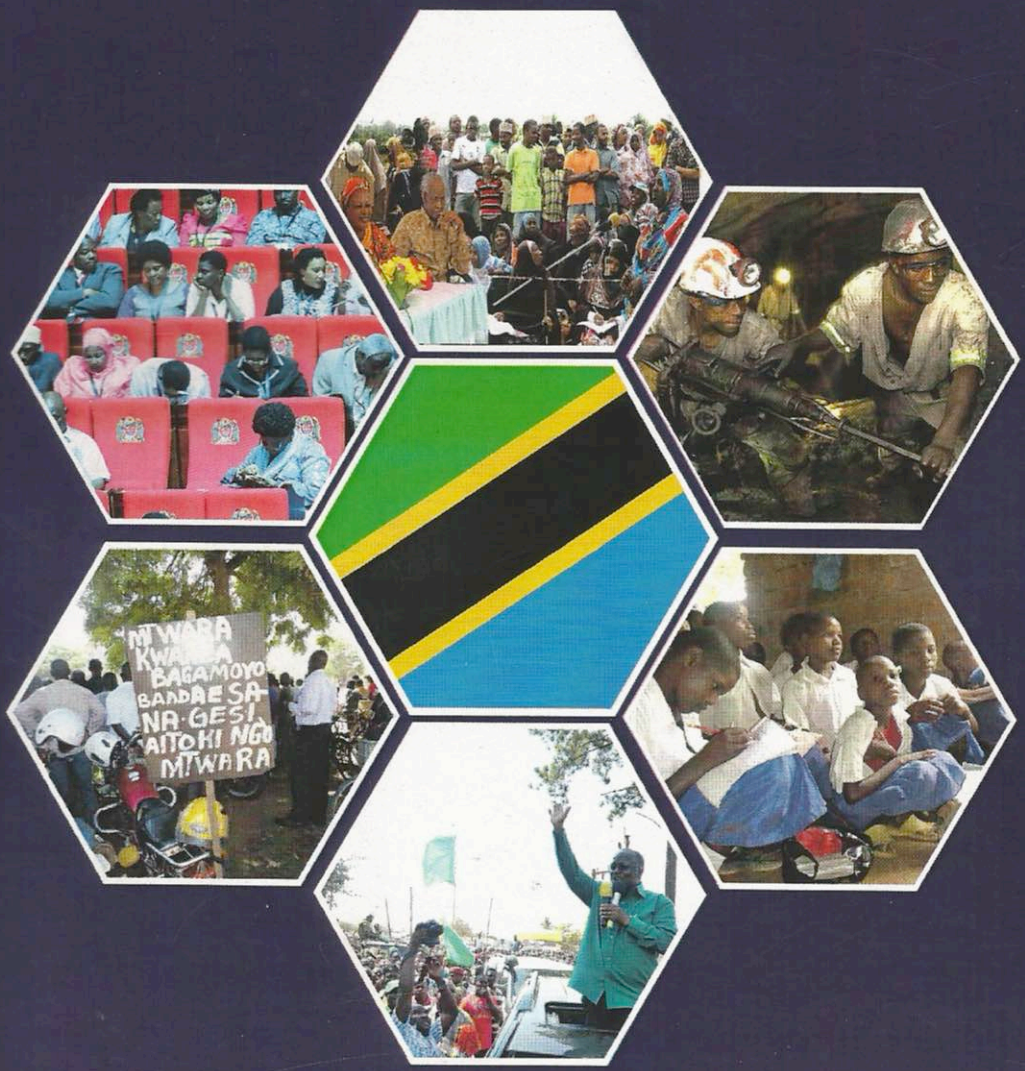
THE POLITICAL ECONOMY OF CHANGE IN TANZANIA

Contestations over Identity, the Constitution and Resources



Edited by
Rwekaza S. Mukandala

THE POLITICAL ECONOMY OF CHANGE IN TANZANIA

Contestations Over Identity, the Constitution and Resources

Edited by

Rwekaza S. Mukandala

Department of Political Science
and Public Administration,
University of Dar es Salaam
P.O. Box 35042
Dar es Salaam.
politics@uccmail.co.tz
politics@udsm.co.tz

© Department of Political Science and Public Administration, 2015

ISBN 9976 60 325 8

All rights reserved. No part of this publication may be reproduce or transmitted in any form or any means, electronic or mechanical, including photocopying, recording or any information strorage and retrieval system without permission in writing, from Department of Political Science and Public Administration, UDSM.

Table of Contents

Abbreviations and Acronyms..... v

Acknowledgements..... vii

Chapter 1: Introduction

Rwekaza S. Mukandala and Bruce Heilman..... 1

Section One: Religion and Conflict

Chapter 2: Trends and Patterns in Religious Conflicts in Tanzania from the Colonial Past to the Present
Yusufu Q. Lawi..... 13

Chapter 3: Social Cohesion and Religious Intolerance in Tanzania
Thomas J. Ndaluka..... 35

Chapter 4: Religious Tolerance, Transnational Dynamics and the State in Tanzania

Lupa Ramadhani..... 55

Section Two: The State of Political Competition

Chapter 5: Democratic "Reversals" in Tanzania: Revisiting Electoral Competition

Alexander B. Makulilo..... 71

Chapter 6: The State of Intra-Party Democracy in Tanzania

Consolata R. Sulley..... 97

Chapter 7: Resource Mobilization for Political Competition

Mohabe Nyirabu..... 116

Section Three: The Constitution, National Unity and the Union

Chapter 8: Proximate Factors for the Commencement of the Constitution-Making Process in Tanzania

Mohammed Bakari..... 136

Chapter 9: The Second Draft of the Constitution of the United Republic of Tanzania, 2013: Some Salient Features

Juliana Masabo, Mohammed Bakari and Daudi Mukangara..... 148

Chapter 10: Analysis of the Preparation of the Proposed Draft Constitution in Tanzania

Daudi Mukangara..... 179

Section Four: Ownership, Management and the Sharing of Natural Resources

Chapter 11: Navigating the Change: Public Responses to Land Ownership and Land Rights Re-allocation

Christine Noe..... 202

Chapter 12: Emerging Paradigms in the Human-Wildlife Conflict: Lessons from the Enforcement of Anti-poaching Laws in Tanzania

H. I. Majamba..... 222

Chapter 13: Review of the Management and Development of the Mining Sector in Tanzania

Godius Kahyarara..... 243

Chapter 14: The Natural Gas Conflict Trap: Insights from Mtwara Gas-related Violence

Bruce Heilman and John Jingu..... 284

Section Five: Provision of Public Services

Chapter 15: The State and the Provision of Public Services

Rwekaza S. Mukandala..... 298

Chapter 16: The State and the Provision of Public Services in Tanzania: Access, Quantity and Quality

Vincent Leyaro..... 316

Section Six: Gender and Politics

Chapter 17: Gender, Politics and Democracy in Tanzania

Audax B. Kweyamba..... 346

Chapter 18: Gender, Religion and Conflict in the Context of Democratic Change in Tanzania

Rosemarie Mwaipopo..... 379

Chapter 19: When will Violence against Women End? Cases from Tanzania's Corporate Companies' TV Advertisements

Vicensia Shule..... 394

Chapter 20: Conclusion

Rwekaza S. Mukandala..... 417

List of Contributors..... 421

Chapter 12

Emerging Paradigms in the Human-Wildlife Conflict: Lessons from the Enforcement of Anti-poaching Laws in Tanzania

Hamudi I. Majamba

1. Introduction

This chapter addresses issues of ownership of natural resources and conflicts over their use, with a specific focus on the Tanzanian government's (the state's) obligation to protect wildlife resources, which is embodied in the doctrine of public trust. The state has faced various challenges reflected in the dissatisfaction of many stakeholders with the strategies it has used to protect the resources. The decision to focus on this subject has mainly been influenced by an operation by the state in its effort to curb the escalating rate of decimating elephants for the illicit, international ivory trade.

The operation by the state, called *Operesheni Tokomeza* (loosely translates as "An Operation to End (Elephant) Decimation"), was purportedly designed under the provisions of the relevant laws passed by Parliament to combat the poaching of elephant tusks for the purpose mentioned above. Initially, the operation met with a lot of resistance from many citizens who alleged, among other things, that the operation was being conducted in a manner that led to the violation of the human rights of the people living in close proximity to the reserves, national parks and other protected areas. The people's resistance and the criticisms from a number of Members of Parliament forced the government to suspend the operation and led to the resignation of four ministers.

The contending claims by the government and the stakeholders resulted in a conflict over the use of the resources which gives rise to interesting dimensions, given the fact that the ownership of the resources in Tanzania is vested in the government (in the President, in some cases) as Trustee of the resources by the law, the beneficiaries being the citizens. The government maintained that it had (still has) a duty to ensure that wildlife resources, in this case elephants, were, or are, protected for, *inter alia*, the beneficiaries – the present and future generations. These claims bring to the fore emerging paradigms in the human-wildlife conflict. This study probes into these contending claims in the context of the legislative and institutional frameworks and the emerging paradigms in the human-wildlife conflict discourse.

2. Methodology

The data for this study was obtained mainly from the literature on the human-wildlife conflict and through interviews and email correspondence with my acquaintances in the wildlife sector. It was also obtained through observations which I made when I was undertaking other assignments in the Ministry of Natural Resources and Tourism at the Headquarters in Dar es Salaam. However, the observations were not directly related to the subject of this study. In the course of the observations every effort was made to avoid conflicts of interest and to ensure confidentiality. A number of documents were reviewed. They included newspapers and Hansard on the subject. Legislation (both principal and subsidiary) and policies that have a bearing on wildlife conservation and management were

also reviewed. Studies on good practices in jurisdiction over the combating of the illicit ivory trade and other wildlife products were also reviewed.

This study benefited greatly from data obtained from a number of respondents earmarked for two other studies that were being conducted simultaneously. One involved an assessment of the laws and policies used to punish those who commit crimes relating to wildlife and forests in Mainland Tanzania and Zanzibar. This study was done under the auspices of the United Nations' Office on Drugs and Crimes (UNODC). The other involved a review of the legal mechanisms that are aimed at ensuring the participation of the people living in close proximity to the protected forests in Unguja and Pemba in the management of the forests. In the course of the two studies, a number of cross-cutting issues which were relevant to the current study emerged.

Data was also collected from my acquaintances in the Wildlife Division in the Ministry of Natural Resources and Tourism based in Dar es Salaam and Arusha, the Tanzania National Parks Authority (TANAPA), the Ngorogongo Conservation Area Authority (NCAA) and from a few police officers and some Members of Parliament. In addition, data was collected from the Internet, especially from media outlets and reports from various organizations and other stakeholders in the wildlife sector.

Officials from select Civil Society Organizations and Non-Governmental Organizations (both local and foreign) such as Wildlife Society of Tanzania, Lawyer's Environmental Action Team (LEAT), World Wildlife Fund for Nature (WWF), African Wildlife Foundation (AWF), Wildlife Trade Monitoring Network (TRAFFIC), IUCN and Nature Conservation based in Dar es Salaam and Arusha also provided useful information. Other key respondents included local government officials, local community leaders and a select sample of the people living in close proximity to the Wildlife Management Areas (WMAs) in Arusha. These were randomly selected. A number of officials from select private hunting companies were also interviewed. Other data were obtained from purposely selected legal practitioners in the Attorney General's Chambers and the private sector, who advise the stakeholders (the government and the private sector) in the wildlife sector, and from people who are involved in wildlife crime issues in Dar es Salaam and Arusha. Lawyers in the Office of the Director of Public Prosecution (DPP), the Attorney General's Chambers and the Department of Forest and the Ministry of Agriculture in Zanzibar also provided useful information. CARE-HIMA (*Hifadhi ya Misitu ya Asili ya Jamii*) officials and members of *Jumuiya ya Uhifadhi wa Misitu ya Jamii Zanzibar* (Association for the Conservation of Community Forests, Zanzibar) (JUMIJAZA) in Zanzibar and Pemba also provided useful information on the enforcement of the law in Zanzibar and Pemba, and on the challenges thereof.[1] The data was collected in Dar es Salaam, Arusha and Zanzibar because of their strategic location in relation to the subject of the study. These are also the areas where the main respondents for this study are found.

3. Limitation and scope

The study was initially limited to Mainland Tanzania, because wildlife conservation is a non-Union Matter, according to the Constitution of the United Republic of Tanzania of 1977. However, some of the data was collected in Unguja and Pemba (Zanzibar). The data from this part of the Union was, however, comparatively scanty. The study was carried out

[1] See the Annex for the list of the people/respondents contacted or interviewed.

in Zanzibar as well because the international legal instruments, to which the United Republic is a signatory, are international affairs and therefore fall under the realm of the Union Matters. In that case, the Multi-lateral Environmental Agreements (MEAs) such as the Convention on International Trade in Endangered Species of Fauna and Flora (CITES), which have a bearing on wildlife conservation and management, are part of the Union Matters.[2]

4. Theories on legislation and human-wildlife conflict

4.1 Problem animal control

There are various theories on the human-wildlife conflict that have been propounded. However, there is a consensus among theorists that the human-wildlife conflict paradigm has traditionally been confined to the conflict between wild animals and the people living close to the areas reserved for wildlife. Boyd *et al.* (1999) have explained the human-wildlife conflict from a sustainable livelihoods perspective. They say that humans and wild animals co-existed with little tension for decades in the East African region until things took a drastic turn following the establishment of protected areas. They also attribute the escalation of the human-wildlife conflict to competition over land use, access to water in protected areas and the demands of the international conservation initiatives (Boyd, 1999).

Various scholars have also attributed the human-wild animal conflict to the communities living near the protected areas, arguing that it is with this conflict that most laws and policies made by the governments in the East African region have been grappling (Baldus, 2004; Kiss, 1990; Lindsay, 1987; Stuart, 1984; Walsh, 2000). Also, most of the studies on the human-wild animal conflict have often focused on the wild animals that damage people's property and injure or kill people as well as on the people who intend to kill wild animals to protect their lives and property. In some cases, the communities or people have sought compensation from the Tanzanian government for the damage caused by wild animals. The contending claims by the government and the members of such communities have often been based on boundary issues generally and buffer zones in particular. The government alleges that the communities have encroached upon the areas reserved for wild animals by law and the communities claim that wild animals have crossed the boundaries and entered their lands (Dickmann, 2005).

The above theories have found their way into the natural resource management policies and the laws of Tanzania in the context of community-based conservation of natural resources in general.[5] More specifically, the theories are reflected in the intention to address "problem animals" stipulated in the policies and laws aimed at protecting wildlife by addressing the human-wildlife conflict.[6]

4.2 The public trust doctrine

The public trust doctrine, in the context of wildlife conservation, is yet another theory that has a dimension of the human-wildlife conflict. The genesis of the public trust doctrine is

[2] See Item 2 of the Constitution of the United Republic of Tanzania. It should be noted that this arrangement has been retained under the Schedule to the Proposed Draft Constitution of October 2014, on which a National Referendum will be held.

[5] See Part V of the Forest Act 2002 and Paragraph 4.4.11 of the National Forest Policy, 1998.

[6] See Part VIII of the Wildlife Conservation Act, Cap. 283 and Part V of the Wildlife Management Areas (WMAs) Regulations, GN 206 of 2012.

traced to an age-old traditional belief among the Romans which demanded that resources such as water, air and forests should not be appropriated by individuals or a small group of people. These resources were considered common and were placed under the control of the state, a custodian of the resources. The belief emphasized that the resources were either owned by no one or by all. The ancient Roman belief (the doctrine of public trust) has since developed into a legal theory, now widely accepted and applied internationally and nationally in the protection and conservation of natural resources. Later, English common law adopted the doctrine, which is reflected in a number of cases. The doctrine later found its way into British colonies. A few illustrations of the application of the doctrine by courts are in order.

In India, it was applied to the case of *MC Metha v Kamal Nath et al.*[7] In this case the court observed that the public trust doctrine was based on the principle that resources such as water, air and forests have a significant importance to the public, and so it would be totally wrong to allow people to own them as private property. It accordingly held that the government had breached the trust by leasing an ecologically fragile land to a private company.

The doctrine has also been applied by courts in the East African region. In Kenya, the case of *Abdikadir Sheikh Hassan v Kenya Wildlife Services*[8] is relevant. The applicant in this case sought a court decree to stop the defendants from removing an antelope species from the Tsavo National Park. Relying on the doctrine of public trust, the court held that the Wildlife (Conservation and Management) Act entitled the government to conserve wild animals in their natural state. It emphasized that the authority was not entitled to translocate the antelopes. Therefore, the court acknowledged the government's control over wildlife resources in Kenya.

In Uganda, the doctrine was applied to the case of *Advocates Coalition for Development and Environment v AG.*[9] In this case, the applicants challenged the government's issuance of the Kakira Sugar Works Ltd with a 50-year sugar cane growing permit in respect of the Butamira Forest Reserve. They argued that the government had contravened the law and the doctrine of public trust enshrined in the Constitution and the Land Act. The court agreed with the applicants and held that:

> Butamira Forest Reserve is a land which the Government of Uganda holds in trust for the people of Uganda to be protected for the common good of the citizens. Government has no authority to lease out or otherwise alienate it. However, the Government or local government may grant concessions or licenses or permits in respect of land held under Trust with authority from Parliament and with consent from the local community in the area or district where the reserved land is situated. In the instant case, there was evidence that the permit that was granted to Kakira Sugar Works amidst protests from local communities which raised up (sic) a pressure group of over 1500 members who depended on the reserve for their livelihoods through agro-forestry, and source of water, fuel and other forms of sustenance. There was therefore breach of the public trust doctrine.

[7] (1977) 1 SCC 388.
[8] HCCC No. 2059/1966.
[9] Miscellaneous Case No. 0100 of 2004, High Court of Uganda.

In Tanzania, the public trust doctrine is reflected in a number of natural resource-related laws. For example, Section 4(1) of the Land Act of 1999 provides that "[a]ll land in Tanzania shall continue to be public land and remain vested in the President as Trustee on behalf of all the citizens of Tanzania." Section 3(1) (b) of the Village Land Act of 1999 is also relevant. It directs that fundamental principles of the national land policy, which are the objectives of the Land Act, 1999, be applied in a manner that recognizes that "(b) ... all land in Tanzania is public land vested in the President as Trustee on behalf of all citizens."

In relation to wildlife, the public trust doctrine is reflected in Section 4(1) of the Wildlife Conservation Act, which provides that "[a]ll animals in Tanzania shall continue to be public property and remain vested in the President as Trustee on behalf of the people of Tanzania."

With respect to ivory, the doctrine is expounded upon under Part XI, Section 85 of the Wildlife Conservation Act, which states that ivory is the property of the government and makes it an offence for any person to be in possession of ivory unlawfully. The section provides further that "any ivory found in the National Parks and the Ngorongoro Conservation Area shall be deemed to be the property of the government."

The laws and policies which have been enacted by the government, as Trustee of wildlife resources, have also focused on the traditional way of addressing the human-wildlife conflict.[10] Initially, the legislative provisions that sought to ensure a tranquil atmosphere in the human-wildlife relationship placed emphasis on the "fences and fines" (command and control) approach in an effort to keep the local communities living in close proximity to the protected areas away from such areas.[11] Efforts to involve the local communities in the protection of the areas through community-based conservation programmes have also been made by the government. The creation of Wildlife Management Areas was part of the efforts made.[12] Also, buffer zones, dispersal areas, migratory routes, wildlife corridors and others which are aimed at addressing the human-wildlife conflict have been put in the laws.[13] Despite these initiatives, illegal trade in ivory has continued to thrive.

In a bid to regulate trade in elephant tusks, the legislative regime for wildlife management provides for the registration of government trophies. The law defines the term "trophy" as ivory which must be registered in accordance with the procedures set out in the laws of Tanzania.[14]

Trade in ivory across international borders (export and import of ivory) is also restricted under the wildlife law. Part X, especially Sections 82 and 83 of the Wildlife Conservation Act, requires the export and import of ivory to be done after the export and import permits issued under the law or CITES permits have been secured. It should also be pointed out that the provisions under Part IXV of the Wildlife Conservation Act, which regulates international trade in wildlife specimens and species, apply to ivory. Accordingly, Section 95(1) stipulates that any trade that violates CITES is prohibited under the Wildlife Conservation Act.

[10] See Part VIII, Sections 69–76 of the Wildlife Conservation Act, Cap. 283 [R. E. 2002].
[11] See Part IV, Sections 14–30 of the Wildlife Conservation Act, ibid.
[12] See Part V of the Wildlife Conservation Act, ibid.
[13] See Section 21 (b) of the Wildlife Conservation Act, ibid.
[14] See Parts IX and X, respectively.

The institutions created under the Wildlife Conservation Act for combating the poaching of wildlife, including elephants, also show that the government is Trustee of wildlife resources in the country. There is a category of law enforcement officers referred to as "authorized officers" provided for under Section 3 of the Act. Most of these are officers who engage in the enforcement of various laws relating to wildlife such as the Ngorongoro Conservation Area Act, the National Parks Act, the Fisheries Act and the Antiquities Act. Officers established by the Marine Parks Act and the Police Force Act have also been given the power to combat trade in ivory.

Due to the escalation of the poaching of elephants in the late 1970s, legislation was amended to create para-military units within the Wildlife Department for combating the poaching of such animals. The 1978 amendment to the Wildlife Conservation Act introduced a Wildlife Protection Unit (WPU) (also referred to as the Anti-Poaching Unit). The Act placed the administration of the WPU under the Director of Wildlife. The Unit was responsible for enforcing the provisions of the Wildlife Conservation Act in matters relating to the hunting and capturing of wild animal species.[15] Other law enforcement agents established under ancillary laws such as customs and port officials, the national intelligence and the military have been involved in the combating of the crimes relating to wildlife, including the illicit trade in ivory.[16] Although some stakeholders in the private sector have provided assistance in anti-poaching activities, law enforcement has been the preserve of government organs.

The government used the legislative framework and its underlying theories discussed above in undertaking *Operesheni Tokomeza*. Some background information on the operation is in order.

5. *Operesheni Tokomeza*: A synopsis

5.1 Background

The operation was launched by the government for the purpose of fighting the poaching of wildlife generally and the illegal ivory trade specifically in various parts of the country. It also sought to remove people from the areas occupied by wildlife and conservation areas. The details of this operation are available in a report submitted to Parliament which is titled *Taarifa ya Kamati ya Kudumu ya Bunge ya Ardhi, Maliasili na Mazingira Kuhusu Tathmini ya Matatizo Yaliyotokona na Operesheni Tokomeza* (Report of the Parliamentary Standing Committee on Land, Natural Resources and Environment on Problems with (sic) *Operation Tokomeza* (sic)) (hereinafter referred to as the Report of the Parliamentary Standing Committee).[17]

The fight against elephant poaching in the country commenced in 1965 when the government permitted the hunting of wildlife in game reserves, starting with the Selous Game Reserve. With the nationalization policy as the guiding pillar in all the major sectors of the economy, the government banned the hunting of wildlife in 1973. The hunting of

[15] (Sections 4A and 6A of Amendment Act – Wildlife Conservation (Amendment) Act No. 21 of 1978).

[16] See the definition of "Authorized Officers" in Section 2 of the Wildlife Conservation Act, which includes police officers and persons appointed by the Director of Wildlife.

[17] Available at http://www.parliament.go.tz/docs/taarifa_ya-kamati_maliasili.pdf

wildlife was permitted again in 1978 under the supervision of a government parastatal called the Tanzania Wildlife Corporation (TAWICO). TAWICO was riddled with many governance problems, and as a result, it failed to regulate the poaching of elephants in the country. The problems that TAWICO faced contributed significantly to the massive poaching of elephants in the Selous Game Reserve in the 1980s. This prompted the government to restructure the legal and administrative regime for regulating activities relating to wildlife in 1988. The restructuring of this regime led to TAWICO being replaced by the Wildlife Division in the Ministry of Natural Resources and Tourism.

Having realized that it had to do more to address the escalating poaching of elephants, the government launched an anti-poaching operation (*Operation Uhai*) in 1989 which involved officers from the Wildlife Division, TANAPA, the police and the military. This operation helped in the recovery of the country's elephant population which had reached an extremely low level (Baldus, 2004).

Operation Tokomeza was launched on 4th October 2013 and its main objectives were to investigate the illegal ivory trade, to identify weapons and suspects and to arrest the suspects and take them to court. The operation was to be conducted in two phases, one short and the other long. The second phase was dedicated to collating the lessons learnt from the first. The operation was suspended on 1st November 2013 after Parliament established a probe team to investigate allegations related to it. Focusing on the operation provides perspectives of political change, contextualized in the conflict between the government and the citizens in the wildlife-human conflict paradigm.

5.2 Research findings

5.2.1 The role of the military in the operation

The findings reveal that many people were against the operation because some of the officers involved in the operation allegedly violated human rights. There were also claims in some quarters that the use of 885 members of the Tanzania People's Defense Force in the operation was unlawful. This argument is based on the belief that the military is not supposed to be involved in civilian operations.[20] Other respondents were of the view that this was a misconceived belief as the law provides for the deployment of the military in civilian operations. They cited the provisions of the National Defense Act of 1966 and pointed out that the law provided that the military could be used to offer assistance to other authorities in order to prevent loss of lives and property.

Other respondents noted further that the National Assembly did not question the legality of involving the military in anti-poaching operations. On the contrary, they argued that the National Assembly seemed to have supported the move by saying that it was necessary to involve the army after it had been realized that some of the officers in the Wildlife Division and other authorities responsible for protecting wildlife also engaged in animal poaching activities. Officials from the Wildlife Division suggested that the other plausible reason for involving the military in the operation was that some of the poachers used sophisticated military artillery. Thus, such poachers could not be defeated by the officers in the Anti-Poaching Units within the wildlife organs.

[20] Among them was Professor Shivji, a renowned lawyer and a human rights activist. Visit http://www.ipsnews.net/2014/01/anti-poaching-operation-spread-terror-tanzania

Moreover, the respondents from the Wildlife Division said that the involvement of the military in *Operation Tokomeza* was not unique. They noted that *Operation Uhai* also involved the military. The literature reveals that this has been the normal practice in other countries such as South Africa, where members of the South African National Defense Force (SANDF) were deployed at the Kruger National Park and its vicinity in March 2014 to support the overwhelmed law enforcement officers of the South African National Parks (SanParks). The South African military managed to extinguish the poaching of rhinos in the park. The findings reveal that the decision to deploy the military in South Africa was greatly influenced by the experience in Nepal. Nepal succeeded in dismantling the rhino and tiger poaching cartels in late 2013. The cartels consisted of trained poachers who had overwhelmed the officers responsible for fighting crimes relating to wildlife (SAPEOPLE, 2014). Also, Chad used its army to combat poachers in 2013 in the Zakouma National Park after earlier efforts by the wildlife law enforcement agents failed to bear fruit, partly due to a locally powerful syndicate involved in the illegal ivory trade.[22]

Botswana, too, used the military in anti-poaching operations in February 2013.[23] Similarly, Cameroun deployed its armed forces in the Bouba Ndjida National Park in December 2012 after the Sudanese *jandjaweed* poachers had killed thousands of elephants in the park.[24]

The findings show that the deployment of the military was sanctioned by an Order of the Army (Order No. 0001/12), which was issued on 28th September 2013 and later signed by the Commander-in-Chief of the Armed Forces. Therefore, the law was not violated. Also, it was not the first time for the government to use the military to deal with those who engage in the illicit ivory trade. We have also shown that this is not peculiar to Tanzania by using various examples. We must point out, however, that the involvement of the military in *Operation Tokomeza* and its link to the alleged human rights abuses were beyond the scope of this study.

5.2.2 The role of the judiciary in the operation

Allegations of abuse of the judicial process in *Operation Tokomeza* were also raised by many people in their condemnation of the operation. There were concerns that the court sessions set up for dealing with the suspects were expedited at the *locus in quo* (in the "bush" where the cases were heard). The respondents from the judiciary revealed that courts of law were consulted and involved at the inception of *Operation Tokomeza.* They maintained that the government observed the law in involving the judiciary in the activity. These observations find support in the Chief Justice's remarks to the press. He said that the cases were not filed and determined in the bush, but rather they were filed and determined in courts in accordance with the law. He is quoted as having said that "*[t]he judiciary, being a key stakeholder in the fight against crime, in particular poaching, supports the operation, but through strict observance of justice. We have decided to give special priority to all cases that were filed to ensure they are disposed of timely* (sic)."[25] (emphasis mine)

[22] Visit http://annamiticus.com/2012/08/04/chad-troops-called-in-elephant-slaughter-continues/

[23] Visit http://www.sundaystandard.info/article.php?NewsID=16163&GroupID=1

[24] Visit http://www.nydailynews.com/news/world/cameroon-arms-elephant-poachers-calling-army-article-1.1225884

[25] *TanzaniaDaima*, 29th January 2014.

The respondents from the judiciary also observed that the cases were filed under various provisions of the law in different resident and district magistrates' courts in the country. They noted that the various laws under which the cases were filed were the Economic and Organized Crime Control Act, the Wildlife and Conservation Act, the National Parks Act, the Arms and Ammunitions Act, the Forestry Act, the Penal Code and the Inquest Act.

Other people were unhappy with the manner in which the judiciary was involved in the operation. The respondents from the judiciary were of the view that the number of magistrates involved in the operation was not known. Our findings support this as there are controversies over the number of judicial officers involved in the operation. Whereas the Chief Justice stated that about 40 magistrates were involved in the process, the Parliamentary Standing Committee put the figure at 100, excluding the 23 prosecutors who were also considered court officers.[26] It is also noted that the statistics issued by the authorities for the actual number of court cases relating to *Operation Tokomeza* were not clear. Although the Parliamentary Standing Committee puts the number of cases at 687 involving 1,030 suspects (only 132 cases had been determined and 555 were still pending at the time when the Committee presented its report in Parliament), the Chief Justice said that there was a total of 516 court cases related to the operation and that "... of the cases filed between October 4 to November 1, 2013, 198 were heard and determined, which is equivalent to 38.37 per cent."[27]

The findings also indicate that the judiciary was involved in the operation and it agreed to take part in it. The disparity in the data relating to the number of cases handled by the judiciary is the only contentious issue. It is unlikely that it was this disparity that caused the public's concern over the role of the judiciary in the operation. It is highly likely that the concern was caused by the delay in issuing an official statement on the role and involvement of the judiciary in the operation by the government.

5.2.3 The Parliamentary Standing Committee and the media

The Parliamentary Standing Committee indicates in its report that it investigated the operation. The findings show that the Committee did not examine some of the leads which, in our view, would have exposed some of the paradigms if they had been examined. For instance, although it is clear that the Committee drew some of its conclusions by making reference to media reports, it side-stepped some of the media reports that showed that some Members of Parliament engaged in the poaching of wild animals. Instead, the Committee hit out at some government officials and called for the resignation of one of them, the official's offense being that he had distorted information by refuting some of the media reports.[28]

Before the operation was suspended, there were reports that a prominent Member of Parliament, who has engaged in hunting activities for a long time, engaged in the illicit trade. His name was mentioned in Parliament by the opposition (Majani, 2013). It should also be pointed out that, although the Minister for Natural Resources and Tourism had stated openly in Parliament prior to the establishment of the committee that investigated the

[26] See Court Handles 516 Tokomeza Cases in *The Citizen* of 29th January 2014 and page 13 of the Report of the Parliamentary Standing Committee.
[27] *The Citizen*, ibid.
[28] See page 36 of the report.

allegations against *Operation Tokomeza* that there were Cabinet Ministers and politicians who engaged in the illicit trade, the Committee chose not to follow this lead (ibid.). The Minister for Natural Resources was ultimately forced to resign his position. A respondent in the wildlife sector, who preferred to remain anonymous, confirmed the participation of high ranking politicians, including Members of Parliament, in the illicit trade. He confided to the researcher that the politicians did a lot of lobbying so that they could be granted hunting blocks. He pointed out that the politics of the illicit trade partly explained the rate of unceremonious, controversial and short-lived terms of those who have headed the Wildlife Division.[31] Perhaps it was because of such controversies, sometimes flamed by biased reporting by some media outlets, that the President decided to form a Commission of Inquiry one day after the Parliamentary Standing Committee sought to enforce the recommendations in its report against the Director of Wildlife.[32]

Some of the respondents observed that the media coverage of the operation was to some extent biased and in most cases lacked analysis.[33] This finding finds support in the Committee's report, which clearly stated that the operation had been sabotaged by high ranking figures and that there existed a syndicate of poachers (including politicians who issued political party membership cards to the people living in game reserves, assuring them that they would not be evicted from the reserves).[34] As pointed out earlier, it is surprising that the Committee did not summon the politicians who were mentioned in some of the media reports.

6. Emerging paradigms

The discussion that follows summarizes some of the glaring findings of the study, highlighting the emerging paradigms which need to be considered seriously when instruments such as the laws are revised so as to address the vice. The Committee's report would have, in our humble submission, benefited greatly had it focused on some of the paradigms discussed below.

6.1 The elite and the human-wildlife conflict

As stated above, in the midst of the contending claims pertinent to the protection of elephants in Tanzania, allegations that the decimation of elephants is a result of the varied interests of powerful groups at both the local and international levels have emerged. The International Union for the Conservation of Nature (IUCN) has noted that some people who hold very influential positions in the Tanzanian government, the Police Force, the Armed Forces (the military) and the business community finance hunting operations around the world called *commanditaires*.[35] Such people engage in the illicit ivory trade.

[31] See Tanzania Sacks Top Wildlife Official over Animal Smuggling at http://www/reuters.com/article/2012/08/14/us-tanzania-wildlife-idUSBRE87DOQS20120814 and the first page of the *Mwananchi* newspaper of 2nd May 2014, on which it is reported that the Minister was at loggerheads with the Director of Wildlife over the "effecting" of the recommendations to fire the Director due to *Operation Tokomeza*.

[32] See the first page of *The Guardian* newspaper of 3rd May 2014.

[33] See the first page of *Mtanzania* newspaper of 5th May 2014, on which the reporter fails to make an analysis of the law in the context of the controversy over the Parliamentary Committee's suggestion that the Director of Wildlife should be sacked.

[34] See page 39 of the Committee's report.

[35] Visit http://www.occupyforanimals.org/elephant-meat.html (accessed December 2014).

In Tanzania, the Parliamentary Standing Committee on Land, Natural Resources and Environment has insinuated that the *commanditaires* (including senior government officials and dishonest security officers) are behind elephant poaching and the rampant illegal ivory trade. The Committee stated that it had information that senior government officials were benefiting directly from wildlife poaching and that officials made it difficult for the campaign against the vice to succeed.[36]

Investigations have revealed that some police officers are also implicated in the illicit ivory trade. A wildlife ranger based in the Selous Game Reserve observed that "[t]here was a huge number of policemen are on the syndicates' payroll and that they receive up to Shs 7 million (R4 400) a month – at least three times their police salaries (sic)" (Majani, 2013). It has further been observed that corrupt elements in the Police Force and some of the game rangers in the national parks and game reserves sometimes colluded with poachers and released them. In some cases, poachers were tipped off by the law enforcement organs about plans to ambush them (ibid.). These observations have been confirmed as sometime towards the end of August in 2013 two police officers based in Dar es Salaam were arrested in the coastal town of Kisarawe with 70 tusks worth Tshs 850 million. This haul is equivalent to 35 butchered elephants.[39]

The findings reveal that some businessmen have devised strategies of using their usually very hotly contested positions in football associations or clubs to cover up their involvement in the illegal ivory trade. For instance, a prominent businessman, a one-time Chairman of the Coast Regional Football Association, was taken to the Kisutu Resident Magistrates' Court in Dar es Salaam in mid-January 2014. He was charged with two crimes. He was accused of having done a trophy business without a valid licence in Dar es Salaam and Hong Kong between 1st and 20th November 2012. He was also accused of intentionally organizing, managing, supervising and financing a criminal network of the illegal ivory trade as well as of exporting 569 pieces of elephant tusks, weighing 1,330 kilogrammes, which were worth Tshs1,185,030,000:00, to Hong Kong (John, 2014).

Reports on members of the military in Tanzania who engage in the killing of elephants also reflect the emerging paradigms in the human-elephant conflict. For instance, a military officer was found in possession of 1,126 elephant tusks (tusks of 563 elephants) worth a staggering US$6 million in mid-June 2013. The intercepted haul, which consisted of 350 pieces of elephant tusks, had been stored in the officer's house in a Dar es Salaam suburb. The other tusks were intercepted at the Malawi-Tanzania border.[41]

A one-time high ranking officer in the Wildlife Division said that some military officers engaged in the illegal ivory trade in Tanzania, where a Chinese military ship carrying illegal ivory was intercepted in early February 2014. The ship was impounded because some of its crew members had put on the ship elephant tusks under the pretext that they were food items. The retiree said that the matter was resolved "diplomatically". The retiree's observations are corroborated by the observations of another source (Francis, 2014). Asked

[36] See Apolinari (2013).
[39] Ibid.
[41] Visit http://www.eturbonews.com/36127/tanzanian-military-staff-member-arrested-and -charged-over-posses (accessed October 2014).

why the matter was swept under the carpet, he noted that many people had vital information on the illicit trade but had opted to remain silent because they were afraid of retribution from very powerful and well-connected people who engage in the trade.

6.2 Organized crime and the human-wildlife conflict

Proceeds from the illegal ivory trade have brought in new dimensions in the human-wildlife conflict not previously envisaged, thus making it more complicated for the governments in the East African region to combat the trade. This is because it has been noted that there is a link between the illicit ivory trade and organized crimes in the East African region. The United Nations has linked illegal trade in wildlife in the region to conflicts, noting that the proceeds from this trade are being used to fund organized crimes in the East African region.[43] Sentiments have also been expressed, linking the trade to terrorist activities in the region. Ron Orenstein, a leading expert on the illegal ivory trade, notes that:

> African wildlife preserves have become a war zone... Poachers from armed terrorist organizations such as The Lord's Resistance Army and Al Shabaab use machine guns or poison to kill elephants and rhinoceroses for their tusks and horns... Because the poachers need to leave the area as quickly as possible, they use chainsaws and axes to butcher the animals. They use the money from their spoils to purchase arms.[44]

In an exclusive and rather risky investigation involving covert operations to explore the dynamics of the ivory trade and terrorism (which they otherwise call "ivory conflict" involving "white gold"), Nir Karlon and Andrea Crosta (2010) investigated the involvement of *Al-Shabaab* in the illegal trade in ivory through Kenya. Their research focused on the trafficking of the "white gold" in Kenya which supplies the organization with up to 40% of the funds required to maintain its militant operations and to "hold" in place its youthful soldiers who would otherwise be jobless. Their findings have serious implications for the dimensions of the human-elephant conflict in the East African region in general and Tanzania in particular (Karlon, 2010, 2011).

Karlon and Crosta point out that *Al-shabaab* buys ivory from ivory suppliers. To ensure that money is available all the time, the organization recruits new members, as Karlon and Crosta note:

> [The organization] recruits among its midst members who previously made their living out of poaching and who are now putting their 'talents' to use in their new occupation... A quick calculation puts Shabaab's monthly income from ivory at between US$200,000 and US$600,000. Maintaining an army of roughly 5,000 men, each earning US$300 USD, demands at least US$1,500,000 a month, of which the ivory trade can supply a big chunk of it (ibid.).

They aptly conclude that:

[43] See the first page of *The Citizen* newspaper dated 4th February 2014.

[44] Visit http://northline.ca/news/localNews/2013/12/04-elephant-expert-sudury/aspz (accessed 12th April 2014). See also Seligmann (2013)

> The deadly path of [the] ivory conflict starts with the slaughter of innocent animals and ends in the slaughter of innocent people. It is a source of funding for terrorist organizations that transcends cruelty. It is the 'white gold' for African jihad, white for its color and gold for its value. If we fail to act now, militant groups like al-Shabaab will lay down their roots deep in the African landscape, destroying its heritage for generations to come. Dangerous and unpredictable, al-Shabaab's involvement in ivory trade brings with it an alarming dimension, a dimension the world cannot afford to ignore (ibid.).

Although the findings of the study have shown no direct link between terrorism and the illicit ivory trade in Tanzania, some wildlife law enforcement agents noted that maybe such a link exists because there are wildlife protected areas near Kenya and because there are cross-border businesses that are done through numerous, porous, illegal entry and exit routes. They noted further that the use of sophisticated weaponry and militaristic tactics by poachers suggested that there was such a link in the country.

6.3 Governance and the human-wildlife conflict

The findings also reveal that some government employees and personnel responsible for protecting wild animals have been at the forefront in the killing of many elephants (Kamdaya, 2014). An undercover operation carried out by the Environmental Investigation Agency (EIA) in February 2010 in Tanzania established that some of the government authorities charged with the enforcement of wildlife laws engaged in corrupt transactions at customs and that they were implicated in cases relating to the illegal ivory trade. The agency's report notes that "[o]ne [illegal] trader [in ivory] said he could procure significant amounts of ivory on demand from a senior officer in the Wildlife Department in Selous" (EIA, 2010).

Some of the stakeholders noted with concern that penalties in the wildlife law did not deter people from engaging in the illegal ivory trade. They pointed out that the provisions of the Wildlife Conservation Act provided courts of law with leeway to give sentences with options of fines which some of those who were accused of engaging in the trade could pay. This complicates further the government's effort to stamp out the illicit ivory trade and hinders the efforts to reduce the human-wildlife conflict. Indeed, these observations find support in court cases, which are described below to illustrate the point.

In Economic Case No. 1 of 2010 at the District Court in Tunduru, the accused, one Hamza Mikidadi Geuka, was found in possession of tusks weighing slightly over 20 kilogrammes and worth Tshs 36 million. He was told to pay 900,000 shillings or to serve a 2-year sentence. He paid the fine.[50] This case also reflects the observations by a senior officer in charge of prosecuting wildlife crimes at the Wildlife Division who noted that some members of the judiciary had not appreciated the magnitude of the crimes, insinuating that some of them engaged in dubious transactions.

The lack of cooperation between police investigators and the prosecution is also apparent in relation to the keeping of evidence that is critical in the prosecution of a case by the police. In some cases, the apparent lack of cooperation between the two reveals corrupt practices in the Police Force. This observation finds support in a number of cases where ivory hauls

[50] The source of this information preferred anonymity.

which should have been used by the prosecution in court as evidence have disappeared, as illustrated below.

In Economic Case No. KLM/IR/4 of 2007 recorded at the Central Police Station in Kilwa, 46 elephant tusks disappeared while under the custody of the police! In Economic Case No. 2 of 2010, at the District Court in Kilwa, 24 pieces of ivory tusks weighing 84.5 kilogrammes had been stored at Kilwa District's Central Police Station while court proceedings were underway. The 24 pieces of ivory, which should have been used as evidence in the cases, were replaced by another 24 pieces, weighing only 39 kilogrammes! Similar incidents of replacement of bigger pieces of ivory with smaller ones happened at the same police station with regard to Economic Case No. 3 of 2009 and Economic Case No. 4 of 2012.[51]

It is important to point out that Section 100(1) of the Wildlife Conservation Act places the burden of proof on the accused. One would have expected the task of the prosecution to be easier than it is and to lead to more convictions than it does, especially in cases involving huge amounts of illicit ivory. Such cases, as pointed out earlier, are prosecuted at the High Court and normally do not attract bail. Despite being placed in this seemingly advantageous situation, the prosecution failed to get convictions as the cases were suspiciously handled.

6.4 The Zanzibar factor in the human-wildlife conflict

The information provided by the respondents from the Immigration and the Police Force in both Mainland Tanzania and Zanzibar suggests that the use of the port of Zanzibar as an exit for tusks illegally smuggled from Mainland Tanzania brings to the fore yet another issue for law enforcement agents to address, as an emerging trend in the human-elephant conflict. It was noted that the rising tendency of using the port of Zanzibar to reach international markets which may partly be explained by the existence of a perceived *lacuna* relating to the enforcement of Multilateral Environmental Agreements (including those relating to wildlife conservation and protection) was due to the fragile relationship (in relation to the addressing of environmental concerns) between Zanzibar and Mainland Tanzania manifested in the list of the Union Matters provided for in the First Schedule to the Constitution of the United Republic of Tanzania. Some of the respondents were of the view that this unique arrangement makes the environment a non-Union Matter. According to them, international relations, which include the MEAs (including the Convention on International Trade in Endangered Species of Fauna and Flora (CITES)), are a Union Matter. They argue that the Constitution supports their position.[52]

Tanzania ratified CITES in 1979 and has since put in place very stringent mechanisms for regulating the ivory trade in Zanzibar as well as in Mainland Tanzania.[53] Because the environment is a non-Union Matter, while the MEAs are, the combating of the illegal ivory trade is very challenging, despite the existence of the informal cooperation between Zanzibar and Mainland Tanzania in enforcing CITES.[54] In fact, almost all the main

[51] This information was also given to the researchers by very credible contacts that preferred anonymity, too.

[52] See Item 2 of the First Schedule to the Constitution of the United Republic of Tanzania, Cap. 2 [R. E. 2002].

[53] Visit http://cites.org/eng/disc/parties/chronolo.php for a list of Contracting Parties and their status.

[54] UNEP, CITES, IUCN AND TRAFFIC. (Eds.). Elephants in the Dust: The African Elephant Crisis. A Rapid Response Assessment, Arendal: GRID-Arendal, 2013. Available at

institutional and legal frameworks set up for use in the implementation and enforcement of CITES in the United Republic of Tanzania are in Mainland Tanzania (Majamba, 2003).

Law enforcement organs in Mainland Tanzania noted that they faced challenges in prosecuting CITES-related offences in Zanzibar. Indeed, TRAFFIC (the Wildlife Trade Monitoring Network) has also indicated that the enforcement of CITES in Zanzibar is a serious impediment to the fight against the illegal trade in ivory in Mainland Tanzania. The observation of the network is contained in its recommendations to the Conference of Parties (CoP) 15 relating to Proposal 4 (the United Republic of Tanzania) which states that ... the fact that legislation in Zanzibar is inadequate to control trade in elephant specimens is an impediment to effective law enforcement.[56]

The complexity of enforcing CITES in Zanzibar has led to situations where illegal ivory traders have taken advantage of the *lacuna*. For example, sometime in October 2013, while the government was being pressed by Parliament to stop *Operation Tokomeza*, the police seized a 40-foot container carrying many tones of ivory whose destination was unknown. However, the destination must have been the same as that of the container which was seized in August 2011, when the police seized 1,041 elephant tasks destined for the Far East which had arrived in Zanzibar from Dar es Salaam.[57]

The lack of a CITES focal point in Zanzibar was also said to be a stumbling block to the efforts to address transnational wildlife crimes in Mainland Tanzania. Officials at the Wildlife Division, the DPP's Office and the Police Force observed that some businessmen were taking advantage of this *lacuna* and using the Zanzibar port and airport to transport ivory obtained illegally to international markets. The Organized Crimes Unit at the Police Headquarters in Dar es Salaam informed us that there were also numerous unofficial exits and entry points in Kilwa and Tanga, where illicit articles, including ivory, were offloaded at night at premises located on some private beaches in Zanzibar, premises which have been rented or are owned by Chinese businessmen. In a study on illegal logging, Zanzibar port officials said that they were aware of more than 200 illegal entry points but could not effectively monitor this illegal trade.[58] Officials at the Police Headquarters in Zanzibar put the figure of illegal entry points at over 480–300 in Pemba and 180 in Unguja.[59]

The constitutional complexity of enforcing CITES in Zanzibar with its negative impact on the efforts to address the illegal ivory trade in Mainland Tanzania may persist as it has not been addressed by the Proposed Constitution. This implies that the human-elephant conflict can only be resolved if principal legislation is enacted or the Constitution is amended in the future.

http://www.cites.org/common/resources/pub/Elephants_in_the_dust.pdf; and http://www.wildlifeextra.com/go/news/tanzania-ivory.htm#cr (accessed October 2014).

[56] Visit www.traffic.org/cites-cop-papers/CoP15_Prop4_5_Rec.pdf (accessed October 2014).

[57] Visit http://www.spaceforgiants.org/?q=ele-news/zanzibar-police-seize-40-foot-container-of-ivory-tanzania

[58] See Use of Charcoal Remains High, Charcoal from Mainland Tanzania at Malindi Port, Zanzibar in *The Guardian* of 3rd March 2009.

[59] This information was obtained in the course of interviewing police officers at the Headquarters.

6.5 Pastoralists and the human-wildlife conflict

Respondents in the wildlife sector noted with concern that pastoralists grazed their livestock in protected areas, in contravention of the law. The pastoralists claim that they have nowhere to take their livestock after many areas have been turned into protected areas. The government has also made similar observations; for example, it has said that "... livestock grazing in protected areas and wildlife corridors is one of the reasons for the decimation of the elephant population in the country."[60]

Boyd and others have also provided insights into the conflict between wildlife, livestock and the pastoral communities in the Ngorongoro Conservation Area and the Mkomazi Game Reserve. They have pointed out that lack of land for grazing and lack of access to water resources has led to the collapse of the local livestock economy of the pastoral communities. It is submitted that this state of affairs gives rise to discontent among the local communities who may decide to poach elephants in an effort to sustain their livelihoods. Indeed, the sustainable theory doctrine has been applied to prove that there is limited local participation in decision-making processes in these areas, despite the fact that the law demands that the interests of the local communities be taken into account in situations such as this (Boyd, 1999).

Other studies that have examined the resource use conflict by linking pastoral communities to the steps taken by the government of Tanzania to resolve the impasse include the study by Dickmann (2005). Some of such studies have indicated that some politicians have continued to use the pastoralists' "syndrome" to seek political support by telling the pastoralists that they will make sure that they are not evicted from the reserves during election campaigns.

6.6 The business community and the human-wildlife conflict

Some of the respondents noted that foreigners in the business community were conduits through which the illicit ivory trade flourished. Most of the respondents singled out some unscrupulous Chinese expatriates and businessmen, noting that they had increasingly been linked to the illegal ivory trade in Tanzania. One of the reasons why the Chinese engaged in this trade is, according to them, the belief among the Chinese that chopsticks made from ivory neutralize the poison found in food. To some extent, this demand makes people kill elephants. These views find support in other sources.[63]

It has been noted that the emergence of some unscrupulous Chinese investors has raised alarm on the nature of the activities done by some of them in the East African region. An official report submitted to the government of Tanzania by the Tanzania Elephant Protection Society, which was made available to the media, states that "[e]xpatriate Chinese residents in Eastern Africa comprise some of the most important middlemen... Thailand and China are the most important destinations of ivory" (Yahya, 2014).

The involvement of Chinese businessmen in the ivory trade came to the limelight when the immediate past Minister for Natural Resources and Tourism, with the help of police officers, seized a pile of elephant trophies weighing more than 1800 kilogrammes which

[60] See the second page of *The Guardian* newspaper dated 11th January 2014.

[63] See Commercial Hunting Licenses should Be Banned Forthwith in the *Sunday News* of 12th January 2014, 4.

were impounded at a residence rented by three Chinese nationals in the posh Mikocheni suburb in Dar es Salaam on 2nd November 2013. The haul comprised slightly over 700 pieces of ivory, representing more than 200 butchered elephants.

The Chinese nationals had been licensed to operate in the business of garlic onions and sea shells. In the process of searching the residence, the police officers found consignments of fresh garlic onions and sacks of shells which were mixed with ivory ready for transportation. One of the Chinese nationals apprehended in the raid admitted that they were involved in the illegal ivory business which was done at night. He admitted that if they had been arrested in their home country they would have been executed. The minister noted that it was through *Operation Tokomeza* that they had learnt of the existence of the haul in Mikocheni. He emphasized that the fight against poachers in the country would require the full support of the Members of Parliament who wanted the operation to be stopped (Rweyemamu, 2013). Commenting on the arrest of the Chinese nationals, an observer from the African Wildlife Trust, an initiator and supporter of the anti-poaching operations taking place all over the country, noted that "[n]ow we have proof that the Chinese are raping our resources. The (their) connection to the slaughter of our elephants is clear."[66]

The involvement of the unscrupulous Chinese businessmen in the illicit trade has also attracted the attention of Tanzania's neighbours. In Kenya, for example, there are credible reports linking the sharp rise in elephant poaching to the influx of Chinese workers migrating to the East African region.

A report compiled by the Convention on International Trade in Endangered Species (CITES), Monitoring the Illegal Killing of Elephants (MIKE), Elephant Trade Information System (ETIS) and other conservation organizations reveals the magnitude of the problem. The report points out that a large number of Chinese workers employed in the construction industry in the country might be fueling the illicit ivory trade (Apolinary, 2013). The government of Kenya has reacted swiftly by amending the law relating to wildlife protection. It has imposed very hefty fines for those who engage in the illegal ivory trade. Under the new law, which came into force sometime in December 2013, a person found guilty of dealing in wildlife trophies could be fined a million shillings or could be sentenced to five years in prison, or both. A person convicted of killing an endangered species of wildlife is liable to life imprisonment and payment of 20 million Kenyan shillings. The law, prior to the amendment, was rather lax, for punishment for the most serious wildlife crimes was capped at a maximum fine of 40,000 Kenyan shillings (about 340 Euros) and a possible jail term of up to 10 years.[68]

The respondents in wildlife law enforcement circles noted that the concerns in Kenya and the government's reaction to the illegal trade in ivory should be an important lesson for Tanzania. They lamented that the Parliamentary Standing Committee did not address the link between unscrupulous Chinese businessmen and the illicit ivory trade, despite the fact that the arrest of a number of Chinese businessmen with huge hauls of ivory obtained illegally took place while the Committee was still performing its task.

[66] Visit http://africanwildlifetrust.org/tanzanian-parliament-suspends-anti-poaching-operation/

[68] See Chinese Ivory Smuggler Gets Record Sentence in *The Citizen* of 29th January 2014.

The seizure of large hauls within a very short period of time and MPs' insistence that the government must stall *Operation Tokomeza* could not, according to some of the respondents, have been a coincidence. They observed that the fact that the minister responsible for wildlife, who had no control of the operation as it was headed by the military, was forced to step down leaves many questions as to why Parliament insisted that the operation be halted. Similar sentiments were raised by others who noted that the formation of the Commission of Inquiry by the President also reflected struggles in the human-elephant conflict. These hoped that the Commission would look at the conflict broadly to enable the authorities to effectively address the gaps that had been identified.

7. The way forward

This chapter has explored the human-wildlife conflict, focusing specifically on the efforts by the government, as Trustee of wildlife resources, to address the ever-growing illicit ivory trade. The findings reveal that the human-wildlife conflict results from different dimensions which have complicated efforts by the government to effectively address it. It has been revealed that the human-wildlife conflict as a term that has been used in traditional conservation parlance has undergone a major transformation.

The efforts by the government to address the conflict in question through *Operation Tokomeza* turned violent and culminated in the suspension of the operation. The operation was suspended because of conflicting interests, disguised as a "human-wildlife conflict" in the traditional use of the phrase. Most of these conflicting interests have a direct bearing on the escalation of the exploitation of natural resources, especially ivory.

Some of the personnel responsible for enforcing wildlife legislation engage in the illicit ivory trade. This, coupled with the fact that poachers have now resorted to the use of sophisticated artillery not available to wildlife enforcement authorities, made the government involve the military in *Operation Tokomeza*. The use of the military is sanctioned by the law. It has also been established that the involvement of the judiciary in the operation was in order. The inconsistencies noted in the figures provided by the judiciary and the Parliamentary Standing Committee do not make the involvement of the judiciary in the exercise illegal.

The findings of this study also show that the efforts by the government to combat the illegal ivory trade by using the law have not been successful due to a combination of factors which the law does not address. They include corruption and bad governance in some of the key institutions responsible for enforcing the law, the political influence of unscrupulous leaders, terrorism and the new trends in the organized crime networks. The lack of adequate cooperation between the law enforcement agents in Zanzibar and those in Mainland Tanzania complicates the matter further.

The conflicts between pastoralists and farmers in some parts of the country also frustrate the efforts by the existing institutions to fight the illegal ivory trade. It has also been revealed that some foreign investors and unscrupulous Chinese businessmen have made the dynamics of the illegal trade more complicated. These were not taken into account by the Parliamentary Standing Committee as it carried out its investigations. It is submitted that the Committee's recommendations would have been greatly enriched by an analysis of these paradigms. Some of the conclusions of the Committee could, therefore, have been different.

This study has shown that the violent confrontations over natural resources in the context of political change in Tanzania are also manifested in the human-wildlife conflict (the illicit ivory trade) that has taken various dimensions. In order to effectively address the conflict, the government has to make fundamental changes to its political outlook by focusing on the new dimensions. This will entail a review of the legislative framework governing wildlife conservation so as to address the dynamics which have been discussed here and which the current legal framework cannot address adequately.

References

Anderson, D. & Groove, R. (Eds.) (1987). *Conservation in Africa: People, Policies and Practice*. Cambridge: Cambridge University Press.

Andrew, B. S. (1992). *Pastoralism in Africa: Origins and Development Ecology*. Athens: Ohio University Press.

Apolinari, T. (2013). Parliamentarians Raise an Alarm Over Poaching, Trade in Bloody Ivory at http://www.eturbonews.com/37077/parliamentarians-raise-alarm-over-poaching-trade-bloody-ivory

Baldus, R. D. et al. (2004). *Tourist Hunting and Its Role in Development of Wildlife Management Areas in Tanzania.* Dar es Salaam: Government of Tanzania, 8.

Bell, R. H. V., & McShane-Clauzi (Eds.) (1984). *Conservation and Wildlife Management in Africa*. Washington D.C: Office of Training and Program Support, Forestry and Natural Resources Section, US Peace Corps.

Benhard, & Grizmer. (1960). *Serengeti Shall Not Die.* New York: E. P. Dutton and Co. Inc.

Bondernagel, J. A. (1977). *Wildlife Utilization in Tanzania*. Rome: FAO.

Boyd, C. et al. (1999). Reconciling Interests among Wildlife, Livestock and People in Eastern Africa: A Sustainable Livelihoods Approach. *Natural Resources Perspectives, 45.* Overseas Development Institute.

Chris, & Tilde, S. (1996). *Africa's Vanishing Wildlife*. Cape Town: Southern Book Publishers (PYT) Ltd.

Dickmann, A. J. (2005). *An Assessment of Pastoralists Attitudes and Wildlife Conflict in the Rungwa –Ruaha Region, Tanzania, with Particular Reference to Large Carnivores.* Unpublished Msc. Dissertation, Oxford: University of Oxford, 1–10.

Environment Investigation Agency. (2010). *Open Season: The Burgeoning Illegal Ivory Trade in Tanzania and Zambia.* Available at http://eia-global.org/images/uploads/Open_Season.pdf

Francis, P. (2014). As Elephants in Tanzania Are Decimated. Retrieved from http://www.businesstimes.co.tz/index.php?option=com_content&view=article&id=3175:as-elephants-in-tanzania-are-decimated-from-70k-to-11k&catid=35:features&Itemid=29

Homewood, & Rodgers. (1995). *Maasailand Ecology: Pastoralist Development and Wildlife Conservation in Ngorongoro, Tanzania.* Cambridge: Cambridge University Press.

John, R. (2014, January 16). Probe on Hassonoo's Illegal Ivory Trade Case Incomplete. *The Citizen.* Mwananchi Communications Ltd.

Kamdaya, S. (2014, April 4). 180 Million Ivory Seized in Manyoni. *The Citizen.* Mwananchi Communications Ltd.

Karlon, N., & Crosta, A. (2010). An Undercover Investigation on Ivory and Terrorism. Available at http://elephantleague.org/project/africas-white-gold-of-jihad-al-shabaab-and-conflict-ivory/

Kiss, A. (Ed.) (1990). *Living With Wildlife: Wildlife Resource Management and Local Participation in Africa.* Washington D.C: World Bank.

Levira, M. C. (2012). Criminal Sanctions Efficacy in Environmental Management in Mainland Tanzania: The Case of Wildlife Resources. Unpublished PhD Dissertation, Dar es Salaam: University of Dar es Salaam.

Livingston, J. A. (1981). *The Fallacy of Wildlife Conservation.* Ontario: McClelland and Stewart Ltd.

Lyster, A. (1985). *International Wildlife Law.* Cambridge: Grotius Publication Ltd.

Majamba, H. I. (2003). Implementation and Enforcement of the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) in Tanzania. *Eastern Africa Law Review, Journal of Law and Development.* Faculty of Law, University of Dar es Salaam, Tanzania.

Majani, F. (2013, January 3). Who Will 'Bell the Cat' as our Elephants Are Decimated. *The Citizen.* Mwananchi Communications Ltd.

Makaramba, R. V. (1999). Review and Harmonization of Wildlife Laws and Regulations in Tanzania. *Report for UNEP/UNDP Project on Environmental Law and Institutions in Africa: East Africa Sub-Regional Projec*t. Dar-es-Salaam, 69–72.

Mchome, S. E. (2001). The Problem of Using Law by Government Officials in Support of the Course of Development: A Case Study of the Mkomazi Game Reserve and Kazimzumbwi Forest Reserve. Unpublished PhD Dissertation. Dar es Salaam: University of Dar es Salaam.

McNeely, J., & Miller, K. P. (Eds.) (1989). National Parks, Conservation and Development: The Role of Protected Areas in Sustaining Society. (Proceedings of the World Congress of Nature 11th–2nd October 1982).

Bali: Smithsonian Institution Press.

Raymond, B. (1993). *At the Hand of Man: Peril and Hope for African Wildlife.* New York: Alfred Knopff.

Riney, T. (1967). *Conservation and Management of African Wildlife.* Rome: United Nations.

Rugemeleza, N. (1999). Granting Hunting Blocks in Tanzania: The Need for Reform. *LEAT Policy Brief, 5.*

Rweyemamu, A. (2013, November 3). Kagasheki Unveils Chinese Ivory Haul in Dar es Salaam, Scoffs at Stopping Operation Tokomeza. *The Guardian* IPP Media.

SAPEOPLE. (2014). *Lessons from Nepal as SA Receives Generous Anti-Poaching Donation.* Retrieved 14th April 2014, from http://www.sapeople.com/2014/04/03/nepal-anti-poaching-lessons-for-south-africa-681/

Seligmann, P. (2013). One Way to End Terrorism? End Ivory Trade at www.huffintonpost.com.peter-seligmann/ivory-trade_b-4066446.htm (accessed 20th April 2014).

Shivji, I., & Kapinga, W. (1997). The Rights of Maasai in Ngorongoro Conservation Area. Unpublished Report.

Stuart, A. M. (1984). *The Imperial Lion: Human Dimensions of Wildlife Management in Central Africa.* Colorado. Westview Press, Inc.

Traffic Police. (2013). A Rapid Assessment of the Illegal Trade Across the Ruvuma River on the Tanzania-Mozambique Border. Dar es Salaam.

Western, D., & Wright, R. M. (Eds.) (1994). *Natural Connections: Perspectives in Community Based Conservation*. Washington D.C: Island Press.

Yahya, A. (2014, January 11). Why Elephants face Extinction in Tanzania...Alarming Data Released. *The Guardian,* 2. IPP Media.

The Political Economy of Change in Tanzania: Contestations over Identity, the Constitution and Resources is a must read for all students of Tanzanian politics. This book provides the most holistic account of the direction of political change in Tanzania using a political economy approach to examine religion and gender identities, political competition, the suspended effort of constitution-making, the often violent conflicts surrounding natural resources and myriad inter-related problems preventing the state from making quality social services accessible. Nineteen leading Tanzanian scholars from the fields of Political Science, Law, Economics, Geography, Sociology, Anthropology and Fine and Performing Arts have collaborated to provide interdisciplinary insights, focusing on a turbulent phase of Tanzania's political history characterized by rising religious tensions, the growing strength and assertiveness of opposition political parties, tensions in the union between the Mainland and Zanzibar, the push for a new constitution, growing resource conflicts and increasing public dissatisfaction with corruption and lousy public services. The book paints a clear and detailed picture of the problems facing the President Magufuli's government as it charts its course to win public confidence and mobilize societal resources for national development.

Printed by Dar es Salaam University Press