proposed amendments into a singular bill, thereby streamlining legislative modifications for enhanced clarity and coherence.

C. Nature Kenya

The Committee received written submissions from Nature Kenya on the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) as follows –

1. *Clause 2: Amendment to section 23 (Declaration of a national park) of the principal Act*

Propose –

Section 32 of the principal Act should only be slightly amended to recognize the Senate in 32 (1) to read:

*"The Cabinet Secretary may upon the recommendation of the Service and after consultation with the National Land Commission and following **proper** public consultation, and with approval of the National Assembly and **the Senate**, by notice in the Gazette, declare - "*

Justification –

Eliminate all requirements for signing of intergovernmental collaboration agreements between national government and county governments for management and administration of parks. Instead, focus to address the root cause. Aim at a legal solution that promotes the overall goal of why national parks were established. The current law is clear on who manages National Parks and who manages reserves.

Committee's Observation/Recommendation

The Committee did not carry this proposal as it had already been provided for under clause 32 (2) which provides that –

"The declaration in subsection (1) shall be submitted to the National Assembly and the Senate for approval before publication in the Gazette."

2. Clause 3: Amendment to section 76 (1) (Guidelines on incentives and benefit sharing) of the principal Act

Propose –

They support the principle of revenue share between national and county government to enhance adequate incentives to communities, fairness, and equitable benefit sharing. This is an existing gap that this Bill should aim to address as opposed to downgrading National Parks. Nature Kenya recommends the following:

1. The Bill should clearly define "benefit sharing" to mean, "the sharing of any benefits arising from the exploitation of natural resources within parks or reserves in a fair and equitable manner where the costs accruing to communities conserving the resource, as the most important custodians, are offset for local communities to see net benefits from natural resources projects in order to preserve the natural resources".
2. The Bill should clearly define the term "revenue" to mean, "Profits after costs of park or reserve management are met by the manager of the resource".
3. Recognize the principle of costs and cost sharing. Those costs should be included to cushion communities that have suffered without any form of compensation.

Justification –

1. Benefit Sharing - There should be adequate incentives for local communities as they bear the greatest responsibility towards protection of natural resources.
2. Revenue - Recognize that natural resources do not manage themselves. Hence the cost incurred by management agencies need to be met before the sharing of benefits accrued. The managers include mandated government agencies, national non-governmental and civil society organizations, and others who can demonstrate their contribution to conservation and management of natural resources. It makes no sense for the national government to be receiving revenue from a park that is poorly managed because of lack of financial resources.
3. Recognize the principle of costs and cost sharing. Those managing conservation areas incur huge costs including human injuries, deaths, livestock predation and destruction of property.

Committee's Observation/Recommendation

The Committee did not carry this proposal as the terms "benefit sharing" and "revenue" have their ordinary meanings and do not require further definition within the Bill.

3. Clause 3: Amendment of the 11th schedule of No. 47 of 2013 (National parks, marine protected areas and sanctuaries)

Propose –

Strongly object to the legal downgrading of Amboseli National Park.

Justification –

This is retrogressive. World over, governments are looking for more places to protect wildlife. The action is against Kenya's image as a wildlife conservation leader in the region. Amboseli National Park is a globally recognized Key Biodiversity Area (KBA), part of a connected conservation system linking to Chyulu Hills National Park KBA. The decision to downgrade the park needs to be evaluated considering the cumulative ecosystem and social impacts. Restitution of parks will lead to a cascading insecurity on land resources in Kenya.

The site, currently faced with threats, including ongoing subdivision of surrounding group ranches, risks losing its ecosystem support potential with far reaching impacts should the bill be passed. The cost of addressing rising cases of human wildlife conflicts, negative impacts on genetic diversity and gene pool, population declines, susceptibility to diseases, loss of livelihoods and maintaining ecological functions from this decision will be unbearable to both the national and county governments. We urge the government to rethink this decision.

Committee's Observation/Recommendation

The Committee did not accept the proposal as the transfer of Amboseli National Park to Kajiado County is seen as a strategic move towards more inclusive and sustainable conservation practices, rather than a downgrade. This proposed transition aims to balance conservation with community development, enhancing local involvement and accountability. It is expected to bring economic benefits through tourism revenue, support development projects, and effectively mitigate human-wildlife conflicts. By fostering a sense of ownership and responsibility, the local community will engage more actively in conservation efforts, ensuring both wildlife protection and community well-being.

4. **Overall Comments by Nature Kenya:** Having three bills (two at the Senate and one at the Ministry) at the same time for a similar law is concerning. They called for synergy by the Ministry and Legislature in reviewing the Wildlife Conservation and Management Act, 2013 to save public resources and maximize on stakeholders and experts engagement.

Committee's Observation/Recommendation

The Committee concurred with this observation.

Overall Observations:

The Committee noted with concern that this might have been brought about by the similarity in titles with the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 46 of 2023) which had also been brought before the Committee by a different sponsor.

The Committee resolved to proceed with the preparation of a draft report in preparation for adoption and tabling in the Senate.

MINUTE SEN/LENR/119/2024

ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/120/2024

**ADJOURNMENT AND DATE OF
NEXT MEETING**

The meeting was adjourned at 12:33 pm. The next meeting was scheduled for Sunday, 16th June, 2024 at 2.00 pm.

Signed _____



Date 18/7/24

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES.



MINUTES OF THE NINETEENTH (19TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, 14TH MAY, 2024 IN COMMITTEE ROOM 4, FIRST FLOOR, BUNGE TOWER AT 8:00 AM

PRESENT

- | | |
|-----------------------------------|---------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member |
| 3. Sen. Wamatinga Wahome, MP | - Member |
| 4. Sen. Mariam Sheikh Omar, MP | - Member |
| 5. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|---|--------------------|
| 1. Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP | - Vice Chairperson |
| 2. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
| 3. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 4. Sen. Issa Juma Boy, MP | - Member |

IN ATTENDANCE

A. SENATORS – (Friends to the Committee)

- | | |
|----------------------------------|--------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | –Senator, Kajiado County |
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B. MINISTRY OF TOURISM & WILDLIFE

- | | |
|---------------------------------|-------------------------|
| 1. Hon. (Dr.) Alfred Mutua, EGH | –Cabinet Secretary |
| 2. Mr. John L. Ololtua | –PS, Tourism |
| 3. Mr. Munyithya Kimwele | –ADT Tourism |
| 4. Dr. Richard Chepkwony | –Director, PHWC |
| 5. Mr. John Chumo | -SC-SDW |
| 6. Mr. Eric Kamanga | –Communications Officer |

SECRETARIAT

- | | |
|-----------------------|-----------------------|
| 1. Mr. Victor Bett | - Clerk Assistant I |
| 2. Ms. Ivy Nyambura | - Clerk Assistant III |
| 3. Ms. Angela Kagunyi | - Legal Counsel II |
| 4. Mr. John Gichia | –Research Officer III |

- | | |
|------------------------|---------------------------------|
| 5. Ms. Janice Naserian | - Research Officer III |
| 6. Ms. Lydia Kagumba | - Public Communications Officer |
| 7. Mr. Jack Lemeteki | - Media Relations Officer |
| 8. Ms. Shirley Milimu | - Audio Officer III |
| 9. Ms. Sarah Rukwaro | - Serjeant at Arms |

MINUTE SEN/LENR/093/2024: PRELIMINARIES

The Chair called the meeting to order at 8.27 am. This was followed by a word of prayer.

MINUTE SEN/LENR/094/2024: ADOPTION OF AGENDA

The agenda was adopted after having been proposed by Sen. Mariam Sheikh Omar, MP and seconded by Sen. Agnes Kavindu Muthama, MP as follows -

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Previous Minutes;
4. Matters Arising;
5. **Meeting with the Cabinet Secretary, Ministry of Tourism, Wildlife and Heritage to consider (*Committee Paper 14*)-**
 - i. **The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 46 of 2023); and**
 - ii. **The Wildlife Conservation and Management (Amendment) Bill, 2022 (Senate Bills No. 49 of 2023)**
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/095/2024: CONFIRMATION OF PREVIOUS MINUTES

The confirmation of the previous minutes was deferred to the next meeting.

MINUTE SEN/LENR/096/2024: MATTERS ARISING

There were no matters arising due to the deferment of confirmation of the previous minutes.

MINUTE SEN/LENR/097/2024: MEETING WITH THE CABINET SECRETARY, MINISTRY OF TOURISM, WILDLIFE AND HERITAGE TO CONSIDER TWO (2) BILLS BEFOR ETHE COMMITTEE

The Committee was taken through the digest of the following Bills highlighting the purpose, background and general overview as follows-

I. The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 46 of 2023)

The above Bill is sponsored by Sen. Johnes Mwaruma, MP and was introduced on the floor of the House by way of First reading on 14th February, 2024 and thereafter committed to the Committee.

Its objective is to enhance the current wildlife management framework by ensuring County Wildlife Conservation and Compensation Committees receive necessary funding and set a twelve-month deadline for wildlife-related compensation.

Further, it aims to streamline compensation processes, reinforce local community involvement, and establish clearer guidelines for benefits sharing from conservation areas. The amendments focus on improving responsiveness and accountability within wildlife conservation efforts in Kenya.

II. The Wildlife Conservation and Management (Amendment) Bill, 2022 (Senate Bills No. 49 of 2023)

The above Bill is sponsored by Sen. Lenku Ole Kanar Seki, MP and was introduced on the floor of the House by way of First reading on 21st March, 2024 and thereafter committed to the Committee.

Its objective is to enable joint management and revenue-sharing of national parks between county governments hosting these parks and the National Government.

The amendments aim to ensure that host counties benefit financially from the parks within their jurisdiction, thereby enhancing local economic impact and promoting equitable distribution of resources generated from wildlife conservation activities.

The Chairperson then invited the Cabinet Secretary, Ministry of Tourism, Wildlife and Heritage to present their submissions on the aforementioned Bills before the Committee.

The Cabinet Secretary began by stating that the Ministry had observed a lot of shortcomings from the implementation of the Wildlife Conservation and Management Act (WCMA) 2013 that indeed needed to be addressed for the Act to suffice. He went on to inform the Committee that there was a draft Bill in the works to review the Wildlife Conservation and Management Act No. 47 of 2013 currently being undertaken by the Ministry.

In view of the above, the Cabinet Secretary, requested for the withdrawal of the aforementioned Bills to give the Ministry time to complete their Bill which he stated would include proposals from both Bills before being brought to Parliament for consideration.

The Committee turned down the request stating that it was not in the Ministry's purview to persuade the Sponsors of the Bills to withdraw their Bills as they are expected to facilitate the public participation process before tabling a report in the House.

Sen. Lenku Ole Kanar Seki, MP, who is the sponsor of the Wildlife Conservation and Management (Amendment) Bill, 2022 (Senate Bills No. 49 of 2023), agreed with the sentiments of the Committee to proceed with the public participation process to get further views and insights from the public and take the Ministry's response as their submission of memoranda to the above Bills rather than withdrawing the Bills.

Members engaged the Cabinet Secretary on issues of Human Wildlife Conflict (HWC) and the Committee was informed that the Ministry is currently compensating verified claims of victims of HWC in totality as directed by the President. He went on to inform the Committee of the Ministry's plans to boost tourism in various Counties around the country.

On concluding the chairperson commended the Ministry on a 100% response rate on the Statements requested to the Committee relating to the Ministry's mandate.

MINUTE SEN/LENR/098/2024

ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/099/2024

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 9:53 am. The next meeting was scheduled for Thursday, 16th May, 2024 at 9.00 am.

Signed _____



Date 18/7/2024

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES.

ANNEX II – COMMITTEE STAGE AMENDMENTS

29th July, 2024

The Clerk of the Senate
Parliament Buildings
NAIROBI

**RE: COMMITTEE STAGE AMENDMENTS TO THE WILDLIFE
CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, 2023
(SENATE BILLS NO. 49 OF 2023).**

NOTICE is given that Sen. John Muhia Methu, 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, 2023 (Senate Bills No. 49 of 2023), at the Committee Stage—

NEW CLAUSE 2A

THAT the Bill be amended by inserting the following clause immediately after clause 2—

2A. Section 44 of the principal Act is amended in sub-section (1) by inserting the words ‘national reserve’ immediately after the words ‘Every national park’.

Dated....., 2024.

Sen. John Muhia Methu,
Chairperson,
Committee on Land, Environment and Natural Resources.

ANNEX III – PUBLIC ADVERT

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | SECOND SESSION THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At the sitting of the Senate held on Thursday, 21st March, 2024, the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023) was introduced in the Senate by way of First Reading and thereafter stood committed to the Standing Committee on Land, Environment and Natural Resources.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Committee now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi; or emailed to clerk.senate@parliament.go.ke and copied to landenvironcommittee.senate@parliament.go.ke, to be received on or before **Tuesday, 9th April, 2024 at 5.00 p.m.**

The Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

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

ANNEX IV

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THE BILL

SPECIAL ISSUE

Kenya Gazette Supplement No. 219 (Senate Bills No. 49)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2023

NAIROBI, 15th November, 2023

CONTENT

Bill for Introduction into the Senate—

PAGE

The Wildlife Conservation and Management (Amendment) Bill, 2023

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**THE WILDLIFE CONSERVATION AND
MANAGEMENT (AMENDMENT) BILL, 2023**

A Bill for

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

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Wildlife Conservation and Management (Amendment) Act, 2023.

Short title.

2. The Wildlife Conservation and Management Act in this Act referred to as “the principal Act” is amended by deleting section 32 and substituting thereof the following new section —

Amendment of section 32 of No. 47 of 2013.

Declaration of national parks.

32.(1) The Cabinet Secretary may upon the recommendation of the Service and after consultation with the National Land Commission and following public consultation, by notice in the *Gazette*, declare—

- (a) any un-alienated public land; or
- (b) any land purchased or otherwise acquired by the Government to be a national park.

(2) The declaration in subsection (1) shall be submitted to the National Assembly and the Senate for approval before publication in the *Gazette*.

(3) All national parks shall be managed by the National Government in collaboration with the respective county government in accordance with the provisions of this Act.

(4) The National Government and the relevant county government shall enter into an intergovernmental agreement to facilitate—

- (a) effective management and administration of the national park;

(b) any other matter that will ensure effective management and administration of the national park.

(5) The intergovernmental agreement under subsection (4) shall be submitted to the National Assembly and the Senate for approval.

(6) The Cabinet Secretary shall, upon approval by Parliament publish the agreement in the *Gazette*.

3. Section 76 of the principal Act is amended by deleting subsection (1) and substituting thereof the following new subsection –

Amendment of section 76 of No. 47 of 2013.

(1) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation and the relevant county government formulate guidelines regarding incentives and benefit sharing and the nature and manner in which the same shall be distributed.

4. Section 119 of the principal Act is amended by inserting the following new subsection immediately after subsection (b) –

Amendment of section 119 of No. 47 of 2013.

(ba) any agreements regarding management and administration of national parks deemed to have been entered into shall remain in force until revoked in accordance with any terms set out in the agreements.

5. The Eleventh Schedule to the principal Act is amended –

Amendment of the eleventh schedule of No. 47 of 2013.

(a) in the table titled “National Parks (N.P.) by deleting item 6; and

(b) in the table titled “National Reserves (N.R.) by inserting the following new item immediately after item 28 –

28A. Amboseli N.R. 392

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

This Bill seeks to amend the Wildlife Conservation and Management Act, No. 47 of 2013 in order to enable the joint management and revenue-sharing of national parks between county governments hosting these parks and the National Government.

According to Article 186(1) of the Constitution and as per the provisions of the Fourth Schedule to the Constitution, county governments have a range of responsibilities, including overseeing cultural activities, public entertainment, and public amenities, such as county parks and recreation facilities. Paragraph 7 of the Fourth Schedule specifically mentions regulating local tourism as one of these functions. National parks due to their diverse wildlife species have consistently drawn both local and international tourists.

However, despite these parks being situated within counties, their management and operations currently fall under the jurisdiction of the National government. This arrangement contradicts the spirit of the Constitution and as a result, the host counties do not receive revenue generated from these national parks.

The proposed amendment seeks to remedy this situation by ensuring that host counties can share in the financial benefits and enjoy a more robust economic impact from these parks.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in terms of Article 110(1) (a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments. The Fourth Schedule to the Constitution designates county parks and local tourism as devolved functions.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 19th September, 2023.

LENKU OLE KANAR SEKI,
Senator.

Section 32 of No. 47 of 2013 which it is proposed to amend —

32. Declaration of a national park

(1) The Cabinet Secretary may, upon the recommendation of the Service, after consultation with the National Land Commission, and following proper public consultation, and with the approval of the National Assembly, by notice in the Gazette declare—

- (c) any un-alienated public land; or
- (d) any land purchased or otherwise acquired by the Government, to be a national park.

(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;
- (b) protection of nesting, breeding and foraging areas;
- (c) no take areas in respect of fisheries; and
- (d) areas that may be used by local vessels for passage;
- (e) any other purposes with respect to specified human activities within the zone.

(3) The Cabinet Secretary shall, on the recommendation of the Service, by notice in the Gazette, issue appropriate rules and regulations for the effective management of marine protected areas.

Section 76 of No. 47 of 2013 which it is proposed to amend —

76. 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.

ANNEX V – STAKEHOLDER SUBMISSIONS



MINISTRY OF TOURISM & WILDLIFE

OFFICE OF THE CABINET SECRETARY

Submission on Receipt of Memoranda on the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 46 of 2023) and the Wildlife Conservation and Management (Amendment) Bill, 2023 (Senate Bills No. 49 of 2023)

13th May, 2024

The Clerk of the Senate through a letter Reference No. SEN/DSEC/DPEAC/LENR//2024(2)(38) dated 8th May, 2024 from the Senate Standing Committee on Land, Environment and Natural Resources requesting the Cabinet Secretary to make Submissions on the aforementioned Bills.

SUBMISSION ON WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 46 OF 2023) AND WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 49 OF 2023)

The experience from implementing the Wildlife Conservation and Management Act (WCMA) 2013 has revealed its many serious shortcomings, including inconsistencies in definitions as well as use and application of terms and phrases, high and unsustainable costs of implementation, especially on compensation claims, poor and confusing cross-referencing between the body of the Act, various sections and the schedules, typographical errors and redundancies and lack of clarity on roles and responsibilities of the implementing institutions.

Piecemeal attempts to revise the Act have failed to cure its many shortcomings. It also causes considerable uncertainty in the application of the law, and inconveniences stakeholders and institutions involved in law reform. It has emerged that nothing short of a comprehensive revision of the Act would suffice. These has call for a complete overhaul of the WCMA in order to address the emerging issues and challenges.

There is a draft Bill to comprehensively review the Wildlife Conservation and Management Act No.47 of 2013 being undertaken. The proposed amendments are being looked into comprehensively and it is in the interest of the public and relevant stakeholders to carry out this comprehensive review with the view of repealing the current Act and coming up with a new law that effectively address the issues being proposed to avoid piece meal amendments.

In view of the above, we are requesting for withdrawal of Wildlife Conservation and Management (Amendment)Bill, 2023 (Senate Bills No. 46

of 2023) and Wildlife Conservation and Management (Amendment) Bill, 2023(Senate Bills No. 49 of 2023) and request Honourable Senators to forward the proposed amendments to the Ministry for inclusion in the new Bill being developed.

ADDITIONAL INFORMATION

His Excellency the President on 23rd August, 2023 issued a Directive to transfer Amboseli National Park to County Government of Kajiado. Consequently, through the Kenya Gazette Vol. CXXVI- No. 22- Page 586-587 dated 23rd February, 2024, the Cabinet Secretary, Ministry of Tourism and Wildlife appointed an Advisory Committee on the transfer of the Amboseli National Park to the County Government of Kajiado with clear terms of reference. The Committee deliberation is at an advance stage and the report shall be ready in due course.

I submit.

A handwritten signature in black ink, appearing to read 'Alfred Mutua', enclosed within a circular scribble.

Hon. (Dr.) Alfred Mutua, EGH



LEGISLATIVE MEMORANDUM ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, 2023

TO THE

SENATE OF KENYA

FROM

THE COUNCIL OF GOVERNORS

The Council of Governors,

In recognition of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the national level and the county level;

In further recognition of Article 6 (2) that governments at the national and county levels are distinct; and

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation is aligned to the Constitution and reflects the spirit and objects of devolution.

A. PREVAILING LEGAL FRAMEWORKS

1. Article 2 (1) and 2 (2) of the Constitution of Kenya 2010 declares the supremacy of the Constitution of Kenya and obliges every state organ to exercise state authority only as provided for in the constitution.
2. Article 6 (2) of the Constitution which provides that the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation
3. Article 186 provides for the respective powers and functions of national and county governments as set out in the Fourth Schedule.
4. Article 189 (2) of the Constitution provides that Governments at each level, and different governments at the county level, shall co-operate in the performance of functions and exercise of powers

B. ROLE OF COUNTY GOVERNMENTS IN WILDLIFE MANAGEMENT.

The Fourth Schedule of the Constitution of Kenya, 2010, clearly delineates the roles of both the National Government and County Governments where it states that County Governments shall implement specific National Government policies on Natural Resources and Environmental Conservation. On the other hand, the National Government is responsible for 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.

The interface between the role of the National Government and the County Governments on the protection of wildlife is evident. Consequently, both levels of government should consult each other on matters of wildlife in line with Article 6(2) of the Constitution which provides that the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

The Wildlife Conservation and Management Act provides a restructured governance of wildlife resources in accordance with the Constitution of Kenya. Specifically, County Governments have a role in the management of National Reserves (Section 35) and the Community Wildlife Conservation Committees (Section 18 & 19). These committees are required under the law to review and recommend compensation claims, and develop mechanisms for human wildlife conflict mitigation.

As such, the Council opines that it is important for the Wildlife Conservation and Management Act to be reviewed in its entirety to align to the Constitution of Kenya and the Sessional Paper No.01 of 2020 on Wildlife Policy, on the roles outlined for both levels of government. The council further makes the following proposals;

C. GENERAL COMMENTS ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL 2023

The Council hereby notes as follows on the Bill:

1. The Bill references the Community Wildlife Compensation Committees, whereas the principal Act establishes the County Wildlife Compensation Committees. It is therefore necessary to harmonize the provisions of these legislations to mitigate potential confusion arising from disparate frameworks.
2. The Council acknowledges multiple amendments to the Wildlife Conservation and Management Act of 2013. In light of this, the Council advocates for a comprehensive review exercise aimed at consolidating all proposed amendments into a singular bill, thereby streamlining legislative modifications for enhanced clarity and coherence.

COMMENTS ON SPECIFIC PROVISIONS

COMMENTS ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) ACT Bill 2023, No 49			
Clause	Provision	CoG' proposal	Justification for amendment and recommendation
Clause 32 Declaration of a National Park	The Cabinet Secretary may, upon the recommendation of the Service, after consultation with the National Land Commission, and following proper public	Amend the section to read as follows: ... The Cabinet Secretary may, upon the recommendation of the Service, after consultation	County governments hold public land in trust for the people of Kenya as is provided in Article 62 (2) of the Constitution and therefore should be

	<p>consultation, and with the approval of the National Assembly, by notice in the <i>Gazette</i> declare—</p> <p>a) any un-alienated public land; or</p> <p>any land purchased or otherwise acquired by the Government, to be a National Park</p>	<p>with the County Governments within its jurisdiction and the National Land Commission, and with the approval of the National Assembly...</p>	<p>consulted within their jurisdiction in line with Article 6(2) of the Constitution.</p>
<p>Insert a new Clause 35, immediately after 32</p> <p>Declaration of a National Reserve</p>	<p>35 (2) The national reserve declared under subsection (1) shall be managed by the relevant county government in accordance with the provisions of this Act.</p>	<p><i>Amend the section to include a new subsection immediately after 35(2) to read as follows:</i></p> <p>“Every national reserve shall be managed by the respective County Government in accordance with an up-to-date management plan that includes a revenue generation plan, and complies with the requirements of this Act”.</p>	<p>The role of county government in Reserve management is silent, except for provisions on co-management with Kenya Wildlife Service</p>
<p>Clause 3</p> <p>Seeking to Amend Section 76 of the Principal Act</p>	<p>(1) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue</p>	<p><i>Amend the section to read as follows;</i></p> <p>(4) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation and the relevant county government formulate guidelines regarding incentives</p>	<p>This is in line with the Presidential directive made regarding the 50:50 sharing of revenue from the National Parks between the National government and host County Governments recognizing the crucial role Counties play in</p>

	<p>Allocation and the relevant county government formulate guidelines regarding incentives and benefit sharing and the nature and manner in which the same shall be distributed</p> <p>(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</p>	<p>and benefits sharing while ensuring that fifty (50) percent of the benefits from National Parks are allocated to the host County Governments</p> <p>Amend the section to read as follows;</p> <p>(4(a) The guidelines on benefit sharing shall further 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; and a minimum of fifteen percent of benefits from national reserves shall be allocated to adjacent communities. Such monies shall be utilised to enhance efforts including- community conservation, livelihood improvement and human wildlife conflict mitigation measures</p>	<p>Wildlife Conservation and management</p> <p>There are only 2 planning authorities i.e. National and County Governments as such any community support should be channeled through the County governments as community priorities are captured in the County Integrated Development Plans.</p> <p>Consequently, County Governments, as part of their mandate to coordinate community participation in local governance, are tasked with ensuring that a percentage of the benefits accrued from National Parks is shared with local communities based on mutually agreed terms.</p> <p>There exists gap on the legal requirement for benefit sharing from national Reserves to adjacent communities. This dis-incentivizes community support to</p>
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	communities neighbouring a park.		conservation in majority of national Reserves
COMMENTS ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) ACT Bill 2023 No. 46			
Clause 3 Board of Trustees of the Service	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” in paragraph (e)	<i>Amend the section to read as follows;</i> “at least two representatives nominated by the Council of County Governors”	The proposed amendment seeks to enhance the representation of County Governments to ensure the meaningful participation of Counties in the decision-making processes of Wildlife Conservation Trust fund Kenya Wildlife Service considering that County Governments are managing national reserves
Clause 23 Wildlife Conservation Trust Fund	(2) The governing body referred to in subsection (1) shall serve as public-private partnership and shall comprise	<i>Amend the section to read as follows;</i> “at least two representatives nominated by the Council of County Governors” to be inserted just after (d)	The County governments have been assigned the responsibility of conservation and management of the 28 National reserves. Further there is proposal for joint management between National Parks and host Counties. As such, it is important that Counties are represented in the Wildlife Conservation Trust Fund governing

	<p>(4) The purpose shall be to provide funds in order to—</p>	<p>Amend the section to include as follows;</p> <p>h) Provide financial support to County Governments for the implementation of wildlife conservation and management initiatives within their respective jurisdictions.</p>	<p>body</p> <p>Section 35 (2) of the Wildlife Conservation and Management Act confers County Governments the responsibility of management of the national reserves therefore including this additional purpose will ensure the Wildlife Conservation Trust Fund also support conservation efforts and empower County Governments to actively participate in and contribute to wildlife conservation and management efforts within their jurisdictions, ultimately promoting the sustainable management of Kenya's diverse wildlife resources.</p>
<p>Third Schedule</p> <p>Wildlife</p> <p>Species</p> <p>respect</p> <p>which</p> <p>compensation</p> <p>may be paid</p>	<p>A. Death and Injury</p>	<p>To include:</p> <ol style="list-style-type: none"> 1. Snake 2. Shark 3. Stone fish 4. Whale 5. Sting ray 6. Wild pig 	<p>Given the rise in human-wildlife conflicts in specific regions, it is vital to consider the inclusion of the mentioned wildlife species for compensation due to the rising number of deaths reported.</p>

	B. Crop, Livestock and property damage	To include: 2. Monkeys	The substantial impact of monkey populations on affected communities underscores the urgency for legal recognition and compensation provisions for crop, livestock and property damage.
GENERAL COMMENTS ON THE PRINCIPAL ACT			
Definition National Park	Means an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means;	<i>Amend the section to read as follows;</i> Means an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means ,and managed by the National government	It is important to ascertain whose responsibility it is to manage the National Parks.
Definition National Reserve	means an area of community land declared to be a national reserve under this Act or under any	<i>Amend the section to read</i> <i>Game Reserve</i> means an area of public land declared to be a game reserve under this Act or	Article 62 (1)(g) recognizes game reserves and not national reserves, thus need for change of name; Further, game reserve are

	other applicable written law	under any other applicable written law; and managed by the County Government	categorized as public land, thus need to align with the Constitution
Ranger	means a member of the Service in the uniformed and disciplined cadre and includes corporal, sergeant, senior sergeant and sergeant major;	Amend the section to read <i>Means a member of the Service and of the National Reserve in the uniformed and disciplined cadre and includes corporal, sergeant, senior sergeant and sergeant major;</i>	The Rangers in the National Reserve are excluded, despite undertaking similar paramilitary training and undertake similar functions as rangers of the Service
Definition	<i>Interpretation missing</i>	"sanctuary" means an area of land or of land and water set aside and maintained by National government, County government, community, individual or private entity for the conservation and protection of one or more species of wildlife;	It is important to define Sanctuaries and ascertain whose responsibility it is to manage the Sanctuaries. County governments are best positioned to manage wildlife sanctuaries given the interaction and linkage with local communities.
Definition Trans-frontier/trans-boundary conservation area	Means the area or component of a large ecological region that straddles the boundaries of two or more countries...	Amend the section to read as follows: Means the area or component of a large ecological region that straddles the boundaries of two or more countries or Counties	To ensure all affected Counties are involved in the management of shared natural resources for example Tsavo National Park that is shared between Taita Taveta County and Makueni County

<p>Section 7 (e)</p>	<p>The Service shall collect revenue levies and charges due to the national government from wildlife and, as appropriate, develop mechanisms for benefit sharing with communities living in wildlife areas</p>	<p>Amend the clause to read as follows:</p> <p>The Service shall collect revenue levies and charges due to the national government from wildlife and, as appropriate, develop mechanisms for benefit sharing with communities living in wildlife areas. Further, the service shall, as appropriate, develop mechanisms for benefit sharing from revenue, levies and charges from wildlife with communities and Counties within their jurisdiction</p>	<p>The County governments play a critical role in wildlife conservation and therefore should receive some benefit from management of these resources</p>
<p>Section 33 Conservation and Management of Wetlands</p>	<p>The Cabinet Secretary shall, on recommendation of the Service, in consultation with the National Land Commission, by notice in the Gazette, declare a wetland that is an important habitat or ecosystem for wildlife conservation a protected wetland</p>	<p><i>Include;</i></p> <p>The Cabinet Secretary may, upon the recommendation of the Service, after consultation with the County Governments within its jurisdiction and the National Land Commission, by notice in the Gazette, declare a wetland that is an important habitat or ecosystem for wildlife conservation a protected wetland</p>	<p>County governments hold public land in trust for the people of Kenya as is provided in Article 62 (2) of the Constitution and therefore should be consulted within their jurisdiction</p> <p>County Governments have also developed Spatial Plans that guide land use activities and therefore before any declaration of national parks there is need to understand the</p>

<p>Second Schedule</p>			<p>County Spatial plans to avoid land use conflicts</p>
		<p>Amend the schedule to include a new Part III read as follows:</p> <p>PART III – PROVISIONS RELATING TO THE OFFICERS OF THE NATIONAL RESERVE</p> <p>(1) The officers of the National Reserve shall hold the ranks specified in respective scheme of service and align to the disciplinary cadre</p>	<p>Aligned to recommendation on recognition of ranger in national reserve, the schedule to provide that the structure shall be provided by the reserve</p>

D. RECOMMENDATION

The Council proposes a joint committee with representation from both levels of governments that will look into matters of protection, conservation and management of wildlife, capacity building, policy and legislation review and compensation in cases of human-wildlife conflict and specifically review of the current framework in a bid to align it with the Constitution of Kenya, 2010.



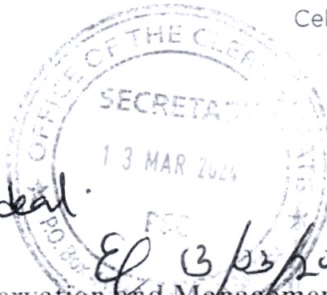
Nature Kenya

THE EAST AFRICA NATURAL HISTORY SOCIETY

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The Clerk of the Senate
P.O. Box 41842-00100, Nairobi

① DSFC
DHS



Kindly deal

29th February 2024

② DD SEC B
Kindly deal
2/2/24

Dear Sir,

RE: Memoranda on the Wildlife Conservation and Management Act (Amendment) Bill (Senate Bills No. 49 of 2023)

Nature Kenya – the East Africa Natural History Society – appreciates this consultation. We urge prioritization of ecological valued components, and focus to address the **root causes** of conservation issues. Ineffective benefit sharing mechanisms for benefits from wildlife is the root cause of conflicts that have resulted in the formulation of this bill. NOT who manages the park or collects revenue. A fair and equitable benefit sharing and allocation formula with adequate support to communities and area managers to raise more revenue is our proposed long-term solution.

Legal downgrading of Amboseli National Park – a biodiversity hotspot – and transfer of its management is detrimental to communities, wildlife, the landscape and Kenya’s image globally. This action will reduce Kenya's conservation credibility with its development partners. The wrong precedent will create misguided quests to downgrade national parks and forests in counties, amplify conflicts resulting in net biodiversity loss, and compromise resilience. This is not the right approach. Restitution will lead to land based violence and insecurity.

STOP!

③ Clerk KSS
Lands
Phase deal
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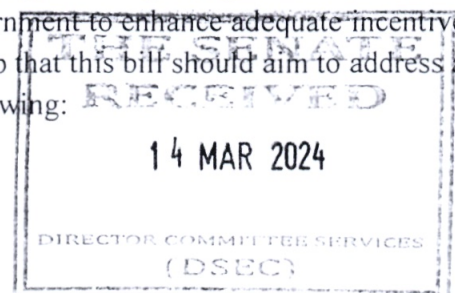
Find below our specific comments:

Amendment to section 32 (Declaration of a national park) of the principal act: Clause 2 – Requiring approval of a cabinet declaration by the Senate in addition to the National Assembly before publication in the gazette is important. The proposed amendments cumulatively weaken the Wildlife Conservation and Management Act 2013 to create a legislative gap, exposing all national parks in Kenya to massive degradation. Requiring respective county governments to sign intergovernmental agreements with the national government to manage National Parks is ill-advised. We strongly object to the concept that to benefit from wildlife, a county government must manage the area. Kenya Wildlife Service should be able to manage wildlife in any national park and **work out revenue sharing with counties and local communities** who host this wildlife. Therefore:

- Maintain section 32 of the principal Act with slight amendment to include the Senate.** Section 32 of the principal Act should only be slightly amended to recognize the Senate in 32 (1) to read:
“32. (1) The Cabinet Secretary may upon the recommendation of the Service and after consultation with the National Land Commission and following **proper public consultation, and with approval of the National Assembly and the Senate, by notice in the Gazette, declare -**”.
- Eliminate** all requirements for signing of intergovernmental collaboration agreements between national government and county governments for management and administration of parks. Instead, focus to **address the root cause**. Aim at a legal solution that promotes the overall goal of why national parks were established. The current law is clear on who manages National Parks and who manages reserves.

Amendment to section 76 (1) (Guidelines on incentives and benefit sharing) of the principal act: Clause 3 –

We support the principle of revenue share between national and county government to enhance adequate incentives to communities, fairness, and equitable benefit sharing. This is an existing gap that this bill should aim to address as opposed to downgrading National Parks. Nature Kenya recommends the following:



1. The bill should clearly define "benefit sharing" to mean, "*the sharing of any benefits arising from the exploitation of natural resources within parks or reserves in a fair and equitable manner where the costs accruing to communities conserving the resource, as the most important custodians, are offset for local communities to see net benefits from natural resources projects in order to preserve the natural resources*". There should be adequate incentives for local communities as they bear the greatest responsibility towards protection of natural resources.
2. The bill should clearly define the term "revenue" to mean, "*Profits after costs of park or reserve management are met by the manager of the resource*". Recognize that natural resources do not manage themselves, hence the cost incurred by management agencies need to be met before the sharing of benefits accrued. The managers include mandated government agencies, national non-governmental and civil society organizations, and others who can demonstrate their contribution to conservation and management of natural resources. It makes no sense for the national government to be receiving revenue from a park that is poorly managed because of lack of financial resources.
3. Recognize the principle of costs and cost sharing. Those managing conservation areas incur huge costs including human injuries, deaths, livestock predation and destruction of property. Those costs should be included to cushion communities that have suffered without any form of compensation.

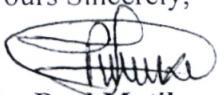
Amendment of the 11th schedule of No.47 of 2013 (National parks, marine protected areas and sanctuaries):

Clause 5 – We **STRONGLY OBJECT** to the legal downgrading of Amboseli National Park. This is retrogressive. World over, governments are looking for more places to protect wildlife. The action is against Kenya's image as a wildlife conservation leader in the region. Amboseli National Park is a globally recognized Key Biodiversity Area (KBA), part of a connected conservation system linking to Chyufu Hills National Park KBA. The decision to downgrade the park needs to be evaluated considering the cumulative ecosystem and social impacts. Restitution of parks will lead to a cascading insecurity on land resources in Kenya.

The site, currently faced with threats, including ongoing subdivision of surrounding group ranches, risks losing its ecosystem support potential with far reaching impacts should the bill be passed. The cost of addressing rising cases of human wildlife conflicts, negative impacts on genetic diversity and gene pool, population declines, susceptibility to diseases, loss of livelihoods and maintaining ecological functions from this decision will be unbearable to both the national and county governments. We urge the government to rethink this decision.

Finally, having **three bills** (*two at the Senate and one at the Ministry*) at the same time for a similar law is concerning. We call for synergy by ministry and legislature in reviewing the Wildlife Conservation and Management Act 2013 to save public resources and maximize on stakeholders and experts engagement.

Yours Sincerely,



Dr. Paul Matiku,

Executive Director, Nature Kenya

CC: The Standing Committee on Land, Environment and Natural Resources, the Senate

The Clerk of the National Assembly

The Cabinet Secretary, Ministry of Tourism and Wildlife

The Principal Secretary, State Department for Wildlife

The Director General, Kenya Wildlife Service (KWS)

The Director General, Wildlife Research and Training Institute (WRTI)

The CEO, Conservation Alliance of Kenya