
CROSS CUTTING LEGAL FRAMEWORK FOR WILDLIFE CONSERVATION IN UGANDA

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Over view of the presentation

- The 1995 Constitution of the Republic of Uganda (National Objectives and Article provisions)
- Uganda Wildlife Act Cap 200 Of 2000
- The Game (preservation and control) Act Cap 198 of 2000
- Local Government Act Cap 243 of 2000
- National forestry and tree planting Act, 2003
- National Environment Act 1995, Cap 153 of 2000
- Mining Act, 2003
- Prohibition of burning of grass Act Cap 33 of 2000
- Fish Act, 1951 Cap 197 of 2000
- Land Act, 1998 Cap 227 of 2000
- Oil and Gas Policy, 2008

THE 1995 CONSTITUTION

National objectives and directive principles of State policy relevant to wildlife conservation sector

National objective xiii: Protection of natural resources.

- The State shall protect important natural resources, including land, water, wetlands, minerals, oil, fauna and flora on behalf of the people of Uganda.

National objective xxvii: Environment

- (i) The State shall promote sustainable development and public awareness of the need to manage land, air and water resources in a balanced and sustainable manner for the present and future generations.
- (ii) The utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations of Ugandans; and, in particular, the State shall take all possible measures to prevent or minimize damage and destruction to land, air and water resources resulting from pollution or other causes.

XXVII: Environment continued.....

- (iii) The State shall promote and implement energy policies that will ensure that people's basic needs and those of environmental preservation are met.
- (iv) The State, including local governments, shall—
 - (a) Create and develop parks, reserves and recreation areas and ensure the conservation of natural resources;
 - (b) Promote the rational use of natural resources so as to safeguard and protect the biodiversity of Uganda.

THE 1995 CONSTITUTION

Article provisions relevant to
wildlife conservation sector

Acquisition of land by Gov't and community rights

(Article 26 of the constitution)

- (2) No person shall be compulsorily deprived of property or any interest in or right over property of any description except where the following conditions are satisfied—
- (a) The taking of possession or acquisition is necessary for public use or in the interest of defense, public safety, public order, public morality or public health; and
- (b) The compulsory taking of possession or acquisition of property is made under a law which makes provision for—
- (i) Prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and
- (ii) A right of access to a court of law by any person who has an interest or right over the property.

Article 237: Land ownership

- (1) of the Constitution vests land in the citizens of Uganda
- (2); "The government or a local government as determined by parliament by law, shall hold in trust for the people and protect natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and touristic purposes for the common good of all citizens."

Article 189: Functions of central Gov't under decentralization

Sixth schedule of the constitution

- 8. National parks as may be prescribed by parliament
- 24. Forest and game reserve policy

Uganda Wildlife Act CAP 200 of 2000

Key sections

Wildlife Act.....Continued

S.2 (1): Purposes of the Act is to promote

- (a) The conservation of wildlife throughout Uganda so that the abundance and diversity of their species are maintained at optimum levels commensurate with other forms of land use, in order to support sustainable utilization of wildlife for the benefit of the people of Uganda;
- (b) The sustainable management of wildlife conservation areas;
- (c) The conservation of selected examples of wildlife communities in Uganda;
- (d) The protection of rare, endangered and endemic species of wild plants and animals;
- (e) Ecologically acceptable control of problem animals;

Wildlife Act.....Continued

S.2 (1): Purposes of the Act.....

- (f) The enhancement of economic and social benefits from wildlife management by establishing wildlife use rights and the promoting of tourism;
- (g) The control of import, export and re-export of wildlife species and specimens;
- (h) The implementation of relevant international treaties, conventions, agreements or other arrangement to which Uganda is a party; and
- (i) Public participation in wildlife management

Wildlife Act.....Continued

S.3: Ownership of wildlife

- The ownership of every wild animal and wild plant existing in its wild habitat in Uganda is vested in the Government on behalf of, and for the benefit of, the people of Uganda.
- Where any wild plant or wild animal is lawfully taken by any person, the ownership of that plant or animal shall, subject to this Act, vest in that person.
- If any protected species is lawfully taken under a permit or a license issued or wildlife use right granted or issued under this Act, the ownership of that animal or plant shall, subject to this Act and to the terms and conditions of the license, vest in the licensee or right holder.
- If before the commencement of this Act, any wild plant or animal is lawfully vested in any person, that plant or animal shall, subject to this Act, vest or continue to be vested in that person.

Wildlife Act.....Continued

S.3: Ownership of wildlife.....

- Except in accordance with any license or wildlife use right, nothing in this section shall be deemed to transfer to any person the ownership of any protected animal found dead or dying, or a protected plant that has been cut down.
- If any person unlawfully takes any protected animal or protected plant in contravention of this Act, the ownership of the animal or plant shall not be transferred to that person.
- The Minister may, on the advice of the board, by regulations prescribe measures for the registration and management of the specimens used for cultural purposes by any community.

Wildlife Act.....Continued

S.6: Delegation and coordination of functions and duties

- (1) UWA may, in the performance of its functions under this Act, delegate, in writing, any of its functions to a lead agency, a committee or any public officer.
- (2) The authority in the performance of its duties shall coordinate with any lead agencies involved in the field of wildlife management.
- (4) Where the authority delegates any of its functions in accordance with subsection (1), it shall make the necessary arrangements with the lead agency to facilitate the performance of the delegated functions.

Wildlife Act.....Continued

S.14:(1) The executive director may with the approval of the board enter into any suitable commercial or collaborative arrangements with any person for:-

- (a) The management of a protected area or a portion of the protected area;
- (b) The provision of services and infrastructure in a protected area; or
- (c) The management of a species or a class of species of animals or plants.

(2) Any person entering into an arrangement with the authority under subsection (1) shall submit a management plan in the prescribed form and manner.

Wildlife Act.....Continued

S.15: Environmental impact assessment

- (1) Any developer desiring to undertake any project which may have a significant effect on any wildlife species or community shall undertake an environmental impact assessment in accordance with the National Environment Act.
- (2) The authority shall perform all the functions required of a lead agency for purposes of an environmental impact assessment under the National Environment Act, and any regulations made under the National Environment Act, unless the authority is the developer.

Wildlife Act.....Continued

S.12: Local Gov't wildlife committees

- S.12 (1) a local Government council may on such terms and conditions as it considers necessary appoint a committee to advise the authority on the management and utilization of wildlife with in the local jurisdiction
- S.12(2) a committee appointed in 1 above shall submit an annual report to the board of UWA on its activities and other matters relating to wildlife management in its area.
- S.12 (3) any other committee, other than a committee to which subsection (2) applies, shall submit its report through the respective district council

The Game (Preservation and Control) Act, 1959 Cap 198 of 2000

Purpose

- To preserve statutory instruments and schedules made under this Act (since 1959) and ensure correct variation

Schedules

- 1st schedule: Animals not to be hunted or captured except under special permit
- 2nd schedule: Animals which may be hunted under basic and supplementary licenses and fees for supplementary licenses

The Game (Preservation and Control) Act, 1959 Cap 198 of 2000....

- 3rd schedule: Birds which may be hunted by the holder of a bird license
- 4th Schedule: Game reserves
- 5th schedule: Fees for licenses
- 6th schedule :African animals not occurring in Uganda or of which only local species and subspecies are protected, which animals and the trophies thereof are protected by international convention

Local Gov't Act Cap 243 of 2000

Potential for Local Gov't participation in management of wildlife in areas under central Gov't jurisdiction

- Under S.33(1) of the Act, any ministry can in consultation with local Gov't minister delegate its line duties to the District Council
- The parties must be in agreement and resources provided to execute the delegation

Local Gov't Act.....

Inspection by central Gov't for quality assurance and compliance

S.97 for purposes of ensuring implementation of national policies and adherence to performance standards on the part of local governments, ministries shall inspect, monitor and shall where necessary, offer technical advice, support supervision and training with in their respective sectors.

Local Gov't Act.....

S.98 (1) a government line ministry shall

- (a) Monitor and coordinate Government initiatives and policies as they apply to Local Governments
- (b) Coordinate and advise persons and organizations in relation to projects involving direct relations with Local Governments and
- (c) Assist in the provision of technical assistance to Local Governments.

Local Gov't Act.....

(Direct participation of LG in wildlife mgt)

Second schedule part 1: Functions and services for which Government is responsible

- 8. National Parks as may be established by parliament
- 24. Forests and game reserve policy
- 29. Any matter incidental to or connected with the above functions and services

Second schedule part 2: Functions and services for which District Councils are responsible subject to A.176 (2) of the constitution and S.97 and S.98 of Local Government Act.

- 2(h) Vector control
- 5(ii) Entomological services and vermin control

Local Gov't Act.....

(Direct participation of LG in wildlife mgt)

Second schedule part 3: Functions and services for which Urban Councils are responsible

- 1. Establish, acquire, erect, maintain, promote, assist or control with the participation of the citizens
- (k) Botanical and zoological gardens
- 2(a) Establish, erect, maintain and control....aviaries...

Second schedule part 4: Functions and services to be devolved by District Council to lower Local Government Councils

- 4. Control of vermin in consultation with the ministry responsible for Tourism and Wildlife and any other ministry.
- 6. Control of local hunting and fishing

National Forestry and Tree planting Act of 2003

Interface areas with wildlife Act

- S.4(e) forests forming part of the wildlife conservation area declared under the Uganda wildlife statute
- S.29 (1) All forestry biological resources and their derivatives, whether naturally occurring or naturalized with in a forest, shall be conserved and managed for the benefit of the people of Uganda in accordance with this Act and any other Law relating to biological resources.

National Environment Act.....

Synergistic support to wildlife conservation sector

- S.6 (2) NEMA may in the performance of its functions delegate, by statutory instrument, any of its functions to a lead agency (... Ministry, Government department...parastatal.....)... or any other public officer.
- S42 NEMA shall in consultation with the lead agency, issue guidelines for
 - (ii) The selection and management of protected areas so as to promote the conservation of the various terrestrial and aquatic ecosystems of Uganda.
 - (iii) Selection and management of buffer zones near protected areas
 - (iv) Special measures for protection of species, ecosystems, and habitats faced with extinction.

National Environment Act, 1995 Cap 153 of 2000

(Synergistic support to wildlife conservation sector)

- S43(a) NEMA shall in consultation with the lead agency prescribe measures for the conservation of biological diversity ex situ, especially for species threatened with extinction.
- S.72 (4) (a) an environmental easement may be imposed by court on a burdened land to preserve flora and fauna
- **S.I 153-5** Regulation No. 11(2) (a) Traditional use of wetlands for hunting shall be subject to Uganda Wildlife Act.

Mining Act of 2003

Synergistic support to wildlife conservation sector

- S.108 (1) any holder of an exploration license or a mining lease shall carry out an environment impact assessment of his or her proposed operations in accordance with the provisions of National Environment Act Cap 153.
- S110 (1) there shall be included in an exploration license or mining lease granted under this Act, a condition that the holder shall submit an environmental restoration plan of the exploration or mining area that may be damaged or adversely affected by his or her exploration or mining operations.

Prohibition of burning of grass Act

Cap 33

Synergy and limitation issues

- S.2 provides that “notwithstanding the local Government Act or any other written law to the contrary, the burning of grass by any person is prohibited in all areas of Uganda”
- S.3 in the case of burning grass in a national Park, a wildlife reserve or a wildlife sanctuary, with in the meaning of Uganda Wildlife Act, the burning shall be carried out, or authorized in writing, by an officer duly authorized in writing by the board of trustees.
- No mention of regulated burning for conservation outside PAs

The fish Act, 1951 Cap 197

Synergistic support to wildlife conservation sector

- S.4(1) Any person who fishes with a basket in the waters of Lake Edward, Lake George or the Kazinga channel unless he or she is in possession of a valid basket license commits an offence against this Act.

Land Act Cap 227 OF 2000

Synergistic support to wildlife conservation sector

S42. Acquisition of land by the Government.

- The Government or a local government may acquire land in accordance with articles 26 and 237(2) of the Constitution.

S43. Utilization of land according to various laws.

- A person who owns or occupies land shall manage and utilize the land in accordance with the Forests Act, the Mining Act, and the National Environment Act, the Water Act, the Uganda Wildlife Act and any other law.

Land Act.....

(Doctrine of public trust)

S44. Control of environmentally sensitive areas.

- (1) The Government or a local government shall hold in trust for the people and protect natural lakes, rivers, ground water, natural ponds, natural streams, wetlands, forest reserves, national parks and any other land reserved for ecological and touristic purposes for the common good of the citizens of Uganda.
- (2) A local government may, upon request to the Government, be allowed to hold in trust for the people and the common good of the citizens of Uganda any of the resources referred to in subsection (1).

Land Act.....

(Doctrine of public trust)

- (3) Any resource that is not covered under subsection (1) which is identified after the coming into force of this Act may, upon request to the Government and with the approval of Parliament, be held in trust for the people and for the common good of the citizens of Uganda by a local government.
- (4) The Government or a local government shall not lease out or otherwise alienate any natural resource referred to in this section.

Land Act.....

(Doctrine of public trust)

- (5) The Government or a local government may grant concessions or licenses or permits in respect of a natural resource referred to in this section subject to any law.
- (6) Parliament or any other authority empowered by Parliament may from time to time review any land held in trust by the Government or a local government whenever the community in the area or district where the reserved land is situated so demands.

Oil and Gas Policy, 2008

Synergy to address challenges of wildlife sector

5.1.5 of the policy provides that

- It is the responsibility of licensed oil companies to protect the environment where they work or any areas in the country impacted by their operations
- Government shall legislate, regulate and monitor compliance

Oil and Gas Policy, 2008.....

(Policy objective 9)

Environmental protection actions

- (i) Upgrade the relevant Environment and Biodiversity legislation to address oil and gas activities.
- (ii) Strengthen the institutions with a mandate to manage the impact of oil and gas activities on the environment and biodiversity.
- (iii) Develop physical master plans, environmental sensitivity maps and oil spill contingency plans for the oil and gas producing region and any transport corridors.

Oil and Gas Policy, 2008.....

Role of the Uganda Wildlife Authority (UWA)

- (i) Monitoring compliance of oil and gas activities to regulations governing operations in wildlife protected areas.
- (ii) Harmonizing national and international performance standards on wildlife protected areas
- (iii) Monitoring the impact of oil and gas activities on wildlife protected areas.
- (iv) Participating in evaluation of Environmental Impact Assessments (EIA) and environmental audits for oil and gas activities.
- (v) Issuing consent to undertaking petroleum operations in wildlife protected areas.