

SPECIFIC RECOMMENDATIONS FOR THE WILDLIFE ACT NO. 9 OF 2008

Compiled based on inputs from PINGOS Forum, Maliasili Initiatives and TNRF

30th October 2008

SECTION	CONTENT	CONCERNS WITH THE SECTION	PROPOSED AMMENDMENTS
SECTION 3 – "Interpretations"	<i>"Dispersal area" – means an area habitually used by wild animal species for feeding, laying, storing eggs, rearing or feeding their young, and includes breeding places;</i>	Dispersal areas can include any area in Tanzania (Including urban areas). Therefore, the interpretation is not specific enough and as a result has no meaning.	The interpretation should be reworded to become more specific.
	<i>"Non-consumptive wildlife tourism" includes, but is not limited to game viewing, walking safaris, camping, balloon safaris, cultural site seeing, canoeing, bird watching, sport fishing, hiking, mountain climbing, expeditions, documentary and commercial photography, video shooting, filming and cinematography;</i>	Walking safaris, mountain climbing, hiking, and cultural site seeing do not necessarily have relevance to wildlife tourism.	Walking safaris, mountain climbing, hiking, and cultural site should be managed by the Tourism Division and appropriate policy (National Tourism Policy 1999) and legislation.
PART II: SECTION 5	Subsections from a to k	There are limited or no provisions for achieving the objectives stated in Part II.	Add provisions within the law to enable implementation of specific Act objectives, such as objectives d, e, f, g, h, & i .
PART IV: SECTION 13	<p>1.The president may after consultation with relevant consultation with local government authorities, by order in the gazette, declare any of Tanzania to be a game reserve.</p> <p>2.The president may, by order in the gazette, apply any condition applicable to a game reserve to any area of Tanzania and upon such order being made the condition specified there in shall apply to the area in relation to which the order is made as if</p>	<p>1.Subsection 1 is not clear on local government authority. Local government consultation does not necessarily mean involvement of local communities.</p> <p>2.Subsection 2 does not allow local community participation. The president is given discretionary powers that overlooks local communities</p>	<p>1. The president may after consultation with relevant local communities (village community and Village Assembly), by order in the gazette, declare any of Tanzania to be a game reserve.</p> <p>2. This subsection should be deleted. (Refer to Land Act No. 4 of 1999 regarding compensation, and the village government authority for land: Village Land Act No. 5 of 1999)</p>

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	such area were a game reserve, and nay contravention of such condition in or in relation to such area shall be punishable accordingly		
SECTION 15	<ol style="list-style-type: none"> 1. The minister may after consultation with relevant local authorities, by order in the gazette, declare any areas of Tanzania to be a game control area. 2. The minister may by regulation in the gazette, provide for the management of game control areas. 3. The minister may, in consultation with the minister responsible for environment, water, energy, agriculture, local government, planning and land, make regulations for the establishment and management of wetlands reserves and wetland areas. 	<ol style="list-style-type: none"> 1. This section contradicts the Land Act Number 4 of 1999 which gives the President, not the Minister the power to change land use. The current arrangement of game control areas are within established villages, the authority on land rest on the village general assembly. The powers of the minister interfere with the authorities conferred to villages on their land. 2. This subsection give the Minister the powers to interfere with village land which he does not have in accordance with Village Land Act No. 5 of 1999. 3. Complicate the management of those areas, interfere with Village Land Act No. 5 of 1999, community conservation, as well as existing community livelihood systems. 	<ol style="list-style-type: none"> 1. The President may after consultation with relevant local communities (Village general assembly), by order in the gazette, declare any areas of Tanzania to be a Game Controllled Area. 2. The Minister may after consultation with local communities (village general assembly) by regulation in the gazette, provide for the management of wildlife in Game Controlled Areas. 3. The Minister may, after consultation with relevant local communities (village general assembly), make regulations for the establishment and management of wetlands reserves and wetland areas.
SECTION 17	<ol style="list-style-type: none"> 2. Any person shall not graze any livestock in a game reserve or wetland reserves 4. Any person who contravenes subsection (2) commits an offence and on conviction shall be liable to a fine of not less than the value of the livestock involved or imprisonment for a term of not less than two years or to both. 	<ol style="list-style-type: none"> 2. This subsection will interfere with wetland reserve already in village land under village conservation and utilization mechanisms. In addition this will pose unnecessary restriction to wetlands depended upon by villages as water sources for domestic and other livelihood processes. 4. This subsection creates opportunity for anti-livestock authorities with means to impoverish livestock keepers. This fear comes 	<ol style="list-style-type: none"> 2. Any person shall not graze any livestock, farm, burn charcoal in a game reserve. 4. Any person who contravenes subsection (2) commits an offence and on conviction shall be liable to a fine of not less than two hundred thousand or imprisonment for a term of not less than two years or to both.

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		<p>as directs its punishment to livestock keeping while other activities like crop production-irrigation, charcoal burning, bio-fuels production are not being covered by this Act.</p>	
SECTION 20 (Subsections 1 and 2)	<p>Any person shall not, save with the written permission of the director previously sought and obtained, graze any livestock in any Game Controlled Area</p>	<p>This section marks the end of pastoralism in Tanzania, most of which is undertaken within the current setup of Game Controlled Areas, which overlap with village lands (Monduli, Simanjiro, Longido and Ngorongoro Districts). This section is in direct interference with the Village Land Act of 1999 and customary rights to occupy land. Also the section contravenes an individual’s constitutional right to livelihood. The same section contravenes MKUKUTA that calls for increasing livestock contribution to GDP and the Livestock Policy.</p>	<p>The entire Section 20 should be removed from the Act.</p>
SECTION 21	<ol style="list-style-type: none"> 1.The minister may, by order in the gazette, designate wildlife corridors, dispersal areas, buffer zones and migratory routes. 2.The minister, after consultation with the relevant local government authorities, provide for regulations in the gazette to govern the management of designated wildlife corridors, dispersal areas, buffer zones and migratory routes. 3.Regulations made by the minister under subsection 2 of this section shall declare rights of communities that are compatible with conservation. 	<ol style="list-style-type: none"> 1.By giving these powers to the Minister the section creates interference with land uses in villages as these areas are already in village land. 2.The arrangement interferes with village land use arrangements. Therefore, it does not encourage community based conservation, and overshadows village general assemblies in managing their natural resources. 3.Villages are denied their rights to regulate land uses within village land which will contravene community conservation systems. Giving the Minister power to declare the rights of community contravenes 	<ol style="list-style-type: none"> 1.Village general assembly shall have the powers to identify wildlife corridors, dispersal areas, buffers zones, and migratory routes within village land and provide for their management under village processes. Only the president can change the land categories. WMAs are supposed to provide for conservation in these areas. The Ministry of Natural Resources and Tourism may play a role in providing incentives for enhanced conservation of the areas. 2.Villages shall design by laws to conserve designated wildlife corridors, dispersal areas, buffer zones and migratory routes. The

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		with inherent rights entrenched in the Constitution.	ministry shall provide technical support to villages in management arrangement of designated wildlife corridors, dispersal areas, buffer zones, and migratory routes within village land. 3.Villages shall regulate land uses which are compatible with community development and conservation. (refer Land Act No.4 and Village Land Act No.5 of 1999)
SECTION 22	(1, 2) The Director may by order Gazette, declare an area to be a species management area.	Exacerbates conflicts over regulations and steals community land. It has no added protection or value for wildlife conservation.	Completely delete section 1, 2.
SECTION 30	1.Benefits sharing in the WMA shall comply with circulars issued by the Government from time to time and shall adhere to mechanisms of equitable distribution of costs and benefits...and poverty reduction	The rights of communities to revenue or benefits from wildlife in WMAs are not secured. This is a missed opportunity for strengthening the legislative framework of WMAs	Secure under the law community rights to revenues and benefits in WMAs. Make sure communities get a minimum of 75% of revenue generated from wildlife.
SECTION 34	Subsections 1-5	1. Environmental Impact Assessments are practical for some projects in village land	1.Guidelines should be prepared in consultation with the National Environmental Management Council (NEMC) for projects that require an EIA. (Refer to the Environmental Management Act of 2004.)
SECTION 37	1.There shall be the hunting block allocation advisory committee which shall be an advisory body to the Minister	1. It does not involve villages in allocation of hunting block allocation	1.The hunting block allocation advisory committee shall consult the relevant village general assembly before allocation of any hunting blocks. Hunting concessions on village land require approval of village government authority (refer to the Land Act and Village land Act both of 1999).

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			2. Explicitly harmonize hunting blocks allocation with the principles of transparent government allocation of resources as defined in the Public Procurement Act
SECTION 44	<p>1. The Minister may, by order in the gazette declare any traditional community for purposes of this act and prescribe conditions to regulate utilization of wildlife.</p> <p>2. The Director may grant a traditional community a license to hunt such number of specified animals subject to such terms and condition for such period as may be specified in the license.</p>	<p>1. This gives high discretionary powers to the Minister over the rights to determine which the traditional communities are while they are well known.</p> <p>2. The right to food security is constrained by this provision.</p>	<p>1. It is hereby recognized by this Act that the following are traditional communities; Hadzabe, Dorobo, Tindiga, Akie.</p> <p>2. Traditional communities as provided in Subsection 1 shall have their traditional rights to utilize wildlife in accordance with their cultural and traditional requirement.</p> <p>3. The government shall monitor such utilization of wildlife to ensure that it does not contravene with cultural and traditional uses.</p>
SECTION 51	The Minister may, by regulations in the gazette, prescribe the conditions of engaging in non-consumptive wildlife tourism.	<p>1. The regulations are not explicit and for that matter they might constrain engagement of local community into economic non wildlife consumptive tourism activities.</p> <p>2. This provision might deny the village freedom to engage in the only direct opportunity for villages to benefit from wildlife through inexplicit regulations</p> <p>3. This provision does not refer to the right granted to villages under the Local Government (District Authority) Act, 1982</p>	<p>1. Villages may engage into non-consumptive wildlife tourism in villages as long as such engagement does not contravene with best conservation practices.</p> <p>2. The villages shall pay a specified percentage of income or tax accruing from non-consumptive wildlife ventures to the Wildlife Division.</p> <p>3. The Ministry shall play a role of technically supporting villages to engage into non-consumptive wildlife ventures through capacity building and monitoring.</p> <p>4. The ministry shall ensure the authenticity of the community-private sector partnerships.</p>
SECTION 54	2. Any person shall not hunt or capture any animal on village land without presenting	1. A mere presentation of a copy of permit does not necessary amount to consent of the	2. Any person with a hunting permit should obtain prior consent of private or village land

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	<p>certified copy of his permit or license to village council, authorized association and district wildlife officer.</p> <p>3. A certified copy of a license or permit presented under subsection 2 as notice to village council; authorize association and district wildlife officer.</p> <p>4. Where the director with approval of the minister is of the opinion that it is in the public interest that any animal on any such land be hunted or captured, he may authorize any person to hunt or capture that animal on such land and after certified copy of such authority; have been served on the occupier of such land it shall be lawful for the person authorized to hunt or capture that animal to proceed to do so without consent of the occupier.</p>	<p>village council of such person to hunt or capture animal in village land.</p> <p>2. Entering into private and village land without owner's permission provide undue power to hunters to trespass on private and village land.</p>	<p>owner before engaging into hunting on private or village land.</p> <p>3. Any person who is found hunting or capturing an animal with a permit but without consent from the private or village land owner is committing an offence and shall be liable to fine of less than value of the animal or imprisonment of not less than 2 years.</p> <p>4. Where the director with approval of the minister is of the opinion that it is in the public interest that any animal on any such land be hunted or captured, he may authorize any person to hunt or capture that animal on such land and after certified copy of such authority; have been served on the occupier of such land it shall be lawful for the person authorized to hunt or capture that animal to proceed to do so in consultation with the occupier.</p>
SECTION 68(1)	The minister may in the public interests and after consultation with the minister responsible for finance, make regulations specifying the amount of money to be paid as consolation to a person or groups of persons who have suffered loss of life, crops or injuries cause by dangerous animal	<ol style="list-style-type: none"> 1. Livestock are not included under loss 2. Public interest not defined 3. Too discretionary, no provision for assessment of loss is provided 	WMA management institutions will decide on consolation or compensation system .
SECTION 71	A human activity, settlement or any other development that will adversely affect wildlife shall not be permitted within 500 meters from the wildlife protected area borderline without permission of the Director.	<ol style="list-style-type: none"> 1. Some boundaries between the village and protected areas are 0 meters wide. 2. The definition of <i>protected</i> includes Game Controllled Areas which there are village lands. 	This provision needs to be deleted.

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		<p>3. Big sections of village land will be trespassed.</p> <p>4. Some of the villages will have to be deregistered so as to allow operation of this provision.</p>	
SECTION 97	Burden of proof is on the person charged and convicted.	This is contrary to presumption of innocence recognized by the constitution of the United Republic of Tanzania.	This provision needs to be deleted to give the prosecution the ordinary duty to prove beyond reasonable doubt as per the criminal procedure.
SECTION 100	Possession of weapons etc in certain circumstances be an offence.	People living near protected areas are denied the right to self defense.	Any person who is found in possession of firearms unlawfully in protected shall be guilty of an offence.