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LIST OF ABBREVIATIONS AND ACRONYMS

BoT	-	Board of Trustees
COO	-	Chief Operations Officer
CS	-	Cabinet Secretary
DG	-	Director General
DVS	-	Director of Veterinary Services
EIA	-	Environmental Impact Assessment
KWS	-	Kenya Wildlife Service
NP	-	National Park
PS	-	Principal Secretary
TENP	-	Tsavo East National Park
WWF	-	World Wildlife Fund

FOREWORD

The Kenya Wildlife Service (KWS) is an organization with the mandate to conserve and manage wildlife in Kenya, and to enforce related laws and regulations. KWS manages the biodiversity of the country, protecting and conserving the flora and fauna. It manages most of the National Parks and Reserves in Kenya. The money collected as entrance fees in the parks is used to help the conservation of the plants and animals within the parks.

Prior to the botched translocation, KWS had carried out 11 translocations since 2004 that comprised of 180 rhinos that were moved to other areas where their populations were now thriving. The development of a rhino sanctuary in Tsavo East National Park started in 2010 due to the recognition that the free ranging population of rhinos introduced there in the 1990s was declining. In 2012 the KWS approached the WWF Kenya to provide additional financial resources to complete the sanctuary. WWF accepted and started providing financial support the same year. The sanctuary site was selected since it had a good balance of security and ecological assessment. Equally, most of the remnant rhinos counted in the 2010 aerial census were sighted in the area.

Arising from the widely publicized death of black rhinos after a botched translocation exercise, the Committee pursuant to Standing Order 216(5) (e) resolved to conduct an inquiry into the circumstances of the deaths. The inquiry's objectives were to:

- (i) To investigate the circumstances that led to the deaths of the eleven black rhinos.
- (ii) recommend remedial actions to forestall any such future deaths of black rhinos due to botched translocation

In conducting the inquiry, the Committee held meetings with the following:

- i) Cabinet Secretary, Ministry of Tourism and Wildlife
- ii) Kenya Union of Veterinary Practitioners and the Kenya Veterinary Association
- iii) WWF Kenya
- iv) Former Kenya Wildlife Service Board of Trustees
- v) The Management of Kenya Wildlife Service and suspended officers.

Committee Observations

Having reviewed the oral and written evidence submitted to it, the Committee observed the following:

1. The head of ecological monitoring at KWS, Dr. Mohamed Omar (then on suspension), failed to provide water quality assessment test results to inform the decisions of the translocation team. Salt poisoning ultimately caused the rhino deaths. This was evidence of poor coordination within the translocation team.
2. There were weaknesses in the execution of the Ministry of Tourism and Wildlife's oversight role over the KWS. For instance, there was unwarranted delay in appointment of a new Board of Trustees at the KWS. The term of the former board

- ended on 17th April, 2018 but three months later, there was no Board appointed and this could not be reasonably justified. Lack of a Board to offer policy direction could have contributed to the deaths of the 11 black rhinos. There was however a hurried appointment of the Board, after the rhino deaths, which was gazetted on 31st July, 2018.
3. The former Board of Trustees, in which the then Principal Secretary for the state department of Wildlife was a member, had declined to approve the translocation exercise three times in the past due to the following reasons: it was inadvisable to translocate the free range rhinos to a restricted sanctuary, the high salinity levels of the water in the sanctuary and the unfavorable habitat conditions. It was, however, not demonstrated that the above reasons had been sufficiently addressed to warrant the hurried translocation.
 4. The former KWS Board of Trustees created two new positions, after the appointment of the then Director General, Mr. Kitili Mbatia, but the holders of the positions reported directly to the Board. The positions were: Advisor to the Director-General, KWS (then occupied by Mr. Mark Jenkins) and Chief Operating Officer, KWS (then occupied by Amb. Nehemiah Rotich). It was perceived that these positions compromised and weakened the reporting structures at KWS. This was in violation of the principles of good corporate governance. However, the Cabinet Secretary had since abolished these positions.
 5. Whereas World Wildlife Fund (WWF) was partnering with the KWS on rhino conservation and had funded the botched translocation exercise, and applied pressure on the KWS to hasten the process of the rhino translocation, their interest being motivated by the funding they were seeking then in Germany of almost 25 Million Euros and that the translocation was to offer positive publicity to facilitate the securing of the funding, the committee noted that WWF had no legal standing and leeway to pressure a government entity to act outside the laid down procedures and regulations.
 6. The Director of Veterinary Services was a member of the KWS Board of Trustees under Section 3B of the repealed Wildlife (Conservation and Management) Act (Cap. 376). However, this provision was removed in the current Wildlife Conservation and Management Act, 2013.
 7. The veterinarians at KWS were uniformed officers and therefore could not countermand their superiors. This in effect made it difficult for the veterinarians to be assertive in offering technical advice to their seniors. Equally, there were allegations that the veterinarians were overworking due to limited number of the professionals.
 8. There existed no policies and regulations governing activities in the national parks, national reserves, provisional wildlife conservation areas, wildlife conservancies and sanctuaries which would prevent circumstances that might have led to the deaths of the 11 black rhinos.
 9. The Wildlife (Conservation and Management) Act No. 47 of 2013 was enacted in absence of a policy document. This occasioned challenges in implementation of the law.

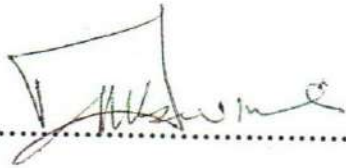
10. KWS was in the process of reviewing its policy on engagement with partners to establish parameters and modalities to guide the engagements. This was meant to ensure that the KWS took leadership roles and the partners merely supported its operations.
11. Some staff at the KWS were deployed in roles that they were not suited for. For instance, the Head of Ecological Monitoring admitted to being a marine scientist and therefore was not suited to serve in this capacity whose roles among others was evaluating ecological aspects of parks in dry lands.
12. The KWS had outdated translocation guidelines and protocols which were guiding translocation of wildlife in the country.

Committee Recommendations

1. The Cabinet Secretary, Ministry of Tourism and Wildlife should take overall responsibility for the botched translocation exercise since he delayed the appointment of a new Board of Trustees at the KWS. The Board would have offered policy direction and guidance to the management. In absence of the Board, the Ministry had overall responsibility over the KWS operations, including the translocation exercise.
2. The then Principal Secretary, Ministry of Tourism and Wildlife, who sat in the KWS Board of Trustees, should take responsibility for failure to put in place proper mechanisms to oversight the operations of the KWS in relation to the translocation exercise.
3. The Director of Criminal Investigation (DCI) should investigate the then Head of Ecological Monitoring at KWS, who was then on suspension, for withholding crucial information that could have aided in decision making during the translocation exercise.
4. The Head of Veterinary Services and the Head of Capture Services, who were then on suspension, should further be investigated by the DCI for the death of two rhinos from Nakuru that were translocated, despite warnings by the Tsavo Area Assistant Director about the death of the first rhino and signs of an unhealthy rhino at the Tsavo East Sanctuary.
5. The Ministry of Tourism and Wildlife should:
 - a) monitor KWS closely to identify any systemic weaknesses that were evident in the service and intervene on the same in a timely manner.
 - b) spearhead the review of the Wildlife Conservation and Management Act No. 47 of 2013 as well as drawing up the Wildlife Management Policy and regulations to address any implementation challenges as a matter of urgency. Particularly, there is need to have the representation of the veterinarians in the Board in order to advise it on veterinary and issues of the wildlife.
 - c) Should engage the National Treasury and other stakeholders to ensure adequate local funding to KWS activities to avoid over-reliance on donor funding which could force the organization to pursue policy directions that are not in tandem with national policies and priorities.
6. The Kenya Wildlife Service Board of Trustees should:
 - a) institute disciplinary action on all other officers who may have exhibited laxity in the line of their duty during the translocation of the 11 black rhinos.

- b) fast-track review of its policy on engagement with the donors and other partners so as to ensure that the Service has an upper hand in determining its priorities.
- c) urgently conduct job evaluations for all its officers so as to align their qualifications with their responsibilities. For instance, the head of ecological monitoring who was a marine scientist was deployed as an ecological expert in parks on dryland.
- d) reform the Veterinary Department to be independent and in tandem with the requirements of the Kenya Veterinary Board.
- e) recruit additional veterinarians to address the endemic shortage of the professionals at KWS.

SIGNED:



THE HON. KAREKE MBIUKI, M.P.
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES

DATE:

18/9/2019

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

The Departmental Committee on Environment and Natural Resources is one of the fifteen (15) Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates, pursuant to the *Standing Order 216 (5)*, are as follows:

- a) **To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;**
- b) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
- c) To study and review all the legislation referred to it;
- d) To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
- g) To examine treaties, agreements and conventions;
- h) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- i) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- j) To examine any questions raised by Members on a matter within its mandate.

The subject matter of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Orders No. 216 (f) as follows: climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management.

1.2 Oversight

In executing its mandate, the Committee oversees the following State Departments, namely:

- The Ministry of Water and Sanitation;
- The Ministry of Environment and Forestry;
- The State Department for Wildlife; and
- The State Department of Mining

1.3 Committee Membership

The Committee on Environment and Natural Resources was constituted by the House in December, 2017 and comprises of the following Members: -

No.	Name	Constituency	Party
1.	The Hon. Kareke Mbiuki, M.P., Chairperson	Maara	Jubilee Party
2.	The Hon. Sophia Abdi Noor, M.P. Vice Chairperson	Ijaara	PDR
3.	The Hon. Benjamin Jomo Washiali, M.P., CBS	Mumias East	Jubilee Party
4.	The Hon. David Kangogo Bowen, M.P.	Marakwet East	Jubilee Party
5.	The Hon. Francis Chachu Ganya, M.P.	North Horr	FAP
6.	The Hon. Ali Wario Guyo, M.P.	Garsen	Wiper Party
7.	The Hon. Beatrice Cherono Kones, M.P.	Bomet East	Jubilee Party
8.	The Hon. Charity Kathambi Chepkwony, M.P	Njoro	Jubilee Party
9.	The Hon. Hilary Kiplang'at Kosgei, M.P.	Kipkelion West	Jubilee Party
10.	The Hon. Peter Kimari Kihara, M.P	Mathioya	Jubilee Party
11.	The Hon. Benjamin Dalu Tayari, MP.	Kinango	ODM
12.	The Hon. Charles Ong'ondo Were, M.P.	Kasipul	ODM
13.	The Hon. Nasri Sahal Ibrahim, M.P.	Nominated	FORD K
14.	The Hon. Rozaah Buyu. M.P.	Kisumu County	ODM
15.	The Hon. Said Hiribae, M.P.	Galole	FORD K
16.	The Hon. Hassan Oda Hulufu, M.P.	Isiolo North	KPP
17.	The Hon. Amin Deddy Mohamed Ali, M.P.	Laikipia East	Jubilee Party
18.	The Hon. Rehema Hassan, M.P.	Tana River County	MCC
19.	The Hon. (Eng.) Paul Musyimi Nzengu, M.P.	Mwingi North	Wiper Party

Committee Secretariat

- | | |
|-----------------------------|--------------------------|
| 1. Ms. Esther Nginyo | - Second Clerk Assistant |
| 2. Mr. Dennis Mogare Ogechi | - Second Clerk Assistant |
| 3. Mr. Sydney Lugaga | - Legal Counsel I |
| 4. Ms. Winnie Kulei | - Research officer III |
| 5. Ms. Yunis Amran | - Fiscal Analyst III |
| 6. Mr. Stanley Lagat | - Serjeant At Arms I |

2.0 BACKGROUND INFORMATION

The Kenya Wildlife Service (KWS) is a Kenyan state corporation that was established in 1989 to conserve and manage Kenya's wildlife. It is established under an Act of Parliament Cap 376 (The Wildlife Conservation and Management (Amendment 2013) Act) with the mandate to conserve and manage wildlife in Kenya, and to enforce related laws and regulations. It manages the biodiversity of the country, protecting and conserving the flora and fauna. KWS manages most of the National Parks and Reserves in Kenya. The money collected as entrance fees in the parks is used to help the conservation of the plants and animals within the parks.

Prior to the botched translocation, KWS had carried out 11 translocations since 2004 that comprised of 180 rhinos that were moved to other areas where their populations were now thriving. The development of a rhino sanctuary in Tsavo East National Park started in 2010 due to the recognition that the free ranging population of rhinos introduced there in the 1990s was declining. In 2012 the KWS approached the WWF Kenya to provide additional financial resources to complete the sanctuary. WWF accepted and started providing financial support the same year. The sanctuary site was selected since it had a good balance of security and ecological assessment. Equally, most of the remnant rhinos counted in the 2010 aerial census were sighted in the area.

2.1 Objectives of the Inquiry

Arising from the widely publicized death of black rhinos after a botched translocation exercise, the Committee pursuant to Standing Order 216() (e) resolved to conduct an inquiry into the circumstances of the deaths. The inquiry's objectives were to:

- (i) To investigate the circumstances that led to the deaths of the eleven black rhinos.
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3.0 INQUIRY INTO THE DEATH OF ELEVEN BLACK RHINOS IN TSAVO EAST NATIONAL PARK

In conducting the inquiry, the Committee held meetings with:

- i) Cabinet Secretary, Ministry of Tourism and Wildlife
- ii) Kenya Union of Veterinary Practitioners and the Kenya Veterinary Association
- iii) WWF Kenya
- iv) Former Kenya Wildlife Service Board of Trustees
- v) The Management of Kenya Wildlife Service and suspended officers.

Their oral and written submissions were as recorded hereunder.

3.1 Submissions by the Cabinet Secretary, Ministry of Tourism and Wildlife

The Cabinet Secretary, Ministry of Tourism and Wildlife, Hon. Najib Balala, appeared before the Committee on Tuesday 31st July, 2018 and informed it that:

1. The translocation exercise was commissioned by the KWS Board of Trustees (BOT) on 31st October 2017, on condition that the KWS management await favorable weather conditions and Rhinos to be sourced from other locations.
2. Having been approved by the KWS BoT and with advice of Management, he launched the translocation on 26th June 2018.
3. He received the news of the death of six (6) Rhinos on arrival from an official visit to Canada on 9th July 2018 and the following day on 10th July 2018, he suspended the translocation exercise and after further inquiry, he issued a press statement on 12th July 2018 to inform the Country about the rhino deaths that had reached eight (8).
4. On 17th July, 2018 he visited Tsavo East National Park to verify the rhino death sites, ascertain the carcasses and the horns; and issued a press statement on his findings and directed KWS to display the Rhino horns to the public on Thursday the 19th July 2018.
5. On 17th July, 2018 he constituted an independent investigative committee with clear mandate to determine the cause of deaths of the rhinos within 7-days. The Committee comprised of:
 - i) Mr. Benson Omondi Samson (Assistant Superintendent of Police, Criminal Investigation and Chairperson of the Inquiry Team);
 - ii) Prof. Peter Karuri Gathumbi (Professor of Veterinary Pathology, University of Nairobi);
 - iii) Dr. Kuria Gachungia (Officer in Charge Pathology lab, Directorate of Veterinary Services);
 - iv) Dr. David Zimmerman (Senior Veterinary Manager, Veterinary Services of SanParks);
 - v) Peter Thiane Kilemi (Chief Inspector of Police In charge Criminal Intelligence Bureau, Eastern Bureau; and

- vi) Dr. Patrick Omondi (Ag. Director, Research & Innovation, State Department for Wildlife);
6. On 26th July 2018, the investigative team presented their finding and they took him, the PS and the KWS BoT Chairperson through their report. The KWS BoT Chairperson concurred with the findings of the team, having been previously involved in the translocation exercises earlier at KWS;
 7. The team identified the gaps in the preparation of translocation exercise and the departments at fault and recommended suspension of the responsible officers, pending thorough investigation by the KWS BoT to resolve the issues conclusively
 8. The investigative team findings noted that the cause of Rhino deaths was due to: Multiple stress syndrome intensified by salt poisoning and complicated by following conditions: Dehydration, starvation, proliferation of opportunistic bacteria in upper respiratory tract (*Pasteurella* species), gastric ulcers and gastritis.
 9. According to the investigative team, the above cause of deaths arose due to lack of synchronized procedure:
 - the timing of the relocation was not synchronized during a period of optimal conditions at destination,
 - The decision to do a “Soft Release” from the field through a holding facility (boma) at destination.
 - Uptake of water with high salinity
 10. Following the presentation and recommendations from the investigative team, and consultation with the PS and KWS BoT Chairperson, it was resolved that:
 - The officers in-charge of the various departments and units leading the translocation exercise be suspended pending further investigation by the KWS BOT;
 - The KWS management be re-organized;
 11. Further translocations exercises be suspended until a full audit of KWS capacity on translocation is conducted.
 12. On details of preliminary study done on Tsavo East National Park prior to translocation of the 11 rhinos he stated that the following was done:
 - i) Census and Ear Notching of Black Rhinos in Tsavo East National Park: The census and ear notch were done between 3rd October 2010 and 9th October 2010. The census resulted to sighting of 11 black rhinos. The results were published in *Pachyderm* No. 49 for January–June 2011.
 - ii) Black Rhino Habitat Suitability Assessment and Preliminary Ecological Carrying Capacity Analysis for the Proposed Site for Tsavo East National Park Rhino Sanctuary: The study was done in May 2011. It was done in three sites that include: Ashaka, Sobo and Rhino Valley Areas. Browse availability for the Ashaka, Sobo and Rhino valley was 239.1, 218.3, and 200.6 respectively.
 - iii) Environmental Impact Assessment (EIA) for the Proposed Electric Fenced Black Rhino Sanctuary in Tsavo East National Park: The EIA study was

done in July 2011. The EIA evaluated the three sites (Ashaka, Sobo and Rhino valley) for their suitability for establishing an electric fenced rhino sanctuary. The EIA selected Sobo Area as the most appropriate (in terms of ecological assessment and security) for setting up the rhino sanctuary.

- iv) Hydrological Survey: The hydrological survey was conducted in November 2014. The survey identified the current locations of the two boreholes.
 - v) Water Quality Analysis: Water quality analysis from the two boreholes and other water sources in the sanctuary was carried out between February and July 2018. Borehole number 2 had water with high salinity and the park management was advised to continuously pump the water from this borehole and ensure all watering troughs were open to ensure continuous flow of water to flush out the salts. This had been done to borehole number 1 and water salinity had dropped to levels recommended for consumption by cattle (3.0-7.5ppt). Camera traps were set at sites sourcing the water from the two boreholes. Elephants, ostriches, warthogs among other wildlife species were observed to utilize water from all the boreholes in the sanctuary.
13. On a report on previous translocations exercises, procedures followed and the success rates of the exercise undertaken he stated that:
- i) Between 1996 and 2018, Kenya Wildlife Service had conducted 289 translocations of different wildlife species.
 - ii) The translocation involved pre-translocation surveys, rapid assessments and post translocation monitoring. A total of 1825 animals were translocated with 74 mortalities (4.1%) reported. However, there has been an increase of cases of translocation mortalities from 2015.
14. On the way forward on the translocation of animals he stated that:
- i) No further translocation exercises would be carried out until a full audit is conducted;
 - ii) In case of emergency cases, authority to translocate will be granted by his office.

3.2 Submissions by the Kenya Union of Veterinary Practitioners

Dr. Benson Kibore, Chairman, Kenya Union of Veterinary Practitioners appeared before the Committee on Monday 13th August, 2018 and informed it that:

1. The rhino conservation project started in in the year 2012 as part of the Rhino Management Framework to establish a new Rhino Sanctuary.
2. The first part of the project implemented between 2012-2015 with support from World Wide Fund (WWF) involved identification of the sanctuary site, environmental impact assessments, site identification, fundraising to cater for the

following: Fencing for security purposes, Borehole drilling (As per Water Act 2002) and Ranger housing development.

3. The second part of the project involved Rhino translocation (2016-2018). In the year 2016 and under the new Board of Trustees led by Dr Leakey, details were sought on 3 key issues: weather situation, habitat/ecological assessment, water assessment. The translocation was then put on hold after a report indicated negative survival for the rhinos in Tsavo East National Park due to the prevailing drought then. The project then went silent from 2016 to 2017. There were then intense board discussions on the matter through the Board Conservation Committee. On various occasions, the board through the Conservation Committee further sought answers on habitat situation and salinity levels. The board was not adduced with reports nor was it properly satisfied with the translocation arrangements.
4. On the Veterinary & Capture Department Roles in the translocation he stated that:
 - a) No information regarding the translocation was adduced to the Veterinary Doctors between the years 2016 to early 2018.
 - b) A directive from the office of the Ag Director General was issued to the department in mid-February 2018 to prepare capture and translocation plan. The department was asked to prepare a budget for onward transmission to WWF for fundraising to cater for capture process, transportation and establishment of holding pens (Bomas).
 - c) The money was wired to KWS in March 2018 and immediately, the construction of the Bomas was instituted.
 - d) The initial proposal of the directive was to prepare capture and translocation plan in the month of April 2018. The department advised for deferment to a later date due to logistical consideration following heavy rainfall.
 - e) In July 2018, the veterinary team visited the site to assess the final logistical preparation. The directive was to move 14 Rhinos (8 from Nairobi National Park & 6 from Nakuru National Park) as per the assessment report by Ecologists.
 - f) A team of 3 professionally experienced Veterinary Doctors were involved (the team have successfully translocated, ear notched, chip identified thousands of animals including the Rhinos).
 - g) The Capture process at Nairobi and Nakuru National parks was very successful with 3 rhinos moved in each shift. The exercise was planned to take 8 days starting from 26th July 2018. On transit, the animals were fed with forages and sugarcane straws. On arrival, the animals were cared for at the Bomas and fed with Lucerne, forage and sugarcane straws. The Rhinos were given fresh water from water boozer for the first four to five days (4-5). The Veterinary Doctors then proceeded to institute 2nd, 3rd and 4th capture and transportation. The care of animals was left to the park wardens/rangers.

- h) On the 6th day, the fresh water from water boozers got finished, the water boozers broke-down on its way to fetch some more water and the rangers decided to give water from a nearby borehole.
 - i) On the evening of the 7th day, the warden noted a case of increased water intake and hyper-urination and reported to the veterinary doctors. The doctors made quick effort to arrive in Tsavo East in the shortest time possible.
 - j) On arrival, the doctors confirmed the reported signs and immediately instituted palliative care and treatment. At first, the doctors thought it was a case of snake bite (differential diagnosis). The doctors tried to scan for bite wounds on the body but were unsuccessful. Unfortunately, the first rhino experienced weakening of the motor responses, difficulty in locomotion, gait, could not stand and it finally died. A post-mortem was done which revealed frothy lungs and some level of ulceration in the digestive system.
 - k) Early morning on the 8th day, two more rhinos exhibited similar signs but died in the line of being attended to by the doctors. With the differential diagnosis informed by the history of high-water intake and hyper-urination and postmortem, the doctors realized that probably it was a case of high salty water in-take. The doctors immediately asked the warden to ensure fresh water was available at the site. In the end the 11 rhinos died due to salty poisoning.
 - l) All this while, the salinity report which showed that the water was 3-5 times saline than the recommended levels, had NOT been shared with the Veterinary Doctors.
 - m) Dr Francis Gakuya (The head of the Veterinary) then requested for the water salinity assessment report but was not available. The doctors only noted the reports being circulated in the media.
 - n) In summary, the veterinary doctors did all that they were supposed to do in a very professional manner regarding all the animal welfare principles.
5. The rhino population dipped from 20,000 in 1970 to only 350 in the year 1983. The government then adopted the National Black Rhino Conservation Strategy and Management Plan with a view to increasing the black rhino population on the verge of extinction. The veterinary doctors have been very instrumental in the care of Black rhinos to a current population of 696 (less 12 dead).
6. The inquiry report sanctioned by CS Najib Balala and the decisions herein was erroneous in law and fact for the following reasons:
- a) Dr. Davis Zimmerman apparently was not registered by the Kenya Veterinary Board (KVB) which is the only government agency that gives veterinary expatriates practicing license. It was alleged that the same person had been looking for an opportunity to work here in Kenya at KWS. In 2005, he was to take up a veterinary doctor position at Ol Jogi Wildlife

Conservancy in Nanyuki. He therefore could not qualify as an independent investigator.

- b) Mr Patrick Omondi, then a deputy director Species conservation & Management, was part of the team that carried out the Environmental Impact Assessment, site location and logistical planning for the project. He was suspended in April 2014 following increased cases of poaching in the country. He then secured a transfer to the ministry in 2015.
- c) The CS Balala used a preliminary report hastily done illegally to suspend the veterinary doctors accusing them of negligence. The only body mandated to declare a veterinary doctor negligent is the Kenya Veterinary Board (KVB) established under the Veterinary Surgeons and paraprofessional Act 2011.
- d) The CS does not have the power to suspend a KWS professional and more to declare any veterinary doctor negligent. The KWS has a staff disciplinary manual and structure, which was not followed. The disciplinary process is a function of the Board of Trustees.

7. The following questions were critical in seeking to unravel the rhino deaths:

- a) Were the boreholes licensed as per the Water Act of 2002 CAP 372? Why was the salinity report not forwarded to the Veterinary Doctors?
- b) Who actually certified that the conditional approval from the board of ascertaining vegetation and salinity levels had been met before the translocation be done? Who gave the final authorization to translocate these rhinos in the absence of the board?
- c) Why would WWF insist Rhino translocation to Tsavo East through the ministry and not the Board? Why was the urgency to translocate animals after the Board's term had ended and before the report was shared?
- d) Why was salinity assessment report ignored in the decision-making process despite indication that the salinity was 3 times the acceptable limits?
- e) Why is the Ag Director General Mr. Julius Kimani still at KWS yet he was part of the decision-making process? (Copies of the relevant minutes adduced). He has now been promoted to the position of Ag Director Parks & Reserves while Mr. Patrick Omondi was back to KWS, promoted to the position of Ag Director Biodiversity. The two positions do not exist within the KWS structure, Wildlife Act nor was it approved by the Board. Was Mr. Patrick Omondi cleared after being suspended from KWS?

8. Three (3) out of the 4 Board of Trustees members owned huge conservancies in Kenya. They were in direct competition with the objectives and mandate of KWS. Ian Craig for example has been a KWS Board of Trustee for 6 years under the Chairmanship of the Late David Mwiraria. It was during his tenure up to 2014 that

- recorded the highest level of poaching in Kenya. He has been a strong advocate of consumptive utilization of wildlife in Kenya (game hunting).
9. The matter is currently under the independent investigation by the Kenya Veterinary Board. The Union looks forward to the findings by the Board.
 10. He prayed that:
 - a) The preliminary report generated be quashed since the legality of the investigators is now in question.
 - b) An independent investigation currently undertaken by the Kenya Veterinary Board be given due consideration as it is the only body mandated to determine the negligence or otherwise of a veterinary doctor. We hope the report will detail exactly what went wrong and the culpabilities in the chain of command.
 - c) The CS Balala to takes the earliest opportunity to reinstate the veterinary doctors that he suspended – The power to take such an action lies with the Board of Directors who were not in office at the time of his action. Therefore, the manner in which it was done has traumatized veterinary surgeons and brought into disrepute their professional image which they have spent years of dedication to build (over 30 years). The Fair Administration Action Act No 4 of 2015 guarantees fair hearing process, a measure that was not granted to the affected officers. The CS erred in dismissing vets without following the duly laid down procedure by the laws of Kenya in Veterinary Surgeons and Vet. Paraprofessionals Act 366 Section 34 that requires such a matter to be addressed by an inquiry set up by the board and KWS Disciplinary Procedures Protocols.
 - d) The committee to compel CS Najib Balala, PS Dr Margaret Mwakima, former KWS Ag Director General Julius Kimani and WWF representative take full responsibility for the deaths of the Rhinos.
 - e) The CS Balala, Mr Julius Kimani and Mr. Patrick Omondi to step aside as the investigations are ongoing. They have been mentioned adversely and are likely to interfere with the investigation.
 - f) The workload analysis of the few vets employed by the KWS to safeguard our wildlife be done to ensure that they are well compensated. The less than 7 active veterinary doctors working with KWS are supposed to care for over one million wild animals in 54 national parks and game reserves which means they are overstretched and stressed. We pray that the committee will strongly consider recommending the Employment of 20 more veterinary doctors be hired immediately into the KWS.
 - g) Immediate restructuring be done at KWS to guarantee autonomy of the veterinary doctors in the decision-making process and decisions regarding translocation of animals.
 - h) Veterinary doctors be non-designated as wardens/uniformed servicemen to enable proper judgement of a decision-making process.
 - i) Facilitate amendment of the wildlife Conservation and Management Act No 47 of 2013 to have the Director of Veterinary Services included in the Board of

Trustees. The DVS is the competent authority regarding all animals, animal welfare and disease control.

- j) The Committee to urgently investigate the conflict of interest of some of the Board of Trustees and recommend immediate revocation of their appointments. If not checked, the KWS will further undergo systemic weakening which may lead to decimation of wildlife through poaching.
- k) The Committee to interrogate in detail the study commissioned by the CS Najib Balala on Consumptive utilization of wildlife (game hunting) led by David Western. The ban on game hunting which was passed in 1977 needs to be maintained to avoid decimation of our wildlife.

3.3 Submissions by the WWF Kenya

Mr. Mohamed Awer, CEO WWF – Kenya appeared before the Committee on Monday 13th August, 2018 and informed it that:

1. WWF-Kenya was part of the largest environmental conservation organization on the planet, the World Wide Fund for Nature had worked in Kenya for 50 years striving to improve the lives of communities and Wildlife. The organization works closely with several partners in Kenya, both governmental and non-governmental.
2. WWF Kenya had had a long relationship with KWS dating back to 1962 when they collaborated during the establishment of the Nakuru National Park.
3. WWF Kenya has supported various wildlife related programs with a focus on human-wildlife conflict, wildlife security using latest technologies, community managed conservancies.
4. WWF Kenya had contributed as follows to Rhino conservation in Kenya:
 - a) Funds over 70% of rhino conservation activities in Kenya. The support includes: security, biological management, monitoring and capacity building.
 - b) Supported establishment of a rhino sanctuary in lake Nakuru National Park.
 - c) Contributed to establishment of the Ngulia Rhino Sanctuary in Tsavo West National park that now hosts over 90 black rhinos.
 - d) Contributed to establishment of the Wildlife Forensic Lab at KWS and continues to support capacity building of the lab staff.
 - e) Contributed to the national rhino ear notching that was key when conducting rhino census.
5. Prior to the botched translocation, KWS had carried out 11 translocations since 2004 that comprised of 180 rhinos that were moved to other areas where their populations were now thriving.
6. The development of a rhino sanctuary in Tsavo East National Park started in 2010 due to the recognition that the free ranging population of rhinos introduced there in the 1990s was declining.

7. In 2012 the KWS approached the WWF Kenya to provide additional financial resources to complete the sanctuary. WWF accepted and started providing financial support the same year.
8. The sanctuary site was selected since it had a good balance of security and ecological assessment. Equally, most of the remnant rhinos counted in the 2010 aerial census were sighted in the area.
9. He then gave a chronology of the important timelines with respect to establishment of the sanctuary and timelines with regard to the translocation of rhinos to the sanctuary.
10. On the budget for translocation, he stated that the total budget was Ksh. 7.2 Million and that the full amount wasn't utilized since the translocation wasn't completed.
11. The WWF was invited to and appeared at the translocation inquiry set up by the Cabinet Secretary, Tourism and Wildlife. The following issues were raised and they responded as follows:
 - a) On water salinity he stated that in 2016, WWF supported drilling of two boreholes upon a KWS request. The contractor dealt with KWS and upon completion presented requisite certificates of completion to KWS which were then presented to WWF as supporting documentation for final payment.
 - b) On suitability of the sanctuary he stated that by the time the request for support from KWS was made to WWF, it was indicated that the EIA, habitat suitability assessment and hydrological survey had been done by the KWS. The same had been approved by the KWS board of trustees. Equally construction of the sanctuary was already underway with seed funding of Ksh. 24 Million from KWS and Ksh. 5 Million from another donor.
 - c) On monitoring progress of the project, he stated that there were regular exchanges with KWS on the status of the project however, the final mandate on translocation date lay with the KWS and WWF adhered to set dates.
12. WWF Kenya was going to continue working with various stakeholders to build the capacity of the staff engaged in translocations. It would also help in the review of translocation protocols and support in implementation of outcomes.

3.4 Submissions by Former Kenya Wildlife Service Board of Trustees

Dr. Richard Leakey, the Former Chairperson, Kenya Wildlife Service appeared before the Committee Thursday 23rd August, 2018 accompanied by the other Former Board Members and informed the Committee that:

1. The proposal for the translocation of the rhinos was mooted even before the Dr. Richard Leakey's Board was in office.
2. The World Wide Fund for Nature – Kenya (WWF) and the KWS had planned to establish a rhino sanctuary in Tsavo National Park. It was proposed that due to

rampant poaching and the prevailing drought condition of 2015/2016, the free-range rhinos were to be moved into the sanctuary.

3. The former Board was objected to the idea of moving the free-range rhinos into the sanctuary and advised the management as much on the advice of the Sub-Committee on Conservation.
4. WWF-Kenya exerted pressure on the Ministry to have the rhinos moved into the sanctuary so as to expend the donor funding earmarked for that particular activity.
5. The salinity levels of the water in the sanctuary were extremely high and therefore the Board directed the Management to find a solution of finding an alternative source of water without necessarily going back to the Board.
6. On the translocation of the rhinos, the former Board had rejected three requests to have the rhinos translocated until issue of the salinity of the water and the habitat conditions were to improve.
7. Upon the expiry of the term of the Board, the Senior Management decided to relocate the rhinos without the Board's approval. It would therefore be necessary to engage the Management to shed light on whose approval the translocation was done without the requisite conditions on water and availability of foliage having been met.
8. Although there were officers who were suspended as a result of the death of the 11 rhinos, the senior officers who presided over the botched exercise were still serving in the Service without much reprimand for the loss of the animals.
9. The former Ag. Director General Mr. Julius Kimani having been a Board Member by the virtue of his office was well aware of reasons that had made the Board to decline the translocation, he however went ahead to supervise the exercise despite having this crucial information.
10. WWF-Kenya as the funding entity was alleged to have had a major interference on the Board resolution against the translocation and consequently pushed for the exercise after the exit of the Board.
11. On the issue of introducing a new hierarchy that was outside the KWS Schemes of Service, the Committee was informed that the positions of the Chief Operations Officer held by Amb. Nehemiah Rotich and the Advisor to the Director General held by Mr. Mark Jenkins were approved by the Board after seeking the opinion of State Corporation Advisory Committee and the approval by the Cabinet Secretary. The officers were engaged to offer technical advice based on their experience in wildlife matters and were to serve for one year effective from 1st July, 2017.
12. On the issue of the allegations that Dr. Leakey had directed the donors not to fund KWS which was the reason that the service was ailing financially, he averred that he had no reason to do so. He however informed the Committee that his Board had worked very hard to move KWS from a deficit of Kshs. 5 billion at the time they took over to a surplus of Kshs. 3 billion by the expiry of their term.

13. On the allegation of the former Board Chairperson having to request for an extension of his term, he avered that he had indeed requested H.E. the President not to extend his term due to personal commitments and his health condition.
14. On the structure of KWS in terms of civilian officers and the uniformed officers, there was need to review the Wildlife Conservation and Management Act so as to allow the professional officers to remain as civilian for them to be able to offer technical advice without being victimized for insubordination.

3.5 Submissions by the Management of Kenya Wildlife Service

The acting Director General, KWS, Prof. Charles Musyoki, appeared before the Committee on Wednesday 20th September, 2018 accompanied by the suspended officers and informed it that:

1. The Sanctuary development was in line with provisions of Wildlife Conservation and Management Act 2013 which mandates KWS to develop recovery plans for endangered species. The establishment of the TENP rhino sanctuary is one of the prescribed activities in the national conservation and management strategy of the black rhinos in Kenya.
2. Black rhinos' sanctuary model had been practiced since the Presidential decree for rhino rescue of 1985. It had contributed to the growth of the black rhino population in Kenya from less than 400 in 1989 to 745 by end of 2017. This represented a 94% increase in the national rhino population.
3. Kenya was currently ranked 3rd range state hosting the black rhinoceros after South Africa and Namibia. Kenya hosted about 80% of the eastern subspecies of the black rhino.
4. Between 1996 and 2018, the KWS undertook capture and translocation of:
 - 215 black rhinos with a mortality of 18 (8.4%), (204 with only 7 mortalities in black rhinos experienced between 1996 & 2017 – 3.4% mortality). &
 - 79 white rhinos without any mortalities
5. In total, 1,855 animals of different wildlife species were translocated between 1996 and 2018. This was besides thousands of immobilisations for veterinary interventions including diagnosis and treatment of diseases and injuries, fitting monitoring devices (collars, horn transmitters, and ear notches), disease surveillance and outbreak investigations and mitigating human-wildlife conflicts. The outcome of the translocation under consideration was therefore completely unprecedented and should not have happened.
6. Establishment of the sanctuary was informed by an aerial census conducted between 3rd October and 9th October 2010. Objectives of census were to establish the black rhinos' population status and distribution. 11 rhinos were counted, ear notched and fitted with horn transmitters to aid in identification and monitoring. Census findings were that the population exhibited a wide distribution pattern, making monitoring and security provision a big challenge.

7. Following the census, 4 options were recommended to enhance effective management of the TENP rhino population but of the 4 options KWS management and the Rhino Executive Committee settled on the sanctuary option to enhance the rhino population management.
8. Sanctuary development commenced in 2012 and was completed in 2016. To ensure adequate water provision in the sanctuary, 3 options were considered but drilling 2 boreholes option was adopted. Hydrology surveys conducted in Nov 2014 drilling and water distribution works done in 2015.
9. Borehole water was noted to be saline. Water quality analysis were done from February to July 2018. Results showed the 2 sanctuary boreholes had high salinity levels when compared with Sobo springs, and the 2 boreholes outside the sanctuary (Aruba and Dida Harea). However, a report by the former advisor to the Director General on 8th February 2018 showed salinity levels had greatly improved and that a lot of wildlife were using the water.
10. Total cost for sanctuary establishment and translocation was Ksh 105,259,594. Contributions by various institutions was as follows:
 - KWS = Ksh 24,000,000
 - Zoological Society of London (ZSL) = Ksh 5,000,000
 - WWF = Ksh 76,259,594
11. On decisions made by the KWS Board, all the minutes of meetings of BoT from 2011 to 2018 were analysed and revealed that:
 - In April 2011- approved sanctuary establishment
 - In July 2013- approved sourcing rhinos from areas with surplus
 - April 2016- approved translocation of rhinos from Nairobi NP
 - October 2017- while being updated on the status of the sanctuary project, approved the translocation subject to favourable weather conditions and rhinos not being sourced from TENP
 - March 2018- while the outgoing Board was being briefed on achievements of KWS by the Ag. DG, including progress of the project, did not object to the translocation.
12. On the planning of the translocation, minutes of the translocation planning meetings were reviewed and they showed that:
 - Translocation was first planned to start on 19th October 2016 but was postponed due to drought conditions in TENP
 - A site meeting held on 19th May 2017 established conditions were still not favourable due to insufficient rains in TENP.
 - A planning meeting held on 23rd January 2018 discussed source areas for rhinos, water provision and a translocation action plan.
 - The meeting noted that the earlier visit on 19th May 2017 raised the issue of water salinity. The meeting then tasked the Head of Ecological Monitoring to undertake water quality analysis to inform decision making.

- On 20th March 2018, another planning meeting discussed: the timing of the translocation (end of rainy season/beginning of dry season), release methods (hard versus soft), Boma numbers and locations. But due to wet conditions at source areas translocation was not undertaken as scheduled at the end of the rains in April 2018.
 - Last planning meeting held on 13th June 2018. The meeting confirmed that: Sanctuary infrastructure was good, Security rangers and monitoring teams had been trained and deployed, Source sites were Nairobi NP (8 rhinos) and Lake Nakuru NP (6 rhinos), Capture and translocation equipment were ready and Boma holding period would be 2 weeks.
 - Translocation was set to start on 26th June 2018. After the meeting of 13th June 2018, the Chair of the planning committee communicated to the Ag. DG about the suggested date of commencement of translocation and the Ag. DG gave a go ahead
 - The Ag. DG then wrote to the CS on 20th June 2018 inviting him to launch the translocation at NNP on 26th June 2018. The CS flagged off the translocation on the 26th June 2018.
13. On cause of death it was noted to be multiple stress syndrome intensified by salt poisoning and complicated by the following conditions: Dehydration, starvation, proliferation of opportunistic bacteria in upper respiratory tract (*Pasteurella* species), gastric ulcers and gastritis.
14. On role of WWF in the project he stated that it was to provide financial support for:
- Development of the sanctuary infrastructure (drilling of boreholes and water distribution, fence construction, monitoring equipment, tents for rangers, night vision equipment, etc.)
 - Execution of the translocation (bomas construction, repair of crates, veterinary drugs, capture and transportation of animals, etc.)
 - WWF was keen to have the project completed because it was long overdue.
15. On the role of the Ministry of Tourism and Wildlife in the translocation he stated that it was to promote publicity for support of translocations. The professional and technical aspects of translocations are handled by KWS and approvals granted by the KWS BoT.
16. On errors committed during the translocation:
- a) Errors committed by BoT
 - Two officers (advisor to DG and COO) had a parallel reporting line to the Board.
 - Specific to the translocation, the two officers misled management and withheld information.
 - b) Errors committed by KWS management
 - Salinity test results were not interpreted and made available to inform decision making
 - Used outdated translocation guidelines and protocols

- Poor internal communication and information sharing
 - There was no veterinary on the ground to monitor the animals after release into the bomas until when rhinos had died
 - Boma management rangers were not fully briefed
 - There was limited team spirit in the handling of the translocation particularly in the final planning stages
- c) Errors committed by WWF
- Did not share the boreholes' works completion report that indicated quantity and quality of water
 - Applying pressure on KWS Board of Trustees for media public relations and to secure funding

17. On the way forward he stated as follows:

- Upholding abolition of the positions of Advisor to the DG and COO
- Upholding suspension of six officers as the Board of Trustees handled the matter of the six suspended officers
- Translocation guidelines and protocols have been revised, updated and submitted to the Board of Trustees for approval
- Water quality analysis in addition to feed availability would be a key consideration for all future translocations
- Building capacity of the veterinary and capture staff, and all KWS staff in handling translocations
- Develop a coordinated team spirit to undertake future translocations

4.0 COMMITTEE OBSERVATIONS

Having reviewed the oral and written evidence submitted to it, the Committee made the following observations, that:

1. The head of ecological monitoring at KWS, Dr. Mohamed Omar (then on suspension), failed to provide water quality assessment test results to inform the decisions of the translocation team. Salt poisoning ultimately caused the rhino deaths. This was evidence of poor coordination within the translocation team.
2. There were weaknesses in the execution of the Ministry of Tourism and Wildlife's oversight role over the KWS. For instance, there was unwarranted delay in appointment of a new Board of Trustees at the KWS. The term of the former board ended on 17th April, 2018 but three months later, there was no Board appointed and this could not be reasonably justified. Lack of a Board to offer policy direction could have contributed to the deaths of the 11 black rhinos. There was however a hurried appointment of the Board, after the rhino deaths, which was gazetted on 31st July, 2018.
3. The former Board of Trustees, in which the then Principal Secretary for the state department of Wildlife was a member, had declined to approve the translocation exercise three times in the past due to the following reasons: it was inadvisable to translocate the free range rhinos to a restricted sanctuary, the high salinity levels of the water in the sanctuary and the unfavorable habitat conditions. It was, however, not demonstrated that the above reasons had been sufficiently addressed to warrant the hurried translocation.
4. The former KWS Board of Trustees created two new positions, after the appointment of the then Director General, Mr. Kitili Mbathi, but the holders of the positions reported directly to the Board. The positions were: Advisor to the Director-General, KWS (then occupied by Mr. Mark Jenkins) and Chief Operating Officer, KWS (then occupied by Amb. Nehemiah Rotich). It was perceived that these positions compromised and weakened the reporting structures at KWS. This was in violation of the principles of good corporate governance. However, the Cabinet Secretary had since abolished these positions.
5. Whereas World Wildlife Fund (WWF) was partnering with the KWS on rhino conservation and had funded the botched translocation exercise, and applied pressure on the KWS to hasten the process of the rhino translocation, their interest being motivated by the funding they were seeking then in Germany of almost 25 Million Euros and that the translocation was to offer positive publicity to facilitate the securing of the funding, the committee noted that WWF had no legal standing and leeway to pressure a government entity to act outside laid down procedures and regulations.
6. The Director of Veterinary Services was a member of the KWS Board of Trustees under Section 3B of the repealed Wildlife (Conservation and Management) Act (Cap. 376). However, this provision was removed in the current Wildlife Conservation and Management Act, 2013.

7. The veterinarians at KWS were uniformed officers and therefore could not countermand their superiors. This in effect made it difficult for the veterinarians to be assertive in offering technical advice to their seniors. Equally, there were allegations that the veterinarians were overworking due to limited number of the professionals.
8. There existed no policies and regulations governing activities in the national parks, national reserves, provisional wildlife conservation areas, wildlife conservancies and sanctuaries which would prevent circumstances that might have led to the deaths of the 11 black rhinos.
9. The Wildlife (Conservation and Management) Act No. 47 of 2013 was enacted in absence of a policy document. This occasioned challenges in implementation of the law.
10. KWS was in the process of reviewing its policy on engagement with partners to establish parameters and modalities to guide the engagements. This was meant to ensure that the KWS took leadership roles and the partners merely supported its operations.
11. Some staff at the KWS were deployed in roles that they were not suited for. For instance, the Head of Ecological Monitoring admitted to being a marine scientist and therefore was not suited to serve in this capacity whose roles among others was evaluating ecological aspects of parks in dry lands.
12. The KWS had outdated translocation guidelines and protocols which were guiding translocation of wildlife in the country.

5.0 COMMITTEE RECOMMENDATIONS

Having reviewed the oral and written evidence submitted to it, the Committee recommends that:

1. The Cabinet Secretary, Ministry of Tourism and Wildlife should take overall responsibility for the botched translocation exercise since he delayed the appointment of a new Board of Trustees at the KWS. The Board would have offered policy direction and guidance to the management. In absence of the Board, the Ministry had overall responsibility over the KWS operations, including the translocation exercise.
2. The then Principal Secretary, Ministry of Tourism and Wildlife, who sat in the KWS Board of Trustees, should take responsibility for failure to put in place proper mechanisms to oversight the operations of the KWS in relation to the translocation exercise.
3. The Director of Criminal Investigation (DCI) should investigate the then Head of Ecological Monitoring at KWS, who was then on suspension, for withholding crucial information that could have aided in decision making during the translocation exercise.
4. The Head of Veterinary Services and the Head of Capture Services, who were then on suspension, should further be investigated by the DCI for the death of two rhinos from Nakuru that were translocated, despite warnings by the Tsavo Area Assistant Director about the death of the first rhino and signs of an unhealthy rhino at the Tsavo East Sanctuary.
5. The Ministry of Tourism and Wildlife should:
 - a) monitor KWS closely to identify any systemic weaknesses that were evident in the service and intervene on the same in a timely manner.
 - b) spearhead the review of the Wildlife Conservation and Management Act No. 47 of 2013 as well as drawing up the Wildlife Management Policy and regulations to address any implementation challenges as a matter of urgency. Particularly, there is need to have the representation of the veterinarians in the Board in order to advise it on veterinary issues of the wildlife.
 - c) Should engage the National Treasury and other stakeholders to ensure adequate local funding to KWS activities to avoid over-reliance on donor funding which could force the organization to pursue policy directions that are not in tandem with national policies and priorities.
6. The Kenya Wildlife Service Board of Trustees should:
 - a) institute disciplinary action on all other officers who may have exhibited laxity in the line of their duty during the translocation of the 11 black rhinos.
 - b) fast-track review of its policy on engagement with the donors and other partners so as to ensure that the Service has an upper hand in determining its priorities.
 - c) urgently conduct job evaluations for all its officers so as to align their qualifications with their responsibilities. For instance, the head of ecological monitoring who was a marine scientist was deployed as an ecological expert in parks on dryland.

- d) **reform the Veterinary Department to be independent and in tandem with the requirements of the Kenya Veterinary Board.**
- e) **recruit additional veterinarians to address the endemic shortage of the professionals at KWS.**

