KEY RECOMMENDATIONS

The legal impediments identified, affect the core objective of forming WMAs, which were expected to bring together villagers of one or more villages and other local stakeholders, on one hand, and local government, law enforcement agencies and responsible Wildlife Division, on the other hand, to collaboratively and with local flavor and benefit, to manage wildlife and undertake conservation and anti-poaching operations. The current legal, policy and operational set-up is an impediment to effective and meaningful participation of WMAs in anti-poaching initiatives in Tanzania. It is thus recommended:

1. The WMA Regulations must be amended to charge WMAs with the duty of protecting wildlife and undertaking anti-poaching operations. The amendment will enable WMAs to prioritize anti-poaching activities in their daily operations, unlike the current dispensation, which bestows that functions to the VGS alone.

2. Section 13(8) of the Wildlife Conservation Act must be amended to include VGS as “authorized officers” able to carry firearms and ammunitions. This will enable VGS to discharge their functions properly and participate in anti-poaching operations.

3. The Tanzanian government should extend support to WMAs to meet their operational costs including the costs of training VGS and purchase of equipment including firearms, when the WCA is amended to allow VGS to carry firearms.

4. The WMA Regulations and the WMA must be amended to provide a clear working and coordinated arrangements between the Wildlife Protection Unit and the WMAs in the protection of wildlife and anti-poaching campaigns or operations. This is coupled with establishment of a clear chain of command between WPU and WMAs. WPU should also be tasked to ensure that the VGS also receive requisite anti-poaching training and provided with necessary equipment in the operations. The issue of who is going to foot the bill in collaborative anti-poaching operations needs to be explicitly provided for, so as to ensure that WMAs are not saddled with crippling financial burdens that would end up demoralizing the VGS and local communities.

5. WMAs should only be taxed on profit as it is for other business enterprises and not on the gross revenue they receive. Taxing them at 35% of the gross revenue cripples them as, except for very few of them, they stand no chance of becoming economically viable and sustainable outfits able to manage and protect wildlife. Besides the 35% is above the 30% tax rate as other economic outfits are charged on and this amounts to unequal treatment before the law and hence not only illegal but unconstitutional.

INTRODUCTION

In Tanzania, poaching has severely threatened wildlife, leading to dramatic declines in iconic megafauna species. This precipitous decline is not fortuitous, as it has been and is caused by rampant poaching due to increased demand for elephants’ tusks and rhino horns in East Asian countries and weak enforcement of wildlife laws, corruption, lack of financial resources, and lackadaisical involvement of local and contiguous communities in the management and protection of wildlife resources. Lack of local communities’ involvement in managing and protecting wildlife, has for a long time, impeded community-government collaboration in anti-poaching efforts.

To redress this, the Wildlife Policy of 1998 called for creation of wildlife management areas (WMAs), as a form of protected areas as a strategy to: effect community governance; enable local communities to recognize the intrinsic value of the wildlife and protect biological diversity. This policy objective was later enshrined in the Wildlife Conservation Act of 2009 that allows the establishment of WMAs in areas “(a) outside core protected areas; (b) which are used by local community members; and (c) within village lands.” By 2016 there were 38 WMAs in Tanzania with 22 enjoying the Authorized Association (AA) status.

WMAs are inhibited from responding effectively to anti-poaching operations due to high operational costs, little governmental support, legal bar on Village Game Scouts from possessing, carrying and using firearms as discussed hereunder:

Key Points

- Most incidences of elephant poaching happen outside national parks and they take place more on and in game reserves, game controlled areas, and village lands;
- Wildlife Management Areas (WMAs) participation in anti-poaching campaigns is very crucial in ensuring sound management and protection of wildlife within reserved lands and WMAs;
- WMAs lack adequate funds to meet their operational costs as their income is low which prevents them from hiring sufficient staff and VGS to undertake anti-poaching operations;
- Section 13(3) – (6) and (8) of the WCA prevents Village Game Scouts from possessing and using firearms;
- Village Game Scouts (VGS) should be recognized as “authorized officers” and “wildlife officers” allowed to bear firearms and undertake active anti-poaching operations;

High Operational Costs

Upon establishment, most of the WMAs failed to generate sufficient income to cover their operational costs. These WMAs’ income ranges from US$2,000 to $90,000 per annum while their operational costs are between $150,000 and $250,000. iii Consequently, WMAs failed to hire sufficient staff and VGS to undertake anti-poaching operations.

Toile WMA, near Skonge in Tabora hired only 6 VGS to undertake patrols covering 2,406km² for an annual operational cost of $150,000. iv This precipitous decline of wildlife, especially Elephants and Rhinos is alarming (see graph 1).

High Operational Costs

Upon establishment, most of the WMAs failed to generate sufficient income to cover their operational costs. These WMAs’ income ranges from US$2,000 to $90,000 per annum while their operational costs are between $150,000 and $250,000. Consequently, WMAs failed to hire sufficient staff and VGS to undertake anti-poaching operations. The Ilpoa WMA, near Skonge in Tabora hired only 6 VGS to undertake patrols covering 2,406km² for an allowance of TZS 49,000/- for a 14-day work. iv Things
were even worse for Wami-Mbiki WMA, with an area of 2,400 km² equally situated between Mvomero and Bagamoyo districts, was unable to undertake any patrols due to lack of funds. Payment of low wages/allowances dis-incentivizes VGS from undertaking their jobs seriously as it is not commensurate with the resources they are required to meet their living costs. It further exposes them to the temptation to poach or work with poachers to supplement their meager income.

Lack of funds also prevents WMAs from purchasing appropriate equipment for wildlife protection and patrols like vehicles, motorcycles, security dogs, uniforms, communication materials such as high frequency radio, and Global Positioning System (GPS). Due to the lack of funding, WMAs also are unable to offer proper trainings to their VGSs and have resorted to offering rudimentary trainings for few weeks or months to their VGSs.

Little Governmental Support to WMAs

The creation of WMAs is the government initiative aimed at bringing in local community and stakeholders participation in the management, investment and conservation of wildlife and the environment, including direct participation in anti-poaching and other conservation activities. However, it is to be conducted by members affiliated with and/or with help of local community. However, reports show that, the relationship between the government, including the local government, and the WMAs is far from being helpful. WMAs complain of several setbacks and lack of governmental support to meet their operational costs despite the fact WMAs are its partners in the protection of the wildlife, for which the government claims ownership and from which it derives revenue. Wildlife knows no boundary as they travel among the national parks, game reserves, game controlled areas and WMAs. Yet the Tanzanian government that is the owner of these wildlife resources neither compensates WMAs for protecting the resources nor supports them in building their capacity to perform, including training VGS even in its own institutions. WMAs that want to train their VGS in government training institutions like Likouya or Pasiani should pay for that. vii This prevents WMAs from assuming and discharging their functions.

Worse still, the current system of revenue sharing arrangements between the Tanzanian government and the WMAs for revenue generated by the WMAs, is inequitable and is detrimental for WMAs to become viable business ventures. Unlike other business outfits that generate money and spend as they go along, the current arrangement requires investors investing in the WMAs to remit the funds due to the WMAs to the Wildlife Division in Arusha, which sends the money to the Treasury, which eventually apportions the money to the Wildlife Division (20%), the District Council (15%), and the remaining 65% is sent to the WMA. This is a very long process that hurs WMA. Moreover, the said 65% of funds, do not reach WMAs on time which badly affects their operations including taking timely actions on poaching. The 35% of the revenue that the government takes is not based on profit but on gross revenue. This cripples WMAs, as the government would have been entitled to receive payments from them as income tax of 30% in the case that they generated profit. viii

The Legal Bar on Village Game Scouts from possessing and using firearms

Establishment of WMAs was geared at harnessing local communities’ skills, energies, and support to further wildlife management. Even though the WMA Regulations do not charge WMAs with the duty of wildlife protection, it instead bestows them with that duty through village game scouts (VGS), who upon receiving training in “accredited and recognized institutions”, are required to protect wildlife. The regulations require VGS to protect natural resources within the WMA boundaries, defend villagers’ lives and properties against marauding animals; and part in anti-poaching operations with other law enforcement agencies among many other functions. ix

A study by Tetra Tech and Malaisili Initiatives on the performance of the WMAs on anti-poaching, found the following on VGS:

While reasonably functional VGS systems seem to be able to deal with most poaching issues, the funding challenges by WMA mean that protection levels are inconsistent and, except for Enduimet WMA, poaching has been reported as a major and seriously increasing challenge to the VGS visited... During the interview with VGS at Pawaga-Iliodi, the scouts admitted that dealing with poachers was very risky without sufficient personnel, vehicles, and firearms. x

It was further observed that very few VGS were certified to carry firearms for lack of requisite certifications and approvals. This observation was premised on the assumption that VGS have the right to possess and carry firearms and ammunition. This assumption is bolstered further by Regulation 19 (2) of the Wildlife Conservation (Wildlife Management Areas) Regulations of 2012 (the WMA Regulations) that give VGS the power to arrest any person who obstructs them from performing their duties or who is in violation of the Regulations and, upon arrest, they are required to handover that person to any law enforcement entity. Furthermore, Regulation 33 and the Eighth Schedule to the WMA Regulations require VGS to conduct resource monitoring including reporting incidences of poaching and the number of poachers arrested. Besides, VGS are recognized by section 2 of the WCA as “authorized officers” empowered to enforce the provisions of the WCA. The said section defines the term “authorized officer” to mean: “the Director of Wildlife, a wildlife officer, wildlife warden, wildlife ranger or police officer and includes the following (a) any employee in a Wildlife Management Area of a designation of village game scout.”xi

Unfortunately, Tetra Tech and Malaisili Initiative’s assumption is wrong in that the law, as it is, does NOT allow VGS to possess and carry firearms. While section 2 of the WCA bestows the VGS with the status of authorized officers and Regulations 19 (2) and 33 read together with the Eighth Schedule of the WMA Regulations seem to confer them such powers, the WCA does not empower them to possess and carry firearms. This right is enjoyed by another category of “authorized officers” as per section 13(8) of the WCA. The said sub-section states:

For the purpose of this section, “authorized officer” means a wildlife officer discharging duty in the Wildlife Division, the Tanzania National Parks, the Ngorongoro Conservation Area, the Serengeti National Park, Tuléar Game Reserve or any other law enforcement agency under the District Game Officer. (Emphasis added)

The VGS are NOT recognized by the WCA to be wildlife officers who are according to section 2 include “wildlife officer, wildlife warden, wildlife ranger.” It is these wildlife officers and members of the Wildlife Protection Unit (WPU), which is established under section 11 of the WCA, who are empowered to possess, carry, and use firearms under the provisions of the Firearms and Ammunitions Act of 2015. xii The wildlife officers and authorized officers enjoy the same powers and privileges that other forces in the country enjoy including: arresting and detaining any person who escapes or resist arrest or any person who is preventing, or attempts to prevent the lawful arrest of any person, or rescues or attempts to rescue any person from arrest or custody or who do not enjoy such powers and are thus barred from possessing and using firearms, as they are neither authorized officers nor wildlife officers empowered with the right to possess and use firearms. It is worth mentioning that there are some VGS who have been certified to carry and use firearms the said certifications, however, is it submitted that in violation of section 13(3)- (6) and (8) of the WCA.

WMAs are further hampered in their work for lack of a coherent collaborative mechanism with other wildlife management and protection institutions. Neither the WCA nor the WMA Regulations contain any provisions on how the WPU and WMAs can or could work together to protect wildlife and combat poaching save for Regulation 19 (1) (j) of the WMA Regulations that requires VGS to “collaborate with other law enforcement agencies in anti-poaching operations.” Moreover, the law does not say who is supposed to foot the bill during such collaborations including the amount of “wages” or allowances that the VGS are supposed to receive. It is expected that the government is the one that is supposed to foot the bill and that VGS are entitled to receive comparable amount of allowances to those payable to wildlife officers or others involved in such operations. The silence of the law on how WMAs are going to “collaborate with other law enforcement agencies” is a serious gap in achieving a coordinated wildlife protection mechanism in the country. At what time WMAs are going to collaborate, how, and what is expected of them is anybody’s guess!

CONCLUSION: THE NEED FOR INCREASED EFFORTS IN CONSERVATION

Across the country, and among stakeholders of the conservation initiatives, WMAs, CSOs and government agencies have been working with wildlife authorities in Tanzania, and according to available wildlife related policies, laws, and regulations, it is widely apparent that there are serious legal, policy and operational setbacks that prevent WMAs from effectively and sufficiently responding to poaching.

One such shortcoming is the Wildlife Conservation (Wildlife Management Areas) Regulations which do not assign wildlife protection responsibility to WMAs but to their Village Game Scouts (VGS), at the same time stipulating that wildlife management and protection is one of the core activities that WMAs are supposed to discharge. Since VGS are hired by the WMAs, they are supposed to help the WMAs deliver on its core responsibility of wildlife management and protection and it should not be the task of the VGS but of the WMAs. Another longstanding lies on financial capacity of the WMAs; that WMAs establishment and operations require sufficient financial outlays that are beyond local communities. This again inhibits the WMAs from undertaking anti-poaching operations with most of them only undertaking anti-poaching operations upon receiving donors’ support.

The other shortcoming is the legal incapacitation of VGS from carrying the much-needed firearms in anti-poaching patrols and operations. The Wildlife Conservation Act of 2009 (WCA) do not recognize VGS as “authorized