

**PITFALLS IN WILDLIFE CO-MANAGEMENT A LEGAL  
AND POLICY ISSUE: A CASE OF SINYERERE LOCATION  
IN TRANS-NZOIA COUNTY-KENYA**

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**Abstract**

*The legal and policy framework that endeavor to protect wildlife in and outside protected areas should explain to the local people the importance of those habitats. The policies and laws in place should be categorical on reasons for use, regulations, impending dangers and benefits expected from the regulatory framework and seek to promote coexistence of various stakeholders in wildlife conservation. Were these laws and policies sufficient? What were the feelings of the locals on existing legislations? The paper wanted to ascertain the sufficiency in laws and policies that promoted community involvement in wildlife conservation among the communities that lived adjacent to Saiwa Swamp National Park. The research adopted descriptive survey design and used a sample size of 254 from a target population of 2538 by simple random and purposive sampling techniques. The data was tallied, organized and its frequencies and percentages calculated and presented in form of tables and bar charts with the assistance of SPSS (Statistical Programme for Social Sciences) computer software. On a higher degree, the research found out that laws and policies were doing little in promoting local community involvement in wildlife conservation in Sinyerere location and the locals were of the view that new legislation be put in place to revitalize the conservation sector. Data from the research pointed out that proper and genuine legislation was lacking in refereeing competing interests in the study area.*

**Key Words-Legal and policy framework, wildlife conservation, community involvement.**

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**Statement of the problem**

The existing legal and policy framework are insufficient in facilitating local community participation in wildlife conservation. This is because the existing statues have become a hindrance other than playing a facilitative role in conservation.

**Objectives of the study**

The study sought to find out the following;

- a) Investigate the sufficiency in laws and policies in promoting community involvement in wildlife conservations.
- b) Investigate the suggestions of locals on legal and policies issues that promote local community involvement in wildlife conservation.

**Introduction**

Legal and policy discourse that dominate local community involvement in wildlife conservation agree that stakeholders must be involved in formulation and implementation of the instruments. The involvement of locals in every stage is meant to promote ownership and make wildlife conservation easier. However, we have cases in different parts of the world where the instruments in force are foreign and have made it difficult to promote co-management. Unsuccessful legislations are blamed on unwillingness of governments to devolve authority and resources to the grassroots. The legal and policy contents sometimes do not exhaustively and fairly cover proprietorship, authority and benefits in conservation interrelationships. From the assessment of literature and the findings from the research, the legal and policy framework have become a hindrance by not taking facilitative role in wildlife conservation.

**Literature Review**

In promoting a smooth interface between different conservation stakeholders, the statues guiding it should be genuinely participatory and inclusive in content. These legal and policy opportunities that allow co-management in wildlife conservation are originally traditional but state-centered conservation approach has suffocated it (Irandu, 2003). According to Burkardt & Pounds (2006) wildlife resource managers must find creative and constructive ways to initiate stakeholder and citizen involvement in collaborative process. The researcher recommends for Legal Institutional Analysis Model developed in 1983 to diagnose political and social aspects of natural resource conflicts and hence come up with decisions in the management of wildlife resources. The World Bank identifies proprietorship, devolution of authority and benefits

between local and national levels in wildlife conservation as key pillars in formulation of laws and policies that promote community involvement in wildlife conservation (Kiss, 1990). Wildlife Conservation Act, 2009 in Tanzania gives the government more control over wildlife resources than the local community. The policy retains state ownership and control of wildlife resources but gives some users rights and sharing benefits derived from wildlife uses by the law (MTNRE, 1995). However, Muphree (2001) notes lack of clear formulae in sharing benefits among the stakeholders. The policy recognizes that the management of wildlife cannot disregard the local communities which led to the establishment of 'Parks as Neighbors' Programme for sustainable development. The Tanzanian policy is a case where the government recognizes locals in conservation efforts but refuses to devolve ownership and control to the same people which is left to the minister in charge (Tanzania Wildlife Policy, 1998). But Shauri (1998) notes some good steps towards participatory governance in wildlife conservation in Tanzania.

Ghana's Forest and Wildlife Policy (1994) aims to sustainably develop wildlife potential, regulate trade and consumption of endangered species. Through the policy, locals have seen an improved access to wildlife resources. However, in the formulation stage of the policy little consultation of the local community was done. Participatory governance is further strengthened by Wildlife Development Plan (1998) which gives impetus to protection of wildlife and benefit sharing among the stakeholders in the sector (The Republic of Ghana, 1998). The Sri Lankan National Policy on Wildlife Conservation (2000) emphasizes on the need for effective protected area management with the participation of local communities and renews the commitment of the government to conserve wildlife resources through sustainable utilization of resources and sharing of equitable benefits arising from biodiversity (The Ministry of Environment of Sri Lanka, 2011).

The legal and policy framework on co-wildlife management in Uganda is anchored in the Constitution of the Republic of Uganda 1995 which emphasizes sustainable development of the environment. According to Okello & Conner (2000), the Land Act, 1998 of Uganda has been hailed as an innovative instrument in promoting sustainable use of resources. The Uganda Wildlife Statute of 1996 is a law dedicated solely to issues of sustainable management of wildlife for the benefit of the people of Uganda. Indeed Section 4 of this statute vests the ownership of wildlife in the Government in trust for the people and shifts from the traditional state-centric approach to people centered management (Uganda Wildlife Act, 1996). The Ugandan

legislations are genuinely in practice and clearer on declaration of benefits that accrue to the local areas when compared to Kenyan that does not mention any sharing formulae.

Kenyan only current legal instrument in force today is the Constitution of Kenya 2010 that recognizes community involvement and sustainable development in the conservation of natural resources. The constitution emphasizes on the sharing of the benefits that accrue from conservation efforts without jeopardizing the rights of the citizens. The success of wildlife conservation matters as stated in the constitution will depend on the quality of legislations and full implementation of the statutes (The Constitution of Kenya, 2010). The Kenya Wildlife Service mandate for management and conservation of wildlife that involve local communities is emphasized by CAP 376 of the Kenya laws. However, Kenyan wildlife conservation legislation needs to provide sufficient mechanisms for the achievement of local community participation by giving them a facelift (Kameri-Mbote, 2005). Deficiency in laws and policies that promote the interface between stakeholders have made it difficult for the local Maasais living around Amboseli conservancy to access shelter, medicine and fuel for survival (Kiringe & Okello, 2005). Locals fault the government for nonexistent or poor policies on infrastructural development targeting pastoralist which led to the collapse of leather and meat industries impoverishing the locals (Okello et al, 2011). Government neglect has been met with a shift from pure pastoralism to commercialized agriculture which create imbalance in the biodiversity (Campbell D, et al, 2003). Compensation for death or injury is recommended by Kenyan Wildlife Act 1976, Part 9, section 62 but does not expressly give a roadmap to achieving it. According to Ogada (2011), compensation among the Maasai living around Amboseli National Park depends on how well the cow's shed was made. The formula developed is meant to encourage total responsibility among the locals and avoid injuries and deaths caused by negligence. The sentiments are supported by Nyhus et al (2001) who says that compensation schemes are neither effective nor sustainable. However, Wildlife and Tourism Draft Policy, 2007 recommends prompt and adequate compensation though the policy has not been affected (Kenya Wildlife and Tourism Draft Policy, 2007). It is evident that human-wildlife conflict is seen to impair the interest of the locals and existing legislations on wildlife conservation are seen to be narrow that do not address sustainable development (Ogada, 2011).

In the study area, Kenya Wildlife Service (KWS) partners with Community Wildlife Committee to promote an integrated approach to conservation of wildlife in areas adjacent to Saiwa Swamp

National Park. However, change in laws, policies and strategies to involve locals in conservation have not prevented further deterioration of wildlife resources (Ogutu, 1997). The researcher further noted the interference of the ecosystem by brick making and vegetable cultivation in the wetland which disturbs the habitation of sitatunga. The illegal economic activities on the wetland were meant to supplement meager income from their small scale farming and also ease population pressure on the existing farmlands. The research findings also noted crop damage, poaching, animal diseases and insensitivity to the local community livelihood as challenges facing wildlife governance in Sinyerere location. Ng'eno et al, (2004) agree with Ogutu, (1997) in their findings that benefits from Saiwa Swamp National Park to the local community in Sinyerere location were non-existent. Ogutu (1997) and Ng'eno et al (2004) blames legal and policy weaknesses in conservation co-management which are narrow in scope and use.

### **Methodology**

#### **Research design**

The researcher adopted the descriptive survey design. According to Kothari (2008) descriptive survey design is a method of securing information concerning an existing phenomenon from a selected number of respondents of a given population. Kombo et al (2006) further says that descriptive survey design can be used when collecting information about people's attitudes, opinions, habits or any of variety of education or social issues. The researcher adopted descriptive survey design because it was suitable in collecting data on social issues and on a wide spectrum. The design was suitable in guiding research on level of community involvement in wildlife conservation which is a social issue that covers a wide study area.

#### **Target Population**

This is an accessible population that is of interest to the researcher (Oso & Onen 2005). The target population was 2538 which comprised of 2500 household heads, local administration, Community Wildlife Committee members and KWS staff.

#### **Sample size**

The sample size of 254 was selected from a target population of 2538 by use of simple random sampling and purposive sampling techniques. According to Mugenda & Mugenda, (2003) simple random sampling is a probability technique that ensures that conclusion from the study can be generalized to the entire population. The simple random sampling technique was used to select 2500 household heads. Purposive sampling was used to collect information from the local

leaders and Kenya Wildlife Service staff for purposes of getting specific information from specific individuals who were knowledgeable in the area being researched. This sentiment is supported by Kombo et al, (2006) who views purposive sampling as purposely targeting a group of people believed to be reliable for the study.

### **Data collection**

The research was enriched by the use of both secondary and primary data. The household survey involving local residents in the study area was conducted by use of a questionnaire whereby the researcher moved with questionnaires from one sampled household to the other where the researcher took the respondents through the questionnaires as he filled them. The household survey was advantageous because it was more accurate for the filling was done by the researcher who allowed clarification of the questions and the researcher to reframe the questions to the understanding of the respondents. This also allowed the researcher to switch from Kiswahili to English languages and vice versa which depended on the understanding of the respondents. The questionnaires were both structured and semi-structured. In the interview schedule, the interviewer read through the questions to the respondents as he noted down their responses. The local administration and conservancy staff were interviewed. The respondents were chosen because of their extensive knowledge in wildlife conservation. Documents analysis often gives data that is basically used for administrative purposes and data that was accessed was in form of reports, manuscripts, minutes of meetings and other documents found in office files.

### **Data analysis**

The data was tallied, organized and its frequencies and percentages calculated with the assistance of SPSS (Statistical Programme for Social Sciences) computer software. The descriptive statistics used by the researcher was able to explain a phenomenon more deeply and exhaustively (Mugenda & Mugenda 2003).

## **Results and Discussions**

### **a) How sufficient are laws and policies in promoting community involvement in wildlife conservation?**

The respondents were asked to indicate on whether the laws and regulations were sufficient in promoting local community involvement in wildlife conservation. Majority 137 (73.7%) of the respondents were of the opinion that the laws and policies were not sufficient in facilitating local

community involvement in wildlife conservation while minority 12 (6.5%) pointed towards the insufficiency of the law in promoting wildlife co-management. Data indicated that many residents of Sinyerere location believed that the legal and policy mechanisms in place could not foster the interface between the locals and other stakeholders in conservation arena. From the data gathered from the interview schedule, the insufficiency in laws and policies that were in place was the genesis of human-wildlife conflicts. Insufficiency in laws and policies was rooted in non involvement of the locals in formulation and implementation process where majority 151 (78.6%) of the respondents cited non-involvement in formulation of laws and policies while a minority 19 (9.9%) were involved. A proof of insufficiency in laws and policies was evident from compensation or lack of it among the locals in the event they suffered crop infestation from wild animals. In response, majority 146 (77.7%) strongly disagreed to the issue that compensation was effected on their crops that was destroyed by the wild animals while a minority 8 (4.3%) strongly agreed on the issue of compensation to the farmers. During the interview, majority 123 (65.4%) attested to having experienced crop destruction while 9 (4.8%) strongly disagreed to having experienced the same. The data showed dissatisfaction among the locals with the laws and policies in wildlife governance and wanted them changed urgently. The legislations in place did not clearly spell out compensation formulae on farmers whose crops were destroyed by wild animals. Small scale farmers whose farms were closer to the park felt more impact than those located far away. Many small scale farmers during the interview poured their frustration on the high level of insensitivity displayed by the park management on their predicament.

Further, the inefficiency of the laws and policies was also clear from how benefits that accrued from wildlife conservation were shared. From the data available, the mean of between 1.28 and 1.86 was a strong statement from the locals that wildlife conservation was of no benefit to the local population. Majority 1.28 (190) respondents strongly disagreed with the issue that wildlife conservation had contributed to improved quality of life. With a mean of 1.31 (190), the local residents strongly disagreed to the idea that local involvement to wildlife conservation had contributed to increased economic activities due to the existence of the conservancy. The household income had not improved in any way as indicated by a mean of 1.31(190) and with a mean of 1.86 (190) the locals disagreed to the fact that the location of park had led to increased employment opportunities. The research found out that park location did not in any way benefit

the locals socially and economically. The sustainability of local wildlife conservation efforts was hampered by legal and policy framework that was self defeatist. The current legislations do not clearly spell out the relationship between different players in wildlife conservation in regard to devolution of authority and sharing of benefits that accrue from wildlife conservation. The locals blamed legislations that did not genuinely devolve power and benefits from their conservation efforts.

**b) What are the suggestions of the locals on legal and policies issues that promote local community involvement in wildlife conservation?**

The respondents were asked to indicate on whether the laws and policies as constituted were sufficient in promoting local community involvement in wildlife conservation in which majority 137 (73.7%) strongly disagreed with the view that the laws and policies were sufficient in facilitating local community involvement in conservation while a minority 12 (6.5%) strongly believed the laws were sufficient as currently formulated in promoting sustainable development in partnership with the local community. The respondents' feelings were guided by inability of the laws in promoting sustainable development in the locality and faulted increased human-wildlife conflicts in the study area as an attribute to insufficiency in laws and policies. The locals suggested change in laws and policies that would conform to change in times to match with social, political and economical changes. In the opinion of the locals, legislations posed a bigger challenge to local community involvement in wildlife conservation than facilitate it.

During the research, the locals suggested a number of ways in which the legal and policy framework could be improved for sustainable development in Sinyerere location. Majority 121 (70.3%) of the respondents wanted local committees strengthened by clearly defining their powers and responsibilities in legal standings. The 16 (8.3%) of the respondents wanted democratic principles be instituted in the appointment of the locals to the wildlife committee and were not happy with the manner in which the appointments to the committees were done and demanded an end to favouritism. Another 15 (7.8%) of respondents advocated for increased participation in making of laws and policies to bring on board the feelings of the community because some felt that they were not actively involved in the formulation and implementation process while 26 (13.5%) called for improved legislations on wildlife conservation to embrace social, economical and political changes.



### Conclusions

Kenya's legal and policy framework as currently constituted do not fully support local community involvement in wildlife conservation but pose a challenge instead of facilitating it. The policies and laws in place should be categorical on reasons for regulations, use, impending dangers and benefit expected from the regulatory framework. The legislations must define duties and responsibilities of each stakeholder involved in conservation of wildlife resource for sustainability development. As things stand, no direct benefits accrue to the locals as a result of their participation in wildlife conservation. The local community predicament was to a larger extent blamed on policies and laws that were marginalizing and not enabling local community participation in wildlife conservation.

### Recommendations

1. The researcher recommends that capacity building be done through workshops and seminars to enlighten local community on their legal mandate in regard to wildlife conservation. This aims at generating more interest among the locals in matters of conservation.
2. Adequate financial and technical support be given to relevant ministries and institutions involved in wildlife conservation. This is incognizance of heavy financial spending required in education programs, marketing, fencing and compensation.
3. The research recommends a participatory approach in the review of the existing laws and policies related to local community involvement in wildlife conservation in Kenya.

### Suggestions for further Studies

Integration of traditional practices with modern laws: A solution to human- wildlife conflict.

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