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THE IMPACT OF ENVIRONMENTAL LEGAL FRAMEWORKS AND COLLABORATIONS ON OPERATIONS OF ENVIRONMENTAL NGOs IN KENYA

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DECLARATION

THIS RESEARCH PAPER IS MY ORIGINAL WORK AND HAS NOT BEEN SUBMITTED FOR A DEGREE AWARD TO ANY OTHER UNIVERSITY

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THIS RESEARCH PAPER HAS BEEN SUBMITTED FOR EXAMINATION WITH MY APPROVAL AS A UNIVERSITY SUPERVISOR.

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ABBREVIATIONS

- ACC — African Conservation Centre
- AWF — African Wildlife Foundation
- CAN — Climate Network Africa
- CAR — Central African Republic
- CBD — Convention on Biological Diversity
- CBOs — Community-Based Organizations
- CCD — Convention on Control of Desertification
- CFAs — Community Forest Associations
- CI — Conservation International
- CITES — Convention on International Treaty in Endangered Species of fauna and flora
- COBRA — Conservation of Biodiverse Resource Areas
- CORE — Conservation of Resources through Enterprises
- DDT — Dichlorodiphenyltrichloroethane
- DRC — Democratic Republic of Congo
- EAWLS — East African Wild Life Society
- ECOSOC — Economic and social Council
- EIA — Environmental Impact Assessment
- ELCI — Environment Liaison Centre International
- EMCA — Environment Management and Co-ordination Act
- ENGOs — Environmental Non-Governmental Organizations

- EP — Environmental Planning
- FAN — Forest Action Network
- FCCC — Framework Convention on Climate Change
- FD — Forest Department
- GBM — Green Belt Movement
- GHGs — Greenhouse Gases
- GOK — Government of Kenya
- ICCN — Institut Congolais pour la Conservation de la Nature
- IFAW — International Fund for Animal Welfare
- IGCP — International Gorilla Conservation Program
- IMCE — Inter-Ministerial Committee on Environment
- IUCN — International Union for Conservation of Nature
- KEFRI — Kenya Forestry Research Institute
- KFMP — Kenya Forestry Management Plan
- KFS — Kenya Forests Service
- KFWG — Kenya Forest Working Group
- Kshs — Kenya shillings
- KWS — Kenya Wildlife Service
- MNCs — Multi-National Corporations
- NAFTA — North American Free Trade Area
- NBSAP — National Biodiversity Strategy and Action Plan
- NEAPs — National Environment Action Plans
- NEC — National Environment Council

- NEMA National Environment Management Authority
- NES National Environment Secretariat
- NET National Environment Tribunal
- NK Nature Kenya
- NMK National Museums of Kenya
- ORTPN Office Rwandais de Tourisme et de Parcs Nationaux
- P&DEC Provincial and District Environmental Committees
- PCBs Polychlorinated biphenyls
- PCC Public Complaints Committee
- TRAFFIC Trade Records Analysis for Fauna and Flora in International Commerce
- UNEP United Nations Environment Program
- US $ United States Dollar
- UWA Uganda Wildlife Authority
- WCK Wildlife Clubs of Kenya
- WCMD Wildlife Conservation and Management Department
- WCS Wildlife Conservation Society
- WTO World Trade Organization
- WWF World Wide Fund for Nature

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ABSTRACT

The environment is one of the issues that are today widely debated in various forums around the world. This is because of its importance in national and global socio-economic development. This has come about on the realization of the central role good environmental conditions play in the well-being of mankind on this planet both in the present and for posterity. The state of the environment has a heavy bearing on economic and social status of human populations. The destruction of the environment in various parts of the globe is posing serious challenges on livelihoods and lifestyles of people that reside in those areas. Biological diversity is not spared either as the populations of many of them become diminished or even extinct.

The increasing awareness of the significance of environment has led to the emergence of many actors whose objectives are to promote sound environmental conservation methods as well as address factors that lead to degradation of the environment. One group of these actors is the Environmental Non-Governmental Organizations (ENGOs). Over the years, ENGOs have grown in numbers and influence and currently play a crucial role in the efforts to enhance the conservation of the environment world over. They engage in diverse sectors of the environment and interact with a wide range of other actors in making sure the conservation of the environment is undertaken in a more aggressive way.

In Kenya the environmental NGOs have been around since independence and their numbers have increased steadily over the years. Currently the presence of ENGOs is visible in various parts of this country and they engage on their own and also collaborate with other players in activities geared to promote conservation of the environment.

The crucial role of the environment in the lives of mankind inspired interest and choice of this field study. This study sets out to find out how environmental NGOs have fared in their environmental conservation objectives and endeavors and what factors have affected their performance. With this in mind, the study analyses the collaboration between ENGOs and the government in environmental conservation, and the environmental legal frameworks in Kenya. The core of the study is the analysis of the impacts these collaborations and environmental legal frameworks have had on operations of NGOs in the field of environmental conservation in Kenya.

One of the findings of the study is that the environmental legal frameworks currently obtained in Kenya are adequate for effective conservation of the environment. The study has concluded that the major impediment to environmental conservation in the country has been the failure to adequately implement exiting environmental laws. Some of the factors behind the poor implementation of environmental laws in Kenya are the weaknesses in institutional capacities of governmental institutions mandated to enforce laws, lack of political will and inadequate funding of government institutions that conserve environment and biodiversity. The study concludes that shoddy and inadequate implementation of environmental legal frameworks by governmental agencies concerned have undermined the operations of ENGOs in the country.

The study has also established that the current levels of collaborations between environmental NGOs and government in Kenya are not adequate for efficient and effective promotion of environmental conservation. Weak linkages and lack of transparency are some of the factors

cited for undermining effective collaboration of environmental NGOs and governmental institutions in the country.

The data for the study was obtained through both secondary and primary sources of data collection. The secondary data came from both published and unpublished documents, while the primary data was gathered through both interactive interviews and structured questionnaires.

One of the recommendations of this study is that the government should improve and strengthen the capacity of the governmental institutions mandated to implement and enforce environmental legal frameworks such as through the increment in their funding and staffing levels.

CHAPTER 1

1.0: Introduction

The importance of the environment to the welfare of the human race and other living organisms on planet earth cannot be overemphasized. This is because the environment plays a crucial role in social, economic, political and cultural development of our societies. For these reasons it is critical to conserve it and every effort should be exerted towards this end. Its benefits, notwithstanding, the environment all over the world has been facing alarming destruction and degradation. A wide range of factors have been identified as causes of this state of affairs. The major factors driving environmental destruction around the world include the rapid increment in human population, opulent lifestyles that lead to overconsumption of scarce natural resources available, abject and widespread poverty levels especially in developing countries, and the ever increasing emissions of harmful pollutants from industries and factories all over the world (IUCN/UNEP/WWF, 1991).

The threat of overconsumption of natural resources is clearly illustrated by the report which shows that we are consuming 50% more resources than the Earth is producing, implying that the resources are getting depleted as the rate of replenishment by the Earth's ecosystems does not match the rate of consumption (WWW,2012). Concerning human population, the same report shows that in 2011 the earth had 7 billion people and the number is projected to reach 9.3 billion in 40 years (ibid). The high human population is putting undue pressure on the limited and finite natural resources found in the world.

The enormity of environmental challenges, the world is facing, were depicted by Odipo who argued that "No other single phenomenon, with perhaps the exception of nuclear war, threatens the survival of man on earth more than environmental degradation" (Odipo, 2004:13). Some of the harmful occurrences resulting from an environment in dire stress include prevalent, frequent and severe floods and droughts; the worrisome declining food production in various parts of the globe and the increasing scarcity of and inaccessibility to safe drinking water. By 2002, for instance, more than 1.5 billion people worldwide lacked access to safe drinking water which accounted for about 22% of the world human population (WWF 2002:16) . This is a very big segment of the population and usage of unsafe water is predisposing it to water born diseases.

The widespread environmental problems have compounded the suffering of millions of people around the world especially in less developed countries. The developing countries are largely the hardest hit by problems arising from environmental destruction because they lack funds to put in place systems and infrastructure to mitigate adverse effects that occur as a consequence. The African continent which is leading in poverty levels and increase in human population is poised to bear the greatest brunt from consequences of a degraded environment. An ever increasing number of people are ravaged by hunger each year due frequent famines and massive crop failures caused by intense and prolonged droughts.

The escalating desertification of arid and semi-arid lands, compounded by climate change, are leading to loss of valuable biological diversity of economic significance and bringing others to the brink of extinction. Practices that promote sustainable use of natural resources

are, however, increasingly being encouraged in order to tackle environmental degradation and its negative consequences. The solutions for environmental problems are being sought and implemented by governments, inter-governmental bodies, environmental NGOs, local community groups and individuals.

Though some gains have been realized from remedial actions undertaken by entities involved in environmental conservation, to effectively solve environmental problems much more need to be done and sustained over time. There is therefore an urgent need to enhance and redouble efforts to halt the ongoing environmental degradation. Effective environmental conservation efforts require everybody to be brought on board and do whatever bit they can do at their level to enhance achievement of desired results.

1.1: Objectives

The study has three objectives. The first objective is to examine the role and activities of NGOs, in a general way, in the conservation of the environment. The second objective is to examine the development and growth of environmental laws, policies and institutions in Kenya, with an emphasis on their impact on operations of environmental NGOs.

The third objective is to analyze the collaboration undertaken by environmental NGOs with government and or governmental agencies in Kenya and its impact on environmental conservation. The collaboration of environmental NGOs with local communities and business entities in the country is also examined.

1.2: Hypotheses

1. The activities pursued by environmental NGOs have positively impacted on environmental conservation in Kenya.
2. Inadequate and poorly implemented environmental laws, policies, and institutions in Kenya have hampered the effectiveness of environmental conservation activities pursued by environmental NGOs.
3. The nature and level of collaboration between environmental NGOs and the government and or governmental bodies is a key determinant of the success of environmental conservation in Kenya.

1.3: Statement of the problem of the Study

Even though there has been a significant growth in knowledge on importance of the environment in the well-being of mankind, the destruction of the environment is still high. There is still wanton deforestation, loss of biodiversity and pollution of water by effluents and other wastes among other factors. These environmental degradation activities are more prevalent in developing countries. People are arguably the main architects in this destruction as some eke out a livelihood, while others are driven by sheer greed for wealth they derive from exploitation of natural resources, without being mindful of the aftermath of their actions.

On the African continent, for example, rapid growth rates of human population and high poverty levels are the major factors cited for environmental destruction. The population in Africa was growing at an average of 3% per annum (Mabogunje, 1995:3) and the African

continent still has one of the highest birth rates in the world. According to World Bank estimates, Kenya's population grew at a rate of 2.7% in 2011 (www.data.worldbank.org). These high human population growth rates need to be slowed down to lessen pressure on scarce natural resources available.

Many authors have written on various environmental issues such as on the weaknesses and strengths of existing environmental laws, policies and institutions in various countries including Kenya. Authors such as Mogaka (2000), Mwau (2000) and Barnett (1995) analyzed the impact of some environmental laws on participation of local communities in conservation of the environment. There is, however, scarcity of data on the impact of environmental laws, policies and institutions in Kenya on the operations of NGOs in environmental conservation. This study has attempted to fill this gap.

Other authors like Kameri-Mbote (2000), Marie (1994), Carroll (2002) and Michael (2002) have written on collaboration between NGOs and governments in environmental conservation. These authors have, however, not analyzed the nature and impact of collaboration between the government and environmental NGOs in Kenya on conservation of the environment. There is therefore scarcity of data in this area and this study was embarked on to fill this gap.

On financial resources writers like Marie (1994), Gary (2000) and Clarke (1998) argued that the proliferation of NGOs in developing countries was due to financial resources they received from donors based in developed countries. Their research was, however, largely

general and thus there was little research that had been done on financial resources of NGOs working in Kenya and its impact on the environmental conservation. This study has tried to focus on this area.

The literature review revealed that there was scarcity of data on the impact of environmental legal frameworks in Kenya on the activities of NGOs involved in environmental conservation. In addition there was also little research on the impact of the collaboration and interaction between environmental NGOs and the government in this country in the area of environmental conservation. This study intends to cover these gaps.

1.4: Justification of the study

The widespread humanitarian crises caused by environmental degradation and the invaluable potential of the role of environment to our well being are some of the principal issues that have made the environment to be among issues receiving a lot of attention in international and national debates around the world. This has also led to the formation of many agencies involved in conservation of the environment. For a couple of years now, NGOs have proliferated especially in developing countries and quite a significant number of them are increasingly interested in the fields of environmental conservation.

With many agencies having been put in place to promote environmental conservation, why is it that their efforts are not widely felt? Why is it that the destruction of the environment is still very much prevalent? What are the reasons making environmental conservation efforts less effective? These are some of the questions that gave birth to this study. The study was

interested in knowing how the environmental NGOs operating in Kenya were performing and what factors were influencing their performance and what could be done to improve achievement of good results.

Even though the conservation of the environment is imperative all over the world, there are some countries where it is more important. Kenya is one such country. This is because over 60% of her population gets its livelihood from agriculture and agro-based industries. These two sectors are heavily dependent on good environment and are highly sensitive to environmental changes. This is more so for this country that largely depends on rain fed agriculture, as irrigation farming is still in its nascent stages and on low scale. In addition, Kenya's energy sector is largely hydro-based. At present and probably for many years to come the environment will continue to play an important role in determining the sustainability of our economic and social well being. These factors hence make the conservation of environment in this country very crucial. For us to continue to receive the benefits accorded by the environment, it is crucial we safeguard it against destruction.

The environment contains the natural resources that our economy depends on for growth and development. It is further important in production of food stuffs and in regulation of the amounts of rainfall we receive among other benefits. Because of these benefits it is essential we properly conserve our environment.

The study has come up with data that will help the government, the civil society, the policy makers among others in their decision making process. The policy makers and the

government may use the data to formulate appropriate policies and laws on environment and emphasize the areas that need prioritization. The NGOs on their part can utilize the information generated to advocate for enactment of appropriate policies and laws for enhancement of environmental conservation. The policy makers, governmental institutions and civil society may also use the data to see how they can make their interactions and collaborations more effective.

1.5: Literature Review

The literature review is focusing on three main thematic areas. These are the overall activities of NGOs in various environmental conservation sectors; the environmental laws, policies and institutions and their effect on various players participating in environmental conservation; and the relationship and collaboration that exist between the governments and NGOs in the field of environmental conservation.

1.5.1: Definition of terms

In this study the term environment refers to three main areas namely the land mass, water bodies and the atmosphere including the natural resources they contain. For the term conservation we adopt the definition given by the IUCN/WWF/UNEP, which means the "protection and rational use of natural resources" (IUCN et al, 1991). Environmental conservation in this study thus refers to the maintenance ecosystems on land, water and the atmosphere in a favorable state and the sustainable use of the natural resources they contain (ibid).

Various and diverse definitions of an NGO have been given by different authors. Clarke, for example, defines NGOs as "private, non- profit, professional organizations with a distinctive legal character concerned with public welfare goals" (Clarke, 1998:2). This study, however settled for the definition propounded by Marie as it is in line with the area of study we are dealing with. An environmental NGO in this case means an organization that "one of its main objectives is the preservation of biological diversity, environmental research and education, environmental advocacy or diffusion of sustainable technology" (Marie, 1994:2). The study examines the role of environmental NGOs in enhancement of the conservation of the environment.

1.5.2: Environmental NGOs and their activities

Environmental NGOs (ENGOs) deal with many environmental conservation activities that cover diverse ecosystems and species. The environmental NGOs participate in fields such as management of toxic chemicals and pesticides, conservation of soil and water, environmental information and education, conservation of biodiversity, combating climate change, control of desertification and conducting of research on environmental conservation (Sheila, 1997; Norse, 1993 and ELCI, 1978).

The growth of NGOs in the world was particularly dramatic in 1970s and 1980s especially in developing world such as on the continents of Africa, Asia and Latin America. Authors like Clark (1995), Clarke (1998), Marie (1994) and Gary (2000) have attempted to explain the factors behind the proliferation of NGOs in developing countries. These factors include the perception held that NGOs are more democratic and result-oriented, the growing inability of

states to effectively tackle environmental problems, the preference by donor agencies in developed countries to channel their financial resources to developing countries through NGOs as governments were viewed to be more corrupt and less accountable.

Marie (1994) and Clarke (1998) have highlighted the financial and technical support given to NGOs based in the south by NGOs and other donor agencies based in the north. According to Clarke, for instance, "northern NGOs provided US$ 7.2 billion, equivalent to 13% of net disbursement of official aid or 2.5% of total resource flows to southern NGOs and people's organizations (POs)" (Clarke, 1998:2). International environmental Non-Governmental Organizations have played a crucial role in supporting environmental conservation programs especially in developing countries by carrying conservation programs themselves and or extending technical support to other institutions.

The conservationists, such as environmental NGOs, are now increasingly incorporating local communities in their environmental conservation activities. Environmental NGOs such as AWF (1994, 2010) and ACC (2003) among others run programs that incorporate local communities as stakeholders in environmental conservation issues. They have helped local communities tackle poverty through establishment of environment friendly eco-based income generating activities and empowered them to support environmental conservation efforts. This new approach came about upon the realization of the importance of including people who live in areas where resources are found as this promote sustainability when the locals own the conservation process.

Environmental NGOs do also promote environmental conservation through environmental education and awareness creation, environmental research, and building of institutional and human capacities. As more and more people are equipped with knowledge on environmental conservation the cause for conservation is enhanced when they apply it. The building of strong institutional and human capacities goes a long way in combating environmental degradation.

1.5.3: Environmental laws, policies and institutions

The role played by strong and well thought out laws, policies and institutions in managing human activities cannot be down played. Environmental laws, policies and institutions are therefore no exception. For this reason environmental NGOs have been participating in promoting and influencing the adoption of effective environmental policies, laws and institutions to enhance conservation of the environment. Clarke (1995), Hughes (2000) and Norse (1993) have argued that environmental NGOs, especially large international ones, participate actively in inter-governmental organizations' conferences, such as the 1992 and 2002 Earth Summits that were held in Brazil and South Africa respectively. Through their participation ENGOs try to influence the resolutions adopted on policies, laws and actions plans on environment.

As the adage goes knowledge is power, hence possession of right knowledge is key to effective environmental conservation. This is applicable to ENGOs who gather valuable information on environment and use it to influence governmental authorities involved in making laws on environment to adopt appropriate legal frameworks. In addition, Norse

(1993) and Sheila (1997) conclude that NGOs get more publicity from the media and press, which enables what they articulate to reach a higher audience and hence receive broad support.

Other authors have written on environmental laws, policies and institutions that various countries have put in place and through these they have exposed their strengths and weaknesses. For instance, Carroll (2002) writing on efforts to conserve forest and wildlife in Congo Basin region argued that the countries in that region formulated policies that encouraged the export of timber and its products. He, however, observes that even though this improved the economic situation of those involved through job creation, the laws had weaknesses in the enforcement of environmental conservation and in controlling private sector activities, resulting in failure to stop illegal logging and bush meat hunting.

Mogaka et al (2000), Barnett (2000), Mwau (1995), and Heath (1996) analyzed the development of environmental policies aimed at encouraging the participation of local communities in conservation of natural resources. Mogaka et al (2000) analyzed the impact of forest and economic policies on the involvement of local communities in management and conservation of forest resources in Eastern and southern Africa. By looking at the evolution of forest policies in Africa the authors noted that unlike in the past the present policies try to provide legal structures that accord local communities opportunities to get directly involved in management of forest resources. Various incentives given to local communities to encourage their participation in forest conservation and management are highlighted.

Nevertheless, the authors concluded that the incentives that were offered were not sufficient to attract large numbers of local people to take up sustainable forest management practices. Barnett (2000) on the other hand reviewed the impact of wildlife policies, in various African countries, on the participation of local communities in wildlife conservation. He examined the incentives that were applied in Africa to encourage the participation of local communities in wildlife conservation. Various authors faulted the non-consumptive use of wildlife policy applied in Kenya for hindering the participation of local communities in wildlife conservation and in benefiting from it (Barnett, 2000; Mwau, 1995 and Heath, 1996). Barnett argued that the non-consumptive use of wildlife policy "... restricted the variety of options that would become available to many communities if consumptive utilization such as Safari and resident hunting were allowed" (Barnett, 2000:197). In contrast, these authors contended that in countries where consumptive use of wildlife is allowed it accounted for most of the revenue of local communities such as in Tanzania, Zambia and Zimbabwe. In 1975 the Kenya government had introduced consumptive use of wildlife policy to encourage participation of local communities in wildlife conservation. This policy was, however, rescinded barely two years later after it was found to be unsustainable. Nevertheless, the Kenyan government still allows some form of consumptive utilization of wildlife (Barnett, 2000), but it is highly restricted and controlled (Gacheche, 1995). By and large, the government through KWS emphatically promotes the policy of non-consumptive use of wildlife as the better option to wildlife conservation in the country.

Otieno (2003), Barnett (2002) and Waweru (2003) examined the policies and incentives that were put in place by the Wildlife Act in Kenya to solve the human-wildlife conflicts. They

concluded that the incentives failed to stop human-wildlife conflicts because they were inadequate and insufficient.

Palange and Zavals (1987) analyzed environmental laws put in place to control water pollution both in developed and developing countries. The authors concluded that developed countries had well-established laws on environment due to their long history with environmental pollution problems. They noted that developing countries were formulating environmental laws and policies as they confront emerging environmental problems in their countries. However, these authors singled out developed countries especially United States of America where NGOs' influence in formulation and enforcement of environmental laws and policies had been exemplary.

Kasweswe-Mwafongo (1995) analyzed environment management and conservation laws in Malawi and said that they had weak legal, policy and institutional framework. Other problems he cited were sector-based laws that were either out dated or poorly coordinated and the lack of involvement of resource users in decision- making. He concluded that NGOs were part of the poor institutional coordination problem. The author also wrote on environmental conservation activities pursued by NGOs in Malawi. He, however, did not indicate the impact environmental laws and regimes obtained in Malawi had on operations of NGOs.

Kabeberi {1991} on the other hand analyzes the environmental laws that have been established in Kenya to promote conservation of environment and prevent its destruction in

sectors such as the forest, soil, water and wildlife. He identifies some of the defects that made these environmental laws ineffective such as their out- datedness, and poor coordination of the bodies that implemented sector based laws. The writer recommended the formation of stronger institutions to enforce environmental laws, and for the Environment Impact Assessment (EIA) to be made compulsory. Writers such as Kabeberi (1999), IUCN (1996), Republic of Kenya (1968, 1981 and 1992) discussed laws, policies and institutions that have been enacted in Kenya to improve forestry conservation like the Forest Act, Trust Land Act among others.

Kinyanjui et al {1980} agreed with Kabeberi on the weaknesses of environmental laws in Kenya. They further pointed out that the Forest Act that was in existence then, covered only gazetted forests and left out woodlands and ungazetted forests and while the laws put in place to promote soil conservation favored high potential areas. The authors finally argued that the remedy to weaknesses to environmental laws in Kenya was the establishment of a comprehensive policy on environment. The writings from the foregoing authors have either analyzed the impact of the weakness of environmental regimes in a general way or on specific stakeholders. The impact of these laws on ENGOs has not been undertaken and hence this study sought to find out if and how these weaknesses have impacted on activities of NGOs in environmental conservation.

ACTS/UNEP (2001} also explored the environmental laws, policies and institutions in Kenya. They noted that a major weakness bedeviling effectiveness of environmental laws in Kenya was lack of a single legal framework and institution with powers to coordinate and

enforce environmental laws. They suggested that such a body should have power over other bodies dealing with environment and to be able to compel the enforcement of environmental laws. However, they noted that such a legal framework had the weakness of becoming "... a massive body of control-oriented legal machinery with laws and order-approach which mitigates the management role of environmental law" (ACTS/UNEP 2001:87}

Even though ACTS/UNEP (2001) identify the defects of sector-based laws such as poor co-ordination and institutional weaknesses they still supported their retention on the basis that they help in integrating environmental issues into development planning. Other problems they noted about environmental laws in the country were poor enforcement, lack of incentives for conservation and a weak land use policy that leads to conflicts over uses of land. They recommended that outdated laws should be reviewed wholesomely and not in piecemeal as has been the case in the past, and economic and fiscal incentives should be introduced to promote conservation.

National development plans have also stated the government's policies on various issues including environment. The national development plan {1994–96} reveals that the government had become aware that the lack of an institution to harmonize the operations of different bodies was the reason behind the conflicts arising from the implementation of land use policies on sector basis. The government also stated its intentions to make Environment Impact Assessment (EIA) compulsory before allowing the implementation of the projects that were likely to cause damage to environment.

Wamukoya et al {2000} analyzed the weaknesses and or strengths of environmental laws, policies and institutions in various sectors in Kenya including the Environmental Management and Coordination Act (EMCA), 1999. They concluded that EMCA as a comprehensive environmental policy and legal framework was the remedy to the problems sector-based environmental laws had had in Kenya. Waweru {2003} too has examined EMCA and its provisions and analyzed its impact on local communities.

The above literature on environmental laws, policies and institutions has not, however, highlighted the impact of the environmental legal framework in Kenya on environmental conservation activities undertaken by NGOs. This research study intends to cover this area by analyzing the impact of environmental legal framework on operations of environmental NGOs in the country.

Various others have also commented on non-environmental policies that have been pursued by successive governments in Kenya to the detriment of environmental conservation such as the conservation and management of forest resources. Gachanja (2001) examines the role played by NGOs, and the civil society in general to stop government's plans to excise forest land. The report by African Conservation Centre on its part looked at some of the actions that NGO undertook to minimize the negative impacts that would have resulted from the presidential edict of 1996 on conservation of wildlife (ACC, 2003: vol.1 issue 2). That presidential edict had called for subdivision of group ranches in the Maasai Mara region into individually owned plots and thus would have compromised wildlife conservation by reducing the size of their habitat and by blocking their migratory routes.

1.5.4: Collaboration and relationship between governments and NGOs

Now we turn our attention to the literature on the relationship between NGOs and governments. Mercussen (1996) claims that three forms of relationships exists between governments and NGOs. The first form is where NGOs complement the government's activities by filling in the gaps. In the second form the NGOs oppose the government either directly or indirectly by lobbying through the local people. And the final form entails the NGOs working with the local grass root groups to raise the concerns of the state at that level and by working with the government to improve policies.

Gary {1996} using Ghana as a case study analyzes the relationship that has existed between African States and NGOs. He says that the introduction of Structural Adjustment Programs (SAPs) in Africa radically changed the relationship between NGOs and states. He notes that the SAPs era intensified the competition over aid resources between the African governments and NGOs. This was manifested in the preference by international donors to channel their funds through the NGOs over governments because they believed the former were less corrupt, and more efficient and democratic. He highlighted another impact of SAPs as the weakening of sovereignty of states as NGOs took up most of the roles that were traditionally done by states.

Gary points out that the African governments reacted to these happenings by taking measures to control the operations of NGOs. Some of the mechanisms that were used to achieve this included open harassment by government of NGOs they perceived to be a threat to them, the requirement that NGOs register with registration bodies that were predominantly staffed by

government sympathizers, and the formation of government NGOs (GONGOs) to capture some of the financial aid channeled by donors to Africa through NGOs.

Similarly, Kameri-Mbote {2000} analyzes the mechanism the Kenyan parliament used to control the operations of NGOs. The author argues that the Acts of Parliament such as Protection of Public Defense Act, Protection of Public Order Act, and Protection of Public Morality Act were used abusively to check the activities of NGOs in the country. The government further used the government- controlled NGOs Coordination Bureau and self-regulating National Council of NGOs to control the operations of NGOs in the country.

Clarke {1998} on his part points out the reluctance and suspicions the governments exhibit in supporting NGOs' activities. The author uses the governments poor funding of the UN Committee on NGOs within the ECOSOC to portray the uneasy relationship that exists between states and NGOs.

Hurst {1991) and Norse {1993} show that at times the relationship between states and environmental NGOs has been tense and unfriendly. They argue that this happens due to the sensitivity of environmental issues. Clarke {1991} noted during the height of cold war in 1970s and 80s the relationship between NGOs and states were tense but after the end of cold war things begun to improve. Hogenboom (1996) looking at the relationship between NGOs and states argues that authoritarian regimes mostly from Third World resorted to oppressive laws and actions to curtail the activities of NGOs they felt undermined their rule.

The relationship between NGOs and governments unveiled by the above literature review is centered on the issues of hostility and uneasiness. It therefore does not reflect the kind of relationship we want to examine here .This study concerns itself with the cordial collaboration between NGOs and the government in the area of environmental conservation and how it has impacted on environmental conservation.

On the positive side, Kameri-Mbote {2000} notes that NGOs and the government have worked closely in areas they have common interests such as in establishment of environmental laws. Looking at the cooperation of NGOs and government in Sierra Leone, Chaytor {2000} argues that through cooperation with governments environmental NGOs have been able to interact freely and access environmental justice.

Marie {1994}, Carroll {2002}, and Michael {2002} highlight the collaboration being practiced by NGOs, governments and donors in promotion of conservation activities in the Congo Basin. Hinrichsen {1990} has also noted the collaboration between governments and NGOs in environmental conservation in developing countries.

In addition the NGOs have been on the frontline in supporting the creation of protected areas to enhance the conservation of biodiversity. Hurst (1991: 257) writes on the activities of NGOs in support of governments efforts such as establishment of heritage sites. Another method of environmental conservation that involves close interaction between the government and NGOs is the debt-for-nature swap. The debt-for-nature swap means the acquisition of conservation rights over certain biodiversity by a conservation organization on

payment of part of the national debt of a developing country (Barbier et al: 1995) .This approach entails that once an NGO buys part of the debt of a developing country that country must use the portion of its resources that would have been used to service the debt bought for conservation purposes. This strategy is meant to ensure that countries concerned increase their funding for environmental conservation. The study intends to analyze the impact of the collaboration between NGOs and government in Kenya on environmental conservation. The existing literature has not adequately covered this area.

1.6: Theoretical Framework

A theory is a basic analytical tool in creation of knowledge in any field of study. Several authors have attempted to define what a theory means. Couloumbis and Wolfe {1986} say that the term theory was derived from a Greek word that meant 'to look at'. International relations theory is perceived as "a systematic study of observable phenomena that tries to discover the principle variables, to explain behavior, and to reveal the characteristic types of relations among national units" {Couloumbis et al, 1986:30}.

Moreover, a theory is defined as "a body of internally consistent empirical generalizations of descriptive, predictive and explanatory power". (ibid) These definitions clearly depict the importance of theory in delimiting the scope of research, the elements to be studied, and the ability to explain and predict events from the data collected. Theory is also useful in enhancing our understanding by simplifying the complex phenomena into portions that we can analyze and make sense of.

The field of International Relations is awash with competing theories that have attempted to explain the world. The realism theory for instance recognizes states as the only actors in the international system while the idealism theory sees intergovernmental organizations and regimes as the panacea to world peace. This study applies the interdependence theory because it recognizes non-state actors, where NGOs belong, as players on the international scene.

Couloumbis et al {1986:28} argued that between 1976 and 1986 the interdependence school and the dependency school emerged which challenged the previous theories for being state – centric and thus over-simplified the international system and distorted the reality.

Keohane and Nye are the founders of the interdependence theory in the book they wrote in 1977 on "Power and Interdependence". The interdependence theorists who are also known as 'world order theorists' "...have pointed out the rise of many non-state actors, such as multinational corporations, regional and global international organizations and terrorist organizations and movements, that render analysis that ignore the activities and impact of these new actors highly inadequate" {Couloumbis et al,1986 :28 }. This theory brings out the presence of non-state actors in the international system which invariably influences events in the world and the behavior of states. The non-governmental organizations that will be studied under this study and therefore captured by this theory are those involved in the sphere of environmental conservation.

Little et al {1991} point out that states are no longer unitary actors that monopolize events in the world arena, and argue that "Reality should counteract the tendency to overemphasize the state and forget the cross-cutting purposes pursued by other actors – individual and corporate, government and non-government – who give and sometimes frustrate the wishes of putative leaders" {Little and Smith, (1991:48}. The end of Second World War period opened a new chapter which has witnessed the proliferation of new actors in the world politics ranging from states and intergovernmental organizations to non-state entities of varying sizes, scope and influence.

The interdependence nature of co-existence that emerged is seen to have created a world which is more complex "...with more participants, not all of them states, seeking to press their claims, and new problems, many of which require cooperative solutions – but are not one in which any other form of social organization has displaced the state from its central position or made it unable to act as if it finds action necessary, on its rights and for its end" {ibid}. The bottom line of this study is not about the effect the interdependence has had on state sovereignty but the existence of non- state actors in international system who play a crucial role such as in the environmental conservation.

The advancement in telecommunication and transport technology is seen as the force behind the increasing interdependence in the world. The social and economic transactions that have emerged have created a "world without borders". The environmental issues that this study is involved with are depicting this borderless scenario since factors like air pollution, climate change and desertification do have repercussions that cut across territorial boundaries. The

interdependence theory was chosen for this study because it is the most suited theory as it incorporates non-state actors that will be surveyed here, notably the NGOs.

1.7: Methodology of Data Collection

The research utilizes both secondary and primary sources of data. The secondary sources of data include published and unpublished materials such as books, journals, reports, and seminar papers obtained from both public and private libraries. The primary sources of data consist of both interactive interviews and questionnaires with personnel from environmental NGOs, officials of governmental bodies dealing with environmental conservation issues and persons who are experts on environmental issues.

The sample of the study was based on the kind of environmental activities the institutions were involved in and the spread of such activities in the country. For public institutions we focused on the major ones enacted by Act of Parliament to implement government policies and manage natural resources put under their custody. For this reason we settled on four governmental institutions namely: Kenya Wildlife Service (KWS), Kenya Forest Service (KFS), Kenya Forestry Research Institute (KEFRI) and National Environment Management Authority (NEMA). The information obtained from these institutions helped in analyzing their collaborations and interactions with NGOs. Information about their functions was obtained from both primary and secondary sources of data.

The selection of environmental NGOs was based on their scope and the activities they pursue. Some of the NGOs selected are international in nature and others are local but have

operations in various parts of this country. The study was able to interview and collect data from twenty six environmental NGOs. Data from environmental NGOs was obtained from both secondary and primary sources. In addition, through interactive questionnaire ten persons with expertise on environmental issues were interviewed. In collection of data for this study we encountered some challenges such as the refusal of some entities to divulge some information, and lack of funds to carry out a more comprehensive research.

CHAPTER 2

AN OVERVIEW OF THE ROLE OF NGOs IN ENVIRONMENTAL CONSERVATION

2.0: Introduction

Increasing levels and complexity of environmental problems have made individual states less effective in tackling them on their own. This has led to the emergence of other actors such as inter-governmental bodies and non-state players to help states address these environmental challenges. The inter-governmental organizations that were formed include the United Nations Environmental Program (UNEP), a body under the umbrella of the United Nations Organization. The non-state actors included ENGOs and Community –Based Organizations (CBOs). All these entities emerged to promote environmental conservation by tackling the factors and challenges that were contributing to environmental degradation. As the NGOs grew in scope of their activities and sizes, some began to spill their operations beyond borders of countries of origin. This occurrence led to emergency of international NGOs especially in the second half of the 20th century which are now more visible.

The global nature of most environment problems calls for concerted actions at all levels- local, regional and global– in order to combat them effectively. The potential of environmental problems, such as air pollution, climate change and desertification, in one country to spill over to others makes collaborative approach in addressing them imperative. In addition since environmental problems are interrelated, broad based solutions are required to successfully fix them.

The chapter reviews various functions, roles and aspects of environmental NGOs both operating at the international and national levels in various parts of the globe. The chapter ends with a summary that highlights the major issues that have emerged in the chapter.

2.1: Environmental Conservation Activities by NGOs

The environment is broad and covers various spheres and ecosystems so that its overall conservation encompasses working in diverse fields. Because of this broad nature of the environment, NGOs tend to specialize in specific areas so as to be more successful and have greater impacts. The diverse areas of environmental conservation include the conservation of biodiversity, control of desertification, water conservation, control of harmful chemicals and pesticides, marine life conservation and prevention of climate change among others.

Environmental NGOs apply various approaches and mechanisms in enhancing environmental conservation in various sectors they work in. These include advocacy, environmental research, environmental education and awareness creation, capacity building, technical support, formation of alliances and mobilization of financial resources. Some of the major environmental conservation fields where NGOs operate are reviewed below.

2.1.1: Prevention of Climate Change

Frequent erratic weather conditions and their unpleasant effects have been attributed to climate change. The ever rising global temperatures have made this planet warmer and some of the effects of this have been long droughts and famines and heavy rainfalls that lead to flooding. Greenhouse gases have been identified as the main cause of climate change, as

they retain the heat in the atmospheric zone hence pushing up world temperatures. The major greenhouse gases responsible for climate change include carbon dioxide (CO_2), methane (CH_4) and nitrous oxide (N_20). Carbon dioxide (co_2), however, is arguably the leading heat-trapping gas in the atmosphere and accounts for over 80% of global warming (WWF, 2002:1).The sectors of energy, industry and transport are among the major emitters of greenhouse gases. For instance, NEMA's report on the state of environment in Kenya shows that "between 1970 and 2004, global GHG (greenhouse gas) emissions increased by 70 %" (NEMA, 2011:48). The climate experts have warned that climate change will, on one hand, cause expansion of deserts and arid areas, and on the other hand, the submersions of low lying areas as sea levels rise. In various countries world over, arable land is being lost as a result of climate change and this is compounding human suffering as food production decline and access to safe drinking water becomes difficulty. In Kenya the presence of climate change is evidenced in the melting of glaciers on the peak of Mount Kenya (NEMA, 2011:49). For these and other negative consequences of climate change various actors are involved in initiatives for combating climate change.

With regard to climate change, ENGOs are concerned with the prevention of the likely negative effects it could cause. There is urgent need to significantly reduce greenhouse gases in the atmosphere in order to bring down the ever soaring atmospheric temperatures. Many environmental NGOs are advocating for adoption of policies that reduce the emissions of heat-trapping gases into the atmosphere. Similarly they encourage the increase in adoption and use of renewable energy sources such as solar, wind power, hydro power, geothermal power and clean coal technologies. The benefits of the renewable energy sources of power

are that they do not have harmful effects on the environment, are readily available and inexhaustible. The use of petroleum products, in generation of electricity, in energy sector and in transport sector, and coal and tree based products in factories and homes respectively contribute to climate change. The increase in use of renewable sources of energy in these sectors will decisively reduce the amounts of greenhouse gases in the atmosphere.

Environmental NGOs do also use their participation in international conferences and other forums on environment to fight against climate change (Clarke, 1995; Hughes, 2000 and Norse, 1993). They normally use these meetings to pile pressure on governments to take measures aimed at reducing the release of greenhouse gases into the atmosphere in their countries. Some of the environmental NGOs like WWF have participated actively in the processes of formulation of a series of treaties and agreements, which have been signed by governments, geared to tacking climate change. The treaty and protocols made to combat climate change, where NGOs were involved in their formulation, include the United Nations Framework Convention on Climate Change in 1992 and the Kyoto Protocol in 1997.

Through various protocols and conventions on environment, some governments have made commitments to reduce their levels of emissions of greenhouse gases into the atmosphere. The environmental NGOs on their part have kept reminding such governments to honor the commitments they made. For example, WWF argues that it was piling pressure on "...industrialized countries to reduce their current levels of co_2 emissions by 10 per cent below their 1990 levels by 2010 (WWF, 2002:10). The industrialized countries who account for most of the greenhouse gases released into the atmosphere each year are being

encouraged to spearhead the reduction in emission of such gases. The efforts to reduce greenhouse emissions are, however, facing resistance from some governments who are reluctant to make commitments or to implement their commitments for fear that they will harm their economic and social welfare objectives. This resistance is manifested in the case of the United States of America who has refused to ratify the Kyoto protocol despite her being the highest emitter of greenhouse gases into the atmosphere. Unless the industrialized countries agree and follow up on their commitments on reduction of greenhouse gases, not much will be achieved in this area. The developing countries, on the other hand, should invest and use more of the environment friendly sources of energy in their industrialization ambitions.

Forests and trees play a vital role in regulating climate change as they act as carbon sinks when they absorb CO_2 from the atmosphere. However, the rapid deforestation and degradation of existing forests experienced in various parts of the globe worsens climate change as it releases CO_2 that was held by them back into the atmosphere hence fuelling climate change. Climate change in turn is likely to cause loss of biological diversity. Some environmental NGOs are thus taking measures to slow down loss of biodiversity and where possible to prevent its loss. In Kenya for example, climate change is causing loss of biodiversity especially wildlife as a result of emergence of new diseases and death from long, severe droughts (NEMA, 2011:75). Environmental NGOs such as WWF are responding to loss of biodiversity due climate change "...by promoting the creation of trans-boundary reserves and the increase in connectivity between reserves through protected networks or corridors" (Desanker, 2002:5).

Many environmental NGOs are advocating for conservation of existing forests as a means of controlling emissions of CO_2 into the atmosphere. Deforestation and degradation of forests are said to contribute between 20% and 25% of global warming (www.en.wikipedia.org). This occurs because the felled trees release into the atmosphere the CO_2 they had absorbed and stored before they were cut down. The conservation of forest and slowing down of deforestation therefore help in combating climate change.

NGOs involved in environmental conservation issues disseminate information on climate change policies to their counterparts and government policy makers among others through seminars and workshops. The NGOs such as Climate Network Africa (CNA) facilitate communication and networking between NGOs and other stakeholders with the aim of improving the capacities of NGOs to strengthen their participation and negotiations skills on climate change issues (www.cna.org).

2.1.2: Conservation of Wildlife

The degradation of the environment is threatening the existence of wildlife on planet earth. The threats to wildlife existence include the shrinking of their habitats due to human population pressure, poaching, and prolonged droughts that lead to shortage of food and water. These challenges pose a serious danger that threatens to wipe out wildlife species and have managed to bring some to extinction and others to the brink of extinction.

Wildlife all over the world, but especially in developing countries, plays a pivotal role in their economies as foreign exchange earner through tourism. In Kenya KWS, for instance, gets 70% of its revenue from wildlife-based tourism (KWS, 2007). In addition tourism is

among the top three foreign exchange earners for Kenya government. Environmental NGOs are playing an important role in conservation of wildlife. They are, for example, using the Convention on International Treaty in Endangered Species of fauna and flora (CITES) to promote conservation and protection of wildlife by monitoring the enforcement of the provisions of CITES. Under CITES, WWF and IUCN administer the TRAFFIC which monitors illegal trade in wildlife species and recommends measures to be taken so as to improve conservation of specified wildlife species (Sheila: 1997). The NGOs, that are members of a panel that give advice on placement of wildlife species on CITES appendices for protection, use the data on state of wildlife obtained from various countries to ensure wildlife species are better conserved and protected. (Ibid)

Furthermore WWF and IUCN together with the UNEP jointly run the CITES' secretariat. The main function CITES' secretariat is the "compiling a list of endangered and threatened species to be considered in the listing process" (Berger, 2000:4). The listing process determines which wildlife species' products are to be banned or regulated from legal commercial trade depending on the degree of threats such world life species face. Through the CITES listing process legal international trade in products of endangered animals such as elephants, rhinos is regulated.

Environmental NGOs like WWF, AWF, EAWLS and David Sheldrick Wildlife Trust have put considerable efforts to ensure the survival of a number of endangered wild life species such as elephants, rhinos, tigers, great apes, sea turtles, lions and whales and the protection of their habitat. WWF argues that its aim is to ensure the numbers of endangered species

"...are stable or increasing and their habitat safeguarded" (Davis, 2002:14). WWF and other environmental NGOs goes about achieving the above objectives through fighting illegal trade in endangered species, collaborates with other stakeholders to provide safe environment for wildlife and encourages governments to adopt and implement environmental treaties (Ibid).

In Asia, for instance, WWF launched a program to intensify the conservation of elephants and rhinos. These species are extremely endangered particularly bearing in mind the whole of Asia had only 40,000 elephants remaining by 1999 (WWF News, 1999:5)

On the African continent, which is well endowed with wildlife, NGOs have been instrumental in efforts to conserve wildlife species. They have supported financially and otherwise, the creation of many of the protected areas in Africa. In 1993, for instance, Sub-Saharan Africa had 663 protected areas covering some 125.2 million hectares (Mabogunje, 1995:10). NGOs have also helped improve security in protected areas by extending financial and material support to park authorities. For example, in Uganda the IFAW argues that "it funded the anti –poaching patrols at Queen Elizabeth National Park and Kidepo Valley National Park and supplemented salaries of game rangers" (1FAW, 2003:27).

The campaigns for banning of trade in ivory and rhino horns carried out by NGOs have boosted the conservation of rhinos and elephants on the continent. For instance, WWF stated the achievement of its rhino conservation activities in Africa as follows "Black rhino population has increased from 2,704 in 1999 to 3,100 in 2001 and in the same period the population of white rhinos has increased from 10,405 to 11,600" (WWF, 2002:14). In

addition, NGOs have boosted conservation of rhinos by supporting the establishment of rhino sanctuaries across the African continent.

NGOs have also involved themselves in conservation of apes such as gorillas. In 1991 AWF, WWF, and FFI founded the International Gorilla Conservation Program (IGCP) to conserve endangered mountain gorillas and their forest habitat. Mountain gorillas are found only in Africa and in only the countries of Uganda, Rwanda and Democratic Republic of Congo (DRC) and the IGCP works with park authorities in the three countries to ensure mountain gorillas' survival is enhanced. IGCP objectives encompassed the strengthening of security structures, ensuring the habitat is well maintained and helped local communities economically. By 2002 the efforts of IGCP had managed to increase the mountain gorillas' population from 620 in 1989 to 670 (Davis 2002:14)

2.1.3: Eradication and regulation of toxic Chemicals and Pesticides

The discovery and manufacture of chemicals and pesticides brought significant improvement in human health and agricultural sectors. The chemicals and pesticides are used to control disease-causing insects and pests that are destroying crops and plants leading to low yields. However, as the years went by findings from scientific studies showed that some of these chemicals and pesticides had serious negative effects on the health of humans and wildlife. The situation was complicated by the improper disposal of harmful chemicals and pesticides.

Environmental NGOs and other agencies came in to try to mitigate the challenges brought about by these substances. They advocate for banning of manufacture altogether and or

regulation in production and application of some of the most toxic chemicals and pesticides. These highly harmful chemicals and pesticides are still used in some countries to control disease-causing vectors in the health sector and pests in the agricultural sector. In response to concerns that were being raised about safety of these substances some countries, majority of them from developed world, have already banned the manufacture and use of some of these chemicals and pesticides in their countries. Such countries and other agencies including environmental NGOs are pressurizing countries where such chemicals and pesticides are still in use to stop their use. They do this by, for instance, banning imports from such countries especially agricultural produce they suspect such chemical and pesticides were applied on. The chemicals and pesticides targeted for abolishment are those that are particularly harmful to the environment, wildlife and humans.

WWF, for example, was working with governments, local organizations and private sector "...to reduce and or eliminate at least 30 of the most dangerous chemicals and pesticides by 2007,targeting in particular toxic substances which have long life spans and synthetic chemicals that disrupt hormones in human and wild life" (Davis, 2002:22). These pesticides and chemicals include the Dichlorodiphenyltrichloroethane (DDT) and Polychlorinated biphenyls (PCBs). Environmental NGOs that are concerned with elimination of toxic chemicals and pesticides are in the forefront in encouraging the adoption and use of alternative chemicals and pesticides that are more environmentally friendly, yet still effective and affordable. These environmental NGOs are also educating and raising awareness among farmers and other users of chemicals and pesticides to adopt and use those that are friendly to the environment.

2.1.4: Conservation of Forests

All over the world, forests and tree species are under threat of depletion due to their overexploitation. The enormity of deforestation in the world and more so on African continent was captured by the UNEP report which showed that in 2008 the rate of deforestation in Africa was higher than global average claiming 4 million hectares per year (Claasen, 2011). The rapid deforestation of the world is also exemplified by the fact that between 2000 and 2010, the world lost over 13 million hectares of forest cover annually (Davis, 2002:20; WWF, 2012:15). Deforestation and desertification are among the major environmental problems ravaging the African continent. The ever increasing world human population is putting more pressure on forests for their products and the forest lands for farming purposes respectively.

Kenya's forest cover by 2010 was estimated to be 1.7% of her land mass (NEMA, 2011), but by 2012 the forest cover has grown significantly to 5.9% (KFS, 2012). Despite this achievement the rate of deforestation in Kenya is still high as the deforestation rate by 2012 stood at 12,000 hectares per year (www.kenyaforestservice.org). Nevertheless, various organizations including ENGOs are working to conserve forests in the country. This is more so because of the vital economic uses of forests and trees in medicine, housing industry and so on.

The environmental NGOs and other entities promote conservation of forest resources through the protection of the existing ones, afforestation and reforestation. To counter the deforestation of vital forests, environmental NGOs are involved in various measures such as

establishment of networks of protected areas, promotion of adoption and application of highest standards of management in forest conservation and the restoration of damaged sections of forests (Davis, 2002)

On the Asian continent, environmental NGOs have promoted proper forest management techniques geared to conserve forests found there. For instance, collaboration between WWF, Ford Foundation and Department of Forestry managed to enhance forest conservation and promote proper use of land in Indonesia (Hurst, 1991:14)

The role of Environmental NGOs in conservation of forests, such as tropical forests, on the African continent is equally important. For instance, in the year 2000 environmental NGOs such as WWF and WCS partnered with inter-governmental agencies and government on a project to conserve Congo Basin tropical rain forest. This project was designed to " ... raise funds to create a 350 000- acre Dzanga-sangha National Park in Central African Republic, a million- acre Nduabale –Ndoki National Park in Congo and a 600,000- acre Lac Lobeke National Park in Cameroon" (Michael, 2002:3). NGOs have also promoted sustainable management of forest resources in other areas. For instance, in Gabon WWF helped a private logging company to develop a sustainable forest management plan (Carroll, 2002:7)

Those NGOs involved in environmental conservation further plant trees to promote environmental conservation in general and in combating climate change and desertification in particular. NGOs such as The Neighborhood Environmental Watch, the Eden Restoration Projects and the Gishwati Area Conservation Program (GACP) were involved in

reforestation activities in Nigeria, Ethiopia and Rwanda respectively (Claasen, 2011). The Neighborhood Environmental Watch further "...initiated training programs aimed at teaching farmers how to raise a nursery and manage trees and in doing so, move the farmers away from bush burning and other activities that lead to deforestation and soil degradation"(ibid)

In addition, environmental NGOs are involved in efforts to incorporate local communities in forestry conservation and management. NGOs such as Nature Kenya, WWF, Tanzania Forest Conservation Group, the Wildlife Conservation Society of Tanzania are collaborating with governments and local communities in Kenya and Tanzania to conserve and protect coastal forests (www.coastalforests.tfcg.org). In Kenya and Tanzania efforts are being taken to include local communities in forest conservation through participatory forest management structures (ibid).

2.1.5: Water and Soil Conservation

As the saying goes "water is life". This adage summarizes the importance of water in the lives of living organisms. Without water the earth will be a barren land devoid of life. Fresh water is an essential requirement on the diet of living organisms and hence access to it is crucial. Fresh water ecosystems are, however, limited covering a mere 1% of the Earth's surface. Nevertheless, fresh water bodies are home to 10% of animal species found on Earth (WWF, 2012:16). Despite the importance of fresh water to the sustenance of life, it is becoming a scarce commodity and millions of people in the world lack access to clean and safe water for drinking. With 2/3 of its land mass being arid and semi-arid, Kenya is one of

those countries where a high percentage of her populace has problem of access to fresh water. The NEMA report illustrates this by pointing out that "Kenya is classified as a chronically water-scarce country and has one of the world's lowest water replenishment rates per capita" (NEMA, 2011:53)

Water problems have made environmental NGOs involved in water conservation to devote keen attention on conservation of fresh water bodies and their catchments areas. This has been triggered by the concern that fresh water is becoming scarcer and increasingly inaccessible to millions of people each year. For example, WWF predicts that if this trend continues, "half of the world's population will face severe shortages of fresh water within 25 years" (Davis, 2002:16). This will be disastrous since people and wildlife need fresh water for consumption and moreover, disruption of irrigation farming will worsen food deficiencies in many countries and famines and starvations will become the norm in many homes.

Threats to ready availability of fresh water include issues like destruction of water catchment areas that are sources of rivers and streams, the pollution of fresh water bodies through discharge of effluent into them and the percolation of harmful chemicals and pesticides, used in agriculture , into water bodies. These harmful human activities ought to be stopped and or regulated. The water bodies that are reservoirs of fresh water include wetlands and lakes and these too are being destroyed through pollution from human activities. The environmental NGOs involved in fresh water conservation, however, are taking measures to reduce loss of fresh water bodies. WWF, for example through its Living Water Program, intends to ensure

"protection and sound management of 250 million hectares of valuable wetlands around the world" (Davis 2002:16).

The conservation of soil is equally important. Every year tones of top soil, which is full of nutrients for agriculture, are swept into water bodies leading to siltation. The soil that is then left behind, bereft of nutrients, can hardly sustain a healthy crop and this in turn lead to food shortages. The methods and strategies that environmental NGOs teach farmers to adopt to prevent soil erosion include contour farming, mixed cropping and terracing. These and other technologies "...aim to reduce soil erosion, conserve and improve soil fertility and keep water in the soil where crops can use it" (www.sustainet.0rg). Soil erosion is more prevalent on slopes and bare ground surfaces and hence environmental NGOs encourage planting of trees and other vegetation to cover the ground and thus protect the soil from the elements that erode it.

Many NGOs, among other actors, work with farmers to teach and empower them with appropriate farm management techniques for enhancing food production through proper soil management. This has gone a long way in stemming soil loss through soil erosion. In Philippines, for instance, the World Neighbors "...conducted seminars on basic contouring techniques and inter-cropping with trees and established a communal labor group that worked on terrace building" (Hurst, 1991:1931)

2.1.6: Marine Conservation

Oceans and seas, which are the biggest ecosystems, cover much of the earth and contain a lot of resources that are valuable to mankind. The conservation of these habitats is therefore vital. However, the well-being of marine ecosystem is threatened by factors such as over-exploitation of their resources, harmful coastal development, pollution and climate change. Environmental NGOs working in this field are promoting marine conservation by trying to prevent commission of activities harmful to marine habitats and resources.

International environmental NGOs such as IFAW, Green Peace and WWF are involved in campaigns to stop dumping of toxic wastes into oceans, over fishing, commercial trade in endangered species like whales, turtles and seals and in destruction of important coral reefs. They campaign for creation of sanctuaries to protect marine species. For instance WWF argues that its objectives, through its Endangered Seas Program, are "... to stop over fishing and establish networks of well -managed marine protected areas to cover at least 10 per cent of the world's oceans" (Davis, 2002:18).

2.1.7: Alliances and Mobilization of Financial Resources for Conservation

The emergency of environmental NGOs boosted the war on environmental destruction and enhanced proper management of the environment. They have been able to attract substantial amounts of money and resources from many donors' for environmental conservation activities (Marie (1994) and Clarke (1998). Table 1 shows trends in total revenues and expenditures of the two international environmental NGOs involved in environmental conservation for the period from 2000 to 2011.

Table 1: Total annual revenue and expenditure for AWF and WWF, 2000- 2011

Year	AWF (in millions)		WWF (in millions)	
	Revenue	**Expenditure**	**Revenue**	**Expenditure**
2000	US $8.27	US $6.27	US $360	US $364
2001	US $8.29	US $8.75	US $329	US $351
2002	US $9.31	US $9.39	US $332	US $342
2003	US $15.48	US $14.28	US $382	US $370
2004	US $20.52	US $19.33	US $469	US $419
2005	US $19.34	US $18 14	US $500	US $461
2006	US $20.02	US $16.97	US $550	US $473
2007	US $20.13	US $17.53	US $663	US $537
2008	US $30.82	US $21.67	US $566	US$545
2009	US $22.24	US $20.18	US$ 562	US$619
2010	US $22.01	US $21.91,	US$665	US$626
2011	US $22.26	US $20.99	US$728	US$704

Source: AWF and WWF Annual reports

In addition environmental NGOs and other conservationist based in developed countries have channeled substantial amounts of financial resources and technical support to developing countries for environmental conservation. For instance, "1990 northern NGOs provided US $ 7.2 billion, equivalent of 13% of net disbursement of official aid or 2.5% of total resource flows to southern NGOs and People's Organization (POs)" (Clarke, 1998:2).

Environmental NGOs, among other groups based in North America promote conservation of environment in Latin America by channeling massive financial and technical support to

environment conservation projects there. For instance, "between 1982 and 1989 the financial support from WWF-USA to Latin America environmental projects was US$ 25 million" (Marie, 1994:5)

Some international environmental NGOs have adopted "Debt-for- nature swap' strategy in their environmental conservation efforts. Debt-for-nature swap entails payment of part of country's national debt in exchange for the payer having specified conservation rights over certain biodiversity and their ecosystems. For instance, an international environmental NGO called International Conservation {IC} used this strategy when it bought Bolivia's external debt and thus helped it to "create a biosphere reserve comprising 1.5 million hectares of the Beni humid tropical forest" (Conservation International, 1993:1).

2.1.8: Information, Education and Awareness Creation

The complexity of environmental problems calls for possession of requisite information and knowledge to come up with right solutions. For this reason some of the environmental NGOs have carried out research on their own and or formed alliances with research institutions to generate information to guide the roll out of proper and effective environmental conservation programs. Research provides a clear view on, for instance, threats to wildlife species, the nature of threat and best ways to confront such threats. From a point of knowledge then awareness creation is embarked on to bring many people on board to support environmental conservation endeavors.

Environmental research is key and strategic to environmental conservation activities carried out by NGOs. Many NGOs conduct research on various aspects of environmental conservation and use the findings they generate to advocate for better management of natural resources and environment at large. Through their researches threatened and endangered species have been identified. For example, IFAW argues that it used environmental education and advocacy campaigns to stop government-sanctioned slaughter of seals in Canada (IFAW, 2001:1). To save north right whales from accidental deaths through collision with ships, IFAW's campaigns made the USA government in 1999 to start "a Mandatory Ship Reporting System, which requires ships entering critical habitat areas to report to the Coast Guards" (IFAW, 2001:1)

2.1.9: Environmental Advocacy

Armed with the information they have NGOs engage in environmental advocacy . They have employed advocacy to, for instance, prevail upon governments to adopt policies and enact laws that are in tandem with sound environmental conservation practices. Environmental NGOs, especially international ones, participate in international conferences that formulate and endorse creation of treaties on environment. Through their participation, they have played a crucial role in creation of treaties such as Convention on International Trade in Endangered Species of fauna and flora (CITES) Convention on Biological Diversity (CBD), and Convention on Combating Desertification (CCD). On the basis of the provisions in these treaties NGOs have played an important role in campaigning for conservation of endangered species in various countries where they work.

Environmental NGOs operating in the American continent, for example, rallied their efforts to advocate for adoption of effective environmental policies during the North America Free Trade Area (NAFTA) talks. Their efforts were rewarded when provisions on environment were appended to the treaty. The environmental NGOs felt that the incorporation of environmental policy in the treaty would compel the governments to be more sensitive to environmental issues and hence seriously promote environmental conservation (Hogenboom, 1996: 13).

Environmental NGOs have also campaigned for rejection of trade agreements that are likely to increase destruction of the environment. Moreover NGOs and other conservation groups put pressure on development institutions to ensure that the development projects they fund adhere to tenets of proper conservation of the environment. Marie argues that the pressure environmental NGOs put on World Bank made the bank to "set formal environmental guidelines for projects funding and advocated for clean energy production, wild lands management and conservation of biological diversity" (Marie, 1994:). Environmental NGOs were involved in campaigns against projects pursued by governments and business entities that are likely to harm the environment. For example, protests by environmental NGOs successfully prevented Conaco Company from exploring oil in eastern Ecuador in 1992 because the region where exploration was to be done was considered an ecologically important area (Marie, 1994:11). NGOs have also promoted conservation and protection of tropical rainforest in Latin America by advocating to governments to classify such forests as protected areas and thus enhance their protection.

Similarly environmental NGOs applied advocacy and high profile media campaigns to put pressure on Asian governments to enact effective environmental laws on forests. They have carried out activities that have rehabilitated and restored damaged and degraded forests back to their productive states. WWF, through its landscape restoration program, collaborated with private sector and local communities to restore forest cover in Malaysia (Davis, 2002: 21)

2.1.10: Capacity Building and Technical Support

Capacity building and technical support are the other major pillars required for effective environmental conservation endeavors. Training programs, seminars, workshops and conferences are some of the approaches employed in enhancing human resource capacity.

Capacity building has been regarded as a key instrument by NGOs to boost environmental conservation in many parts of the world. In regard to development of institutional capacity, environmental NGOs have either built learning institutions themselves or supported their establishment. These include the college of African wildlife Management School at Mweka in Tanzania established in 1963 and the wildlife management school built in Cameroon (AWF 2001:9). The two institutions offer environment-related courses to students from English –speaking and French- speaking countries respectively. By 2000, for example Mweka College had trained over 2,500 students from African countries and 17 students from the rest of the world (AWF, 2000:9)

2.2: Summary

The chapter has examined various sectors where environmental NGOs are involved highlighting the existing challenges and the activities being done to address them. The approaches applied by environmental NGOs in carrying out their environmental conservation activities have been explored. These have included advocacy, mobilization of financial and material resources and formation of partnerships with other stakeholders.

The situations in various environmental sectors examined have been revealed, the challenges encountered noted and remedial actions employed by NGOs identified. Environmental conservation faces myriad challenges and the roles played by NGOs to address the existing challenges have been analyzed. Advocacy and mobilization of resources, for instance, have been captured to show how NGOs have used them in their environmental conservation endeavors.

CHAPTER 3

A REVIEW OF KENYA'S ENVIRONMENTAL LEGAL FRAMEWORKS AND THEIR IMPACT ON THE ACTIVITIES UNDERTAKEN BY ENVIRONMENTAL NGOs

3.0: Introduction

By and large Kenya has attempted to address the problems of destruction and degradation of the environment through enactment of environmental laws, policies and institutions. This chapter examines the development and evolution of environmental legal frameworks in the country since the attainment of her independence in 1963. More emphasis, however, is placed on the impact of environmental legal frameworks on the environmental conservation activities pursued by environmental NGOs.

The chapter is divided into three sections. The first section reviews the history and evolution of environmental legal frameworks in Kenya. The second section analyses the impact of environmental laws, policies and institutions on the activities of environmental NGOs in Kenya. The last section carries a summary of major issues discussed in the chapter.

3.1: Section 1: The environmental laws, policies and institutions in Kenya

The efforts to conserve the environment in Kenya began way back before independence. At independence the government took up the challenge and has endeavored to promote the conservation of the environment and sound management of natural resources in the country. This is attested to by the numerous environmental laws, policies and institutions the

government has put in place over the years since 1963. The review of environmental laws, policies and institutions covered in the chapter is done on sector by sector basis and their impacts on ENGOs activities analyzed.

3.1.1: The forest sector

In early years of Kenya's independence, the government set down broad policy guidelines to enhance and facilitate the conservation, management and sustainable exploitation of forest resources found within the country. These ten policy guidelines were contained in Session Paper Number 1 of 1968 (GOK, 1968) and are still guiding, to a large extend, the management and conservation of forest resources in the country by the government. Under these policy guidelines the government committed itself to, among other things, set aside land for conservation of existing forests and or creation of new forests; own forest resources on public land and determine how they are to be used; promote research and education on proper conservation, management and exploitation of forest resources; and to put in place appropriate infrastructure needed to promote and support growth and development of forests in the country both on public and private lands.

Besides the policy guidelines, laws were enacted and institutions created to actualize the objectives to conserve forest resources in the country. This included **The Forests Act** which was first enacted in 1948 during the colonial period and subsequently reviewed in 1982 and 1992. In addition, the **Forest Department** was established and mandated as the lead agency to implement the provisions of the Forests Act. Currently the Forests Act of 2005 is the main law guiding the conservation and management of forest resources in Kenya having taken

over from the FA (cap 385). The new Act emphasizes its objective as "...to provide for the establishment, development and sustainable management, including conservation and rational utilization of forest resources for the socio-economic development of the country" (GOK, 2005:233). The Forests Act (2005) is designed to incorporate, in its implementation, the provisions of international and other agreements the government has ratified to promote management and conservation of forests and other biodiversity in the country. The implementation of the Act (2005) must ensure that forest resources are conserved in a way that preserves and enhances the benefits derived from them such as habitat for vital wildlife and plant species, its role in soil and water conservation, its being a source of wood fuel and medicine among other economic values.

The **Kenya Forest Service (KFS)**, which falls under the Ministry of Environment and Mineral Resources, was established in February, 2007 as the lead agency in conservation of forests in the country, taking over this responsibility from the Department of Forest. Some of its main functions are to ensure protection of all forests in the country, to formulate policies and guidelines for proper management and utilization of forest resources, to draw up management plans to guide the management and conservation forests lands and resources therein and to collaborate with other entities involved in forest conservation both in Kenya and abroad for enhancement of institutional and human capacities and for adoption of the best practices in forest conservation (GOK, 2005:241).

The Forests Act, 2005 unlike the former Act, broadened the scope of forests covered and now covers all forests resources and woodlands obtained in the country on all lands whether

owned by the state, local authorities or private owned. It also recommends formulation of management plans and principles to guide the management of forest resources in the country. The Act broadens the space for participation of diverse players in forest conservation through formation of various bodies such as the Forests Board and Forest Conservation Committees. These bodies accord local communities and NGOs a legal and formal way to participate in forestry conservation in the country.

The Trust Land Act, which was enacted in 1962 and amended in 1972 dealt with forest resources on trust lands. Forests resources on trust lands were managed by various Local Authorities under whose jurisdiction they fall. IUCN points out that "section 65 of the Trust Land Act which deals with these forests authorizes the Minister for Local governments, in consultation with the council concerned, to make rules for protection of forest resources on trust lands" (IUCN, 1999:19).

In addition to laws on forest conservation, the Kenya government also instituted programs and strategies designed to reduce deforestation and to increase afforestation activities. The government went about this by putting in place the infrastructure to support the development and growth of agro-forestry and farm forestry by communities and individuals. The National Development Plan (1989-93) highlights some of these programs that were put in place to achieve these such as the Local Afforestation Program (LAP) whose objective was to curb soil erosion; the Chief's Nurseries Program (CNP) established in 1981 to facilitate production of tree seedlings for agro forestry and farm forestry expansion; and the Rural

Afforestation Extension Scheme (RAES) mandated to promote adoption of agro-forestry techniques by farmers.

Moreover, in 1992 the government developed the Kenya Forestry Master Plan (KFMP) which did recognize the NGOs and other non-state actors as important players in the conservation of forests in the country. The main objectives of KFMP were to facilitate the forestry management in the country through preparation of development plans, strategies, action plans and policies.

The Science and Technology Act (Cap. 250) came into operation on 1st July, 1977. Its main objective was to advice the government on all matters on science and technology and co-ordinate research that is needed by the country for development. The Act provides for establishment of research institutes whose functions include carrying out of research in the area of their specialty, liaising with learning institutions in development of training programs and liaising with other research institutes both within and outside the country.

One such institute that resulted from this Act is the Kenya Forestry Research Institute (KEFRI) which was established in 1986. KEFRI was set up to promote growth, conservation and management of forestry resources in the country through research. Its broad objectives include developing technologies to enhance forestry resources in the country by coming with tree species that survive in different ecological sets up, to strengthen research capacity in the country by training human resource and to document and publicize scientific information on forestry.

3.1.2: The wildlife Sector

This sector deals with the conservation, protection and management of wildlife resources in the country. Below we discuss some of the laws, policies and institutions dealing with wildlife conservation in Kenya.

The Wildlife Act (cap. 376) also known as **the Wildlife Conservation and Management Act** was first enacted by parliament in 1976 and later amended in 1988. The Act set out broad strategies, mechanisms and policies for promoting and enhancing the management of wildlife resources in Kenya. Kabeberi highlights some of the policy guidelines contained in the Act such as the suppression of poaching, enhancement of conservation through carrying out of research, translocation of threatened wildlife species to parks and reserves to enhance their conservation, special protection of endangered species, training of wildlife personnel, educating the public on conservation, and protection of the public and domestic animals from damage by wildlife (Kabeberi, 1999:248).

The Act empowers the minister in charge of the wildlife to enhance conservation and protection of wildlife in the country through establishment of protected areas where necessary. Before KWS came into force the government had established the Wildlife Conservation and Management Department (WCMD) in 1976 and mandated it to implement the provisions of the Wildlife Act. The WCMD played this role until 1989 when KWS took over the responsibility. KWS, a semi-autonomous institution, is the lead public agency that implements the provisions of the wildlife Act. It manages all wildlife resources in the country both within and outside protected areas. By 2012 Kenya had established 65 protected areas

comprising 23 national parks, 4 national marine parks, 6 national marine reserves, 28 national reserves and 4 national sanctuaries which cover a total area of 47,674.14 KM^2 (www.kws.go.ke).

Even though the Act allows some form of consumptive use of wildlife, the government through KWS promotes the policy of non-consumptive use of wildlife as the better option to wildlife conservation in the country. Non-consumptive use of wildlife means benefiting from wildlife without direct killing of wildlife species such as bird watching. Consumptive use of wildlife, on the other hand, entails use of wildlife for food, sport hunting, trophy hunting among others. The consumptive use of wildlife in the country is, however, kept at the minimal level possible and is highly monitored (Gachere, 1995:23). In Kenya 75% of wildlife live outside protected areas (www.kws.go.ke). Despite the existence of a sizeable number of wildlife outside protected areas, the Wildlife Act limits the participation of communities in their management and this compromises their effective conservation.

The Environment Management and Co-ordination Act (EMCA), 1999 was enacted to resolve the problems of co-ordination and enforcement that bedeviled the sector by sector environmental laws. EMCA, 1999 is a comprehensive legal policy framework on environment that was designed to coordinate all environmental conservation activities in the country. Waweru argues that EMCA, 1999 "aims at providing an appropriate legal and institutional framework for the management of the environment and sustainable use of natural resources" (Waweru, 2003:6).

EMCA formed various bodies such as NEC, NEMA, P&DECs, PCCs, and NET to cover environmental conservation issues at different levels. The members of these institutions are drawn from both the government and non-governmental circles such as NGOs, civil society and local community. Here below we briefly discuss the functions of some of these bodies.

(a) National Environmental Management Authority (NEMA) was established by EMCA as a body to exercise overall supervision and co-ordination of environmental conservation activities in the country. Its mandate includes playing a leading role in environmental education, to ensure the lead agencies properly implement environmental laws under their docket, to advice government on all laws and policies on environment and to ensure natural resources in the country are properly conserved, managed and sustainably utilized for the benefit of all Kenyans.

(b) National Environmental Tribunal (NET) was established as the body to listen to cases of alleged environmental degradation and pollution in the country. According to Waweru, "the advantage of this tribunal over regular courts is its ability to listen to cases without being bound by rules of evidence found in the Evidence Act" (Waweru, 2000:7). This will allow the tribunal to conclude cases brought before it speedily and determine penalties to be paid by those it adjudges guilt. The Act also gives the parties dissatisfied by the judgment of the Tribunal recourse to appeal to the High court

The **Convention on International Trade in Endangered Species of Flora and Fauna (CITES)** is a multilateral treaty that was enacted in 1973 aimed to improve conservation of endangered and threatened species of both animals and plants by banning or regulating international trade in their products. Kenya ratified the treaty on 13th December, 1978 and on 13th March, 1979 the treaty became binding on Kenya. CITES has put under protection at least 5000 animals and 29,000 plant species respectively to stop their over exploitation through international trade (www.cites.org).

The treaty has classified the fauna and flora it protects into three appendices. Trade in species under appendix I is only allowed under special circumstances because they are threatened with extinction and hence require enhanced protection. Appendix II contains species whose utilization is controlled to ensure their survival is not compromised, and finally appendix III covers species that are protected by at least one country which then asks CITES to control international trade in such species. The placing of species in appendices I and II is determined by a vote by member states and hence threats to species' survival determines where they are placed.

The Kenya government mandated Kenya Wildlife Service (KWS) and National Museums of Kenya (NMK) to implement CITES' provisions in the country (www.kws.go.ke). To actualize article IX of CITES, KWS was appointed as a management authority to administer the licensing system by issuing license to trade in species under CITES in the country, and KWS and NMK were appointed as scientific authorities to advice on effects of trade to status of species in the country (www.cites.org).

NGOs that deal with wildlife conservation have collaborated with the government, especially KWS, in implementation of CITES provisions in the country to ensure threatened wildlife species are properly conserved. To enhance the role of environmental NGOs in CITES, KWS has incorporated their membership on committees it has formed on CITES-related issues since early 1990s (www.kws.org). The NGOs have hence participated actively in debates on development of the Kenya government's position on various issues covered by CITES especially on trade in elephant and rhinos' products.

In addition, KWS has been including personnel from environmental NGOs on the government's delegations that represent the country in CITES' meetings and conferences. The NGOs involved in wildlife conservation have carried out research and advocacy work that have helped the government to articulate and advocate its stand. For instance, IFAW argues that it supported the "NO IVORY TRADE" positions taken by the Kenyan government during the 2000 and 2002 CITES meetings. The implementation of CITES in the country has had impressive success especially in conservation of elephants and rhinos in the country. The collaboration of environmental NGOs and KWS through CITES have saved the animals that were on verge of extinction. By placing elephants under CITES' appendix I category in 1989, which entailed total ban in ivory trade, the death of elephants from poaching activities reduced from 3,000 to 50 per annum (Western, 1997).

The Convention on Biological Diversity (CBD) came into force in 1992. Its main objective is to promote sustainable development through conservation and sustainable use of biological resources and equitable sharing of benefits accruing from use of genetic resources

(www.cbd.int/convention/). The CBD was enacted in order to protect biological diversity in view of their importance in economic development and in improvement of the quality of human life in general. Provisions of the treaty include access to and transfer of technology, environment impact assessment, and public education and awareness. The contracting parties to the treaty are required in article 6 to develop national strategies, plans and programs for promotion of conservation and sustainable utilization of biodiversity.

Article 14 urges the country parties to the treaty to institutionalize Environment Impact Assessment, to encourage participation of the public in decision making process and put in place measures to minimize adverse effects to biodiversity and environment in general arising from the development programs they undertake. Kenyan government implemented this provision when it enacted the Environment Impact Assessment under the EMCA, 1999. The provisions for Environmental Impact Assessment (EIA) covered in sections 58-67 of the EMCA Act makes the conduct of EIA in the country compulsory for all development activities that are likely to damage the environment. Waweru reports that the "EIA will be conducted for any activity 'out of character with its surrounding' or that entails major changes in land use and any structure on a scale not in keeping with its environment" (Waweru, 2003:36). In addition the EMCA Act promotes the participation of the public by requiring the EIA reports to be made public so that various sectors of the public can raise questions about them where necessary.

The Kenyan government ratified the CBD in 1994 and in tandem with provisions of the treaty and the Agenda 21 recommendations the government enacted the National

Biodiversity Strategy and Action Plan (NBSAP) which provides a road map for enhancing conservation of biodiversity in Kenya. The government involved non-state actors such as NGOs, local communities and the business sector in formation of NBSAP in line with the CBD provision calling on governments to involve all stakeholders in decision making process. This was also in response to the need to implement article 6 of CBD which urged countries to develop national strategies, plans and programs to promote conservation and sustainable conservation of biodiversity.

In addition, the Inter-Ministerial Committee on Environment (IMCE) created a Biodiversity Committee for implementing the provisions of CBD. The significant thing about the Biodiversity Committee as far as NGOs are concerned is that their presence on that committee gives them an opportunity to help in shaping and influencing the efforts for conservation of biological diversity.

To enhance the achievement of the goals set out in CBD, the government enacted the Environment and Management law. This law is viewed as key to Kenya's efforts to conserve and sustainably utilize its biodiversity (GOK; 2000:9). Furthermore, the government enacted the Environmental Management and Co-ordination (conservation of biological diversity and resources, access to genetic resources and benefit sharing) Regulations 2006. These regulations have introduced provisions meant to ensure biological resources in the country are conserved, managed and utilized in a sustainable manner. The regulations require the formation of the Biological Diversity Authority to make an inventory on threatened biological species. The Biological Diversity Authority is further required to work with the

government's lead agencies in environment to make sure threatened biological species are well protected. The Regulations also directed the carrying out of Environment Impact Assessment exercise and the issuance of the Environmental Impact Assessment License for all developments that are likely to impact negatively on biodiversity. Access Permit provision on its part gives guidance on access to genetic resources and how its benefits are to be shared. The laxity in enforcement of laws on biodiversity has, however, undermined the conservation of biodiversity resources in the country.

The UN Framework Convention on Climate Change (FCCC) was agreed on at the United Nations conference on Environment and Development held in Rio de Janeiro, Brazil, in June 1992. The convention came into force on 21st March, 1994 and its main goal is to encourage governments to come up with ways of reducing greenhouse gases (GHGs) and to adopt strategies for adapting well to effects brought by climate change (UN, 1992). The parties to the convention are called upon to keep the concentrations of GHGs at levels that will not cause dramatic change to climate by reducing levels of GHGs emitted into the atmosphere.

The country parties to the convention are to combat climate change by enacting policies that limit "....its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs" (UN, 1992:6). Countries are required to come up with appropriate policies and incorporate them in their development programs in order to proactively respond to adverse effects of climate change.

Other provisions of the convention include sharing information on what countries are doing to combat climate change, provision of funds to developing countries that are most vulnerable to adverse effects of climate change to help them respond well, developed countries who are the major emitters of GHGs to take greater responsibility in reduction of their emission of GHGs.

Countries' party to the treaty are banded into categories and placed in various appendices that assign them specified responsibilities. Appendix I is made up of developed countries and countries in transition to developed status. Countries under appendix 1 are required to voluntarily make legally binding commitments to reduce GHGs emissions to meet the targets they are assigned. Appendix II has developed countries that are to provide funds to developing countries to enable them to take measures that will help them to better adapt to adverse effects of climate change.

The treaty also calls for establishment of protocols that are to set mandatory GHGs emissions limits such as the Kyoto Protocol which was enacted in 1997. The Kyoto Protocol recommended the countries in appendix I to make commitments to reduce their GHGs emissions by between 6-8% below their 1990 emissions. The Protocol came up with mechanisms like emissions trading where countries who fail to meet their GHGs reduction targets were to pay countries that reduce GHGs above their targets, clean development mechanism entails adoption of technologies that do not emit GHGs, and joint implementation for countries to work collaboratively to reduce GHGs emissions.

Kenya signed the treaty on June 12, 1992 and ratified it on August 30, 1994. The Kenya government has largely used tree- planting campaigns and the promotion of conservation of forests and sustainable management and utilization of forest resources to mitigate and adapt to climate change. The Kenya Forest Service, for example, is promoting proper management of forests to act as both carbon sinks to absorb CO_2 from the atmosphere and to prevent emissions of GHGs that is associated with forest degradation and deforestation (Forester, 2012: 20)

The UN Convention to Combat Desertification (CCD) in those countries experiencing serious drought and or desertification was open for signature on October 14, 1994 and entered into force on December 26, 1996. Desertification poses a serious threat to up to a ¼ of the earth's land mass and at least 2/3 of Kenya's land mass is classified as arid and semi-arid and hence prone to threats of desertification. The UN defines desertification as "land degradation in arid, semi-arid and dry sub-humid areas resulting from various factors, including climatic variations and human activities" (UN, 1997:1). Deserts and dry lands are expanding and thereby putting human livelihoods and biological diversity at threat. Africa is among the continents threatened by desertification and is the most vulnerable for lack of resources and technology to adapt well to adverse effects it causes.

The main goal of the CCD treaty is to combat desertification and mitigates adverse effects it brings about. It does this by countries party to it to develop strategies that "focuses on improving land productivity, rehabilitation of land, conservation and sustainable

management of land and water resources (UN, 1997). The treaty calls for increment and intensification in international co-operation and partnerships in combating desertification.

The treaty urges the countries affected by desertification and developed countries to take decisive actions for successful control of expansion of desertification and its adverse repercussions. The developed countries, on one hand, are encouraged to fund efforts by affected countries on combating desertification and also to help them access appropriate technologies for adapting well to effects it causes. The affected countries, on the other hand, are called upon, besides other actions, to increase their funding for projects on combating desertification, educate the public and involve them in efforts against desertification, find solutions to underlying issues fuelling desertification and enact appropriate laws and policies for combating desertification.

The Kenyan government signed the treaty on October 14, 1994 and ratified it on June 24, 1997. The government has continued to use forest conservation and poverty eradication strategies to combat desertification in arid and semi-arid areas in the country. The Kenya government, through Kenya Forest Service, tackles desertification in arid and semi-arid by planting trees to increase forest cover and fight poverty by encouraging the local communities to start up eco-friendly economic activities such as bee keeping and silk farming (Clement, N. 2012: 23).

The Ramsar Convention on Wetlands was signed in Ramsar, Iran on February 2, 1971 and entered into force in December, 1975. In response to threats to wetlands, the Convention

requires countries that are party to the treaty to conserve wetlands of international importance found within their territory and ensure rational and sustainable use of the resources they contain.

Article 24 asks party members to designate at least one wetland in their country to be listed on wetlands of international importance. Under this article Kenya has had lakes Nakuru, Naivasha, Bogoria, and Baringo designated as wetlands of international importance (NEMA, 2011)

The convention urges country party to it to put in place national strategic plans to guide their implementation of the objectives of the treaty. Moreover, the contracting parties are required to form National Ramsar Committees or National Wetlands committees to spearhead the implementation of the Ramsar provisions. The functions of this committee entail, among others, the formulation of policy on wetlands, management of Ramsar sites, and identification of wetlands to be included on the list of wetlands of international importance. The Kenya government ratified the Wetlands Convention in 1989 and appointed KWS as the agency to implement the provisions of the Wetlands Convention. To realize objectives of the conservation of wetlands in Kenya under Ramsar provisions, KWS formed a wetlands program in 1991 (www.kws.go.ke). The KWS Wetlands Program's goals included the pushing for the establishment of a national wetlands policy, to educate and create awareness on importance of wetlands, to promote and strengthen human and institutional capacity and to promote collaboration in wetlands conservation through building of links with other institutions both nationally and internationally (www.kws.go.ke).

To strengthen conservation of wetlands and other water bodies in the country, the government enacted the Environmental Management and Co-ordination (wetlands, river banks, lake shores and sea shore management) Regulations 2009. With regard to wetlands, the regulations call for proper conservation and management of wetlands and sustainable utilization of the natural resources they contain and prevention of activities that threatens their well being. It proposed the formation of the Standards Enforcement Review Committee by NEMA to develop best practices for conserving wetlands in the country. The regulations also tasked the District Environment Committees to co-ordinate and regulate all activities taking place in wetlands areas within the districts so as to ensure sound management practices are applied and prevent activities harmful to wetlands from being carried out.

The Constitution of Kenya, 2010, requires proper management of the environment and sound utilization of natural resources for the good of the present and future generations. It also makes all treaties and conventions ratified by the government part of the laws of Kenya. This provision, as far as the environment is concerned, makes all the environmental treaties ratified by Kenya, part of laws of Kenya. The government should now put in place the missing policies to guide the implementation of the provisions of the ratified treaties on environment.

Under chapter 4 on bill of rights, the constitution says people have a right to a clean environment and recommends the enactment of laws and other measures to protect the environment for present and future generations. This provision, on one hand, empowers the citizens to compel the government through the legal system to practice sound management of

natural resources and environment. On the other hand, it requires the citizens themselves to abide by laws on environment and carry out activities that promote achievement and maintenance of a clean environment.

The constitution further in section 60, in chapter 5 on land and environment, requires the land resources to be used in an equitable, efficient, and sustainable manner and those areas that are ecologically sensitive to be protected and conserved. The constitution requires parliament to ratify any agreement entered into by anybody for exploration and exploitation of natural resources in the country. These provisions will go a long way in promoting environmental conservation in the country by ensuring that economic activities conducted in any area are in harmony with the ecological set up of that area.

Chapter 5 on land and environment mandates the government, and the general public at large, to ensure environment and natural resources are sustainably managed and utilized and the country to strive to achieve the internationally recommended 10% forest cover of its land mass. . The entrenchment of environmental issues in the constitution, if well implemented, will revolutionize the conservation, management and utilization of natural resources in the country. The constitution being the supreme law in the land now gives a solid platform and the legal backing needed, by agencies mandated to conserve and manage environment and natural resources in the country, for effective environmental conservation.

3.2: The impact of environmental legal frameworks on operations of ENGOs in Kenya

Table 2 shows the opinions of respondents interviewed concerning the sufficiency or insufficiency of existing environmental laws in Kenya for effective environmental conservation by NGOs.

Table 2: Opinions of respondents on sufficiency of existing laws in Kenya for effective environmental conservation by ENGOs

Type of response	No. of respondents	Percentage (%)
Yes	28	77.78
No	8	22.22

Source: survey data

From table 2 about 78% of the respondents drawn from NGOs, government officials and experts from institutions of higher learning were of the view that Kenya has adequate environmental regimes for effective environmental conservation by NGOs, while the rest of the respondents, accounting for 22%, said the laws currently obtained in Kenya were insufficient for effective environmental conservation. Table 3 shows the results of a survey whose objective was to find out if the environmental laws in Kenya have been adequately implemented.

Table 3: Opinions of respondents on adequacy in implementation of existing environmental laws in the country

State of implementation of environmental laws	No. of respondents	Percentage (%)
Laws adequately implemented	3	8.33
Laws not adequately implemented	33	91.67
Total	36	100

Source: survey data

With regard to the implementation of existing environmental laws about 92% of respondents said that the environmental laws in Kenya have not been adequately implemented. The respondents attributed most of the environmental problems experienced in the country to poor implementation of the existing environmental laws. The remaining 8% of respondents were of the view that the environmental laws currently obtained in the country have been adequately implemented.

Some of the reasons given by the respondents for poor implementation of existing environmental laws include shortage of staff which leads to poor supervision and enforcement of environmental laws, lack of political will, undue political interference, conflict of interest, low priority given to environmental issues, ignorance and lack of information especially by the public on environmental issues, generalized and varied laws that cause institutional conflicts in their implementation.

The solutions suggested by those interviewed to address the weaknesses responsible for poor implementation of environmental laws include enactment of a harmonized institutional framework to ensure proper co-ordination in implementation and enforcement of environmental laws, strengthening of institutions of governance to address problems of corruption and mismanagement, and improvement of capacity of institutions mandated to enforce environmental laws through enhanced funding and adequate staffing.

The successive Kenyan governments, since the attainment of independence in 1963, have ratified most of the treaties that have been formulated on environment. The problem, however, lies in the domestication and implementation of the provisions of the ratified treaties and protocols. The table 4 below analyses the performance of the Kenyan governments' in the implementation of environmental treaties that have been ratified.

Table 4: Performance of Government of Kenya in domestication and implementation of the environmental treaties

Type of response	No. of respondents	%
Yes	7	19.44
Some	27	75
No	2	5.56

Source: survey data

From table 4 it is evident that most of the respondents, who accounted for 75% of those surveyed, held the view that only a few environmental treaties had been domesticated and

implemented fairly satisfactorily by the government. The respondents who believed the government had properly and adequately implemented the treaties on environment constituted a mere 19% of those interviewed, with the remaining 6% holding the view that the environmental treaties have not been adequately domesticated and implemented. Some of the shortcomings given, by those surveyed, to explain the lack of proper domestication and implementation of environmental treaties in Kenya included lack of a proper framework through which local communities could share in benefits accruing from conservation of environment and natural resources. Other inadequacies identified are lack of adequate education and awareness creation to the public on provisions of the treaties and environment in general, and lack of an institution with clear mandate to oversee management of issues of biodiversity in the country.

Table 5 presents the views of respondents on whether lack of or improper implementation of environmental legal frameworks in Kenya has undermined the operations of ENGOs in environmental conservation in the country.

Table 5: Opinions of respondents on the impact of implementation of environmental laws on operations of ENGOs in Kenya

Type of response	No. of respondents	%
Yes	22	61.11
No	14	38.89

Source: survey data

The statistics from table 5 indicates that about 61% of those surveyed were of the view that the failure, by the government, to implement and or adequately implement the already enacted environmental laws has undermined the environmental conservation activities undertaken by ENGOs in the country. The rest of the respondents accounting for 39% thought that the lack of or improper implementation of environmental laws did not in any way undermine the operations of environmental NGOs in the country.

Over 80% of the environmental NGOs interviewed held the view that lack of or inadequate implementation of already enacted environmental laws, policies and institutions had undermined their operations on environmental conservation in the country. Most of the ENGOs interviewed said their operations on conservation of biological diversity were undermined by the delay in implementation of the provisions of the Convention on Biological Diversity. This is because they lacked a strong legal framework to support the objectives they were pursuing on conservation of biological diversity in the country. For instance, the delay in the implementation of the National Biodiversity Strategy and Action Plan (NBSAP), which was meant to guide the conservation of biological diversity in the country. Moreover, some of the respondents argued that lack of an institution with a clear mandate to oversee management and conservation biodiversity in the country had compounded the problem of poor implementation of biodiversity laws in the country.

About 67% of environmental NGOs interviewed also believed that high levels of environmental problems still experienced in Kenya are due to the weaknesses in the institutions mandated to enforce laws on environmental management and conservation. In

forest conservation, for instance, ACC argued that the shoddy implementation of the provisions of the now repealed FA (cap. 385) was responsible for the unabated degradation of Savannah Woodlands. This situation in turn undermined the conservation efforts pursued by environmental NGOs such as ACC in Savannah Woodlands. Even though all forest resources are now covered by the Forest Act (2005), the respondents interviewed have urged for the strengthening of the institutional capacity of Kenya Forest Service to make it more effective in enforcement of laws on forest conservation.

Most the interviewed environmental NGOs dealing in wildlife conservation said the review of Wildlife Act was long overdue as some of its provisions were outdated hence a drawback to effective conservation of wildlife in the country. They said the Wildlife Act did not have adequate provisions for promoting the participation of local communities in wildlife conservation and in equitable sharing of benefits that accrue from it. For example, ACC held the view that the Wildlife Act had provisions which prevented local communities from fully participating in the management of wildlife resources outside protected areas. This is so despite the fact that most of the wildlife live outside protected areas .This weakness has limited the efforts of ENGOs, such as the ACC, AWF and WWF, in encouraging the active participation of local communities in management of wildlife resources outside protected areas. This factor in addition to inadequate compensation to local communities for loss of sources of their livelihoods for the sake of conservation, are some of the reasons cited by ENGOs for undermining environmental conservation in the country.

Some of the environmental laws cited by ENGOs that have not so far been implemented properly include the EMCA, 1999; the Forest Act, 2005; the constitution of Kenya, 2010; the Wildlife Act and the Water Act, 2002. Most environmental NGOs interviewed said that lack of political will, inadequate financial support systems, conflicts in institutional mandates due to poor co-ordination of existing legislations and deficiencies in institutional capacity are some of the factors that have undermined proper implementation of environmental laws by governmental institutions mandated to do so. In addition, in spite of the Kenyan government having ratified many environmental treaties and protocols, some of them over a decade ago, they have not been domesticated. For instance, despite the ratification of the Ramsar Convention on Wetlands and the UN Framework Convention on Climate Change by the government of Kenya in 1990 and 1994 respectively, the country has not yet enacted policies on wetlands and climate change. In the absence of legal frameworks in the mentioned fields above, the environmental NGOs surveyed said the government was employing opportunistic and reactive approaches to manage the environmental problems that arise therein.

Some provisions in the existing environmental laws, however, do have greater potential to impact positively on activities of ENGOs in environmental conservation and management of natural resources. These are especially in relation to those environmental laws that incorporate actors from NGOs and other non-state actors as members in the institutions they have enacted. EMCA and CBD, for instance, came up with provisions, if well implemented, will revolutionize the operations of environmental NGOs activities in the country. The lifting of the rule of locus standi by EMCA, 1999 made it legally possible for anybody to take

environmental cases to court. In the past NGOs and other entities could not successfully push cases on environmental destruction through the courts due to this rule. The rule of locus standi "requires the complainant to show that his/her right or interest has been directly violated or is likely to be violated by the matter brought to court" (Waweru, 2003:6). Because of its strict requirement, this rule had been a major impediment to efforts of NGOs to promote environmental conservation through the courts of law. This EMCA provision was put to use when some NGOs took the government to court and managed to scuttle her plans to excise 167,000 hectares of forest land for human settlement (Gachanja, 2001:54). This achievement was so significant in Kenya's history considering the fact that in the past NGOs could not have sustained a case of that nature in a court of law against the government because the principle of locus standi would have stood in their way.

Another provision of EMCA, the Environmental Impact Assessment (EIA), expanded the roles of NGOs in promotion of environmental conservation in the country. Some environmental NGOs such as ACC are members of EIA committee and have participated in discussions to implement the environment impact assessment (EIA) regulations. In addition, some of the environmental NGOs interviewed stated that some of their projects have been subjected to EIA process thus ensuring that their projects upheld environmental integrity. Furthermore, NGOs like ACC are registered as EIA expert firms and have at times been engaged by the government to inspect EIA reports produced by prospective developers.

3.3: Summary

The chapter has reviewed the environmental laws, policies, conventions and institutions that have been enacted and ratified by Kenya over the years since independence to promote conservation of environment and sustainable use of natural resources.

The impacts of these environmental legal frameworks on activities of ENGOs in Kenya have been examined. The chapter has examined Laws and institutions for conservation of forests and wildlife and the various environmental treaties the Kenyan government has ratified and activities she has put in place to domesticate them. Majority of the persons interviewed believe that Kenya has sufficient laws for effective environmental conservation. The main reason cited for continued environmental problems in Kenya was lack of proper implementation of the existing environmental legal frameworks.

The chapter has also examined the impact of the failure to properly implement environmental laws in the country and how this has impacted on operations of NGOs. In addition, the provisions of environmental laws which have had greater positive effect on NGOs activities have been analyzed.

CHAPTER 4

THE IMPACT OF THE COLLABORATIVE FRAMEWORKS BETWEEN ENGOs AND THE GOVERNMENT ON ENVIRONMENTAL CONSERVATION IN KENYA

4.0: Introduction

The rapid and dramatic growth in the number of NGOs in Kenya was experienced from 1990s. The growth occurred in all areas including in the fields of environmental conservation and socio-economic development. The population of NGOs operating in Kenya was 1441 by 2000 (Kameri-Mbote, 2000:1) but by September, 2012 this number had increased exponentially to reach 19833 (www.ngobureau.or.ke). 1639 of these NGOs, which account for 8.3% of all NGOs working in the country, are involved in conservation of the environment.

This chapter covers the activities of environmental NGOs particularly in the fields of forestry and wildlife conservation. Environmental NGOs, operating in this country, play an important role in environmental conservation and complement efforts undertaken by the government. The focus of this study is on two major issues. The first issue is to find out the amount of resources raised and allocated by NGOs and government for environmental conservation activities in Kenya. The second issue examines the collaborative arrangements of ENGOs with the government and or governmental bodies, local communities and private sector and the impact of these collaborations on environmental conservation efforts in the country.

The chapter has three sections. The first section looks at the financial resources raised and allocated for environmental conservation activities by NGOs and government and the environmental conservation programs that have been implemented in Kenya. The section also analyzes the collaborations that have been practiced between the NGOs and government and or governmental agencies in the area of environmental conservation and the impact this has had. The second section looks at the collaboration of NGOs and other entities in the field of environmental conservation and its impact. The final section is basically a summary of the major issues discussed in the chapter.

4.1: Section I: Environmental conservation activities undertaken by ENGOs and governmental institutions in Kenya

Money as a resource is a key component to efforts to conserve natural resources and the environment at large. Kenya just like other developing countries, however, lacks adequate financial resources for development let alone for environmental conservation. This is vividly illustrated by Ruhiu who, when commenting on funding of environmental conservation by government, says "the worst hit is the forest sector where it is estimated that kshs.100 is allocated towards conservation of one hectare of indigenous forests" (Joseph Ruhiu, 2004:2). By and large the amount of money allocated by the Kenyan government for environmental conservation purpose is little when compared against funds spent on other areas. For instance, the government of Kenya used less than 1% of its total budget on conservation of forest resources (Ibid). Some of the governmental officials interviewed generally agreed that environmental conservation is underfunded by the government in that less than 5% of total budgetary funds are allocated to environmental issues. For this reason environmental NGOs

operating in the country occupy an important niche as they bring in funds and expertise services required to supplement those of the government. The ability of the NGOs to mobilize financial resources even from external sources makes them play a vital role in bringing into the country the much needed funds.

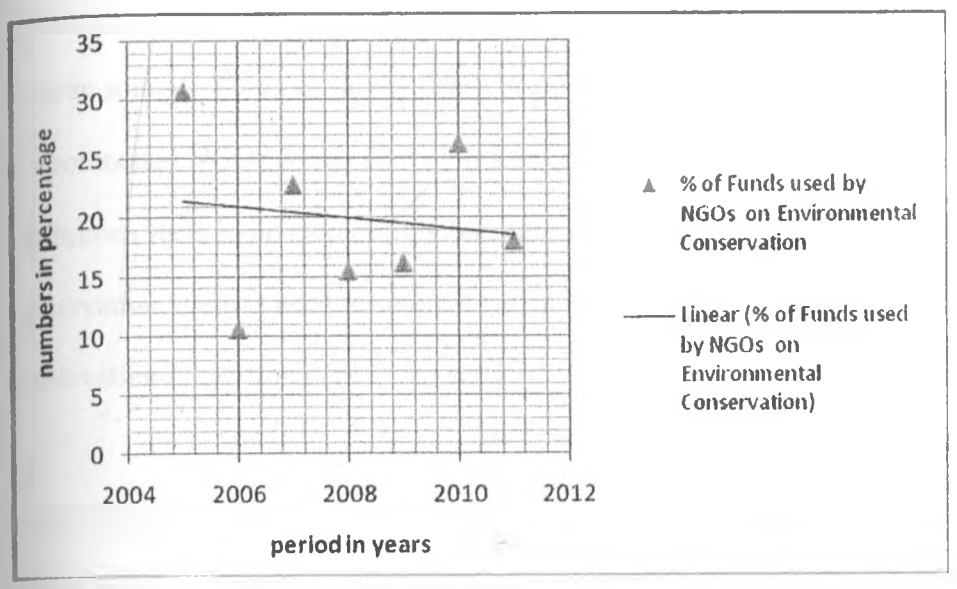
Since the environmental challenges in the country are many and pronounced the presence of NGOs dealing in environmental conservation is highly welcome. The funds NGOs have raised have boosted significantly environmental conservation efforts in the country. Table 6 shows the amount of financial resources that the NGOs, operating in Kenya in different sectors, have been able to mobilize for their functions vis-à-vis the funds raised by ENGOs for environmental conservation.

Table 6: Financial resources mobilized by NGOs operating in Kenya, 2005- 2011

Year	Funds Mobilized by NGOs in Kenya in General (ksh)	Funds by NGOs for Environmental Conservation (ksh)	% of Funds by NGOs used on Environmental Conservation
2005	228,818,158.00	70,378,063.00	30.757
2006	27,238,231,844.15	2,876,351,794.09	10.559
2007	42,562,098,549.53	9,711,924,921.63	22.818
2008	55,713,001,572.64	8,637,262,555.68	15.503
2009	72,091,623,524.43	11,650,367,303.45	16.161
2010	78,144,875,293.66	20,519,443,378.56	26.258
2011	77,940,505,862.34	14,113,612,706.94	18.108
TOTAL	353,919,154,804.75	67,579,340,723.35	140.164

Source: NGO Co-ordination Bureau

Figure 1: Percentage of funds used by NGOs on environmental conservation in Kenya, 2005-2011



Source: analysis of data from NGO bureau on funding of environmental conservation sector in Kenya by ENGOs vis-à-vis other sectors

Figure 1 shows that even though the amount of funding by NGOs for environmental conservation has been rising, the funds allocated for environmental conservation has been declining in percentage terms when comparison against funding in other sectors. The decline in funding for environmental sector is partly due increased competition in other areas such as the education and health sectors.

The sources of funding for NGOs are diverse and dynamic. They range from governments and governmental institutions, intergovernmental bodies, corporations and foundations and individuals. NGOs operating in Kenya get their financial resources from both internal and external donors. From the environmental NGOs surveyed 23 % said they received between

30% and 49% of their funds from non-Kenyan citizens and institutions compared to 33% who said they received over 70% of their revenue from the same sources. The remaining 44% of environmental NGOs surveyed got between 50% and 69% of their funding from non-Kenyan sources. (Source: survey data) From these figures most of the funding for environmental NGOs comes from non-Kenyan sources. Although Kenyan citizens and institutions seem to be increasingly becoming more supportive of environmental conservation, there is need for more Kenyan institutions and Kenyans to embrace and support conservation of environment in the country.

Most of the environmental NGOs surveyed have used the financial resources they have been able to get, from donations and fund-raising activities, to carry out programs and projects to improve environmental conservation in Kenya. Table 7 shows the number of programs the surveyed ENGOs have implemented in the country in the period 2000-2012 to boost environmental conservation.

Table 7: Number of projects implemented by ENGOs in Kenya, 2000-2012

Year	Total no. of projects NGOs have implemented
2000	118
2001	119
2002	122
2003	121
2004	132
2005	125
2006	124
2007	129
2008	130
2009	130
2010	124
2011	123
2012	123
Total	**1620**

Source: survey data

From table 7 we see that the number of projects implemented by NGOs has fluctuated considerably from year to year. This can be explained on the basis that the number of projects implemented by ENGOs is determined by the size and financial resources available. Bigger and or complex projects, for example, require more financial resources.

By and large, the uses of financial resources in any given organization are determined by various factors such as payment of salaries and other administrative costs. This means that the amount of financial resources spent on an organization's core business is conditioned by how expenditure on other areas is managed. All the environmental NGOs sampled indicated that they spent over 70% of their revenues allocated for environment on environmental conservation activities.

Each year in its financial budgetary reports, the government of Kenya sets apart funds for environmental conservation. These funds are allocated to sectors designated by the government to promote conservation of the environment in the country. Here we examine the financial resources the government has given to three major environmental sectors, which are: forestry development, environmental management and protection, and wildlife services.

The forestry development sector under which Kenya Forestry Research Institute (KEFRI) and Kenya Forest Service (KFS) fall covers programs such as forestry and plantation development, local afforestation schemes, conservation of water catchments and natural forests, arid and semi-arid lands forestry and presidential commission on soil conservation and afforestation.

The environmental management and protection sector encompasses the Department of Survey and Remote Sensing and EMCA, 1999 institutions. Institutions under EMCA include National Environment Management Authority, National Environment Council, Provincial and District Environmental Committees, National Environmental Tribunal and Public Complaints Committee. On the other hand, the wildlife sector where KWS falls entails

conservation of wildlife resources in the country. Table 8 shows financial resources the government has allocated to the three sectors mentioned above over the years for both recurrent and development expenditure purposes.

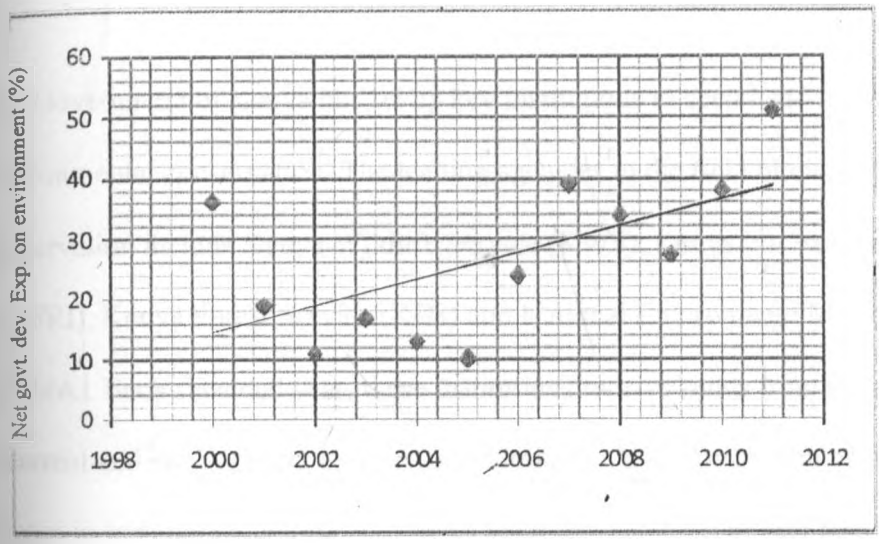
Table 8: Net estimates for recurrent and development expenditure allocated by the Government of Kenya to environmental sectors, 2000/2001-2011/2012

Year	net recurrent expenditure				net development expenditure					
	Forestry development	Environmental management and protection	Wildlife services	Total	Forestry development	Environmental management and protection	Wildlife services	Total	net total for recurrent and development expenditure	% of net development exp./total net government Funding
2000-2001	930,846,971	35,090,325	170, 730,505	1,136,667,801	112,961,240	62,757,000	467,600,000	643,318,240	1,779,986,041	36
2001-2002	1,052,950,642	116,228,121	209,734,874	1,378,913,637	40,838,775	67,666,000	184,600,020	293,104,795	1,572,018,432	19
2002-2003	1,264,320,666	401,788,726	286,113,010	1,952,222,402	59,899,632	99,301,322	94,300,000	253,500,954	2,205,723,356	11
2003-2004	1,481,588,798	275,638,615	412,113,010	2,169,340,423	190,040,000	97,158,754	150,000,000	437,198,754	2,606,539,177	17
2004-2005	1,406,477,593	323,903,615	697,500,000	2,427,881,208	158,300,000	78,595,302	123,927,000	360,822,302	2,788,703,510	13
2005-2006	1,759,624,944	310,357,305	697,500,000	2,767,482,249	181,714,879	99,915,831	30,000,000	311,630,710	3,079,112,959	10
2006-2007	1,788,549,322	311,307,305	917,000,000	3,016,856,627	707,355,854	106,169,286	138,300,000	951,825,140	3,968,681,767	24
2007-2008	2,109,546,583	310,657,307	900,000,000	3,320,203,890	913,447,000	557,624,554	653,000,000	2,124,071,554	5,444,275,444	39
2008-2009	2,157,742,040	319,980,642	937,300,000	3,415,022,682	814,148,000	116,660,130	813,300,000	1,744,108,130	5,159,130,812	34
2009-2010	2,399,842,040	464,076,122	937,300,000	3,801,218,162	289,350,000	328,985,566	808,667,450	1,427,003,016	5,228,221,178	27
2010-2011	2,589,686,400	675,954,563	937,300,000	4,202,940,963	1,100,129,050	803,628,818	667,613,516	2,571,371,384	6,774,312,347	38
2011-2012	2,601,086,400	705,479,800	937,300,000	4,243,866,200	1,817,930,050**	1,852,451,505**	690,113,516**	4,360,495,526	8,604,361726	51

Source: Kenya government's annual budgetary estimates for recurrent and development expenditure

** projected estimates

Figure 2: Percentage of Kenya Government's net development expenditure on environment, 2000/2001-2011/2012



Period in years

Source: Analysis of trends in the government's net development expenditure on environment

From figure 2 we see a steady increase in the percentage of financial resources the government of Kenya has been allocating to net development expenditure, in comparison to what is allocated to net recurrent expenditure, on environment. The highest rate of 39% was attained in 2007-2008 financial year while the second highest percentage was recorded in 2010-2011 financial year. The dramatic increase in funding for 2007-2008 financial year was partly due to the implementation of the new institutions that were established by FA (2005).

The Government of Kenya has set up key institutions to spearhead its efforts in environmental conservation. The leading agencies in the field of environmental and wildlife conservation include Kenya Wildlife Service (KWS), Kenya Forest Research Institute (KEFRI), Kenya Forest Service (KFS) and National Environment Management Authority (NEMA). Each financial year, these institutions receive funds from the government for both recurrent and development expenditure. Similarly these governmental institutions do also engage in income-generating activities to supplement the financial resources they get from the government and other donors. The strategies they have employed to generate extra income include provision of consultancy services, selling of mature trees and seedlings and earnings from tourism activities. For instance, KWS gets about 70% of its revenue from tourism- related activities such as gate fees to game parks (KWS: 2007).

Now we examine the programs and activities environmental NGOs have undertaken in conservation of environment in Kenya. The focus of the study, however, is on the collaboration between ENGOs and the government and the impact it has had on conservation of environment in the country. All the environmental NGOs surveyed disclosed that they

were collaborating with governmental bodies on conservation of a wide range of environmental issues in diverse sectors. The governmental institutions they collaborate with include Kenya Wildlife Service, Kenya Forest Service, National Museums of Kenya, Local Government Authorities, Ministry of Environment and Mineral Resources, Ministry of Wildlife and Forestry and Ministry of Agriculture and Livestock. Other public institutions they collaborate with are those that were formed by the Environmental Management and Co-ordination Act, 1999 like the National Environment Management Authority, Provincial and District Environmental Committees among others. Table 9 shows the numbers of environmental conservation projects the surveyed ENGOs have implemented jointly with governmental bodies in the country between 2000 and 2012.

Table 9: Number of Projects ENGOs have implemented jointly with governmental institutions in Kenya, 2000-2012

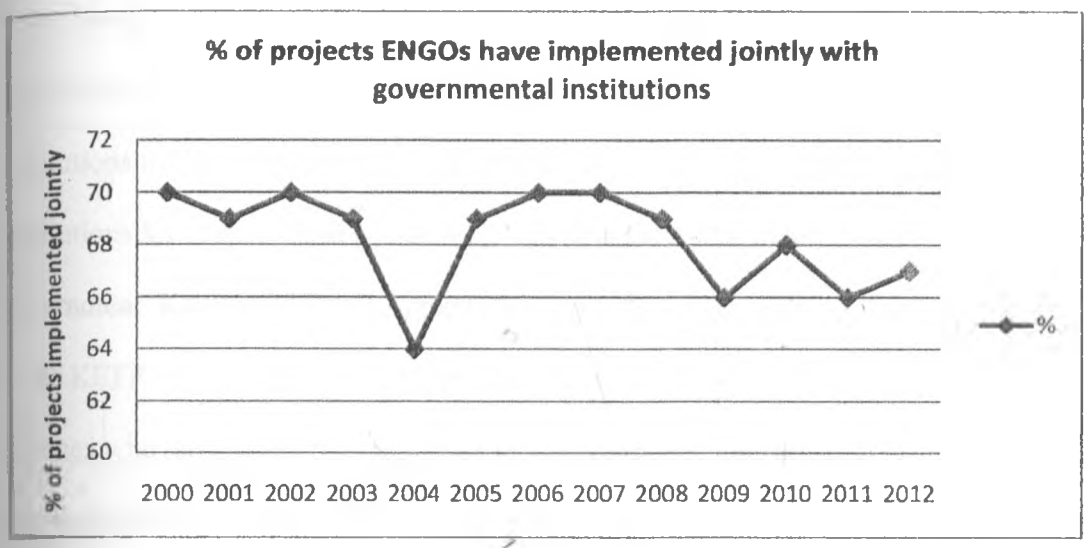
Year	No. of projects ENGOs have implemented jointly with government or governmental bodies
2000	79
2001	79
2002	82
2003	80
2004	83
2005	83
2006	83
2007	87
2008	86
2009	83
2010	81
2011	79
2012	80
Total	**1065**

Source: survey data

Comparing data found in table 7 and table 9, the results show that on average between 2000 and 2012, environmental NGOs have implemented about 68% of their total projects in Kenya jointly with governmental bodies. This therefore implies the existence a strong relationship

between ENGOs and the government in the area of implementation of programs on environmental conservation in the country.

Figure 3: Percentage of environmental conservation projects ENGOs have implemented jointly with governmental bodies in Kenya, 2000-2012



Source: Analysis of survey data on trends in number of projects ENGOs have implemented jointly with governmental institutions in Kenya between 2000 and 2012

Figure 3 shows that there is a fluctuation in environmental projects that ENGOs surveyed, both local and international, have implemented jointly with governmental bodies. The range of fluctuation has been between the average minimum level of 64% and the average maximum level of 70% between 2000 and 2012.

Environmental NGOs surveyed said that they collaborate with governmental institutions in Kenya in various forms such as funding, training, legislative and policy making processes,

and environmental education and awareness creation. These interactions are conducted through seminars, workshops, conferences among other channels. Here below we discuss these various forms that have been applied.

Funding is one of the forms of collaboration that has been practiced by ENGOs and governmental institutions. This form of collaboration is, however, less practiced as over 80% of ENGOs surveyed do not give and or receive financial donations from governmental institutions in Kenya. One ENGO said it was giving 20% of its revenue to governmental institutions for conservation and another one ENGOs said it receives funding from the government. KWS and NEMA agree to having received some direct funding from ENGOs, while KEFRI said it has not been funded directly by NGOs. International ENGOs are mostly the ones who have given direct funding to environmental conservation programs implemented by governmental institutions in the country. For instance, IFAW and FOA have, since 1999 and early 1990s, given KWS over US$ 400,000 and US$ 500,000 respectively (www.kws.org). According to a NEMA official who was interviewed, in the formative years of bringing into operation the EMCA institutions, NEMA received over kshs.105 million and kshs.68 million in 2002-2003 and 2003-2004 financial years respectively from NGOs.

By and large most of the ENGOs surveyed said that they mostly channel donations both in cash and in kind to governmental bodies during important environmental events like the World Environmental Day and Wetlands Day which are marked annually. The funds and items given by ENGOs are used in preparing the celebrations to mark the said events and for

Table 10: Number of Kenyans trained by ENGOs on environmental conservation issues, 2000-2012

Name of NGO	No. Of Persons Trained
KFWG	over 10,000
Ecofinder Kenya	over 500
WCK	Over 1000
Nature Kenya	Over 12,000
Farm Concern International	Over 50,000

Source: survey data

4.1.1: Wildlife conservation

Environmental NGOs involved in wildlife conservation collaborate a great deal with KWS, which is the main government institution charged with the conservation of wildlife resources in the country. This is partly because all wildlife resources found in the country are under the control of KWS and also because the government has been particularly more serious with wildlife conservation as it is a major foreign exchange earner through tourism. In addition, KWS encourages collaboration with NGOs as it views them as partners in conservation and has over time worked closely with them in implementing many programs on conservation of wildlife (www.kws.org). The major areas where ENGOs and KWS have collaborated include the implementation and enforcement of CITES provisions in the country, implementation of COBRA and CORE programs that target to increase involvement of local communities in wildlife conservation and empowering them to benefit from the same, and management of human-wildlife conflicts. Under these collaborative mechanisms the major

giving tokens to participants who win in competitions that are organized whose main objective is to pass environmental messages across to those in attendance and the general public at large.

Environmental NGOs and governmental bodies dealing with environmental conservation in Kenya have shared a lot in the area of technical support as well. The ENGOs and governmental bodies surveyed agree that they both have received and given technical support to one another. The survey has further established that most common forms of technical support have been in areas of training, consultancy and policy formulation. Technical support has been shared in areas such as climate change, biodiversity, alternative livelihoods and combating desertification.

NGOs and governmental bodies involved in environmental conservation do also collaborate in improvement of human resource capacities of their staff and the public at large. Public institutions and NGOs have sponsored conferences, workshops and seminars which have trained their personnel and other Kenyans on various environmental issues. Table 10 shows the number of Kenyans trained by some of the surveyed environmental NGOs on environmental conservation related areas in their efforts to boost human capacity in the country.

functions carried out by environmental NGOs have included undertaking of research and advocacy to help the government, especially through KWS, to articulate more effectively its stand on CITES provisions such as on trade in ivory and rhino horns; conducted training activities and awareness creation, for instance, on ways to minimize human-wildlife conflicts and provided financial resources and technical support.

KWS, on its part, has performed a wide range of functions such as trans-location of troublesome animals to other parks that are more secure and away from human settlements, fenced parts of national parks and game reserves bordering human settlements to reduce human-wildlife conflicts, held meetings with local communities and educated them on importance of wildlife conservation; constructed social amenities such as schools, health centers and cattle dips for communities living in wildlife endowed areas; provided bursaries to children of families living near protected areas and encouraged local communities to participate in curbing human-wildlife conflicts by erecting fences round their homesteads and farms.

Now we look at the trends in the populations of wildlife species over the years and how governmental institutions and environmental NGOs have performed in the efforts to conserve them. Table 11 shows the populations of specific wild animal's species between 1998 and 2011.

Table 11: Wildlife population estimates in the Kenya range lands, 1998-2011

'000 number

Species	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Elephant	16.4	16.4	11.1	16.5	18.7	18.8	18.8	17.5	17.5	19.7	19.4	20.9	22.6	22.5
Buffalo	28.8	27.5	18.5	29.0	24	24.6	25.1	22.5	22.1	20.1	18.1	17.8	16.0	15.5
Giraffe	38.6	36.6	26.1	36.5	32.1	33.2	34.2	34	31.7	29.3	27.5	25.4	24.0	23.4
Burchell's Zebra	170.8	170.0	138.8	124.0	124	108.6	110.3	112	115.4	109.0	107.0	103.4	102.1	104.0
Grevy's Zebra	7.3	7.2	5.8	5.4	5.4	5.3	5.1	48	4.1	4.0	3.8		3.6	3.4

Source: Kenya National Bureau of Statistics: economic surveys

The wildlife species like elephants, black and white rhinos, lions, leopards, cheetahs and grevy's zebras are categorized as endangered species in Kenya hence require concerted efforts to conserve them (www.kws.go.ke). The serious threats they face include shrinkage of their habitats due to encroachment by human settlements, poaching of elephants and rhinos for their ivory and horns respectively, death from disease outbreaks particularly of climate-change induced diseases and revenge killings by local communities especially of lions for their attacks mostly on livestock. Rhinos, for instance, are poached because of the high demand for their horns in Asia and Yemen for making traditional medicine and dagger handles respectively (www.foc-uk.com).

ENGOs mainly International ones such as AWF, WWF, IFAW and ACC work hand- in-hand with KWS to try to eliminate these threats. The actions that have been undertaken by these bodies have helped significantly to protect and preserve these species. Table 11 shows a steady increase in elephant's population from 16,400 in 1998 to 22,500 in 2011, accounting for an increase of over 37%. Black rhinos, on the other hand, have grown from around 300 in late 1980s to over 600 in 2011 representing a 50% growth (www.kws.go.ke, www.wildlifeextra.com). The current numbers for elephants and rhinos in Kenya are, however, too few compared to what their population was a few decades ago. In early 1970s elephants and black rhinos numbers in the country averaged 167,000 and 20,000 respectively but rampant poaching activities in 1970s and 1980s significantly reduced their numbers to around 16,000 elephants and 300 black rhinos by late 1980s (www.kws.go.ke , www.earthtimes.org, and www.lewa.org). The ENGOs have fought threats to these species

through actions such as provision of financial and technical support for establishment of rhino sanctuaries and building of infrastructure and capacity of anti-poaching personnel.

4.1.2: Forestry conservation

Conservation of forest resources in the country has also been enhanced by collaboration between ENGOs and governmental agencies that conserve forests especially the KFS, KWS and KEFRI. Environmental NGOs collaborate with KWS in conservation of forests that have been put under its charge because they are home to valuable wild life species. The KFS, on the other hand, collaborates with ENGOs largely in conservation of forests resources under its jurisdiction. Environmental NGOs have collaborated with governmental agencies in areas such the drawing up of forest management plans, carrying out of forest surveys and planting of trees on public lands.

Under forestry conservation, the main roles that have been performed by environmental NGOs have included the provision of funds and technical support, the education of local communities on raring of tree seedlings and farm management skills and they have also actively participated in and gave their support and views during the review of the Forest Act, 2005 and other sector reform policy documents.

The roles performed by governmental bodies have included drawing of training modules, mobilization of local communities, carrying out research and preparation of reports, provision of tree seedlings for planting and caring for trees planted on public lands. In addition, they have provided training on various tree management technologies such as

nursery establishment and management, participatory forest management, forestry recovery and regeneration and provided technical support and information on tree technologies to community forest associations. Table 12 shows the number of projects KEFRI has implemented jointly with environmental NGOs between 2000 and 2012.

Table 12: Number of projects implemented by KEFRI in collaboration with ENGOs, 2000/2001-2011/2012

Year	Number of projects
2000-2001	2
2001-2002	3
2002-2003	4
2003-2004	4
2004-2005	4
2005-2006	5
2006-2007	6
2007-2008	8
2008-2009	10
2009-2010	15
2010-2011	17
2011-2012	10

Source: survey data

Most of KEFRI's projects are long term in nature whose implementation period ranges from one year to over ten years. The increase in number of projects implemented annually is due

to introduction of new projects that run concurrently with the on-going ones. Table 13 shows the trends in Kenya's forest cover between 1990 and 2010.

Table 13: Trends in forest cover in Kenya, 1990-2010

'000ha

Type of ownership	1990	2000	2005	2010
State forest	1490	1404	1364	1364
Local Authority forest	2150	2100	2075	2013
Private forest	68	78	83	90
Total forest cover	3708	3582	3522	3467

Source: Food and Agriculture Organization Report 2010

Table 13 shows the Kenya's forest cover was declining over the 20-year period covered. Between 1990 and 2010, Kenya lost about 6.5% of its forest cover accounting for 241,000 hectares (FAO, 2010). Most of the deforestation occurred in forest lands owned by the state and Local Authorities, where forest cover reduced. Private-owned forests, however, showed a steady increase in land brought under forest cover from about 68,000 hectares in 1990 to 90,000 hectares in 2010 being an increment of 32%. The latest statistics shows the forest cover in the country has grown to 5.9% in 2012 (KFS, 2012) and this is a remarkable improvement from 1.7% forest cover estimates by NEMA in 2010 (NEMA, 2010).

NEMA, being the body mandated to carry out the overall co-ordination and supervision of all environmental activities in the country, collaborates and interacts with environmental NGOs and other entities in their environmental conservation functions. In activities where NEMA

has collaborated with ENGOs the two parties have carried out distinct roles. The main functions that have been performed by NEMA have included co-ordination and supervision of all environmental conservation activities in the country to ensure they are done well, carrying out of environmental education and awareness creation where they sensitize ENGOs and others stakeholders on existing environmental laws and new technologies for environmental conservation, and enforcement of environmental laws through EMCA, 1999, provisions.

On their part ENGOs have carried out functions such as advocacy to bring out issues hence galvanizing public support; mobilized local communities for training and other environmental issues; mobilized resources such as trophies and banners used in ceremonies and campaigns during world environmental days, and organized workshops on environmental issues where participants from NEMA and other stakeholders are invited.

The preceding section has examined some of the forms of collaboration between environmental NGOs and government and or governmental institutions in Kenya in the sector of environmental conservation. Here below we now analyze whether these collaborations are sufficient for environmental conservation in the country. Table 14 explores this issue.

Table 14: Opinions of respondents on the sufficiency in the collaboration between the ENGOs and government in environmental conservation in Kenya

Type of response	No. of respondents	Percentage (%)
Yes	12	33.33
No	24	66.67

Source: survey data

Table 14 shows that the levels of collaboration, in Kenya, between ENGOs and government and or governmental bodies are not sufficient enough since 67 % of those polled held that view. It is only 33% of the respondents who believed the existing levels of collaborations were sufficient. There is therefore need to come up with new ways of collaborations and also to find ways of improving and deepening the existing collaborations between environmental NGOs and governmental institutions in the country.

Some of the reasons given by the persons interviewed to explain lack of sufficient collaboration between environmental NGOs and governmental institutions included the existence of minimal consultations and openness between ENGOs and governmental institutions, lack of linkages for effective flow of information, some government officials accused NGOs of operating in secrecy and isolation especially during the implementation stage, and lack of wide consultations especially by ENGOs in their environmental conservation activities.

The respondents interviewed suggested solutions for improving collaborations between ENGOs and governmental bodies. Their proposals included the enactment of policy and legal frameworks for effective co-ordination of environmental conservation activities of NGOs and government, strengthening of channels of consultations and enhancement of transparency, and the building of common working relations.

4.2: Section II: Collaboration between ENGOs and Other Non-State Actors in Kenya in environmental conservation

In this section we analyze the various forms of interactions and partnerships environmental NGOs have engaged in among themselves and with other non-state actors in Kenya over the years. The impact of these collaborations on environmental conservation in the country is also evaluated.

All the environmental NGOs surveyed said that they collaborate with local communities as they view them as key stakeholders in conservation of natural resources in the country. Environmental NGOs interact with local communities through their community- based programs. Table 15 shows the numbers of community groups some environmental NGOs are collaborating with in the country.

Table 15: Number of community groups collaborating with ENGOs in Kenya, 2000-2012

Name of NGO	No. of local community groups
Ecofinder Kenya	50
KFWG	400
FAN	2000
Nature Kenya	90
Farm Concern International	37

Source: survey data

Through their community-based programs ENGOs have helped local communities to set up nature-based income generating activities such as conservancies, butterfly farming, making of improved charcoal kilns, bee-keeping, tour guiding and eco-tourism bandas composed of traditional huts where they educate tourists on their culture. The enterprises set up have enabled local communities to earn their livelihoods from environmental conservation hence improving their economic status and thereby enhancing environmental conservation through reduction in activities destructive to the environment. Table 16 shows the numbers of local communities some environmental NGOs have helped to establish nature-based business ventures.

Table 16: Number of local community groups that have been helped by ENGOs to set up eco-based businesses in Kenya, 2000-2012

Name of NGO	No. of local community groups
Ecofinder Kenya	30
KFWG	100
Nature Kenya	90
Farm Concern International	20

Source: survey data

Environmental NGOs have provided training and other technical support to community-based conservation groups to empower them both on proper conservation of natural resources and on skills to run their nature-based enterprises more effectively and sustainably. Seminars, workshops, conferences and exchange visits are some of the mechanisms environmental NGOs have used to pass knowledge to local communities.

Roles played by ENGOs in their collaboration with local communities have included funding of the activities they do jointly with local communities, conduct training programs to build the capacity of local communities in areas like entrepreneurship and advocacy to improve their skills to successfully monitor and carry out the environmental issues they are involved in, they help in sourcing for markets for products produced and services offered by local communities, help communities to develop business plans and forest management plans, they educate and create awareness among communities on environmental issues and best practices of conserving the environment, and promotes enhancement of policy frameworks,

governance and establishment of sustainable livelihoods. The main objective of environmental NGOs, in all these, has been to ensure that local communities actively participate in environmental conservation and derive benefits from it through engagement in sustainable livelihoods.

The functions of local communities, on the other hand, in their interaction with environmental NGOs have included the creation of a link of engagement with the government in conservation, provided a critical mass forum that has provided a platform for advocacy and environment management, raised awareness among stakeholders on environmental issues of concern. The other functions they have done are the mobilization of the public for active participation in policy formulation processes; implementation of environmental conservation activities such as landscape restoration, planting of and caring for trees until they reach maturity; shared their traditional knowledge on conservation; and monitoring of the development activities in the areas they live in to ensure that they do not undermine environmental conservation efforts.

Some of the challenges experienced by environmental NGOs in their interaction with local communities in the country have included lack of funds, failure by some communities to link their nature-based enterprises with environment and hence their failure to use the opportunity accorded to them to promote environmental conservation. Another major challenge experienced by ENGOs is how to ensure the nature-based enterprises set up are more sustainable and generate adequate incomes to alleviate poverty levels among local communities.

Over 57% of the environmental NGOs surveyed said they partner and interact with the private sector in their environmental conservation operations. They work with both those commercial entities that fund environmental conservation efforts and those that contribute to environmental destruction through the economic activities they do with the aim of educating the later on ways to enhance environmental conservation in their operations.

In their collaborations ENGOs engages the private sector with a view to promote adoption of green enterprises and urges them to adopt environmentally friendly practices in running their businesses; carry out training to improve the capacity of businesses on environmental conservation issues, tries to harness the global market place into a force for environmental conservation, champion for value addition to products produced by businesses to improve on incomes and hence cut down on poverty levels, they market finished goods which have been made in a way that promotes environmental conservation such as those that are made from recycled materials and they engage in media advocacy and mobilization of financial and material resources for environmental conservation.

The private sector on its part provides funding, highlights key research findings on environment in the media, market green products like those made from recycled materials and energy saving equipment, provide training to environmental NGOs and local communities on proper management practices and sustainable ways to run businesses, they market and sell products and services produced by local communities from nature-based enterprises they manage. Other functions done by the private sector are the provision of advice to local communities on how to improve quality of the products they make and hence

improve their income flows, and they endeavor to adopt environmental friendly practices such as energy efficient technologies. Table 17 shows the number of business entities some environmental NGOs collaborate with in their environmental conservation undertakings.

Table 17: Number of business enterprises collaborating with environmental NGOs in environmental conservation in Kenya, 2000-2012

Name of NGO	No. of business enterprises
Ecofinder Kenya	10
KFWG	6
Nature Kenya	30

Source: survey data

ENGOs do also work closely among themselves at international, national or local levels in carrying out their environmental conservation activities. International environmental NGOs have extended technical support to national environmental NGOs especially in the areas of finance and training and this support has improved conservation of environment in the country.

The bigger and more established International environmental NGOs have in most cases channeled their technical assistance and financial resources to national and local NGOs. International environmental NGOs, such as AWF and WWF, have provided technical support to various projects implemented by WCK and Nature Kenya. They have also implemented various programs together in the fields of environmental education and awareness creation such as tree-planting and environmental clean-ups exercises and

organizing of rallies to create public awareness on various environmental issues in the country.

On capacity building, local and national ENGOs are beneficiaries of services offered by International NGOs. For example, WCK indicated that an International NGO trained its staff on how to audit their programmes (source: survey data). ENGOs also reported that at times their donors, including other NGOs, determine the projects they fund and always demand for accountability reports on how the funds they give are used.

Environmental NGOs rely on the good reputation they enjoy, among their donors, as results achievers and also through their rigorous marketing techniques to mobilize financial resources for carrying out their conservation objectives. Moreover, they augment their revenue through fund- raising activities and income-generating activities such as provision of consultancy services.

Now we examine the performance of NGOs in environmental conservation in Kenya. Table 18 shows the performance rating of ENGOs as given by experts surveyed.

Table 18: Performance of ENGOs in environmental conservation in Kenya

Rating of ENGOs	No. of respondents
Excellent performance	0
Good performance	10
Poor performance	0

Source: Survey data

The data in table 17 shows that out of the three rating scales given, all the environmental experts interviewed assigned a good performance rating to environmental NGOs operating in Kenya. This implies that the NGOs dealing with environmental conservation issues in the country are doing a fairly commendable job.

Some of the notable achievements of NGOs operating in Kenya on environmental conservation and management of natural resources include their advocacy and campaigns that led to protection of forest lands when government rescinded its decisions to hive off forest land and convert them into human settlements. Their efforts saved 5,000 ha of Arabuko-Sokoke forest in 1997 and another 67,000 ha of forest land in 2001 which the government wanted to excise. ENGOs have also helped in drawing up of participatory forest management plans and establishment of Community Forest Associations (CFAs) and trained members of these associations on participatory forest management principles to empower them to play an active and effective role in management of forest resources in the country.

In addition, ENGOs have participated in aerial forest surveys that have revealed the state of forests in the country, the threat they face and used the data obtained to come up with recommendation for best possible conservation solutions and have planted trees to increase forest cover in the country. For example, the Green Belt Movement since its inception in 1977 has planted over 51 million trees by 2011 (www.greenbeltmovement.org). The environmental NGOs have also supported the construction of rhino sanctuaries which have enhanced protection of rhinos in the country, they have helped in establishment of wildlife associations and community-based conservation organizations for enhanced conservation and management of wildlife, and have provided crucial scientific information to KWS, the secretariat for CITES in the country and helped a lot in influencing the putting of endangered species such as rhinos and elephants to appendix I of CITES covering the most endangered species for proper protection.

4.3: Summary

The chapter has highlighted the role played by NGOs in environmental conservation in Kenya. It has examined financial resources that have been mobilized by NGOs and the Government of Kenya, over the years, for environmental conservation. The study has shown that the financial resources mobilized by ENGOs, both from within and outside Kenya, have played a big complementary role to the government's efforts in conservation of the environment.

The study has also shown that most of the financial resources raised by NGOs have been spent on environmental conservation programs. The collaborations and relationship between

ENGOs and governmental agencies and other non-state actors involved in conservation of the environment have been highlighted and analyzed. Various areas of their collaborations have been explored and the study has shown that environmental NGOs implement most of their projects jointly with governmental institutions. Nevertheless, the findings of the study show that the existing levels of collaborations are not adequate for effective environmental conservation in the country.

CHAPTER 5

The Summary, Conclusion and Recommendations

The chapter has three sections. The first section gives the summary of the key issues that have been analyzed in the preceding chapters. The second section provides the conclusions and the main findings of the study. These findings are examined in the context of the hypotheses of the study. The last section gives the recommendations.

5.0: Section I: The summary

The literature review in chapter one focuses on three broad areas in the field of environmental conservation: the activities NGOs have undertaken in the field of environmental conservation; the environmental laws, policies and institutions; and the collaboration of NGOs with the governments and local communities in promoting environmental conservation around the globe. ,

The study examines the role of environmental NGOs in various sectors of environmental conservation. It looks at the approaches they have applied in promoting proper conservation of the environment such as the use of advocacy to influence the formation of effective environmental laws by governments. Similarly environmental NGOs have participated actively in influencing the formation of environmental treaties and used the resourced they have been able to mobilize to enhance conservation of the environment.

On environmental laws, policies and institutions, the study focuses on their impacts on the environmental conservation activities of NGOs in Kenya. This area of study was selected

because the literature review revealed a significant gap on literature on impact of environmental legal frameworks on NGOs' operations in this country. The study analyzed environmental laws, policies and institutions on conservation of forestry, wildlife and biological diversity. From the analyses it has emerged that the environmental regimes in the country have had positive impact on the operations of NGOs in environmental conservation in Kenya. The legal regimes have given environmental NGOs the legal basis upon which to carry out their environmental conservation objectives and activities. In Kenya lack of implementation and improper enforcement of the already enacted environmental legal frameworks are some of the factors that have undermined the operations of NGOs in environmental conservation in the country.

Finally the study examines collaborations of NGOs with the government, local communities and business entities and their impact on conservation of the environment in Kenya. The study notes that environmental NGOs play an important complementary role to that of the government in conservation of the environment. For instance, the financial and material resources NGOs have mobilized here in Kenya and from abroad have greatly advanced the cause for conservation of the environment in the country. The study looked at the various forms of collaborations the environmental NGOs have had with key governmental agencies, local communities and business entities and their effects on environmental conservation in the country. The study has shown that these collaborations have enhanced the conservation of natural resources in the country.

5.1 Section II: Conclusion

This study set out to achieve three objectives. The first objective was to examine the role of and activities undertaken by NGOs in environmental conservation. The study thus examined a wide range of activities and programs the environmental NGOs have implemented aimed towards conservation of the environment. These activities have covered various sectors of the environment and their impacts highlighted.

The second objective was to analyze the impact environmental laws, policies and institutions on the operations of environmental NGOs in Kenya. The study concludes that the major factor that has undermined the environmental conservation operations of ENGOs in Kenya has been the failure to implement or adequately implement the environmental legal frameworks that have already been enacted. Both the failure and insufficient implementation of environmental laws in Kenya have undermined some of the objectives and efforts of ENGOs on conservation and management of natural resources.

Failure by some governmental agencies to effectively implement and enforce the provisions of enacted environmental laws, have hindered the success of some programs environmental NGOs have attempted to carry out. The delay in implementation of certain laws and institutions has also undermined the efforts of NGOs in environmental conservation for lack of the required legal backing and support.

Nevertheless, one of the findings of the study is that some of the environmental laws that have been enacted have had positive impacts on activities of NGOs in environmental

conservation in Kenya. For instance, the creation of certain institutions, that draw their membership from NGOs and other sectors, such as the Forests Board (FB) and Forest Conservation Committees (FCCs) under the Forest Act, 2005, and the National Environmental Council (NEC) and Provincial and District Environmental Committees (P&DECs) under the Environmental Management and co-ordination Act, 1999, have expanded the space for environmental NGOs to influence developments in environmental conservation in the country. These institutions have increased the influence of ENGOs and the options available to them to promote environmental conservation and oppose activities that are unfavorable to sound environmental conservation practices.

The third objective examines the impact of the collaborations of ENGOs with government and or governmental bodies, the local communities and the business community on environmental conservation in the country. Under this objective, we examined different aspects of collaborations that environmental NGOs engage in with government and other agencies in the field of environmental conservation. The study shows that in Kenya the environmental NGOs have had high levels of interactions with the government and other entities in areas they have collaborated on such as in the implementation of environmental conservation programs, in process of formulation of environmental policies and in technical support. The study has found out that these collaborations have had positive impacts on environmental conservation in the country. The notable achievements include the improvement in wildlife populations and the expansion in human resource capacities for effective conservation efforts.

The study had three hypotheses that guided the scope of the study. The first hypothesis of the study was that the activities of environmental NGOs have positively impacted on environmental conservation in Kenya. The findings of the study agree with the hypothesis in that the existing biodiversity in Kenya has been attributed partly to the role environmental NGOs have played. The financial resources mobilized by NGOs for conservation in the country, coupled with their advocacy and scientific research, have also positively impacted on how natural resources are managed and conserved in the country.

The second hypothesis was that weak and insufficient environmental laws, policies and institutions in Kenya have hampered effectiveness of environmental conservation activities pursued by NGOs. About 78% of the respondents held the view that the environmental legal frameworks currently obtained in the country are adequate for environmental conservation by NGOs. The rest of the respondents, accounting for 17% of those sampled, were of the view that Kenya does not have sufficient environmental legal frameworks for effective conservation of environment by NGOs.

With regard to implementation of environmental laws and institutions, 92% of those interviewed said that they have not been adequately implemented. It was only 8% of the respondents who said that the environmental legal frameworks that have been enacted in Kenya have been adequately implemented. On the same issue 61% of the respondents interviewed felt that the failure to implement or to adequately implement the environmental legal frameworks in Kenya has undermined the operations of NGOs in environmental conservation in the country. The remaining 39% of the respondents felt that the failure to

implement or adequately implement environmental laws, policies and institutions has not undermined the work of NGOs in environmental conservation.

The study has also found out that the Kenya government has not adequately domesticated and implemented the environmental treaties she has ratified. About 75% of the respondents thought that the government had domesticated and implemented only some of the environmental treaties she has adopted and ratified. It is only 19% of those interviewed who believed that the government had adequately domesticated and implemented all the environmental treaties she has ratified. The remaining 6% of the respondents had the opinion that the government had not adequately domesticated or implemented all the environmental treaties she had ratified.

The third hypothesis was that the nature and level of collaborations of environmental NGOs with the government and other stakeholders is a key determinant to the success of environmental conservation in Kenya. The results of the study are in agreement with the hypothesis. The study has shown that there is a high level of collaboration between environmental NGOs with government and other players in environmental conservation. For instance, the study has shown that environmental NGOs sampled had implemented about 68% of their projects jointly with governmental institutions.

The study, however, concludes that the level of collaboration between the environmental NGOs and the government or governmental institutions in Kenya on conservation of the environment is not adequate for effective environmental conservation. About 67% of the

respondents held the view that the levels of collaborations between environmental NGOs and the government was not adequate, while the remaining 33% of the respondents were of the view that the current levels of collaborations between environmental NGOs and government and or governmental bodies were sufficient for effective environmental conservation in the country.

5.2: Recommendations

The government should enhance the capacities of its institutions mandated to conserve and manage natural resources in the country. In addition the government, through its lead agencies, should seriously take up her role in implementing and enforcing the existing laws and policies on environment.

There is an urgent need to give more emphasis on environmental issues and to look for more effective ways of conducting environmental education and awareness creation especially to local communities for them to comprehend the value and importance of conserving natural resources and hence actively participate in their conservation.

Kenya's current political will on environment is lukewarm. There is need for an adequate and sustained political will over a long period of time in order to influence proper and effective protection and conservation of the environment.

There is also need to promote inter-agency co-operation so that their functions are synchronized. This will involve streamlining these agencies and their mandate to avoid

conflicts in the implementation of their mandates. Existing environmental laws should be harmonized to streamline their enforcement.

The existing weak and inadequate financial support systems should be addressed. Every effort should be made by government to ensure the perennial underfunding of its institutions mandated with conservation of environment is brought to a stop. Governmental bodies involved in environmental conservation should receive adequate funding for them to effectively implement their environmental conservation programs. Similarly systems should be put in place to encourage individuals, business and corporate entities in Kenya to actively participate in funding of environmental conservation activities in the country.

Participation of environmental NGOs, local communities and the general public in formulation and implementation of environmental laws, where necessary, should be enhanced. The sharing, by local communities, in the benefits that accrues from conservation should also be enhanced. In addition, the local communities that are advised to forego certain economic activities for the sake of enhancing environmental conservation should be adequately compensated for the loss of livelihoods they incur.

The country's environmental conservation efforts would be significantly enhanced if the government enacted the bills which are pending such as wildlife bill and formulate and enact policies such as on protection of water catchment areas, wetlands protection and so on to strengthen conservation of the environment and natural resources in the country. The institutions of governance should be strengthened in order to boost transparency,

accountability and democracy. This will help in curtailing the pegging of the success of environmental conservation on political leaders' whims. With a strengthened and empowered court system, for instance, settlement of environmental-related cases will be quicker and fair and the delaying of court cases will be minimized.

Once any environmental law or laws have been enacted, every effort should be made, to speedily bring such law or laws and their attendant institutions into effect. This way the purposes for which such laws were made would be realized soonest.

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Appendix 1

Questionnaire for Environmental Non-Governmental Organizations (ENGOs)

Name of Organization.....
Name of Respondent (optional).....

E-mail address.....

Website address.....

1. Are you a national or an international NGO? .....

2. On average what percentage of your revenue have you used on environmental conservation projects in Kenya from 2000 to 2012?
   (a) Over 70%
   (b) Between 50% and 69%
   (c) Between 30% and 49%
   (d) Between 15% and 30%
   (e) Below 15%
3. On average what percentage of your revenue comes from non-Kenyan sources? (i.e. non-Kenyan government, citizens, institutions etc.)
   (a) 100%
   (b) Over 70%
   (c) Between 50% and 69%
   (d) Between 30% and 49%
   (e) Below 30%
4. In human resource capacity building, approximately how many Kenyans have you trained in environmental conservation- related fields from the year 2000 to date?
   .....

5. (a)Do you collaborate with governmental institutions in implementation of your environmental conservation activities in Kenya?

   Yes ☐ No ☐

   (b)If yes in (a) above, what kind of technical assistance have you extended to governmental institutions in Kenya involved in environmental conservation?

   (i)Training
   (ii) Consultancy
   (iii) Funding
   (iv) Others (specify)

(c) What kind of technical assistance have you received from governmental institutions involved in environmental conservation in Kenya over the years?

(i) Training
(ii) Consultancy
(iii) Funding
(iv)Others (specify)

6. Approximately how many environmental conservation programs/projects have you implemented in Kenya since 2000 and how many of those were implemented in collaboration with governmental agencies involved in conservation? (please use the table below)

Year	Total no. of projects implemented	No. of projects implemented Jointly with governmental agencies
2000		
2001		
2002		
2003		
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		

7. In projects/programs that you have implemented jointly with governmental institutions in Kenya, what are some of the main functions played by your organization and governmental institutions respectively? (i.e. funding, training etc.)
   a) Functions done by your organization

   .....

   .....

   b) Functions done by governmental organizations

   .....

   .....

8. (a) Do you think your current levels of collaborations with the government/governmental agencies in Kenya are sufficient for effective environmental conservation?

   Yes ☐ No ☐

   (b) If No in (a) above, in your opinion what do you think should be improved?

   .....

   .....

9. If you give financial assistance to Kenyan government or its institutions involved in environmental conservation, how much funds have you donated from the year 2000 to 2012?

10. (a) Do you work with local community groups/associations in your environmental conservation endeavors?

    Yes ☐ No ☐

    (b) If yes in (a) above how many local community groups/associations have you worked with in your environmental conservation activities in Kenya?

    (c) How many of these local community groups/associations have you helped to start up eco-friendly enterprises in the country?

    (d) What major roles have you played in your relationship with local community groups/associations? (i.e. funding, training etc.)

    .....

    .....

(e) What have been the major functions played by local community groups/associations in your relationships with them?

.....

.....

.....

11. (a) Do you work with business enterprises in Kenya in your environmental conservation operations?

Yes ☐ No ☐

(b)How many business enterprises have you worked with in your environmental conservation efforts in Kenya?

(c) What have been your main functions in your collaborations with business enterprises?

.....

.....

(d) What have been the main functions of business enterprises in your collaborations with them?

.....

.....

12. (a) Do you think the failure to implement and or adequately implement the already enacted environmental laws in Kenya has undermined your environmental conservation objectives?

Yes ☐ No ☐

(b) What are some of the environmental laws you think have not been implemented or have not been adequately implemented and hence hampered your environmental conservation efforts in Kenya?

.....

.....

13. (a)Do you think the Kenyan government has adequately domesticated and implemented provisions of the following international treaties/conventions: Convention on Biological Diversity(CBD), Convention on International Treaty in Endangered Species (CITES), Convention on Control of Desertification(CCD), Convention on Climate Change, and African Convention on Conservation of Nature and Natural Resources (ACCNNR)?

Yes ☐ ☐ Some No ☐

(b) If the answer in (a) above is either some or no, please state some of the institutions and or provisions you feel have not been implemented or have been implemented inadequately?

.....

.....

14. (a) Do you think the already enacted environmental laws, policies and institutions in the country are adequately implemented?

Yes ☐ No ☐

(b) If No in (a) above what are some of the reasons for lack of proper implementation.....

.....

15. (a) In your evaluation do you think the environmental laws, policies and institutions currently obtained in Kenya are adequate for effective environmental conservation in the country?

Yes ☐ No ☐

(b) If No in (a) above what are the major weaknesses and give your suggestions on the way forward?

.....

.....

(c)What other laws, policies and institutions do you think should be enacted to boost environmental conservation in Kenya?

.....,.....
.....

Appendix 2

Questionnaire for governmental institutions

Name of Organization.....

Name of Respondent (optional).....

E-mail address (optional).....

1. What kind of technical assistance have you given to NGOs involved in environmental conservation in Kenya?

   (i) Funding

   (ii) Training

   (iii) Consultancy

   (iv) Others (specify)

   (v) None

2. What kind of technical assistance have you received from NGOs involved in environmental conservation in Kenya?

   (i) Funding

   (ii) training

   (iii) consultancy

   (iv) others (specify)

   (v) none

3. (a)Do you receive financial donations from NGOs?

   Yes ☐ No ☐

   (b) If yes in (a) above, how much money has your organization received from NGOs since the year 2000?

4. In projects you have implemented jointly with NGOs, if any, what are some of the main functions that have been carried out by your organization and NGOs respectively?

   (a) Functions done by your organization (i.e. funding, training etc.)

   .....
   .....

   (b) Functions done by NGOs

   .....
   .....

5. So far approximately how many environmental conservation programs have you implemented from financial year 2000-2001 to 2011-2012 and how many of these were implemented in collaboration/ jointly with NGOs? (please use the table below)

Year	Total projects implemented	Projects implemented jointly with NGOs
2000-2001		
2001-2002		
2002-2003		
2003-2004		
2004-2005		
2005-2006		
2006-2007		
2007-2008		
2008-2009		
2009-2010		
2010-2011		
2011-2012		

Appendix 3

Questionnaire for environmental experts
Name of
Respondent.....
Occupation.....
E-mail address.....

1. (a) In your evaluation do you think Kenya has adequate environmental laws, policies and institutions for environmental conservation by NGOs?

   Yes ☐ No ☐

   (b) If No in (a) above what are the major weaknesses in environmental regimes currently obtained in Kenya?

   .....
   .....
   .....

2. (a)Do you think the already enacted environmental laws, policies and institutions in the county are adequately implemented?

   Yes ☐ No ☐

   (b) If No in (a) above, what are some of the reasons for lack of proper implementation?

   .....
   .....

3. (a) Do you think the environmental regimes (laws, policies and institutions) past and present in Kenya have hampered the operations of NGOs in environmental conservation?

   Yes ☐ No ☐

   (b) If yes in (a) above, in a nutshell, what are some of these environmental regimes and how have they hampered the operations?

   .....
   .....

4. How do you rate the performance of NGOs involved in environmental conservation in Kenya?
   i) Excellent
   ii) Good
   iii) poor

5. What are some of the major factors, if any, that may have hampered the effectiveness of NGOs in environmental conservation in Kenya?

.....

.....

.....

6. (a) Do you think the current levels of collaborations between NGOs and government and/or governmental institutions in Kenya are adequate for effective environmental conservation?

Yes ☐ No ☐

(b) If not, what are some of the missing aspects/links that need to be incorporated and strengthened in their collaborations?

.....

.....

.....

7. (a)Do you think the Kenyan government has adequately domesticated and implemented provisions of the following international treaties/conventions such as : Convention on Biological Diversity (CBD), Convention on International Treaty in Endangered Species (CITES), Convention on Control of Desertification(CCD), Convention on Climate Change among others?

Yes ☐ Some ☐ No ☐

(b) If the answer in (a) above is either some or no, please state some of the areas you feel are vital for effective environmental conservation in the country but have not been implemented or have been implemented inadequately?

.....

.....

.....

8. What do you think is the way forward in addressing bottlenecks that undermine environmental conservation efforts in Kenya?

.....

.....

.....

Appendix 4: Names of environmental experts interviewed

1. Chris Omore, an advocate: National Environmental Management Authority.
2. Dr. Boniface O. Oindo, lecturer: Maseno University.
3. Dr. Joshua Okello Belle, soil and environmental scientist: Kenya Forest Service.
4. James O. Were, county forest coordinator: Kenya Forest Service.
5. Kezia, an environmentalist: National Environmental Management Authority.
6. Odidi, an environmentalist: National Environmental Management Authority.
7. Patrobus Odhiambo, an environmentalist: National Environmental Management Authority.
8. Paul Abuom, lecturer: Maseno University.
9. Prof. George Krhoda, lecturer: University of Nairobi
10. Wilson Kiplagat, forestry officer: Kenya Forest Service.

Appendix 5: Names of ENGOs interviewed

1. African Conservation Centre (ACC)
2. African Wildlife Foundation (AWF)
3. World Wide Fund for nature (WWF)
4. Green Belt Movement (GBM)
5. Nature Kenya
6. East Africa Wild Life Service (EAWLS)
7. Eco-Finder
8. World Vision International-Kenya (WVI-K)
9. Forest Action Network (FAN)
10. Osienala
11. Plan International
12. Farm Concern International
13. Climate Network Africa
14. SANA International
15. Palwecko
16. Mazingira Institute
17. Wildlife Clubs of Kenya (WCK)
18. International Fund for Animal Welfare (IFAW)
19. David Sheldrick Wildlife Trust
20. Development Knowledge Link-Africa
21. Econews Africa
22. Green Care Habitat (GRECAH)

23. Arc Peace Kenya

24. Asego Green Forestry Organization

25. East African Inland Waters Environmental Concern

26. Reafforestation Africa

Appendix 6: Names of Governmental institutions interviewed

1. Kenya Forestry Research Institute (KEFRI)
2. Kenya Wildlife Service (KWS)
3. Kenya Forest Service (KFS)
4. National Environment Management Authority (NEMA)