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Dear Sir/Madam,

RE: COMMENTS ON Isiolo County Bills

We write in response to your development of

1. Isiolo County Wildlife Management and Conservation Bill (2021)
2. Isiolo County Community Conservancies Bill (2021)

Attached to this letter are our detailed comments on the abovementioned Bills which we hope will provide valuable insights to your deliberations.

Yours Sincerely,



Maryama Farah
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THE ISIOLO COUNTY WILDLIFE MANAGEMENT AND CONSERVATION BILL, 2021			
No.	(Heading/Sub-heading)	Recommendation	Justification
1.	Section 2, Interpretations	<p>Interpretation of the term “problem animal”</p> <p>Inclusion of the phrase "or has potential to cause" after the word “causing” and before the word “damage” under Section 2 of the Bill so as to read;</p> <p>“problem animal” means any wildlife which has caused or is causing <u>or has potential to cause</u> damage to or harm to human life or property”</p>	<p>The new definition provides a more pro-active approach to mitigating and managing human-wildlife conflict before it occurs.</p>
2.	Section 9 (2)(e)(i), Establishment of the Board of Trustees	<p>Inclusion of the words “To be nominated by the communities living around the game reserves” after the word “game reserves” so as to read:</p> <p>“Two representatives from communities living around the game reserves <u>to be nominated by the communities living around the game reserves;</u>”</p>	<p>The communities living around the game reserves should be given an opportunity to nominate their representatives to the Board for purposes of inclusivity; ownership of wildlife management strategies; and a better representation of their needs, aspirations and priorities.</p>
3.	Section 10(d), Functions and Powers of the Board	<p>Inclusion of the words “fair and equitable” after the word “for” and before the word “with” to read:</p> <p>“As may be appropriate, develop mechanisms for <u>fair and equitable</u> benefit sharing with communities living in wildlife areas;”</p>	<p>This is based on the principle that equitable economic benefits from wildlife can lead to better custodianship of wildlife resources and therefore community-led protection and management of wildlife areas.</p>
4.	Section 32(3), Requirement for	<p>Addition of the paragraph 32(3)(e) to state:</p>	<p>An assessment of the ecological impact of a project to the wildlife,</p>

	Environmental Impact Assessment	<p><u>“A statement of the existing or anticipated ecological impacts to the conservation of wildlife, including an account of the species, communities and habitats affected and the extent to which they are or may be threatened;”</u></p>	<p>the livelihoods of adjacent communities is important to be able to determine the true impact of a development and mitigate the negative consequences.</p>
5.	Section 24 (1), Protection of Vegetation in National Reserves	<p>Inclusion of the words “except by and in accordance with the written authority of the service previously sought and obtained and for reasonable purpose” after the word “national reserve”.</p> <p>It will read as follows: No person shall willfully or negligently cause any bush or grass fire, or fell, cut, burn, injure or remove any standing tree, shrub, bush, grass, sapling, seedling or any part thereof in a national reserve, <u>except by and in accordance with the written authority of the service previously sought and obtained and for reasonable purpose.</u></p>	<p>This section should be able to take cognizance of the fact that indigenous communities have territories that overlap with game reserves. These game reserves and adjacent areas support their livelihoods (mainly pastoralism) and therefore should be provided with some limited access to the reserves as long as it is not injurious to the wildlife. Additionally, principle 22 of the Convention on Biological diversity recognizes the vital role that indigenous communities play in environmental management and development because of their knowledge and traditional practices. The Isiolo County laws should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.</p>
6.	Section 25 (1), Protection of Vegetation in National Reserves and Wetland areas	<p>The addition of the words <u>“except by and in accordance with the written authority of the service previously sought and obtained.”</u> after the word “national reserve”.</p>	<p>This section should be able to take cognizance of the fact that indigenous communities have territories that overlap with game reserves. These game reserves and adjacent areas support their livelihoods (mainly pastoralism)</p>

		<p>It will read as follows:</p> <p><u>“No person shall graze any livestock in a national reserve <i>except by and in accordance with the written authority of the service previously sought and obtained.</i>”</u></p>	<p>and therefore should be provided with some limited access to the reserves as long as it is not injurious to the wildlife. Additionally, principle 22 of the Convention on Biological diversity recognizes the vital role that indigenous communities play in environmental management and development because of their knowledge and traditional practices. The Isiolo County laws should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.</p>
7.	Section 9 (2), Establishment of the Board of Trustees	<p>On the surface there is gender consideration with the appointment of persons to the Isiolo County Wildlife Conservation and Management Board of Trustees. This however does not guarantee that those who will be selected to the Board of Trustees will meet the two thirds gender rule.</p>	<p>Article 27(3), (5), (6), (8) of the Kenyan Constitution Article 56(a) of the Kenyan Constitution provide clarity on the importance of the two-thirds gender rule.</p> <p>It is imperative to ensure gender and social inclusion in the Board of Trustees, beyond other eligibility standards. Principle 20 on the Convention of Biological Diversity states that women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.</p>
Isiolo County Community Conservancies Bill, 2021			
No.	Draft Regulation (Heading/Sub-heading)	Recommendation	Justification

1.	New Section.	<p>Introduction of a section on access to information by the public. This includes public access to information relating to the:</p> <p>a) Conduct of business and decisions of the Isiolo County Community Conservancies Board.</p> <p>b) Books of Account and Audit relating to the Isiolo County Community Conservancies Fund.</p>	<p>Under Article 35 of the Constitution, and Section 4 of the Access to Information Act, 2016. provides that access to information held by a public entity or a private body shall be provided expeditiously at a reasonable cost. Access to information also requires that information should be disseminate to the public in a form that is readily available, accessible and in a language that they can best understand.</p>
2.	Section 2, Interpretation	<p>Replacement of the interpretation of the term “Community” with the definition in the Community Land Act, 2016.</p> <p>The new definition should read as follows: "community" means a consciously distinct and organized group of users of community land who are citizens of Kenya and share any of the following attributes- (a) common ancestry; (b) similar culture or unique mode of livelihood; (c) socio-economic or other similar common interest; (d) geographical space; (e) ecological space; or (f) ethnicity.'</p>	<p>The Isiolo County Community Conservancies Bill, 2021 should adopt the interpretation of the word “Community” from the Community Land Act, 2016 as it is more encompassing and recent as compared to the Wildlife Conservation and Management Act, 2013.</p>
3.	Section 7, Community Participation	<p>The provision on community participation in the establishment of community</p>	<p>Article 10 of the Constitution makes public participation a binding principle of governance. Public participation should not be a</p>

		<p>conservancies is extremely vague.</p> <p>The Section should be amended to be more concrete and detailed to prescribe how this community participation is to be conducted.</p> <p>Further amended to promote the participation of minority groups and the communities to be affected by the project, bearing in mind the principle of subsidiarity.</p>	<p>box to check, it should be meaningful, especially since the establishment of the community conservancy affects the livelihoods of the surrounding communities who are mainly pastoralists; making the affected public's participation absolutely necessary and should therefore be expressly provided for.</p>
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