Wildlife Management and Conservation in View of International Conventions

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Wildlife management and conservation transcends ecological systems because it take place simultaneously on land, in the water, and the air. Likewise, ecological systems transcend international boundaries, and therefore an action on one side can have a significant impact on the other, or even across several boundaries. Further, at international level, trade in wild plants and animals or their parts is known to have decimated populations of many species.

Concerns at the international level over destruction of shared ecosystems, loss of biodiversity, and negative impacts on the environment in general have increasingly necessitated international means of redress. Response has come in form of intergovernmental treaties or other agreements that constitute international environmental law. Such agreements govern cooperation among states on environmental matters of mutual interest or concern that one country cannot address alone. Often these agreements are between more than two countries, and are hence referred to as multilateral environmental agreements (MEAs).

Under the auspices of the United Nations (UN), the progressive development of such legal arrangements has burgeoned (UNEP 2007), and the total number of such MEAs has steadily risen (UNEP 2001). Over the years, the scale of problems to be addressed has widened from local to global, and the number of sovereign states that participate in the negotiation of such legal arrangements has grown. Moreover, new concerns and principles—precaution, inter- and intra-generational equity, scientific uncertainty, and sustainable development—have also arisen in recent years and now need to be factored into negotiation processes. Under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), such negotiations, particularly on elephants and the sale of ivory, have always generated heated debate. Pro-ivory-trade states assert that income generated from such sales will be ploughed back into conservation. Conversely, in view of Kenya's experience and as proven by scientific data, trade in ivory provides incentives for illegal trade and poaching.

Although some international environmental treaties date back to early in the 20th century, it was not until the 1960s that concern about environmental pollution and the depletion of natural resources led to the kind of binding MEAs that we know today (Crossen 2003). Many of the early MEAs focused on the allocation and exploitation of natural resources such as wildlife, air, and the marine environment. MEAs drawn up in the lead-up to and aftermath of the UN Conference on the Human Environment, held in Stockholm in 1972, largely laid an emphasis on conservation. Examples include the 1971 Convention on Wetlands of Inter -

The George Wright Forum, vol. 29, no. 1, pp. 109–117 (2012).

ISSN 0732-4715. Please direct all permission requests to info@georgewright.org.

national Importance Especially as Waterfowl Habitat (known as the Ramsar convention), the 1973 CITES, and the 1979 Convention on the Conservation of Migratory Species of Wild Animals (CMS). All these conventions address biological diversity, and the protection of wild fauna and flora, making biodiversity conservation one of the most developed areas of international environmental law.

Today there are over 500 international treaties and other agreements related to the environment, of which over 320 are regional (Mitchell 2003). Nearly 60% date from 1972, the year of the Stockholm conference, to the present. These agreements can be classified based on geographical coverage and nature. "Primary" agreements are those that are global, such as CMS, CITES and Ramsar; "secondary" agreements are those that are regional, such as the 1992 Lusaka Agreement Task Force (LATF); "tertiary" are those that provide a wider international framework for law, such as the 1992 UN Framework Convention on Climate Change (UNFCCC), the 1992 Convention on Biological Diversity (CBD), and others. They can also be classified based on environmental aspects, such as biodiversity, atmospheric, land, and water.

Kenya is not only a signatory to several MEAs but has been instrumental in negotiations for MEAs such as the CBD, UNFCCC, and the 1994 UN Convention to Combat Desertification. Kenya has also the advantage of hosting the secretariat of the UN Environment Program (UNEP), and therefore plays a major role in negotiations and hosting meetings. Since its inception in 1972, UNEP has played a pivotal role in supporting the development and implementation of environmental laws, particularly those negotiated following the UN Conference on Environment and Development (UNCED) and the Earth Summit, held in Rio de Janeiro in 1992. Further, Kenya has made major strides in incorporating most of the ratified MEAs into national law and policy through re-enactment and incorporation by reference. While recognizing Kenya's sovereignty, the constitution takes cognizance of important regional and international treaties and conventions. Articles 2, 5, and 6 of the constitution of Kenya (2010) state that "The general rules of international law shall form part of the law of Kenya" and "any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution."

Further, redress on environmental matters is enshrined in the constitution, the Environment Management Coordination Act 1999, Conservation and Management Act 1989, government policies, and institutional arrangements. The creation of the Directorate of Conventions at the Ministry of Environment and Mineral Resources, and that of a convention coordination department within the Kenya Wildlife Service (KWS), are notable efforts by the government to ensure effective implementation of Kenya's commitments under MEAs. However, the roles of various focal points or convention administrative authorities need to be enhanced, particularly through training and budgetary allocations, to ensure a proper and meaningful consultative process as well as negotiations at the regional or international levels.

The Ministry of Forestry and Wildlife and its two main parastatals, KWS and the Kenya Forest Service, have a major role in the implementation of several MEAs related to biodiversity. KWS is the focal point for CITES, CMS and its related agreements such as the Agreement on the Conservation of African-Eurasian Migratory Water birds, and nonbinding international memoranda of understanding on the conservation of migratory birds of prey,

dugongs, and turtles, Ramsar convention, World Heritage Convention, and international Whaling Commission. These are some of the major MEAs that have shaped the development of international environmental law. KWS has a major role to play, in conjunction with stakeholders.

KWS implements the above conventions by accomplishing the requirements of, complying with, and enforcing resolutions, as well as executing orders directed to Kenya. KWS, on behalf of the government, budgets for and pays the conventions' membership fees. Further, KWS negotiates resolutions directed to the conventions' respective secretariats and other parties in favor of Kenya's interest. Such interests are arrived at based on the mandate of KWS and through stakeholders' consultative sessions and national technical committee meetings.

KWS is mandated by law to administer and coordinate international protocols and conventions regarding wildlife in all its aspects in consultation with the minister of forestry and wildlife. In this regard, the minister (or a deputy) heads Kenyan delegations to all meetings of the conference of parties to the various conventions (Figure 1). Technical and scientific meetings are attended by relevant experts.

Figure 1. The Kenyan delegation at the 10th Conference of the Parties of the Ramsar international wetlands convention in Changwon, Republic of Korea, 2008. The delegation was headed by the assistant minister of the Ministry of Forestry and Wildlife, Josephat K. Nanok (seated front left), the permanent secretary, Mohamed M. Wamwachai (behind the assistant minister to the right), the deputy director of biodiversity research and monitoring, Samuel Kasiki (seated to the right), and the head of conventions, James Njogu (behind Kasiki to the left). Also attending was the wetlands coordinator, Judith Nyunja.

The country and its citizens derive many benefits from these conventions, the most significant being helping KWS to more effectively deliver on its conservation mandate. Additional benefits include ensuring that Kenya's relationship with other states does not become injurious to its interest in wildlife conservation and serves as a mechanism for accessing international financial support for conservation projects.

Example of conventions in which KWS has played a historical role include: CITES with regard to listing of elephant and rhinoceros, the Lusaka Agreement, the Ramsar convention, the CMS, the World Heritage Convention, the CBD, and a host of regional cross-border agreements.

Historical role of KWS in CITES: Ivory and rhino horn controversies

CITES is arguably the largest, and perhaps most important, wildlife conservation agreement in the world, and a vital tool to combat the threat to plants and animals posed by the international wildlife trade. CITES opened for signing in 1973, entered into force in 1975, and currently regulates the trade of approximately 28,000 species of plants and 5,000 species of animals. Every two to three years, the parties to the convention meet to review its implementation and progress towards ensuring that international trade is not a threat to wildlife. Decisions are made at these conferences of parties (COPs) to determine if species should be added to or down-listed from Appendices I and II.

CITES is based on a tiered approach to the achievement of two central objectives: reduce negative impacts of international trade in endangered species, and control international trade that drive species to endangered levels. In this regard, CITES uses a permitting system to regulate trade rather than prohibiting it all together.

KWS is the management authority for CITES and is also the scientific authority for fauna under the treaty. For flora, the scientific authority principally rests with the National Museums of Kenya due to their capacity in botany. Working together with stakeholders, KWS has aggressively enforced the implementation of CITES resolutions.

At the international level, Kenya, through KWS, has stood firm on its position as regards the fauna aspects of CITES, the most notable examples being the case of the elephant and rhinoceros.

While African elephants have been hunted for several centuries, the exploitation of elephant herds on a massive scale began in the 1970s. Organized gangs of poachers used automatic weapons, profited from government corruption, and laundered tons of elephant tusks through several African countries to destinations elsewhere. Threatened with extinction, the elephant has been protected since 1989 from international trade by its listing on Appendix I of CITES. The enforcement of this ban, the level of compliance adhered to by CITES parties, the response of non-CITES members, as well as the policy question as to how trade "interventions" best serve the environmental objective of species preservation, are all key concerns that fuel the dispute over whether to ban trade in elephant ivory.

Kenya's experience in the implementation of CITES has generally been positive, and in the area of megafauna, our capacity and assertiveness in the implementation of CITES has sometimes been viewed as problematic by other range states, particularly those that support ivory trade.

However, Kenya has remained steadfast since 1989 on its position regarding ivory trade. KWS has steered the nonivory trade debate in Africa and lobbied elephant and nonelephant range states to support the position. For instance, at COP13 (October 2004, Bangkok) Kenya lobbied party nations to reject proposals to reopen the commercial ivory trade in Africa and instead to adopt an action plan to monitor unregulated domestic ivory markets. However, Namibia, Botswana, and South Africa gained support for a one-time sale of their existing ivory stocks, only the second such sale during the 15-year ban on ivory trading. At the same COP, a limited hunt of black rhinoceroses (an Appendix I-listed species) was approved, allowing Namibia and South Africa to each kill and export five black rhinoceros per year. It is, however, important to note that CITES listed the rhino on Appendix I in 1976, effectively prohibiting international trade in rhino products, and in 1987 the convention extended the ban to domestic trade in rhino products.

At COP14 (June 2007, The Hague), Kenya together with Mali formed a coalition of 23 state parties from Africa to prevail against allowing trade in ivory. As has been the case at previous COPs, discussions concerning elephants dominated much of the meeting, as negotiations carried on throughout its duration. A landmark regional consensus on ivory trade was eventually reached with African elephant range states, agreeing to a nine-year suspension of ivory trade. This was to take effect after the completion of a one-off sale that was agreed to at COP12, allowing four southern African countries—South Africa, Namibia, Botswana and Zimbabwe—to sell stocks of ivory registered before 31 January 2007. Immediately prior to COP14, the CITES Standing Committee agreed that a scientific system to monitor elephant poaching— known as MIKE, or monitoring illegal killing of elephants—had compiled some baseline data, one of the criteria for moving forward with the one-off sale. Japan was approved by the CITES Standing Committee as a "trading partner" for this limited sale of ivory. China proposed that it also obtain this status, but was rejected. The ivory for the one-off sale was sourced only from registered, government-owned stocks that originate from natural mortality or problem animals. All revenues from the sale were expected to be reinvested in elephant conservation and community development.

At COP 15 (March 2010, Doha, Qatar), the African range states approved the African Elephant Action Plan and the implementation of the African Elephant Fund by the CITES secretariat. At the same time, a proposal submitted by Tanzania and Zimbabwe for down-listing the elephant was rejected. As a bargaining chip, and in an effort to promote consensus, Kenya introduced a draft decision in place of the moratorium proposal, in case it were not agreed to. Kenya, Ghana, Liberia, Mali, Sierra Leone, Togo, the Democratic Republic of Congo, and Rwanda, on behalf of the 23 African range states, urged the African range states not to propose or adopt further proposals to amend the existing listings of African elephants on the CITES appendices, including amendments to existing annotations, for a period of nine years from the single sale that took place in 2008. Kenya, further emphasized that "we need to take this debate on ivory back to the African continent," and withdrew the proposal for a 20-year moratorium.

The ivory trade ban is associated with the rhino trade ban. Both animals face extinction, and methods for detecting the origins of both ivory and rhino horns are being developed simultaneously. The debate between the various African nations in favor of the total ban or

partial ban of ivory trade with legal trade also characterizes the rhino product trade ban. It must, however, be noted that while ivory is perceived as a luxury good, rhino horn and other rhino products are perceived by some to be a curative necessity. This complicates the case for rhinos, as substitutes are often regarded as unacceptable.

Nonetheless, a strong financial incentive drives the ivory and rhinoceros horn trade, making huge profits for individual hunters or poachers. Between 1979 and 1989, the demand for ivory caused the elephant populations to decline and continues to pose a major threat to dwindling population of the African elephant in Africa as a whole. KWS remains committed to conserving the elephant as a flagship species and champions its survival as well as that of the rhinoceros. Recovery plans for these species have been developed and are being implemented.

KWS role in establishing the Lusaka Agreement

The Lusaka Agreement (1994) is an agreement of CITES at the regional level in Africa. It was conceptualized during the first African Wildlife Law Enforcement Co-operation Conference, held under the auspices of CITES in Lusaka in 1992. The agreement establishes a framework of cooperation between enforcement agencies in the trafficking in all species of flora and fauna and thus has a somewhat broader mandate than CITES and has often been used in implementing other agreements such as the CBD. Kenya was designated as the headquarters of the Lusaka Agreement in 1999 and the secretariat is hosted at the KWS headquarters in Nairobi.

Ramsar convention implementation

The Convention on Wetlands of International Importance, known as the Ramsar convention (having been signed at Ramsar, Iran, in 1971), aims at the protection of ecological functions of wetlands as regulators of water regimes and as habitats that support characteristic flora and fauna, especially water birds. The Convention's original emphasis was on the conservation and wise use of wetlands primarily to provide habitat for water birds. This has been broadened to cover all aspects of wetland conservation and wise use, recognizing wetlands as ecosystems that are important for biodiversity conservation and the well-being of human communities (Figure 2).

The Convention on Wetlands came into force in Kenya on 5 October 1990. Kenya presently has five sites designated as wetlands of International Importance, with a combined surface area of 101,849 hectares. These sites are Lakes Naivasha, Nakuru, Bogoria, Elemen - taita, and Baringo.

Lake Naivasha is located in a high-altitude trough of the Rift Valley and is one of the few freshwater areas that comprises a crater lake and river delta. There are more than 350 species of water birds, and hundreds of hippos and buffaloes. The lake provides water for human activities, including tourism, fishing, and agriculture. However, the lake is subjected to pollution from agrochemicals from surrounding flower farms. In response to this, the local community and KWS have produced a management plan for the lake and a farmer's code of conduct to regulate the use and disposal of agrochemicals. This is enforced through the Lake Naivasha Riparian Association, which was one of the Ramsar Wetland Conservation Award winners in 1999.

Figure 2. Kenya Wildlife Service Training Institute staff, headed by George Owiti (left), provided information on the curriculum for the International Course on African Wetland Management at the Ramsar 10th Conference of the Parties in Changwon, Republic of Korea, 2008.

Lake Nakuru is situated in the Rift Valley province and is one of the KWS's premier national parks. It is also an important bird area (IBA) and a World Heritage site through a serial nomination together with Lakes Elementaita and Bogoria. The three lakes are important for bird life, with thousands of flamingoes and pelicans among other important birds, including migratory water birds. Lake Baringo is also located in the Rift Valley and is a national reserve. The lake provides critical habitat and refuge for nearly 500 bird species, and some of the migratory water bird species are of regional and global conservation significance, with more than 20,000 individual species reported.

KWS is the main actor involved in the management, control, and conservation of wetlands and has developed management plans for them. There are also several initiatives at local levels, such as at Lake Nakuru National Park, Lake Bogoria National Reserve, and the Tana Delta, where integrated planning based on a catchment approach are being undertaken.

World Heritage Convention

The nomination and inscription of the Kenya Lakes System in the Great Rift Valley to a coveted place on the World Heritage List one of the KWS's most recent activities, having been completed in June 2011. This was the culmination of a lengthy procedure that took concerted effort by KWS and stakeholders to develop a successful nomination dossier; this included the gazetting of Lake Elementaita as a wildlife sanctuary in July 2010.

The three lakes (Elementaita, Nakuru, and Bogoria) are unique and have been recognized as possessing "outstanding universal value" among other comparable lakes globally. They are located within the East African Rift Valley system, a continental-scale tectonic structure that has evolved through earth history to its present state, which is characterized by the scenic and architectonic beauty of the geomorphological features. It is characterized by steep fault scarps, deep gorges, step-faulted blocks, cinder cones and craters on the rift floor, horst and graben structures, ramps, box faults, gushing geysers, and hot springs.

These sites are unique in the sense that they are hydrologically and hydrogeologically connected as opposed to most other lakes worldwide, and are essential to the hydrological cycle that contributes to geothermal energy. Lake Bogoria has the highest concentration of geysers in Africa. Heated geothermal waters contribute to the lake waters and result in very unique aquatic habitats that support unique assemblages of planktonic and benthic flora and fauna. The East African Rift Valley system acts as a sedimentary trap that is vital for the preservation of fossils and thus provides a rich natural archive for palaeoanthropology (hominin and other faunal materials and artifacts) and palaeoecological study that has only begun to be explored.

The uniqueness and associated features combine to create diverse habitats and opportunities for conservation of globally significant biodiversity. The biodiversity includes many fauna and flora that are endemic, congregatory, range-restricted, biome-restricted, and globally threatened. The three lakes host one of the biggest assemblages of birds in Africa, sustaining 75% of the near- threatened population of the lesser flamingo (*Phoeniconaias minor*). This makes the Kenya lakes system a critical site for the conservation of the species worldwide. The lakes also host globally significant populations of 11 congregatory water bird species. For example, Lake Elementaita supports one of the world's major breeding colonies of the great white pelicans (*Pelecanus onocrotalus*).

As a home to many birds, the three lakes are also part of the network of sites serving as stopover, wintering, and summering sites for millions of over 100 species of migratory water birds, soaring birds, and other terrestrial bird species that use the Great Rift Valley flyway. The migratory birds originate from Europe and northern Asia as well as other parts of Africa. The three lakes also provide a network that constitutes natural habitats for *in situ* conservation of globally and regionally threatened mammal species. These include the critically endangered black rhino (*Diceros bicornis michaeli*) and the near-threatened white rhino (*Ceratotherium simum*), among others.

A famous ornithologist, Sir Peter Scott, on the occasion of officially opening Lake Nakuru National Park in 1961, described the lakes as "a sight of incredible beauty and interest and there can be no more remarkable ornithological spectacle in the world."

Cross-border issues and partnerships in convention implementation

KWS is also the focal point for the CMS and its agreements, including the African–Eurasian Water Bird Agreement. Under this convention several initiatives, including Wings over Wetlands, have been implemented, as well as the development of single-species management plans.

There also several important MEAs that are implemented by other sections of the government of Kenya. These include the CBD and UNFCCC. However, KWS still plays an important role in them. For instance, it coordinated the implementation of CBD's Program of Work on Protected Areas in Kenya.

KWS also participates in implementing several sub-regional initiatives. These include:

- Joint sessions between Kenya, Uganda, and Tanzania within the framework of the Lake Victoria Program—a project whose aim is to improve the lake and restore its ecological, hydrological, biological, economic, and sociocultural values.
- Consultations between Kenya, Ethiopia, and Tanzania on proposed projects (funded by the Global Environment Facility, or GEF) on the conservation of Rift Valley lakes and especially cross-border wetlands.
- A GEF-funded transboundary biodiversity conservation project that supports wise use and conservation of wetlands.
- The UNEP Regional Seas Program for Eastern Africa that addresses marine and coastal conservation programs in Kenya, Somalia, Tanzania, Mozambique, and several Indian Ocean island states.
- A cross-border timber trade monitoring program, which monitors trade in wood and wood products at Kenya and Tanzania border points. The project is funded by the Food and Agriculture Organization of the United Nations.

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