



GAPS ANALYSIS OF ETHIOPIAN WILDLIFE LEGAL FRAMEWORKS AND CHALLENGES TO IMPLEMENT THE EXISTING LAWS

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The review of this wildlife legal framework has been a highly participatory process in the course of providing training for various law enforcement executive bodies, in which many people have been engaged and apple of inputs for the study have been gained. Therefore, everyone who has been involved in this process in one way or other needs to be acknowledged. The Ethiopian Wildlife Conservation Authority (EWCA) has been committed to provide the necessary support for the study from the beginning. African Wildlife Foundation (AWF) has to be appreciated for providing financial support for this initiative. Last but not least, many thanks need to be forwarded to EWCA's "Enhanced Management and Enforcement of Ethiopia's Protected Area Estate" Project for covering the cost of compilation and publishing this document.

FOREWORD

Ethiopia's relatively vast land area of some 1.12 million km², boasts huge variation in topography and climate. Indeed her lands soar from the heights of 4543m *asl* on the peak Ras Dajen down to the hot baking plains of the Danakil depression, some 116m below sea level. In between Ethiopia's Great Plains sit atop two massive highland plateaus cloven by the Great Rift Valley. These highland plateaux, cut by deep gorges and 12 major river valleys, dominate much of the interior of Ethiopia.

The differences in altitude, topography and distance from the ocean cause massive variation in rainfall, humidity and temperature and have created the ten ecosystem types of Ethiopia, from cool afroalpine to evergreen montane forests, to dry desert scrubland. Ethiopia is consequently endowed with a diverse suite of biological resources and the isolation of its mountain and desert areas has given rise to numerous endemic species of flora and fauna found nowhere else on Earth.

To support the conservation of this rich wildlife resource, over 70 Protected Areas (PAs) of different categories have been created over the last five decades. There are strong reasons to conserve these rich wildlife resources from many aspects, not just from ethical, moral and aesthetic perspectives, but also because they improve human wellbeing and contribute to Ethiopia's development through the provision of ecosystem services such as water and carbon storage, soil and natural resources.

As we all know, the mission of the Ethiopian Wildlife Conservation Authority (EWCA) is to scientifically conserve and manage Ethiopian wildlife and its' habitats in collaboration with communities and stakeholders for the ecological, economic and social benefits of the present generation, and pass to the next generation as a heritage. However, the government institution, EWCA, is now about a decade old and still has much institutional growth to attain.

On the other hand, there are a range of opportunities to improve wildlife Conservation in Ethiopia and pertinent wildlife related legal frameworks has been issued and implemented. Ethiopia is party to significant number of international conventions that are vital in ensuring global efforts in wildlife conservation. It has various policies and laws at Federal level that address wildlife protection and wildlife crime.

The existing legal regimes address significant focus areas of the sector. However, considerable gaps and challenges have encountered in the course of implementing the wildlife legal frameworks. It was therefore necessary to examine the potential barriers to effectively apply the wildlife legal regimes taking into account unfilled situation on the ground. In this sprit, this gap analysis study was undertaken and it is believed to address the main gaps as well as challenges associated with the existing legal framework. In turn, the findings of the study will be used as potential input to review the existing wildlife legal regimes. Moreover, the document will further motivate and help the decision makers and the wildlife law enforcement bodies of Ethiopia to provide an enabling environment for efficient review and execution of conservation related policies and laws.

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ABBREVIATIONS AND ACRONYMS

AEWA	-	THE AFRICAN-EURASIAN MIGRATORY WATER-BIRD AGREEMENT
ARS	-	AMHARA REGIONAL STATE
AWF	-	AFRICAN WILDLIFE FOUNDATION
CAPC	-	CITY ADMINISTRATION POLICE COMMISSIONS
CBD	-	THE CONVENTION ON BIOLOGICAL DIVERSITY
CCE	-	CRIMINAL CODE OF ETHIOPIA
CCTV	-	CLOSED CIRCUIT TELEVISION
CITES	-	CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA
CMS	-	THE CONVENTION ON MIGRATORY SPECIES
DCUWP	-	DEVELOPMENT, CONSERVATION AND UTILIZATION OF WILDLIFE PROCLAMATION
DPDEOP	-	DEFINITION OF POWERS AND DUTIES OF THE EXECUTIVE ORGANS PROCLAMATION
DRAP	-	DISCLOSURE AND REGISTRATION OF ASSETS PROCLAMATION
ELU	-	ETHICS LIAISON UNITS
EPA	-	ENVIRONMENTAL PROTECTION AUTHORITY
ETB	-	ETHIOPIAN BIRR
EWCA	-	ETHIOPIAN WILDLIFE CONSERVATION AUTHORITY
EWPS	-	ETHIOPIAN WILDLIFE POLICY & STRATEGY
FCP	-	FEDERAL COURTS PROCLAMATION
FDC	-	FEDERAL POLICE COMMISSION
FEACC	-	FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION
FEACCEP	-	FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION ESTABLISHMENT PROCLAMATION
FELUR	-	FUNCTIONING OF ETHICS LIAISON UNITS COUNCIL OF MINISTERS REGULATION
FPCEP	-	FEDERAL POLICE COMMISSION ESTABLISHMENT PROCLAMATION
FPO	-	FOREST PROCLAMATION OF OROMIA
GTP	-	GROWTH AND TRANSFORMATION PLAN
HWC	-	HUMAN WILDLIFE CONFLICT
IUCN	-	INTERNATIONAL UNION for CONSERVATION of NATURE

OFWE	-	OROMIA FOREST AND WILDLIFE ENTERPRISE
ORS	-	OROMIA REGIONAL STATE
PPS	-	PUBLIC PROSECUTION SERVICE
PSLMP	-	PREVENTION AND SUPPRESSION OF MONEY LAUNDERING AND FINANCING OF TERRORISM PROCLAMATION
RASPREP	-	REVISED ANTI-CORRUPTION SPECIAL PROCEDURE AND RULES OF EVIDENCE PROCLAMATION
RPC	-	REGIONAL POLICE COMMISSIONS
TRAFFIC	-	TRADE RECORD ANALYSIS OF FLORA AND FAUNA IN COMMERCE
UNCAC	-	UNITED NATIONS CONVENTION AGAINST CORRUPTION
UNCTOC	-	UNITED NATIONS CONVENTIONS AGAINST TRANSNATIONAL ORGANIZED CRIME
UNESCO	-	UNITED NATIONS EDUCATIONAL SCIENTIFIC & CULTURAL ORGANIZATION
USD	-	UNITED STATES DOLLAR
WDCAEP	-	ETHIOPIAN WILDLIFE DEVELOPMENT AND CONSERVATION AUTHORITY ESTABLISHMENT PROCLAMATION
WDCUR	-	WILDLIFE DEVELOPMENT, CONSERVATION AND UTILIZATION COUNCIL OF MINISTERS REGULATIONS
WHC	-	THE WORLD HERITAGE CONVENTION

1. INTRODUCTION

1.1. BACKGROUND

The mission of the Ethiopian Wildlife Conservation Authority (EWCA) is to scientifically conserve and manage Ethiopian wildlife and its' habitats in collaboration with communities and stakeholders for the ecological, economic and social benefits of the present generation, and pass to the next generation as a heritage. EWCA, which is now about a decade old, has been committed towards attaining its conservation goals thereby ensuring sound management of wildlife resources of the country. Despite this, in the course of implementing the strategic issues of the sector, considerable challenges encountered. In this regard, one of the problems that require strategic solutions is examining the issues associated with effective implementation of the existing wildlife policy and laws.

Ethiopia has various policies and laws at Federal and Regional levels that address wildlife protection and wildlife crime. It is also a party to significant number of international conventions that are vital in ensuring global efforts in wildlife conservation. The existing wildlife policy and strategy as well as wildlife laws cover substantial focus areas. However, past experiences showed that there are considerable gaps in the wildlife legal frameworks of Ethiopia that came into effect about a decade ago and as a result challenges have encountered in implementing some components of the sector's strategic plan.

Therefore, it was imperative to examine the impediments in effectively applying the wildlife legal regimes taking into consideration the present national, regional, and global conservation needs. Accordingly, efforts were made to assess the potential gaps of the legal frameworks and challenges encountered in implementing the wildlife policy and laws.

In the process, various literatures were cited and ample of inputs were obtained forums various forums especially during provision of training for law enforcement executive bodies. Besides, the experiences of other countries and best practices in implementing wildlife legal frameworks were examined against the wildlife laws of Ethiopia. Thus, this gap analysis study is believed to address the main issues which were not explored earlier since it was carried out in a participatory way and also by experts who knows the situation practically and feel the real pain on the ground.

1.2. CONCEPT OF WILDLIFE MANAGEMENT AND VALUES OF WILDLIFE RESOURCES

Wildlife is not defined in the same fashion across the world. It is frequently a debated term, and varies from country to country and institution to institution. It depends in the conservation strategy, policy and law of each country. In the narrow sense “wildlife” is defined to indicate “Wild animals” and includes both invertebrate animals. This only refers to all species of wild animals, ranging from insects through reptiles, rodents to large mammals. On the other away, in the broadest sense wildlife is defined as a collective noun, relating to non- domesticated species of plants, animals, and microbes being included. The latter one is the most universally accepted definition by wildlife experts.

The term “wildlife” embraces all wild large and small animals- mammals, birds, reptiles, amphibians, fish, invertebrates, wild plants, and the habitats that are necessary for their self-sustained existence.

As seen from the perception in Ethiopia, the term wildlife is literally equated to “ye dur ensisat” in Amharic. It is therefore widely understood by the general public as mainly referred to all free however, the term is still conceptually controversial in some cases, and there is an argument to have a proper new equivalent name such as “ye dur hiwot” to best fit to the generally accepted definition of wildlife.

Conservation means a sustainable use and protection of natural resources. Natural resources include plants, animals, mineral deposits, soils, water, air and fossil fuels such as coal, petroleum and natural gas. Natural resources are grouped into two categories: renewable and nonrenewable. A *renewable* resource is one that may be replaced over time by natural processes, such as plants, animals, water and inexhaustible wind and solar energy. The goal of renewable resource conservation is to ensure that such resources are not consumed faster than they are replaced. *Nonrenewable* resources are those in limited supply that cannot be replaced or can be replaced only over extremely long periods of time. In general, conservation concerns include sustainable use, protection, maintenance, rehabilitation, restoration and enhancement of populations and ecosystems.

Conservation became a useful concept for people to recognize that human kind need not advance its own well-being at the expense of the natural world, that it was possible to cut wood and not to destroy forests, to eat wild animals and not to destroy wild life, that a balance between human demands and capacity of the wild environment to produce could be reached.

There are strong reasons to conserve wildlife resources from many aspects, not just from ethical, moral and aesthetic perspectives, but also because they improve human wellbeing and contribute to development through the provision of ecosystem services such as water and carbon storage, soil and natural resources. On the other hand, there is a need to examine the growing losses in biological diversity. The loss of biological diversity results from a wide array of complex factors that operate in the ecosystem. The greatest threat to wildlife today is the ever-increasing exploitation of wildlife and their habitats. In a sense, the niche of human kind is expanding at the expense of most other species.

Many countries have their own laws, which help protect wildlife and ensure sound conservation of various species and to address the degradation and loss of wildlife resources, most countries have taken a wide range of technical, policy, legislative and institutional measures. The countries have also established both *in situ* and *ex situ* conservation programs. *In situ* conservation – conservation in the original habitat – is the most established form in Africa.

In this regard, Ethiopia has recorded considerable achievement in establishing about seventy protected areas of different categories that range from National parks to wildlife reserves from sanctuaries to community conservation and controlled hunting areas. However, these protected areas, like the case of conservation areas in Africa, have been under intense anthropogenic pressures that include over-exploitation, habitat destruction and fragmentation and other illegal activities.

1.3. INTERNATIONAL LEGAL REGIME ON WILDLIFE

1.3.1. CONVENTIONS & AGREEMENTS

The nature of wildlife crimes and mechanisms of their treatment vary from country to country and different international treaties, agreements and declarations have been ratified over the last forty years in order to protect the environment and the wild fauna and flora.

i. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA & FLORA

CITES – The Convention on International Trade in Endangered Species of Wild Fauna and Flora, is a multilateral convention signed in 1973 and get into force two years after. It aims to save wild species of fauna and flora through the regulation and restriction of the international trade.

CITES works by subjecting international trade in specimens of selected species to certain controls. Any import, export, re-exports or introduction of species covered by the Convention has to be authorized through a permitting system. The species are grouped in the Appendices according to the degree of threat from international trade. Since all species, listed in Appendix I, are threatened with extinction, trade is permitted only in exceptional circumstances. Appendix II species are not necessarily threatened with extinction but trade must be controlled in order to ensure that it is not detrimental to their survival. Appendix III species are protected in at least one country that has requested the other CITES Parties to assist in controlling the trade. Changes to Appendix III follow a different procedure from Appendices I and II, since any Party may propose an amendment to Appendix III.

CITES is an international agreement to which States adhere voluntarily. However, non-Party countries should follow the CITES; accordingly, when a specimen from a CITES listed species is transferred between a country that is a Party to CITES and a non-Party country, the former needs to accept documentation equivalent to the permits. Although the convention is legally binding on the Parties, it does not replace national laws; but it provides a framework to be respected by the Parties, who should adopt domestic legislation to ensure that CITES is implemented on a national level. Each Party to the Convention must designate one or more Management Authorities in charge of administering permits and one or more Scientific Authorities to advise them on the impact of trade on the status of the species.

Ethiopia has paid attention to the importance of regulating wildlife trade in order to ensure the survival of species. Accordingly, it acceded to CITES in 1989.

ii. UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

With an impact that reaches beyond environmental concerns, wildlife crime in a globalized world threatens national and international security owing to the involvement of transnational organized crime groups and armed non-state actors. Several recent United Nations reports suggest that criminal organizations have diversified into the illegal markets for fauna and flora, attracted by high profits and low risks. In this regard, the United Nations Convention against Transnational Organized Crime (UNTOC) is the main international instrument in the fight against transnational organized crime since the serious and organized forms of wildlife offences, such as trafficking in wildlife and wildlife products may fall within the scope of UNTOC.

Since its inception, in 2003 the Convention has become an important and nearly universal tool in preventing and combating organized crime, including illegal trade in fauna, flora, and their parts and derivatives. UNCTOC signifies the recognition by its Member States of the seriousness of the problems posed by organized crime, as well as the need to foster close international cooperation.

iii. OTHER INTERNATIONAL CONVENTIONS AND BILATERAL AGREEMENTS

Besides CITES, there are several principal global international agreements relating to wildlife ratified by Ethiopia in accordance to Article 92 the Federal Constitution pertaining to protecting the environment, namely: the Convention on Biological Diversity (CBD) and its Nagoya Protocol on Access to Genetic Resources and their Fair and Equitable Sharing of Benefits Arising from their Utilization, the World Heritage Convention (WHC), the Convention on Migratory Species (CMS) and its Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA).

Convention/ Agreement	CBD	Nagoya Protocol	WHC	CITES	CMS	AEWA	WHC	CITES
Year of Ratification	1994	2012	1977	1989	2010	2010	1977	1989

Table 1: Year of Ratification of International Agreements/Conventions by Ethiopia

The Convention on Biological Diversity

The **Convention on Biological Diversity (CBD)**, Rio de Janeiro, 1992, reflects the increased global awareness of the interdependence among species. The Convention provides for the conservation and sustainable use of biodiversity. Biological diversity is defined as “the variability among living organisms”, including “diversity within species, between species and of ecosystems” (art. 2). The CBD’s objectives include not only the conservation, but also the sustainable use of biodiversity components, as well as the fair and equitable sharing of the benefits arising out of the utilization of genetic resources (art. 1). Sustainable use is defined as using biodiversity components “in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations” (art. 2). This concept is particularly relevant for the sustainable management of wildlife, as it entails that countries adopt a holistic approach, monitor its status, base measures on up-to-date information and progressively adapt them. Parties must, “as far as possible and as appropriate”, establish a system of protected areas, rehabilitate and restore degraded

ecosystems and promote recovery of threatened species.

The Nagoya Protocol

The Nagoya Protocol on Access to Genetic Resources and their Fair and Equitable Sharing of Benefits Arising from their Utilization, adopted in 2010, aims at sharing the benefits arising from the utilization of genetic resources in a fair and equitable way, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies.

The World Heritage Convention

The **World Heritage Convention (WHC)**, Paris, 1972, provides for the identification and conservation of sites of outstanding universal value from a natural or cultural point of view, to be included in the World Heritage List. The purpose of the Convention Concerning the Protection of the World Cultural and Natural Heritage, also referred to as the World Heritage Convention, is to protect designated cultural and natural sites from destruction, encroachment and exploitation. The Convention seeks to “establish an effective system of collective protection of the cultural and natural heritage of outstanding universal value, organized on a permanent basis and in accordance with modern scientific methods. Parties to the Convention are obliged to take appropriate measures for ensuring the identification, protection and transmission of natural heritage to future generations.

The Convention on Conservation of Migratory Species of Wild Animals

The **Convention on Conservation of Migratory Species of Wild Animals (CMS)**, Bonn, 1979, aims to conserve terrestrial, aquatic and avian species throughout their range of migration. Migratory species threatened with extinction are listed in **Appendix I** of the Convention. CMS Parties must strive towards strictly protecting these animals, conserving or restoring their habitats. Migratory species that need or would significantly benefit from international co-operation are listed in **Appendix II** of the Convention. For their protection, the Convention encourages the range States to enter into global or regional Agreements.

The Agreement on the Conservation of African-Eurasian Migratory Waterbird

The **Agreement on the Conservation of African-Eurasian Migratory Waterbird (AEWA)**, developed under the auspices of the Convention on Migratory Species (CMS), is an independent intergovernmental treaty which aims to conserve migratory waterbirds across their entire flyways over range countries in

Europe, parts of Asia and Canada, the Middle East and Africa. The mission of the Agreement is to maintain migratory waterbirds at a favourable conservation status or restore them to such a status throughout their flyways within the AEWA range.

Other environment related conventions include the:

- United Nations Framework Convention on Climate Change (UNFCCC);
- United Nations Convention to Combat Desertification (UNCCD);
- Basel Convention on Trans-boundary Movement of Hazardous Wastes;
- Maputo Convention on Nature and Natural Resources;
- Bamako Convention on Hazardous Wastes; and
- Nairobi and Abidjan Conventions on Marine and Coastal Management and Pollution.

1.3.2. OVERVIEW OF RELATED CONSERVATION POLICY & STRATEGIES

There are several policies and strategies for biodiversity conservation in Ethiopia. Various conservation related policies and strategies adopted by the Federal Government include Conservation Strategy of Ethiopia (1997); the Environmental Policy (1997); the National Biodiversity Strategy and Action Plan (2005); the Tourism Development Policy (2009); the Forest Policy and Strategy (2006); and the Wildlife Policy and Strategy (2005). All these policies and strategies are integrated to contribute to the national vision of the country - *“To see Ethiopia become a country where democratic rule, good governance and social justice reign through the involvement and free will of its people thereby become a middle-income country and carbon-neutral economy by 2025”*.

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i) CONSERVATION STRATEGY OF ETHIOPIA

The Conservation Strategy was issued in 1997 after being developed by a secretariat under the then Ministry of Economic Development and Cooperation. This document takes a comprehensive approach in defining resources so as to include human, genetic, renewable, crustal and emotive resources.

It is worth noting that the Conservation Strategy closely links the degree and effectiveness of conservation measures with benefits to local communities and present living standards. The Conservation Strategy provides objectives, guiding principles and strategies regarding eleven sectoral issues one of which is genetic, species and ecosystem biodiversity conservation and management.

ii) ENVIRONMENTAL POLICY

The Environmental Policy of Ethiopia is a policy on natural resources and the environment. The document puts the case for having a policy on natural resource and the environment. The Policy provides for the overall policy goal and specific policy objectives, key guiding principles, sectoral environmental policies, cross-sectoral environmental policies and policy implementation. The overall goal of the policy is to improve and enhance the health and quality of life of all Ethiopians and to promote sustainable social and economic development through the sound management and use of natural, human-made and cultural resources and the environment as a whole so as to meet the needs of the present generation without compromising the ability of future generations to meet their own needs (EPA and MEDaC (1997).

The Ethiopian Environmental Policy also provides specific policies on ten cross-sectoral matters: population; community participation ; tenure and access rights to land and natural resources; land use plan; social and gender issues; environmental economics; environmental information system; environmental research; environmental impact assessment; and environmental education and awareness. It might be noted that the National Conservation Strategy deals extensively with public participation, laying out the case and identifying the preconditions for effective and meaningful public participation.

iii) NATIONAL BIODIVERSITY STRATEGY AND ACTION PLAN

The National Biodiversity Strategy and Action Plan was issued in 2005 following a process of development led by the Institute of Biodiversity Conservation. This document was prepared in response to Article 6 of the Convention of Biological Diversity. Like the Convention, the Strategy defines biodiversity broadly so as to include genetic, species and ecosystem diversity.

iv) TOURISM DEVELOPMENT POLICY

The Policy was adopted in 2009 by the council of ministers, following distribution of a tourism development framework to all main federal and regional stakeholders. A national tourism council, to include authorities in charge of tourism at Federal and Regional level, religious institutions, private sector and other stakeholders, is to be established to help lead the growth and development (item 3.5.2).

v) FOREST POLICY AND STRATEGY

The stated basic aim of the Forest Policy is to meet public demand in forest products and foster the contribution of forests to the economy by appropriately conserving and developing them. The Policy promotes the **involvement of all individuals, associations and organizations** in development and conservation of forests, by granting lands to them, ensuring tax exemptions, providing technical assistance and facilitating access to credit (item 1.1 and related strategies). Certificates guaranteeing ownership are to be granted with respect to lands designated for forest development, subject to compliance with the applicable management plan (item 1.2). State forests are to be administered on the basis of a **management plan** (item 4.1), which for protected forests must take due consideration of “participatory biodiversity conservation”.

2. WILDLIFE LEGAL FRAMEWORKS OF ETHIOPIA

2.1. WILDLIFE POLICY AND STRATEGIES OF ETHIOPIA

The main strategy and policy that addresses wildlife conservation is the Ethiopian Wildlife Policy and Strategies (EWPS).

This policy has five parts:

- *Wildlife resources development and protection;*
- *Wildlife Resources Utilization;*
- *Investors Participation;*
- *Conducting wildlife Research, Education and Training; and*
- *Information on Wildlife Resource.*

These parts of the policy stem from three pillars: namely; Protection, Development & Utilization. The other components of the policy are about ways to how to deal with the aforementioned pillars.

The main objective of the EWSP is to create a conducive environment whereby the country’s wildlife and their habitats are protected and developed in a sustainable way, and to enable the sector to play an important role in the economic development of the country and this is replica of the mission of the Ethiopian Wildlife Conservation Authority (EWCA).

Generally, the EWPS addresses the following focus areas:

- *Effective management and development of Protected Areas (PAs) according to international standards and principles;*

- *Administration, establishment, re-demarcation and re-gazettal of PAs;*
- *Proper conservation of wildlife resources outside protected areas;*
- *Sound conservation of endemic and threatened wildlife species and their habitats,*
- *Protecting wildlife from disasters;*
- *Promoting wildlife health services and establishment of an integrated system to prevent and control wildlife diseases;*
- *Controlling traffic in wildlife and wildlife products,*
- *Mitigating Human Wildlife Conflict;*
- *Proper and sustainable utilization wildlife resources through promoting eco-tourism, market for wildlife and wildlife products;*
- *Use of international laws and conventions issued with regard to wildlife trade;*
- *Utilization mechanisms of revenue generated from wildlife resources,*
- *Encouraging and supporting private investors to engage in protected areas administration and management, and production of export-oriented wildlife products;*
- *Strengthening research on wildlife and application of the research findings to protect, develop and sustainably utilize wildlife resources;*
- *Use of indigenous conservation experiences and knowledge;*
- *Enhancement, adoption and proper utilization of appropriate wildlife conservation Technologies and best practices.*
- *Provision of education and training on the value of wildlife; and*
- *Management of information on wildlife resources.*

As indicated above, the EWPS aspires to devise proper mechanisms to control trafficking in wildlife and wildlife products. Some of the strategies to stop trafficking include establishing check points at entry and exit points and regulation of national and international trade in wildlife and wildlife products in accordance with national and international conventions.

The Policy also states that the wildlife resources of the country will be properly and sustainably utilized thorough consumptive and non consumptive utilization. Eco-tourism will be promoted in protected areas and international conventions regarding wildlife and wildlife trade will be implemented. The income secured from wildlife resources will be used to benefit local people and will be reinvested in wildlife conservation endeavors. The income from wildlife will also be used to enhance the overall growth of the national economy.

The EWPS is to be implemented both at the Federal and Regional levels. The Policy provides that Regional states can prepare their own wildlife policies and strategies using the EWPS as the basis. Moreover, the relevant line ministry will put in place the necessary infrastructure to ensure implementation of the wildlife conservation policy and strategy and it will formulate programs and projects, issue proclamations, rules and regulations and ensure their implementation.

2.2. WILDLIFE LAWS OF ETHIOPIA

2.2.1. FOCUS GIVEN TO WILDLIFE RESOURCE CONSERVATION IN ETHIOPIAN CONSTITUTIONS

Historical information show that the activities of conserving and protecting wildlife began in Ethiopia in 1901 during the reign of Emperor Menilik II. The law-book of the time known as *Fitha-Negest* which consisted of 12 Parts and 1980 Sections merely state that it is prohibited to cause harm to wildlife and there is no provision on the ways of conserving and protecting the wildlife. At the time, the biblical commandment which prohibits causing harms to animals was commonly known and this assisted the protection of wild animals.

Thence, the Constitution issued during the reign of Emperor Haile Sellasie in 1930 had 7 Parts and 55 Sections and in the Constitution it was stated that the King has sovereign and irreversible power and the organs of the government are divided into two councils (Part 2, Section 7) and the Judiciary Council was given the power to promulgate laws which would be approved by the King.

The Constitution which was an amendment of the 1930 Constitution had 7 Parts and 131 Sections. The 1956 constitution was mainly issued following the unification of Eritrea and Ethiopia and pursuant to the signing of UNDHR which demanded including the provisions of the declaration into the country's constitution. In Article 27 of the constitution, it was indicated that the King has the supreme power to define the powers and duties of all institutions of the country and there are provisions of conservation of natural resources: water, air, lakes and rivers.

Article 130 of the constitution states that:

- a) The resources in the land within the territory which belongs to the King, including the resource below the water, are the property of the state.

- b) The resources within the territory of the King and all aquatic resources, forest, land, air, lakes, rivers, shores are precious heritages and assets of the people to be utilized by the current as well as the future generations.
- c) Any individual person or association shall not utilize or make use of these resources in a way that is contradictory to the provisions of the imperial constitution.
- d) Any property that is not owned by a natural or juridical person of Ethiopian nationality or land, assets, soil, forest, grazing land, sea and rivers which are not owned by anyone or abandoned shall become the property of the state.

Accordingly, legal provisions issued based upon the 1930 and 1956 constitutions enabled to undertake better activities with regard to wildlife conservation. In 1974 the imperial government was toppled down through coup d'état and the military junta assumed power. From 1974 onwards, the country had no constitution for 13 years and there were only proclamations and regulations in implementation. Among these proclamations, Proclamation No. 192/1980 was issued on wildlife conservation.

The military government proclaimed the 1988 constitution with Proclamation No. 1/1988. This constitution had 16 Parts and 109 Sections or Articles and it was crafted based upon the ideology of socialism. Article 10 of the 1988 states that:

The government shall make sure that the natural balance is preserved and that natural resources such as land, water, forest and wildlife are conserved and utilized by the people. Government shall make sure that the settlement pattern of the population is in accordance with the natural resource system. The government shall encourage the living of the population collectively to improve the backward living conditions of the people living in rural areas.

The existing Constitution is the FDRE Constitution that was ratified in 1995 and what makes this constitution different from the earlier constitutions of the country is that it has been ratified by the nations and nationalities of Ethiopia and in its preamble, it begins with: "We, the peoples and nationalities of Ethiopia, with the intention of ensuring reliable peace and stability; enhancing our economic and social development, determining our destiny by ourselves, ensuring the respect for the rights of individuals and peoples, ensuring equality among sexes, cultures and religions" we now ratify this Constitution through our respective representatives".

The constitution consists of 11 Sections and 106 Articles. Three government bodies are included in this constitution pursuant to the democratic system. These are the legislative, the executive and the judiciary as autonomous bodies of government and the legislative organ (the parliament) is entrusted with the power to write legislations in relation to the responsibilities of the federal government as listed in Article 55, Sub-articles 1-19 and monitoring the implementation of the issued legislations by the executive organ (Council of Ministers) in accordance with Article 76(1-3) and Article 77(1-13). According to Article 55, Sub-article 1 of this constitution, the parliament issues legislations applicable to the jurisdiction of the federal government as stated in the same constitution. Let us consider the subsequent sub-articles under this Article. The parliament, without prejudice to Article 2, Sub-article 1, shall issue legislations regarding the following matters: (a) utilization of land, natural resource, international rivers and lakes. The parliament issues this in accordance with Article 51(5) which states that it shall issue legislations on conservation of land, natural resources, and historical heritages. Consequently, Article 52(2d) of the constitution states that the regional governments administer land and natural resources in accordance with the law issued by the federal.

2.2.2. HISTORICAL BACKGROUND OF STATUTES ON WILDLIFE CONSERVATION IN ETHIOPIA AND THE EXISTING LAWS

The practice of conservation and protection of wildlife in Ethiopia has a long history and has lapsed long time and the protection made by the state was began since 1908. At the time, a Regulation restricting the hunting of wildlife was issued on October 15, 1909, based on the imperial legal framework, just like the other statute laws of the country, to provide protection to wildlife.

Proclamation No. 61/1944 provided for the protection of wildlife became effective starting from 29 May 1944 and it consisted of five Articles and nine Sub-articles (Negarit Gazette, 1944 Proclamation No.61). The Proclamation mainly focused on allowing only legal hunting practice or the prohibition of hunting without getting permit issued by the then Ministry of Agriculture; and, under Article 4(e), the restriction and protection of wildlife habitats. Moreover, hunting of some wildlife species was limited or totally prohibited as per the provisions included in Article 4(e) of the Proclamation. Some of the strengths of the Proclamation include: the provision which stated that a fine of not more than 1,000 Birr and confiscation of the benefits obtained from the hunt and the weapon used for the illegal act taken by the Ministry of Agriculture against such perpetrator. With this, efforts were made to restrict illegal hunters from exploiting the wildlife. Nevertheless, the Proclamation did not include any provisions in relation to

wildlife conservation areas, types of wildlife conservation areas, and an entity that is responsible or mandated to undertake related activities (Proclamation No. 61/1944 provided for wildlife protection).

Order No. 65/1970 which was issued for the establishment of Wildlife Conservation Organization was ratified and became effective starting from the 5th of November 1970 and the Order consisted of eleven major Articles and the main objectives of the Order are the following:

- *Acknowledging that the wildlife have considerable importance in attracting tourists and for educational purposes as well as for the growth of scientific knowledge;*
- *The national significance of ensuring that wildlife are conserved and protected and the need to establish restricted areas at national level for the wildlife; and,*
- *The importance of establishing up-to-standard conservation areas in accordance with the criteria set up by the UNESCO.*

Under the 2nd Article entitled ‘Establishment of Ethiopian Wildlife Conservation’, it was indicated that ‘organization’ was to mean an autonomous Ethiopian Wildlife Conservation Organization of the Kingdom; and, this enabled the creation of modern wildlife conservation and protection system which brought about significant change in the history of the country in this sector.

Under the 3rd Article of this Order, two sub-articles and seven detailed provisions were stated in relation to the duties of the organization. Among the detailed activities are included: conservation of wild animals, issuing permits, delimiting and establishing conservation areas, restricted hunting areas, wildlife habitats and sanctuaries, conserving the natural environment of these areas, and facilitating access to the conservation areas and restricted areas, entering into contracts for the establishment of hotels and camps as well as different service providers within the restricted and conservation areas, and collecting royalty fees are the activities entrusted to the organization as per Article 3(2) (a-g) of the Order.

Furthermore, the organizational structure of the Organization was managed by the management board on the top and the organization had a manager (65/1970, Article 5). In addition, the organization was mandated to collect revenues, to hire workers required to run undertake its activities, establishing training center for scouts and professionals, and to acquire fixed assets /65/1970, Article 4(a – I) /.

Even though there are different strategies that are included in Order No. 65/1970 of the Establishment of Ethiopian Wildlife Conservation Organization with regard to the utilization of the resource in a way that

the country could derive better benefits, the Order did not set any legal provision in relation to the procedures to penalize perpetrators of illegal activities in the sector.

Thence, Wildlife Conservation Regulation No. 416/1971, based upon the two Proclamations we have considered above namely, Proclamation No. 61/1944 provided for the conservation of wildlife and Order No. 65/1970 to establish Ethiopian Wildlife Conservation Organization, and it became effective as of 10 January 1972.

In this Regulation, seven chapters and 48 articles have been included and, in general, legal wild animals hunting and trading methods have been listed and details on permit grant, payments, and special hunting permit for scientific purpose have been provided. Moreover, at the time, CITES was not known and, as the result, in Article 34, sub-article 1 and 2 of this Regulation, it is stated that any person who is granted permit to hunt an elephant and who comes to possess ivory has the obligation to appear at the organization within 30 days and make sure that the ivory is registered (Regulation No. 416/1971, Article 34/1-2).

Furthermore, the regulation included activities which are prohibited as illegal to do against wild animals such as: illegal settlement and illegal hunting and any person who is found breaching the provisions would be punished in accordance with the Penal Code at the time, Article 364 (Regulation No. 416/1971, Article 47/1-2).

In addition, following wildlife conservation regulation, Regulation No. 416/1971 was amended as Regulation No. 445/1974 to bridge the limitations observed in the regulation. Among the major issues included to fill the gaps was the provision stated in Regulation No. 416/1971, Article 21/1/b on hunting permit validity period which was 2 months was increased to a period of one year in the amended Regulation No. 445/1974, Article 4. Moreover, the list of different species of birds and wild animals was also amended (Regulation No. 445/1974, Article 4, sub-article 1 and 2).

The legal frameworks that are described above in details show that even though there have been efforts in Ethiopia since the imperial regime to protect and conserve wild animal resource, the sector has not become the main economic and tourism institution of the country. After the 1974 revolution, the country was ruled by a military regime for the next 17 years. During the military regime, different activities were

undertaken to make fundamental change in the sector, as in other institutions of the country, including the amendment of the law.

Accordingly, Proclamation No. 192/1980 was proclaimed and made effective starting from October 11, 1980. This Proclamation was divided into three sections and 15 articles as well as a number of sub-articles. What makes this newly issued forest and wildlife conservation proclamation different from other laws at the time was that, it enabled the institution to administer not only the wildlife but also the whole forest resource of the country and managed by management council as an autonomous authority.

In this regard, the State Forest Proclamation No. 225/1965; the Private Forests Conservation Proclamation No. 226/1965; the Protective Forests Proclamation No. 227/1965; the Wildlife Conservation Order no. 65/1970 and the State Forest Development Agency Order No. 74/1971 were all repealed and replaced by this new Forest and Wildlife Conservation Authority Proclamation (Proclamation No. 192/1980, Article 3/a-g). In addition, all assets and liabilities of the former Wildlife Conservation Organization established by Order No. 65 of 1970 and the State Forest Development Agency established by Order No. 74 of 1970 were transferred to the Authority (Proclamation No. 192/1980, Article 10). The major objectives of the Authority are stated under Article 11 of this Proclamation and, according to Article 11(1, 2 and 3), the main objective of the Proclamation is to ensure the proper protection, development, rational utilization and management of forest and wildlife resources of the country; to establish and administer national parks, game reserves and other conservation areas; and, to agitate the broad masses to have better and greater participation in the development, protection, rational utilization and management of forest and wildlife. The major activities of the Authority are detailed out under Article 12, sub-articles 1 to 31 and these are: plant, protect, develop, manage and utilize state forests; safeguard state forests from fire and other natural hazards and take all necessary measures for its protection; accept aid or donation from within the country or abroad; in cooperation with the appropriate government offices, demarcate, register and administer state forests, national parks, game reserves, sanctuaries, and areas for forestation, controlled hunting and scenic attractions; and enforce legislations concerning forest and wildlife resources (Proclamation No. 192/1980, Article 12/1-31). In this Proclamation, prohibited activities in protected areas are described under Article 22 and these include: hunting wild animals or using the products thereof; settling in any state forest, national park, game reserve, or other conservation area; and taking the natural resource without permission. A person who is found committing any of these illegal activities would be punished as per the penalties listed under Article 24, sub-articles 1-3 which include imprisonment not exceeding two years or with fine not exceeding Birr 5000 or with both such fine and imprisonment (Proclamation No. 192/1980, Articles 22 and 24). This proclamation

has enabled the establishment functioning of the Authority and the creation of good natural resource conservation system in the country.

Starting from 11 October 1980 on which Proclamation No. 192/1980 became effective, it enabled the realization of extensive and fundamental tasks and following the 1991 change of government and the need to dissolve the institution which was serving by including the structure related to forest and wildlife, Proclamation No. 192/1980 which remained in effect for 13 years until 28 March 1994 was repealed by Proclamation No. 44/1994, Article 17/1/a and the Authority was dissolved; the sector of wildlife was reorganized at lower status under Ministry of Agriculture as a Division and the forest sector was restructured separately under Ministry of Agriculture in accordance with Proclamation No. 94/1994 as Forest Development and Utilization. The issuance of this proclamation and the dissolution of the Authority which was established to conserve and protect wildlife and forest resources at the time was a historical mistake which hampered the sector backward and harmed the interest of the country as well as considerable damage to the forest and wildlife resources of the country. After the dissolution of Forestry and Wildlife Conservation Authority in 1994, which was established in 1980, the natural resource was included under Ministry of Agriculture for 12 years as a Division until 2007, without any proclamation and regulation. This has hindered the country from moving forward in this sector and hampered the progress of the sector. In 2007, the government gave due attention to the sector and reestablished the Authority with all its responsibilities with proclamation and regulation.

According to the Constitution of the FDRE 1/1995, Article 51/5, the mandate or power to promulgate laws regarding the conservation and utilization of land, natural resources and historical heritages was entrusted to House of People's Representatives and included under the power and duties of the Federal Government, accordingly, Proclamation No. 541/2007 and Proclamation No. 575/2008 were proclaimed (Negaret Gazzeta, 2007 Proclamation No.541/2007; Negaret Gazzeta, 2008 Proclamation No.575/2007). .

The main law governing wildlife matters in Ethiopia at present is the Development, Conservation and Utilization of Wildlife Proclamation (DCUWP). This is a federal proclamation and individual states may enact their own laws addressing wildlife conservation within their jurisdictions. However, Article 51 enumerates the powers and functions of the Federal Government which includes the power to enact laws for the utilization and conservation of land and other natural resources and Article 52(2) (d) gives the states the powers and functions of administering land and other natural resources in accordance with federal laws. Therefore, even though the states may enact their own wildlife laws, such laws should not

be inconsistent with the DCUWP. Further, the states are required by the Constitution to administer the provisions of the DCUWP.

The DCUWP was enacted in 2007. Prior to its enactment, wildlife conservation was governed by the Forestry and Wildlife Development Conservation and Development Proclamation (repealed) of 1980. The 1980 legislation was not in line with the existing realities and challenges of wildlife conservation and there was continued depletion of wildlife resources. There was therefore an urgent need to enact a law that would address these issues. The DCUWP implements the provisions of the WSP. The preamble to the law states that it was enacted to address unplanned and inappropriate utilization of wildlife and unproductive conservation of wildlife. The law wishes to harness the benefits of allowing communities and private investors to actively participate in wildlife development and conservation and enhance the contribution of the wildlife sector towards poverty reduction by maximizing the economic and social benefits derived there from.

The objectives of the DCUWP are to conserve, manage, develop and properly utilize the wildlife resources of Ethiopia, to create conditions necessary for discharging government obligations assumed under treaties regarding the conservation, development, and utilization of wildlife and to promote wildlife-based tourism and encourage private investment.

The DCUWP gives the Minister power to issue directions and regulations necessary for its implementation. In 2008, the Wildlife Development, Conservation and Utilization Council of Ministers Regulations (WDCUR) were issued. The aim of the regulations is to implement the provisions of the DCUWP on management of wildlife conservation areas, licensing of wildlife user rights and management of Human Wildlife Conflict (HWC). The Regulations also define offences against wildlife and prescribe the penalties provided for in the DCUWP.

Other Regulations issued under the DCUWP were regulations creating protected areas and include the Awash National Park Establishment Order and the Simien National Park Establishment Order which were replaced after the re-gazettal that was endorsed in 2014.

The other law that addresses management of wildlife is the Ethiopian Wildlife Development and Conservation Authority Establishment Proclamation (WDCAEP). This law recognizes that it is necessary to strengthen the wildlife sub-sector in accordance with the current global standards and to this end a

government body at the federal level should be established to manage and conserve wildlife. The WDCAEP establishes the Ethiopian Wildlife Conservation Authority (EWCA) as an autonomous public agency of the Federal Government. The objectives of EWCA are to ensure the development, conservation and sustainable utilization of the country's wildlife resources.

EWCA is accountable to the Ministry of Culture and Tourism (MoCT) which is the line ministry in charge of the Wildlife Sector. It is to be headed by a Director General who has the powers and duties to administer the activities of EWCA. The Director General is responsible for appointing such other staff as are necessary for carrying out the functions and powers of EWCA.

EWCA has a supervisory role over all matters relating to wildlife in Ethiopia. It is mandated to provide support to regions with respect to the development and conservation of wildlife, and to delegate its powers and duties to other federal and regional government organs where necessary. It has a further duty of supervising wildlife conservation areas administered by private investors in accordance with concession agreements entered into with the federal government. EWCA is further mandated to prepare and submit to the Ministry draft policies and laws relating to the development, conservation and utilization of wildlife resources and to follow up the implementation of the same upon approval by the government.

EWCA has the mandate to protect wildlife and Article 6 provides that some of its powers and duties include developing and administering wildlife conservation areas and controlling illegal activities relating to wildlife in those areas. Wildlife conservation areas are to be established in accordance with international standards with a view to facilitating their registration by the World Conservation Union. EWCA is also supposed to protect wildlife by preventing and controlling incidents of wildlife diseases which may have a disastrous impact on wildlife.

EWCA has a regulatory mandate over wildlife under Article 6 of the WDCAEP. In this regard, it is mandated to issue permits to foreign hunters, to issue permits for the establishment of tourism facilities in wildlife conservation areas and to issue permits and health certificates for import and export of wildlife and wildlife products. EWCA is also mandated to control the utilization of wildlife products and to ensure compliance with permits and licenses.

EWCA is the administering authority of international treaties ratified by Ethiopia with respect to wildlife. To this end, one of its duties is to ensure the implementation of treaties to which Ethiopia is a party and compile and submit periodical reports to the concerned international institutions. EWCA is also supposed to establish international relations with all bodies having the potential of providing technical and other assistance for wildlife conservation and represent the government in international meetings and conferences relating to wildlife.

In addition to this, seven regulations were issued by the Council of Ministers after 45 years to redefine the boundaries of conservation areas and put into effect starting from 2 February 2014. These regulations are the:

- Bale Mountains National Park – Regulation No. 338/2015 of the Council of Ministers;
- Semen Mountains National Park – Regulation No. 337/2015 of the Council of Ministers;
- Senkele Hartebeest Sanctuary – Regulation No. 336/2015 of the Council of Ministers;
- Kafta Shiraro National Park – Regulation No. 335/2015 of the Council of Ministers;
- Gambella National Park – Regulation No. 334/2015 of the Council of Ministers;
- Alitash National Park – Regulation No. 333/2015 of the Council of Ministers; and
- Awash National Park – Regulation No. 329/2015 of the Council of Ministers.

In the demarcation regulation of these conservation areas, the role of local administrative institutions in the day-to-day activities of the conservation areas is found crucial and accordingly, advisory council is to be established consisting of members representing these bodies to undertake the activities of evaluating the plans prepared for the conservation areas and rectify the limitations and also prevent illegal activities; the regulation also consists of articles which compel perpetrators of criminal activities to pay the price of an animal or plant harmed without requiring filing Civil charges.

Besides, six utilization-based directives were approved by MoCT in 2015 to ensure sustainable use of wildlife resources. The directives include:

- Wildlife capturing and live trade directive no. 21/2015;
- Wildlife filming directive no. 22/2015;
- Wildlife Taxidermy directive no. 23/2015;
- Wildlife research permit directive no. 24/2015; and
- Tourist service facilities development permit directive no. 25/2015;
- Hunttable wild animals census and quota setting directive no. 26/2016; and

- Repealed Wild animals hunting utilization directive no. 31/2016.

2.2.3. OVERVIEW OF ASSOCIATED CONSERVATION REGIONAL LAWS

The FDRE Constitution that was ratified on 8 December 1994 created a new system of governance for the country. The Constitution was drafted through the consent of the peoples, nationals and nationalities of the country and it has 11 chapters and 106 articles. According to Article 50 of this Constitution, the 9 regions are granted the power to promulgate their own Constitutions and other statute laws (Fig. 1).

Based on this, the regions have a mandate to conserve wildlife. The extent of their mandate is defined by the DPUWP. Article 13 of the DPUWP gives regions some supervisory powers over wildlife conservation within their jurisdictions. They have powers to supervise wildlife conservation areas administered by private investors and local communities and powers to supervise wildlife farms and ranches. They have a mandate to protect wildlife by developing and administering wildlife conservation areas, controlling wildlife diseases and controlling illegal activities against wildlife within their jurisdictions. They are given the duty to support EWCA in controlling illegal activities against wildlife in areas administered by EWCA.

The regions also have some regulatory functions in terms of issuing permits to non-foreign hunters within their jurisdictions, issuing permits for wildlife farming and ranching and issuing permits to own, transfer and trade locally in wildlife and wildlife products. The regions have the duty to mitigate human wildlife conflict by undertaking the necessary studies on wildlife causing threat to human life and property and taking appropriate measures to minimize and prevent such threats. They are to report cases which are beyond their capacity to mitigate to EWCA for further interventions.

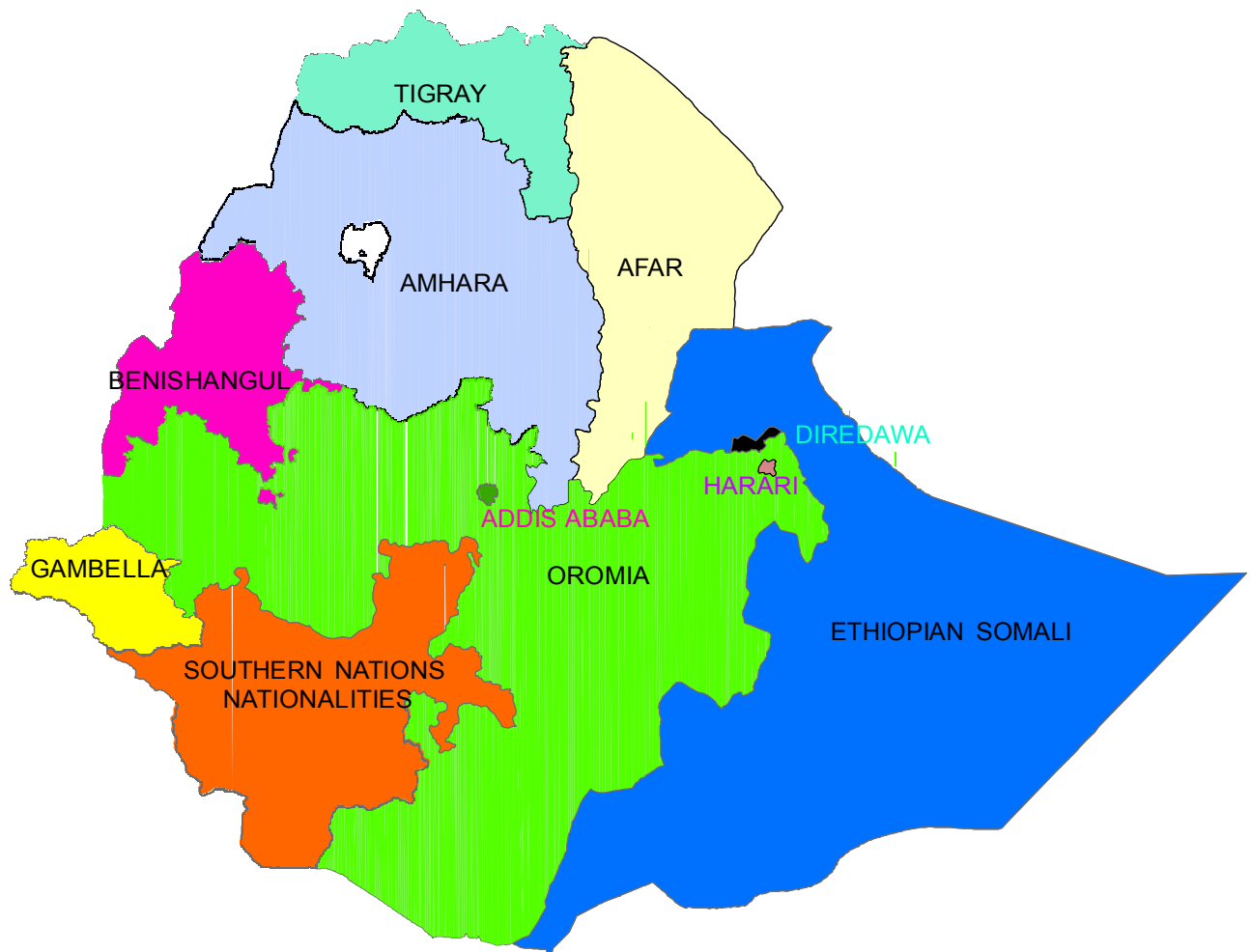


Fig. 1: Geographical Map of Ethiopia with Regional States

Generally, most of the regions issued their own wildlife conservation and utilization laws after 1994. Wildlife conservation laws of two main regions are discussed as follows.

i. OROMIA NATIONAL REGIONAL STATE

Oromia region is the largest among the nine regions in the country in terms of population and spatial size; and, like the other regions of the country, it is endowed with immense natural resources. The regional council ratified Proclamation No.72/2003 and regulation 122/2009 in order to establish an autonomous organization, responsible to conserve and develop the regions wildlife and forest resources. (Oromia Region Proclamation No.72/2003)

The major objectives of the law of the region are to protect forest from destruction, to combat desertification and prevent soil erosion, and to undertake reforestation of the forest areas. The forest conservation law was proclaimed in accordance with the Constitution of Oromia National Regional State, Article 49/3 and Proclamation No. 94/1994 of the federal government. The regional law has 18 articles and Article 3 indicates that forest conservation and ownership types: state forest, private forest and community forest, along with related issues as well as the implementation of the activities.

This proclamation of Oromia region is more preferable to put off the illegal activities as the penalties indicated under Article 15 of the proclamation are relatively tougher. The penalty clearly states that anyone who illegally cut tree from the forest or take forest resource product, prepare or utilize forest resource product in any form, found transporting the forest resource products, destroying, erasing or falsifying the forest boundary markers, who set fire or damaged the forest in any manner, unless the act deserved severe penalty of crime, on top of the penalty to pay the value of damaged forest resource, shall be penalized with 5 to 15 years of imprisonment. This is an article of law which enables to discourage perpetrators from committing offences on natural resources. For example, based on this forest proclamation, , , illegal hunters and individuals who destroyed forest in Babile Elephants Sanctuary, in 2011, in violation of the law, were brought to West Hararghe Zone High Court and penalty was passed on them with imprisonment for 5 years and 50,000 Birr (about USD 2500) fine.

Following this regional proclamation, wildlife organization regulation 122/2009 of the region was proclaimed; and, in this regulation too, the organization was established to develop the wildlife and forest resource and accrue profit by engaging in profitable sectors. The organization has its own forest fund and administered by a board; and, its major objectives include: conserving wildlife and forest resource in the conservation areas it administers through community participation, undertaking forest development activities extensively by promoting community participation and increasing forest cover in the region, utilizing the forest resource in sustainable manner, and making sure that there is sustainable conservation of biodiversity. According to the Regulation No. 122/2009, Article 6 the board administers the organization as supreme body and in Article 11, its powers and duties are stated in details. The major responsibilities of the board include organizing the workers of the organization and approving their salary scale. In this regulation, even though there is no section which indicates the offences committed against forest and wildlife resources, it is authenticated that the proclamation of the region on the forest and wildlife is implemented.

ii. AMHARA NATIONAL REGIONAL STATE

Pursuant to the FDRE Constitution Article 52, sub-article 2/b & d, the regional proclamation No. 176/2011 was issued to re-establish and determine the power and duties of the executive body of Amhara national regional state and the offices of the region were re-established to realize the interests of the community in a better way and to create government organization and enhance development. Regarding the wildlife and forest resources conservation, the regional bureau has the duties and responsibilities indicated under article 24. These are:

- Article 24/6, to design strategies to make sure that the society in the region get awareness on the conservation and utilization of wildlife, implement them, make sure that endemic wildlife species are protected and conserved;
- Article 24/8, to identify the types of tourism which render the community around the conservation areas and national parks beneficiary; acknowledging and registering them and facilitating their development and conservation;
- Article 24/9, to assess wildlife and birds which are found in different ecological zones in the region, delineate these areas and administering them;
- Article 24/10, to issue permits to business organizations and individuals who engage in the trade of wildlife and wildlife resource products; issue certificates which indicate the origin and destination of wildlife resource products which are traded and moved from place to place; and
- Article 24/14, to design strategies which enable to relocate the community who settle in the national heritages, parks, protected areas and wildlife sanctuaries by enhancing community participation.

The laws of the two regions described above follow different structural ways though they are tougher than the federal one. However, some regions are lag behind in developing their own legal frameworks with regard to wildlife conservation and this negatively affects the conservation endeavors of the country.

iii. SOUTHERN N/N/P/REGIONAL STATE

The Southern Peoples' Nation and Nationality Regional State established the wildlife and tourism Bureau through the regional state council regulation No 161/2015. The regulation deals with handling of wildlife conservation and utilization laws. According to the law the national parks have their own legal frameworks. The legally recognized national parks in the region include Chebera Churchera (regulation No 32/2024), Maze (regulation No 151/216), Mago (regulation No 81/2010) and **Gibe Sheleko (regulation no. 94/2010)** and Loka Abaya (regulation No 95/2010).

2.2.4.JUDICIARY STRUCTURAL FRAMEWORK, HIERARCHIES OF THE FEDERAL AND REGIONAL COURTS AND INTEGRITY OF THE JUDICIARY

Ethiopia has a devolved government system consisting of two layers of government. These are the Federal Government and nine states which are also referred to as regions or regional States. There are also two federal cities, Addis Ababa and Dire Dawa. The Federal Constitution, being the source of powers of both the central and the regional governments, is the supreme law. The Constitution provides that any law, customary practice and act of an agency of government or official act that contravenes the constitution is invalid. Therefore, the Federal Constitution is superior to all federal and state laws and state constitutions.

In the FDRE constitution of 1995 the Legislative Body -the House of Peoples' Representatives (according to Articles 54 and 55)), the Executive Body - Council of Ministers (Article 77) and the Judiciary - the courts (Articles 78-81,) are established.

According to Article 78(1), an independent judiciary is established nationwide by the Constitution and Article 79(1) states that Judicial Powers, both at Federal and State levels, are vested only in the courts.

According to Article 78(4) special courts which take judicial powers away from the regular courts or institutions legally empowered to exercise judicial functions and which do not follow legally prescribed procedures shall not be established.

The other one is that Article 78(2) states that the Supreme Federal judicial authority is vested in the Federal Supreme Court. The House of Peoples' Representatives may, by two-thirds majority vote, establish nationwide, or in some parts of the country only, the Federal High Court and First-Instance Courts it deems necessary. Unless decided in this manner, the jurisdictions of the Federal High Court and of the First-Instance Courts are hereby delegated to the State courts.

Article 78(3) states that regional states shall establish State Supreme, High and First-Instance Courts and these courts, according to Article 80(4), State High Courts shall, in addition to State jurisdiction, exercise the jurisdiction of the Federal First-Instance Court. And, according to Article 80(2), State Supreme Courts

shall have the highest and final judicial power over State matters. They shall also exercise the Jurisdiction of the Federal High Court.

Therefore, in Ethiopia, the Federal Supreme Court has the supreme power at the federal level and the power of the Federal High Court in relation to Federal cases and the power of the federal First Instance Courts is delegated at regional level to regional High Courts (Articles 2 and 4 of the Constitution). The judicial powers are vested in the courts. Ethiopia has a dual court system comprising the federal courts and the state courts. The Federal Constitution establishes an independent judiciary and provides for the structure and powers of courts both at the federal and state levels. There are three tiers of courts at both levels. These are a Supreme Courts at the apex, High Courts in the middle, and First Instance Courts at the lowest level.

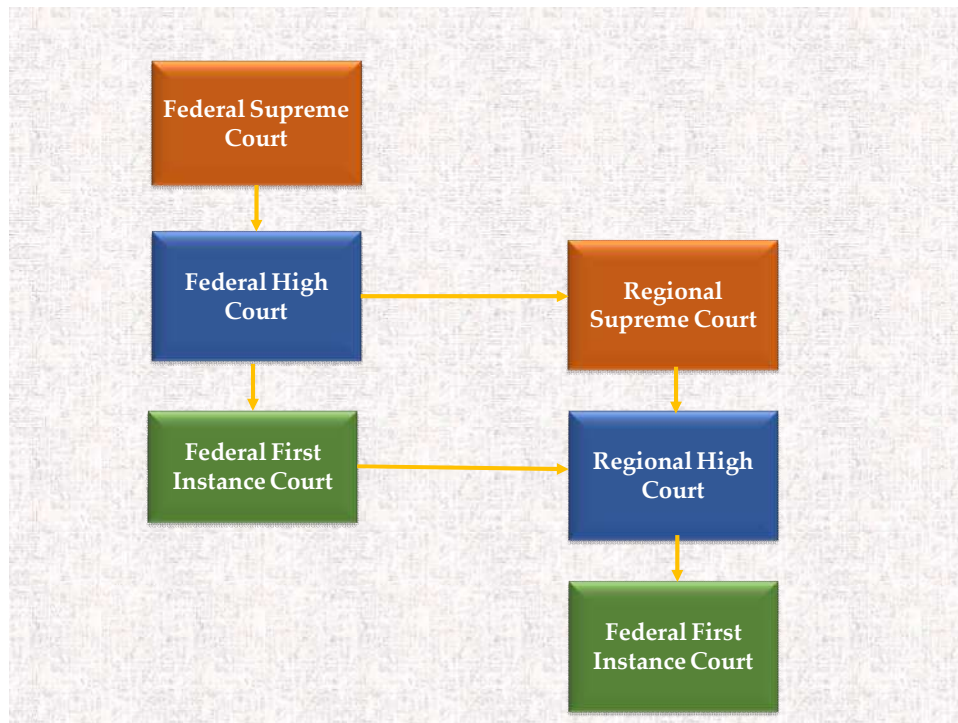


Fig. 2: Structure of the Federal and Regional Courts

Judicial integrity is severely compromised if judges and judicial officers is in unfair position or collude with individuals or organizations involved in illegal activities, or if their duties conflict with personal interests (for example, if relatives or friends are involved in the wildlife sector or if they are accused of an

offence). It is thus important that all members of the judiciary be accountable for their decisions and their actions, and that clear codes be established to ensure the integrity of the judiciary.

The structure and jurisdiction of the Federal Courts is provided for in the Federal Courts Proclamation (FCP) as amended in 1998, 2003 and 2005 by the Federal Courts (Amendment) Proclamations and the Federal Courts Proclamation Re-amendment Proclamation. The Federal Supreme Courts in Addis Ababa and has national jurisdiction. Federal High Courts have been established in five States. Federal courts at any level may hold circuit hearings at any place within the Regional State where they are established or in any area designated for its jurisdiction for the efficient rendering of justice.

The Federal Constitution provides that each Regional State shall establish a State Supreme Court, High Court and First Instance Courts. It further provides for concurrent jurisdiction of courts in that the jurisdiction of the federal High Courts and that of the Federal First Instance Courts outside Addis Ababa is delegated to the state courts. State supreme courts sit in the capital cities of the respective states and have final judicial authority over matters of Regional State law and jurisdiction.

The Constitution also allows for Religious and Customary Courts. A three-tier Federal Islamic court whose jurisdiction is established by the consent of the parties is in place. In addition, courts known as Social Court/Customary Courts with a historic origin have been set up in a number of States. The Federal Cities also have their own court system. The Addis Ababa City Charter for instance creates two levels of City Courts exercising municipal jurisdiction. These are First Instance and Appellate Courts. There is no Supreme Court in the municipal system. The Addis Ababa City Courts have civil and petty offence jurisdiction.

The Federal Courts Proclamation allocates subject-matter jurisdiction to Federal Courts on the basis of three principles namely laws, parties and places. Federal Courts, therefore have criminal jurisdiction over cases arising under the Federal Constitution, federal laws and international treaties, cases involving parties specified under federal laws and cases involving places specified in the Federal Constitution or in federal laws. In criminal matters, the FCP provides that Federal Courts have jurisdiction over offences against the national state, offences against foreign states, offences against the fiscal and economic interests of the Federal Government, offences regarding counterfeit currency, offences against the safety of aviation, offences regarding illicit trafficking of dangerous drugs, offences falling under the

jurisdiction of courts of different regions or under the jurisdiction of both the Federal and Regional Courts as well as concurrent offences.

Public prosecutors play a unique role in criminal cases in that they appear on behalf of the government as the representative of the people rather than of an individual victim. A prosecutor has the broad obligation to uphold the rule of law, with an attendant ethical and professional duty to ensure that a person accused of a crime receives a fair trial. Where prosecutors fail to fulfill these obligations, miscarriages of justice ranging from malicious prosecutions to wrongful convictions may result, damaging the integrity of the justice system and violating the public's trust. The inadequate or nonexistent prosecution of wildlife offences also sends the message that this type of crime is victimless and less serious than other crimes.

The design and delivery of prosecution services differ greatly among countries and are frequently influenced by common law, civil law or hybrid traditions. In Ethiopia, the Public Prosecution Service (PPS) is not an independent Constitutional body but is a part of the executive branch of the government. Prosecution has a dual structure like the courts and there are Federal and Regional PPS's. Under the federal structure, the PPS is housed in the Ministry of Justice. Under Article 16 of Proclamation No. 691/2003, which is issued based on Article 51 of the FDRE Constitution, the powers and duties vested to the Federal Attorney General are enumerated and, regarding legal issues, it is the chief advisor to the Federal Government.

The Definition of Powers and Duties of the Executive Organs Proclamation (DPDEOP) provides that one of the duties of the Federal Attorney General is to represent the Federal Government in criminal cases falling under the jurisdiction of the Federal Courts. According to Article 6, sub-article 5 of Proclamation No. 691/2003, the Ministry undertakes or orders the conduct of investigation where it believes that a crime, the adjudication of which falls under the jurisdiction of the federal courts (the Federal Supreme Court, the Federal Higher Court, the Federal First Instance Court), has been committed; directs and supervises the process of the investigation; allow plea-bargain; upon the existence of good cause, decides on the discontinuance of an investigation or the carrying out of additional investigation. Thus, Attorney General is thus the head of the Federal PPS.

The Federal Public Prosecutors are active in all three levels of court that is, the Federal First Instance Court, Federal High Court and the Federal Supreme Court. They are also responsible for prosecutions in courts in the two Federal Cities, Addis Ababa and Dire Dawa. Therefore, we understand clearly that,

according to Article 6 of Proclamation No. 943/2016, while the Federal Attorney General is responsible for prosecutions mentioned above, the Regional States may establish their own justice offices (prosecutors) in accordance with the powers that are vested to them by the Constitution.

3 GAPS IN WILDLIFE LEGAL FRAMEWORKS OF ETHIOPIA

3.1 GAPS IN THE WILDLIFE POLICY AND STRATEGY (WPS) OF ETHIOPIA

As explained above, the main objective of the WSP is to create a favorable environment whereby the country's wildlife and their habitats are protected and developed in a sustainable way, and to enable the sector to play an important role in the economic development of the country. The WPS addresses significant focus areas of the sector and it is relatively coherent in addressing the then existing gaps in the field of wildlife conservation in Ethiopia. However, the following issues were not well articulated in the document that was approved about a dozen of years ago.

- *The objectives of the WPS are not directly linked to GTP one and GTP two and thus lacks some strategic issues;*
- *The administration of Protected Areas (PAs) such as national parks doesn't consider the private public partnership approach since the role of private sectors and non government organizations in this regard is marginalized;*
- *Establishment of some categories of PAs such as community conservation area and biosphere reserve were not considered; and ecological connectivity and migration corridors for wild animals are not well stated in the establishment of trans-boundary PAs;*
- *Integrated conservation and development initiatives and community partnership are not well addressed at strategies level;*
- *Monitoring of the negative environmental impact of development activities undertaken in PAs is not well addressed as there are no strategies to establish proper follow up and rectification system in relation to eco-tourism and investment activities;*
- *Development of adaptive management systems for PAs in a participatory way and the concerted efforts towards their implementation is not properly stated at strategy level;*
- *The modalities and concerted efforts of stakeholders to manage and utilize the wildlife resources existing outside of PAs are not clearly indicated;*
- *Development and implementation of conservation action plans for endangered and key species of wild animals is not indicated in the strategy;*
- *Management of invasive species and restoration of degraded habitats in PAs are not addressed at strategy level;*

- *Disposal of confiscated items and handling of rescued wild animals are not well addressed;*
- *The strategies in the policy do not properly communicate the nature of human–wildlife conflict and conflict management strategy was not put in place;*
- *Diversity and mechanisms of wildlife utilization were not clearly communicated though the policy supports practicing both types of utilization - consumption and non-consumption;*
- *The strategies in the policy do not properly address the demonstration and incentive mechanisms for wildlife investment;*
- *The policy doesn't provide attractive and motivating packages to wildlife conservation employees by taking into consideration the nature of work and working environment in the conservation sector.*

3.2 WILDLIFE LAWS OF ETHIOPIA

The main laws governing wildlife matters in Ethiopia at present are the ones described under section 2.2.2. Generally, the following gaps have been identified in the existing laws from the perspective of ensuring sound wildlife conservation, utilization and protection in Ethiopia:

- *Due to absence of detailed elaborations on the conservation and utilization of wildlife resource in accordance to the international conventions which Ethiopia has ratified, the term “wildlife” refers only to the wild animals and it does not include the total natural resource and the habitats of wildlife, as stated in Proclamation 541/2007, Article 2. Hence the term has not been used in legal provisions in such a way that it also implies the objectives of the institution and the natural resource;*
- *There have been considerable gaps about the definition among the courts as well as the executive bodies due to the fact that that international conventions which the country has ratified in relation to wildlife resource are not clearly included in the proclamation;*
- *The existing laws do not consider community conservation area and biosphere reserve as categories of PAs;*
- *Management and restoration of degraded habitats in PAs and associated socio-economic situations are not addressed in the laws;*
- *The policy supports practicing both types of utilization in relation to wildlife resource - consumption and non-consumption; and, the diversity of utilization which are implemented in the country have been so limited since the existing law doesn't have a room to re-visit pertinent issues (i.e. addressing fee, finding out new utilizations, etc...) associated with utilization;*
- *The legal framework doesn't provide attractive salary scale and benefit packages to the workers of the Authority by taking into consideration the nature of work and working environment in the*

conservation sector which is associated with working in unfavorable environment and thus require special professional skills and commitment;

- *It doesn't consider the duties and responsibilities of the wildlife enforcement forces and the required equipments associated with their task;*
- *The legal framework hasn't been designed taking into account the organized, networked global nature of wildlife crime and thus the fines are low and no disaggregation of penalties;*
- *The criminal activities perpetrated against wild animals as listed under Article 16 of Proclamation No. 541/2007 and the provisions related to penalty sanctioned against criminal activities on endemic and endangered wildlife species which are included in international conventions do not get special consideration and the penalty are not strict enough to be deterrent and corrective;*
- *Disposal of confiscated items and handling of rescued wild animals are not well addressed;*
- *Powers of EWCA Officers are limited and there are no special wildlife Prosecutors;*
- *There is no legal framework which enables to establish Trust Fund and facilitate efficient utilization of the funds obtained from international donors and the government as indicated in the policy;*
- *There is considerable gap in the law in establishing proper follow up and rectification system in relation to eco-tourism and investment activities and which enable the Authority to establish sustainable conservation and utilization system;*
- *The existing law lacks provisions of protection mechanisms for witness & victims of wildlife offences to avoid fear intimidation and retaliation;*
- *Lack of consistency with respect to related federal and regional legal frameworks; and*
- *The legal framework doesn't provide sufficient scope to partners who are interested to manage and develop protected areas.*

4. CHALLENGES IN IMPLEMENTING THE EXISTING WILDLIFE LAWS

4.1. INTELLIGENCE GATHERING, INFORMATION EXCHANGE AND INVESTIGATION TECHNIQUES

Wildlife crimes or wildlife related illegal activities which pose a great threat to national, regional, and international conservation efforts, have been on the increase in the recent past. Wildlife crimes in Ethiopia include among others, poaching, and encroachment into protected areas, illegal trafficking and trade in live fauna and flora and destruction of wildlife habitats. Poaching and habitat destruction have highly affected African countries like Ethiopia in driving their wildlife populations to extinction. For example, Ethiopia has lost one six of the Babile Sanctuary African elephant population in one year about five years ago.



Fig. 3: Elephants killed by Poachers at Babile Sanctuary; Photo Credit: Babile E. S. Office

Wildlife crimes have now grown into organized criminal activity having international ramifications. Collection of intelligence about such organized criminal networks, and their activities and collation of such information on a real time basis is crucial to fight wildlife crimes in all circumstances. Therefore, effective enforcement powers and investigation under field conditions is likely to require modern methods of data collection and information transmission.

While it is important to gather information from a wide range of sources, it is likely that the information will vary in quality, and the sources will vary in reliability and motivation. It is essential that information be subjected to some form of analysis and processing before it is disseminated or used and thus intelligence guided investigation is so important since it involves direction, collection, evaluation, collation, analysis and dissemination.

The law enforcement agencies (wildlife scouts, local security forces and policemen) have to find ways to motivate the members of public to pass on the necessary information about offenses on wildlife and all concerned agencies in this regard need to exchange available important information. Nowadays, community policing has emerged as an effective strategy for enforcing law at the local level in Ethiopia. Furthermore, the rangers have been recruited from the local community and as a result, they play important role in combating any illegal activity especially around the protected areas.

However, using intelligence as a main tool in fighting wildlife crime in Ethiopia has not been a focus area for various reasons and as a result the credibility, legitimacy, accuracy and relevance of the collected

information through such approaches have not been examined and used to assist the wildlife conservation endeavors.

Investigation of wildlife crime may range from the parts of an animal to terrain that encompasses topography that range from forest to open grassland, from mountainous high lands to semi-arid and arid areas and which may include diverse natural and man-made structures. In most cases, the location of the wildlife crime scene is isolated, with few facilities for proper investigation and collection of evidence. Besides, the law enforcement and investigation bodies are facing increasingly difficult and complex situation due to dynamic and complicated nature of wildlife crime and increased involvement of organized crime groups. Thus, multifaceted and interdisciplinary approaches are essential to deal with the investigation of such scenes.

Main points for sound investigation of wildlife crimes include:

- *Profound understanding of the criminal code and wildlife conservation and development proclamation;*
- *Giving attention for the provisions laid under the Code and Proclamations of Wildlife Conservation and Development regarding crime investigation;*
- *Understanding the contents of Miscellaneous Provisions; and*
- *Handling of evidences searched for crimes committed against the Criminal Code and wildlife according to professional ethics; and*
- *Deep understanding of criminalities.*

Above all, the wildlife investigation team or officer needs to deal with the whole process in an ethical manner as clearly stated in the law. Although it is difficult to include lots of matters regarding techniques of investigation (technical and tactical), some points that an investigator shall not commit during investigation process are decreed. For instance, not to present leading questions, not to disrespect human rights of investigated persons, not to reveal clear private matters during the investigation process...etc. So, any investigator, in the investigation process to be balanced and fair, shall ascertain that it is in accordance with senses of the law, not violating human and democratic rights, and considers the natural resource damage.

Investigation starts with registration of the case as initial information and goes along the following steps.

- *Establishing a wildlife crime scene;*

- *Plan collection and holding of evidence;*
- *Arrange photographic and other records;*
- *Maintain a proper chain of custody;*
- *Preparing wildlife offence report;*
- *Interrogation of the accused/suspect;*
- *A preliminary statement of the accused suspect;*
- *Incorporating all physical parameters and general condition of the articles in the search and seizure memo;*
- *Examining all electronics materials such as mobile phone handsets, laptops possessed by the accused/suspect;*
- *Describing the offences committed by the accused/suspect by quoting the ingredients of the relevant sections from the DCUWP;*
- *Explaining the details of technical assistance, if any, taken by other officials such as the forensic experts, wildlife professionals, etc...;*
- *Seizure of associated documents, traps, tools, chemicals etc related to the offence or which could connect the accused/suspect with the offence;*
- *Arresting of the accused/suspect as planned; and*
- *Compiling all information and eye witness statements/confess and handing over the case to prosecution.*

However, experiences in Ethiopia in dealing with the law enforcement and effective investigation have showed that there are considerable challenges in this regard. The challenges include:

- *Ineffective information management and way of communication;*
- *Limited data that show trend of wildlife crime and modes operands;*
- *Knowledge gaps in concept of wildlife crime and identification of wildlife products;*
- *Lack of Effective system (law enforcement, communication) that enables proper control of the trafficking of wildlife and wildlife products.*
- *Lack of Networked approach in order to counter act against the networked and organized wildlife crime;*
- *Limited trans-frontier/trans boundary collaboration;*
- *Limited data that show trend of wildlife crime and modes operands;*
- *Lack of skill in undertaking integrated Wildlife Crime investigation;*

- *Poor collaboration among concerned bodies in multifaceted, complex and concealed ways of wildlife crime;*
- *Taking cases to the Prosecutor/court without adequate evidence;*
- *Unwillingness of eye witnesses to confess on the court for various reasons; and*
- *Lack of Awareness about the wildlife laws at all levels.*

4.2 CHALLENGES IN THE PROCESS OF PROSECUTION AT ALL LEVELS

Public prosecutors play a unique role in criminal cases in that they appear on behalf of the government as the representative of the people rather than of an individual victim. A prosecutor has the broad obligation to uphold the rule of law, with an attendant ethical and professional duty to ensure that a person accused of a crime receives a fair trial. Where prosecutors fail to fulfill these obligations, miscarriages of justice ranging from malicious prosecutions to wrongful convictions may result, damaging the integrity of the justice system and violating the public's trust. In most cases, the decision to prosecute is the most problematic role of a prosecutor as this is compounded by the fact that the Attorney-General, as the chief public prosecutor, rarely makes public his reasons for mounting or discontinuing a prosecution.

The inadequate or nonexistent prosecution of wildlife offences also sends the message that this type of crime is victimless and less serious than other crimes. In an attempt to enhance the prosecution of wildlife offences, every effort should be made to establish the closest working relationship possible between the enforcement unit and prosecution authorities.

However, in the case of Ethiopia, there are considerable challenges in the process of prosecution. These include:-

- *Inadequate skill in terms of filling lawsuit (Prosecution) upon the crime of wildlife;*
- *Limited data that show trend of wildlife crime and modes operands;*
- *Knowledge gaps in concept of wildlife crime;*
- *Failing to adequately address wildlife crimes due to lack of Awareness about the value of wildlife resources;*
- *Poor communication in exchanging cases with investigators failing to pass the necessary information regarding the same;*
- *Failing to give the required support to the investigation activities that can lead to a lawsuit;*
- *Limited data that show trend of wildlife crime and modes operands;*
- *Lack of skill in undertaking integrated Wildlife Crime investigation;*

- *Failing to provide penalty advices and evidences by realizing the complicated nature and the international problems of the crime while submitting the decision;*
- *Whenever a lawsuit is filed upon the related crime of wildlife not being able to identify the provisioned articles and the provisioned articles couldn't be able to correct the criminals;*
- *Unwillingness of eye witnesses to confess on the court for various reasons (Witnesses are not willing to testify on court or when the case is under investigation);*
- *submitting insufficient evidences to the court due to lack of cooperation;*
- *Failing to identify witnesses and provide sufficient advises on the case related matters; and*
- *lack of Awareness about the existing wildlife laws at all levels and Lack of awareness and knowledge gap about the nature of wildlife crimes during the preceding of the lawsuit;*

4.3 Operational Security and Inter-agency Communication

Illegal acts on wildlife which includes poaching, encroachment into protected areas, illegal trafficking and trade in live fauna and flora, and wildlife habitats has serious consequences for our environment, threatening the future survival of many species. Ethiopia's wildlife resource has suffered from the effects of anthropogenic activities, poaching, human–wildlife conflict, demand for wildlife products in the illegal market, and weak legislation, among other factors and countering these problems requires concerted effort of all stakeholders.

Reflecting the breadth of issues involved, a range of Ethiopian Government Agencies have a part to play in combating wildlife crime. In this regard, considerable numbers of agencies are involved in law enforcement around this due to the nature of the wildlife crime. EWCA, which has the mandate to enforce wildlife laws and regulations explained above, works very closely with other law enforcement agencies in all matters of wildlife crime. The Agencies include:

- *Federal Attorney General*
- *National Regional States Justice Offices*
- *Regional wildlife offices and administrators;*
- *Federal Police Commission (FPC);*
- *Regional States Police Commissions (RSPC);*
- *Local Communities; and*
- *Ethiopian Revenue and Customs Authority (ERA).*

Besides, the global nature of wildlife crime especially the illegal wildlife trafficking indicates that there is a need to design global collaboration mechanisms with a wide range of other Governments and organizations. In this regard, cross-border collaborations have resulted in tackling crime along shared borders. International organizations like INTERPOL, CITES and UNCTOC are instrumental in facilitating support when crimes and illegal wildlife trade of an international nature occur.

Generally, effective wildlife enforcement entails a well-coordinated and efficient communication of all concerned agencies.

However, at national level, there have been significant constraints which affect effectiveness of the stakeholders' collaboration. The challenges identified so far include:

- *Lack of harmonization between national policies in terms of land use;*
- *Knowledge gaps & lack of Awareness about the wildlife policy & laws at all levels;*
- *Knowledge gaps in concept of wildlife crime and identification of wildlife products;*
- *Lack of awareness about the values of wildlife resources;*
- *Lack of Effective system (law enforcement, communication) that enables proper control of the trafficking of wildlife and wildlife products.*
- *Poorly equipped law enforcement force;*
- *Poor collaboration among concerned bodies in multifaceted, complex and concealed ways of wildlife crime;*
- *Ineffective PAs management,*
- *Increased Human-wildlife conflict lack of conflict management strategies;*
- *Lack of sense of ownership & erosion of traditional conservation systems,*
- *Lack of Networked approach in order to counter act against the networked and organized wildlife crime;*
- *Limited trans-frontier/trans boundary collaboration;*
- *Limited data that show trend of wildlife crime and modes operands;*
- *Lack of full commitment of stakeholders due to engagement in regular security activities; and*
- *Ineffective information management.*

4.4 USE OF TECHNOLOGIES AND CONTEMPORARY SYSTEMS

i) SECURING EXIT/ENTRY POINTS THROUGH USE OF CANINES

Effectiveness of wildlife detector dogs has been widely acknowledged, including by CITES Parties. Sniffer dogs do an incredible job in fighting wildlife crime and play significant role in tracking down, apprehending and deterring illicit wildlife trafficking. It has been recognized that the use of dogs in combination with other tools will increase the chance of detections and seizures; that detector dogs can detect items that cannot be detected by other tools; and that a dog-handler team is highly effective in searching people and cargo or luggage in a short time.

Detector dogs are used to detect hidden contraband like drugs, weapons, cigarettes and cash, but are also suitable for the detection of wildlife and their derivatives. They can be used to screen checked-in or hand carried baggage, freight or on the body of smugglers. This ability enables dog handlers with their dogs to carry out quick and discreet controls. Sniffer dogs therefore are suitable tools in the fight against the smuggling of wildlife and their derivatives as there is no other detection device as efficient and accurate at detection of such crime.



Fig. 4: Sniffer Dog Handlers (Rangers) on Training; Photo Credit: AWF (2015)

In Ethiopia, sniffer dogs are used to detect other products of contraband like drugs, weapons, cigarettes and cash on passengers, in baggage, cargo or mail and they are not purposely trained and used to help combating wildlife crime.

ii) USE OF TECHNOLOGY IN COMBATING WILDLIFE CRIME

Illegal activities on wildlife specially the illegal wildlife trade have been linked to organized crime syndicates and cartels that traffic drugs, arms, and money. Poachers and illegal traders use highly sophisticated and rapidly changing techniques to avoid detection.

The changing techniques of these criminal groups include:

- *Use of highly sophisticated weapons and networked systems;*
- *Modification of weapons (rifles) to silence and to accommodate higher caliber ammunition;*
- *Using modified arrow with syringe carrying toxic substances as opposed to traditional poisoned arrow tips;*
- *Use of modern technologies (internet, mobile phones) for communication and money transaction as well as other deception plans.*
- *Use of technologically developed transport systems and routes to have access to remote wildlife areas;*
- *Use of Vehicles with hidden compartments and false bottoms to conceal contraband;*
- *Use of car hire services to avoid forfeiture of personal vehicles;*
- *Sending trophies and live animals through courier services;*
- *Use of agencies, brokers and middlemen to transport and export the trophies;*
- *Mis-declaration of goods;*
- *Using forged customs entry/exit forms;*
- *Forged certificates of origin; and*
- *Using fake rubber stamps, seals and signatures of customs officials on documents.*

To keep pace with the ever-increasing challenge, conservation and law enforcement communities have started to adopt cutting-edge military tools and techniques. High-tech equipment can magnify counter-poaching efforts without requiring armies of rangers or risking lives. Tools include unmanned aerial vehicle systems (UAVS), acoustic traps, mobile technology, radio frequency identification tags, encrypted data digital networks, camera traps, DNA testing, radio collars, metal scanners, and satellite imagery.

Unmanned Aerial Vehicle Systems (Drones & Mikrokopters) are universal aerial platforms that hover. They can identify a position and hold it as long as necessary to identify images, collect data, or calculate distances. They can be equipped with sophisticated camera system, GPS, compasses, altitude control, telemetry and automatic systems that report back.

Acoustic Traps- are increasingly used to augment traditional anti-poaching patrols and monitor sound waves for sharp disturbances such as gun shots, chain saws, truck engines, blasts or airplane engines. Whereas Mobile Technology is hand-held devices linked through satellite communications – to empower the general public to fight back and play a pivotal role is only just being realized. This encourages the public to report illegal activity involving wildlife, and a host of other apps coming into the marketplace offer similar preferences.

The Spatial Monitoring and Reporting Tool (SMART) is an open-source software programme that was created by, and for, the conservation community in order to engage those on the frontline of fighting wildlife crime. The software has been effectively used by the programme “Monitoring the Illegal Killing of Elephants” (MIKE).

Cyber Tracker is a software programme that can be installed on computers, smartphones, tablets and rugged handheld devices through which rangers are able to record geo-referenced information on wildlife, vegetation and signs of human activity. Cyber tracker is used in the field to inform park managers of threats, allowing them to respond quickly and adjust counter-poaching strategies.

Radio Frequency Identification (RFID) tags are microchips that are implanted into specific animals in order to track their movements through ground or mobile sensors and ensure that the animal is behaving normally. If an animal falls off the grid, RFID captured location coordinates can help identify the animal’s last position and greatly enhance rapid-response capacity.

Camera Traps have been monitoring wildlife without human interaction for decades and have been adapted to anti-poaching. With the advent of highly sophisticated digital cameras and image capture, camera traps are increasingly being used to track the movement of poachers. Recent models come with video feeds, automatic (instead of timed) triggers, heat sensing, vibration detection, infrared detection, and acoustic elements that can transmit data quickly and accurately

Radio Collars - Short-lived radio collars that were once used simply to monitor an animal’s movement a few decades ago have been transformed through advances in satellite technology, permitting researchers access to data that can aid in the fight against poachers. Accelerometers inside individual collars can now transmit information such as animal’s health and deviations in ranging patterns – suggesting the presence

of poachers. When animals wearing collars meet their collars automatically share data to expand the network.

Satellite Imaging - High-resolution images taken from satellites have been used to track illegal deforestation and protected area encroachment for the past decade. Analysts are increasingly making the link between illegally logged areas and the illicit trade in wildlife.

DNA Testing -Investigation techniques are increasingly relying on modern forensics and DNA technology. Genetic sequencing is already being used to fight illegal logging. It can be used to identify wildlife body parts – ivory tusks, or rhino horns, for instance – following a confiscation in order to confirm the sub-species, country or region of origin, and other static data.

The Ethiopian law allows the use of technology to address all crimes including wildlife crimes. The Federal Police are given powers to install of CCTV cameras at appropriate places to facilitate the prevention and investigation of crime, conducting forensic investigations, providing expert evidence in court and working with regional police commissions on matters relating to forensic investigations. Ethiopia has one Federal Forensic Laboratory that covers the various areas of the needed forensic expertise.

Generally, enhanced technologies have been so helpful in countering the wildlife crime in a more intelligently and efficiently way and Ethiopia is no exception. Ethiopia practices considerable information exchange mechanisms that are affiliated to international organizations such as CITES, INTERPOL and UNODC. However, there are considerable gaps in using best practice of other countries in the management and exchange of information on wildlife crime.

4.5 ETHICS IN WILDLIFE LAW ENFORCEMENT

Like other government officers, wildlife law enforcement officers have to perform all their duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief or aspiration. All citizens will be treated equally with courtesy, consideration and dignity. The officers never allow personal feelings, animosities or friendships to influence official conduct so that Laws are enforced appropriately and courteously and, in carrying out their responsibilities, officers will strive to obtain maximum cooperation from the public. They conduct themselves in appearance and

department in such a manner as to inspire confidence and respect for the position of public trust they hold.

Generally, wildlife law enforcement officers share the following ethical principles with other civil officers as these officers must follow the regulations and rules that govern all civil servants:

- *Integrity*
- *Loyalty*
- *Transparency*
- *Confidentiality*
- *Honesty*
- *Accountability*
- *Serving the public*
- *Exercise legitimate authority*
- *Impartiality*
- *Respect law*
- *Responsiveness*
- *Exemplary leadership quality*

However, the nature of their positions, duties, and responsibilities of law enforcement officers require more specific obligations from the perspective of ethical notion. Thus, the officers need to:

- *Know the nature of their work environment and be interested and committed enough to work in this environment with full endurance;*
- *Be familiar with all pertinent provisions of rules, regulations, and policies and deal with their official duties in strict adherence to the policies and procedures;*
- *Build the team spirit of their unit and respect the public/community around their area of work;*
- *avoid any conduct that might compromise integrity and thus undercut the public confidence in a law enforcement agency;*
- *Avoid mistreating or using unnecessary force toward a suspect or other person;*
- *Avoid using inappropriate, unprofessional, violent, or profane languages;*
- *Misuse any government property deliberately; and*
- *Cooperate with all legally authorized agencies and their representatives in the pursuit of justice;*

Despite these additional responsibilities, it is learned that the wildlife law enforcement officers in Ethiopia have been facing considerable challenges associated with ethical principles while performing their duties properly.

4.6 EXISTING GAPS IN THE JUDICIARY

Effective wildlife enforcement entails a well-functioning and efficient prosecution service and an independent judiciary, both to hold offenders accountable for their actions and to protect the legal rights of various stakeholders. In Ethiopia the Federal Constitution, being the source of powers of both the federal and the regional governments, is the supreme law. According to the constitution, the general court structure and system is set out in a way that the judiciary ensures its independence. As indicated above (1.3.2.), Article 78(1) of the Constitution, an independent judiciary is established nationwide and Article 79(1) states that Judicial Powers, both at Federal and State levels, are vested only in the courts.

In most cases, the role of the court is that of impartial arbiters ensuring the observance of the trial rules and thereafter the delivery of judgments. It is thus important that all members of the judiciary be accountable for their decisions and their actions, and that clear codes be established to ensure the integrity of the judiciary. The management of the courts must be efficient and effective so that the criminal caseload can be adjudicated fairly, appropriately and promptly.

Generally, the judiciary is the main body that brings legitimacy into the whole law enforcement process, gives guidance and offer interpretation of the law and other offences that the person can be charged under and to ensure effective management of the judiciary process, there are challenges that require due attention.

The main gaps in the judiciary include:

- *Lack of a clear sentencing direction for wildlife offenders;*
- *Knowledge gaps and lack of awareness about the wildlife policy and laws;*
- *Lack of clear bail/bond direction for wildlife offenders;*
- *Lack of awareness about the value of wildlife resources;*
- *Lack of collaboration among agencies;*
- *Weak regional collaboration in light of trans-national nature of wildlife crimes;*
- *Poor handling of evidence and exhibits;*
- *Lack of evidence in many cases; and*

- *Delayed court processes*

4.7 DYNAMIC MODUS OPERANDI OF WILDLIFE POACHERS

It is evident that there has been an escalation in poaching and illicit wildlife trafficking in Eastern Africa over the last few years. Poaching and illegal wildlife trades, which earn billions of dollars for criminals, fund insurgencies and terrorism, destabilize governments and economies, rob countries of their valuable natural resources, and cause tens of thousands of deaths each year, is an area of global growing concern. Crimes against wildlife encompass a wide range of offences, with criminal networks getting more sophisticated than ever.

Criminals who commit offense on wildlife are constantly changing their modus operandi and are using highly sophisticated and rapidly changing techniques to avoid detection. There is an increase in sophistication of wildlife crime by well-resourced organized syndicates and an increase in overseas lucrative markets for wildlife specimens. Most poaching is done by organized crime syndicates who use high-powered technology and weaponry to hunt and kill wild animals without being detected. The offenders which are affiliated to highly lucrative part of environmental crime have also been linked to organized crime syndicates and cartels that traffic drugs, arms, and money.

Some unique methods of committing wildlife crimes that have been seen in the recent past include modifying weapons to make them silent, modifying light rifles to make them higher caliber for killing wildlife, using commercial toxic substances and changing the nature of wildlife products and other concealing and transport ways. Technology has altered the trade of wildlife products including ivory, rhino horn, pangolin scales, exotic birds and live apes. An expanding transportation infrastructure the unregulated Internet has boosted trafficking by lowering barriers of entry into criminal markets, facilitating communication and exchange of information, as well as reconfiguring relations among supplies, intermediaries and consumers.

Considerable number of seizures at the Bole International Airport, in Ethiopia also shows that the offenders kept on adopting new concealing methods and technologies. It is however evident that there are considerable challenges in tackling the smuggling ways.

The challenges in Ethiopian context include:

- *Insufficient supply of high-technology in countering the unique methods of wildlife crime;*

- *Lack of facilities for detection of contraband of wildlife and wildlife products;*
- *Lack of skill in wildlife product identification;*
- *Lack of awareness about the ever changing and sophisticated smuggling techniques;*
- *Porous national borders to apply the system; and*
- *Insufficient collaboration, both nationally and internationally.*

5. CONCLUSION AND RECOMMENDATION

Ethiopia is party to significant number of international conventions that are vital in ensuring global efforts in wildlife conservation. It has various policies and laws at Federal level that address wildlife protection and wildlife crime. The existing WPS comprises of significant focus areas of the sector and it is relatively coherent in addressing the then existing gaps in the field of wildlife conservation in Ethiopia. However, considerable issues were not well articulated in the policy document that was approved about a dozen of years ago.

The main laws governing wildlife matters in Ethiopia at present are the ones described under section 2.2.2 and 2.2.3. As explained above, considerable gaps have been identified in the existing laws from the perspective of ensuring sound wildlife development, utilization and protection in Ethiopia.

Moreover, considerable challenges which range from the process of prosecution to inter-agency communication, from use of technologies and contemporary systems to ethical aspects have been experienced in the course of implementing the existing laws.

Therefore, the existing gaps in the WSP as well as the legal provisions should be promptly rectified and all challenges associated with the legal framework need to be addressed so that sound conservation of wildlife of the country is ensured.

Upon assessment of Ethiopian policy and legislation on wildlife and upon identifying the gaps and challenges therein, it is recommended that:

- The legal framework (WSP and laws) should be reviewed in order to address the existing gaps and overcome the aforementioned challenges (See Annex 1).

- The wildlife law enforcement has to be led by intelligence which includes gathering, collation, analysis and dissemination of information among the relevant authorities as this is crucial to the success of measures aimed at curtailing wildlife crimes.
- Inter-agency collaboration should be enhanced through policy, legislation or binding standard operating procedures.
- Problems encountered in prosecution of wildlife cases are addressed remarkably since the prosecution process has the broad obligation to uphold the rule of law and requires strong collaboration among the law enforcement bodies.
- Capacity of prosecutors needs to be built and their performance has to be upgraded so that they can be able to anticipate what the judiciary is looking for and bring strong cases before court.
- There is a need to apply all available technologies and ICT applications in the area of wildlife law enforcement and in turn the new tools need to contribute to legally allowed evidence used in the courtroom.
- There is a need to address the existing gaps associated with using technologies in countering the new approach of the criminals.
- It is imperative to start the process of recruiting sniffer dogs of wildlife and train the human resource that can handle the detector animals.
- It is important to design a strategy that addresses the aforementioned factors and significantly reduce the ever-increasing incidence of poaching and trafficking.

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7 ANNEXES

Annex 1: The need for Reviewing Legislation on Wildlife

Upon assessment of Ethiopian legislation on wildlife, considerable gaps have been identified as indicated under (3.1) and (3.2). Therefore, reviewing the legal framework is expected to address the existing conservation challenges in Ethiopia and hence support the law enforcement efforts in the country.

In general terms, amending the legal framework for wildlife creates the following opportunities:

- *The objectives of the WPS will be directly linked to Growth and Transformation Plan (GTP) of Ethiopia and thus all strategic issues will be taken into consideration;*
- *Private Public Partnership (PPP) approach will be taken into account and the role of private sectors and non government organizations PAs management is encouraged;*
- *Establishment of some categories of PAs such as community conservation area and biosphere reserve were not considered; and ecological connectivity and migration corridors for wild animals are not well stated in the establishment of trans-boundary PAs;*
- *Integrated conservation and development initiatives and community partnership are not well addressed at strategies level;*
- *Development of adaptive management systems for PAs in a participatory way and the concerted efforts towards their implementation will be properly addressed and implemented;*
- *The modalities and concerted efforts of stakeholders to manage and utilize the wildlife resources existing outside of PAs will be properly addressed and implemented;*
- *Management of invasive species and restoration of degraded habitats in PAs will be properly addressed and implemented;*
- *The nature of human–wildlife conflict will be properly addressed and effective conflict management strategy will be put in place;*
- *The demonstration and incentive mechanisms for wildlife investment will be properly addressed in the policy and implemented;*
- *The strategic issues addressed in the EWPS and left aside in the proclamation will be incorporated and this provides the Authority an opportunity to achieve its mission;*
- *Wildlife resource of the country are conserved and sustainably utilized in a more effective way and through community participation as well as increased sense of ownership;*
- *Ambiguity with regard to definition and concepts of wildlife conservation will be solved and favorable conditions for the implementation of the international conventions related to wildlife conservation and utilization which the government has ratified enhanced;*

- *All approaches of wildlife conservation in the country will be taking into consideration the international conventions ratified by Ethiopia as well as the regional and national collaborations;*
- *Stiffer and deterrent penal provisions will be included to significantly reduce the offenses committed on wildlife by taking into account the international conventions and the existing situations at global and national levels;*
- *Enforcement capacity will be improved and tougher wildlife crime penalties implemented;*
- *Special consideration will be given to offenses committed on endemic and endangered wildlife species which are included in international conventions;*
- *The new is expected to provide protection mechanisms for witness & victims of wildlife offences to avoid fear intimidation and retaliation;*
- *The legal framework considers the duties and responsibilities of the wildlife enforcement forces and the required equipments associated with their task;*
- *The sector gets more attention from the policy makers taking into account the working environment of wildlife conservation;*
- *Powers of wildlife enforcement officers will be relaxed and there will be special wildlife Prosecutors and inter-agency collaboration among law enforcement bodies will be strengthened;*
- *Pertinent issues regarding both consumption and non-consumption utilization of wildlife resources (i.e. diversification of utilization addressing fee, etc...) will be addressed and reasonable fees will be set out and types of wildlife utilization diversified resulting in increased revenue collected from the sector which will in turn assist conservation including the efforts of combating wildlife crimes;*
- *The legal framework will motivate employees in the conservation sector through provision of attractive salary scale and benefit packages by taking into consideration the nature of work and working environment; encourages retention of manpower in the Authority and also attracts skilled manpower;*
- *Disposal of confiscated items and handling of rescued wild animals will be properly addressed;*
- *As indicated in the policy, Trust Fund which facilitates efficient utilization of the funds obtained from international donors and the government in transparent and accountable way will be established and hence contributes to sound conservation of wildlife resources of the Ethiopia.*
- *It provides the opportunity to undertake relevant assessments of environmental and associated impacts related to various development activities on wildlife resources and take necessary corrective measure;*
- *The existing gaps in establishing proper follow up and rectification system in relation to eco-tourism and investment activities will be narrowed down;*

- *Consistency between related federal and regional legal frameworks will be created; and*
- *Favorable conditions for effective implementation of the Climate change Resilience and Green Economy (CRGE) Strategy will be created;*

Annex2: Pictures Showing the **Nature and Prevalence of Wildlife Crime in Ethiopia**
(Pics are under selection)