



EMBEDDING HUMAN RIGHTS IN NATURE CONSERVATION: FROM INTENT TO ACTION

Report of the Independent Panel of Experts of the
Independent Review of allegations raised in the
media regarding human rights violations in the
context of WWF's conservation work

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EXECUTIVE SUMMARY

In April 2019, the World Wide Fund For Nature (WWF) appointed an Independent Panel of Experts consisting of Judge Navi Pillay (Chair), Professor John H. Knox, and Dr Kathy MacKinnon to lead an Independent Review into WWF's role in connection with alleged human rights abuses in and around protected areas supported by WWF in Cameroon, the Central African Republic, the Democratic Republic of Congo, the Republic of Congo, Nepal and India. The alleged abuses included instances of murder, rape, torture and physical beatings committed by rangers¹ and other law-enforcement agents acting under the authority of governments, which were described in a series of articles published in BuzzFeed News and the Kathmandu Post in March and April 2019.

The Panel's mandate, as set out in its terms of reference, was to:

- review, examine and assess WWF's role in connection with the allegations;
- propose to WWF suitable measures, procedures and processes to prevent similar allegations and occurrences in the future, including a review and examination of the presence and effectiveness of WWF's broader policies and procedures, project governance, and assurance and risk management processes in the context of the allegations; and
- advise on future approaches to spatial conservation, based on the Panel's recognised collective expertise in human rights, development and conservation.

The focus of the inquiry was therefore not on whether the rangers and other law-enforcement agents had committed the specific alleged abuses. Rather, the Panel's focus was on the allegations against WWF, including in particular that WWF knew about the alleged abuses by rangers and other agents but nevertheless continued to support and collaborate with them, and that WWF failed to take effective steps to prevent, respond to and remedy the alleged abuses. There were no allegations that WWF staff directed or participated in any of these alleged abuses, and the Panel saw no evidence that they had done so. In some cases, WWF was also accused of not respecting the rights of indigenous peoples in its activities in support of existing and proposed protected areas.

This report provides the Panel's factual findings in relation to the allegations against WWF, its assessment of whether WWF's actions were appropriate and consistent with its responsibility to respect human rights, and the Panel's recommendations on the actions WWF should take going forward.

Background

At the outset, it is necessary to understand WWF's complex organisational structure, its social policies and commitments, and its human rights responsibilities.

¹ The term 'rangers' includes 'ecoguards', which is the term used in the Congo Basin countries – Cameroon, the Central African Republic, the Democratic Republic of Congo and the Republic of Congo.

WWF as an organisation

The WWF Network is the collective term used to describe all organisations around the world operating under the WWF name and panda symbol. The WWF Network comprises WWF International and 36 legally independent WWF National Organisations.

Each WWF National Organisation is governed by its own independent national board, which has ultimate responsibility for its policies, management and finances. National Organisations can fundraise for work in their own countries and for international projects that may come under the management authority of WWF International or another WWF National Organisation.

WWF International, which is based in Switzerland, operates as the Secretariat for the entire Network. WWF International is also the Home Office that is legally responsible for 31 Programme Offices, four of which are the subject of chapters of this report: WWF Cameroon, WWF Central African Republic, WWF Democratic Republic of Congo, and WWF Gabon (which managed WWF's activities in Republic of Congo during the period covered by this report). Programme Offices are responsible for carrying out WWF programmes and projects in the countries where they are located. Similarly, WWF US, a National Organisation, is the Home Office for 17 Programme Offices, including WWF Nepal. WWF India is a National Organisation operating under Indian laws and regulations, but able to receive funds from other National Organisations for its projects.

The highest governing body of the WWF Network is the International Board. The Board's function is to set overall strategy and priorities that can be supported by the whole Network. It is ultimately responsible for the conduct, administration and representation of WWF International.

Neither the International Board nor the WWF International Secretariat has the authority to instruct the National Organisations. To be effective, the strategies and priorities set by the International Board must be supported by the Network and adopted by the National Organisations.

WWF human rights and other social policies

Beginning with its 1996 *Statement of Principles on Indigenous Peoples and Conservation*, WWF has adopted a range of social policies at the International and Network levels that incorporate human rights commitments, including to recognise and protect the rights of indigenous peoples and local communities.

In 2009, WWF and other conservation organisations founded the Conservation Initiative for Human Rights and adopted the *Conservation and Human Rights Framework*. In the *Framework*, WWF and the other organisations made ten commitments, the first of which is:

“Respect internationally proclaimed human rights; and make sure that we do not contribute to infringements of human rights while pursuing our mission.”

The other commitments in the *Conservation and Human Rights Framework* elaborate and supplement this overarching commitment to respect human rights.

WWF reaffirmed its *Statement of Principles on Indigenous Peoples and Conservation* in 2008, and in 2018 it adopted *Network Guidelines on Prevention of Restriction of Rights and Involuntary Relocation and Resettlement of Indigenous Peoples and Local Communities*.

Those *Guidelines* state that all WWF offices, programmes and initiatives must take into consideration the respect of human rights in the design, implementation and monitoring of programmes, which extends to addressing actual and potential infringement of and/or restrictions on the rights of indigenous peoples and local communities. This includes customary rights to lands and resources and interventions requiring the free, prior and informed consent of affected communities.

The commitments in the *Conservation and Human Rights Framework*, the *Statement of Principles*, the *Network Guidelines* and WWF's other social policies are consistent with universal and regional instruments on the responsibility to respect human rights.

International human rights law

The alleged abuses by rangers and other government employees described in this report would violate many provisions of human rights law governing the rights to life, liberty, property, security of person, and effective remedies, as well as the rights to freedom from violence against women, arbitrary detention, torture, and arbitrary interference with home and family life. Those standards are set out in United Nations human rights treaties and other instruments and in African regional treaties applicable to the Congo Basin countries.

Allegations of abuses against indigenous peoples also implicate their rights under international law. The two most important international instruments on the rights of indigenous peoples are the International Labour Organization (ILO) *Convention No. 169 on Indigenous and Tribal Peoples* and the 2007 United Nations *Declaration on the Rights of Indigenous Peoples (UNDRIP)*, which although not a treaty has been generally accepted by states as setting benchmark standards in relation to indigenous rights. *UNDRIP* makes clear that the free, prior and informed consent (FPIC) of indigenous peoples is necessary before the adoption or implementation of any laws, policies or measures that may affect them, and in particular before the approval of any project affecting their lands, territories or resources, including the extraction or exploitation of mineral, water or other resources.

WWF's responsibility to respect human rights

The United Nations *Guiding Principles on Business and Human Rights* (the *UN Guiding Principles*) are not legally binding but provide valuable guidance for the implementation of WWF's human rights commitments. Although the *UN Guiding Principles* were developed in the context of business enterprises, they are also applicable to WWF and other international conservation organisations.

The foundational principle of the responsibility to respect human rights, as set out in the *UN Guiding Principles*, is that enterprises "should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved." The responsibility to respect human rights requires international conservation organisations:

- (a) to avoid causing or contributing to adverse human rights impacts through their own activities, and to address such impacts when they occur; and
- (b) to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their relationships, even if they have not contributed to those impacts.

The rights to be respected include those set out in the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*, but the scope of the *UN Guiding Principles* extends to

all internationally recognised human rights, including the rights of indigenous peoples and local communities.

The actions that WWF should take in response to potential or actual human rights impacts depend on whether it causes, contributes to, or is directly linked to those impacts. If WWF causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. If WWF contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution, and use its leverage to mitigate any remaining impact to the greatest extent possible. If WWF has not contributed to an adverse human rights impact, but its relationship with another entity directly links its operations to the impact, the appropriate response will depend on a number of factors, including the severity of the adverse impacts.

WWF's overarching responsibility to respect human rights requires WWF to:

- (a) adopt a high-level policy commitment to meet its responsibility to respect human rights and to reflect this commitment in operational policies and procedures;
- (b) establish and implement a human rights due-diligence process;
- (c) provide for processes to enable the remediation of any adverse human rights impacts that WWF causes or to which it contributes; and
- (d) ensure that WWF safeguards the rights of the most vulnerable, including indigenous peoples and local communities, in relation to activities it carries out or supports.

WWF's human rights commitments often set higher standards than the laws and practices of countries in which it works. In such situations, WWF must nevertheless comply with its own commitments to respect human rights.

Protecting the rights of those who live closest to nature is not just required by human rights law; it is also often essential to ensure the protection of biodiversity. As WWF has recognised, respect for human rights is complementary, not contradictory, to the conservation of nature.

Country-specific Findings

The Panel examined the allegations in respect of each of the six countries covered by this report, and it has set out its findings in country-specific chapters (Chapters 4 to 9). Differences in the detail of the analyses conducted for each country reflect differences in the nature and complexity of the country situations. The Panel has made country-specific recommendations in each country chapter and recommendations directed to the WWF Network as a whole in Chapter 11.

Cameroon – Boumba Bek, Nki, and Lobéké National Parks

WWF Cameroon staff heard allegations of beatings and physical violence carried out by ecoguards in the parks in south-eastern Cameroon as early as 2008. WWF does not have a role in appointing or directing ecoguards, but it has continued to fund, support and collaborate with ecoguards in a variety of ways, including by providing equipment and material support, paying bonuses, and deciding whether to approve proposals for funded operations, including ecoguard patrols. Knowledge of allegations of abuse and continuing support for ecoguards are not by themselves necessarily contrary to human rights standards. The key issue is whether WWF has taken sufficient actions to prevent, respond to, and remedy alleged abuses in order to fulfil its responsibility to respect human rights.

Until recent years, WWF had not taken adequate steps to fulfil that responsibility. Before it developed an action plan in 2016, WWF Cameroon had not operationalised its human rights commitments in its work and ensured that it had the necessary capacity to implement them and to address any adverse impacts of its support for patrols. WWF Cameroon has taken positive steps since 2016 to address human rights issues, including by: commissioning independent reviews of human rights allegations; hiring a community coordinator with a mandate to focus on relations with indigenous peoples and local communities; building closer ties with local civil society organisations, the Ministry of Social Affairs and the National Commission on Human Rights and Freedoms in order to support indigenous rights; supporting efforts to negotiate and conclude Memorandums of Understanding (MOUs) on access rights for the Baka people to the protected areas in south-eastern Cameroon; and supporting a local complaint mechanism.

However, WWF still needs to do more to safeguard the human rights of indigenous peoples and local communities in and around the three national parks in that region, including by:

- (a) making clear to the government that adopting an ecoguard code of conduct and implementing it through a rapid response structure that incorporates appropriate sanctions are requirements for WWF continuing to provide support to the ecoguards;
- (b) making greater efforts to influence the government to recognise and protect the access rights of the Baka in the protected areas; and
- (c) regularly assessing and reporting on its progress towards implementation of the measures it is taking to address human rights.

WWF Cameroon states that it is developing a strategy to guide implementation of its social policies in conservation projects. It is critical that this strategy is developed and implemented in consultation with the indigenous peoples and local communities themselves.

Democratic Republic of Congo – Salonga National Park

WWF has worked in Salonga National Park since 2005. In August 2015, it entered into a co-management agreement with the Institut Congolais pour la Conservation de la Nature – ICCN, which has authority over national parks in the Democratic Republic of Congo (DRC). Under the co-management MOU, WWF DRC appointed the park director but ICCN has had direction of the ecoguards. WWF provided substantial technical and financial support to the ecoguards. Before WWF entered into the MOU, it was aware of the potential for human rights abuses by ecoguards, but it did not carefully assess the human rights risks or develop an effective plan to prevent and respond to abuses. In December 2016, WWF field staff reported allegations of human rights abuses to senior WWF DRC officials. WWF could and should have developed and implemented an appropriate response as quickly as possible after the allegations arose. Unfortunately, a decision by the WWF DRC Senior Management Team in March 2017 to investigate the allegations, and to initiate a study with a national NGO to investigate the relationship of the park with the local communities, was never implemented, apparently out of concern that doing so would meet with resistance from ICCN. A desire to avoid conflicts with the government cannot excuse WWF from complying with its responsibility to respect human rights.

The WWF donor National Organisations that were also engaged in the DRC through funding for Salonga, including WWF Germany and WWF US, should have shared responsibility with WWF DRC (and by extension WWF International) for ensuring that WWF human rights commitments were met in relation to the ecoguard and other park operations that they were supporting. The WWF Network, and WWF International in particular, had not embedded the

necessary institutional capacity or established clear lines of communication and responsibility on these issues, and WWF International did not have effective oversight of its Programme Office (WWF DRC).

After detailed allegations of abuse were raised by civil society organisations in 2018, WWF International took the lead in developing response measures, including by commissioning two investigations in 2019 that identified widespread allegations of extremely grave abuses by ecoguards and army personnel, including allegations of multiple murders, rapes, torture and beatings. WWF International adopted an action plan in April 2019, which included urging ICCN to approve and implement a code of conduct for ecoguards; ensuring that each ecoguard receives human rights training; improving measures for monitoring patrol missions; agreeing with ICCN on Standard Operational Procedures for investigating allegations and imposing disciplinary measures; referring identified cases to the authorities for prosecution; and setting up a complaint mechanism for local residents. As of July 2020, the training had been partially implemented, and some cases had been referred to the relevant military authorities but had not resulted in prosecution. The code of conduct had not been approved and the other listed elements of the plan had not been implemented.

WWF has not fulfilled its human rights commitments in relation to activities it supports in Salonga National Park. There are systemic problems in relation to the National Park and its ecoguards that are not easy to solve, some of which are beyond WWF's control. Nevertheless, to meet its responsibility to respect human rights, WWF must address these issues more consistently and effectively, including by:

- (a) establishing a monitoring system for ecoguard patrols;
- (b) introducing an effective complaint mechanism; and
- (c) ensuring that the park management institutes a procedure that provides for: suspension of ecoguards against whom credible allegations are raised; independent investigation of allegations; remedies to victims; and disciplinary punishments by the park management itself, including, as appropriate, suspension, termination and referral for criminal prosecution.

An underlying problem relates to restrictions on community access to the park for subsistence hunting, fishing, and gathering of non-timber forest products. Through its role in management of Salonga National Park and its engagement with ICCN, WWF should influence the planning and zoning of the area to clarify boundaries and establish zones of community access and use in and around the park, in order to reflect customary rights and to accommodate local needs.

A new MOU for Salonga National Park should clearly set out the respective roles and responsibilities of WWF and ICCN, including WWF's conditions and 'red lines' for continued provision of financial and technical support. WWF should make clear that it cannot continue to provide support for the ecoguards without effective mechanisms in place to monitor their behaviour, investigate allegations of abuse, and ensure appropriate disciplinary measures for confirmed cases of abuse.

Central African Republic – Dzanga Sangha Protected Area

Since the inception of the Dzanga Sangha Protected Area (DSPA) in 1989, it has been co-managed by WWF and the government of the Central African Republic (CAR). The ecoguards who operate in the DSPA are employed and managed by the government. WWF manages the logistics, financing and training needs of the ecoguards but does not exercise

any control over their daily activities. The allegations in respect of CAR were distinct from those made in respect of the other countries in that they did not relate to specific incidents of alleged abuse against particular persons.

It was alleged that WWF CAR helped ecoguards purchase weapons from the army and concealed the purchase from donors. The Panel found no evidence that WWF CAR provided or procured arms for the ecoguards. It was clear that WWF's policies prohibit the organisation from providing arms to ecoguards but it may have engaged in lobbying the Ministry of Water, Forests, Hunting and Fishing to ensure that ecoguards were properly equipped for anti-poaching activities.

In addition, it was alleged that WWF hired a private security firm, Maisha Consulting, to engage with the Seleka, a rebel group that was alleged to have committed human rights abuses. The Panel found that WWF CAR engaged Maisha Consulting for the purpose of protecting DSPA in 2013, during a period of civil conflict, when the region was under the control of the Seleka. The Panel assesses that WWF's instruction of Maisha Consulting to safeguard the protected area was necessary in the circumstances. It was perfectly reasonable for WWF to arrange with a private security firm, able and willing to undertake this high-risk engagement, to enter the protected area and engage directly with the Seleka. This timely intervention by WWF CAR contributed to preserving the protected area and its wildlife, as well as saving the lives of WWF staff within DSPA. There were no human rights abuses for which WWF bears responsibility.

WWF's support for, and cooperation with, the independent Human Rights Centre (HRC) located in Bayanga is a positive example of a local mechanism to respond to grievances involving the DSPA, and more generally to provide access to justice and civic empowerment for members of marginalised communities living in and close to the DSPA. Between April 2016 and December 2019, the HRC handled some 40 grievances, of which five concerned ecoguards and one a DSPA driver. The Panel believes that the HRC makes a valuable contribution to inclusive conservation and offers potential lessons for WWF offices in other countries.

Republic of Congo – Messok Dja

The eight WWF staff members in the Republic of Congo (ROC) have operated as an extension of the Gabon Programme Office, under the management authority of WWF International. In 2005, WWF began working with the ROC government on a joint conservation programme known as Espace TRIDOM Interzone Congo (ETIC), which is managed jointly by a government official and a WWF technical advisor. ETIC ecoguards are directed by the government coordinator, and WWF provides support through salaries, bonuses and equipment. ETIC ecoguards operate in the vicinity of Messok Dja, a forested area on the border with Cameroon that is currently covered by two long-term commercial logging concessions. The government recognised Messok Dja as a potential site for a protected area in 2011, and WWF has supported that proposal.

From at least 2016, WWF has heard of allegations of human rights abuses by ecoguards in the ETIC/Messok Dja area. WWF should have carefully considered and addressed human rights issues, including through local consultation, before it signed a new ETIC agreement in February 2016. Doing so would have enabled WWF to include provisions in the agreement making clear its standards on human rights, including the expected standards for ecoguards and the consequences for failure to comply with those standards.

WWF ROC has taken steps since 2018 to try to prevent and address alleged abuses, including by: hiring a community conservation advisor; supporting human rights training; drafting a code of conduct for ecoguards; instituting a system of observers on ecoguard patrols; and developing a complaint mechanism. For the most part, these steps have been initiated and carried out by the local WWF staff and ETIC without clear guidance from WWF International or donor offices on how to comply with WWF's human rights commitments. WWF International and the WWF National Organisations working in Messok Dja need to provide greater support to the WWF staff in ROC in order to take a number of additional steps, including:

- (a) making clear that adoption and effective implementation of the code of conduct are prerequisites for WWF's continuing support to the ecoguards;
- (b) ensuring appropriate investigation of allegations and sanctions for misconduct;
- (c) working towards a revised MOU that fully reflects WWF's human rights commitments as a prerequisite for continuing its partnership with the government;
- (d) improving the complaint mechanism by providing for independent review of allegations; and
- (e) doing more to involve local communities in the development and implementation of conservation strategies.

An FPIC process with indigenous peoples and local communities should have begun as soon as the proposal for a protected area in Messok Dja was first raised, but WWF did not start to engage with the affected communities until 2017. At this point, local staff tried with some creativity to develop a meaningful FPIC process. Nevertheless, because they misunderstood basic aspects of indigenous rights and the FPIC process, the effort did not comply with international human rights norms or WWF's own commitments. The responsibility for this must rest with WWF International, which had given insufficient guidance to WWF ROC on how to carry out a proper FPIC process. The Panel emphasises that Messok Dja is currently subject to logging concessions and mining exploration permits that place the indigenous people and local communities, as well as ecosystems, at risk. While WWF will no longer be responsible for the FPIC process, the Panel strongly encourages WWF to work together with indigenous peoples and local communities in this challenging environment, in order to protect both biodiversity and human rights.

Nepal – Chitwan National Park

Most of WWF's work in Nepal takes place outside protected areas, working with the Forestry Department and communities in the buffer zones around national parks. Park rangers are government employees. Army personnel are also employed for law enforcement within Chitwan and Bardiya National Parks. WWF Nepal has no management authority or responsibility for national park rangers or army personnel. Nor does it provide them salaries or bonuses, which are paid by the government. WWF provides technical and financial support to rangers, through the government, in the form of training, food, bicycles, jeeps, cameras and a real-time monitoring system.

WWF Nepal does not appear to have been aware of the majority of human rights abuses alleged to have been committed in and around Chitwan and Bardiya National Parks between 2006 and 2016. There is no formal mechanism in place for WWF to be informed of alleged abuses during anti-poaching missions. Where it became aware of alleged incidents, WWF Nepal adopted the attitude that any allegation relating to the government or the armed forces was a matter for the government to address, and it does not appear to have referred concerns to WWF US (the Home Office for WWF Nepal).

WWF US should have provided additional guidance and support. For example, there is a need to ensure that WWF US and WWF Nepal staff are clear about how to identify incidents of alleged human rights abuse and how best to respond to them. It was unclear where WWF US or WWF Nepal's 'red lines' were in terms of the support WWF provides to the government. Steps should be taken to ensure that compliance with social policies is audited, both at WWF country office level and in respect of work with its partners. In addition, WWF Nepal should put in place a formal mechanism to ensure that allegations of human rights abuses made against rangers and/or the armed forces in areas where WWF works are brought to its attention. WWF should take such steps as are necessary to satisfy itself that the complaints have been adequately addressed.

WWF Nepal is committed to working with local communities and indigenous peoples to help mitigate the restrictions on livelihoods that result from the designation and management of protected areas through the provision of alternative livelihood options. WWF Nepal should advocate for reforms to end exclusion of marginalised communities and groups from buffer zone management bodies, and use its best efforts to ensure that current conservation actions and institutions represent and benefit all members of the communities. WWF Nepal should have an independent mechanism for reviewing and considering all complaints, including those against park rangers and army personnel and those in respect of indigenous peoples' rights and their access to local resources. It is encouraging that WWF Nepal raised concerns with the government and has suspended funding to Chitwan National Park for ranger training and field equipment pending the outcomes of ongoing investigations into the beating and death of a Chepang youth and the forced removal of Chepang families in July 2020.

India – Kaziranga National Park

With regard to assessing WWF's responsibility in connection with alleged human rights abuses in and around Kaziranga National Park, the Panel notes that: WWF India has no role in managing the Park; it has limited access to the park and does not participate in law enforcement patrols; and it does not provide salaries or bonuses to park rangers. It has provided equipment such as boots, winter jackets, evidence kits for testing of animal DNA, vehicles and night-vision monoculars for monitoring animals. The Panel finds that in the overall context of WWF India's mandate, its support for the State Forest Departments has been measured and appropriate for conservation work.

The Panel does not adopt a position on the circumstances of the shootings of alleged poachers in Kaziranga, whether unjustified or not, or whether the subsequent responses and investigations by the government were adequate or not. That is well beyond the scope of this Review, which is focused on WWF. Indian law should not be construed as authorising a 'shoot on sight' policy, and WWF has never taken a position in favour of such a policy. However, where WWF's commitment to the rule of law is assailed by association or implication, it should assert its own principled position of respect for human rights and the rule of law by making clear that it would oppose any such policy.

WWF India has recognised the need to have clear internal guidelines on what staff should do when they learn about alleged incidents of human rights abuse. They are to follow up with the government and ensure that the allegations are being properly addressed. The WWF India Grievance Redressal and Complaints Resolution Process is a good start. It includes, for the first time, a commitment to assist affected persons to access relevant grievance redressal systems in order to get their complaints addressed. While WWF India considers that, as a non-governmental conservation organisation, its mandate, capacity and

expertise to address and redress human rights abuses committed by Forest Departments are limited, the Panel encourages WWF India to do more both to empower local communities and to make them more aware of their rights.

WWF International and the WWF Network

The Panel found that WWF's implementation of its social policies and human rights commitments has been inconsistent in the countries of concern to this report, and especially weak in the Congo Basin countries. From the country reviews it is apparent that some WWF Programme Offices have been more successful than others in implementing WWF's social policies, responding to alleged abuses committed by state partners, and establishing practices and mechanisms to address and prevent further abuses.

The responsibility for ensuring that WWF Programme Offices implement social policies and human rights commitments rests primarily with the Home Offices responsible for the Programme Offices, and ultimately with WWF as a whole. For the four Congo Basin countries, the responsible office is WWF International, whilst for WWF Nepal the responsible office is WWF US. In practice, however, the responsibility for implementation and monitoring of the social policies is shared between WWF International, the National Organisations and Programme Offices implementing WWF projects, and the donor National Organisations transferring funds to support those projects. These distributed obligations have tended to obscure clear lines of responsibility and accountability so that implementation of social policies – including human rights commitments – has been inconsistent and, in many respects, ineffective during the period covered by this report. The situation also has been characterised by lack of sufficient funding and appropriate expertise.

In 2010, WWF adopted a document entitled *Social Dimensions of Conservation and Natural Resource Management: WWF's Principles, Policies and Implementation Framework*, which summarised WWF social policies and set out principles that WWF considered fundamental to successful integration of social dimensions in WWF's projects and programmes. These included the establishment of accountability measures, including audits, complaint mechanisms, and the monitoring of compliance with social policies by third parties implementing activities under WWF's responsibility.

The *Framework* set out five elements that together were intended to provide the basis for effective social policy implementation. These were:

- involvement of the WWF Social Development for Conservation (SD4C) network;
- recognition of the need to strengthen capacity, skills and knowledge within the WWF Network to implement and monitor the implementation of social policies;
- integration of social policy principles in the design, implementation and monitoring of WWF programmes;
- establishment of accountability measures, including processes to monitor and evaluate compliance with the social policies, and procedures to receive and resolve complaints; and
- effective communication, both internally and externally, and the application of policy principles in partnerships with governments, donors and the private sector.

While on paper this was, and is, an effective framework and plan for the implementation of WWF's social policies, in practice more needed to be done to implement it. SD4C may have

been effective in some country programmes but, as far as the Panel can judge, support for SD4C has been patchy and inconsistent. The SD4C network is comprised of WWF staff who have taken on this role in addition to their regular work and responsibilities at the country level, but without authority (or resources) to enforce implementation of social policies in national programmes. The Programme Offices in the Central African Republic and the Democratic Republic of Congo had no SD4C focal point. Moreover, WWF staff have widely varying degrees of awareness and understanding of the WWF social policies, and Programme Offices often did not have the appropriate staff expertise to adequately implement social policies.

In addition to committing greater resources to capacity building and implementation through its own offices, another mechanism to promote more effective implementation of social policies would have been to ensure that the partners with whom WWF worked were also committed to their application. While this is true of some of the organisations that WWF collaborated with on community development projects, the picture with state partners is more complex. In many of the states where WWF works, WWF's policies on human rights and the rights of indigenous peoples and local communities embody higher standards than those applied in national practice. In respect of those jurisdictions relevant to this review, WWF International has agreements and MOUs with state partners to support conservation work in national parks and other protected areas. None of the agreements and MOUs established in the period covered by this report contain provisions relating to the state agencies' responsibilities in relation to human rights or the rights of indigenous people, or to WWF's own human rights commitments.

Prior to 2018 the practice around risk assessments for new initiatives or renewals of project agreements and MOUs seems to have been inconsistent and highly variable across both WWF International and the Network as a whole. Some risk assessments were undertaken for new projects, but there was no uniformity around this issue. What steps, if any, were taken to mitigate risks depended on the individual project.

Responsibility for implementation

The complex inter-relationships between WWF International, WWF donor National Organisations, the Programme Offices, and the government entities with which they dealt created difficulties and confusion when it came to accountability for monitoring implementation of social policies and commitments.

The main WWF drivers behind many of the Congo Basin projects were WWF National Organisations, particularly WWF Germany, WWF US and the other members of the country-specific WWF stakeholder groups that were mobilising project funding from major bilateral and multilateral donors. Given the key role that these WWF donor National Organisations were playing, they clearly had a responsibility, along with the WWF Regional Office for Africa and the country Programme Offices, to ensure compliance with Network social policies in project design, implementation, monitoring and reporting. Yet none of the reviewed project agreements between a WWF donor National Organisation and the WWF country offices prior to 2019 imposed any requirement for human rights due diligence.

Neither WWF International and WWF US as Home Offices nor the WWF Network as a whole provided clear guidance to Programme Offices on how they should implement WWF's human rights commitments. For example, there were no Network-wide norms on law enforcement and rangers. As a result, each Programme Office was left on its own to develop – or not – codes of conduct, training materials, conditions for supporting rangers, and procedures for responding to allegations of abuse. Similarly, the Network did not provide

Programme Offices with clear guidance on how to implement WWF policies on FPIC, again leaving it to each Programme Office to develop FPIC procedures on its own. Challenges, good practices and lessons learned at each Programme Office were not effectively shared within the Network or monitored by WWF International.

It is also worth noting that where project funding comes originally from a major bilateral or multilateral donor through a WWF National Organisation, the project must also comply with the safeguard requirements of those donors, and those partners may also play a role in monitoring project implementation. It is surprising, therefore, that major donors were also slow to respond to complaints about human rights abuses in projects that they were supporting, especially since in some cases those donors were represented on project steering committees or received information about allegations of abuse directly from Programme Offices. It appears that major multilateral and bilateral donors cascaded their responsibilities and accountability for effective safeguards through the National Organisation down to the level of the Programme Office, even though there may not have been adequate resources in the project budget for achieving compliance with best-practice standards.

Lack of structure to ensure effective implementation of ongoing projects

The Panel's review suggests that there has been a consistent pattern within WWF of identifying a problem, developing a policy, initiating a review and obtaining useful recommendations but then failing to follow up adequately. Even where local WWF initiatives have been put in place, they would have benefited from more support and guidance from WWF International and the Network. Moreover, more could have been done to share experiences and good practices so that Programme Offices could learn from one another.

WWF's main mechanism for communicating and embedding WWF social policy at a country level was supposed to be through the work of the SD4C community. The voluntary nature of SD4C, lack of training, and the absence of an SD4C focal point in some Programme Offices have meant that there has been insufficient attention to, and weak implementation of, social policies in some countries. The lack of authority of SD4C focal points has also meant that compliance with social policies in a country depends very much on the commitment and support of individual WWF Country Directors. It is clear that WWF needs to build better social policy expertise into its programmes and to strengthen mechanisms to ensure compliance and accountability for its social policies.

Another mechanism to ensure compliance with social policy is high-level attention to implementation. In 2017 WWF's International Board began to pay greater attention to the risks associated with failure to adequately implement WWF social policies. As part of a new Assurance Framework, WWF International developed two risk registers – one for WWF International and one for the Network. The WWF International Risk Register was intended to capture all risk areas, and the Network Risk Register was to identify risks arising from allegations of human rights abuses.

In January 2018, the Audit Committee of the International Board became the Audit, Risk and Compliance Committee (ARCC). Also in January 2018, the ARCC first expressly considered allegations of WWF association with human rights abuses. Subsequently at its quarterly meetings, ARCC has received a confidential annex setting out all complaints received and action taken. The internal audit function of the Programme Offices is also being strengthened. However, there is still no effective structure to enable the audit function to monitor implementation and compliance with social policies. It is clear that at ground level in Programme Offices, and within WWF International, there continues to be a serious lack

of expertise and capacity to monitor and ensure compliance with social policies. This needs to be remedied going forward.

Implementation of complaint systems

The 2010 *Social Dimensions Framework* document stated that the successful integration of social policy commitments in WWF programmes would depend, amongst other matters, on the establishment of “effective, accessible and transparent procedures to receive and solve complaints”.

The Project Complaints Resolution Process (PCRP) launched in January 2016 was intended to be applicable across the Network and to function separately from any domestic grievance mechanisms. However, there was little progress in uptake and implementation of the PCRP on the ground, and by the end of 2017 it had received no complaints.

In 2017, the commercial Expolink whistleblower hotline, originally established as an internal mechanism to monitor WWF staff conduct, was extended to accept complaints from external parties about human rights abuses and failures to respect indigenous peoples’ rights associated with WWF activities. In practice, most indigenous people and local communities were unable to access the Expolink hotline as it required telephone or email contact and was not widely publicised. Complaints made through Expolink appear to have been from international NGOs acting on behalf of people close to protected areas where WWF was active.

With regard to investigating complaints, it is worth noting that the UN *Guiding Principles on Business and Human Rights* indicate that it is not appropriate for organisations to self-investigate complaints of human rights allegations made against them, or in relation to their activities. In the absence of an effective global complaint mechanism, WWF Programme Offices have developed functioning local complaint mechanisms for the Dzanga-Sangha Protected Area in the Central African Republic, the Lobéké and Boumba-Bek National Parks in Cameroon and the Messok Dja area of the Republic of Congo. The Panel noted the value of local mechanisms operated by independent civil society organisations – a model that could be replicated elsewhere. While these mechanisms are well-established, sustainable funding is a challenge for each of them. WWF Nepal’s Projects Complaints Resolution Mechanism, which has been in place since February 2018, is an online system not easily accessible to most local communities. WWF India has a *Grievance and Redressal and Complaints Resolution Process* which is being updated to include a commitment to assist affected persons to approach the relevant government grievance redressal system. In the DRC, WWF has yet to establish a local complaint mechanism for Salonga National Park.

Use of informants

The BuzzFeed News articles alleged that WWF organises, finances and sometimes runs informant networks within indigenous and local communities to provide protected area officials with intelligence.

Support for the use of informants does not seem to be regular practice across all WWF programmes, but was provided in some of the countries covered in this report. Indeed, it would be surprising if government agencies engaged in law enforcement and anti-poaching activities did not rely on information networks to improve the effectiveness of their operations. Nonetheless, the Panel has found no evidence that WWF offices have taken on the role of establishing or running informant networks.

WWF communications

WWF publishes a wealth of material on conservation success stories, including its activities that benefit local communities as well as protect endangered wildlife. In doing so, WWF needs to be careful not to create unrealistic expectations about what it should and can do in relation to supporting the livelihoods of communities living in and around protected areas. It should also be more forthcoming about the challenges it faces working in landscapes in fragile or conflict or violence affected regions with weak governance and rule of law and be more transparent about how it responds when faced with allegations of human rights abuses associated with activities that it supports.

Internally, WWF's focus on promoting 'good news' seems to have led to a culture in which Programme Offices have been unwilling to share or escalate the full extent of their knowledge about allegations of human rights abuses because of concern about scaring off donors or offending state partners. WWF at all levels should be more transparent both internally and externally about the challenges it faces in promoting conservation and respecting human rights. Equally important, it must be more forthright about the effectiveness, or lack of effectiveness, of its efforts to overcome those challenges.

Actions Taken by WWF Since 2019

Since 2019, WWF has made a concerted effort and substantial investment to put in place more consistent and rigorous safeguards and quality assurance measures across the Network to strengthen the implementation of social policies and attention to human rights. This involves a stronger oversight role and increased responsibilities for WWF International in supporting compliance with new safeguards, and a more consistent project review process across the Network. If these new measures are to succeed, it is critical that WWF ensures that there is the necessary expertise and capacity within WWF International, WWF US and other National Organisations and Programme Offices, as well as adequate sustainable funding to deliver effective implementation and monitoring on the ground, including through training for partner organisations.

WWF Environmental and Social Safeguards Framework (2019)

In June 2019, WWF adopted the *Environmental and Social Safeguards Framework* (ESSF), to be applied across the Network to make WWF's social and environmental policies fully operational and to provide an institutional mechanism to manage the social and environmental risks of projects. The core components of the ESSF are ten safeguard standards, a safeguards screening tool (SST), a planned multi-tiered grievance mechanism, and a new protocol to escalate complaints from field level to WWF senior management and relevant boards. The ESSF is managed by WWF International, thereby giving it greater oversight responsibility for safeguards across the Network. WWF Programme Offices and National Organisations are responsible for applying in-country safeguards in the landscapes and seascapes where WWF investments are made.

The SST is designed to help identify likely risks associated with proposed activities at the landscape or seascape level where WWF works. Screening criteria relate to environmental and social impacts, including human rights considerations, effects on indigenous peoples and local communities, as well as gender and labour criteria. Where risks are identified, a mitigation framework must be developed at the landscape or seascape level against which new projects in those areas can be assessed and mitigation measures applied to address any identified risk. The SST provides a snapshot in time. The mitigation framework is meant to be a living document responding to risks and changing situations.

The introduction of the ESSF is a major step forward in ensuring a consistent and coordinated approach on safeguards across the Network, thereby ensuring better compliance with human rights and other social policy commitments. With the ESSF, all National Organisations, including WWF US, and WWF International are now obliged to screen their projects against the same safeguard standards. Most importantly, there are now clearer roles and responsibilities at all levels of the organisation, with WWF International assuming an enhanced oversight role on safeguards standards and processes.

Since the ESSF is only now being put in place, it is premature to assess its effectiveness. It will be important to ensure that the ESSF is strengthened, on the basis of consultation with interested stakeholders, to incorporate and be fully consistent with the sometimes higher standards set out in the social policies already adopted by WWF. Given that most allegations of human rights abuses happen during project implementation, the ESSF standards also need to be applied carefully to individual projects as well as landscapes.

WWF has already made a substantial investment in establishing a Safeguards Unit in WWF International and in rolling out the ESSF across the Network. Since responsibility and accountability remain at the Programme Office and National Organisation levels, it is clear that it will be essential for WWF to make a similar major investment in the skills base, capacity and support for country offices and in-country partners, and to convince donors of the need to allocate adequate resources for such support within project budgets.

Quality assurance

In addition to the ESSF, WWF has introduced additional quality assurance measures. In early 2020, WWF International introduced a new internal Quality Assurance Committee to review compliance with applicable policies of all concepts and project proposals put forward by Programme Offices overseen by WWF International that are over a certain monetary value or meet specified risk criteria. WWF US and other WWF National Organisations will similarly review projects under their authority. At the Network level, the Conservation Quality Committee (CQC) will review, advise on, and sign off on high-risk projects, and it will escalate urgent matters or cases of disagreement to the Network Executive Team, the Audit, Risk and Compliance Committee, or the International Board for further review.

A *Network Risk Management and Quality Assurance Standard*, approved by the International Board in July 2020, provides a common framework to address all risks including social, financial, legal and partnership.

Accountability and grievance mechanisms

WWF has committed to establishing an integrated complaint system, incorporating both country-level and landscape- or seascape-level grievance mechanisms, as well as an escalation process so that serious complaints at field level can be escalated to the most senior levels of WWF management and governance. WWF is in the process of setting up an independent monitoring and review function through a new Ombudsperson Office to complement, but not replace, existing WWF grievance mechanisms at the country office or landscape, seascape or project level. The Ombudsperson Office will be independent of WWF International line management and will report directly to the WWF International Board. It is foreseen that resolution of grievances that cannot be addressed at the project or country level may be escalated to the Ombudsperson Office.

It is expected that once the Ombudsperson is appointed, he or she will have the licence to evolve the scope and remit of the Office. The new independent monitoring and review function led by the Ombudsperson is seen as a key feature of the new ESSF system.

Other initiatives to improve respect for human rights

Addressing human rights issues in projects where WWF supports law enforcement and anti-poaching activities through state agencies in situations of weak governance and even civil conflict remains a particular challenge for the organisation. WWF International, donor National Organisations and Programme Offices have all individually attempted to address human rights concerns through measures such as training for ecoguards, development of codes of conduct, and local grievance mechanisms. Welcome though they are, these efforts have been *ad hoc* and uncoordinated and would have benefited from greater guidance and financial and expert support.

WWF is currently developing operational guidance for its support for law enforcement and anti-poaching activities in government-managed protected areas. It is complementary to other WWF initiatives for ranger capacity development, including WWF's work through the Universal Ranger Support Alliance, which calls for the development of a new global code of ethics and conduct for rangers.

Conclusions and Recommendations

Many of the landscapes in which WWF works pose enormous challenges in terms of governance and the rule of law. They include important ecosystems and some of the most marginalised human populations. Many projects come with high risk but also the potential for high conservation gain. WWF's social policies have long recognised that respect for the human rights of indigenous peoples and local communities is key to sustainable conservation of biodiversity. Sustainable conservation of biodiversity is also integral to the welfare of indigenous peoples and local communities.

Through its social policies, WWF has made strong commitments to human rights. Although these commitments have some gaps in respect of rangers and law enforcement, they generally provide a sturdy framework for fulfilling WWF's overarching responsibility to respect human rights. However, implementation of the commitments has often been weak, at least in part because of lack of adequate resources and expertise. It is encouraging that since 2019 WWF has made a serious effort to address some of these shortcomings with new safeguards and quality assurance processes. Since many of these measures are new – or still to be put in place – it will be important to monitor and assess how effective they are in addressing and mitigating human rights concerns. WWF will continue to be judged on how well it lives up to the high standards it has set for itself.

The Panel's recommendations are aimed at embedding human rights commitments throughout the WWF Network, in particular by building WWF's capacity to implement its responsibility to respect human rights. Recommendations specific to the individual country reviews are included at the end of Chapters 4 to 9. Detailed recommendations directed to the WWF Network as a whole are contained in Chapter 11. The following summarises the principal elements of these Network-wide recommendations.

1. Integrate WWF's human rights commitments

WWF should integrate all of its human rights commitments into a single, easily accessible document. WWF's stated commitments to human rights are generally strong, but they have been adopted in different social policies at different times, in different formats. The proliferation of statements makes it difficult for WWF staff, partners and others to understand exactly what WWF's human rights commitments are.

The new document would not supersede all existing social policies, many of which do more than state human rights commitments, and it should certainly not weaken any of WWF's commitments. The new statement should reflect the current state of human rights norms and best practices, including the UN *Guiding Principles on Business and Human Rights*.

WWF should ensure that its human rights commitments are embedded throughout the Network.

2. Incorporate human rights commitments in WWF's agreements with governments and other partners

Through the *Conservation and Human Rights Framework*, WWF committed to applying its human rights policies and principles in its agreements with its partners, including by incorporating appropriate provisions on compliance with the policies and principles in subcontracts and partnership agreements. WWF should include clear statements of its human rights commitments in all of its country and management agreements with governments and other partners.

3. Adopt and embed WWF's human rights commitments in relation to law enforcement

Many human rights allegations have arisen because of WWF support for law enforcement and anti-poaching activities in and around protected areas. Agreements with governments contemplating support for law enforcement should reflect WWF's commitments and conditions regarding such support and clearly set out the corresponding commitments of the government.

Agreements between WWF and governments should establish human rights standards for rangers and other law enforcement agents that are at least as stringent as international norms.

WWF should develop a standard Code of Conduct for rangers, which should be consistent across all WWF programmes. WWF support to rangers should be tied to compliance with the Code of Conduct, which should be public and disseminated to indigenous peoples and local communities in their own languages.

When providing support for law enforcement activities in protected areas, WWF should ensure that there are effective systems of monitoring and enforcing human rights standards in place, including due diligence procedures for hiring, training and disciplining rangers.

4. Increase WWF's institutional expertise and capacity on human rights compliance

To fulfil its obligations to human rights WWF will require a substantial investment in building capacity at headquarters, home office and country level to effectively implement its human rights commitments.

The International Board should review its membership and ensure that at least one member is a representative of indigenous peoples, and at least one member has expertise in human rights. This may require recruitment of additional external members.

WWF International should appoint a Director of Human Rights Commitments and Compliance (HRCC), who would be part of the Senior Management Team and report directly to the Director General. The HRCC Director would have the direct responsibility for ensuring that Programme Offices under the authority of WWF International understand and implement

WWF human rights commitments, as well as the overall responsibility for ensuring that other offices throughout the Network understand and implement WWF human rights commitments.

WWF National Organisations and Programme Offices should each appoint or designate an individual with responsibility to ensure that the office fulfils its due diligence and other human rights commitments, and who has the necessary expertise and support.

5. Establish and implement human rights due diligence processes

WWF should clarify and institutionalise the steps required for its human rights due diligence process, including: (a) assessing all actual and potential human rights impacts of its proposed initiatives; (b) consulting with those who may be affected and taking into account their views; (c) ensuring action plans effectively address the human rights impacts identified; and (d) monitoring and evaluating implementation of the plans. WWF should encourage dissemination of lessons learned and good practice across the Network.

6. Ensure compliance with commitments relating to indigenous peoples and local communities (IPLCs)

WWF must take more concrete steps to fulfil the commitments in its 2008 *Statement of Principles on Indigenous Peoples and Conservation* and its 2018 *Network Guidelines on Prevention of Restriction of Rights and Involuntary Relocation and Resettlement of Indigenous Peoples and Local Communities* in each landscape or seascape where its activities may affect the rights of indigenous peoples and/or local communities (IPLCs).

WWF National Organisations and Programme Offices should engage with, and where possible employ, indigenous people and members of local communities, especially in relation to conservation and protected area management.

In relation to protected areas in which customary rights of access and use existed historically but are not currently respected in law or practice, WWF should work with the authorities, the IPLCs and other stakeholders to promote and support mitigation measures and develop a plan of action that describes the measures and the arrangements for implementation.

WWF International should identify an IPLC Coordinator, who has a mandate to develop and disseminate detailed guidance to all WWF offices on free, prior and informed consent (FPIC) procedures, implementation of WWF commitments on IPLCs, and mainstreaming IPLC issues into the human rights due diligence process.

7. Establish effective complaint mechanisms

WWF should provide for complaint mechanisms at the level of individual countries and at the level of the Network.

Financing for complaint mechanisms, including those serviced by independent civil society organisations, should routinely be sought as part of the financing for WWF landscape and seascape programmes and built into regular project budgets.

The Panel supports the creation of the Ombudsperson Office as long as: (a) it has the authority to monitor the effectiveness of the country-level complaint mechanisms, to receive and investigate complaints that are not resolved by those mechanisms, and to provide redress or recommend other appropriate remedies; and (b) it is given sufficient resources to fulfil its mandate. WWF should commit to implementing the recommendations of the Ombudsperson that are directed to it.

8. Be more transparent

An important aspect of the human rights due diligence process is communicating how potential and actual human rights impacts are being addressed. Such communications should not be seen as an exercise in public relations or an effort to insulate WWF from criticism. WWF must report honestly and transparently not only its progress in achieving compliance with its commitments, but also the challenges it faces and where it has not been able to meet its goals.

9. Mainstream costs of effective human rights compliance into funding

The failure of WWF to fully implement its human rights commitments in the past has been due in large part to a lack of resources within programme and project budgets to engage appropriate expertise, and build capacity to implement and monitor human rights compliance. Donors must recognise that it is no longer acceptable to fund conservation programmes without including adequate and sustainable funding for implementation and monitoring of corresponding human rights commitments.

For WWF to meet its human rights commitments, it is often necessary for it to try to persuade governments to do more to fulfil their own international obligations. WWF International, National Organisations, and especially major external bilateral and multilateral donors, have much greater leverage than local WWF offices to promote governmental compliance with human rights obligations. These actors have a responsibility to use their leverage to support the local WWF offices by raising concerns over human rights issues directly with the governments themselves and providing political as well as financial support for implementation of WWF's human rights commitments.

10. Follow up in two years

The WWF International Board should commit now to appointing an independent expert or body (other than the members of this Panel) to review, and report publicly on, the implementation of these recommendations by the end of 2022.



CHAPTER 1

INTRODUCTION

On 4 March 2019, the World Wide Fund For Nature (WWF) announced that it was commissioning an independent review to look into cases linking WWF to alleged human rights abuses raised in an article of the same date published by BuzzFeed News. That article was the first of a series of BuzzFeed articles setting out allegations of WWF involvement with human rights abuses in Cameroon, the Central African Republic, the Democratic Republic of Congo, India, Nepal and the Republic of Congo. In parallel, on 3 March 2019, the Kathmandu Post published an article containing allegations related primarily to WWF's work in Nepal, with passing references to alleged abuses in India, Cameroon and the Central African Republic. The current report focuses on allegations in articles published in March and April 2019. The allegations relate primarily to actions by government rangers¹ and military personnel employed in law enforcement and anti-poaching operations in national parks and other protected areas that receive support from WWF.

A document entitled *Statement of Objectives – Independent panel of experts – WWF Independent review* published by WWF on 22 March 2019 and updated on 23 July 2019² provided that an independent panel of experts (hereafter the Panel) would lead an independent review of the allegations. On 8 April 2019, WWF announced that former United Nations High Commissioner for Human Rights, Judge Navi Pillay had accepted to chair the Panel, and on 29 April, Professor John Knox, the first United Nations Special Rapporteur on human rights and the environment, and Dr Kathy MacKinnon, Chair of the IUCN World Commission on Protected Areas, confirmed their participation in the Panel.

The Panel's Mission, as set out in the updated (July 2019) *Statement of Objectives of the Independent Review and Terms of Reference of the Independent Panel of Experts* (hereafter the *Statement of Objectives*), was to:

- review, examine and assess WWF's role in connection with the Allegations [in the series of articles by BuzzFeed News and the Kathmandu Post];
- propose to WWF suitable measures, procedures and processes to prevent similar allegations and occurrences in the future, including a review and examination of the presence and effectiveness of WWF broader policies and procedures, project governance, and assurance and risk management processes in the context of the Allegations; and
- advise on future approaches to spatial conservation, based on the Panel's recognised collective expertise in human rights, development and conservation.

This report is submitted in fulfilment of the Panel's mandate.

Further to the *Statement of Objectives*, the Panel was assisted by a review team provided by Kingsley Napley LLP whose role was "to conduct a fact-finding of claims raised in the Allegations as well as related concerns, specifically in the context of WWF's role and

¹ The term 'rangers' includes 'ecoguards', which is the term used in the Congo Basin countries – Cameroon, the Central African Republic, the Democratic Republic of Congo and the Republic of Congo.

² https://wwfeu.awsassets.panda.org/downloads/statement_of_objectives_and_tors_final_and_approved_by_panel_july_19.pdf.

governance responses”. The review team was guided by and accountable solely to the Panel. The Panel and the review team examined a large volume of documents and other material, and conducted numerous interviews with current and former WWF staff from WWF Programme Offices, WWF International’s headquarters and Regional Office for Africa, and WWF National Organisations associated with WWF’s activities in the places where incidents of abuse were alleged to have taken place.

The Panel publicly invited submissions of information for consideration as part of the Independent Review. It had aimed to travel to locations where the abuses were alleged to have taken place and to meet with interested parties, but the Covid-19 pandemic prevented that. The Panel was nonetheless able to speak with many individuals and organisations by video-conference or telephone. The Panel wishes to thank the civil society organisations and others who made informative and helpful submissions, or otherwise contributed to the Independent Review.

WWF provided the Panel with access to all documentation that was requested either by the Panel or the review team. The Panel expresses its appreciation to WWF staff and former staff for their cooperation and readiness to respond to enquiries. The Panel also acknowledges the support that it received from the Chair and members of the *ad hoc* Subcommittee of WWF’s International Board designated as the Panel’s primary point of contact with the organisation.

The allegations of human rights abuses examined in this report include murder, rape, torture, physical beatings, unlawful arrest and detention, invasion of homes, and destruction and theft of personal property, all allegedly committed by protected area rangers and other law enforcement agents acting under the authority of governments in anti-poaching activities. In its review, the Panel did not seek to determine independently whether the alleged abuses by rangers and other law enforcement agents occurred. There were no allegations that WWF staff directed or participated in any of these alleged abuses, and the Panel saw no evidence that they had done so.

The Panel’s focus has been on the allegations against WWF, including in particular that it knew about the alleged abuses but continued to support and collaborate with rangers and other law enforcement agents, and that it failed to take effective steps to prevent, respond to and remedy the alleged abuses. In some cases, WWF was also accused of not respecting the rights of indigenous peoples in their traditional lands, territories and resources. This report provides the Panel’s factual findings in relation to the allegations against WWF and the Panel’s assessment of whether WWF’s actions were appropriate and consistent with its responsibility to respect human rights and its own human rights commitments.

A key challenge when dealing with the allegations against WWF is understanding in each case which WWF office or offices were involved. In Chapter 2, the Panel describes WWF’s complex organisational structure. Chapter 3 sets out the relevant human rights norms and WWF commitments. Chapters 4 through 9 address the allegations relating to each of the six countries: Cameroon, the Democratic Republic of Congo, Central African Republic, the Republic of the Congo, Nepal, and India. The degree of detail in each of the country chapters reflects the complexity of the situation in the country. Chapter 10 addresses the actions of WWF International and the Network as a whole. Chapter 11 provides the Panel’s recommendations to WWF International and the Network; country-specific recommendations are included in each country chapter.



CHAPTER 2

WWF STRUCTURE AND GOVERNANCE

WWF is one of the world's leading conservation organisations. It comprises a global network of organisations working under one brand. The diverse and complex structure and relationships within the WWF Network are relevant to understanding how WWF received and responded to allegations of human rights abuses committed by state agencies in and around protected areas that were supported by WWF.

2.1 Structure of the WWF Network

The WWF Network is the collective term used to describe all organisations around the world sharing the WWF name and symbol. The WWF Network comprises WWF International and 36 independent WWF National Organisations.

WWF International is based in Gland, Switzerland and operates as the coordinating office or Secretariat for the entire WWF Network.¹ WWF National Organisations are governed by their own independent National Boards and are able to raise funds and carry out work autonomously.² National Boards have ultimate responsibility for the policies, management and finances of each National Organisation. Each National Organisation has a CEO and a management team who are responsible for managing the business of the organisation, including strategy and policy implementation.³ National Organisations contribute to the costs of Network Services provided by the international Secretariat.⁴ The National Organisations of greatest relevance to this report are WWF US, WWF India and WWF Germany.

In addition, WWF International and WWF US are the legally responsible Home Offices for a number of Programme Offices, also known as Country Offices. WWF International acts as the Home Office for 31 Programme Offices, four of which are the subject of chapters of this report: WWF Cameroon, WWF Central African Republic (CAR), WWF Democratic Republic of Congo (DRC), and WWF Gabon – which managed WWF's activities in Republic of Congo (ROC) until 2020.⁵ WWF US is the Home Office for WWF Nepal, which is the subject of Chapter 8 of this report. Within each country, Field Offices are set up close to project sites. They report to the various Programme Offices and coordinate site conservation activities and programmes.

Relationships within the WWF Network are complex, with National Organisations existing as legally separate organisations, operating independently and responsible to their own boards. National Organisations can fundraise both for work in their own countries and for international projects that may come under the management authority of WWF International, WWF US or another WWF National Organisation. For instance, WWF Germany funds projects in Congo Basin countries through WWF International Programme Offices, and WWF UK supports work undertaken by WWF Nepal. Programme Offices can raise funds for their

¹ https://wwf.panda.org/wwf_offices/wwf_international/

² <https://wwf.panda.org/organization/>

³ Green Book (2017) [p.15].

⁴ WWF Network Governance and Decision Making, Working Document, May 2018.

⁵ The Panel will use the term Programme Office in this report.

own programmes but may also receive funding through WWF International or from donor National Organisations.

In order to operate a programme within a given state, WWF International and WWF US are required to come to an agreement with the national government. The agreement may be a 'country agreement' that applies to the whole country, or it may be specific to individual protected areas or other conservation initiatives. Currently there is no typical agreement, with arrangements varying from country to country. In respect of those jurisdictions relevant to this review, WWF has concluded Memorandums of Understanding (MOUs) in Cameroon, CAR, DRC, ROC and Nepal to operate as an international non-governmental organisation (NGO). WWF India is a National Organisation subject to national laws.

2.1.1 WWF International Board

The highest governing body of the WWF Network is the WWF International Board. The Board consists of 12 members and the International President, at least six of whom must be on the Boards of National Organisations, and at least three of whom must be external representatives. Currently the International Board includes the Presidents of the National Organisations in the USA, UK, Germany and The Netherlands – i.e. representatives of the main WWF donor National Organisations. The International Board's function is to set overall strategy and priorities that can be supported by the whole Network. The International Board establishes the management structure of WWF International, including the appointment of the Director General. It is ultimately responsible for the conduct, administration and representation of WWF International.

Neither the International Board nor the Secretariat has the authority to instruct the National Organisations, which are separate legal entities. Therefore, to be effective, the strategies and priorities set by the International Board have to be supported by the Network. The only legal sanction the International Board has over National Organisations is to remove the licence to use the Panda brand, but this has never happened. As a result, the adoption and implementation of Network-wide policies depend on mutual goodwill and shared vision.

One of the standing subcommittees of the International Board has been the International Audit Committee, which was renamed the Audit, Risk and Compliance Committee (ARCC) in January 2018. Over time, this Committee has assumed increasing responsibility for risk management and compliance, in addition to its traditional role concerning matters of financial governance. The ARCC meets quarterly and comprises a Chairperson and three standing Members. High-level Secretariat officers also attend its meetings.

2.1.2 The Network Executive Team

The Network Executive Team (NET) is a key governance body for the WWF Network and is composed of ten members: the Director General of WWF International, representatives of the top four National Organisation financial contributors to the Network, three members nominated by the regions, and two members elected by the Assembly (see below). Its role is to engage with CEOs across the Network and to act on behalf of the Network, including by making recommendations to the WWF International Board. It has responsibility, among other things, for developing proposals relating to strategy and policy, including Network Standards.

Two additional entities that sit at the top of WWF's structure are the WWF International Council and the Assembly. The Council consists of all Chairs or Presidents of the Boards of National Organisations and Associate Organisations. It is responsible for nominating

International Board members and for providing advice to the International Board. The Assembly consists of Network leaders and, like the Council, has an advisory function. The NET is advised by the Assembly, which raises emerging issues and opportunities, focusing on delivery against Network conservation goals and strategies. The Assembly informs and shapes the long-term agenda for the NET and elects two NET members.

2.2 WWF International Governance of its Programme Offices in Africa

The allegations reviewed in this report in relation to the Congo Basin span a period of approximately ten years from 2009 to 2019. During that time there were significant changes in the governance of WWF International in relation to management of its Programme Offices in Africa.

Since 2011 there have been two key shifts in governance that affected WWF International's level of oversight and supervision of the country programmes in Africa. First, the Truly Global agenda initiated by the then Director General in 2011 had as its cornerstone the empowerment of the Programme Offices in Africa and a move towards increasing their independence, with a view to their eventually becoming National Organisations in their own right. This ultimately did not come to pass, resulting in the second key shift in 2018, a renewed and enhanced level of oversight by WWF International as the Home Office.

2.2.1 Truly Global (2011–2015)

Prior to late 2014 and early 2015, WWF International activities in Africa were coordinated by two different regional bodies. The Central Africa Regional Programme Office (CARPO) had responsibility for managing the WWF International Programme Offices in Cameroon, Central African Republic (CAR), Democratic Republic of Congo (DRC), and Gabon which managed activities in Republic of Congo. The East and South Africa Regional Programme Office (ESARPO) had responsibility for managing the WWF International Programme Offices in Kenya, Uganda, Tanzania, Mozambique, Zambia, Zimbabwe, and other countries. These two regional bodies were considered Programme Offices in their own right and were responsible for managing the country-level Programme Offices that fell within their geographical remit. CARPO and ESARPO each reported to the Programme Office Management Unit (POMU) in WWF International, which in turn reported to the Executive Director for Conservation, who was the member of the WWF International Senior Management Team with overall responsibility for supervising the performance of all WWF International Programme Offices, including their financial performance.

The Programme Office Management Unit of WWF International was dissolved on 31 March 2014 and in July 2014 the two regional bodies (CARPO and ESARPO) were unified to become the new Regional Office for Africa (ROA) based in Nairobi, Kenya. Under the new arrangement, all the African Programme Offices reported to ROA, which in turn reported to WWF International. The Director of ROA from October 2013 until October 2019 was based in Nairobi. Within ROA, the Director Central Africa from April 2016 to September 2019 was based in Yaoundé, Cameroon with particular responsibility for the Congo Basin countries. WWF International maintained oversight for financial matters but other management aspects were delegated to the ROA team. One consequence of the reorganisation and changes to project funding was a reduction in the number of WWF technical support staff working regionally across the Congo Basin countries.

2.2.2 Change Agenda (2015–2017)

In April 2014 a new Director General took over at WWF International. Between late 2015 and 2017 he introduced a major reorganisation of WWF – the Change Agenda – with the aim of reducing complexity and making the organisation more efficient. The Change Agenda called for the WWF Network to transition to a ‘Practice’ based model focused on six major goals – forests, oceans, wildlife, food, climate and energy, and water – and three key drivers of environmental problems – markets, finance and governance. Each Practice was composed of WWF specialists and external partners. The new approach was designed to foster greater collaboration and innovation and to focus efforts across the Network towards achievement of the six global goals. By April 2017, all Practice Leaders had been appointed and by January 2018, all Practices were fully staffed. The reorganisation simplified lines of accountability through the Practices, a NET Executive Committee and a more empowered WWF International Board.

The Change Agenda involved a redesign of the International Secretariat with the intent to ensure stronger accountability, transparency and performance. The 2017 recruitment of a Chief Operating Officer (COO) was against this background. From 2017 the ROA Director reported to the COO.

2.2.3 Return to WWF International as the Home Office for Congo Basin Programme Offices (2019)

Part of the Change Agenda involved redesign of the Network’s governance structure and, from November 2016, the phasing in of the new Network Development Strategy. The intended effect of the roll-out of the strategy was originally to include reducing WWF International’s responsibilities as Home Office to its Regional Offices in Africa and Asia. However, by late 2018 it was realised that the Programme Offices, other than Kenya, were not in a position to become independent National Organisations, and the move towards autonomy that had been a cornerstone of Truly Global had not come to fruition. WWF International decided to resume a Home Office function and put the required operational management structure in place.

It is evident that the renewed need for WWF International to assume closer oversight and management of the Programme Offices presented challenges. There were immediate capacity needs as resources for staffing at WWF International had not been allocated, other than in a holding capacity whilst it was believed that the Programme Offices were on a pathway to becoming autonomous entities.

In order to increase capacity and to enhance oversight of the Programme Offices in Africa WWF International took the following steps:

- the establishment of a Country Leadership Group in February 2019 to help better manage and support the Programme Offices;
- collaboration with Programme Offices managed by WWF US “to bring better coherence and consistency over the Programme Office management function”; and
- from October 2019 the ROA was brought more directly under WWF International supervision and no longer had the status of an autonomous office able to sign contracts independently.

2.3 The Role of the Audit Committee in Risk Management and Compliance across the Network

The function and scope of the Audit Committee of the WWF International Board expanded from 2010 onwards in two major areas: risk management and compliance. In January 2018, the Audit Committee was renamed the Audit, Risk and Compliance Committee (ARCC).

2.3.1 Risk Management

In May 2011, the Audit Committee considered its first register of strategic risks, identifying the top institutional risks to the WWF Network. This register contained no risks associated with allegations of human rights abuses, failures to implement WWF social policies, or risks around the conduct of WWF partners or stakeholders in the regions in which it operates. Whilst reputational risk was identified as a factor, consideration was limited to inappropriate brand association.

It was not until 2017 that more attention was paid to the risks associated with failure to adequately implement WWF social policies. In April of that year, WWF International recognised that there were critical gaps in auditing implementation of WWF's social policies and accordingly presented a new Assurance Framework to the Audit Committee. Two risk registers – one for WWF International and one for the Network – were developed to capture key risks to achievement of WWF's strategic objectives. The revised WWF International Risk Register after August 2017 was intended to capture all risk areas, including strategic, operational, financial and compliance risks. One of the compliance risks identified on the WWF International Risk Register was the failure to design and implement adequate social policies, giving rise to both reputational risks and potential legal risks.

A Network Risk Register was slower to materialise. A draft Network Risk Register presented to the Audit Committee in January 2018 identified risks arising from allegations of human rights abuses as reflected in a failure to design and implement adequate social policy guidelines, and poor awareness and communication of social policy risks to Programme Offices. To avoid confusion between the two Risk Registers, the WWF International Senior Management Team (SMT) would be the owners of the WWF International Risk Register and the NET would own the Network Risk Register. Maintenance of the two risk registers was considered as one of the cornerstones of the Assurance Framework.

The focus on risk management was consolidated into a Risk Management Framework presented to the ARCC in April 2018. The Framework adopted the 'Three Lines of Defence' model, which distinguished between three functional groups within WWF that are involved in effective internal control and risk management: the functions that own and manage risk; the functions that exercise oversight over risk; and the functions that provide independent assurance. As of September 2020, there was no effective structure to provide an audit function that monitors implementation of social policies in practice.

Since 2018 WWF International and the Network have instituted a number of other operational measures to improve quality assurance and compliance, and ensure better attention to social policy implementation, including with regard to human rights matters. Additionally, two committees for quality assurance were also established in late 2019 and early 2020: an internal Quality Assurance Committee to review WWF International projects, and a Conservation Quality Committee (CQC), which is a WWF Network committee reporting to the NET on all high-risk projects. The CQC terms of reference require it to review, advise on, and sign off high-risk projects and to escalate urgent matters or cases of disagreement to the NET for further review and action. These measures are considered in more detail in Chapter 10.

2.3.2 Compliance with Policies and Standards

The issue of ethics and compliance (as distinct from financial compliance) was first considered by the then Audit Committee at its meeting in October 2014. It considered proposals to strengthen WWF International's efforts in compliance and ethics, and to demonstrate consistent and strong enforcement and zero lenience towards any wrongdoing. A programme of short- and medium-term deliverables was set out. This included improving the whistleblower hotline for internal complaints, raising awareness in relation to fraud and corruption, enhancing training, and finalising a Code of Conduct for WWF staff. The Code of Conduct was launched in August 2015. The development of the whistleblower hotline and its operation is considered in greater detail in Chapter 10. The initial emphasis of the hotline complaint mechanism was clearly on addressing fraud and corruption rather than consideration of complaints about human rights allegations or implementation of WWF's social policies.

It was only in April 2016 – after human rights complaints by Survival International in relation to WWF programmes – that the Audit Committee identified for the first time “human rights and related social policies” as an additional area of focus for awareness raising, and training as part of compliance and ethics. Thenceforth, compliance updates on areas other than fraud and corruption became a standing agenda item for the Audit Committee, along with an increasing focus on human rights issues. By early 2018, WWF International was dealing with a series of complaints about alleged human rights abuses in the Congo Basin. The ARCC considered that a key consideration for WWF's International Board was its risk appetite relating to human rights issues and its tolerance of residual risk exposure in areas where risks cannot be mitigated further.

Subsequently, at both International and Network levels, WWF began a process to put in place mechanisms to escalate human rights issues, and to design and implement better complaints, investigation and response processes to ensure that all issues are appropriately addressed in line with WWF's commitments. The Environmental and Social Safeguards Framework (ESSF), developed and rolled out in 2019 together with associated grievance mechanisms, are expected to be key elements for ensuring better consideration of human rights issues, including mitigation and redress. WWF is also in the process of establishing an Ombudsperson Office, answerable to the International Board and responsible for dealing with complaints from external stakeholders impacted by WWF projects, including allegations concerning human rights. It will form part of an independent monitoring and review function. Development and implementation of these safeguards and grievance processes are considered in greater detail in Chapter 10.

2.4 WWF Social Policies

Most of the human rights allegations levelled against WWF stem from the organisation's provision of support to state agencies employed in law enforcement and antipoaching in and around protected areas. Although WWF is perceived as a conservation organisation, with a primary interest in protecting wildlife, in fact this is only a small part of its activities and more than 60% of programme funding goes to support local community development as part of wider conservation initiatives designed to reconcile the needs of nature and communities. As a result, WWF is often delivering projects for health care, schools and livelihoods as part of an overall package for people and nature in places where government infrastructure and investment are weak or lacking.

In respect of its conservation activities, WWF has adopted, at both International and Network levels, a series of social policies designed to acknowledge and protect the rights of local

communities. These relate to a number of areas relevant to WWF's work and, in particular, to human rights and the rights of indigenous people. In addition, there are a number of internal WWF documents, standards and action frameworks that are also relevant to these issues.

The Network Executive Team is responsible for the development of the WWF Network Standards applicable to all WWF entities once approved by the WWF International Board. Some Network Standards are adopted as policies by the National Boards without amendment; others may be amended into national policies that reflect the local situation prior to approval. In addition to Network Standards, there are also WWF International policies, National Organisation policies and policies at Programme Office level. Any WWF International policy is automatically applicable to Programme Offices managed by WWF International and there is a similar obligation between WWF US and the Programme Offices it oversees. National Organisations and Programme Offices are free to develop their own policies provided that they do not contradict a Network Standard. The WWF policies and standards most relevant to this review are discussed in Chapter 3.

While WWF put considerable effort into development of a range of well-intentioned social policies, the mechanisms and accountability to ensure implementation have been less clear. WWF has stated that the work of the Social Development for Conservation (SD4C) community was critical to the communication and embedding of WWF social policies at a country level. The SD4C community was established in 2009 as a voluntary community to embed social policies across the Network. All offices were encouraged to appoint a SD4C focal point. In each case this would be an individual already working for WWF, who voluntarily took on the additional responsibility to focus on the embedding and implementing of WWF social policies in their country of work. Globally, there are about 50 SD4C focal points, based in different offices around the world, together with a core team made up of representatives from Asia, Africa, Latin America, Europe, and the Americas, and reporting to a steering group. SD4C has been a useful support mechanism in some countries but not all WWF offices have appointed SD4C focal points. In any case the focal points have had no real mandate, authority or resources to require or ensure compliance. Accordingly, in 2017 the Social Policy Roadmap transferred accountability for social policy implementation from the focal points to Country Directors, thereby placing responsibility at a senior level with appropriate authority. The weakness and lack of resources and support for SD4C are discussed further in Chapter 10.

Since 1996 when it first adopted a *Statement of Principles on Indigenous Peoples and Conservation*, WWF has developed many social policies and plans. In 2009, for example, WWF became a founding member of the Conservation and Human Rights Initiative and signed the *Conservation and Human Rights Framework*. All of these policies were good and many go well beyond the standards set by national legislation in some of the countries where WWF works. Unfortunately, although intentions were good, implementation of these social policies has often been weak. Since 2019, WWF International and the Network have made significant steps to strengthen social safeguards and to address human rights issues in relation to WWF projects and partnerships. In August 2019, the Environmental and Social Safeguards Framework was adopted for application in all landscapes and seascapes in which WWF works (see Chapter 10 for further detail). The ESSF is complemented by a Safeguards Unit, established by WWF International within its Global Operations Department, which gives WWF International greater oversight responsibility for safeguards across the Network. While these new procedures will be important for assuring quality at the project design stage, the key challenge will be how to ensure effective implementation and monitoring of social policies and human rights standards at country and field levels.



CHAPTER 3

RELEVANT HUMAN RIGHTS NORMS AND WWF COMMITMENTS

The allegations against WWF examined in this report are that it knew about alleged human rights abuses committed by government rangers and military personnel engaged in anti-poaching activities, that it nevertheless continued to support and collaborate with them, and that it failed to take effective steps to prevent, respond to, and remedy the alleged abuses. The alleged abuses by rangers and soldiers included incidents of murder, rape, torture, physical beatings, unlawful arrest and detention, invasion of homes and destruction of personal property. In some cases, WWF was also accused of failing to respect the rights of indigenous peoples with regard to their traditional lands, territories and resources.

Section 3.1 provides an overview of the international human rights law relevant to the allegations. Section 3.2 describes WWF's specific responsibilities to respect human rights, as it has committed to do in the *Conservation and Human Rights Framework* and its social policies. WWF's human rights commitments often set higher standards than the laws and practices of states in which it works, which may fall short of those states' obligations under international human rights law. In such situations, WWF must nevertheless comply with its own responsibilities and commitments to respect human rights.

3.1 International Law on Human Rights and Environmental Protection

The alleged abuses by rangers and other government employees described in this report would violate many provisions of human rights law, including the rights to life, liberty, property, security of person, and effective remedies, as well as the rights to freedom from violence against women, arbitrary detention, torture and arbitrary interference with home and family life. Applicable instruments include the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* (ICCPR), the *Convention against Torture*, the *UN Declaration on the Elimination of Violence Against Women*, the *African Charter on Human and Peoples' Rights*, and the *Maputo Protocol to the African Charter on the Rights of Women in Africa*.¹

Allegations of abuses perpetrated against indigenous peoples also implicate their rights under international law. The two most important international instruments on the rights of indigenous peoples are the International Labour Organization (ILO) *Convention No. 169 on Indigenous and Tribal Peoples*² and the 2007 *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP).³ Although it is not a treaty, UNDRIP has been generally accepted by states as setting benchmark standards in relation to indigenous rights, and it has influenced

¹ Cameroon, the Central African Republic, the Democratic Republic of the Congo, the Republic of the Congo, India, and Nepal are all parties to the ICCPR, and all but India are parties to the *Convention Against Torture*. The four African countries all belong to the African Charter, and all of them have joined the *Maputo Protocol* with the exception of the Central African Republic, which has signed but not ratified it.

² Most of the parties to ILO *Convention No. 169* are in Latin America, but the Central African Republic has been a party since 2010 and Nepal has been a party since 2007.

³ UNGA Res 61/295 (2 October 2007). The resolution adopting UNDRIP received only four negative votes, from Australia, Canada, New Zealand and the United States, each of which later reversed its position and indicated support for the Declaration.

human rights tribunals in their application of other treaties with respect to indigenous and tribal peoples.

The global human rights treaties place obligations primarily on states. The duty of states to respect human rights requires, at a minimum, that they do not violate human rights directly. As a result, murder, torture, rape and the other alleged abuses by rangers and soldiers, if committed in the course of their conduct as agents of a state, would violate that state's obligations under international human rights law. In addition, human rights law requires states to undertake due diligence to protect the enjoyment of human rights from interference by non-state actors.⁴ The duty of states to protect against human rights abuses by business enterprises is one of the pillars of the *Guiding Principles on Business and Human Rights (UN Guiding Principles)*,⁵ which the UN Human Rights Council endorsed by consensus in 2011.⁶

The duty of states to protect human rights encompasses the duty to protect a safe, clean, healthy and sustainable environment, on which the full enjoyment of a wide range of human rights depends.⁷ The obligation to protect against environmental harm to human rights includes the duty to protect natural ecosystems and biological diversity, which are necessary for a healthy environment and for the enjoyment of the rights that depend upon it.⁸

All six countries considered in this report have ratified the *Convention on Biological Diversity (CBD)* and the *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*. As Parties to the CBD, these countries committed in 2003 to implementing the CBD Programme of Work on Protected Areas and subsequently adopted the Strategic Plan for Biodiversity in 2010 and the 20 Aichi Targets to be implemented by 2020. Aichi Target 11, on establishing well-connected networks of protected areas and other effective area-based conservation measures, and Target 12, which relates to actions to reduce threats to endangered species, are especially relevant to WWF's support for protected areas and anti-poaching activities.

Over the last two decades these conservation efforts have been undermined by increasing pressure to exploit natural resources, including through mining, logging, land conversion and both poaching and trafficking of rare and endangered species. In recent years, wildlife crime has grown into a transnational network of organised crime, generating billions of dollars and often linked to other criminal activities, including drugs and human trafficking. In the places considered in the current report, civil conflict and wildlife crime have supported the proliferation of arms, violence and corruption, and taken the lives of rangers and local community members. To combat poaching and protect biodiversity, multilateral and bilateral donors and conservation organisations have invested in supporting protected area agencies and rangers in law enforcement efforts.

⁴ Human Rights Committee, *General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc CCPR/C/21/Rev.1/Add.13 (2004); African Commission on Human and Peoples' Rights, *Commission Nationale de Droits d'Homme et des Libertés v. Chad*, Comm. No. 74/92 (1995).

⁵ UN Doc. A/HRC/17/31 (21 March 2011).

⁶ Human Rights Council Res. 17/4 (2011).

⁷ See Human Rights Committee, *General Comment No. 36 on article 6 of the ICCPR, on the right to life*, UN Doc CCPR/C/GC/36 (2018), paras. 26, 62; *Framework Principles on Human Rights and the Environment*, UN Doc. A/HRC/37/59, annex (2018).

⁸ See Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc. A/HRC/34/49 (2017).

Although the failure to protect biodiversity ultimately affects everyone, it is particularly devastating for indigenous peoples and others who depend directly on natural ecosystems for their material and cultural well-being. States must therefore protect their rights from actions that adversely affect the ecosystems on which they depend or their ability to have access to those ecosystems.

ILO *Convention No. 169* and UNDRIP both provide that states must recognise and protect the rights of indigenous peoples to the lands, territories and resources that they have traditionally owned, occupied or used, including those to which they have had access for their subsistence and traditional activities.⁹ The ILO Convention provides that states have obligations to consult with indigenous and tribal peoples when considering measures that may affect them directly, before undertaking or permitting any programmes for the exploration or exploitation of resources pertaining to their lands or territories, and when considering their capacity to alienate their lands or territories, or otherwise transfer their rights outside their own community.¹⁰ UNDRIP makes clear that the free, prior and informed consent (FPIC) of indigenous peoples is necessary before the adoption or implementation of any laws, policies, or measures that may affect them, and in particular before the approval of any project affecting their lands, territories or resources, including the extraction or exploitation of mineral, water or other resources, or the storage or disposal of hazardous materials.¹¹

The human right to liberty of movement and freedom to choose one's residence, recognised in article 12 of the ICCPR, protects against all forms of forced internal displacement.¹² Both the ILO Convention and UNDRIP state that indigenous peoples shall not be forcibly removed from their lands without their free, prior and informed consent.¹³ Should violations of this right occur, they have the right to fair reparation, including restitution and compensation and, where possible, the option of returning to their lands.

UNDRIP states that indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands, territories and resources, and to receive assistance from states for such conservation and protection.¹⁴ ILO *Convention No. 169* requires states to safeguard the rights of the peoples concerned to the natural resources pertaining to their lands, including their right to participate in the use, management and conservation of these resources.¹⁵ UNDRIP indicates that states must provide for just and fair redress for harm resulting from any activities affecting their lands, territories or resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources, and states that "appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact".¹⁶ Indigenous peoples have the right to restitution or, if this is not possible, compensation for their lands, territories and resources that have been taken, used or damaged without their consent.¹⁷

Many people who do not self-identify as indigenous also have close relationships to the territory that they have traditionally occupied, and depend directly on nature for their material

⁹ ILO *Convention No. 169*, arts 14-15; UNDRIP, arts 26-27.

¹⁰ ILO *Convention No. 169*, arts. 6, 15, 17.

¹¹ UNDRIP, arts 19, 29.2, 32.2.

¹² Human Rights Committee, *General Comment No. 27, Freedom of Movement (article 12)* (1999), para. 7.

¹³ ILO *Convention No. 169*, art. 16; UNDRIP, art. 10.

¹⁴ UNDRIP, art 29.1.

¹⁵ *Ibid.*, art. 15.1.

¹⁶ UNDRIP, art. 32.3

¹⁷ *Ibid.*, art. 28.

needs and cultural life.¹⁸ The members of such communities have rights similar to those of indigenous peoples in relation to the use and enjoyment of their land, territory and resources.¹⁹ The *Guiding Principles on Internal Displacement* provide that “states are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands”.²⁰

The rights of indigenous peoples and of local communities that have similar relationships to their traditional lands, territories and resources apply not only in relation to measures aimed at exploitation of resources, but also to those aimed at conservation. The UN Special Rapporteur on the rights of indigenous peoples has described ways that measures aimed at conservation have violated the rights of indigenous peoples, including through expropriation of land, forced displacement, denial of self-governance, denial of access to natural resources vital to their livelihoods and to sacred places necessary to their culture, and denial of access to justice and reparation, including restitution and compensation.²¹ The consequences of displacement in many countries have included increased marginalisation, poverty, food insecurity, conflict and extrajudicial killings.²²

Human rights tribunals have held that prohibitions on displacing indigenous peoples from their traditional territories and lands and denying them access to their traditional resources without their free, prior and informed consent applies in the context of protected areas. For example, in 2017 the African Court on Human and Peoples’ Rights held that ejecting the Ogiek people from the Mau Forest in Kenya violated their rights under the African Charter, including their rights to land, to participate in their culture, and to freedom of worship.²³

International environmental institutions have recognised the importance of respecting the rights of indigenous peoples and local communities who closely depend on natural resources, and of supporting their efforts to conserve and sustainably use biodiversity. The CBD requires each Party, as far as possible and as appropriate, to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity”, and to protect and encourage the customary use of biological resources

¹⁸ UNDRIP does not define the line between indigenous peoples and non-indigenous communities. ILO *Convention No. 169*, art. 1, identifies as a key consideration whether the people themselves self-identify as indigenous. In 2017, the African Court of Human Rights stated that the relevant factors for the identification of indigenous populations are: “...the presence of priority in time with respect to the occupation and use of a specific territory; a voluntary perpetuation of cultural distinctiveness, which may include aspects of language, social organisation, religion and spiritual values, modes of production, laws and institutions; self-identification as well as recognition by other groups, or by State authorities that they are a distinct collectivity; and an experience of subjugation, marginalisation, dispossession, exclusion or discrimination, whether or not these conditions persist.” African Commission on Human and Peoples’ Rights v. Kenya, No. 006/2012, Judgment (2017).

¹⁹ See Human Rights Committee, *General Comment No. 23 on the rights of minorities* (1994), para. 7; Human Rights Committee, *Poma Poma v. Peru*, No. 1457/2006 (2009), paras. 7.3-7.6; Inter-American Court of Human Rights, *Saramaka People v. Suriname*, Judgment of 28 November 2007, para. 85.

²⁰ UN Doc. E/CN.4/1998/53/Add.2 (1998), principle 9.

²¹ Report of the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples, UN Doc. A/71/229 (29 July 2016).

²² See *ibid.*, para. 51.

²³ African Commission on Human and Peoples’ Rights v Kenya, No. 006/2012 (2017). See also African Commission on Human and Peoples’ Rights, *Endorois Welfare Council v Kenya*, No. 276/2003 (2009); Inter-American Court of Human Rights, *Kaliña and Lokono Peoples v Suriname* (2015).

in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.²⁴

Protecting the rights of those who live closest to nature is not just required by human rights law; it is also often the best way to ensure the protection of biodiversity. The knowledge and practices of the people who live in biodiversity-rich ecosystems are vital to the conservation and sustainable use of those ecosystems. It has been estimated that lands of indigenous peoples account for 37% of all remaining natural lands across the Earth, and that indigenous peoples' lands constitute at least 40% of all protected areas.²⁵ Protecting the human rights of indigenous peoples and local communities has been shown to result in improved protection for ecosystems and biodiversity. In short, respect for human rights should be recognised as complementary, not contradictory, to environmental protection.

3.2 WWF's Responsibility to Respect Human Rights

In 2009, WWF and other conservation organisations (including the International Union for the Conservation of Nature – IUCN, Conservation International, and Wetlands International) founded the Conservation Initiative for Human Rights and adopted the *Conservation and Human Rights Framework*. In the *Framework*, WWF and the other organisations made ten commitments, the first of which is: “Respect internationally proclaimed human rights; and make sure that we do not contribute to infringements of human rights while pursuing our mission.” The other commitments in the *Framework* elaborate and supplement this overarching responsibility to respect human rights.²⁶ WWF has also adopted social policies with additional human rights commitments, including:

- *Statement of Principles on Indigenous Peoples and Conservation* (issued in 1996, updated and reissued in 2008);
- *Policy on Poverty and Conservation* (2009);
- *Gender Policy Statement* (2011); and
- *Network Guidelines on Prevention of Restriction of Rights and Involuntary Relocation and Resettlement of Indigenous Peoples and Local Communities* (2018).

The commitments in the *Conservation and Human Rights Framework* and WWF's social policies are consistent with other instruments on the responsibility to respect human rights, including the UN *Guiding Principles on Business and Human Rights*.²⁷ The UN *Guiding Principles* are not a treaty and therefore not legally binding in themselves, but they have

²⁴ CBD, arts. 8(j), 10(c). See also *Nagoya Protocol*, arts. 5, 7. The Conference of the Parties to the CBD has taken a number of other decisions that recognise and support the role of indigenous peoples and local communities in the protection of biodiversity, including by adopting the Mo'otz Kuxtal Voluntary Guidelines on measures to ensure the free, prior and informed consent, or approval and involvement, of indigenous peoples and local communities, for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge; and the Akwé: Kon Voluntary Guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities. COP Decisions XIII/18, VI/16.

²⁵ Stephen T. Garnett *et al.*, “A spatial overview of the global importance of Indigenous lands for conservation”, *Nature Sustainability* 1:369–374 (2018).

²⁶ For example, the second commitment in the *Framework* states that its signatories also commit to “[s]upport and promote the protection and realization of human rights within the scope of our conservation programmes”.

²⁷ See also OECD *Guidelines for Multinational Enterprises* (2011), ch. II (General Policies), para. A.2; ILO *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*, para. 8.

been widely accepted as reflecting societal expectations. Although the *Guiding Principles* were developed in the context of business enterprises, they have been applied to other types of multinational enterprises,²⁸ and to WWF in particular.²⁹ The expectation of respect for human rights cannot be lower for multinational conservation organisations than it is for multinational business enterprises. Although non-profit organisations play significantly different societal roles than business enterprises in many respects, they often have similar structures that give rise to similar issues in implementing the responsibility to respect human rights. Most importantly, their institutional activities are capable of causing or contributing to adverse human rights impacts.

The foundational principle of the responsibility to respect human rights is that enterprises “should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved”.³⁰ More specifically, the responsibility to respect human rights requires multinational conservation organisations, no less than business enterprises, to:

- avoid causing or contributing to adverse human rights impacts through their own activities, and to address such impacts when they occur; and
- seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their relationships, even if they have not contributed to those impacts.³¹

The rights to be respected include those set out in the *Universal Declaration of Human Rights* and the two *International Covenants*, but the scope extends to all internationally recognised human rights, including the rights of indigenous peoples and local communities.³²

The following sections describe four critical aspects of WWF’s overarching responsibility to respect human rights:

- adopting a high-level policy commitment to meet the responsibility to respect human rights and reflecting it in operational policies and procedures;
- establishing and implementing a human rights due-diligence process that: (i) assesses potential and actual human rights impacts of WWF’s policies, programmes, projects and activities before they are initiated, including by consulting with those who may be affected; (ii) ensures that such initiatives reflect the prior assessments and effectively address any potential and actual human rights impacts identified; (iii) monitors the implementation of the initiatives; and (iv) communicates how human rights impacts are being addressed;

²⁸ See, e.g., John G. Ruggie, “For the Game, For the World: FIFA & Human Rights” (2016), https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/crj/files/Ruggie_humanrightsFIFA_reportApril2016.pdf.

²⁹ The OECD National Contact Point of Switzerland held in 2016 that the OECD *Guidelines for Multinational Enterprises*, which incorporated core elements of the UN *Guiding Principles*, applied to WWF. See Initial Assessment in the Specific Instance regarding the World Wide Fund For Nature International (WWF) submitted by Survival International Charitable Trust (2016). The report of Markus Löning on WWF Germany also applied the UN *Guiding Principles*. See Löning, *Assessment of Human Rights Due Diligence Processes for WWF Germany* (2019). In a statement to the Committee on Economic Cooperation and Development of the German Bundestag in April 2019, WWF Germany stated that it accepted that it bears “even greater responsibility for compliance with the UN *Guiding Principles on Business and Human Rights* under the problematic circumstances of fragile states with weak rule of law”.

³⁰ UN *Guiding Principles on Business and Human Rights*, principle 11.

³¹ *Ibid.*, principle 13.

³² *Conservation and Human Rights Framework*, n. 1; UN *Guiding Principles*, pp. 13-14.

- providing for processes to enable the remediation of any adverse human rights impacts that WWF causes or to which it contributes; and
- ensuring that WWF safeguards the rights of the most vulnerable, including indigenous peoples and local communities, in relation to activities it carries out or supports.

Each of these is considered in greater detail in the following sub-sections.

3.2.1 High-level Policy Commitment and Operational Policies and Procedures

Commitments to meet the responsibility to respect human rights should be approved at the most senior level of the institution,³³ as was the *Conservation and Human Rights Framework*. Further development and implementation of human rights commitments should be informed by relevant experience and expertise, including that of WWF's constituencies.³⁴ The commitments should be periodically reviewed and revised as needed.³⁵

In addition to being publicly available, human rights commitments should clearly state the human rights expectations that apply to the personnel, partners and others who are directly linked to the institution and its activities, and should be communicated to them accordingly.³⁶ These commitments and expectations should also be communicated to potentially affected stakeholders, particularly in the case of operations that carry significant human rights risks.³⁷

Finally, the high-level commitments must be embedded in the institution's operational policies and procedures.³⁸ Through the *Conservation and Human Rights Framework*, WWF committed to: establishing the institutional policies to ensure that the principles are fulfilled; determining the competencies it needed to implement the principles and implementing policies; ensuring that the necessary capacity is in place; establishing processes to monitor and evaluate compliance with the principles and policies on a regular basis; and applying the principles and policies in its agreements with its partners.³⁹ Internal communication of policies and procedures to employees should make clear the lines of accountability and be supported by appropriate training.⁴⁰

3.2.2 Human Rights Due Diligence

To identify, prevent, mitigate and account for adverse human rights impacts, WWF should carry out human rights due diligence. To be effective, the due diligence process should include four main components, as set out below.

First, the organisation should assess the potential human rights impacts of proposals. WWF committed in the *Conservation and Human Rights Framework* to undertake assessment and consultation in advance of proposed conservation interventions, and specifically to conduct prior evaluation of the scope of proposed conservation "policies, programmes, projects, and activities" in order to identify "the links between human rights and conservation".⁴¹ While the nature of the due diligence required may vary according to each proposal and its broader

³³ UN *Guiding Principles*, principle 16(a).

³⁴ *Conservation and Human Rights Framework*, principle 5; UN *Guiding Principles*, principle 16(b).

³⁵ *Conservation and Human Rights Framework*, principle 6.

³⁶ *Conservation and Human Rights Framework*, principle 6; UN *Guiding Principles*, principle 16(c), (d).

³⁷ UN *Guiding Principles*, p. 15 (commentary on principle 16).

³⁸ UN *Guiding Principles*, principle 16(e).

³⁹ *Conservation and Human Rights Framework*, principles 6, 7, 9, 10.

⁴⁰ UN *Guiding Principles*, p. 16 (commentary).

⁴¹ *Conservation and Human Rights Framework*, principle 8.

context, the assessment should include all adverse human rights impacts that WWF may cause or contribute to through its own activities, or which may be directly linked to it through its relationships.⁴² The process should be initiated as early as possible in the development of a new activity or relationship, and repeated if there are significant changes in the initiative or in the context around it.⁴³

The assessment process must include appropriate consultation with those who may be affected. WWF has committed to ensuring that potentially affected persons are informed, properly consulted and able to participate in decision-making about proposed interventions.⁴⁴ One of the main purposes of the assessment should be to understand the potential impacts of a given proposal on specific people, within a specific context of operations.⁴⁵ In particular, the process should direct attention to potential effects on individuals from populations that may be at heightened risk of vulnerability or marginalisation, and take into account the different risks that may be faced by women and men.⁴⁶ As the *Conservation and Human Rights Framework* notes, the assessment must include respect for the right of indigenous peoples and local communities with customary rights to lands and resources to free, prior and informed consent to interventions directly affecting their lands, territories or resources.⁴⁷

The second component of the due diligence process is to address the human rights impacts that have been identified by the human rights assessment. The assessment of human rights impacts should inform how WWF addresses the impacts of the proposal. Once identified, potential adverse human rights impacts should be prevented or mitigated. Adverse impacts that have already occurred should be remediated. In the *Conservation and Human Rights Framework*, WWF further committed to ensuring that the design and implementation of its conservation interventions reflect the prior evaluation and the participatory decisions that were made.⁴⁸ The responsibilities for implementing the elements of the plan of action must be assigned to the appropriate offices within the organisation.⁴⁹

The actions that WWF should take in response to potential or actual adverse human rights impacts depend on whether it causes, contributes to, or is directly linked to those impacts.⁵⁰ If it causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. If it contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible. If it has not contributed to an adverse human rights impact, but its relationship with another entity directly links its operations to the impact, the appropriate response will depend on a number of factors, including the severity of the human rights impact. An important factor is the degree to which WWF has the ability to exercise leverage over the other entity (or entities) concerned – that is, whether it has the ability to change or significantly influence the behaviour of others in a way that would eliminate or reduce the harm. If WWF has the leverage to prevent or mitigate harm, it should exercise such leverage. If, however, the

⁴² UN *Guiding Principles*, principle 17.

⁴³ *Ibid.*, p. 21 (commentary on principle 18).

⁴⁴ *Conservation and Human Rights Framework*, principle 8; see also *Guiding Principles*, principle 18.

⁴⁵ UN *Guiding Principles*, p. 19 (commentary on principle 18).

⁴⁶ *Ibid.*, p. 20.

⁴⁷ *Conservation and Human Rights Framework*, principle 8.

⁴⁸ *Conservation and Human Rights Framework*, principle 8.

⁴⁹ UN *Guiding Principles*, principle 19(a).

⁵⁰ *Ibid.*, principle 19(b).

organisation lacks adequate leverage, it should consider increasing leverage by, for example, building capacity or offering other incentives.⁵¹ If WWF lacks current leverage and is unable to increase its leverage sufficiently to prevent or mitigate the harm, it should consider curtailing or ending the relationship(s) concerned. In deciding whether to end a relationship with an entity responsible for perpetrating human rights abuses, WWF should also take into account any adverse impacts on human rights that might occur as a result of that decision.

The third component of the human rights due diligence process is to monitor the ongoing effects of the programme, activity or other initiative to see whether changes are necessary. In the *Conservation and Human Rights Framework*, WWF committed to monitor and evaluate interventions and their implications for human rights as a basis for ongoing improvement.⁵² In doing so, the organisation must pay special attention to those who are most vulnerable and take into account feedback from affected stakeholders.⁵³

Finally, the human rights due diligence process should communicate how potential and actual human rights impacts are being addressed. Such communications should be accessible to all interested audiences, including those who may be most directly affected, and should provide enough information to enable others to evaluate the adequacy of the response to identified impacts. Doing so is necessary to demonstrate transparency and accountability to those who may be affected and to other interested stakeholders, including regulators and funders. Independent reporting helps to strengthen the credibility of such communications.⁵⁴

3.2.3 Remediation and Grievance Mechanisms

In the *Conservation and Human Rights Framework*, WWF committed to set up “effective, accessible and transparent procedures to receive and resolve complaints”.⁵⁵ The responsibility of multinational conservation organisations to remediate human rights abuses may vary according to whether they cause or contribute to the adverse human rights impacts, or whether such impacts are only linked directly to the organisation through its relationships.

Conservation organisations, like business organisations, are responsible for remediating the adverse human rights impacts that they have caused or contributed to.⁵⁶ To that end, they should establish effective mechanisms to hear and remediate grievances from adversely affected individuals and communities.⁵⁷ The responsibility to respect human rights does not require organisations to provide for the remediation of adverse impacts that they did not cause or contribute to, but that are directly linked to their operations by their business relationships. Nevertheless, the organisations may play a role in remediating such impacts.⁵⁸

The purpose of remediation is to counteract and make good any human rights harms that have occurred. Appropriate remedies will depend on the nature of the harm, but may include compensation, restitution, punitive sanctions, and actions to prevent the repetition or instances of harm in the future.⁵⁹ A grievance mechanism established by a conservation

⁵¹ See *ibid.* (commentary on principle 19).

⁵² *Conservation and Human Rights Framework*, principle 8.

⁵³ *Conservation and Human Rights Framework*, principle 3; *UN Guiding Principles*, principle 20.

⁵⁴ See *UN Guiding Principles*, principle 21.

⁵⁵ *Conservation and Human Rights Framework*, principle 9.

⁵⁶ See *UN Guiding Principles*, principle 22; *OECD Guidelines*, ch. IV (Human Rights), para. 6.

⁵⁷ *UN Guiding Principles*, principle 29.

⁵⁸ *UN Guiding Principles*, pp. 20-21 (commentary).

⁵⁹ *Ibid.*, p. 22.

organisation does not substitute for state-based criminal, judicial and administrative procedures, but it plays a critical role in bringing problems to the attention of the organisation for their early and effective resolution, ensuring accountability and identifying systemic problems that require changes in the organisation's operations.

The UN *Guiding Principles* identify a number of characteristics that a grievance mechanism should have in order to be effective, including that it should be accessible, transparent and trustworthy, and able to consider complaints fairly without interference from the individuals or entities against which the complaints are directed. Stakeholder groups should be consulted on its design and implementation, and provided with assistance where necessary to be able to access the grievance mechanism. Although organisations may establish their own avenues for people to raise issues in order to seek agreed solutions, any complaints that require determination of disputed points must be considered by an independent third party.⁶⁰

3.2.4 The Responsibility to Respect the Rights of the Vulnerable

As WWF and the other members of the Conservation Initiative for Human Rights recognised in the *Conservation and Human Rights Framework*, they must “make special efforts to avoid harm to those who are vulnerable to infringements of their rights and to support the protection and fulfilment of their rights within the scope of [their] conservation programmes”.⁶¹ WWF has made more detailed commitments with respect to gender, poverty and indigenous peoples and local communities, which reflect and are informed by international standards. These are considered further below.

(i) *Gender*. In its 2011 *Gender Policy Statement*, WWF committed to: incorporating a gender perspective into its programme and project development processes; assessing the potential impact of programmes and projects on gender equity (to the extent possible); and ensuring that potential negative impacts on women and men are addressed, as appropriate. It also committed, among other things, to applying a culturally sensitive approach that takes account of the different roles, responsibilities, entitlements, and knowledge among men and women involved in or affected by a given programme or project.⁶²

(ii) *Poverty*. WWF's 2009 *Policy on Poverty and Conservation* recognises that people living in poverty are often the stewards of globally important biodiversity and key actors in sustaining the capacity of these resources to provide critical environmental services. WWF committed to: assessing the poverty implications of its projects, programmes and policies; identifying opportunities for positive contributions to poverty reduction; and addressing potential conflicts and trade-offs between conservation and poverty-reduction goals. It stated that where there are trade-offs, it will support affected local people to ensure that equitable and sustainable solutions are in place. WWF committed to engaging with resource-dependent communities in its programme planning, implementation and monitoring, with the aim of identifying common interests, implementing collaboratively agreed activities, and producing outcomes that benefit both people and the environment. It stated that it would seek out and respond to the concerns, priorities and values of local people as they relate to natural resources (e.g. issues of access, control and management) and well-being. WWF committed to implement the policy by integrating its principles into its programme planning and implementation, strengthening the capacity of its offices, and being accountable to the policy through transparent monitoring and reporting processes.

⁶⁰ See UN *Guiding Principles*, principle 31 and commentary, pp. 26-27.

⁶¹ *Conservation and Human Rights Framework*, principle 3.

⁶² Global Network Policy: *Gender Policy Statement*, p. 2 (2011).

(iii) *Indigenous Peoples and Local Communities*. International standards for conservation organisations on indigenous peoples and local communities include the Durban Action Plan, which was adopted by the 2003 IUCN World Parks Congress.⁶³ The Action Plan set several targets, including that:

- all existing and future protected areas shall be managed and established in full compliance with the rights of indigenous peoples, mobile peoples and local communities;
- protected areas shall have representatives chosen by indigenous peoples and local communities in their management, proportionate to their rights and interests;
- participatory mechanisms for the restitution of indigenous peoples' traditional lands and territories that were incorporated in protected areas without their free and informed consent are established and implemented by 2010.⁶⁴

WWF first adopted a *Statement of Principles on Indigenous Peoples and Conservation* in 1996, well before the Durban Action Plan, and revised and reaffirmed the document in 2008. The current WWF *Statement of Principles* states:

“Since indigenous peoples are often discriminated against and politically marginalised, WWF is committed to make special efforts to respect, protect, and comply with their collective and individual rights, including customary as well as resource rights, in the context of conservation initiatives. This includes, but is not limited to, those set out in national and international law, and in other international instruments.

In particular, WWF fully endorses the provisions about indigenous peoples contained in... ILO Convention 169 [and the] UN Declaration on the Rights of Indigenous Peoples.”⁶⁵

The *Statement of Principles* also states that “WWF recognises that indigenous peoples have rights to the lands, territories, and resources that they have traditionally owned or otherwise occupied or used, and that those rights must be recognised and effectively protected, as laid out in the *ILO Convention 169* and the UN Declaration on the Rights of Indigenous Peoples” (principle 8). WWF recognises that “indigenous peoples have the right to determine priorities and strategies for the development or use of their lands, territories, and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting those lands, territories, and resources”, and that, in conformity with *ILO Convention 169* and UNDRIP, indigenous peoples have the right not to be removed from the territories they occupy (principles 12, 16). Where relocation of indigenous peoples is considered necessary as an exceptional measure, it may take place only with their free, prior and informed consent, and in compliance with their rights under national and international law (principle 16).

⁶³ The International Union for the Conservation of Nature (IUCN), the umbrella organisation for states, government agencies, international non-governmental organisations, and national non-governmental organisations concerned with conservation, holds the World Conservation Congress every four years and the World Parks Congress roughly once a decade. Although the decisions and statements of the Congresses are not binding as a matter of international law, they can set influential standards for conservation and protected areas.

⁶⁴ *Ibid.*, pp. 25-26 (Key Targets 8, 9, 10).

⁶⁵ *Statement of Principles*, principle 5. WWF includes both “indigenous” and “tribal” peoples in its use of the term “indigenous,” using the definition of *ILO Convention No. 169*. *Ibid.*, n. 1.

WWF also committed that before initiating conservation activities, it would exercise due diligence to learn about the historic claims and current exercise of customary rights in the planned project area, and that when its conservation activities impinge on areas where historic claims or current exercise of customary rights are present, it would consult with indigenous representatives at the earliest stages of programme development (principles 23, 24). When the rights of indigenous peoples are contested by states, corporations or others, WWF stated that it would coordinate and consult with indigenous peoples, subject to availability of resources, to seek out or invest in the development of mechanisms to resolve conflicts, and that it would further seek to ensure that the rights and interests of indigenous peoples are well represented in such fora (principle 28).

In principle 30, WWF stated that it “will not promote or support, and may actively oppose, interventions which have not received the free, prior and informed consent of affected indigenous communities, and/or would adversely impact – directly or indirectly – on the environment of indigenous peoples’ territories, and/or would affect their rights. This includes activities such as... resettlement of indigenous communities; creation of protected areas or imposition of restrictions on subsistence resource use”.

WWF also committed to ensure that its partnerships with governments, donor agencies, corporations and NGOs do not undermine, and if possible serve to actively promote, the basic human rights and customary resource rights of indigenous peoples, and that all relevant information developed through such partnerships and accessible to WWF is shared with the appropriate representatives of indigenous peoples (principle 32).

In 2018, WWF adopted *Network Guidelines on Prevention of Restriction of Rights and Involuntary Relocation and Resettlement of Indigenous Peoples and Local Communities*, which state that “all WWF offices, programmes and initiatives must take into consideration the respect of human rights in the design, implementation and monitoring of our programmes, which extends to addressing actual and potential rights infringement and/or restrictions on the rights of Indigenous Peoples and local communities. This includes customary rights to lands and resources and interventions requiring the free, prior informed consent of affected communities”.

The commitments in the *Network Guidelines* include that WWF will “work proactively with governments, private sector and relevant IPLCs to: A. Conduct a full and comprehensive preliminary assessment of risks and potential implications including possible negative or adverse impacts... prior to the onset of any project in areas and sites where WWF is potentially involved or operates... B. Not promote or support any programmes/activities and/or policies that lead to involuntary curtailment of the rights of local communities... and D. Confirm that free, prior and informed consent has been obtained by the relevant authorities through an open, transparent, inclusive and just process from the affected IPLCs who are agreeing to voluntary relocation or restriction of access to natural resources. Care needs to be taken that the dialogue and negotiations for the above were conducted in a participatory and meaningful manner”.

The *Network Guidelines* also state that WWF will not support the creation of new protected areas that would curtail the rights of local communities, unless voluntarily agreed, and that in relation to established protected areas that overlap wholly or partially with indigenous territories and tribal lands, WWF will advocate together with the communities for inclusive, equitable and community-based governance models and policies of natural resource management and conservation that recognise the rights of indigenous peoples and local communities.

In the case of infringement and curtailed rights, WWF commits in the *Network Guidelines* to working with government authorities, indigenous peoples and others to: promote and support measures to avoid or appropriately mitigate any adverse impacts on local communities and ensure their effective implementation as a basis for continuing support; advocate and facilitate processes to ensure that affected communities participate in deciding the nature and scope of restrictions and mitigation measures; advocate for the inclusion of measures within the relevant plans and schemes of relevant authorities to assist the affected persons in their efforts to improve or restore their rights in real terms to pre-project levels; and develop a Plan of Action that describes the agreed restrictions, management schemes and measures to assist the affected persons and the arrangements for their implementation.

Repeating earlier commitments, the *Network Guidelines* state that, “WWF should advocate against involuntary relocation or resettlement schemes promoted by governments, or other parties like companies, and should not support conservation activities that require any involuntary or forced relocation of local communities and groups from conservation areas”.

In conclusion, WWF has made many specific commitments in relation to its responsibility to respect human rights, including with respect to its relationships with others. Chapters 4 to 9 assess the translation of these commitments into practice in the context of six countries in which it works. Corresponding country-specific conclusions and recommendations are included in each of those chapters. Chapter 10 concerns WWF International and the WWF Network, and Chapter 11 sets out recommendations for the entire organisation.



CHAPTER 4

CAMEROON – BOUMBA BEK, NKI, AND LOBÉKÉ NATIONAL PARKS

This chapter examines allegations that WWF knew about human rights abuses committed by rangers (ecoguards) in and around three national parks supported by WWF in south-eastern Cameroon (Boumba Bek, Nki, and Lobéké); that WWF supported and collaborated with the ecoguards; and that it failed to take adequate steps to prevent and respond to the alleged abuses. The five main sections below:

- describe the national parks and the human settlements around them (section 4.1);
- describe WWF's role in the governance of the national parks (section 4.2);
- describe the Panel's factual findings in relation to the allegations (section 4.3);
- assess WWF's actions in light of its commitments and the applicable human rights norms (section 4.4); and
- provide conclusions and recommendations (section 4.5).

4.1 Context

Cameroon is a central African country that shares its borders with six other countries, including two that are also the subject of individual chapters in this report: the Central African Republic (CAR) to the east and the Republic of Congo (ROC) to the south. Cameroon achieved its independence from France in 1960. The incumbent president has held power since 1982 and was elected to a seventh term in 2018. The ruling party, the Cameroon People's Democratic Movement (CPDM), holds the great majority of seats in the National Assembly and the Senate.

For nearly a decade, Cameroon has been fighting the Boko Haram terrorist organisation that is based across the border in north-eastern Nigeria. Among other incidents, Boko Haram has abducted individuals and held them for ransom, attacked police stations and military bases and conducted suicide bombings. The violence has displaced more than 500,000 people internally and caused hundreds of thousands of people from other countries, primarily CAR and Nigeria, to flee to Cameroon.

Cameroon has many natural resources, including oil and gas, minerals, timber, and agricultural products such as coffee, cocoa and cotton. Its principal export is petroleum. Its per capita income in 2019 was approximately USD 1,500, and its human development index is in the medium category, ranking 150 out of 189 countries in 2018.

Beginning in the 1990s, Cameroon undertook a major initiative for the protection and management of biodiversity in the south-east of the country, for which it received funding from the Global Environment Facility (GEF) and support from WWF and the German Agency for Technical Cooperation (*Deutsche Gesellschaft für Technische Zusammenarbeit*, or GTZ).¹ The project classified forest land into different zones and led to the establishment of three national parks: Lobéké in 2001, and Boumba Bek and Nki in 2005.

¹ In 2011, GTZ and Germany's other two main aid agencies were merged and became the Germany Agency for International Cooperation, or GIZ (*Gesellschaft für Internationale Zusammenarbeit*).

Boumba Bek and Nki National Parks are adjacent to one another in south-eastern Cameroon. Nki is on the border with the ROC and Boumba Bek is north-east of Nki. They are part of a transboundary network of eleven protected areas in the Tri-National Dja-Odzala-Minkébé (TRIDOM) rainforest landscape, which extends across Cameroon, Gabon and the ROC. Lobéké National Park is on the border of Cameroon with the ROC and CAR, east of Nki National Park and south-east of Boumba Bek National Park. Lobéké is part of the Sangha Tri-National landscape (TNS), a network of protected areas that also includes national parks in CAR and the ROC. TNS was designated as a World Heritage Site in 2012. In all, the TNS protected areas cover 7,500 square kilometres of rainforest across the northern headwaters of the Congo River, extending across diverse habitats and ecosystems. TRIDOM and TNS provide habitat for many endangered species, including forest elephants, gorillas and chimpanzees.

Cameroonian law divides forest land into permanent and non-permanent domains.² The permanent forest domain includes the national parks, designated wildlife habitats, and production forests that allow regulated timber production. Some production forests are administered by the national government, which may issue commercial concessions directly to private companies; others are council forests, which are under local municipal control. In south-eastern Cameroon, the production forests are located around national parks, creating buffer zones in which some timber production and other forest uses, such as hunting, may be allowed. Production forests subject to commercial concessions are designated as forest management units (Unités Forestières d'Aménagement – UFAs).

The non-permanent forest domain allows different types of uses, which may include community forests: forests that local communities can use to generate funds, including by licensing timber production. In south-eastern Cameroon, the non-permanent domain extends along either side of the road running north-south between Lobéké to the east and Boumba Bek/Nki to the west.³ Most of south-eastern Cameroon outside the national parks has also been zoned for either sport or community hunting. The government retains direct authority over sport hunting zones and licenses private safari companies to conduct trophy hunting in them. These zones usually overlap with the UFAs. The community hunting zones (or ZICGCs, to use their French acronym⁴), which may overlap with both commercial production forests and council forests, are each managed by a committee of representatives of local communities. In principle, the community hunting zones are open to local subsistence hunting, but in practice, the local committee often leases the zone to a private safari company, which then excludes local hunters.⁵ Revenue from the hunting lease is divided between the local communities and the national government.

Large-scale professional poaching has been a major concern for the TRIDOM and TNS programmes. The high foreign demand for ivory and ivory products has had calamitous effects on forest elephants in the region. Poachers commonly hunt elephants and other big game with military weapons such as AK47s, and there are occasional shootings involving armed poachers and ecoguards. From 2015 to 2018 for example, there were three ecoguard missions involving shootings in Lobéké National Park, which resulted in the killing of one

² For a map of the zones in south-eastern Cameroon, see <https://cmr.forest-atlas.org/map/?l=en>.

³ The road connects the town of Yokadouma north of Boumba Bek with the town of Moloundou on the southern border of Cameroon with the ROC.

⁴ The acronym for sport hunting zone is ZIC, for Zone d'Intérêt Cynégétique, and the acronym for community hunting zone is ZICGC, for Zone d'Intérêt Cynégétique à Gestion Communautaire.

⁵ See Lambini *et al.*, *Conflicts, participation and co-management in protected areas: A case study of Lobéké National Park, Cameroon* (May 2019) (Centre for Rural Development Publication Series S279), p xi.

ecoguard and the paralysis of another.⁶ The civil war in CAR between 2009 and 2013 caused more military weapons to be available to poachers in the area and increased the presence of the Cameroonian army. GTZ, which led the consultation and social development aspects of the initiatives to establish the three national parks, withdrew after 2009 as a result of the financial crisis.

South-eastern Cameroon has approximately 150,000 residents, of which the majority are Bantu. As many as 40,000 Baka live in several hundred villages. In addition, there are non-local populations that include logging company workers. Most of the population, both Baka and Bantu, live on less than one USD per day. Most of the local communities around the parks do not have access to safe drinking water, medical care or schools.

Bantu communities rely primarily on agriculture, although they also engage in hunting, fishing and gathering of non-timber forest products (NTFPs). The indigenous Baka have historically relied mainly on hunting and gathering, and generally continue to depend on the resources of the forest for their material and spiritual well-being. Although the Baka have increasingly engaged in agriculture in recent decades, many Baka still leave their villages and go into the forest to hunt and gather for weeks or months at a time.⁷ The Baka have historically been discriminated against and marginalised, often treated as servants or even slaves by the Bantu majority. They typically do not possess title to the land that they have traditionally used and often do not possess legal identification documents. Because of their knowledge of the forest, Baka have sometimes been hired as trackers and hunters by Bantu and outside poachers.⁸

The domestic legal framework for the national parks is the Forest Code of 1994, Law No. 94/01 of 20 January 1994, and decrees implementing that law.⁹ Although article 8 of the Forest Code recognises usage or customary rights for resident populations to exploit forest products, including animals and fish for personal use (with the exception of protected species), other provisions restrict all access to and use of the national parks except as authorised for subsistence purposes by their management plans.

The investigation focused on allegations in recent years in south-eastern Cameroon, and therefore did not explore in detail the process of consultation with local communities during the establishment of the three national parks and the surrounding zones. However, it is clear both that there was an extensive process, in which GTZ rather than WWF was most involved, and that the rights of the Baka, in particular, were not adequately taken into account. In a 2012 article, two WWF Cameroon staff members and one IUCN staff member described several problems, including that the recognition of pre-existing human occupation of territory followed only clear indicators of human settlement and therefore did not take into account the types of forest use practiced by hunter-gatherers. The writers stated that despite efforts of field teams to include Baka in the process, their participation was very low because, among other reasons, they did not speak French and were reluctant to speak up in the

⁶ Ibid., p 44.

⁷ For a description of Baka hunting practices, see Koji Hayashi, "Hunting Activities in Forest Camps Among the Baka Hunter-Gatherers of Southeastern Cameroon," *African Study Monographs* 29(2):73-92 (2008).

⁸ See Ngambouk Vitalis Pemunta, "Fortress conservation, wildlife legislation and the Baka Pygmies of southeast Cameroon," *GeoJournal* 84:1035-1055 (2019), p 1045.

⁹ Decree No. 95/466 of 10 July 1995 sets out the procedures for regulating wildlife, and Decree No. 95/531 of 23 August 1995 sets out the procedures for application of forest regulations.

presence of Bantu.¹⁰ Baka were more involved in the process to identify their customary use areas, which was conducted after the establishment of the national parks. That process is described in section 4.3.3 below.

4.2 WWF's Role in the Governance of the Three National Parks

The WWF Programme Office in Cameroon, which opened in 1990, is under the management authority of WWF International.¹¹ Over time, WWF Cameroon grew from a small office with a single field project into a substantial organisation, employing 120 people by 2016. Following a restructuring in 2017, the number of its staff was reduced to 80. WWF staff in Cameroon operate either out of the main office in the capital, Yaoundé, or one of eleven field offices that support four conservation programmes, including TRIDOM and TNS.

As of 2018, seven WWF Cameroon field staff were in the field working directly on the interface between projects and local communities, and another three were based in Yaoundé spending a substantial part of their time on these issues. Efforts by WWF Cameroon to raise funds for social development programmes and community engagement have been hampered by the reluctance of funders to provide financial support through WWF for these programmes, and by the resistance of many development organisations to work in the field in the remote areas of Cameroon where protected areas are located. Funding for programmes in Cameroon has come through a number of WWF donor offices, including WWF Germany, WWF Netherlands, WWF Sweden and WWF USA. External funders have included the EU, the German development bank KfW, the German Federal Ministry for Economic Cooperation and Development (BMZ), the US Fish and Wildlife Service and the Swedish government. Each donor has its own requirements for how its funding should be spent and accounted for, and WWF Cameroon acts as an intermediary between the donor offices and the protected areas that are ultimately the beneficiaries of the funding.

The administration of national parks is under the control of the Ministry of Forests and Fauna (MINFOF) and, within MINFOF, the Directorate of Wildlife and Protected Areas (DFAP). Each national park is under the responsibility of a conservator, who is under the authority of a regional or departmental delegate of MINFOF. Other relevant government agencies include the Ministry of Social Affairs (MINAS), which is responsible, among other matters, for issues concerning local communities.

In July 2006, WWF signed an agreement with MINFOF that identified four axes of collaboration: management of protected areas; conservation of flagship species; development of infrastructure in protected areas; and development of innovative financial mechanisms. WWF committed, among other things, to strengthen the capacity of MINFOF and to promote the engagement of indigenous peoples and local communities in the sustainable management of protected areas.

¹⁰ Olivier Njounan Tegomo, Louis Defo, and Leonard Usongo, "Mapping of Resource Use Area by the Baka Pygmies Inside and Around Boumba-Bek National Park in Southeast Cameroon, with Special Reference to Baka's Customary Rights," *African Study Monographs* 43:45-59 (2012), pp. 48-50. See also Shiho Hattori, "Nature Conservation and Hunger Gatherers' Life in Cameroonian Rainforest," *African Study Monographs Supp.* 29:41-51 (2005).

¹¹ The acronym often used for the WWF office is CCPO, for Cameroon Country Programme Office. This report refers to the office as WWF Cameroon, to be consistent with the use of WWF office names elsewhere in this report.

WWF has a programme manager for each of the national parks who works closely with the conservator of each park. WWF does not have a role in appointing or directing MINFOF employees, including ecoguards, who are under the direction of the conservator. Most of the staff in the parks are ecoguards. For example, in 2017 Nki National Park had 39 staff members of whom 37 were ecoguards; in 2018, Lobéké National Park had 52 ecoguards, including the MINFOF-appointed heads of unit, who also go out on patrols. The relationship of WWF Cameroon with the ecoguards in the national parks is described below in section 4.3.2.

In May 2019, a team of researchers from the Centre for Rural Development (Seminar für Ländliche Entwicklung – SLE) at Humboldt University in Berlin published a report describing serious governance challenges facing Lobéké National Park, including that it is severely understaffed and underfunded, and that it provides inadequate working and living conditions for ecoguards.¹² Boumba Bek National Park and Nki National Park have fewer financial resources than Lobéké. The researchers also stated that the general absence of basic government services in south-eastern Cameroon had created an expectation that they should be provided by other entities operating in the area, including WWF, as well as private companies.¹³

4.3 Allegations and Factual Findings

This section describes the factual findings related to three allegations:

- WWF has had knowledge of alleged human rights abuses by ecoguards in the three national parks in south-eastern Cameroon;
- WWF has financially supported and collaborated with ecoguards at the three national parks despite knowledge of the alleged abuses; and
- WWF failed to take adequate steps to prevent, respond to and remedy alleged human rights abuses by ecoguards in and around the three national parks.

4.3.1 Factual findings related to the allegation that WWF has had knowledge of alleged human rights abuses by ecoguards in south-eastern Cameroon

On 1 July 2008, a meeting held at the WWF Cameroon office in Yokadouma involved participants from WWF, government authorities and 15 representatives of Baka communities living between Boumba Bek/Nki and Lobéké. The purpose was to discuss the outcomes of efforts to map areas traditionally used by the Baka. At the outset, however, the community representatives raised allegations of human rights abuses carried out by ecoguards, including extra-judicial beatings of people found inside the national park, found hunting near the national park or encountered in the forest.¹⁴

Since 2014, specific allegations have been raised by: (a) external and national civil society organisations and (b) independent reports commissioned by WWF. These allegations are detailed in the following sub-sections.

¹² Lambini *et al.*, Conflicts, participation and co-management in protected areas: A case study of Lobéké National Park, Cameroon (May 2019) (Centre for Rural Development Publication Series S279).

¹³ *Ibid.*, p. xiv.

¹⁴ John Nelson and Messe Venant (Forest Peoples Programme), *Indigenous peoples' participation in mapping of traditional forest resources for sustainable livelihoods and great ape conservation* (November 2008), p. 12.

(a) Allegations from civil society organisations

In 2014, Survival International (SI), a civil society organisation based in the United Kingdom, sent letters to WWF Cameroon and WWF International alleging human rights abuses by ecoguards in south-eastern Cameroon. The allegations were, for the most part, framed in general terms, but more specific allegations included statements that in 2011, Baka in the village of Yenga made a video about alleged abuses by ecoguards; that WWF had allegedly responded by asking the NGO that hosted the video on its website to remove it; and that in 2012, a researcher had witnessed a violent raid on the village of Ngatto Ancien, that she had been told by a senior official at MINFOF that individuals accused of poaching were tortured when they do not want to talk, and that she had informed senior WWF staff.

In February 2016, SI filed a submission to the Swiss National Contact Point (NCP) for the OECD *Guidelines for Multinational Enterprises*,¹⁵ claiming that WWF had violated the OECD *Guidelines*. In particular, it claimed that WWF had failed to conduct due diligence and to make its support for the demarcation of the protected areas conditional on the free, prior and informed consent of the Baka; and that WWF should have supported ecoguard and army patrols only if effective steps were taken to ensure that the patrols focused on commercial poachers and were held accountable for any violence against Baka. The submission included statements by Baka alleging multiple abuses perpetrated by ecoguards and army patrols between 2008 and 2014, including alleged incidents of beatings and destruction of property.¹⁶ The NCP accepted the referral in December 2016 and it hosted a mediation between the parties in June 2017. SI withdrew from the process in September 2017.

In its Final Statement closing the case on 21 November 2017, the Swiss NCP stated that by disclosing information about the ongoing procedure, SI had breached the rules of confidentiality governing the procedure. The NCP made a number of recommendations, including that the parties should implement actions agreed during the mediation process. Among these were that WWF should continue its operational and advocacy support to strengthen the Baka with regard to the land on which they rely; that WWF should continue the elaboration of its 'law enforcement guidelines and support principles'; and that specific mechanisms for addressing ecoguard abuse should be further developed with key stakeholders, including the government and civil society organisations, to improve respect for human rights of the Baka.¹⁷

In April 2016, Rainforest Foundation UK (RFUK) published a report on 34 protected areas in five countries in central Africa entitled *Protected Areas in the Congo Basin: Failing both People and Biodiversity?*, in which it argued conservation had often left communities, especially indigenous communities, without usage rights and therefore with diminished access to food. One of the report's case studies concerned Boumba Bek and Nki National Parks, for which interviews were conducted in five villages near the parks. The report stated that those interviewed said that there had been beatings of Baka by ecoguards, and that their greatest concerns included loss of wildlife and restrictions on hunting and access to the forest as a result of the establishment of the national parks and the logging concessions.

¹⁵ The OECD *Guidelines* are legally non-binding standards for responsible business conduct, which are informed by the UN *Guiding Principles* described in Chapter 3 of this report.

¹⁶ SI has published its submission at <http://assets.survivalinternational.org/documents/1527/survival-international-wwf-oecd-specific-instance.pdf>.

¹⁷ The statements issued by the Swiss NCP are at https://www.seco.admin.ch/seco/en/home/Aussenwirtschafts-politik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/NKP/Statements_zu_konkreten_Faellen.html.

WWF was provided with an opportunity to comment on a draft of the report, and a letter from WWF's Regional Office for Africa was included as an annex. The letter stated that the recommendations were largely in line with previous assessments, including WWF's own internal analysis, and that WWF in no way condoned improper behaviour by ecoguards and was actively working to curb such behaviour.

In December 2016, SI posted on its website an 'open letter' containing copies of handwritten one-page letters from various communities across the Congo Basin, including several communities in south-east Cameroon. Five of the eight letters, dated between 20 July 2016 and 4 August 2016, complained of violence by anti-poaching teams and ecoguards. Several of the letters stated that the communities wanted WWF and those funding the protected areas to come and ask for their consent. WWF became aware of the posting in the same month; its response is described below in section 4.3.3.

In 2017 and 2018, additional specific allegations of abuses by ecoguards were raised with WWF through complaint mechanisms that are also described in section 4.3.3.

(b) Allegations described in WWF-commissioned reports

In response to allegations of human rights abuses by anti-poaching forces, WWF Cameroon commissioned three independent reports. The first was undertaken in April 2015 by Diel Mochire Mwenge, who was mandated to evaluate the implementation of WWF's policies and principles on human rights at selected sites around the three national parks in south-eastern Cameroon. He did not investigate specific incidents of alleged abuse, but the report stated that some raids by patrols had violated the rights of local communities, especially the Baka. The report also stated that several cases of abuse had been alleged by the communities, noting two in particular: a Baka husband and wife who were victims of assault and looting of their house by ecoguards in 2014; and a Baka who was the victim of persecution in 2013. The report stated that there might be unidentified cases, since there was no reliable mechanism for reporting allegations. The remainder of the report is described below in section 4.3.3.

In response to the letters posted by SI on its website in December 2016, WWF Cameroon commissioned ASBAK, a Baka civil society organisation, to investigate the allegations of ecoguard abuses. Between 12 March and 5 April 2017, ASBAK talked with more than 170 Baka men and women in about 60 villages near the national parks in south-eastern Cameroon. It did not seek to investigate specific allegations or to provide broader analysis. Instead, its report described the statements of one to five people from each village visited.

Statements of Baka in more than 15 villages alleged abuses by ecoguards, including beatings, torture, sexual assault, seizure or destruction of material that had not been poached, and burning of huts in the forest. Some of these statements presented these descriptions in general terms, as being typical of ecoguard behaviour, but other statements described specific incidents of abuse allegedly suffered or witnessed by the speakers themselves. Examples included descriptions of ecoguards hitting a Baka's feet with his own machete, or using his machete like a whip to drive him from the forest. Beatings were sometimes described as being severe enough to prevent those assaulted from being able to walk for two or more days. The most severe example came from the Ngatto Ancien community, where a man described the beating of the chief, aged 70 years or more, who allegedly died two weeks later. This was the only allegation of a death caused by the ecoguards' actions.

Some of the statements acknowledged poaching by the villagers, including of elephants, but described abusive treatment by the ecoguards rather than legal punishments. Other statements alleged that even without evidence of poaching, ecoguards imposed fines that had to be paid under threat of being taken to prison. Many of the statements said that the ecoguards came to villages and caused disorder – searching houses and going through belongings – without having or finding any evidence of poaching. Some of the statements alleged that ecoguards themselves were engaged in poaching. Some of the villagers said that these ecoguards knew who the hunters were among the Baka because they used the same hunters themselves. Baka from several different villages named the same two ecoguards as well-known poachers.

Interviewees from some villages said that their communities were visited regularly, while statements from other villages – slightly more than half of all of those visited by ASBAK – said they were rarely or never visited by ecoguards. Many of the interlocutors in villages that were not visited stated that they were overlooked because they were further away from the national parks, and/or that the ecoguards concentrated on villages more involved in big game hunting. A common statement from villagers there was that the ecoguards did not bother them because they no longer went to the forest. Many of the statements complained that without access to the forests, the Baka were losing their culture and their way of life. Many of these statements suggested that the Baka faced an untenable choice: either they continued trying to hunt, thereby risking arrest and beatings from ecoguards, or they stopped going into the forest and lost their culture and means of livelihood.

In 2017, WWF International commissioned another independent review of allegations of human rights abuses by ecoguards and the extent and quality of consultation with local communities. The study was conducted by Paul Chiy, a barrister and solicitor licensed in England and Cameroon. His team visited five villages near the national parks in December 2017. The report stated that allegations of human rights abuses were widespread and increasing. Although the team was unable to meet with most of the victims mentioned in previous complaints, it met with witnesses to some of the incidents previously alleged, as well as individuals alleging similar abuses that had not previously been reported, including allegations of beatings and rape. Many of those interviewed complained that they were routinely accused, without any evidence. The report noted that the allegations of human rights abuses were not limited to the Baka, and posited that the abuses against Baka had received more attention because more organised groups were fighting for them.

4.3.2 Factual findings related to the allegation that WWF supported and collaborated with ecoguards

Ecoguards are employees of MINFOF and receive a salary from the government of CFA 50,000 (approximately USD 85) per month. WWF Cameroon has provided bonuses, equipment (including tents and camping gear), and rations and supplies for patrols, paying with funds provided by donor offices, including a trust fund for the TNS protected areas, among them Lobéké National Park. More than 80% of funding for Lobéké is provided by the TNS trust fund, whose donors include the German Federal Ministry for Economic Cooperation and Development (BMZ) via the German development bank KfW, and the French Development Agency (AFD). Another 15% is from WWF Cameroon (channelled from foreign funders), while MINFOF provides 4%, which covers ecoguard salaries.¹⁸ Neither

¹⁸ Lambini *et al.*, *Conflicts, participation and co-management in protected areas: A case study of Lobéké National Park, Cameroon* (May 2019) (Centre for Rural Development Publication Series S279), p. vi.

WWF nor the TNS trust fund has paid for weapons or arms of any kind. Without external financial support, MINFOF would not have had the budget to conduct anti-poaching patrols in the protected areas, at least not to the same extent.

Because of its control over disbursement of funds, WWF Cameroon effectively has had the power to decide whether or not to approve proposals for funded operations, including ecoguard patrols. WWF Cameroon officials were involved in reviewing plans and resourcing for patrols, including raids (so-called *coups de poing*),¹⁹ supported with WWF funds. Between 2014 and 2018, WWF Cameroon supported at least 63 raids involving ecoguards. Army units from the Bataillon d'Intervention Rapide (BIR) or the Bataillon d'Infanterie Motorisé (BIM) accompanied the ecoguards in at least 32 of the operations.²⁰ MINFOF had legal authority to decide whether to involve the army in an operation, and the investigation did not find evidence that WWF officials requested army involvement. When military units did participate in these missions, they had access to the equipment that WWF provided.

Sometimes WWF Cameroon provided drivers and vehicles for missions, transporting the ecoguards and collecting them on their return. In this way, WWF Cameroon staff could ensure that the ecoguards would keep to the agreed itinerary by checking that they passed through designated points. Transporting ecoguards in WWF vehicles also addressed the shortage of government vehicles, which were often out of service or without fuel. WWF Cameroon staff would not normally go on patrols but would sometimes supervise the patrol from a location within contact, with the aim of ensuring that the itinerary was respected. Occasionally, WWF Cameroon staff accompanied the missions. For example, in September 2017 a WWF Cameroon wildlife officer accompanied three ecoguards and three soldiers on a patrol because of concern that the mission was sensitive, involving contacts with the local authorities and the military, and was taking place near an international border. After missions ended, there would be a debriefing at which a WWF Cameroon staff member was usually present.

A system of bonuses was agreed upon with donors with a view to incentivising the ecoguards to fight poaching more effectively. Such bonuses would often exceed the amount of salaries. Since 2008, the TNS programme has provided individual bonuses for ecoguards in Lobéké National Park based largely on seizure of certain items, such as weapons and ivory, during patrols. Ecoguards could also receive a team bonus based on overall performance over a longer period of time. An equivalent system has been applied in the TRIDOM area, which includes Boumba Bek and Nki National Parks, when funds have been available.

4.3.3 Factual findings related to the allegation that WWF failed to take adequate steps to prevent, respond to and remedy alleged human rights abuses by ecoguards in and around the national parks

This section describes how WWF has addressed alleged human rights abuses by ecoguards in and around Boumba Bek, Nki, and Lobéké National Parks. Sub-section (a) describes the reports by independent consultants and the action plans prepared in response, and sub-

¹⁹ A *coup de poing* (in English, a punch or blow) is the name used for a mission by ecoguards (with or without army soldiers) that is aimed at a particular target, such as a raid on a poaching hotspot in the forest, or on a village or house in search of poachers or ivory. In this report, the term 'patrol' encompasses both *coups de poing* and other types of ecoguard missions, such as travelling to different locations in a protected area.

²⁰ In September 2016, MINFOF signed an MOU with the Ministry of Defence for the regular conduct of mixed patrols. A copy of the MOU is attached to the three TNS states' 2016 report to the World Heritage Committee on the state of conservation in the Tri-National Sangha landscape, at <http://whc.unesco.org/en/list/1380/documents>.

section (b) describes the state of implementation of these action plans as of July 2020. Two elements of the action plans are covered in more detail in sub-sections (c) responding to specific complaints and supporting a complaint mechanism, and (d) supporting recognition of Baka rights of access to the national parks.

(a) Reports and action plans

In 2015, WWF Cameroon commissioned an independent consultant to evaluate implementation of its human rights policies around the three national parks. In 2017, WWF International commissioned another independent consultant to investigate the same issues. Each of the experts produced a report that included a number of recommendations, on the basis of which WWF developed response plans. The two reports and corresponding action plans prepared in response are summarised below.

November 2015 report and February 2016 action plan

In April 2015, WWF Cameroon contracted Diel Mochire Mwenge, a Baka from the DRC, to carry out an evaluation of the implementation of WWF policies and principles on human rights issues around the three national parks. After completing field visits, the consultant presented findings to a workshop of staff and consultants from WWF Cameroon and other WWF offices, including WWF International and WWF ROA, held from 27 to 30 April 2015. In February 2016, WWF Cameroon developed an action plan based on the report and workshop.

The consultant visited villages around the national parks and conducted meetings with nearly 500 people. His report stated that the Baka had been deprived of their rights to the forest by the establishment of protected areas, and that the principle of free, prior and informed consent had not been substantially implemented in Cameroon. It stated that during the process of establishing protected areas, there was little or no consultation with Baka; instead, most of the consultations with local communities were with Bantu. The report stated that there had been a gradual change towards greater recognition of the rights of Baka in recent years, and that some Baka were members of forest development and governance committees or had been recruited as ecoguards. However, the report stated that MINFOF and its partners had not adequately implemented provisions recognising community rights; the number of Baka on management and governance committees was insufficient; and community projects were implemented in Bantu villages for the most part and provide only indirect benefits to Baka. The report stated that the Baka were still seen as threatening conservation rather than as partners; rather than being asked to put their traditional knowledge and practices to good use for conservation, they were exploited and used by poachers, especially for hunting elephants.

The report stated that *coups de poing*, usually conducted in the middle of the night, sometimes violated the rights of the communities concerned, especially the Baka. As noted above in section 4.3.1, the report did not investigate specific allegations but it stated that several cases of abuse had been reported by local communities. The report stated that local communities were unclear about the respective roles of MINFOF and WWF and were not informed about WWF's policies and missions. Furthermore, there was generally low collaboration between indigenous organisations and WWF in the study area, and while some WWF staff were able to articulate WWF's commitment to human rights, many others were not. The report noted that this lack of clarity in vision and direction was visible to communities.

The report also stated that although WWF's conservation work was visible in the area, the impact of its projects initiated to benefit Baka was much less visible, with only one community

forest in the more than ten indigenous communities visited. The Baka community forest of Yenga and Mambélé, which was supported by WWF, had generated revenues through artisanal logging that had addressed some community needs, including helping to pay for school materials and fees. The report pointed out that these positive impacts were still small compared to the needs of the Baka community. More generally, there was a virtual absence of support measures for communities adapted to their traditional way of life, including harvesting and hunting. The report stated that only 10% of funds generated from forest management units were allocated to rural communities (with 50% going to the state and 40% to municipalities) and that the local communities themselves were not the direct managers of even the 10% allocated to community projects.

The report, finalised in November 2015, recommended that WWF Cameroon should increase its engagement with indigenous rights issues, including by:

- establishing a framework for cooperation with indigenous peoples to ensure the respect of WWF principles on conservation and indigenous rights;
- organising community dialogues on the role and mandate of WWF and the involvement of communities in conservation activities supported by WWF, and ensuring its policy on indigenous peoples forms an integral part of agreements between WWF and its partners;
- ensuring implementation of and respect for WWF principles on conservation and indigenous peoples for the purpose of protecting their rights to land and natural resources;
- establishing mechanisms for collaboration with indigenous peoples' organisations by establishing partnerships for technical and financial support;
- developing community conservation areas managed by the Baka; and
- facilitating training of communities in regard to their rights.

A number of recommended actions were aimed at support for local development. These included: strengthening initiatives to promote education; retraining communities of hunters and developing income-generating activities; developing large-scale alternatives to conservation, such as fish farming and agriculture; advocating with the relevant authorities that Baka should be appointed to leadership positions; and setting up projects for domestic cultivation of medicinal plants.

The report emphasised that mechanisms for redressing cases of human rights abuses must be put in place and enforced. The report recommended a number of specific steps for WWF to take in relation to MINFOF, including:

- seeking a revision of the partnership agreement with MINFOF to take into account the present context of human rights-based conservation;
- dissociating WWF's role from the role of MINFOF as the entity directly responsible for conservation and management of the protected areas, including anti-poaching activities;
- strengthening advocacy for signing without delay agreements between MINFOF and Baka on user rights in the three national parks; and
- strengthening the National Indigenous Peoples Network to advocate for the legal recognition of Baka villages and chieftains and legislation to secure their rights to land, health and education.

WWF Cameroon viewed the report as a good basis for developing a plan of action on these issues, and in February 2016, it prepared an action plan that incorporated the recommendations from the report and the outcomes of the April 2015 workshop. It stressed that full implementation of the plan would require substantial additional funding, and noted that some recommendations (such as political advocacy for secure land tenure) could only be pursued in partnership with other organisations and experts. Some of the items in the action plan were aimed at increasing the attention and institutional capacity of WWF Cameroon to address these issues, including by training WWF staff on community-based conservation, participatory approaches and indigenous peoples' issues; and recruiting a full-time coordinator for community-based conservation with a mandate to establish close working relationships with indigenous peoples' and civil society organisations.

January 2018 report and May 2018 action plan

In 2017, WWF International commissioned a separate independent review of allegations of human rights abuses by ecoguards and of concerns related to the creation of the national parks, including the extent and quality of consultation with local communities. The consultant, Paul Chiy, was instructed to assess WWF's role and responsibility in any confirmed cases of abuse and to assess the responses of WWF Cameroon to the allegations. The consultant conducted field investigations in December 2017 and finalised his report in January 2018.

As noted above in section 4.3.1, the report found widespread allegations of human rights abuses carried out by anti-poaching patrols. It emphasised that the allegations were symptoms of deep-rooted grievances, including marginalisation of users in and around the protected areas and the effects of illegal exploitation and over-exploitation of natural resources. The report found that, based on a review of historical materials, there had been a comprehensive process of consultation and consent led by the Government of Cameroon before the establishment of the protected areas, including through meetings with local communities that provided information on the classification procedure and the implications of national park status for rights of customary use. The report stated that the consultation documents show that local communities wanted the forests protected and wanted constraints on loggers, safari companies, poachers and others encroaching on the forest from the outside. The report also stated that WWF was heavily involved in ensuring that the consultations had appropriate social provisions.

The report further stated that many of the people interviewed in December 2017 recalled what local communities had been told at the time about the creation of the national parks but that they now asserted that their parents were fooled and that the abuses suffered today were due to the failure, including by WWF, to respect the agreements. The report gave examples of statements from interviewees that were highly critical of the conservation programmes around them, on the grounds that their rights to hunt and use the forest were not being respected, that these conservation programmes had not employed anyone from their communities, and that they did not have access to a grievance mechanism.

The consultant made a number of recommendations, some of which echoed the November 2015 report and the corresponding February 2016 WWF action plan. These included: conducting a comprehensive demographic survey of forest users; training WWF staff on human rights and indigenous rights; and placing WWF staff in the field as close as possible to the protected areas. Like the November 2015 report, the January 2018 report urged WWF to push the Government of Cameroon to do more to recognise indigenous rights, including by involving indigenous peoples in the co-management of the protected areas.

The overarching recommendation of the January 2018 report was that WWF needed to pursue a more holistic approach to these issues, taking into account the marginalisation of the Baka, the effects of logging and the impacts of trade in wildlife. The report noted that WWF had invested significantly in protecting the rights of the indigenous people, but stated that the investment had been uncoordinated and did not empower indigenous people to take the lead in the resolution of the issues affecting them. Systemic institutional changes were necessary; it was not sufficient to deal with allegations on an individual basis. In order to coordinate the activities of stakeholders, including WWF and its partners, the report recommended supporting the government to institute more permanent systems and processes to ensure the risk of abuse is minimised, and supporting a coordinated strategy, led by indigenous people themselves, that recognises and addresses their immediate and urgent security and protection needs.

Specific recommendations included that WWF should:

- develop and implement a due diligence policy and ensure that its agreements with downstream partners include enforceable commitments to support WWF's indigenous peoples strategy;
- improve its communications strategy to raise awareness and advocate for the rights of indigenous peoples among stakeholders at all levels;
- immediately discontinue the transportation of ecoguards in its own vehicles until there was an agreement on how their activities would be accounted for and an investigation into the various allegations was commenced;²¹
- engage the ecoguard and army hierarchy to agree on a rapid response structure for responding to incidents and dealing with allegations;²² and
- develop workable complaint mechanisms that empower the indigenous people themselves to lodge any complaints they have with the government.

In response to the report, in April 2018 WWF International shared with the International Board's Audit, Risk and Compliance Committee (ARCC) the full report of the consultant and a briefing paper that summarised the report's recommendations and indicated how WWF would respond to them. It shared the briefing paper with the International Board in May 2018. In some respects, the briefing paper softened the statements in the report. In particular, it did not include the statement from the report that allegations of abuses were widespread and increasing; instead, it stated that most of the allegations raised by SI related to the period 2009 to 2013. The briefing paper did not mention that the consultant had received new allegations of abuses. It repeated the conclusion in the report that there had been a comprehensive process of consultation and consent before the establishment of the protected areas, but it did not mention that the consultant reported that the interviewees now believed that the terms of previously negotiated MOUs were not being complied with, including by WWF, and that these failures were the cause of the current abuses. WWF International affirms that the discussion at the International Board was informed by the full report as previously shared with the ARCC.

²¹ It is unclear whether the consultants were aware of the extent of other WWF support to the ecoguards; the report stated that they had requested but not received details of WWF technical and financial support to various areas, including ecoguards.

²² The report noted that many previous efforts had avoided this.

The WWF International statement of planned responses to the report included that WWF Cameroon would: work with MINFOF and local community organisations to increase access rights of indigenous peoples to protected areas through the creation of additional community forest and hunting zones; continue financing human rights training for ecoguards; work to establish an effective complaint mechanism; consider supporting the establishment of a legal centre run by a non-governmental agency, in support of the indigenous people, on the model of the Human Rights Centre established in CAR; channel allegations to MINFOF and to the local judicial system; place greater efforts on building and strengthening community organisations; and lead a process for developing a comprehensive programme strategy focused on protected area management and indigenous people.

(b) Implementation of the action plans

WWF Cameroon has taken a number of steps to implement the action plans. To improve its capacity, it has conducted internal human rights training for its staff and, in September 2017, it hired a community coordinator with a mandate to implement the action plans.

To improve cooperation and dialogue with indigenous peoples in order to protect their rights, WWF Cameroon has established closer relationships with local civil society organisations, including Réseau Recherches Actions Concertées Pygmées (RACOPY), a network of more than 20 local indigenous rights organisations, and two Baka civil society organisations, Association Baka (ASBAK) and Association Baka Sanguia Buma Kpode (ASBABUK). WWF Cameroon has also supported local organisations to educate local communities about their rights and strengthen their capacity to exercise them. For example, in September 2019, ASBAK and the Centre pour l'Éducation, la Formation et l'Appui aux Initiatives de Développement au Cameroun (CEFAID), with WWF support, organised a two-day capacity-building workshop for 28 Baka (21 men and 7 women), including managers of community forests and other community leaders.

WWF Cameroon has also engaged with the Ministry of Social Affairs (MINAS), the government ministry charged with oversight of indigenous issues. In April 2019, WWF Cameroon and MINAS signed a partnership agreement on protection of the rights of indigenous populations in matters of biodiversity conservation. MINAS undertook, among other things, to monitor and evaluate the inclusion of rights of indigenous populations during the implementation of conservation programmes and projects; to build the capacities and leadership of indigenous populations with a view to the efficient exercise of their right to consultation and information in conservation programmes and projects; and to provide information to WWF, including updated statistical data on indigenous populations. MINAS and WWF Cameroon adopted an action plan to implement their agreement that includes commitments, among other things, to conduct missions for collecting data on the respect for rights of indigenous people in relation to conservation; to facilitate access of indigenous children to education; and to strengthen the capacity of indigenous leadership – especially in relation to management of protected areas.

WWF Cameroon has facilitated the creation of two 5,000-hectare Baka community forests, in Assoumbele II and Mboli. Of the 40 or more community forests in the region, three are now allocated solely to Baka and four solely to Bantu, while the remainder are mixed. The Assoumbele II forest generated over CFA six million in 2017, which was used to pay for a teacher and educational materials. Revenue from the Mboli forest, which was created in 2018, has been used to fund a management plan for the forest. WWF Cameroon has taken a number of other actions to promote local development, including supporting local education through building classrooms in collaboration with PLAN International Cameroon and supporting scholarships for school supplies and fees for Baka children.

With respect to the recommendation to exercise due diligence in entering into agreements with downstream partners, WWF Cameroon states that all of its contracts since the January 2018 consultancy report have incorporated a commitment by partners to respect and implement WWF's social and human rights policies, and that its partners are briefed on these policies before implementation of the contracts.

With respect to the recommendation that mechanisms for redressing cases of human rights abuses must be put in place and enforced, including through specific actions in relation to MINFOF and the government, implementation has been more uneven. On the positive side, WWF Cameroon has supported the establishment and strengthening of an independent complaint mechanism, which is described in more detail in the following section.

In response to the recommendation that training of ecoguards should go beyond wildlife conservation to include human rights, WWF Cameroon supported the publication of a manual on human rights applicable during anti-poaching operations, which was prepared by the Cameroon National Commission on Human Rights and Freedoms and the Cameroon Bar Association in 2015. The manual, which was translated into English in 2017, describes human rights standards, relevant provisions of Cameroonian criminal law, the rights of indigenous peoples and local communities living near protected areas, and consequences for ecoguards and other staff who fail to respect applicable norms and procedures. The manual has been distributed to ecoguards. In September 2016, the Human Rights Commission and the Bar Association held a training session over two or three days for over 200 ecoguards in eastern Cameroon, which covered the rights of indigenous persons and Cameroon's law on torture, among other topics. In September 2019, the Commission held another educational session on indigenous rights, attended by 70 to 80 participants, which was aimed at more senior government officials, including the heads of different protected areas.

WWF Cameroon has also supported the adoption of a Code of Ethics for ecoguards at Lobéké National Park, which was signed by the park conservator in September 2017. The Code sets out the framework for administrative sanctions to be imposed on ecoguards in cases of misconduct, including abuse of power, towards local populations. The maximum penalty for misconduct is confinement to barracks, ineligibility for patrol activity and removal from participation in the bonus scheme for periods of up to three months. Sanctions under the Code are administered by the National Park's disciplinary committee, which does not include any WWF staff members. The Code of Ethics does not provide for dismissal as a sanction. Ecoguards have the protections of civil servants under Cameroonian law, and the view of MINFOF is that they may be dismissed only pursuant to a decision of the President of Cameroon. Therefore, even in confirmed cases of severe abuse, park conservators can only escalate the case to the Minister of MINFOF, who can then escalate it to the level of the Presidency. In practice, this means that such referrals are extremely rare.

Boumba Bek and Nki National Parks have not adopted the Code of Ethics for their ecoguards. The WWF Cameroon position is that since these two national parks currently do not have sufficient funding for payment of bonuses, the reduction or suspension of which is the chief practical incentive to comply with the Code of Ethics, adopting a Code of Ethics in those parks would be ineffective.

In 2018, WWF Cameroon drafted a revised partnership agreement with MINFOF that would more clearly state MINFOF's responsibilities in relation to oversight of ecoguards and active participation of indigenous peoples and local communities in park management, but the revised agreement has not been accepted by the government.

(c) Responding to complaints and supporting creation of a complaint mechanism

This section describes first how WWF addressed specific complaints alleging abuses by ecoguards in Cameroon, and then its involvement in the creation of a complaint procedure administered by CEFAID.

Complaints submitted to WWF

In 2017 and 2018, some allegations of ecoguard abuse in Cameroon were submitted to the WWF Expolink whistleblower hotline, the operation of which is described in Chapter 10. For example, in August 2017, Expolink received a complaint that six members of a named community in south-eastern Cameroon had been physically assaulted by ecoguards in December 2015. WWF International referred the incident report to WWF ROA, which in turn sent it to WWF Cameroon with the instruction to investigate and take appropriate action. One of the senior officials at WWF Cameroon talked with an assistant in the headquarters of Boumba Bek National Park and on that basis reported back that WWF had not supported or organised a patrol that matched the description of the ecoguards named in the complaint. Later that month, WWF Cameroon sent a copy of the incident report to MINFOF, with a covering email stating that WWF would like to bring it to the Ministry's attention for any necessary actions, and that WWF strongly believed that any human rights abuses during the implementation of field activities should be discouraged and addressed as they occur. The Panel did not find a record of any reply from MINFOF or further action by WWF Cameroon.

On 31 August 2017, representatives of Forest Peoples Programme (FPP) working with Okani, a community-based NGO located in the east of Cameroon, told a WWF Cameroon staff member that in the middle of the night on 25 August, three ecoguards and one safari company employee came to the home of a Baka man, broke his door down, interrogated him and unsuccessfully searched his house for ivory and a Kalashnikov; that they then took him several kilometres away where they beat and humiliated him and forced him to drink dirty water from a ditch; and that he was held for three nights in the joint offices of MINFOF/WWF in Mambélé and not allowed to see the representatives of FPP or Okani, who included a lawyer.

The WWF officer contacted by FPP investigated and prepared a report on the allegations. In September and October 2017, he interviewed ecoguards based in Lobéké National Park, Baka and Bantu in villages in the area, and family members of the alleged victim. Despite repeated efforts, however, he was unable to speak with the alleged victim. His report on the investigation noted that the ecoguards denied the charges, but did conclude that there was an element of truth to the allegation. On 1 November 2017, the WWF Cameroon Country Director emailed the Secretary-General of MINFOF and the DFAP to draw their attention to the case and state that WWF would be grateful for any measures MINFOF takes to ensure that ecoguards respect human rights during their law enforcement activities and to ensure that culprits are punished. The report prepared by the WWF officer was not forwarded to MINFOF or made available to FPP. The investigation did not find evidence of any further response from MINFOF. WWF International took the position in November 2017 that WWF staff do not have the authority or capacity to conduct an investigation into alleged abuses. In response, WWF Cameroon instructed its staff not to conduct such investigations in the future; if staff members heard of allegations, they were to escalate the allegations to higher-level WWF officials.

CEFAID/RACOPY complaint mechanism

As part of its response to the consultant's report in 2015, WWF supported ongoing efforts by CEFAID, a civil society organisation in Cameroon, to establish a complaint mechanism for local Baka communities on a wide range of issues. This mechanism became operational

in December 2016. WWF has also supported other aspects of CEFAID's work, including facilitating birth certificates and identity cards for Baka. More recently, WWF has also funded ASBABUK to support the complaint mechanism by contacting communities directly to inform them of the mechanism and to help in resolving complaints received.

Between 2017 and 2019, the CEFAID mechanism recorded and processed over 100 cases, which covered allegations ranging from murder and rape to land grabbing and economic exploitation. Nearly all of the cases involved intra-community disputes or disputes between Bantu and Baka. None of the reported cases involved ecoguards. However, one such case did arise that was not raised through the CEFAID mechanism because it was resolved beforehand. In August 2019, a Baka man complained that an ecoguard had assaulted him near the entrance to Lobéké National Park. He reported the incident when he returned to his village and contact was made with ASBABUK, which immediately contacted the conservator of the park. A meeting was convened the next day with the Baka man, the representative of ASBABUK who spoke on his behalf, the three ecoguards who had been present, and a representative of WWF Cameroon. As a result of this meeting the conservator charged the ecoguards with a violation of the Code of Ethics, and the Baka man and the ASBABUK representative stated that they would not pursue their complaint.

In 2019, WWF Cameroon and others, including the Cameroon National Commission on Human Rights and Freedoms, engaged in an assessment of the CEFAID mechanism. The assessment teams visited at least 14 communities around the national parks. The teams found that communities continued to raise complaints against the ecoguards but generally did not know about the CEFAID mechanism. Among the complaints drawn to the teams' attention were that ecoguards had prevented access to the parks, seized or destroyed goods and beaten people, although some community members said that abuses had diminished in recent years. Communities requested more of a role in the co-management of the parks and compensation for destruction of farms by wildlife. Among the problems identified by the assessment was a lack of community access to natural resources.

In September 2019, the Human Rights Commission led a stakeholder meeting in Bertoua, which included representatives of CEFAID and WWF Cameroon. It identified shortcomings of the complaint mechanism, including: that the CEFAID office in Yokadouma was too far from the Baka communities in south-eastern Cameroon; that the exclusive focus on indigenous people excluded other marginalised people; that the mechanism was too closely associated with WWF; and that it lacked long-term secure funding. The participants agreed to increase the capacity of the mechanism by: establishing it as part of a broader mechanism under the leadership of RACOPY working in collaboration with the Human Rights Commission; reorienting it to include more of a focus on dispute prevention as well as resolution; opening another CEFAID office in October 2019 in Mambélé between the national parks and staffing it with two full-time lawyers; and allowing complaints from non-Baka communities. Going forward, the Human Rights Commission will stay engaged with the revised mechanism and provide regular assessments of its effectiveness.

Since February 2020, when these changes were completed, CEFAID has continued to receive complaints under the umbrella of RACOPY and with the partnership of the Commission, which supports complaints requiring the attention of state institutions and courts. CEFAID now offers four avenues of remedy – amicable settlement, third-party mediation, customary justice mechanisms and the formal justice system – and explains the strengths and weakness of each path so that complainants can make a decision about the best approach for their case, it being understood that serious alleged crimes will be addressed directly to the formal justice system.

CEFAID continues to collaborate with ASBABUK in efforts to raise awareness of the complaint mechanism within Baka communities and to learn of alleged abuses via a network of ASBABUK village contacts. WWF provides financial support to ASBABUK for this work. The mechanism is being funded through WWF Germany (for the area around Lobéké National Park) and WWF Sweden (for the area around Boumba Bek National Park), but there is not yet funding to expand the mechanism to Nki National Park. The participants in the mechanism, including WWF Cameroon, are seeking to secure additional funding and to establish financial independence of the mechanism from WWF.

In June 2020, CEFAID informed WWF Cameroon of allegations that ecoguards from Lobéké tortured and abused four Baka men while they were gathering mangoes in the national park. With this information, WWF Cameroon wrote to MINFOF to request a thorough investigation of the allegations and suspension of the ecoguards suspected of involvement, pending the outcome of the investigation. The park administration suspended five ecoguards and one biomonitoring officer from patrols and other field missions for three months, with the effect of confining them to the office and making them ineligible for performance allowances for that period. MINFOF informed WWF that it had commissioned an internal investigation, but the results of any investigation had not been reported to WWF by November 2020. In addition, the Panel has been informed that the National Commission on Human Rights and Freedoms is investigating the allegations.

(d) Supporting recognition of Baka rights of access to the national parks

Both of the external consultants described the exclusion of the Baka from access to the forests in which they had previously hunted and fished as the root cause of the conflicts with the anti-poaching patrols. Since the creation of the national parks, WWF Cameroon has been involved in various efforts to recognise rights of the Baka to have access to the parks. This section briefly describes the history of mapping customary uses in south-eastern Cameroon, then describes the two MOUs on access rights that were adopted in 2018 and 2019.

Mapping use rights

Following the establishment of the national parks, WWF Cameroon supported a mapping project between 2006 and 2008 to identify Baka uses of the forests, with a view to recognising them in the management plans of the parks. For example, in 2006-2007, WWF staff visited 21 Baka settlements along the northern and eastern boundaries of Boumba Bek National Park, devoting between six and eleven days per settlement to accompany the Baka into the forest and record their explanations of the importance of the areas and resources visited. The team found that 78% of the park was within the Baka penetration area, and 40% was within the high penetration area.²³ They concluded that the results of the study demonstrated that the management plans for Boumba Bek and Nki National Parks should be adjusted to take account of traditional uses of land and resources by the Baka and their customary rights.²⁴ Baka also participated in mapping directly. For example, between July 2007 and July 2008, with the assistance of FPP and the local organisations CEFAID and Centre pour l'Environnement et Développement (CED), five Baka communities mapped an area showing that they hunted and gathered over a wide area of forest, extending into Boumba Bek National Park and the adjoining logging concession.²⁵

²³ Njounan Tegomo, Defo, and Usongo, "Mapping of Resource Area," p. 54. They noted that this does not represent the entire scope of the penetration, because their mapping project did not include communities on the southern and western sides of the park. Ibid.

²⁴ Njounan Tegomo, Defo, and Usongo, "Mapping of Resource Area," p. 56.

²⁵ John Nelson and Messe Venant (Forest Peoples Programme), *Indigenous peoples' participation in mapping of traditional forest resources for sustainable livelihoods and great ape conservation* (November 2008), p. 11.

In 2011, the World Heritage Committee referred the nomination to include the TNS landscape on the World Heritage List back to Cameroon and the other countries in order, among other things, to “increase further the involvement and representation of local and indigenous communities in the nomination process and future management”.²⁶ Before resubmitting the nomination, the governments engaged in further meetings with local communities. According to a report prepared by CEFAID, the consultations with local and indigenous communities around Lobéké National Park, which took place with the support of WWF in early 2012, were inadequate in a number of respects, including that they reached only one-quarter of the affected communities, did not provide opportunities for discussion, and were not completed until one day after the revised application to the World Heritage Committee was submitted.²⁷ Nevertheless, the World Heritage Committee approved the nomination in 2012, requesting the states to increase further the involvement of local and indigenous communities in the conservation and management of the TNS landscape.²⁸

The management plan for Lobéké National Park provides for a community zone of 33,284 hectares (of the 217,854 hectares of the park), in which gathering certain products and fishing are allowed under certain conditions between October and February. To receive a permit, it is necessary to apply at the park’s headquarters, and access permits are issued only for two-week periods. The 2017 report by ASBAK stated that many of the Baka interviewed found it difficult to understand and use the process. Because the community zone is in the west of the park, it is not accessible to communities located to the north or south of the park, and the 2019 SLE report found that most local communities were unaware of its existence.²⁹

The management plans for Boumba Bek and Nki, which were drafted in 2011, each included a map with possible access zones in the park based on the 2006–2008 mapping exercise. However, the management plan for Boumba Bek National Park stated that additional studies would be necessary to specify the resources that could be exploited and the acceptable periods and terms of the use. The management plan for Nki National Park (which was apparently never formally adopted) stated that the modalities of access and exploitation were to be governed by an MOU between MINFOF and the local communities. As a result, the Baka have not had legal access to either protected area.

MOUs on access rights

One of the recommendations of both consultants was to proceed more expeditiously to negotiate and conclude MOUs on access rights for the Baka to the protected areas in the region.

In January 2018, MINFOF and representatives of nine local Baka communities concluded an MOU on access rights for the Ngoyla Wildlife Reserve (located west of Nki National Park) which had been established in 2014.³⁰ An annex and a map attached to the MOU defined

²⁶ Decisions Adopted by the World Heritage Committee at its 35th session, Doc. WHC-11/35.COM/20 (7 July 2011) (Decision 35 COM 8B.4).

²⁷ CEFAID, *Proposal by the conservation authorities for the inclusion of Sangha Trinational on the UNESCO World Heritage List: Report on the consultation process undertaken with local and indigenous communities living around Lobeke National Park* (February 2012). CEFAID concluded that it was “a complete fiasco in every respect.”

²⁸ Decisions Adopted by the World Heritage Committee at its 36th Session (2012), Doc. WHC-12/36.COM/19 (Decision 36 COM 8B.8).

²⁹ Lambini *et al.*, *Conflicts, participation and co-management in protected areas: A case study of Lobéké National Park, Cameroon* (May 2019) (Centre for Rural Development Publication Series S279) p. viii.

³⁰ The nine communities that signed the MOU are Assoumindélé, Djadom, Lélen, Mabam, Makamakouma, Mballam 1, Ndimako, Ntam, and Sé’eh.

three zones: a zone of regulated community access, an ecotourism zone and a zone of integral protection. Within the community zone, the Baka may fish, gather NTFPs and take Class C animals, which include porcupines, squirrels and rats. Hunting of Class A animals (which include elephants, gorillas and chimpanzees) and Class B animals (which include civets, duikers, hogs and mongooses) is prohibited. In May 2019, FPP and Okani held community meetings with eight of the nine communities whose representatives signed the MOU.³¹ They found a generally low level of knowledge of the MOU and its provisions. In response to a question as to whether they had experienced any change since the MOU, none of the communities stated that they had. All of the communities said that there had been no incidents of abuse perpetrated by ecoguards over the previous year, but the report suggested that the main reason may be that the communities had greatly reduced their use of the forest areas out of fear of arrest or violence.

In August 2018, representatives from MINFOF and civil society organisations, including ASBABUK, WWF, FPP and Okani, participated in a meeting in Bertoua to discuss a draft of an MOU for the three national parks that would set out access rights similar to those for Ngoyla Wildlife Reserve. However, MINFOF removed those provisions before the MOU was signed in February 2019 by MINFOF and ASBABUK. As signed, the MOU committed MINFOF to give the Baka people access to the three national parks, but rather than set out the terms of access, it provided that the parties will draw up an action plan each year that will specify all activities to be undertaken in the protected areas and their vicinities. The MOU provides for a consultative body for each national park, to comprise two representatives of ASBABUK, officials of each park, and one representative each from MINAS, civil society and development partners. The MOU charged the body with drawing up the annual action plan.

In April and June 2019, FPP and Okani engaged in consultations with ASBABUK and ten Baka communities near the three national parks. They reported that 260 people attended the meetings, and that the participants stated that their restricted access to the forest – both within the national parks and in the commercial and community hunting zones that surround much of the parks — had significantly affected their ability to carry out their traditional livelihood activities, including traditional initiation ceremonies and practices designed to introduce Baka youth to hunting, traditional medicine and spiritual knowledge. The Baka consulted were not aware of the MOUs and asserted that ASBABUK did not have the mandate to represent them with the government. The report stated that ASBABUK has not claimed such a mandate and that due to lack of funds ASBABUK was not able to consult with the communities before the signature of the MOU.

Since then, WWF Cameroon has supported ASBABUK to meet with local communities to discuss implementation of the MOU. In June 2020, three ASBABUK members and two individuals from WWF Cameroon, along with an indigenous community facilitator, met with 755 Baka from 33 villages to discuss restitution of access, and to understand better the views of the communities about the MOU and their relationship with ecoguards. However, an action plan providing the Baka with access to the national parks has still not been developed.

³¹ *In and Around Cameroon's Protected Areas: A rights-based analysis of access and resource use agreements between Indigenous Peoples and the State* (Sept. 2019), <https://www.forestpeoples.org/en/lands-forests-territories/news-article/2019/and-around-camerouns-protected-areas>.

4.4 Assessment

The investigation found no evidence that WWF officials at any level intentionally encouraged human rights abuses.

By 2008 at the latest, WWF Cameroon staff had heard allegations of beatings and physical violence by ecoguards in the national parks of south-eastern Cameroon. Nevertheless, WWF continued to fund, support and collaborate with ecoguards in a variety of ways, including by providing equipment and material support, paying bonuses, deciding whether to authorise particular patrols, occasionally supervising patrols from a distance, and very rarely participating in patrols themselves. Many of the patrols included elements of the Cameroon army from the BIR and BIM. These mixed patrols also benefited from the material support provided by WWF. WWF did not pay bonuses to elements of the army and the investigation did not find evidence that WWF has requested the help of the army on any patrol.

As the Panel has stated elsewhere in this report, knowledge of allegations of abuse and continued support for ecoguards by themselves are not necessarily contrary to human rights standards. The key issue is the third one: whether WWF has taken sufficient actions to prevent, respond to, and remedy such abuses in order to fulfil its responsibility to respect human rights.

Until recent years, WWF had not taken adequate steps to fulfil that responsibility. Before WWF Cameroon commissioned the first consultant's report in 2015 and developed an action plan in 2016, it had not incorporated its human rights commitments into its agreement with MINFOF, operationalised the commitments in its work, ensured that it had the necessary capacity to implement the commitments, or established processes to monitor and ensure compliance with them. It did not have a due diligence process to assess the human rights impacts of supporting ecoguard and army patrols, or to address any potential or actual impacts identified.

WWF Cameroon did support consultation with local communities in the period leading up to the establishment of the three national parks, but that consultation process was unsuccessful at protecting the rights of the Baka, especially in relation to their customary rights of access to and use of the forest. WWF Cameroon staff members recognised the shortcomings of the process and worked closely with Baka and others during the 2006–2008 period to map customary uses in order to provide a basis for their recognition and protection in park management plans. However, these efforts did not result in protection of access rights, with the exception of a strictly limited community use zone in Lobéké National Park. WWF Cameroon should have recognised from the outset that the denial of access to traditional lands and resources, and the establishment of anti-poaching patrols – incentivised to enforce restrictions on hunting and access to the parks – could lead to conflicts between the patrols and local communities. Given the marginalised position of the Baka, in particular, such conflicts would foreseeably result in the likelihood of serious human rights abuses.

In recent years, WWF has taken a number of positive steps to address human rights issues in Cameroon. The following sub-sections assess: the actions taken in response to the independent reports of 2015 and 2018 (4.4.1); the approaches taken to complaints (4.4.2); the actions taken in relation to user rights (4.4.3); and internal and external communication and transparency (4.4.4).

4.4.1 Reports and action plans

In 2015, after allegations of human rights abuses by ecoguards in national parks began to be raised more visibly by civil society organisations and the media, WWF Cameroon responded by commissioning an external review by a well-qualified independent expert, conducting a workshop on the findings, and developing an action plan in February 2016. This was a serious attempt to address the problem and it produced some appropriate proposals, including building stronger frameworks of cooperation with local indigenous communities, improving ecoguard training, supporting an independent complaint mechanism and strengthening efforts to facilitate agreements on user rights in the three national parks. In August 2015, WWF Cameroon supported the Human Rights Commission's preparation of a training manual for ecoguards that incorporated human rights. WWF Cameroon recognised that it needed to build its capacity and hired a community coordinator with a mandate to focus on relations with indigenous peoples and local communities. In order to implement the action plan, WWF Cameroon needed increased financial and technical support from other offices in the WWF Network. However, the office instead saw a substantial decrease in the number of its staff in this period and the community coordinator did not begin work until September 2017. It was only after this point that many of the initiatives began to be implemented.

After SI raised allegations concerning WWF in Cameroon with the OECD NCP, and additional allegations were filed through the Expolink hotline in 2017, WWF International commissioned another external evaluation. This reached very similar conclusions to the one that had taken place nearly three years earlier, reflecting the lack of progress that had been made up to that point. Communication between WWF International and WWF Cameroon was poor with regard to the background and purpose of the second report. It appears that in some ways during this period the two WWF offices were working on separate tracks, rather than working together to focus attention on supporting the implementation of the February 2016 action plan. In particular, securing Baka rights of access and use in the park management plans should have been a higher priority for WWF International, which might have been able to bring greater leverage than was being exercised by WWF Cameroon. WWF Cameroon also needed clearer guidance from WWF International in respect of how to implement the FPIC standard in the context of the protected areas in south-eastern Cameroon.

Despite this lack of coordination, WWF Cameroon has taken action – especially since the appointment of the community coordinator – to implement many of the recommendations in the independent reports, including building closer relationships with local Baka civil society organisations, supporting MINAS to increase its attention to indigenous issues in the region, and supporting efforts to build a stronger complaint mechanism.

Implementation of the action plans has been less successful with respect to actions taken with MINFOF than with MINAS and civil society organisations. For example, WWF Cameroon drafted a new MOU with MINFOF in 2018, which would improve on the existing agreement in some important respects. Although the new draft still falls short of including commitments by MINFOF to comply with the rights of indigenous peoples and local communities, it does include an appendix that, among other things, provides that MINFOF will ensure that its field staff comply with the Code of Conduct in the implementation of anti-poaching activities and take all necessary disciplinary measures in cases of non-compliance. However, MINFOF has yet to sign the MOU. Nor has MINFOF adopted a code of conduct for ecoguards in Boumba Bek or Nki National Parks, and WWF Cameroon has not pressed it to do so. The recommendation of the 2018 report that WWF Cameroon and MINFOF develop a rapid response structure for responding to incidents and dealing with allegations also appears not to have been implemented.

4.4.2 Complaint mechanisms

WWF International needed to provide WWF Cameroon with better oversight, guidance and support on how to deal with specific complaints of abuse. The resulting confusion is illustrated by the two complaints received by WWF Cameroon in August 2017, one from Expolink via WWF International and one directly from FPP. As Chapter 10 of this report explains, the Expolink hotline was obviously not well-suited to receive complaints from local communities without access to computers or telephones, but it did receive some complaints. WWF International transmitted the August 2017 complaint to WWF ROA, which sent it to WWF Cameroon with an instruction for WWF Cameroon to undertake an investigation, but without any guidance as to how this should be done. WWF Cameroon investigated whether it had supported the patrol but did not visit the village where the incident had allegedly occurred or talk with the alleged victims or perpetrators. In contrast, a WWF Cameroon staff member more thoroughly investigated the FPP complaint but was then instructed not to do so in the future. As a result, it was unclear what exactly WWF Cameroon was supposed to do with respect to specific allegations, other than simply to notify MINFOF of their existence.

While bringing allegations to the attention of MINFOF was appropriate as far as it went, WWF Cameroon did not follow up to ensure that this resulted in effective investigation or disciplinary action, and deferred to MINFOF's wish that such allegations not be presented to the judicial system. Since MINFOF also took the position that ecoguards could not be dismissed without a decision from the office of the President of Cameroon and that any disciplinary action against an ecoguard must be kept confidential, the effect of such deference was to leave action on such allegations completely up to MINFOF. Indeed, referring an allegation to MINFOF without any safeguards to protect alleged victims carried the risk of putting the alleged victims at additional risk from reprisals.

A far better approach taken by WWF Cameroon (with the assistance of donor offices such as WWF Germany) was to support the independent grievance mechanism administered by CEFAID, which provided a real service to the Baka by covering a wider range of human rights abuses, beyond allegations concerning ecoguards. WWF Cameroon also acted appropriately to partner with others and consult with local communities to evaluate the mechanism in 2019 and seek to improve it. Although it is too early to come to conclusions about the effectiveness of the revised mechanism, it is a good-faith, well-designed effort to provide the Baka and other marginalised communities with an avenue to bring forward and resolve their complaints, including those relating to ecoguards. Its main weakness is that it does not extend to Nki National Park.

There have been suggestions from WWF and government authorities that as a result of improved conditions, the number of allegations of abuses by ecoguards against the local communities has decreased over time, but such a conclusion appears to be premature. The SLE academic research study, conducted from August to October 2018, indicated that local residents, especially Baka, continued to describe ecoguards as violent and abusive, although some Baka stated that interactions were becoming more friendly.³² It will be important to track the effectiveness of the revised complaint mechanism and the other measures aimed at protecting the rights of the Baka.

³² Lambini *et al.*, *Conflicts, participation and co-management in protected areas: A case study of Lobéké National Park, Cameroon* (May 2019) (Centre for Rural Development Publication Series S279), p. 44.

4.4.3 Rights of use and access

The various reports agree that the underlying problem in this area is that the local communities – in particular the Baka – do not have clearly defined and protected access to the forests that they have historically relied upon for hunting, fishing, gathering and sacramental purposes. Without such access, conflicts between them and the ecoguards will continue as long as the Baka continue to try to adhere to their customary ways of life. Safeguarding the traditional rights of the Baka makes sense from a conservation viewpoint as well as a human rights perspective. As an IUCN evaluation of the TNS programme noted, while commercial poaching for bush meat and ivory threatens the existence of endangered species, “hunting by local people is a traditional and legitimate resource use in the TNS landscape”.³³ Many studies have made clear that conservation initiatives are far more likely to be successful if they have the support of local communities, and that without such support they are likely to fail. To the extent that the Baka are contributing to poaching of large animals, they are predominantly doing so as a result of exploitation by outside forces.

At the time of the establishment of the protected areas in south-eastern Cameroon, the Baka did not consent to give up all of their rights to the forests; rather, they were given reason to believe that they would still have continuing access rights, as well as rights of continuing input into the management of the protected areas. The process of zoning the forests in south-eastern Cameroon resulted in areas that were supposed to be open to limited hunting and gathering by local communities. To that end, WWF provided substantial support for mapping exercises designed to identify the areas and nature of uses by the Baka. In practice, however, the Baka lost their ability to legally hunt and gather in, or even to enter, much of the forest, and they have not been able to participate in the governance of the national parks.³⁴ Baka have also been excluded from the community hunting zones around the national parks, which have been leased to safari companies that prohibit subsistence hunting and employ private guards to enforce such prohibitions.³⁵ Baka have little or no representation on the local committees that nominally govern these zones, and the revenues received from the leases do not appear to benefit them.³⁶

The February 2019 MOU is an apparent step in the right direction, but it only provides for access of Baka to resource areas in the national parks in compliance with action plans that specify the activities to be undertaken there, and those action plans have not yet been adopted. Implementation of the MOU currently seems to entail using it as a basis for further discussions among the park administrations, commercial companies in the area, and indigenous and local communities, mainly through ASBABUK, which is taking steps (with WWF support) to engage in discussions with local communities about the MOU. Creating a platform for better dialogue between the park administrations and local communities is a positive step. However, it should not obscure the need to take effective action to protect Baka rights of access.

4.4.4 Internal and external transparency

An important aspect of the human rights due diligence process is communicating publicly how potential and actual human rights impacts are being addressed. WWF should have

³³ World Heritage Nomination – IUCN Technical Evaluation Sangha Trinational (Congo, Cameroon, Central African Republic) – ID No. 1380, p. 9.

³⁴ See Lambini *et al.*, Conflicts, participation and co-management in protected areas: A case study of Lobéké National Park, Cameroon (May 2019) (Centre for Rural Development Publication Series S279), p. vii.

³⁵ *Ibid.*, p. 145.

³⁶ *Ibid.*, p. 82.

been guided more by the importance of demonstrating transparency and accountability to those who may be affected, and of providing enough information that others could evaluate the adequacy of its proposed responses. Its concerns over adverse publicity contributed to decisions not to publish either of the independent consultants' reports. Publishing the reports and action plans would have demonstrated transparency and set benchmarks for further assessment. It would also have made clear that additional financial support would be necessary to achieve all of the goals WWF had set. Of course, it would also have resulted in additional criticism from some civil society organisations, but hearing from critics is an integral part of transparency. Moreover, failing to publish the reports did not avoid such criticism. The reports were far from completely critical of WWF, but the decision not to release them contributed to the perception that they included information that WWF regarded as highly embarrassing, and/or that WWF was not planning to implement their recommendations.

There are indications that WWF offices tended to minimise, to internal as well as external audiences, the full extent of the problem and the difficulties WWF faced in addressing it. This not only runs counter to the importance of transparency, it also makes it more difficult to develop coherent strategies.

4.5 Conclusions and Recommendations

WWF Cameroon has taken positive steps since 2016 to try to fulfil its human rights commitments in relation to its activities in south-eastern Cameroon, including by building closer ties with local civil society organisations, MINAS and the National Commission on Human Rights and Freedoms in order to support indigenous rights, and by supporting a more effective complaint mechanism. WWF still needs to do more to safeguard the human rights of indigenous peoples and local communities in and around the national parks that it supports. In addition to the general recommendations in Chapter 11, the following recommendations are specific to WWF in Cameroon. They are directed not just to WWF International and WWF Cameroon, but also to the WWF National Organisations that support WWF activities in the country.

Recommendation 1. A coordinated strategy

It does not appear that the various WWF offices concerned with south-eastern Cameroon have completely addressed the criticism in the January 2018 report that their efforts have been uncoordinated and piecemeal. WWF Cameroon states that it is developing a strategy to guide its social actions in conservation projects that will clearly define its lines of intervention with indigenous peoples and local communities and specify indicators of well-being. It is critical that this strategy is developed both in consultation with the indigenous peoples and local communities themselves, and in close coordination with other stakeholders within the WWF Network to ensure consistent and integrated implementation.

Recommendation 2. Code of conduct and disciplinary consequences for ecoguards

It is not acceptable that Boumba Bek and Nki ecoguards do not have a code of conduct and a process through which violations of it receive appropriate disciplinary sanctions. WWF Cameroon needs to make clear that for all three national parks, adopting the code of conduct and implementing it through a rapid response structure that incorporates proper investigation, disciplinary review and appropriate sanctions, including referral for criminal prosecution where justified, are requirements for its continuing to provide support to the ecoguards.

Recommendation 3. Revising the MOU with MINFOF

Similarly, WWF Cameroon needs to make clear that finalising and adopting the draft MOU with MINFOF in order to fully reflect its human rights commitments and expectations is a requirement for its partnership with MINFOF across all protected areas.

Recommendation 4. Preventing abuses by patrols

WWF Cameroon should take proactive steps to prevent abuses by ecoguards, including by rethinking its approach in several respects. First, paying bonuses for items seized gives ecoguards incentives to undertake *coups de poing* looking for items that will result in bonuses, even if they have no clear evidence that such items exist in the house or village that is the subject of the raid. It also gives incentives to local residents to exploit the system by making false accusations. WWF should consider other approaches, such as providing bonuses to ecoguards who work a certain number of days on patrol, or who develop leads to poachers higher up the chain of responsibility.

Second, WWF Cameroon should urge much greater care in the use of *coups de poing*. The Panel was told that in recent years, as financial support for the TRIDOM protected areas has decreased, anti-poaching strategies in Boumba Bek and Nki National Parks have focused more on key hotspots such as clearings visited frequently by wildlife and that this has contributed to reduced conflict between ecoguards and communities, without necessarily reducing the effectiveness of the anti-poaching strategies. This approach should be embraced for Lobéké National Park as well.

Third, WWF Cameroon should promote the inclusion of local residents, including Bantu and Baka, in surveillance teams and patrols, which the Panel understands has been effective when it has been employed in the past in Boumba Bek and Nki National Parks, but which has not been employed in Lobéké National Park. Doing so would provide employment to local residents as well as helping to protect against abuses.

Fourth, greater emphasis should be placed on training and incentivising ecoguards to distinguish appropriately between the threats posed by poaching of endangered species, such as elephants, and traditional subsistence activities of the Baka, which should not lead to arrest and detention. Sensitisation of communities should also be improved to reduce the use of techniques such as snares that cause harm to endangered species.

Recommendation 5. Supporting the complaints procedure

WWF as a whole must provide the necessary financial support for WWF Cameroon in relation to its implementation of WWF's human rights commitments. Among other things, the WWF Network should ensure that the complaints procedure receives sustainable funding that enables it to be extended to Nki National Park. It is also important that the funding for the complaint mechanism is structured such that it is provided to the implementing partners directly, rather than through WWF Cameroon, so as to avoid any perception of WWF exercising control over the mechanism.

Recommendation 6. Access rights and community participation

The February 2019 MOU on access provides a welcome platform for engagement between the park management and the Baka and local communities. WWF Cameroon should continue to increase its engagement with indigenous peoples and local communities and build on the MOU to ensure that their voice is heard in the governance of the national parks and the community hunting zones around them. In that respect, civil society organisations such as ASBABUK can be vital partners in helping to engage with local residents, but they

should not be seen as speaking on their behalf unless it is clear that the communities themselves have so decided.

As Baka use and access zones are delineated, it is critical to ensure that they are accessible to Baka communities around the national parks in accordance with their traditional uses. Requiring written applications from a largely illiterate population is inadequate, as is allowing only hunting of Class A animals when Baka have historically depended on Class B animals for a sufficient diet.³⁷ WWF should make greater efforts to use its leverage, including from higher levels in the organisation than WWF Cameroon, to influence the government to recognise and protect the access rights of the Baka in the protected areas now, rather than at some undetermined point in the future.

Recommendation 7. Monitoring progress

WWF Cameroon should regularly assess progress towards the implementation of the measures it is taking to address human rights in Cameroon. In particular, WWF should engage in continuing analysis to understand the effects of the measures on the local communities, including by tracking the number, type and resolution of complaints, and progress towards protection of rights of access and use, in order to ensure that its actions are effectively protecting human rights in accordance with its commitments.

WWF must be more accurate and transparent – about the nature of the challenges it faces and its actions to address them – to itself, to its donors, to local stakeholders and to the public as a whole. To that end, it should publish regular reports of these assessments.

³⁷ See Shiho Hattori, "Nature Conservation and Hunter Gatherers' Life in Cameroon Rainforest," *African Study Monographs Supp.* 29:41-51 (2005).



CHAPTER 5

DEMOCRATIC REPUBLIC OF CONGO – SALONGA NATIONAL PARK

This chapter examines allegations that WWF knew about alleged human rights abuses committed by rangers (ecoguards) in and around Salonga National Park; that it nevertheless supported and collaborated with the ecoguards; and that it failed to take adequate steps to prevent and respond to the alleged abuses. The five main sections below:

- describe the context, including the national park and the human settlements around it (section 5.1);
- describe WWF's presence in the Democratic Republic of Congo (DRC) and its role in governance of the national park (section 5.2);
- describe the Panel's factual findings in relation to the allegations (section 5.3);
- assess WWF's conduct in light of its commitments and the applicable human rights norms (section 5.4); and
- provide conclusions and recommendations (section 5.5).

5.1 Context: Salonga National Park and the Human Settlements around it

The DRC is one of the poorest countries in the world, ranking 179 out of 189 countries in the UN Human Development Index in 2019. The World Bank estimates that about two-thirds of the population live in extreme poverty (less than USD 1.90 per day). While the internal and international armed conflicts that have plagued the country since the 1990s have greatly declined since their peaks, there is still violent conflict in some parts of the country, especially in the east.

Joseph Kabila became President of DRC in 2001 after the assassination of his father, Laurent-Désiré Kabila, who in 1997 had overthrown Mobete Sese Seko, the President from 1965. Joseph Kabila was elected in 2006 and re-elected in 2011. Although he was ineligible to run for re-election in 2016, in December of that year he announced that he would not leave office. Protests that broke out in the capital and other cities across the country were repressed with violence. The government and the main opposition party reached an agreement to hold a new election in which Kabila would not run. The election was held in December 2018 and in January 2019 the electoral commission announced that opposition leader Félix Tshisekedi had won. The new President assumed office that same month.

Salonga National Park is in western central DRC in the central basin of the Congo River. Covering approximately 33,676 square kilometres, Salonga is the second largest protected rainforest in the world and the largest forest national park in Africa. It is the habitat for many endangered species, including the bonobo (pygmy chimpanzee), the forest elephant and the Congo peacock. The park was expanded to its current state in 1970, designated a UNESCO World Heritage site in 1984, and added to the List of World Heritage Sites in Danger in 1999. Salonga is divided into two lung-shaped sectors, separated by the 45 kilometre-wide Monkoto Corridor. Salonga and the surrounding area are difficult to reach,

with limited access by road, and travel in the park is generally on foot or by river. Almost all of the northern block, as well as the Monkoto Corridor, is in the province of Tshuapa; the eastern fringe of the northern block is in the province of Sankuru. The southern block is divided between the provinces of Tshuapa, Kasai, and Mai-Ndombe.

The agency with responsibility for national parks in the DRC is the Institut Congolais pour la Conservation de la Nature (ICCN), a public enterprise under the supervision of the Ministry of the Environment, Nature Conservation, Waters and Forests. DRC law prohibits most activities in national parks and other protected areas, including: bringing firearms and other hunting weapons within park boundaries; fishing of any kind; hunting or killing of any wildlife except in self-defence; and construction of houses, farms or sheds.¹

Estimates of the population in the area around the national park vary widely. In 2018, the DRC stated that the population of the Monkoto Corridor alone was over 130,000 people.² Most of the population in the area live in some 700-800 villages. Urban centres in the wider area include Boende, a town of 35,000-40,000 north of the park and the capital of Tshuapa province, and Oshwe, a town of 20,000-25,000 south-west of the park in Mai-Ndombe province.

The initial establishment of the national park in the 1950s and its expansion in 1970 each resulted in the forcible relocation of people to areas outside the park, which has led to conflicts over land and resources, particularly in the Monkoto Corridor. In 2010, two WWF staff members wrote that relations between ICCN and local communities had deteriorated since 1970, due in part to ambiguous policies on resource use in the national park and bordering rivers, declining resources outside the park, and a negative perception of anti-poaching activities.³ Potential sources of conflict also include uncertainty regarding the park boundaries. Some are demarcated by river courses, but other borders are not readily identifiable. Salonga does not have officially designated buffer zones, although a 2014 decree provides for multi-use community forests that may be established outside the park.

A few villages still remain within the national park. A village of the Kitawala people still exists in the north-eastern sector of the northern block of the park, and eight villages of the Iyaelima people, totalling approximately 2,500 individuals, remain within the southern block. In 2018, the government reported to the World Heritage Committee that the park had begun a process for the relocation of the Iyaelima to locations outside the park. In 2018 and 2019, the World Heritage Committee urged the DRC to ensure that the relocation is voluntary and in accordance with the *Convention Concerning the Protection of the World Cultural and Natural Heritage*.⁴

¹ Relative à la Conservation de la Nature, 2014 (Law. No. 14/003), Title V, arts. 70, 71, 77, <http://www.leganet.cd/Legislation/Droit%20administratif/Environnement/Loi14003.11.02.2014.htm#TV>.

² World Heritage Committee, Report on the State of Conservation of the Properties Inscribed on the list of World Heritage in Danger at its Forty-Second Session, p. 79, UN Doc. WHC/18/42.Com/7A.Add (2018), <http://whc.unesco.org/archive/2018/whc18-42com-7AAdd-en.pdf>.

³ Lisa Steel & Alfred Yoko, "Lessons Learned from the Monkoto Corridor Community-Based Natural Resource Management Zone in the Salonga-Lukenie-Sankuru Landscape," in *Landscape-Scale Conservation in the Congo Basin* 119 (David Yanggen *et al.*, eds., 2010), <https://portals.iucn.org/library/efiles/documents/2010-037.pdf>.

⁴ World Heritage Committee, Report on the State of Conservation of the Properties Inscribed on the list of World Heritage in Danger at its Forty-Third Session, p. 28, UN Doc. WHC/19/43.Com/18 (2019), <https://whc.unesco.org/archive/2019/whc19-43com-18-en.pdf>; World Heritage Committee, Report on the State of Conservation of the Properties Inscribed on the list of World Heritage in Danger at its Forty-Second Session, p. 68, UN Doc. WHC/18/42.Com/18 (2018), <https://whc.unesco.org/archive/2018/whc18-42com-18-en.pdf>.

5.2 WWF's Role in the Governance of Salonga National Park

WWF has worked in the DRC since the mid-1980s, and WWF International opened a Programme Office in Kinshasa in 2004. Initially, its work focused on protected areas in the east of the country, but it has expanded its geographic scope and has approximately 30 active projects around the country as of 2020. Several WWF National Organisations have provided funding to programmes in the DRC, including mobilising funds from sources outside the WWF Network, such as the European Development Fund, the German development bank KfW and USAID. WWF Germany and WWF US, in particular, have maintained close relationships with WWF DRC.

WWF DRC has worked in Salonga since 2005. WWF Germany supported WWF DRC to enter into a co-management agreement with ICCN in order to facilitate funding from KfW and the European Union, and in August 2015 WWF DRC and ICCN signed an MOU that created a unified park administration (l'Unité de Gestion du PNS, or UGPNS). The MOU provides that WWF designates the Park Director and ICCN designates the Deputy Director, who is responsible for managing the ecoguards. The MOU also established a Steering Committee for the park, composed of three representatives each from ICCN and WWF, and one representative from each donor or partner contributing directly to the Salonga Operational Plan. The MOU had a three-year term, but the co-management relationship has continued since 2018.

Approximately 30 WWF DRC administrative and technical staff are dedicated to Salonga, working in offices in Kinshasa, Oshwe, and Monkoto. ICCN has approximately twelve administrative and technical employees based in Monkoto. In addition, ICCN has approximately 300 ecoguards who work from six stations: Anga, Mundja, and Monkoto on the boundaries of the southern block; and Mondjoku, Watsikengo, and Yokelelu on the boundaries of the northern block. The Monkoto and Mondjoku stations are on opposite sides of the Monkoto Corridor. Each station has a team of 40-70 ecoguards. There are also several dozen permanent and temporary patrol posts, which normally have five ecoguards.⁵ In 2011, in Operation Bonobo, the army sent more than 300 military personnel to the national park to combat poaching, including by engaging in joint patrols with ecoguards. The number of army personnel declined to 50 by 2018 and 20 by 2020, and army units have not engaged in joint patrols since 2018.

The MOU provides that the Deputy Director is responsible for anti-poaching activities, with the assistance of the detachment of the army corps charged with protection of the national parks. WWF's commitments in the MOU include providing technical assistance and seeking the financial resources necessary to finance park operations. WWF DRC has provided the ecoguards with technical and financial support, which is described in Section 5.3.2 below. The MOU requires WWF not to interfere with the prerogatives of ICCN, including contacts with the authorities, accreditation of researchers, and collection of specimens of wild fauna and flora, without prior authorisation from the ICCN Director General. In particular, the MOU prohibits WWF from interfering with command of the patrols. The MOU does not refer to human rights.

Under the first Park Director appointed by WWF, who held the position between January 2016 and January 2017, all park operations, including law enforcement, were effectively under ICCN control. The second (and current) Park Director has taken a more active role in

⁵ See <https://salonga.org/our-work/>.

the management of the park. WWF DRC has contributed to an overall surveillance strategy for the park, but anti-poaching activities have remained under the control of the Deputy Director, who approves monthly patrol plans and reviews patrol reports. Patrol planning is expected to take into consideration wildlife monitoring and the potential locations of poachers, and WWF DRC staff have provided advice in these respects. Although it is possible that higher levels of engagement between WWF DRC staff and ecoguards have occurred informally, WWF has had no formal method of monitoring the actions of ecoguards other than through ICCN. WWF staff have never had management or disciplinary authority over the ecoguards.

WWF DRC has assisted socio-economic development activities by UGPNS in communities living up to 50 kilometres from the boundaries of the national park. UGPNS has organised community capacity-building, including literacy programmes and agricultural training. Partnering with Oxfam and Impresa Servizi Coordinati (ISCO), UGPNS has supported the restructuring of 283 local development committees and 124 farmers' associations, with the goal of encouraging local management and development. UGPNS has also supported the establishment of community forests under the management of local communities, with a view to enabling local control over the sustainable exploitation of forests. The UGPNS self-evaluation for the period 2015 to 2018 concluded that the scope of the community conservation initiatives was still limited, and that the rural development programme must focus on increasing income-generating activities in the communities. In 2019, the first community forests, totalling 172,807 hectares, were approved for six communities in the territory of Oshwe, near the southern block of Salonga.⁶ Three Baka/Twa communities have also applied for approximately 14,000 hectares of community forest in the Monkoto Corridor; these applications were awaiting approval at the end of 2019.

5.3 Allegations and Factual Findings

This section describes the factual findings related to three allegations:

- WWF had knowledge of alleged human rights abuses by ecoguards at Salonga National Park (sub-section 5.3.1);
- WWF has financially supported and collaborated with ecoguards at Salonga National Park despite knowledge of the alleged abuses (sub-section 5.3.2); and
- WWF failed to take adequate steps to prevent, respond to and remedy alleged human rights abuses by ecoguards in and around Salonga National Park (5.3.3).

5.3.1 Factual findings related to the allegation that WWF had knowledge of alleged human rights abuses by ecoguards at Salonga National Park

This investigation has found no evidence that before WWF entered into the MOU with ICCN in 2015, WWF officials were aware of specific allegations concerning ecoguards at Salonga National Park. However, the WWF offices engaged in the preparation of the MOU, including WWF DRC, WWF ROA, WWF Germany and WWF US, were aware of the potential for abuses by ecoguards in DRC protected areas. In particular, in 2014 WWF DRC became

⁶“A New Step Towards Community Forestry Around Salonga,” *Salonga National Park* (June 2, 2019), <https://salonga.org/a-new-step-towards-community-forestry-around-salonga/>. See World Heritage Comm., Rep. on the State of Conservation of the Properties Inscribed on the list of World Heritage in Danger at its Forty-Second Session, at 79, U.N. Doc. WHC/18/42.Com/7A.Add (2018), <http://whc.unesco.org/archive/2018/whc18-42com-7AAdd-en.pdf>.

aware of accusations that ecoguards in the Tumba-Lediima Nature Reserve (in the west of the country) had committed rape and extortion, and it suspended its support for ICCN activities there until ICCN took action to respond to the allegations. The two ecoguards accused of rape were referred to a tribunal and convicted.

In 2016, WWF DRC officials heard rumours that anti-poaching patrols in Salonga National Park had allegedly committed crimes against local communities. The rumours were of theft and corruption, with alleged complicity of army, police and park staff in poaching themselves. In an interview with *Nomad* magazine, the WWF-appointed Park Director at the time said that he realised that bushmeat was being trafficked out of Salonga from near the park headquarters, so he organised a river blockade downstream. He stated that he was informed that the police and the army had to be included in the operation, and because, in his view, they were involved in the poaching or trading themselves, there were very few results.⁷

WWF DRC officials also heard of an incident on 13 May 2016 in which police in Oshwe tried to disarm approximately five ecoguards from the Mundja station because the police allegedly heard that the ecoguards had engaged in misconduct while traveling to Oshwe. The ecoguards refused and at least one of them fired into the air to prevent the police from disarming them. The ecoguards took shelter from the police in the WWF DRC office in Oshwe until the situation was defused as a result of higher-level intervention with the Kinshasa police.

At some point in 2016, the WWF DRC Conservation Director instructed the WWF DRC staff members reporting to him to report in writing any evidence of suspected cases of abuse. On 16 December 2016, the WWF DRC Country Director and Conservation Director received an email from a WWF DRC staff member stating that the staff member had heard that each year three to five Salonga ecoguards were tried at the Boende Military Tribunal for abuses committed on missions, and that four ecoguards were before the Tribunal at that moment. (The Military Tribunal for each province has jurisdiction over criminal cases involving ecoguards and soldiers within that province. The Boende Military Tribunal has jurisdiction over Tshuapa province, which includes most of the northern block of the national park and the Monkoto Corridor.) The email also identified two specific incidents of alleged abuse by ecoguards: first, that in the village of Yongo, near Mondjoku station, the community had brought a complaint the previous year to Boende Military Tribunal accusing ecoguards of tying female detainees by their breasts and torturing them; and second, that in Oshwe, three people were beaten by ecoguards in the middle of the village because they were suspected of having weapons.

On 8 May 2018, Rainforest Foundation UK (RFUK) sent a letter to WWF DRC and ICCN stating that local communities near Salonga had informed RFUK of cases of rape, murder and unlawful use of force by ecoguards. RFUK provided a link to a confidential website hosting a video of people describing the May 2016 Oshwe incident and two other cases, one of alleged murder and one of alleged rape. RFUK stated that it was probable that the incidents were part of a larger problem of the use of force by ecoguards against local and indigenous communities. The letter was forwarded within WWF to WWF ROA and WWF International. This appears to be the first time that specific human rights allegations regarding Salonga National Park were brought to the attention of WWF International.

⁷ "Accidents Happen in Congo", *Nomad* (2 August 2017), <https://nomad.africa/accidents-happen-congo/>.

Between 11 and 21 June 2018, the UGPNS legal advisor (an ICCN employee) and a legal consultant hired by WWF DRC conducted a joint investigation of judicial files at the office of the Boende Military Auditor, who has authority to investigate and prosecute cases before the Military Tribunal. Their inquiry found that seven ecoguards and six other park employees had been convicted in 2016 of looting (*pillages*) in 2012 and sentenced to life sentences but not imprisoned, and that eight ecoguards had been accused of three other crimes: four of murder in 2013; one of rape in 2017; and three of torture and arbitrary arrest in 2018. All eight of the ecoguards accused of crimes were still working for the park at the time of the inquiry, as were six of the ecoguards convicted of looting.

In response to the May 2018 letter, WWF informed RFUK that it needed more information to be able to address RFUK's allegations. In August 2018, with the support of RFUK, investigators from Actions pour la Promotion et Protection des Peuples et Espèces Menacées (APEM), a civil society organisation in the DRC, sought further information by visiting eleven villages near the national park: seven in the Monkoto Corridor and four south-west of the park in Oshwe Territory. The investigators conducted village meetings (including focus groups with women) and personal interviews with 231 community members. Where they heard reports of grave human rights abuses, the investigative teams collected testimonies from witnesses and other evidence and produced detailed accounts.

Of the 231 individuals surveyed, 56 (24%) reported having been direct victims of physical violence by ecoguards or soldiers working with them. The APEM investigators received and documented allegations of several specific instances of abuse. The best-documented cases included the alleged murders of two men in Yalita in 2013 and a man in Bombole in 2015 or 2016, the alleged rape of a woman in 2002 and group rape of four women in 2015, and the alleged torture of a man in 2013. Other allegations that the investigators stated were documented less thoroughly but should be further investigated included allegations of rape in 2015 and 2017, and several cases of beating and torture in 2015, 2016 and 2017.

On 9 October 2018, RFUK informed WWF ROA and ICCN of the investigation and provided detailed information about the five best-documented cases. On 6 November 2018, RFUK sent WWF DRC the full report on the August 2018 investigation, which described the other allegations.⁸

The RFUK/APEM report stated that only one-third of those people who alleged physical or sexual abuse said that they had reported the case to the local police or authorities. The report also stated that the communities had been adversely affected by restrictions on access to the national park, which curtailed their ability to engage in hunting, fishing and the collection of non-timber products, and to visit their sacred sites. The report stated that signs of malnutrition were visible in the villages, and a medical staff member from the Bolingo hospital was cited as confirming that malnutrition in the area is ubiquitous. The situation was described as having worsened since 2006 when restrictions on fishing were tightened. Finally, the report stated that communities felt they were not included in the decisions related to management of natural resources. Only 67 of the 231 people interviewed had ever attended a meeting held by park management or conservation NGOs, and they said that the primary purpose of these meetings was to inform them of conservation-related restrictions and sanctions, not to consult with them about management decisions or to seek their consent.

⁸ The report is available at <https://www.rainforestfoundationuk.org/media/abf196ba-89da-4680-8df3-af5d382f7d5f>.

In 2019, WWF commissioned two investigative missions that followed up on some of the above-mentioned allegations and also heard additional allegations of abuse. These missions are described in section 5.3.3 below.

5.3.2 Factual findings related to the allegation that WWF financially supported and collaborated with ecoguards at Salonga National Park despite knowledge of the alleged abuses

Before and since learning of the allegations of human rights abuses, WWF has provided technical and financial support to Salonga National Park for its general operations, including infrastructure and equipment such as vehicles, radios and GPS devices for the ecoguards. The investigation found no evidence that WWF funding had been used for firearms.

WWF began paying bonuses to ecoguards on patrol no later than December 2016. Evaluation of performance was based on days spent away from their base station, respect for instructions and receipt of patrol reports. ICCN was nominally responsible for base salaries of ecoguards, which were approximately USD 45 per month, but a 2018 self-evaluation of the national park by UGPNS stated that bonuses were the sole source of revenue for the ecoguards.

On 11 December 2019, WWF International suspended payment of bonuses to Salonga ecoguards in response to the discovery of the body of a fisherman inside the national park. WWF announced on 7 February 2020 that it was lifting the suspension because the case had been referred to the Boende Military Tribunal. The suspension and reinstatement are described in section 5.3.3 below.

5.3.3 Factual findings related to the allegation that WWF failed to take adequate steps to prevent, respond to, and remedy alleged human rights abuses by ecoguards in and around Salonga National Park

This section describes the steps WWF took in relation to alleged human rights abuses, beginning with its assessment of the risks of such abuses before it entered into the co-management MOU, continuing with a description of the responses by WWF DRC to the allegations received from 2016 to 2018, and then focusing on actions taken after WWF International became involved in 2018.

(a) The pre-MOU risk assessment and mitigation plan

In April 2015, four months before the MOU was signed, a Risk Assessment and Mitigation Plan (RAMP) Matrix for the proposed MOU was prepared by WWF DRC with input from the WWF DRC shareholders group, which included WWF Germany and WWF US. It does not appear that WWF International was engaged in or aware of this process. The RAMP Matrix identified as one of the risks the possibility that WWF would be associated with human rights abuses, including abuse of local villagers by ecoguards. However, the risk was assessed as low. As a mitigation measure for this risk, the RAMP Matrix stated that WWF would recruit a high-level professional as Park Director, who would be able to minimise the risk of ecoguard misconduct. However, the MOU did not provide the Park Director with authority to hire, discipline or fire ecoguards.

(b) Responses by WWF DRC to the allegations received from 2016 to 2018

As noted above, WWF DRC officials became aware in 2016 of rumours that Salonga ecoguards had allegedly committed theft and that ecoguards and higher-level officials were engaged in corruption. WWF DRC also learned of an altercation between ecoguards and

local police in Oshwe. WWF DRC did not attempt to investigate the rumours, and it accepted the ICCN position that the Oshwe police had been unjustified in trying to disarm the ecoguards. However, in October 2016, at a meeting of senior WWF DRC officials and the Salonga team, it was agreed that any allegation of human rights abuses had to be investigated as a standard procedure. In 2016, WWF DRC also proposed to develop a code of conduct for the ecoguards, but ICCN rejected the proposal on the grounds that ecoguards were already subject to military regulations.

After senior WWF DRC officials were informed by one of their own staff in December 2016 that Salonga ecoguards were alleged to have committed multiple human rights abuses, the WWF DRC Senior Management Team (SMT) decided at its March 2017 meeting to draft terms of reference for a third-party or internal investigation of the allegations. The SMT also decided to take two more general steps:

- to establish a monitoring system to keep track of complaints and responses; and
- to launch a study with a national NGO to clarify the status of the relationship of the national park with the local communities and to obtain more information on alleged abuses, including whether they indicated a systemic issue.

The WWF DRC Conservation Director drafted terms of reference for an independent evaluation of the relationship of the park with the surrounding communities, but WWF DRC did not otherwise follow up on the decision at the March 2017 SMT meeting. The Country Director and the Salonga Park Director decided that the allegations were of incidents occurring before WWF entered into co-management and took the position that they were not the responsibility of WWF and that ICCN would react negatively to an effort to investigate past human rights abuses.

In March 2018, after learning that no action had been taken to implement the SMT decision taken the previous year, the Conservation Director escalated the issue to WWF ROA, stating that ignoring human rights allegations could cause serious reputational damage to WWF. He also expressed concern that ICCN was refusing to work with him on other issues because it had been told that he had suggested investigating the allegations of human rights abuses. The Country Director disputed his statements and criticised him for raising the issue with WWF ROA. The Country Director and the Salonga Park Director stated that they preferred to rely on an ecoguard code of conduct and a complaint mechanism (neither of which had yet been implemented) to improve future ecoguard conduct. WWF ROA brought the issue of allegations against ecoguards to the attention of WWF Germany, as a major donor to the national park, but did not raise it with WWF International.

On 28 March 2018, the WWF DRC SMT revisited the issue and decided: (i) to identify someone to follow the progress of cases through the judicial system (which apparently became the June 2018 inquiry by the UGPNS and WWF DRC lawyers into the records of the Boende Military Auditor); (ii) to commission a study into the relationship with the local communities, to be carried out by an independent consultant, initially for Salonga National Park but possibly to be extended to all DRC protected areas with which WWF was involved; and (iii) to carry out a study into alleged abuses at Salonga, under terms of reference formulated with input from the SMT.

Despite the SMT decision, measures (ii) and (iii) were not implemented. WWF DRC did not commission an independent study into the relationship between the protected areas and the local communities, or a study of alleged abuses by Salonga ecoguards. WWF ROA and

WWF DRC also took no action in response to the May 2018 letter from RFUK raising additional allegations, other than replying to RFUK that WWF would need more information from RFUK to be able to follow up the allegations further.

In response to the June 2018 inquiry by the legal advisors into the records of the Boende Military Auditor, the six ecoguards who had been convicted of looting in 2016 and were still working for the national park were suspended in July 2018, and five of them were arrested by the Military Auditor in September 2018. The ecoguard accused of rape of a minor was arrested by the Boende Public Prosecutor in September 2018. The legal advisors recommended re-launching investigations into the cases of the four ecoguards accused of murder in 2013 and the three accused of torture and arbitrary arrest in 2018. Further investigation was not undertaken until 2019, after WWF International became involved.

(c) Responses taken after WWF International became involved in 2018

In late 2018, after the June 2018 inquiry by the legal advisors and the August 2018 investigation by APEM, WWF International took the lead on developing responses to the alleged human rights abuses. Its responses included: (i) commissioning a February 2019 investigation of some of the RFUK/APEM allegations; (ii) adopting an action plan in April 2019 designed to prevent further abuses; and (iii) commissioning another investigation that took place from October to December 2019.

February 2019 investigation

In late 2018, WWF International commissioned an investigation designed to verify and seek additional information on six of the cases raised by RFUK/APEM: the five detailed allegations raised in the October 2018 letter and one additional case, of alleged rape, which had been raised in the May 2018 letter. Although the RFUK/APEM report raised allegations of other, more widespread abuses, WWF International took the position that WWF did not have the resources to investigate all of the allegations or to look for possible allegations raised in other communities. Instead, it planned to implement a new grievance mechanism as a way to improve the relationship with communities.

Between 13 and 23 February 2019, two teams of investigators from UGPNS and ICCN travelled to Oshwe and Monkoto to interview the alleged victims and other witnesses. At WWF's invitation, lawyers from APEM also participated in the mission. Because of the hostility within local communities to the park management, the investigators did not inform people that they were from UGPNS or ICCN. The investigators found that all of the alleged victims confirmed their allegations. The investigation also identified additional information about the ecoguards alleged to have committed the crimes and found that one of the alleged perpetrators was the commander of an army (Operation Bonobo) patrol team. Of the six cases, only one – that of the group rape of four women in 2015 – had been transferred to the Military Auditor. In the case of the alleged rape in 2002, the investigators concluded that criminal prosecution appeared to be barred by the statute of limitations and that the ecoguard was no longer in employment. For the four other cases, it recommended deepening the investigations by interviewing alleged perpetrators as well as victims and witnesses, and then referring the alleged perpetrators to the Military Auditor. The report recommended disarming alleged perpetrators, keeping them posted at UGPNS headquarters and suspending them until the investigations were completed.

The investigators also met with village leaders who renewed their request to have periodic access to the Iyenge river in Salonga for subsistence fishing and gathering to improve their living conditions and fight against malnutrition in the area. The report recommended

consideration of a victim protection strategy and a protocol to recognise community fishing rights.

Despite the involvement of APEM in the investigation, WWF International declined to provide APEM (or RFUK) with the final report for its signature or information, stating that doing so might prejudice the work of the Independent Review Panel in its preparation of the current (November 2020) report. (WWF International did not consult with the Panel in making this decision.) APEM and RFUK criticised the process on this ground and others, including that the scope of investigation was too narrow because the teams were not open to receiving or investigating other allegations of human rights abuses that were raised during the mission.

April 2019 Action Plan

In March 2019, the WWF Network Internal Audit Team issued a report on WWF DRC based on a visit to the DRC in October 2018. With respect to allegations of human rights abuses, the audit team found significant delays in addressing allegations of human rights abuses in Salonga National Park; lack of evidence of training and sensitisation of all stakeholders; lack of a complaint mechanism; and lack of a consolidated record to track complaints. The report concluded that because of these shortcomings, the WWF DRC SMT was not in a position to have strong oversight and good management of risks related to social policies, and the team recommended steps to strengthen the tracking and resolution of complaints.

In April 2019, the Deputy Director of Salonga National Park allegedly issued threats of violence to an APEM lawyer and another civil society advocate in response to their pursuing investigations concerning ecoguards. After RFUK brought this allegation to the attention of WWF International, the Salonga Park Director raised the issue directly with the Deputy Director, who denied making the alleged threats. As of May 2020, there were no further reports of threats being made by the Deputy Director.

In April 2019, WWF International decided on a plan for further actions designed to prevent future abuses in Salonga, including:

- (a) urging ICCN to approve and implement the draft code of conduct for ecoguards and requiring that all ecoguards sign the code of conduct before each patrol;
- (b) ensuring that each manager of a patrol station and each ecoguard receives human rights training;
- (c) improving measures for monitoring patrol missions, including body cameras, mission control centres, verification of written debriefings after patrols, involvement of the local population as trackers, porters, cooks and/or independent *ad hoc* observers in consultation with ICCN;
- (d) agreeing with ICCN on standard operational procedures for investigating allegations and imposing disciplinary measures, including suspension of suspects; and
- (e) having an independent NGO carry out a community awareness campaign to inform local residents of their rights, set up a complaint mechanism and investigate the relationship between the national park and the communities.

In May 2019, the WWF International Director General met with the Director General of ICCN. They jointly committed to several additional measures, including:

- (f) ending joint patrols between ecoguards and military units;
- (g) providing support to alleged victims seeking judicial remedies; and

- (h) referring the cases identified in the June 2018 inquiry and the February 2019 report to the Military Auditor for prosecution and the suspension of the accused ecoguards until the resolution of the proceedings.

October–December 2019 investigation

In late 2019, WWF International commissioned another investigation to follow up the outstanding allegations that had been described in the June 2018 and February 2019 inquiries. WWF provided funding to the Comité des Droits de l'Homme et Développement (CODHOD, a civil society organisation in the DRC) and the Boende Military Auditor's Office to conduct the investigation between 8 October and 12 December 2019. WWF International also referred to this investigation two new allegations that RFUK raised for the first time in May 2019: that in July 2017, ecoguards shot one man dead and beat another so severely that it led to his death two days later; and that in 2007, three ecoguards raped a man.

The investigation was conducted along the same two axes that had been the subject of the February 2019 investigation: Boende-Monkoto-Mondjoko, the latter two villages in the Monkoto Corridor; and Oshwe-Bokoro-Bongimba-Mundja, west of the southern block of the national park. The investigators conducted more than 50 interviews with victims, witnesses and other sources. They noted a general lack of trust of ICCN and WWF among the communities. CODHOD presented a detailed report that described the results of the investigation and concluded that there had been multiple incidents of murder, rape and torture committed by ecoguards. The remainder of this section summarises CODHOD's findings and recommendations.

The CODHOD team investigated three allegations of murder in 2014 and 2015 that had previously been described in the November 2018 and February 2019 reports, an additional allegation of a double murder in 2017 raised by RFUK in its May 2019 letter, and an allegation of the murder of a fisherman in November 2019 that was heard for the first time by the team during this mission. The team concluded that two of the cases (from 2014 and 2015) presented clear evidence of murder and should be prosecuted by the Military Auditor, and that suspicious circumstances in the 2019 case led the prosecutor to conclude that it also appeared to be a potential case of murder committed by ecoguards. The report indicated that the evidence in the other cases was less clear but required further investigation by the Military Auditor.

The CODHOD team also reported two allegations of murder in the area covered by their review that were presented with insufficient evidence to allow them to investigate further, and one allegation of conflict between ecoguards and the village of Mpuluwote in 2013 that allegedly resulted in the deaths of thirteen persons (including ten children) and the burning of approximately fifty houses, which the team could not investigate because it occurred in Sankuru province, east of the national park.

The CODHOD report also described the investigation of three alleged incidents of rape that had previously been raised: the 2017 rape of a minor listed in the June 2018 legal advisors' inquiry; the 2002 rape raised in the RFUK/APEM November 2018 report; and the 2007 rape drawn to WWF's attention by RFUK in May 2019. CODHOD reported that the families of the alleged victim and perpetrator in the 2017 case had been in contact to arrange a settlement; that the alleged perpetrator of the 2002 case (which the team found had actually occurred in 2003) was retired from employment; and that the investigation raised doubts about the veracity of the alleged incident in 2007.

The investigation team also heard a new allegation, that a group of ecoguards raped a mother and her young daughter in 2016 near the Lula river. The team indicated that the investigation of this allegation should continue.

The investigative team concluded that ecoguards and army soldiers used torture or other cruel, inhuman or degrading treatment against people in the villages, encampments and forest in and around Salonga National Park. In particular, it found that the use of such methods against people who crossed the boundaries of the park to fish or hunt constituted a regular part of their operations. The report described more than one dozen incidents, and stated that the most recurrent methods consisted of: beating the victims on various parts of the body with sticks or the butts of weapons; striking the victims with sharp objects such as bayonets; tying women's breasts with strings and then pulling on them; and extracting the victims' teeth. Such incidents were alleged to have occurred in every year from 2013 through 2017. The report identified the names of alleged victims and perpetrators, dates and locations. Some of the named perpetrators were also among the ecoguards accused of committing the acts of murder listed above.

The investigative team referred the cases of murder, rape and torture or other cruel, inhuman or degrading treatment to the Boende Military Auditor for further action.

In its conclusion, the CODHOD report "identified the feeling of disappointment on the part of the population, which has had its forest appropriated for the public interest (the Park), but in return have received nothing". The report made a number of recommendations, including that the Ministry of the Environment and ICCN take all measures necessary to ensure the protection of civilians during patrols conducted by ecoguards and army soldiers; prevent any acts of reprisal by the alleged perpetrators; and collaborate with the Military Auditor so that all alleged perpetrators are prosecuted. Addressing the government and WWF, CODHOD urged the establishment of a mechanism for managing complaints and settling conflicts, stating that this must be led by an independent organisation for defending human rights. It also recommended that WWF and other partners in Salonga should support the continuing education of the ecoguards as well as of the local population, and provide humanitarian and legal assistance to the victims of abuse of their human rights, especially the victims of acts of sexual violence.

Current status

In a statement published on its website in February 2020, WWF International stated that it would not release the CODHOD report "out of concern for the health and safety of the alleged victims and the victims' communities and in order to not interfere with due process, including any criminal investigations against alleged perpetrators".⁹ It provided no other description of the report. It stated that the findings of the report were highly distressing and that it was treating them as a matter of the highest priority. It stated that it had urged the DRC to act swiftly on the specific allegations, to protect civilians during patrols and to provide care to vulnerable individuals. WWF International stated that its Compliance Unit would track the cases through the judicial system and share regular updates with "relevant partners". As of July 2020, WWF had shared information about the disposition of the referred cases with its major donors, but not with other entities or with the public.

⁹ https://wwf.panda.org/wwf_news/wwf_independent_review_/?349754/Statement-on-safeguarding-human-rights-in-conservation-and-addressing-allegations-of-human-rights-abuse.

In another statement issued at the same time, WWF International stated that it was “undertaking discussions with the Government of DRC on the terms under which WWF would be able to move forward as a conservation partner in Salonga National Park. Our engagement is conditioned on agreement to operationalise protections for human rights, including demonstrated commitment to systemic changes which would ensure that human rights are given highest priority”.¹⁰

As of July 2020, the status of the measures in the April 2019 action plan is as follows (the numbering is the same as used in the list of measures shown above in the sub-section *April 2019 action plan*):

- (a) The text of a code of conduct was finalised by WWF in August 2019, but the ICCN Director General has not agreed to it and ecoguards are not required to sign it before each patrol.
- (b) Between August and November 2018, UGPNS had conducted two training sessions of 45 days, which were attended by 102 ecoguards. The training included a module on human rights and community relations, but the human rights materials were at a high level of generality. In early 2020, WWF contracted with Chengeta Wildlife, an NGO that includes human rights training in its courses for ecoguards. Its first training session, for 47 Salonga ecoguards, took place from 17 February to 28 March 2020. Additional sessions were planned to take place throughout 2020, but the sessions were postponed because of the Covid-19 pandemic.
- (c) Patrol planning and verification of debriefings have continued to be under the control of the ICCN-appointed Deputy Director. Body cameras and control centres have not been instituted because of the lack of a partner specialising in law enforcement and insufficient availability of funds. The local communities have not been engaged as trackers, porters, etc., although WWF states that it wishes to solicit greater participation of local communities after the next agreement with ICCN is signed.
- (d) WWF is developing standard operating procedures with Chengeta Wildlife, but they are still in draft form and have not been shared with ICCN.
- (e) In July 2020, WWF initiated a process to recruit a local NGO that will design a complaint mechanism in consultation with local communities around Salonga. Funding is being provided through WWF Germany. The call for tenders was drafted by WWF Germany and WWF DRC staff, and approved by ICCN.
- (f) There have been no joint patrols with the military since 2018.
- (g) The UGPNS has not provided support to the alleged victims on the grounds that since it is an interested party, doing so would constitute a conflict of interest. APEM and RFUK have proposed that WWF or UGPNS establish an independent fund to support alleged victims, in the context of the complaint mechanism. This has not occurred.
- (h) On 29 May 2019, UGPNS referred the cases identified in the June 2018 inquiry and the February 2019 report to the Military Auditor, but the Military Auditor instituted proceedings only in the case of the group rape of four women in 2015, raised by RFUK in its letter of October 2018. Six ecoguards were tried between August and October 2019 and five were acquitted in a judgement issued on 16 November 2019. One was sentenced by default to five years’ imprisonment. The acquittals are currently on appeal on the basis of several alleged errors, including that only one of the four alleged victims was called to testify.

¹⁰ https://wwf.panda.org/wwf_news/press_releases/?357073%2FWWF-statement-on-Salonga-National-Park-in-the-DRC.

As of July 2020, the Panel has been informed that the Boende Military Auditor has not taken to the Military Court any of the other multiple cases of rape, murder and torture referred to it by the CODHOD investigation. Among other possible reasons, the Military Auditor may not have sufficient resources to conduct further investigations.

5.4 Assessment of WWF's Actions

WWF has had knowledge of allegations of grave human rights abuses by ecoguards and soldiers in Salonga National Park, including murder, rape, torture and physical violence, since at least 2016. The Panel found no evidence that WWF staff directed or participated in any of the alleged incidents of abuse, and WWF does not hire or direct the ecoguards or army units. However, WWF has provided substantial ongoing technical and financial support to the ecoguards. As the Panel has stated elsewhere in this report, knowledge of allegations of abuse and continuing support for ecoguards, by themselves, do not necessarily violate human rights norms. The key issue is whether WWF has complied with its responsibility to respect human rights by taking sufficient actions to prevent, respond to and remedy such abuses.

This section assesses WWF's compliance with its responsibility to respect human rights at three stages of its involvement in Salonga: before WWF DRC entered into the MOU with ICCN in August 2015 (sub-section 5.4.1); between 2016 and 2018, when WWF DRC was taking the lead on responding to the allegations (sub-section 5.4.2); and after 2018, when WWF International took the lead (sub-section 5.4.3).

5.4.1 Before WWF entered into the August 2015 MOU

Before WWF DRC entered into the MOU, it and the other WWF offices involved, including WWF ROA, WWF Germany and WWF US, were aware of the potential for human rights abuses by ecoguards. WWF should have carefully assessed how its support for law enforcement activities in and around Salonga National Park might result in its unintentionally contributing to or being linked to such abuses. In addition, the assessment should have examined other risks related to human rights, including with respect to denial of access of local communities to natural resources. The assessment should have consulted with the local communities themselves to understand their relationship with the national park, considered the tools available to WWF to influence the situation, and developed an effective plan to prevent and respond to such abuses.

WWF DRC did prepare a risk assessment and mitigation plan, but it did not evaluate the risks in detail or develop an effective plan to prevent or respond to abuses. WWF did not consult with representatives of the communities around the national park to identify the potential impacts of taking on the co-management role; it did not clearly identify or inform others of the human rights commitments in its social policies that would be relevant to its co-management of Salonga National Park; it did not identify or inform others of any 'red lines' that, if crossed, would cause it to limit or withdraw support; and it did not establish, or partner with others to establish a mechanism to hear complaints from local communities.

Before entering into the MOU, the only measure WWF DRC identified to address the potential for human rights abuses was to appoint a high-level Park Director, but the first person appointed to that position, in January 2016, was hampered by his lack of fluency in French or local languages, and in any event the MOU gave him and his successor no control over ecoguards.

That WWF DRC did not anticipate and adopt measures to protect the rights of local residents and prevent potential abuses was due in large part to the fact that WWF International did not operationalise the policies and procedures necessary to ensure that WWF DRC could implement its human rights commitments. To do so, WWF International needed to provide the necessary expertise and staff support and set up clear lines of accountability. In this period and subsequently, WWF DRC did not have a dedicated SD4C representative, and it does not appear that anyone had the task of ensuring that social policies were understood and effectively implemented. Many of the senior employees in WWF DRC were not familiar with all of the relevant WWF social policies, and WWF DRC staff did not receive training on human rights before taking up their positions. For all of these reasons, WWF DRC was ill-equipped to anticipate and respond to allegations of human rights abuses.

Because WWF DRC was a Programme Office under the management authority of WWF International and dependent on funding from National Organisations such as WWF Germany and WWF US, these omissions were the responsibility not just of WWF DRC, but of the WWF Network as a whole. The Network had not, for example, established operational standards for park rangers that would have guided WWF DRC and other Programme Offices. In particular, it is unfortunate that WWF International was not involved in or even aware of the consideration of the risk assessment and mitigation measures, or the negotiation and approval of the MOU. Donor offices, particularly WWF Germany and WWF USA, were directly engaged with WWF DRC, but they did not play a clear role in ensuring compliance with WWF human rights commitments.

5.4.2 Responses of WWF DRC to allegations from 2016 to 2018

Within a year after WWF DRC assumed co-management of Salonga National Park, it began to hear rumours of abuses committed by ecoguards, which culminated in a report of allegations in December 2016 from one of its own staff members. WWF had a responsibility to respond effectively to such allegations concerning ecoguards to whom it was providing financial support, even with respect to abuses alleged to have occurred before WWF assumed co-management of the national park. WWF needed to take the necessary steps to understand the nature of the allegations – in particular, whether they were isolated incidents that were being properly investigated, punished and remediated, or they were evidence of a more systemic problem – and to use its leverage to prevent and mitigate the harm.

Even without a previously established procedure for responding to human rights allegations, WWF could and should have developed and implemented an appropriate response as quickly as possible after the allegations arose. It is highly troubling, therefore, that the decision by the WWF DRC SMT in March 2017 to investigate the allegations, and to initiate a study with a national NGO to investigate the relationship of the national park with the local communities, was never implemented.

The reasons that were presented for not inquiring further into the issue of human rights abuses do not stand up to scrutiny. One justification was that WWF DRC preferred to focus on steps it had proposed to address abuses going forward, such as developing an ecoguard code of conduct, putting in place better training, and establishing a grievance mechanism. However, these measures were not in place at the time and, as of July 2020, the code of conduct and the grievance mechanism were still not in place, and improvements to training had only been partially implemented. Another objection was that it would not have been feasible to survey all of the hundreds of villages around the national park. But WWF DRC need not have visited every community to have a clearer sense of the scope of the problem.

In 2018, and again in 2020, WWF DRC and some of its partners conducted socio-economic surveys of 1,300 households in communities around the national park that included questions about livelihood activities, sources and types of food consumed, sources and levels of income, availability and use of ecosystem services, access to education, and so on. It would have been possible to extend these surveys to include questions about relationships with the national park and its ecoguards.

The actual reason for not examining this issue more closely seems to have been a desire to avoid conflicts with ICCN, which senior officials at WWF DRC and WWF ROA believed would react negatively to any efforts to look into allegations of past human rights abuses. However, desire to avoid conflict with government cannot excuse WWF from complying with its responsibilities and commitments to respect human rights.

The June 2018 inquiry by the UGPNS and WWF DRC legal advisors into cases involving ecoguards at the Boende Military Auditor, and the suspension of the convicted ecoguards, were appropriate, but overdue. The inquiry should have occurred before entering into the MOU or at the latest immediately after the report in December 2016 that a number of cases involving ecoguards had been brought to the Boende Military Tribunal. Similar inquiries should also have been carried out with the other Military Auditors with jurisdiction over Salonga ecoguards, especially the Auditor in Inongo in the province of Mai-Ndombe, which has jurisdiction over much of the southern block of the national park. The Panel is not aware that any such inquiry has ever occurred. It is also unfortunate that the legal advisors' recommendation for further investigation of several of the cases before the Boende Military Auditor was not implemented until over a year later, through the 2019 CODHOD investigation.

The responsibility for not effectively addressing the issue of known human rights abuses should not be placed solely with WWF DRC. The WWF donor offices, including WWF Germany in particular, that were also engaged in the DRC, shared responsibility for ensuring that WWF's human rights commitments were met in relation to the activities for which they were providing support. Ultimately, the responsibility was on WWF International and the WWF Network as a whole to ensure that the allegations of human rights abuses by ecoguards to which WWF was providing financial and technical support were properly addressed. The WWF Network, and WWF International in particular, had not embedded the necessary institutional capacity and established clear lines of communication and responsibility on these issues, and WWF International did not have effective oversight of its Programme Office.

5.4.3 Responses after WWF International became involved in 2018

Beginning in 2018, WWF International took the lead in developing response measures, including by commissioning two investigations and adopting an action plan.

The initial investigation, in February 2019, was essentially limited to asking the alleged victims described in the November 2018 RFUK/APEM report to confirm their allegations. The CODHOD investigation in late 2019 was more thorough. It was conducted by an independent human rights organisation in connection with a representative of the Military Auditor, the investigators carried out a careful inquiry that respected the rights of those interviewed, and they were open to receiving new allegations. However, like the February 2019 investigation, the CODHOD investigation revisited the same villages initially visited by APEM in August 2018, which represent under two per cent of all the villages around the national park. There is no reason to think that the communities visited were unusually likely

to be subjected to human rights abuses. As a result, the CODHOD report almost certainly described only a small fraction of the problem.

Just as important is the lack of follow-up by the Military Auditor to the cases described in the CODHOD report. With one exception, none of the cases of alleged murder, rape or torture investigated by CODHOD has resulted in prosecution. The Panel has been told by WWF that the ecoguards named in the three open cases at the Boende Military Auditor described in the June 2018 report remain suspended, and that the ecoguards found not guilty in the 2012 looting case have been transferred to another protected area. The Panel has not seen evidence that the accused ecoguards in the other cases referred to the Military Auditor by the CODHOD report have been suspended or have been subject to further disciplinary actions by the park management.

Many of the items listed in the April 2019 action plan would be very positive steps if taken, including the proposals for monitoring patrol missions, agreeing on operational procedures for investigating allegations and imposing disciplinary measures, establishing a complaint mechanism, and supporting victims. However, as of July 2020, only two of the eight action items had been implemented: ecoguards had ceased joint patrols with army units (which had apparently already ended after 2018), and more specific human rights training had begun to be provided in February 2020.

The action plan did not address the prohibition on access and resource use in the national park, even for subsistence hunting and fishing in accordance with customary rights of local communities, something that is a human rights issue in itself and also an important driver of conflicts between ecoguards and local communities.

5.5 Conclusions and Recommendations

WWF has not fulfilled its human rights commitments in relation to activities it supports in Salonga National Park. There are systemic problems in relation to the national park and its ecoguards that are not easy to solve, some of which are beyond WWF's control. Nevertheless, WWF must address them more consistently and effectively in order to meet its responsibility to respect human rights. In addition to the general recommendations in Chapter 11, the following are recommendations specific to WWF in the DRC and Salonga. They are directed not just to WWF International and WWF DRC, but also to the WWF National Organisations that are engaged in funding WWF activities in the country.

Recommendation 1. A code of conduct and training ecoguards in human rights

WWF should make clear that signing and implementing the code of conduct, which it first proposed four years ago, is a minimum requirement for it to continue to support the ecoguards. It should also continue and accelerate human rights training. WWF should recognise that by themselves, these steps will not be enough to solve the problem.

Recommendation 2. Monitoring of ecoguards

WWF should establish a system of monitoring of ecoguard patrols, which could include independent observers accompanying as many patrols as possible, GPS tracking, and regular debriefing of the patrols and the independent observers. WWF should not rely on ICCN to inform it of problems.

Recommendation 3. Independent complaint mechanism

WWF should accelerate the introduction of an effective complaint mechanism. It should

ensure that the mechanism meets the requirements described in Chapter 3, including transparency, accountability and independence, and that it is able to provide legal, technical and financial support to victims. The mechanism should be administered by a human rights civil society organisation, ideally modelled on the Human Rights Centre in the Central African Republic, and WWF should ensure that it is sustainably funded. Given the size of the Salonga area, it will be necessary to have multiple offices and ways of interacting with isolated communities.

Recommendation 4. Instituting a system to investigate allegations and punish abuses

It is evident that the UGPNS lacks a reliable system for responding to allegations of abuse and referring them to the authorities for investigation and resolution, and that the Military Auditors lack the resources or will to conduct investigations in many cases. WWF should ensure that the UGPNS establishes and implements a procedure that provides for: suspension of ecoguards against whom credible allegations are raised (including through the independent complaint mechanism); independent investigation of allegations; remedies to victims; and disciplinary punishments by the park management itself, including, as appropriate, suspension, termination and referral for criminal prosecution. WWF should conduct inquiries to establish whether the Military Auditors of other provinces with jurisdiction over the Salonga region have also dealt with cases involving ecoguards. WWF should also continue to work with partners such as CODHOD to support the Military Auditors to develop the necessary capacity to conduct investigations and prosecute cases involving ecoguards.

Recommendation 5. Access rights and community participation

All of the investigations highlighted that an underlying cause of the conflicts between ecoguards and local communities is the restriction on access to the national park for subsistence hunting, fishing and gathering of non-timber forest products. Developing community forests is worthwhile and should continue, but through its role in park management and its engagement with ICCN, WWF should also influence the planning and zoning of the area to clarify boundaries and establish zones of community access and use in and around the park, in order to reflect customary rights and accommodate local needs. Measures should also be taken to sensitise local communities and ecoguards to the boundaries and local rights. It is critical that WWF and UGPNS include the local communities in these processes, including through participatory zoning and community mapping.

Recommendation 6. Relocation of villages within the national park

Although the situation of the villages inside Salonga National Park was not the subject of this inquiry, WWF must make absolutely clear that, consistent with its policies on relocation of indigenous peoples and the recommendations of the World Heritage Committee, it will not support, and will oppose, any involuntary relocation of these villages. To that end, WWF should ensure that there is a credible independent body conducting the process to determine whether the communities give their free, prior and informed consent to any relocation.

Recommendation 7. Influence and leverage

WWF obviously cannot control government authorities, including ICCN, but it does have leverage that it can bring to bear. It should make clear when and why it will use that leverage to push for systemic changes. A key point of leverage is the negotiation of the new MOU for the national park, which must clearly set out the respective roles and responsibilities of WWF and ICCN, and WWF's conditions and red lines for continued support. WWF should make clear that it cannot continue to provide support for the ecoguards without effective mechanisms in place to monitor their behaviour, investigate allegations fully and ensure appropriate disciplinary measures for confirmed cases of abuse.



CHAPTER 6

CENTRAL AFRICAN REPUBLIC – DZANGA SANGHA PROTECTED AREA

6.1 Context

The Central African Republic is a landlocked country, sharing borders with Cameroon, Chad, the Democratic Republic of Congo, the Republic of Congo, South Sudan and Sudan.

A former French colony, it has been ruled by a succession of primarily military governments since it gained independence in 1960. A ten-year period of civilian rule was brought to an end by a military coup in 2003. In December 2012, armed rebels led by the Seleka seized control in a number of towns, and in January 2013 joined a coalition government, which dissolved in March 2013, at which point the Seleka seized power. Since the coup, thousands of people have been killed or displaced as lawlessness and violence have become rife in the country.

CAR is one of the poorest countries in the world, despite its significant mineral and other resources. Years of political instability, high levels of unemployment and lack of access to health care, as well as widespread corruption and human rights abuses, have consistently undermined the economic and social well-being of the people. The southern part of CAR contains dense, tropical rainforests which host an exceptional variety of wildlife, including elephants, gorillas, chimpanzees and leopards. The south-western region is particularly renowned for its biodiversity and the richness of its forest ecosystems.

The only site within which WWF Central African Republic (WWF CAR) operates is the Dzanga Sangha Protected Area (DSPA), established in 1989 and part of the Sangha Tri-National Protected Areas Complex (TNS) which was designated a World Heritage site in 2012. The TNS is a cross-border conservation initiative that consists of the DSPA, Lobéké National Park in Cameroon and Nouabalé-Ndoki National Park in the Republic of Congo. The DSPA covers 4,500 square kilometres. The ongoing instability of the region has impeded both conservation efforts and the development of a viable tourism industry. However, the DSPA has remained relatively stable and secure over the past years.

There are thirteen villages in and around the DSPA. The main village, Bayanga, is situated in the geographical centre of the protected area and comprises about 5,000 residents. The total population around the DSPA is approximately 13,000 people, of which almost 5,000 are indigenous. The indigenous people – BaAka and Sangha-Sangha (ethnically Bantu) – are often treated as second-class citizens and subject to discrimination by the majority non-indigenous Bantu population. The region is far from the capital, Bangui, with little state presence and few government facilities in place.

6.2 Structure and Governance

WWF CAR is one of the programme or country offices that operate as a branch of WWF International. It operated under the oversight of the Central Africa Regional Programme Office (CARPO), based in Yaoundé, Cameroon until 2014, and subsequently the Regional Office for Africa (ROA), based in Nairobi, Kenya, with a hub in Yaoundé. The Director of WWF CAR formerly reported directly to CARPO but since 2015 has reported to the ROA

Yaoundé hub. WWF CAR operates from a field base in Bayanga, with a smaller office in Bangui. There are approximately 24 employees in all, across the two offices.

Since the inception of the DSPA, it has been co-managed by WWF and the government of CAR, although these arrangements were not put on a formal footing until years later. The legal basis for the partnership between WWF and the government derived from two agreements, namely a technical and scientific cooperation agreement dated 28 February 1994 and an 'accord de siège' dated 21 October 1998. Initially, the DSPA was managed by a Director, later called Principal Technical Advisor, from WWF, and a National Director, later called National Expert, from the government. In practice, the role of the WWF appointee was largely advisory in nature and focused on financing rather than the broader aspects of management of the protected area.

These arrangements came under pressure in 2013 when the Seleka assumed control of the government. WWF recognised the need for a clear mandate and a better-defined division of responsibilities between WWF and the government. On 5 October 2015, a protocol signed by WWF and the Ministry of Water, Forests, Hunting and Fishing (MEFCP) established a framework for conservation and long-term management of national forestry, fauna and fishery resources.

The intention of WWF and the government was to move towards the establishment, in the longer term, of a Dzanga-Sangha Foundation (DSF), as the independent legal entity for managing the DSPA.

Pending the formation of the DSF, a co-management agreement was signed by the government and WWF on 4 February 2019. Pursuant to this agreement, two bodies were created: a 'comité de suivi' (steering committee) comprising two government ministers and four WWF representatives charged with overall governance, strategy and decision-making; and a 'unité de gestion' (management unit) composed of a WWF-appointed Director and a government-appointed Deputy Director charged with joint responsibility for day-to-day governance, management and financing of the DSPA.

WWF continues to work closely with the government, in particular the MEFCP, in managing the DSPA alongside a number of other partner agencies. Its current annual budget is EUR 2.5 million. Its principal donor has been WWF Germany, which is responsible for approximately 80% of the funding for the DSPA. While an increasing percentage of the funding is now derived from other sources in the EU, WWF Germany maintains an important role in relation to the provision of technical support.

In addition to such technical support, WWF funds are used primarily to fund equipment, vehicles, buildings and training. For example, in May 2018 WWF provided approximately EUR 100,000 per year to support operational costs. These funds were not provided to the government but invested directly in the programme or used by WWF itself for purchase of equipment. In addition to covering these costs, WWF also invests in a range of community and economic development activities.

6.2.1 Management of ecoguards in the DSPA

The ecoguards operating in the DSPA are employed and managed by the government. There are three types of ecoguard: contractors, state agents, and a third category (explained below), all of which are recruited by the government.

Historically (prior to 2009), the salaries of contracted ecoguards were paid primarily by WWF and partner organisations, which also provided equipment (excluding weapons), food, and fuel for operations. State agents were paid by the government, with WWF only contributing towards food, fuel and other mission expenses and provision of equipment (also excluding weapons). The third category of ecoguards, recruited by the government and assigned to the DSPA, had their salaries paid by the government but their subsistence allowances and mission expenses were met by a logging company. For this third category, the only contribution made by WWF was provision of a single vehicle.

These financial arrangements were changed in 2009. Since then, WWF has made no contributions towards the salaries of ecoguards but continues to provide food, fuel and equipment (excluding weapons). The payment of salaries and bonuses to the contracted ecoguards and state agents was taken over by an institutional funder in 2009. Funding is channelled through the Sangha Tri-National Foundation (FTNS), an organisation charged with the long-term financing of the complex of cross-border protected areas described in section 6.1.

Under the co-management arrangements, it is the Director of the management unit, a WWF representative, who on paper has overall control over DSPA staff including ecoguards, supported by the government-appointed Deputy Director. However, the day-to-day activities of the ecoguards are actually supervised by officers who are government employees and who work under the supervision of the 'Conservateur' (Warden), who is also a government employee appointed by MEFCP. WWF's role is that of a technical advisor, managing the overall logistics, financing, and training needs of the ecoguards; WWF does not exercise any control over their daily activities.

6.3 Findings of Fact and Assessments related to the Allegations

The allegations in respect of CAR were distinct from those made in respect of the other countries in that they did not relate to specific incidents of alleged abuse against particular persons. Two sets of specific allegations are reviewed in sub-sections 6.3.1 and 6.3.2, whilst sub-section 6.3.3 addresses a more general allegation.

6.3.1 Findings of fact and assessment related to the first set of specific allegations

The allegations reviewed are that:

- WWF CAR helped rangers purchase weapons from the army and concealed the purchase from donors (2009–2010);
- internal email exchanges from two former unnamed staff members had referred to a "scandale" (scandal) involving missing money and embezzlement by the army of funds meant for arms and ammunition; and that
- WWF CAR was continuing to work with the army and is said to have bought fuel and food for soldiers deployed on an anti-poaching mission.

(a) Factual findings

As stated above, the ecoguards operating in the DSPA are employees of the government and not of WWF; and since 2009, WWF has not paid their salaries or played a role in the day-to-day management of ecoguards. The ecoguards are supervised by a government employee appointed by the MEFCP, namely the Conservateur and Deputy Director of the DSPA.

The law of the CAR authorises the carrying of weapons by ecoguards for the purposes of protection against poachers. While WWF recognises the need for this, it has been WWF's policy not to provide weapons for ecoguards.

The Panel has seen no evidence to support the suggestion that WWF has directly funded the purchase of arms for the DSPA ecoguards. The documented exchanges reviewed by the Panel lend support to the position that the provision of arms to the ecoguards is fundamentally a matter for the government in its capacity as the employer and manager of the ecoguards, and not a matter for WWF.

There is evidence that from 2013 to 2015 WWF did encourage ecoguards to confiscate illegal weapons and paid bonuses based on the numbers of seized weapons, with the aim of reducing the circulation of such weapons in the DSPA and therefore the danger of them falling into the hands of poachers. The evidence indicates that between 2014 and 2015, ecoguards did confiscate arms and ammunition in the field. The Panel's investigation did not uncover any internal emails that meet the description of the "scandale" referred to in the allegation.

With regard to the allegation that WWF CAR was working with the army, it is apparent that the DSPA does seek assistance from the CAR army when poaching activity reaches a peak, and that assistance was requested when reinforcements were needed during the civil war. The request is made by the DSPA governmental National Director and the provision of food and fuel to the soldiers is funded by the government from tourism revenue. It is apparent from documents that WWF CAR played a role in securing the support of the Ministry of Defence and the Central African Armed Forces (FACA), which provided troops and aircraft to assist in responding to the threat posed by incoming Sudanese poachers. It has been accepted practice for the DSPA to draw on the national armed forces to supplement the work of the ecoguards.

(b) Assessment

The emails cited in the allegations were not discovered despite an extensive electronic search. None of the persons interviewed recalled such exchanges. The Panel is therefore not able to assess the contents of the alleged emails. WWF CAR has denied purchasing arms or concealing facts from donors.

Ecoguards are government employees and responsibility for their activities rests with the government. WWF had – and continues to have – a role in influencing the conduct of the ecoguards through the provision of training.

The Panel has found no evidence that WWF CAR has provided or procured arms for the ecoguards. What is clear from document reviews and interviews is that WWF does not fund the provision of weapons. The carrying of arms by the DSPA ecoguards is permitted under CAR law. WWF's policies prohibit WWF from providing arms to ecoguards, but it may have engaged in lobbying the MEFCP to obtain firearms for anti-poaching activities from the Ministry of Defence to ensure that rangers were properly equipped.

In respect of the specific allegation regarding working with the CAR army, WWF CAR has engaged with the army when additional support is required, such as during peak poaching periods and at the time of the civil war in 2013. At such times, the military have taken on the role of providing additional ecoguards for DSPA.

This involvement must be seen in the context of the key role of the government as co-manager of the DSPA, and the extremely challenging local environment where it is inevitable that the government should call upon the support of its own military at crucial times to assist in the protection of the site.

6.3.2 Findings of fact and assessment related to the second set of specific allegations

The second set of allegations reviewed is that:

- WWF provided ecoguards with training in weapons handling and defensive combat; and that
- WWF contracted with Maisha Consulting Limited to safeguard the park during the armed conflict of 2013 and engaged Maisha Consulting for training of ecoguards.

In particular, it is alleged that a WWF employee taught rangers about the safe handling of AK assault rifles and about the use of defensive combat tactics.

It is further alleged that during the conflict in 2013, WWF hired a private contractor, Maisha Consulting, to engage with the Seleka, a violent rebel group that seized power in the country's capital and was alleged to have committed human rights abuses. Maisha Consulting is alleged to have provided 200 kg of food and medicines to the Seleka and to have negotiated with them to protect the DSPA. The Seleka leader is alleged to have said that he would kill any person caught poaching. It is further alleged that WWF, directly and indirectly through contracting with Maisha Consulting, arranged for training of ecoguards.

(a) Factual findings

The Panel did not uncover any evidence of the allegation noted in paragraph 6.3.2 above, that a WWF employee taught rangers about the safe handling of AK assault rifles and about the use of defensive combat tactics.

The Panel examined the allegation that WWF was providing training to ecoguards in handling weapons. The MEFCP, and not WWF, was in charge of providing the training for ecoguards. WWF's role was to assess the training requirements, including the safe use of arms, as a fundamental element of a wider programme of law enforcement training that it financed and delivered.

With regard to the allegation relating to the contracting of Maisha Consulting, WWF CAR contracted with Maisha Consulting for the protection of the DSPA during the time of the seizure of the protected area by the Seleka. The agreement (dated 10 June 2013 between WWF – represented by WWF CARPO and WWF CAR – and Maisha Consulting) was stated to run from 10 June 2013 to 31 December 2013 and provided for on-site security services to safeguard DSPA. Maisha Consulting met with the Seleka leader and reached an agreement with him for his cooperation to ensure the security of the protected area. Maisha Consulting's plans included "giving them [the Seleka] goods of no strategic value such as phones or some fuel and food".

In 2014 and 2015, WWF CAR contracted with Maisha Consulting to provide training to the ecoguards working in the DSPA. What was described as "paramilitary training" was in the event provided to the DSPA ecoguards in May 2015 by Maisha Consulting, pursuant to a formal agreement with WWF CARPO and WWF CAR dated 1 March 2015, which expressly included the provision of this service. The aim of the training, stated within the terms of

reference annexed to the contract, was “to improve basic infantry tactics, knowledge and know-how”. The budget referred to within the contract makes specific reference to “hand-to-hand combat” and “shooting gear”.

More recent third-party training of ecoguards, provided since May 2018 by Chengeta Wildlife, places emphasis on working with communities to reduce poaching, including through community-led policing techniques and community guards. This training was to be carried out in accordance with standard operational procedures being developed in parallel.

(b) Assessment

The Panel finds that WWF CAR engaged specialist services from Maisha Consulting for the purpose of protection of the DSPA in 2013 when the park was seized by the Seleka and needed to be safeguarded. The training provided in May 2015 by Maisha Consulting was an in-depth paramilitary training course, including weapons handling and combat tactics.

There is no evidence that the basic training delivered in 2015 to ecoguards was provided by WWF CAR staff members, and it seems unlikely that staff would have had the requisite skills to deliver any military or quasi-military training.

With respect to the more recent third-party training for ecoguards provided by Chengeta Wildlife – and indeed any third-party training – the Panel recommends that sensitisation with regard to human rights and indigenous peoples’ rights be incorporated into the training programmes for DSPA ecoguards; that the training should be pursuant to and consistent with WWF policies; and that there should be greater guidance on this from WWF International.

With respect to the allegation that WWF instructed Maisha Consulting to negotiate with Seleka forces during the period of civil unrest in 2013, the Panel assesses this action as necessary in the circumstances. The Seleka had seized control of the country’s capital and was in effective control of the area around the DSPA for much, if not all, of 2013. The situation was extremely volatile and dangerous for WWF staff, many of whom had to evacuate, leaving a skeleton staff to watch over the elephants within the protected area, thereby exposed to the risk of uncontrolled poaching. It was perfectly reasonable under these circumstances for WWF to arrange with a private security firm able and willing to undertake this high-risk engagement, to enter the area and engage directly with the Seleka military forces. The timely intervention by WWF CAR contributed to preserving the integrity of the DSPA and its wildlife, as well as saving the lives of WWF staff within the protected area.

There is absolutely no reason to believe that WWF was secretly trying to help the rebels or to do anything other than safeguard the protected area and the people for whom it felt responsibility. In fact, Maisha Consulting only provided 200 kg of food, some fuel and phones to the Seleka. Moreover, with regard to the allegation that the Seleka leader stated that he would kill any poachers, the Panel has found no evidence of the Seleka having pursued such a policy.

The Panel concludes in relation to this set of allegations that there were no human rights abuses for which WWF bears responsibility. The Panel applauds the quick action taken by WWF to do what it could to protect the DSPA.

6.3.3 Findings of fact and assessment in relation to unspecified allegations of human rights abuse by ecoguards

Although the DSPA ecoguards were alleged to have perpetrated human rights abuses, the allegation was general in nature and did not refer to specific acts or incidents of abuse. The Panel has nevertheless reviewed the steps taken by WWF CAR in terms of preventing potential abuse from occurring, and responding to complaints or allegations of abuse.

(a) Factual findings

The principal mechanism relied on by WWF to address allegations of human rights abuses perpetrated by ecoguards and other staff of the DSPA is provided by the Human Rights Centre (HRC) in Bayanga, created in 2015. It is run by the national civil society organisation Maison de l'Enfant et la Femme Pygmées (MEFP) based in Bangui, and receives support from the pan-African Indigenous Peoples of Africa Co-ordinating Committee. Its function to provide a grievance mechanism for the DSPA is only one aspect of its work.

The HRC was created as part of a WWF-funded civic empowerment project, 'Furthering Indigenous Rights and Culture' (FIT project) aimed at giving the BaAka and Sangha-Sangha communities living in and around the Dzanga-Sangha the means to meet the socio-economic challenges they face. The main components of the FIT project address access to justice, preserving, strengthening and reaping the material benefits of indigenous cultural heritage, strengthening of civil society, human rights education, and anti-discrimination campaigns. In addition to the HRC, the project involved support for a local initiative bringing together BaAka and Sangha-Sangha youth.

The HRC provides legal assistance to the BaAka and Sangha-Sangha communities and others living in and close to the DSPA. It monitors cases of rights abuse; provides legal representation for victims; offers human rights capacity building for local authorities, leaders and members of local communities, as well as institutional strengthening of local civil society organisations; training of village human rights monitors; and assists the BaAka to obtain birth certificates for their new-born and unregistered children, as well as identity cards for adults.

The HRC is managed by a lawyer who reports to the MEFP coordinator in Bangui. He assesses the information and cases of rights abuse brought to him by a network of community monitors and HRC animators and decides on the appropriate course of action. Some cases are handled through traditional dispute-resolution procedures. Criminal cases are referred to the courts and outcomes are monitored. In this way, the HRC attends to all community complaints concerning human rights, over and above its primary focus on the rights of the indigenous BaAka.

WWF Germany has been responsible for the funding of the HRC since its inception. However, WWF has no role in the governance of the HRC.

Between April 2016 and December 2019, some 40 cases of alleged abuse of human rights were handled by the HRC, of which five concerned DSPA ecoguards and one a DSPA driver. Two of the cases were determined to be unfounded, one resulted in disciplinary sanctions, two investigations were inconclusive, and one case is pending before the courts, as of June 2020.

The HRC reports all relevant complaints to both the DSPA and WWF CAR, and sometimes directly to WWF Germany. WWF CAR escalates such cases to the attention of WWF

International and is in the process of finalising an MOU between the DSPA and the HRC for the establishment of a case management system for timely and regular transmission of complaints.

An independent evaluation of the FIT project conducted in 2018 found that its human rights work functioned well and should be continued. It noted that the project engendered greater awareness of human rights, including indigenous peoples' rights, and produced a change in attitudes and behaviour towards the BaAka by the Bantu and by the community authorities, who now recognise that 'no-one is above the law'. There is greater acknowledgement that indigenous peoples' rights need to be respected. The evaluation pointed to some shortcomings but was satisfied that the vision and orientation of the project were relevant for sustainable conservation and that funding for it should be continued.

In 2019, WWF CAR established the position of Head of Community Law for a new department dealing with development and community rights. The position also filled a gap for a focal point to liaise with the DSPA and the manager of the HRC, in order to ensure prompt sharing of information and expeditious resolution of cases relating to the DSPA.

The HRC at Bayanga has been seen as a good model to replicate for the WWF grievance mechanism in Lobéké National Park in Cameroon. WWF International's Social Policy Manager indicated that when he assumes his role as coordinator in the Congo Basin, he intends to facilitate related transboundary learning and sharing of experiences between countries to support information flow and understanding between key actors within the WWF Network. In a similar vein, WWF Germany is leading efforts to develop a grievance mechanism for Salonga National Park in the DRC, which would draw on lessons learned from the HRC in Bayanga and its counterpart in south-east Cameroon.

(b) Assessment

The Panel views WWF's support for and cooperation with the independent HRC as a positive development, both in terms of providing a mechanism to respond to grievances involving the DSPA, and more generally in generating awareness of human rights, access to justice and civic empowerment of the members of marginalised communities living in and close to the DSPA. The HRC makes a valuable contribution to inclusive conservation, and it will be important for WWF to support its viability as an independent organisation, ideally in a way that allows it to move beyond its current financial dependence on WWF.

6.4 Recommendations

Recommendation 1. Training of Ecoguards

With respect to third-party training for ecoguards, the Panel recommends that (a) sensitisation about human rights and indigenous peoples' rights should be integrated into training programmes; (b) that such training should be pursuant to and consistent with WWF's social policies; and (c) that there should be greater guidance on this from WWF International.

Recommendation 2. Supporting Human Rights

WWF should continue to support the viability of the Human Rights Centre as an independent organisation, ideally in a way that allows it to move beyond financial dependence on WWF.



CHAPTER 7

REPUBLIC OF CONGO – MESSOK DJA

This chapter examines allegations that WWF knew about alleged human rights abuses committed by park rangers (ecoguards) in the area of Messok Dja in the Republic of Congo (ROC), that it nevertheless supported and collaborated with the ecoguards, and that it failed to take adequate steps to prevent and respond to the abuses. It also examines allegations that WWF misrepresented the views of indigenous peoples and local communities in relation to an application for European Union funding intended to support the establishment of a protected area in Messok Dja, and that WWF failed to respect the right to free, prior and informed consent in relation to the proposal for the new protected area.

7.1 Context: Messok Dja and the Human Settlements Around It

The ROC borders five other countries in central Africa, including three that are the subject of separate chapters of this report: Cameroon, the Central African Republic and the Democratic Republic of Congo. It achieved independence from France in 1960 and has held regular multi-party elections since 1992. Since a civil war in 1997, the President of the ROC has been Denis Sassou Nguesso, who also ruled between 1979 and 1992. After the constitution was amended in 2015 to allow the President to hold office for a third consecutive term, armed internal conflict occurred around the capital of Brazzaville until a ceasefire agreement was signed in December 2017.

The economy of the ROC depends heavily on oil production. As oil prices have fallen in recent years, the economy has struggled. Nevertheless, per capita GDP is over USD 2,500, higher than many other countries in the region. Forests cover most of the country, and the forestry sector is a significant part of the economy.

The ROC is home to a rich diversity of wildlife, especially in its northern forests. The Tri-National Dja-Odzala-Minkébé (TRIDOM) landscape is a trans-border forest that extends across approximately 178,000 square kilometres of northern ROC, Gabon and Cameroon. It provides habitat for large numbers of endangered species, including elephants, gorillas and chimpanzees. About one-quarter of TRIDOM, or 42,319 square kilometres, is designated as protected areas, including the Dja, Boumba Bek and Nki protected areas in Cameroon, Minkébé National Park in Gabon, and Odzala-Kokoua National Park in the ROC. WWF provides support to some of these protected areas, including Boumba Bek and Nki, which are addressed in Chapter 4 of this report.

Approximately two-thirds of the TRIDOM landscape is subject to logging concessions issued by national governments. In the 2004 agreement establishing TRIDOM, the three governments committed to a coordinated approach for the sustainable development of the areas between the core protected areas. Messok Dja is a forested area covering about 1,500 square kilometres on the northern border of the ROC, north of Odzala National Park in the ROC and south of Nki National Park in Cameroon, and serves as a wildlife corridor between them. The wildlife in Messok Dja, as in other areas of the TRIDOM landscape, is being depleted by poachers, especially in the hunt for elephant ivory.

Currently, the Messok Dja forest is covered by two long-term commercial logging concessions, the Jua Ikié and the Tala-Tala Forest Management Units, which are managed by the Chinese

forestry company SEFYD and the Lebanese forestry company SIFCO, respectively. The companies have reportedly engaged in illegal logging, falsification of records and other violations of Congolese law.¹ In 2013, the companies signed a joint protocol with the government to create and support anti-poaching units (USLAB) within their concessions. Mining permits have also been issued in the area but no mining operations are currently underway. In addition, since 2010, Cameroon and the ROC have engaged in planning to construct the Chollet hydro-electricity dam on the River Dja, on the border between the two countries, which would affect the Messok Dja forest.

The SEFYD and SIFCO logging concessions extend beyond the Messok Dja forest. Under Congolese law, the logging companies must set aside part of their concession areas as '*séries de conservation*', areas with protected status. If the *séries de conservation* of the two companies were situated next to one another, they could cover enough of the Messok Dja forest to provide the basis for designation of the area as a national park or other form of protected area, which would enable the transfer of management of the area from the companies to the government. With this goal in mind, WWF has sought to work with the logging companies to designate their *séries de conservation* to cover a contiguous area covering Messok Dja and, at the same time, WWF has supported the designation of Messok Dja as a protected area by the government. The government recognised the Messok Dja area as a potential site for a protected area in 2011.

The area around Messok Dja has approximately 24,000 inhabitants, many of whom live in the towns of Sembé (south of the Messok Dja forest), Souanke (to the west) and Ngbala (to the east). Approximately 6,500 of these inhabitants reside in 67 village communities along two roads on either side of Messok Dja. The roads form a 'V' shape, with Sembé at the base. The road to the west of Messok Dja runs from Sembé to Souanke, close to the Cameroonian border, and the road on the eastern side runs from Sembé to Ngbala, on the border with Cameroon.

The village communities are mixed but predominantly Kwele, from the Bantu linguistic group. At least 200 to 300 Baka live in about 14 to 17 of the village communities. As in south-eastern Cameroon, Bantu communities in this area primarily rely on agriculture, although they also engage in hunting, fishing and gathering of non-timber forest products. The indigenous Baka have historically relied primarily on hunting and gathering, and generally continue to depend on the resources of the forest for their material and spiritual well-being.

The Baka and other indigenous peoples in the ROC have been and continue to be discriminated against, marginalised and exploited by the Bantu majority, as reports in 2011 and 2020 by the UN Special Rapporteur on the rights of indigenous peoples describe.² Baka typically do not possess title to the land that they have traditionally used and often do not possess legal identification documents. Law No. 5-2011, on the promotion and protection of the rights of indigenous peoples, sets out what the UN Special Rapporteur has described as a sound legal foundation for indigenous peoples to claim their rights and gain access to social services, but implementation has been slow. In July 2019, six decrees were adopted to implement the law, including one that provides for consultations with a view to obtaining

¹ Final Investigation Report Investigating allegations of non-compliance with UNDP social and environmental commitments relating to the following UNDP activities: Integrated and Transboundary Conservation of Biodiversity in the Basins of the Republic of Congo, TRIDOM II, Case No. SECU0009 (4 June 2020), para. 172.

² UN Doc. A/HRC/18/35/Add.5 (2011); UN Doc. A/HRC/45/34/Add. 1 (2020).

the free, prior and informed consent (FPIC) of indigenous peoples before actions that may affect them, such as the establishment of natural reserves or parks.³ However, the decree limits consultations to only three months and does not provide concrete guidance on how to obtain FPIC in a way that respects indigenous rights.⁴ Another decree, on recognition of traditional and customary lands for indigenous peoples, is being considered but has not yet been adopted.

7.2 WWF Presence in the ROC

WWF has not opened a Programme Office in the ROC. Instead, the eight WWF staff members in the ROC have operated as an extension of the Gabon Programme Office, under the management authority of WWF International. In practice, WWF staff in the ROC have operated with a level of autonomy close to that of a Programme Office. This report therefore refers to the WWF presence in the country as 'WWF ROC', though this is not a formal status within the WWF Network. At the regional level, the WWF ROC staff have been overseen by the WWF TRIDOM Coordinator, located at the WWF ROA hub in Yaoundé, Cameroon.

Messok Dja is the main focal area for WWF's work in the ROC. In 2005, WWF began working with the ROC government on a joint conservation programme known as ETIC (Espace TRIDOM Interzone Congo) within the ROC portion of the TRIDOM area. A field office serving as the ETIC headquarters was established in Sembé in 2008.

The Ministry of Forest Economy, Sustainable Development and Environment (MEFDD) is the principal environmental agency in the ROC. In 2012, the ROC also established the Congolese Agency for Fauna and Protected Areas (ACFAP). Law No. 37-2008, on wildlife and protected areas, requires that the instrument establishing a protected area set out the modalities of participation of the neighbouring populations in the management of the area and the traditional use rights that may be exercised there. In February 2016, WWF ROA and MEFDD signed a new ETIC agreement, which provides a framework for cooperation between them on conservation and sustainable management of biodiversity in the ETIC programme area, composed of the logging concession forest management units and the forest between them, the boundary with Gabon, and Odzala-Kokoua National Park. The agreement is valid for five years.

Under the agreement, the ROC government committed, among other things, to: allow the ETIC programme to monitor law enforcement relating to wildlife and protected areas in the ETIC zone; make staff available to the programme; plan and implement anti-poaching activities in the ETIC area; and manage staff financed under the collaboration with WWF. WWF commitments included supporting definition of appropriate zoning in the ETIC zone with stakeholders; putting in place conservation mechanisms with economic operators in ETIC, as well as with local communities; supporting community development activities; supporting implementation of activities related to village hunting, including bushmeat hunting; and providing technical and financial support for MEFDD anti-poaching activities. The agreement does not refer to the rights of local communities or to human rights more generally.

The ETIC programme is supervised by a committee composed of representatives from the ROC government, WWF and African Parks Network (as manager of Odzala-Kokoua). The programme is managed jointly by a National Coordinator from MEFDD and a Technical

³ Décret no. 2019-201 (12 July 2019), arts. 1, 3.

⁴ UN Doc. A/HRC/45/34/Add.1, para. 69.

Advisor from WWF. As of 2020, there are approximately 33 ecoguards employed specifically for ETIC, as well as four other government employees who are posted to the area to assist with the project. Ecoguards are government employees and under the direction of the ETIC national coordinator. WWF does not have the authority to hire, fire, direct or discipline the ecoguards. However, it has provided input on terms of reference for their recruitment. WWF can request that the National Coordinator sends a patrol to a location because of concerns about poaching there, but the final decision lies with the National Coordinator. WWF has provided financial support to the ecoguards, as described in sub-section 7.3.2 below.

In addition to the ETIC ecoguards, two other types of ecoguard or anti-poaching unit operate in or near the ETIC area. The African Parks Network oversees ecoguards operating from Odzala-Kokoua, and the two logging companies in Messok Dja signed an agreement with MEFFD in 2013 to create and support anti-poaching units (USLAB) within their concessions. WWF ROC initially assisted the logging companies to set up their anti-poaching units. WWF discontinued formal support in 2019 because of an absence of a framework agreement, but allowed USLAB personnel to participate in training in April 2020 and provided informal support in updating their SMART database for monitoring.

7.3 Allegations and Factual Findings

7.3.1 Factual findings related to the allegation that WWF had knowledge of alleged human rights abuses by ecoguards in the ETIC/Messok Dja area

From at least 2016, WWF has heard of allegations of human rights abuses by ecoguards in the ETIC/Messok Dja area.⁵ For example, in December 2016 Survival International (SI) published letters from villages in several countries in the Congo Basin, including four from Baka in the ROC dated between 8 September and 30 September 2016. One of the letters, from an unnamed village in the Souanke region, in the north-west part of the ETIC area, stated that “WWF people” beat them, burn their houses and ruin their belongings. In September 2017, SI published a report that described alleged abuses in several countries of the Congo Basin, including more than a dozen separate incidents of beatings by ecoguards in the ETIC area between 2011 and 2017. One of the incidents, in 2011, allegedly resulted in two deaths. On 8 March 2018, SI published an article on its website which alleged, among other things, that ecoguards in the ROC had beaten four Baka – two women and two men – the previous week, and a group of Baka in a neighbouring community the week before. In each case, WWF became aware of the allegations soon after they were published.

In 2018 and 2019, WWF received a number of complaints of abuses through its Expolink whistleblower hotline and its local complaint mechanism, which are described in sub-section 7.3.3 below.

⁵ Previously, there had been allegations of human rights abuses in relation to protected areas with which WWF was not engaged. For example, in 2009 the Committee on the Elimination of Racial Discrimination noted with concern reports of violence and cruel, inhuman and degrading treatment by ecoguards against indigenous peoples in the context of managing the ecosystems adjacent to the Ndoki National Park. UN Doc. CERD/C/COG/CO/9, para. 13 (23 March 2009). In April 2016, Rainforest Foundation UK published a report (see Chapter 4) on protected areas in the Congo Basin that described general allegations of human rights abuses by ecoguards, including in the Odzala-Kokoua National Park, located just south of the ETIC area.

7.3.2 Factual findings related to the allegation that WWF has supported and collaborated with ecoguards accused of alleged human rights abuses

WWF provides support to the ETIC ecoguards through salaries, bonuses and equipment. Bonuses are paid to ecoguards for seizure of certain items, such as weapons, ivory tusks, elephant meat and other animal trophies. They are also paid for arrests if certain conditions are satisfied, including that the case is successfully referred to a prosecutor. Ecoguards receive salaries and bonuses from an ETIC joint bank account that is held by the government and WWF. A double signature is required in order to release money. All of the funds in this account used to pay ecoguard salaries and bonuses come from WWF Gabon and not the government.

ETIC also pays for equipment, such as sleeping bags, mattresses and compasses. The government pays for weapons and ammunition for the ecoguards, without support from WWF.

7.3.3 Factual findings related to the allegation that WWF has failed to take sufficient actions to prevent, respond to and remedy alleged abuses by ecoguards

WWF did not conduct a human rights impact assessment or adopt a mitigation plan before entering into the ETIC partnership with the ROC, but it has undertaken steps since 2018 to try to prevent and address alleged incidents of abuse. For the most part, these steps have been initiated and carried out by the WWF ROC staff and ETIC without direct intervention by WWF International. This section describes the main actions, which include: (a) several measures aimed at preventing ecoguard misconduct; and (b) mechanisms for receiving and addressing complaints.

(a) Measures aimed at preventing ecoguard misconduct

After the 2018 round of recruitment for ETIC ecoguards, WWF ROC participated in delivery of an initial 45-day training programme during the latter part of 2018, which included a component on human rights. In September 2019, a refresher course was held for all ecoguards, including those who were in place before 2018. It included 33 ecoguards from ETIC and also six ecoguards from the Joua/Ikié/Tala-tala USLAB. The programme included a component on rights of customary use in Congo and the human rights of indigenous peoples, and described the local complaints mechanism (see below).

In November 2018, WWF ROC staff drafted a Code of Conduct for ecoguards in the ETIC programme, which states, among other things, that ecoguards must abstain from the use of force against harmless suspects, including those that are unarmed or who have surrendered. The code also states that the use of force by ecoguards may only occur in cases of legitimate defence and must be proportionate to the attack. The code includes procedural safeguards for those arrested, including that ecoguards must inform those arrested of the reason for their arrest and their right to assistance from a lawyer. The code also prohibits torture and cruel, inhuman and degrading treatment of suspects, including those arrested or in detention. It prohibits discrimination against local and indigenous communities, and states, among other things, that ecoguards must maintain peace and social cohesion in their relations with members of such communities and abstain from acts of theft, sexual harassment, injury, threats, and all other forms of violence. The code further states that ecoguards must avoid all acts of harassment against local fishers and hunters, including their goods and products.

The Code of Conduct includes provisions on disciplinary measures, which state that complaints of violations may be submitted to the authorities, and that ecoguards may be disciplined for any infringements of their professional duties, in addition to any other punitive measures that their conduct may subject them to under the law.

The Code of Conduct has not been formally validated by the Director of ACFAP. It is under consideration as the possible basis for a national Code of Conduct for ecoguards. Pending official validation, WWF ROC staff have tried to promote the principles of the Code of Conduct, including by incorporating some of its elements into internal ETIC regulations.

WWF ROC has a legal expert in the ETIC programme who plays a role in interviewing arrestees and transferring their cases to government prosecutors. Interviews with those arrested are videotaped.

Prior to July 2019, a WWF technical advisor would sometimes accompany the patrols, but this was done more with a view to improving the efficacy of the patrols rather than to monitor the behaviour of ecoguards. In July 2019, WWF ROC hired an observer to join ecoguard patrols on a more regular basis. The observer takes notes, has a camera that can be used to film arrests, and provides information to WWF ROC staff. Because of the number of patrols, it is impossible for the observer to join every mission.

(b) Receiving and investigating complaints

WWF has received complaints through the WWF International Expolink whistleblower hotline, and through a complaints mechanism established and implemented by WWF ROC.

Expolink complaints and UNDP report

On 23 March 2018, WWF International received an allegation through the Expolink hotline that in February 2018 three ecoguards in a car bearing the WWF logo had arrested a Baka man who was buying fish in his village and took him to prison, where he was detained for three weeks and three days. The allegation stated that in prison he was only allowed one spoon of rice a day and was beaten by ecoguards and by the police. WWF International referred the allegation to WWF ROA, which requested the senior WWF officer in WWF ROC to investigate. The WWF ROC investigation concluded that the Baka man had been arrested and that during his interrogation, which was filmed, he confessed to killing an elephant and selling the ivory to a higher-level poaching organiser, who was then also arrested. The ETIC legal advisor met with the detainee while he was in detention and stated that he appeared to be in good health. The case was referred to the government prosecutor, who issued an arrest warrant for other accomplices. In June 2018, WWF International provided this information to Expolink so that it could respond to the complainant.

On 18 July 2018, WWF International received via Expolink six submissions concerning the ROC, including allegations of severe beatings as well as more general allegations that protected areas were being established without the consent of the local communities. These allegations were also presented by SI to the UN Development Programme (UNDP) Social and Environmental Compliance Unit (SECU), which has a mandate to investigate complaints that UNDP may not be meeting its social and environmental commitments in relation to projects for which it provides funding. As part of its support for the TRIDOM project, UNDP has provided support to WWF for community mapping consultations around Messok Dja and for training fees, uniforms and daily subsistence allowances for ETIC ecoguards. Based on a document review and a field mission conducted from 20 February 2019 to 1 March 2019, SECU published its final report on 4 June 2020.

Although the SECU report focused on compliance by UNDP with its own safeguards, it addressed the ETIC programme more generally. SECU concluded, among other things, that ETIC ecoguards had engaged in violence against Baka in the Messok Dja area, which prevented them from pursuing their customary livelihoods, in turn contributing to their marginalisation and impoverishment.⁶ The SECU report said that numerous Baka referred to the ecoguards treating them as sub-human and burning their camps and homes, and that there were reports of severe beatings of Baka (including with machetes) and reports of ecoguards forcing Baka women to take off their clothes. SECU concluded that UNDP had failed to adequately screen for risks and that as a result it had failed to ensure the application of UNDP's social and environmental safeguards, particularly its standard on indigenous peoples. SECU recommended, among other things, that UNDP Congo take effective measures to prevent future acts of violence against Baka communities, and that it create a detailed Stakeholder Engagement Plan and an Indigenous Peoples Plan with the full participation of the communities concerned, accompanied by effective and transparent grievance mechanisms.

WWF deferred action on the complaints it received in July 2018 until after SECU had completed its report. WWF asked SECU for details of the allegations received but was told that SECU could share such information only with a government. WWF does not have plans to take further action in relation to those allegations.

ETIC complaint mechanism

The ETIC programme had no local complaints mechanism in place before October 2018. Individuals could take complaints to the police or go to ETIC headquarters in Sembé, but WWF ROC staff believed that local communities did not trust the judicial system and that they did not see the ETIC headquarters as sufficiently independent. The UNDP SECU investigation reported that individuals stated that when they had tried to complain to the ETIC office in Sembé in the past, their complaints were not taken seriously and that they received threats as a result.⁷

In October 2018, WWF ROC created a new procedure with two avenues for complaints. In addition to continuing to allow individuals to file complaints directly to the ETIC office in Sembé, the new mechanism provides for WWF ROC staff to collect complaints during regular visits to villages. The visits are by two community liaison officers, who were hired in October 2018 and February 2019, assisted by two Baka who serve as interpreters. If a complainant is illiterate, the WWF officer can assist in preparing the complaint, and the complainant may also seek the assistance of a person who is able to report the facts in writing or who can accompany them when making the complaint orally. The WWF ROC staff then meet with the complainant in the presence of the village chief. The complaint must be sealed or countersigned by the authority (chief or secretary) of the village.

Investigation of the complaints is conducted by a team that is headed by the WWF ROC community liaison officer and includes an assistant from ETIC, a technical/legal advisor and two state agents. Once the investigation is complete, the investigation team produces a

⁶ UNDP SECU, Final Investigation Report investigating allegations of non-compliance with UNDP social and environmental commitments relating to the following UNDP activities: Integrated and Transboundary Conservation of Biodiversity in the Basins of the Republic of Congo, TRIDOM II, Case No. SECU0009 (4 June 2020), paras. 9-11.

⁷ Ibid. paras. 133-134.

'*procès verbal*' (PV), reporting on their findings and recommending whether or not there should be sanctions. The WWF ROC staff may also seek to assist in mediation and dialogue to resolve issues. The PV is presented to the ETIC National Coordinator and to WWF ROC. If the National Coordinator accepts the complaint as proven, the Coordinator convenes a disciplinary council, which includes the Coordinator and a person responsible for human resources. The disciplinary council may impose a range of sanctions and remedies, including suspension or full dismissal of ecoguards, and compensation for victims.

Beginning in early 2019, the WWF ROC community liaison officers began to visit communities around Messok Dja to inform them about the complaints mechanism, disseminating information about the new system to 41 villages. In 2019, the mechanism logged 31 complaints concerning treatment by ecoguards, including eight relating to alleged incidents from 2012 or before, two between 2013 and 2016, six in 2017, eight in 2018, six in 2019 and one undated.

Approximately 14 of the complaints alleged beating or physical violence by the ecoguards. Two of these complaints, from 2008 and 2017, alleged that the beatings had been so severe that they caused the subsequent death of the victim. Several of the complaints concerned seizure of arms that had allegedly been carried with legal permission. None of the complaints concerned exclusion or restricted access *per se*, although some complaints concerned the destruction of hunting camps. Local communities have raised other issues informally with the community liaison officers, such as concerns over destruction of fields by elephants. WWF ROC would be open to hearing a wider range of issues through the mechanism.

As of July 2020, 12 of the cases raised through the complaints mechanism had been closed and 18 were still in progress. Some of the cases were closed because of lack of evidence about the circumstances of alleged injuries. The ETIC investigation team recommended that ETIC design a form to describe the condition of detained people when they are released. Two complaints were received during the first six months of 2020; both are still under review.

WWF International is notified of complaints and their resolution. If a complaint is received initially by WWF International, it will be referred to the local mechanism for investigation. In March 2019, BuzzFeed contacted WWF International to ask, among other things, about an allegation that ecoguards from Sembé beat three men from Namogola village in December 2018, forced confessions from them, and took the men to prison where they were beaten, starved and raped, leading to the death of one of the men. WWF International referred the allegation to WWF ROC, which determined that no one had been arrested in the named village in that month, but that four months earlier three Baka from the village had been arrested for poaching and taken to prison, where they had all become sick, and that one had died approximately one week after his release from prison. Based on interviews with one of the alleged victims, ecoguards and people in the village and at the hospital, WWF ROC concluded that because of conflicting testimony it was not possible to determine whether ecoguards had used physical violence. WWF ROC also determined that the reported death was due to pulmonary disease, not physical abuse, although it also noted that one of the surviving alleged victims referred to severe abuse by other prisoners while in prison.

7.3.4 Factual findings related to the allegations that WWF failed to respect the right to FPIC in relation to the establishment of a protected area in Messok Dja, and misrepresented the views of indigenous peoples and local communities in an application for European Union funding intended to support designation of the protected area

The investigation reviewed the allegation that WWF failed to respect the right to FPIC in relation to the establishment of a protected area in Messok Dja. It also reviewed the related allegation that, in a report submitted to the European Union (EU) in support of an application for EU funding to assist with establishing the protected area, WWF falsely stated that the local indigenous population universally supported the project and deliberately withheld its knowledge of opposition to the project among local communities.

In June 2017, WWF's TRIDOM Coordinator (with the approval of the WWF Gabon Country Director) engaged an independent consultant to begin the process of obtaining FPIC of the local communities for the establishment of a protected area in Messok Dja. The aims of the first stage in this process were to identify and map the zones of use of the communities bordering the future Messok Dja protected area, to inform the communities about the proposal to designate a national park, to collect the first impressions of the communities on the proposal, and to identify the next steps to be taken. The consultant began by visiting the 48 villages around Messok Dja. (It should be noted that since some of the villages have more than one community, the total number of village communities is reported to be approximately 67.)

The consultant reported that the communities on the eastern, Sembé-Ngbala axis were generally already aware of the proposal and somewhat favourable (*quasi favorables*) to it, because they hoped that it might address the problem of youth unemployment and reduce conflicts with wildlife. He stated that the villages on the Sembé-Souanke road had generally not previously known of the proposal and were resistant to the idea of a national park near them because they associated it with an increase in repression from ecoguards and a ban on hunting in the surrounding area. Three of the villages on this road expressed their refusal to see the park created. The consultant also reported that the communities associated WWF with ecoguards and therefore with repression. As a result, many members of the communities hesitated before participating in meetings, and Baka would hide at the approach of WWF vehicles.

In May 2018, WWF ROA and ACFAP jointly submitted an application to the EU for a four-year grant of funding for conservation and participatory management of Messok Dja and its periphery. The application described the FPIC process to be conducted as including participatory mapping of the zones used by communities, awareness-raising of local stakeholders to inform them and allow them to express their views and wishes, consultation and negotiation to reach agreement on an MOU, and creation of a consultative platform for local governance of natural resources. The application did not specifically characterise the attitude of local communities to the proposal for a new protected area, but it briefly stated that local communities think that they are not sufficiently consulted by conservation projects, that they are losing their traditional rights over the forest, and that they do not gain enough from conservation. As responses to these concerns, the application listed FPIC, a strategy of community conservation, a complaints mechanism and piloting experiences with community surveillance. The funding contract was finalised in June 2018 with signatures from WWF ROA and the EU, and the first instalment of funding was paid in July 2018.

In 2018 and 2019, WWF ROC provided information on implementation of the contract to an officer at the EU External Action Service (EEAS) who was the principal contact person for the contract. The updates included providing in August 2018 a mid-stage progress report covering the period from June 2017 to June 2018. This report stated that of 67 communities, 64 usage zones had been mapped with the consent of the communities, including 20 belonging to indigenous communities, and that 60 maps had already been validated by the communities concerned. Of the remaining three communities, the progress report stated that one had made participation conditional on WWF hiring at least two youths from the community, and one conditioned its participation on receiving compensation for damage from elephants. Most of the inhabitants of the third community were absent in the forest when the community was visited.

The August 2018 progress report to the EU also stated that the usage zones of 23 Bantu communities (with approximately 3,102 inhabitants) and 13 Baka communities (with approximately 260 inhabitants), spread over 19 administratively recognised villages, overlapped with the region proposed for the Messok Dja protected area, and that negotiations would be initiated with those communities. In September 2018, WWF ROC informed the EEAS officer that one of the villages had advised WWF that it no longer wished to participate in the consultation process, because the community had been told that it had inadvertently given its acceptance to the boundaries of the protected area already and so had come to believe that they had been tricked by WWF.

The provision by WWF of information to the EU about Messok Dja became the subject of an article in BuzzFeed on 8 March 2019. This article stated that WWF told the EU in a 2018 “filing” that indigenous people were favourable to a new national park despite a consultant’s “confidential report” in 2017 highlighting fears of repression by ecoguards and indicating that some locals vehemently opposed the national park. In its reference to the 2018 filing, the BuzzFeed article linked to a report prepared in May 2018, entitled *Le Massif Forestier de Messok-Dja*, which repeated a statement from a 2016 socio-economic study (commissioned by WWF) that the local communities remained favourable to the creation of the protected area while emphasising the mutual respect of the stakeholders (*tout en soulignant le respect mutuel des parties prenantes*). Although the BuzzFeed article did not provide a link to the 2017 “confidential report”, the description in the article made clear that it was referring to the report prepared by the WWF consultant in July 2017 on his visits to the villages around Messok Dja and the first steps in implementation of the FPIC process.

The Panel has seen evidence that WWF provided both the May 2018 report (*Le Massif Forestier de Messok-Dja*) and the July 2017 report to the EU through the EEAS officer in September 2018, providing the July 2017 report one week before it provided the *Massif Forestier* report. Neither report was provided to the EU in connection with the application for funding, which was made in May 2018 and had already resulted in a contract in June 2018. Before it was finalised in 2017, the July 2017 report had been edited to remove or soften some statements about local attitudes towards WWF, including taking out the statement that indigenous people would hide at the approach of WWF vehicles. These revisions were made before providing the report to a Congolese human rights organisation in September 2017. However, the final version of the report, as provided to that organisation in 2017 and to the EU in 2018, did state that the villages on the Sembé-Souanke axis were resistant to the proposal because they associated the presence of a national park with an increase in repression from ecoguards and a ban on hunting in the surrounding area.

In September 2018, WWF ROC identified a consortium of NGOs to conduct the next stage of the FPIC process. WWF believed that because it was supporting the government in the initiative to establish a protected area, further engagement with local communities should be conducted by an independent entity or entities. The consortium of NGOs consisted of Brainforest (based in Gabon), and Comptoir Juridique Junior (CJJ) and Cercle des Peuples Autochtones de la Sangha (which are both based in the ROC). The objectives of the consortium included: informing the local and indigenous communities about the social, economic and environmental impacts of a protected area; identifying community expectations for the future protected area at Messok Dja; documenting the social, economic, environmental and cultural needs of communities vis-à-vis the protected area; and making recommendations to ETIC for the effective involvement of indigenous and local communities in the sustainable management of natural resources.

In June 2019, the NGO consortium produced a report setting out the views of 37 local communities potentially impacted by the proposed protected area. The report stated that three communities were unconditionally in favour of the proposal, 24 communities had set conditions that would have to be satisfied before accepting the creation of the protected area, and 10 categorically did not support the proposal. In the report, the consortium recommended deferring the process of establishing a protected area; laying the foundations for concerted management of natural resources with all actors at the local level; providing for further consultation with all stakeholders; and defining with the communities mechanisms of concerted or participative management of resources, by establishing them as main actors. The NGO consortium stated that if a protected area were to be established, it should respect the pre-conditions set by the communities, and exclude the traditional territories of the ten dissenting communities from the limits of the protected area.

In April 2019, WWF commissioned the Forest Peoples Programme (FPP) to, among other things, assess the FPIC process in Messok Dja in light of WWF's social policies and international best practice. FPP published its report in June 2019. It stated that the FPIC process had several fundamental flaws, including that engagement with communities had started too late in the process and that the framing of the FPIC process had presented the creation of the protected area as a *fait accompli* or, at the very least, a likely outcome. Moreover, FPP stated that the process had treated FPIC as a procedural right but not engaged with the underlying substantive rights that FPIC exists to protect – specifically, the rights of indigenous peoples and local communities to their lands, territories and natural resources. FPP also noted that communities viewed ecoguards as violent and unjust, and associated them with WWF. As a result it was unclear whether engagement with the communities could be free from risks of intimidation or coercion (even if unintended).

FPP concluded that under these circumstances no remedial action would be able to render the FPIC process compliant with WWF's social policies and international human rights norms. FPP proposed two main options for how to proceed:

- Drop the protected area project, and instead work with communities to design a new programme and strategy to protect biodiversity in the Messok Dja forest; or
- Redesign the proposed protected area to exclude all lands that overlap with community lands.

In October 2019, WWF published a management response to the reports from the NGO consortium and FPP. The response was prepared with input from WWF ROC, WWF Netherlands and WWF International. WWF agreed with FPP that “in hindsight” it should have

engaged with surrounding communities earlier. However, it did not agree with either abandoning the option of a protected area or redefining the limits of the proposed protected area to exclude all community lands. In WWF's view, the absence of a protected area made Messok Dja vulnerable to increased logging, mining, road building and infrastructure development.

WWF agreed "to a certain extent" that alternative options to a protected area may not have received sufficient attention. It stated that it would discuss conservation and sustainable use of the forest in depth with local communities without any direct connection to the possible establishment of a protected area, giving more attention to alternative management models and the null option. It agreed that the conditional support of some communities and the refusal of others to accept a protected area should be taken into account by any decision-making authority, and stated that it would respect the outcome of the FPIC process in any advice it provided to the authorities. WWF also committed to take a number of other steps to benefit local communities, including: establishing a permanent multi-stakeholder platform; improving ecoguard training on human/community rights and relationships with communities; recruiting an officer to engage intensively with the Baka communities around Messok Dja, and a social policy officer to help implement WWF's social policies; and investing in community surveillance and monitoring of the forest.

In November 2019, the government led, and WWF facilitated, a multi-stakeholder workshop to discuss next steps. It included the NGO consortium, representatives from 35 communities potentially impacted by the proposed protected area, several government ministries, local administration officials, representatives of the two logging companies, and the EU. The government reiterated its desire to establish a protected area but acknowledged the importance of local participation and stated its commitment to applying the new national law on engagement of indigenous peoples. A representative from SEFYD reiterated the company's intention to log within its concession area, and stated that it would grant the *série de conservation* over its portion of Messok Dja only if the government paid adequate compensation. Recommendations from the workshop included to continue the FPIC process and to take into account the grievances of local and indigenous communities before starting the classification process, and to expedite consultations between the government and the logging companies, with a view to redefining the boundaries of the Forest Management Units.

In April 2020, the EU reallocated its funding of WWF in relation to the establishment of a protected area and the FPIC process in Messok Dja, with a view to shifting the responsibility for the FPIC process from WWF to an external organisation with experience in community consultation, which could support the government in the implementation of the process as set out in the July 2019 Presidential Decree. WWF ROC is continuing to work on strengthening community management of natural resources, training ecoguards, developing the complaints mechanism and improving local access to basic services such as health and education.

In July 2020, in a response to the 2020 report of the UN Special Rapporteur on the rights of indigenous peoples, the government of the ROC stated that the FPIC process initiated by WWF in relation to the creation of the Messok Dja protected area was not following the laws and regulations of the country and had created some contradictions with the local populations.⁸ The government stated that it had decided to suspend the process in order to

⁸ UN Doc. A/HRC/45/34/Add.2 (commentaires de l'Etat).

implement Decree No. 2019-201 of 12 July 2019, which sets out procedures for consultation and participation of indigenous populations in socio-economic development projects and programmes. The government stated that the decision to suspend the process was part of the recommendations from the November 2019 workshop, and was not due to the allegations made in relation to the indigenous populations, contrary to the statement to that effect in the report of the Special Rapporteur.

7.4 Assessment

This section assesses the allegations in light of the factual findings set out above.

7.4.1 Steps taken to prevent and respond to alleged human rights abuses

WWF has had knowledge of allegations of beatings and physical violence by ecoguards in the Messok Dja area since at least 2016. The Panel found no evidence that WWF staff directed or participated in any alleged incidents of abuse, and WWF does not hire or direct the ecoguards. However, WWF has provided substantial ongoing technical and financial support to the ecoguards in the ETIC programme. As the Panel has stated elsewhere in this report, knowledge of allegations of abuse and continuing support for ecoguards do not, by themselves, necessarily violate human rights norms. The key issue is whether WWF has taken sufficient actions to prevent, respond to and remedy such abuses.

WWF did not engage in human rights impact assessment or develop an action plan to address human rights before it entered into the ETIC relationship with the government of the ROC. Nor, apparently, was it in sufficient contact with indigenous peoples and local communities during this period to enable it to hear the allegations of human rights abuses directly from them. WWF should have carefully considered and addressed human rights issues, including through local consultation, before it signed a new ETIC agreement in February 2016. Doing so would have enabled WWF to include provisions in the agreement making clear its standards on human rights, including the expected standards for ecoguards and the consequences for failure to comply with those standards.

WWF should not have waited until 2018 to begin to take effective steps to prevent abuses by ecoguards. After that point, WWF ROC introduced safeguards almost entirely on its own initiative, without clear guidance on how to comply with WWF's social policies and human rights commitments from either WWF International or the WWF National Offices that were engaged in the ROC. WWF International did not fulfil its responsibility to ensure that WWF ROC effectively fulfilled WWF's human rights commitments. This responsibility was particularly acute because of the small number of staff in WWF ROC.

Given its size, it is to the credit of WWF ROC that it did take a number of positive steps to try to prevent human rights abuses by ecoguards after it hired a community conservation advisor in 2018. Although the advisor's task was initially to undertake the FPIC process, he also drafted a Code of Conduct for the ecoguards, helped to deliver training to the ecoguards on human rights and community relations, and oversaw the addition of an observer on ecoguard patrols. While these steps are too recent for their efficacy to be fully evaluated, they are clearly steps in the right direction.

WWF ROC also developed a complaints mechanism that began to operate in October 2018. Prior to October 2018, the only WWF complaints mechanism was the Expolink hotline, which was ill-suited for receiving complaints from local communities without access to telephone or internet communication. The new mechanism developed by WWF ROC has some positive

aspects, including in particular that the WWF ROC community liaison officers have facilitated the lodging of complaints through their visits to villages. The mechanism also provides for investigation of complaints, which may result in disciplinary sanctions. The major shortcoming is that the principal investigators are the WWF ROC community liaison officers. They appear to be conducting their tasks conscientiously and to have achieved an increased level of trust among local communities. However, they are not trained to conduct criminal investigations. In addition, they are not independent of the ETIC programme, which gives rise to potential conflicts of interest. A preferable approach would be for WWF to support an independent entity to receive complaints, as it has done in Cameroon and the Central African Republic.

Through the mapping process conducted in 2017–2018, the regular visits from community liaison officers from 2018 onwards, and the FPIC workshop held in 2019, WWF ROC staff have become more engaged on the ground in Messok Dja. When FPP visited villages there in April 2019, they heard complaints of abuses allegedly committed by ecoguards but they also heard that the villagers liked individual WWF staff members. This is an important step towards ensuring that the communities can bring their concerns to WWF ROC without believing that they will suffer reprisals for doing so. To fulfil its human rights commitments, WWF will have to ensure that the steps being taken are effective in preventing abuses of human rights and indigenous peoples' rights, including by ensuring that complaints relating to ecoguards are considered by an independent mechanism and that the complaints result in appropriate disciplinary action and remedies for harm suffered.

7.4.2 FPIC

The FPIC process should have begun as soon as the proposal for a protected area was first raised. WWF ROC had been engaged with ETIC since 2005 and had supported the proposal for a national park or protected area in Messok Dja since at least 2011, but it did not start to engage with the affected communities until June 2017. After that point, WWF ROC started to work with them on mapping their usage zones, which was indeed highly important. By that time, however, the proposal had solidified. Instead of treating the eventual existence of a protected area as something to which the indigenous peoples and local communities in the area had a right to consider whether or not to consent to, the process tended to treat it as a given and focused on how customary rights could be protected in the context of a protected area. WWF ROC also treated the FPIC process as a means to facilitate consensus among all stakeholders, instead of a procedure that protects the substantive rights of indigenous peoples (and other local communities, under certain circumstances), particularly in their traditional lands, territories and resources, by ensuring that actions taken that may affect those rights is taken only with their free, prior and informed consent.

The WWF Network's commitments to FPIC are clear and consistent with human rights norms on indigenous rights (see Chapter 3). While under some circumstances it may be difficult to meet those commitments, for example in cases where governments are insisting on actions that do not comply with them, that was not the case here. WWF ROC developed this process itself in a sincere effort to carry out a meaningful FPIC procedure. It evidently took its task seriously. Its approach to mapping usage zones appears to have been careful and to have appropriately involved local communities in their development and validation. WWF ROC staff on the ground wanted to ensure that indigenous peoples and local communities would continue to have access to the protected area post-designation; the chief concern of the staff was the well-founded fear that the area would be exploited by the existing logging concessions and by mining or other concessions. WWF ROC also realised the importance of having an independent interlocutor for communities and brought in a consortium of NGOs to play that role.

Nevertheless, because it misunderstood basic aspects of indigenous rights and the FPIC process, WWF ROC proposed and began to implement an FPIC process that did not comply with its own commitments. The responsibility for this must rest with WWF International and the Network as a whole, which had committed to provide FPIC guidelines but had not done so. The small WWF ROC office had received insufficient guidance from WWF International, or the National Organisations engaged with the ROC, on how to carry out a proper FPIC procedure. As a result, WWF ROC tried with some creativity to develop the process itself. That is not how the system should work. These are issues that WWF faces across its entire network. The organisation should have a consistent approach to such issues, one that complies with human rights norms and WWF's own commitments. WWF should not leave questions of implementation of FPIC commitments to each Programme Office to work out on its own.

The Panel does not find that WWF misled the EU about local support for a protected area in Messok Dja. WWF did include language in some of its reports that tended to suggest a greater degree of support from local communities for the idea of a protected area than it had reason to believe existed. However, WWF reports provided to the EU made clear that there was resistance to the proposal as well. Perhaps most importantly, its May 2018 application for the EU grant stated that local communities thought that they were not sufficiently consulted by conservation projects, that they were losing their traditional rights over the forest, and that they did not gain enough from conservation.

7.5 Conclusions and Recommendations

The Panel emphasises that Messok Dja is currently subject to logging concessions and mining exploration permits that place the indigenous people and local communities, as well as ecosystems, at risk. The Panel recognises that WWF will no longer be responsible for the FPIC process, but it strongly encourages WWF to work together with indigenous peoples and local communities in this challenging environment to protect biodiversity as well as human rights in the Messok Dja area. WWF should build on the steps it has started to take to safeguard human rights, including in the following ways.

Recommendation 1. Code of Conduct and disciplinary consequences for ecoguards

WWF must make clear that adoption and effective implementation of the Code of Conduct are prerequisites for its continued provision of support to ecoguards. WWF ROC must ensure, including through its participation in the ETIC disciplinary committee, that appropriate investigation and review of allegations and sanctions for misconduct are carried out, including the referral of criminal cases to local prosecutors.

Recommendation 2. Revising the MOU

WWF ROC should work towards a revised MOU that fully reflects its human rights responsibilities, commitments and expectations, including expectations for ecoguard behaviour and consequences for misconduct, as a prerequisite for its continued partnership with the government.

Recommendation 3. Preventing abuses on patrols

WWF ROC should build on its initiatives to have independent observers accompanying ecoguard patrols and to carefully document arrests and interrogations with lawyers present. More generally, WWF should ensure that the ecoguards distinguish between poaching of endangered species such as elephants and the traditional subsistence activities of the Baka – activities that they have not given their free, prior and informed consent to restrict and that

should not be criminalised. This distinction should be reinforced through training, including where possible of the USLAB ecoguards, and through the complaints mechanism and disciplinary reviews. In addition, the system of bonuses should be rethought to ensure that it does not result in unnecessary conflicts between ecoguards and local residents, especially indigenous peoples. The UNDP SECU report found that the quantitative indicators used to measure the success of the ETIC programme did not refer to the special relationship of the Baka to their traditional resources, and as a result were likely to incentivise penalising the easiest targets. Providing ecoguards with bonuses for arrests and seizures encourages them to make as many arrests and seizures as they can, and may have little impact on the higher-level directors of poaching.

Recommendation 4. Improving the complaints mechanism

WWF should commit to ensuring that allegations concerning the ETIC ecoguards and, as far as possible, the USLAB ecoguards will be received and reviewed by an independent body that is able to find appropriate remedies. WWF should also work to provide sustainable support for an appropriate civil society organisation able to carry out this function, along with more general support to indigenous peoples and local communities, as the organisation has done in the Central African Republic and Cameroon.

Recommendation 5. Building on its engagement with indigenous peoples and local communities

WWF ROC should do more to involve local communities in conservation strategies, including anti-poaching strategies, by including them in the development and implementation of the ETIC management plan. To that end, they should hire a staff member with expertise in social policies and indigenous rights, preferably a member of the Baka people familiar with local conditions, and seek to partner with local civil society organisations working on human rights.

Recommendation 6. Monitoring and transparency

WWF ROC should regularly and publicly assess and report on progress towards the implementation of the measures it is taking, including the number of complaints received and how they have been resolved, as well as on engagement with indigenous peoples and local communities.

WWF deserves credit for asking FPP to provide an independent public assessment of its FPIC procedure. Similarly, it should publish regular, accurate reports on the challenges it faces and the measures it is taking to address them – without sugar-coating references to obstacles or local attitudes towards WWF.

Recommendation 7. Support to WWF ROC

WWF International and the WWF National Organisations working in Messok Dja need to provide greater support to the WWF ROC staff to enable them to implement these recommendations.



CHAPTER 8

NEPAL – CHITWAN NATIONAL PARK

8.1 Context

During part of the time period under review, Nepal was engulfed by conflict and political instability, including a civil war from 1996 until November 2006 between government forces and the Maoist movement which controlled large parts of the countryside. Thousands of deaths and disappearances occurred. The unrest continued well after the peace agreement in 2006.

On 23 September 2006, WWF Nepal lost its entire senior management team in a helicopter crash that killed 24 people. The helicopter was returning from the historic transfer of the management of Kanchenjunga Conservation Area from the Nepalese government's Department of National Parks and Wildlife Conservation (DNPWC) to the local community. The death of WWF Nepal personnel in the crash threw the office into disarray and caused great stress for the staff.

The Nepalese Constitution makes no mention of the rights of indigenous peoples (Adibashi Janjatti). The National Foundation for Development of Indigenous Nationalities (NFDIN) Act, 2002 recognises and identifies 59 indigenous peoples, each with their own distinct cultures, traditions and belief systems. They make up 36% of the total population of Nepal. Most of the protected areas are established in ancestral lands of indigenous peoples.

WWF is working with several protected areas and surrounding communities in Nepal, including Chitwan and Bardiya National Parks. Most of WWF's work lies outside the protected areas, working with the Forestry Department and buffer zone communities. Nepal's Buffer Zone Management Regulations (1996) and Buffer Zone Management Guidelines (1999) provide for 30-50% of national park revenues to be retained for community development activities in the buffer zones, but there are complaints from some local communities, especially the indigenous peoples, that they do not benefit. There are 22 Buffer Zone User Committees (BZUCs) in the Chitwan area, and WWF Nepal works with many of them, engaging on a large scale with between four and six BZUCs.

8.2 Governance and Accountability

8.2.1 Relationship between WWF National Organisations and WWF Nepal

WWF US is a National Organisation and the Home Office for WWF Nepal. WWF began working in Nepal in 1967, when it launched a rhinoceros conservation programme in Chitwan District in south central Nepal. It later expanded to the Annapurna Conservation area and Bardiya National Park. In 1991, WWF began anti-poaching work with the DNPWC. In 1993, the WWF Nepal office was established in Kathmandu, with a focus on rhinoceros conservation, shifting towards an integrated conservation and development approach, then, in the early 2000s, to landscape-level conservation. At present, WWF Nepal is working in two large transboundary landscapes: the Terai Arc Landscape (TAL) in the south of Nepal, which includes Chitwan and Bardiya; and the Sacred Himalayan Landscape (SHL).

WWF Nepal operates as a branch of WWF US, which maintains legal and fiduciary management. WWF Nepal obtains funding from a range of sources, including other WWF National Organisations, foreign government agencies and private donors. The most senior employee within WWF Nepal is the Country Representative, who reports directly to WWF US. WWF Nepal has staff policies in many areas and in addition follows the social policies and safeguard standards required by the WWF Network.

8.2.2 Relationship with the Government of Nepal

As an NGO, WWF Nepal requires the permission of the Government of Nepal to operate in the country. It works in cooperation with the government and provides technical and financial support and expertise to various government departments, in particular DNPWC and the Department of Forests and Soil Conservation (DFSC), but it has no co-management agreements for management of national parks. On occasion, WWF shares management of projects with the government, in which event staff from both government and WWF Nepal work together as part of the project team. WWF Nepal devotes the greater portion of its funds to supporting conservation and inclusive conservation activities in local communities, with less than 5% of its expenditure allocated to protected areas.

8.2.3 Relationship with Rangers and the Army

Army personnel are employed for law enforcement within Chitwan and Bardiya National Parks. Park rangers and Army personnel within the protected areas are the responsibility of the government; WWF Nepal has no management authority or responsibilities over them. Their salaries and bonuses are paid by the government. WWF provides technical and financial support through DNPWC to the rangers in the form of training, food, bicycles, jeeps, cameras and a real-time monitoring system. In terms of the law, as well as its own policies, WWF does not provide any support directly to the Army, although equipment provided by WWF to DNPWC could be passed on to the Army for use in the national parks.

WWF Nepal has provided and facilitated training to rangers, law enforcement personnel, Army personnel and judicial officials on subjects such as CITES, wildlife crime investigation, procedure on arrests, and contributions from legal and human rights perspectives. They also completed a training curriculum with the help of a judge, a book in Nepali to supplement training, and an MOU with a judicial society to enable trained judges to provide crime-control training to rangers. More recently, around 2015, park wardens were provided with training on human-rights-based approaches (HRBA) for conservation, and this continues on an annual basis. In 2017, the HRBA was formalised for conservation work and projects, and workshops were held for WWF grantees and Community Forest Coordination Committees (CFC Committees). Since 2019, WWF has introduced sensitisation sessions on human rights and gender at the annual wardens' seminars and has conducted training on HRBA and social safeguarding in conservation outside protected areas for forest officials and CFC Committees.

8.3 Findings of Fact related to Allegations of Human Rights Abuses

Numerous allegations have been made. These have been categorised into five main themes:

1. WWF had knowledge of allegations of human rights abuses committed by national park rangers and Nepalese Army personnel;
2. WWF supported and collaborated with rangers and soldiers that have been the subject of the allegations;

3. WWF took insufficient action to prevent, respond to and remedy the alleged abuses;
4. WWF participated in the use of informants; and
5. WWF works in protected areas which do not respect indigenous peoples' rights, including the right to free, prior and informed consent (FPIC).

These are addressed below.

8.3.1 Findings of fact related to WWF's knowledge of human rights abuses

WWF is alleged to have had knowledge of human rights abuses by rangers and Nepalese Army personnel involving indigenous peoples and local communities, covering a ten-year period from 2005 to 2016. The allegations include ten specific incidents, of which three concern rangers and seven concern Army personnel employed in the national parks. Further allegations are: that arrests and detentions had occurred without warrants or access to lawyers; that as of November 2013 there were 80 people held in detention at Kasara in Chitwan National Park; and that some detainees were kept there for more than 15 years.

The ten specific alleged incidents are as follows:

- (i) Four men, Bhagirath Chaudhary, Madan Mahato, Kopuwa Mahato and Manram Mahato, were allegedly arrested by rangers in August 2005 on suspicion of killing a rhinoceros in Chitwan National Park, and were beaten, kicked with boots, subjected to electric shocks and had water poured into their noses. The information gathered from the men is alleged to have led to the arrest of Shikharam Chaudhary – see allegation (x) below.
- (ii) The alleged suicide of Lal Bahadur Tamang following his arrest and detention in the Kasara detention centre (Chitwan National Park) by rangers on 11 November 2006. His family alleged that he had been tortured. They called for an investigation, which was subsequently settled by the payment of NPR 8,000 (approximately USD 110) by the park administration, as expenses for the funeral.
- (iii) An Army patrol of five soldiers allegedly shot and killed Mahendra Masrangi Magar outside the Parsa Wildlife Reserve on 17 August 2008.
- (iv) Soldiers allegedly killed Indirajit Ray Bhar in the Parsa Wildlife Reserve on 9 July 2009 in an expedition against alleged smugglers.
- (v) An unknown Tharu woman was allegedly assaulted and subjected to attempted rape on 12 May 2012 by a soldier from the Nanda Box Battalion patrolling Chitwan National Park.
- (vi) A group of soldiers allegedly attacked and beat up Man Bahadur Kumal and seven other fishermen from Yogitol, a village bordering Chitwan National Park, on 16 May 2016. The Nepalese Army is reported to have paid Kumal's medical expenses.
- (vii) It is alleged that arrests and detentions without warrants or access to attorneys took place and that as of November 2013 there were 80 persons in the detention centre at Kasara, Chitwan National Park, with some kept there for more than 15 years.
- (viii) Soldiers allegedly killed Raj Kumar Darai in Chitwan National Park in November 2009 in the course of anti-poaching patrols.
- (ix) Two women (Devi Sara BK and Amrita BK) and a 12-year-old child were allegedly shot dead by soldiers from the Shree Jwala Battalion in Bardiya National Park on 10 March 2010.

- (x) It is alleged that Shikharam Chaudhary was arrested and detained in Chitwan National Park in June 2006 on suspicion of rhinoceros poaching. It is alleged that he was tortured and murdered while in detention and that three park officials, including the Chief Warden, were arrested and charged with his murder. It is further alleged that WWF lobbied human rights activists, offering them money, to persuade Shikharam Chaudhary's family to drop the charges and that WWF influenced the government to withdraw the charges. It is alleged that a WWF staff member was related to the one of the detained park officials and that WWF published a press release, when the charges were withdrawn, welcoming the decision.

Knowledge of allegations by WWF

In respect of the cases listed as items (i) to (vii) in the list of allegations above, the Panel was not able to identify any contemporaneous evidence that WWF was aware of the allegations at the time they occurred.

With regard to the allegation of arrests and detention without warrant at the Chitwan Detention Centre, and that 80 persons were held, some for 15 years, at the Kasara detention centre, the Panel found no evidence to substantiate this claim. It appears to be based on a conflation of concerns surrounding detention within the national park and detention in ordinary prisons following receipt of a sentence of 15 years imprisonment, which is the legal maximum stipulated for wildlife crime. WWF does not have access to information on the numbers of detainees. It appears likely that individuals were detained at Chitwan National Park without access to lawyers for a limited number of days – the maximum period was 25 days (extended to 45 days in 2016) – and that access to lawyers was opened up later.

The killing of Raj Kumar Darai in Chitwan in November 2009 (item (viii) on the list above) by the Army was known to WWF US and WWF Nepal. Some WWF staff recalled the report of two poachers being arrested and one killed and, at the time, WWF staff exchanged emails acknowledging the incident as a successful anti-poaching action.

The allegation of the shooting of Devi Sara BK, Amrita BK and a 12-year-old child by soldiers in Bardiya National Park on 10 March 2010 (item (ix) in the list) was known by and discussed within WWF at the time. The incident was widely publicised in the media and criticised by the Office of the High Commissioner for Human Rights (OHCHR) in a 2010 report and by the Nepalese National Human Rights Commission (NHRC). The NHRC found the killings to be unjustified.

In their reports, OHCHR and the NHRC, as well as the UN Special Rapporteur on the rights of indigenous peoples, James Anaya, documented killings of members of local communities in protected areas by the Nepalese Army. The 2010 OHCHR report stated that OHCHR monitoring teams had documented troubling patterns in which the security forces resorted to the use of excessive force, and sometimes unwarranted lethal force, during their operations. The reports were of importance since they should have alerted WWF to the risks of human rights abuses in anti-poaching activities and motivated the organisation to act.

The allegations contend that the law in Nepal supports a 'shoot on sight' policy by the Army and that WWF tolerated this policy. WWF staff interviewed were aware of the law in question but do not appear to have adequately considered their position on this legal provision. Article 24 of the National Park and Wildlife Conservation Act [2029] 1973 relates to powers of arrest of offenders for the purposes of the Act without a warrant and Section 24(2) of the Act states:

“In case any offender, or any of his/her accomplices resort to violence in an attempt to free him/her or resist his/her arrest by the authorised officer under the Sub-Section (1), or if a circumstance arises when the offender tries to escape or his accomplices tries to free him/her or in case the life of the person making the arrest appears to be in danger, or in case he has no alternative but to resort the use of arms, he/she may open fire aiming, as far as possible, below the knee, and if the offender or the accomplices dies as a result of such firing, it shall not be deemed to be an offence.”

Article 24 is still in force and applies generally to police officers and Army personnel. This legislation has been criticised in the 2010 OHCHR report *Investigating Allegations of Extra-Judicial Killings in the Terai* as enabling authorised officers to open fire in circumstances where there is no immediate threat to life, which is inconsistent with applicable human rights standards.¹

The case of the detention, torture and subsequent death of Shikharam Chaudhary while in custody in Chitwan in June 2006 (allegation (x) in the list above) and the arrest on charges of his murder of the Chief Warden of Chitwan National Park, Tikaram Adhikari, the Assistant Warden, Kamal Jung Kunwar, and ranger, Ritesh Basnet, was a high-profile case that was covered widely in the media. The case was known to WWF US and WWF Nepal at the time. The arrest and death of Chaudhary arose in the context of anti-poaching campaigns supported by WWF. Through its work around Chitwan, the WWF office had a working relationship with two of those arrested, namely, the Chief Warden and Assistant Warden, named above. The ranger was less well known to them. Public demonstrations for and against the arrests took place, and human rights groups lobbied for prosecution of the Chief Warden.

Four members of staff of WWF Nepal visited the arrested national park officials on at least three occasions whilst they were in police custody; this was explained in terms of it being Nepalese custom to visit people you know. The Chief Warden was not held in custody but the other two park officials were detained. The visits are also referred to by Kamal Jung Kunwar, the arrested Assistant Warden, in his book *Four Years for the Rhino* published in Nepali in 2009 and released in English in 2012. He mentions one of the visitors being his ‘uncle’, referring to a WWF staff member.

Contemporaneous documentary exchanges within WWF Nepal do not show evidence of lobbying of the government. They recount a multi-party meeting, where government ministers were present, at which WWF Nepal gave an account of their take on the case, and recount discussions leading to the decision not to issue a statement in support of the national park officials at the time. The Panel saw no evidence that WWF approached human rights activists to lobby the family of Shikharam Chaudhary to drop the charges.

On 6 March 2007, nine months after the arrests, the charges against the park officials were withdrawn in court, upon a cabinet decision that the case against them should not proceed. The investigation into the death of Shikharam Chaudhary was stopped, and the cause of death remains uncertified.

Upon the withdrawal of the case, WWF Nepal issued a public statement on 7 March 2007, welcoming the withdrawal of the charges. The statement, which (as of November 2020) is

¹ <https://nepal.ohchr.org/en/resources/publications/Investigating%20Allegations%20of%20Extra-Judicial%20Killings%20in%20the%20Terai.pdf>, pp. 9 and 12.

still on WWF Nepal's website, stated: "The Government of Nepal decision to withdraw the case ... was welcomed in Chitwan". The statement mentioned lobbying by "local communities, buffer zone councils and committees, the local hotel association, conservation organisations and political parties" in favour of the release, and expressed confidence that "this move will renew the motivation of park staff and other conservationists to save Nepal's rhino and root out illegal wildlife trade".

By December 2006, at the latest, WWF US had been informed of the arrests of the Chitwan National Park officials. They were briefed on the efforts of WWF Nepal to curb the poaching of rhinos and the arrest of three of the park staff on charges of murder of an alleged poacher, and advised that the arrest "has impacted negatively in the morale of the park staff while this has boosted the morale of the poachers".

8.3.2 Findings of fact related to WWF's support for rangers and national park officials

It is alleged that WWF has supported and collaborated with rangers and the Army, including through 'Operation Unicornis' undercover operations, and continued to work with park staff who had been under investigation, including by the presentation of an award to Kamal Jung Kunwar (the arrested Assistant Warden of Chitwan National Park) and the hiring of Ritesh Basnet (the arrested ranger) to work in WWF Nepal.

The document review conducted by the Panel established that WWF does not provide financial support or pay salaries or bonuses to rangers or to Army personnel. Such support as is provided through the DNPWC includes field gear such as bicycles (for Army personnel) and items such as tents, sleeping bags, raincoats, water bottles, searchlights and first aid kits for the rangers. Financial support is paid directly to DNPWC under grant agreements. WWF Nepal works with two government departments, the DNPWC and the DFSC. It sees itself as a partner of the government and provides financial support, technical support and expertise. It was explained that only a small percentage (less than 5%) of funding for protected areas comes from WWF. WWF is able to provide additional flexible funding to address specific operational needs.

WWF supports community-based anti-poaching units that operate outside the national parks, and that are separate from the work of the park rangers and the Army. These units gather information on poaching activities, deter poaching and rescue orphaned wildlife. Far from being an 'undercover operation' the initiative is endorsed by the community.

Operation Unicornis, far from being a suspect collaboration, was launched in 2006 by the government, in collaboration with WWF and the park administration and BZUCs, to halt rhinoceros poaching in Chitwan National Park. It was aimed at achieving greater involvement of the community in efforts for rhinoceros protection and information gathering, and it encouraged the media to spread awareness.

WWF continued its working relationship with the park officials after their release, in the necessary discharge of their work. The two wardens had by then been promoted by the government; Tikaharam Adhikari was promoted to the position of Chief Warden of Bardiya National Park, and Kamal Jung Kunwar became the Chief Warden of Chitwan National Park. Adhikari later rose to become the Director General of DNPWC in 2014. The third park official, ranger Ritesh Basnet, was hired by WWF for one year in 2014, after a selection process in which his arrest went unnoticed.

In 2014, the WWF International President and the Director General of WWF International visited the country and honoured the work of nine organisations in Nepal that had played instrumental roles in achieving a second year of zero rhinoceros poaching, through the 'Leaders for a Living Planet' Award. Two of the awardees were the Nanda Box Battalion of the Nepalese Army and Chitwan National Park. Kamal Jung Kunwar received the award for Chitwan National Park in his capacity as Chief Warden; the allegation that Kunwar was the awardee is incorrect.

In 2009, Kamal Jung Kunwar authored the memoir *Four Years for the Rhino*, in which he documented methods of interrogation, including torture and waterboarding, used on suspects in anti-poaching arrests. Few in WWF US had read the book and no concerns were registered over the use of the unlawful methods of interrogation reported by Kunwar.

A soldier from the Nanda Box Battalion is alleged to have assaulted and attempted to rape a woman in Belsar Buffer zone (allegation (v) in the list above). WWF made enquiries after BuzzFeed made the allegation and learnt that the soldier had been charged, court-martialled and dismissed. The Awards Committee that selected the battalion for one of the Living Planet Awards appeared to have had no knowledge of this incident.

8.3.3 Findings of fact related to WWF's actions to prevent or respond to the allegations of abuse

It is evident that WWF was not routinely informed of alleged incidents of abuse committed by the rangers or by Army personnel. However, there is no formal mechanism for WWF to be informed of any such abuses during anti-poaching missions in the national parks or in other areas where the organisation works. The WWF Nepal complaints system in place prior to 2018 does not appear to have been well advertised, accessible or promoted to local communities.

While WWF did not directly raise complaints of alleged abuse with the national park administrations or the government at the time, it did address the need for training of park administration staff with regard to justice and legal support for detainees.

WWF took a number of steps to provide law enforcement training, including through the signing of an MOU with the Nepalese judiciary, and also provided funds for improvements to the Kasara detention centre in Chitwan National Park.

The allegations relating to the use of informants by WWF are of general application to the WWF Network and are addressed in Chapter 10.

8.4 Assessment

WWF Nepal does not appear to have been aware of the majority of human rights abuses alleged to have been committed in and around Chitwan and Bardiya National Parks between 2006 and 2016. Where such information was known, WWF Nepal adopted the attitude that any allegation relating to the government or the armed forces was a matter for the government to address, and it does not appear to have referred concerns to WWF US. The Panel has been unable to find what action, if any, was taken by WWF after learning of these allegations.

It is evident that WWF was not routinely informed by its Nepalese governmental partners of alleged incidents of abuse committed by rangers or by Army personnel. There is no formal

mechanism in place for WWF to be informed of alleged abuses occurring during anti-poaching missions. WWF needs to know what is happening on the ground where it works in order to fulfil the obligations flowing from its own *Conservation and Human Rights Framework* (2009) policy. The establishment of local grievance mechanisms may assist WWF in obtaining information to enable it to make informed decisions, conduct enquiries and take action in relation to its support for protected areas.

In the case of Shikharam Chaudhary, the Panel does not draw any adverse inference from the visits by WWF staff to the national park officials being held in custody. The Panel finds that WWF showed poor judgment by issuing a public statement in the form that it did. The statement “welcomes” the release of the suspects, without any expression of concern for the deceased and his family or for justice and accountability for the conduct that resulted in the death of Shikharam Chaudhary.

WWF Nepal referred to WWF US the allegation relating to the killing of the women in Bardiya National Park and there were some discussions between WWF US and WWF Nepal on whether human rights training of law enforcement personnel should be considered. The suggestion was dropped as such engagement with the Army was considered inadvisable in the political environment prevailing at that time. Even where WWF’s leverage is limited and the Army is involved, WWF could have made clear that human rights abuses are unacceptable and against WWF policies, particularly after the NHRC had ruled that the shooting was unjustified and OHCHR had criticised the Army for excessive use of force.

The Panel finds that additional guidance and support should have been forthcoming from WWF US to WWF Nepal, especially when reports of human rights abuses in the national parks were escalated to them. It emerged from the interviews that there is a need to ensure that the staff of WWF US and WWF Nepal are clear about how to identify human rights abuses, and how best to respond to alleged incidents of abuse.

News updates related to the killing of suspected poachers during anti-poaching raids were circulated in some instances to WWF staff but there does not appear to have been any recognition within WWF US or WWF Nepal at the time that such scenarios raised concerns about the potential for human rights abuses.

The Panel is not clear on where WWF US or WWF Nepal’s own ‘red lines’ were in terms of the support that WWF provides to the government. Senior staff of WWF Nepal recognise that when allegations relating to human rights abuses or compliance with FPIC arise, WWF could seek to leverage its position to address such issues and minimise the risk of recurrence. It is essential that WWF US and the wider WWF Network develop guidance on when such steps can or should be taken, and that this position be clarified to staff so that they can learn to identify abuses and act appropriately in response.

WWF US and WWF Nepal undergo comprehensive financial audits. However, there does not appear to have been any auditing of social policies. The Panel considers that steps should be taken to ensure that compliance with social policies is audited, both at country office level and also in respect of work with partners. In addition, the Panel considers that WWF Nepal should put in place a formal grievance-auditing mechanism to ensure that allegations of human rights abuses involving rangers and Army personnel in areas within which WWF works are brought to its attention. WWF should take such steps as are necessary to satisfy itself that any complaints have been adequately addressed.

By reviewing and auditing complaints and allegations, WWF will be in a better position to assess whether responses are adequate, whether further action is required, and whether there are systemic issues to be addressed. There should be a single point person in WWF Nepal tasked with carrying out the audit and providing recommendations to the senior management team and a corresponding point person in WWF US.

Whilst WWF did not directly raise allegations of abuse with national park authorities or the government at the time, it did address the need for training within protected areas with regard to justice and legal support for detainees.

The Panel notes that WWF Nepal took a number of steps to provide law enforcement training, including entering into an arrangement with the Nepalese judiciary and providing funds for improvements to the Kasara detention centre in Chitwan National Park around 2012.

The Panel finds that WWF provides support to the rangers and to the Army in the form of field equipment and training, including on awareness of human rights. It does not find such support inappropriate and finds the training to be appropriate and necessary.

The Panel does not find that financial support for Operation Unicornis was inappropriate. The undertaking had the support of the BZUCs and is considered to be responsible for the significant reduction in poaching that was achieved.

The Panel does not find that WWF lobbied the government on behalf of the arrested national park staff or that it used human rights activists to persuade the family of Shikharam Chaudhary to drop the charges. It is evident that WWF staff were demonstrably sympathetic to the wardens and ranger.

The Panel does not find the continued working relationship with the wardens problematic. They became chief wardens and engagement with them was inevitable. The Panel finds that WWF did not exercise due diligence in hiring Ritesh Basnet and should have given consideration to his involvement in the case. The three individuals, not having been convicted of the alleged crime, were entitled nonetheless to a presumption of innocence.

The Panel finds that WWF did not exercise due diligence or undertake proper background checks before making the Living Planet Leadership awards to Chitwan National Park, represented by Kamal Jung Kunwar, and to the Nanda Box Battalion. Handing the Chitwan National Park award to Kamal Jung Kunwar in circumstances where there were significant public concerns over reports of the widespread use of torture and mistreatment in anti-poaching activities, which Kunwar himself admitted to in his book, was clearly very poor judgement on the part of WWF.

WWF must make greater effort to be seen to respect its human rights commitments. In that light, WWF should make clear that it would oppose any application of Article 24 of the National Park and Wildlife Conservation Act to enable officers to open fire on suspected poachers in circumstances where there is no immediate threat of death or serious injury, which would be inconsistent with applicable human rights standards.

8.4.1 Buffer zone communities

It is alleged that WWF Nepal does not engage sufficiently with the Tharu, Kumal and Bote communities around Chitwan National Park and that these communities lack adequate

representation on the BZUCs. WWF Nepal has a strong history of working with local communities, including efforts to mitigate impacts of reduced access to protected area resources. As noted above, WWF Nepal only works in an integrated way with four to six of the 22 BZUCs, but the Panel found much evidence of positive engagement with communities and a large number of joint projects to improve livelihoods, including in relation to biogas units, livestock and crop insurance, and fishponds and fish farming.

In his 2009 country report, UN Special Rapporteur James Anaya noted that with some exceptions many indigenous peoples still remain landless, have not been provided alternative livelihoods or compensation, and have been denied access to protected areas for fishing and for gathering food, medicinal herbs and firewood. A report published by the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) and the National Indigenous Women's Federation (NIWF) in early 2020 documents continuing human rights abuses inflicted on indigenous peoples in Chitwan National Park buffer zones. A primary goal of WWF's work in the buffer zones is to mitigate these impacts.

It is noteworthy that compared to the past, abuses of human rights in the form of killings, arbitrary detention and torture are much reduced. In fact, no killings are reported by LAHURNIP for the period 2015–2017. There is popular empowerment and greater sensitivity to human rights issues within the population. The human rights training programmes for rangers and the armed forces conducted by WWF and the government may have contributed to this outcome.

In terms of livelihood rights, the problems are still extensive. In the Chitwan area the largest indigenous population is the Tharu, yet the Tharu leaders do not hold positions in the buffer zone management committees. The under-representation of women and the lower castes is not limited to the buffer zone governance bodies but extends to community forest management bodies throughout the country. The Panel is aware of the risk that BZUCs are dominated by those who represent the interests of powerful, elite members of the community, and that this can and does result in exclusion of poorer and more marginalised groups and women, and perpetuates caste-based exclusion.

The Panel notes that buffer zone management is a very political process and that it is not easily influenced by conservation organisations. Nonetheless, WWF could advocate for reforms and an end to exclusion, in pursuit of social justice solutions in the context of conservation. WWF tries to work directly with local communities and buffer zone user groups towards ensuring that communities benefit and receive proceeds from the park. WWF is working with the Federation of Community Forest Users Nepal (FECOFUN) on a number of projects, including the rights of women in the Hariyo Ban project.

Redressing all historical injustices relating to claims that indigenous peoples may have over protected areas, established decades ago, would be outside WWF's scope of work. However, WWF is committed to working with local communities and indigenous peoples to help mitigate the restrictions imposed by protected areas through the provision of alternative livelihood options, as noted above. The Panel encourages WWF to use its best efforts to ensure that current conservation actions and institutions, such as the BZUCs, represent and benefit all members of the communities.

WWF's own social policies, especially its 2008 *Indigenous Peoples and Conservation: WWF Statement of Principles* and its 2018 *Network Guidelines on Prevention of Restriction of Rights and Involuntary Relocation and Resettlement of Indigenous Peoples and Local*

Communities, provide a good framework for its approach to FPIC in Nepal. The Panel has not identified any evidence of the adoption of a formal approach, prior to 2018, by either the government or by WWF to ensure FPIC when working in national parks and other protected areas.

From 2018, WWF Nepal has been working in collaboration with the National Foundation for Development of Indigenous Nationalities (NFDIN) on the development of national-level guidelines on FPIC that would apply to any conservation project in Nepal. WWF Nepal has also prepared an FPIC training manual available in Nepali. Since 2018, WWF has taken steps to encourage the government to adopt a formal FPIC process. In 2019, WWF Nepal contributed to the development of an Indigenous Peoples Planning and Process Framework (IPPF).

The Panel considers that WWF would better align with its own social policies and commitments if it adopted an independent mechanism for reviewing and considering complaints made against the government, including protected area rangers and Army protection units, in respect of indigenous peoples' rights and access to local resources.

The following matters came to the attention of the Panel as it was finalising this report.

WWF Nepal and WWF US responded proactively to press reports on 21 and 24 July 2020 of alleged serious human rights abuses involving evictions and the destruction of homes of members of an indigenous Chepang community in the vicinity of Chitwan National Park, and the beating and death of a Chepang youth in a separate incident.

WWF Nepal alerted WWF US and reached out for information through its in-country networks and channels. It wrote to the DNPWC and to the Directorate of National Parks and Wildlife Reserves of the Nepalese Army to call for thorough investigations and public disclosure of the findings, and has maintained a dialogue with government and other contacts in efforts to press its concerns and remain informed of developments. WWF Nepal suspended funding support for Chitwan National Park for ranger training and some field equipment until the results of governmental investigations are released and it can take informed decisions based on the findings. In November 2020, the Panel was informed that a member of the Army is being held in pre-trial detention while the Chitwan district civil court investigates the case of the death of the Chepang youth, and the Supreme Court is conducting an investigation into the evictions of the members of the Chepang community. WWF continues to actively monitor the two cases.

WWF's prompt and sustained attention to these developments is a welcome evolution in its response to allegations of human rights abuses involving its governmental partners. It should continue to stay engaged to do what it can to ensure that the results of the investigations are implemented in accordance with human rights norms.

8.5 Conclusions and Recommendations

The Panel found, from the vast range of material provided to it by WWF, that WWF Nepal aspires to a human-rights-based approach and has recognised the importance of this, moving forward. A number of steps have been taken by WWF Nepal in support of this aspiration:

Training: Since March 2019, WWF Nepal has provided human rights and social safeguards training to government rangers and Army officials working in conservation.

Grievances: The Panel was told that following implementation of the Network Projects Complaints Resolution Process in 2018, the next steps for WWF Nepal would be to include reference to a grievance mechanism as part of any initial funding agreement with its grantees and to also include social policies and safeguards when a grant agreement is signed so that the grantee will be accountable to WWF.

Screening tool: In May 2019 WWF Nepal began social screening for all projects funded by WWF UK, and subsequently carried out similar screening for other projects. The checklist included under the risk assessment screening tool covers indigenous peoples, poverty and conservation, prevention of restriction of rights and involuntary relocation and resettlement, human rights, gender policy, and child safeguarding. Prior to developing the screening tool, a sensitisation session for WWF Nepal staff was carried out in Kathmandu.

Human-rights-based approach: WWF Nepal is in the process of drafting a clause for all grant agreements which will specify that a human-rights-based approach to conservation is a requirement for all WWF-funded projects. From 2019, primary grantees will receive the WWF human rights policies as an attachment to the grant document.

Recommendations

Recommendation 1. Identifying and responding to human rights abuses

WWF should ensure that the staff of WWF US and WWF Nepal are clear about how to identify human rights abuses and about how best to respond to them. It should develop guidance on when WWF should seek to leverage its position to address abuses and minimise the risk of recurrence.

Recommendation 2. Establishing a formal grievance auditing mechanism

WWF Nepal should put in place a formal grievance auditing mechanism to ensure that allegations of human rights abuse made against the protected area rangers and Army personnel in areas within which WWF works are brought to the organisation's attention. There should be a single person in WWF Nepal tasked with carrying out the audit and providing recommendations to the senior management team and a corresponding point person in WWF US.

Recommendation 3. Advocating for reforms to treatment of marginalised communities

WWF should advocate for reforms to end exclusion of marginalised communities and groups from buffer zone management bodies, in pursuit of social justice solutions in the context of conservation. WWF should use its best efforts to ensure that current conservation actions and institutions, such as BZUCs, represent and benefit all members of the communities.

Recommendation 4. Adopting a mechanism for reviewing complaints

WWF should adopt an independent mechanism for reviewing and considering complaints made against the government, including protected area rangers and Army protection units, in respect of indigenous peoples' rights and their access to local resources.



CHAPTER 9

INDIA – KAZIRANGA NATIONAL PARK

9.1 Context

WWF India works in and around many national parks and reserves in India. The allegations refer to two of the protected areas: Pench Tiger Reserve and Kaziranga National Park. WWF India supports limited activities within these protected areas and works mostly with surrounding communities.

Pench Tiger Reserve is part of Pench National Park, which is located across two states, Madhya Pradesh and Maharashtra. WWF India does not have an office in Pench and has not worked there since 2017. Kaziranga is located in the central part of the State of Assam, on the south bank of the Brahmaputra river and covers an area of 100,000 hectares.

The State of Assam has suffered four decades of unrest caused by armed insurgencies and complex conflicts resulting in serious crimes and threats to law and order. The unrestricted trans-border movement of extremist groups facilitated by the porous borders with Bangladesh and Bhutan and the hilly terrain of neighbouring states has also contributed to the deterioration of the security situation in Assam. Linked to these conflicts is the wide availability of sophisticated weapons. More than in any other state in India, poachers in Assam operate through extremely well-organised, cross-border networks and are heavily armed. To counter the increase in rhino killings, the State of Assam expanded its efforts to protect the Indian rhino and other endangered species for which Kaziranga provides a major sanctuary. Today there are approximately 2,500 rhinoceroses in Kaziranga.

9.2 WWF India – Governance and Accountability

WWF India is an Indian conservation organisation established in 1969. As a National Organisation, it has its own Board of Trustees and its own rules and regulations, which conform to WWF Network standards, including WWF social policies.

WWF India has a hosting agreement with TRAFFIC International. TRAFFIC India commenced operations in India in 1991 and forms a division of WWF India. TRAFFIC works to ensure that trade in wild animals and plants is not a threat to conservation and sustainable development. The Director of TRAFFIC India is currently an official from the Indian Forest Service. He reports to the CEO of WWF India and to the Executive Director of TRAFFIC International based in Cambridge, UK, for programmatic functions. TRAFFIC India provides training and capacity building to protected area staff and the judiciary and makes inputs on wildlife training components of WWF India's programmes.

Recent developments indicate greater effort towards familiarisation and implementation of WWF Network social policies. A Senior Manager for Policies and Safeguards has been recruited by WWF India with the specific responsibility of monitoring compliance, training, roll-out and implementation of all policies.

9.2.1 Relationship with government

WWF India has had a generally good relationship with the Indian and state governments. WWF India is not involved in law enforcement in relation to the national parks. WWF India

mostly raises its own funds. International funding received by WWF India for its programmatic work is subject to the constraints of the Foreign Contribution Foundation Act, which can and does restrict the work of NGOs. The national government's contribution to WWF India is currently around 2% of the organisation's annual budget. WWF India prefers to keep this contribution low so that WWF's ability to challenge and influence the government's actions to ensure better conservation practice, where necessary, is not compromised. Issues of concern can be brought to the attention of government officials by WWF India, informally or in writing, but WWF India staff believe informal approaches are more effective than the issuing of public statements.

All forest areas, national parks and other protected areas are under the jurisdiction and control of Indian state governments. WWF India is one of many organisations that work on conservation outside the protected areas. Its work is based on MOUs with the national and state governments. WWF's principal partner in the Indian government is the Ministry for Environment, Forest and Climate Change (MEFCC). WWF India also works with various other government agencies set up for specific conservation aims, including State Forest Departments.

WWF India staff members sit on various government committees that relate to the environment, forests, water, climate change and wildlife, as well as on state wildlife boards and as part of local task force groups.

WWF India has been partnering on the Indian Rhino Vision 2020 (IRV2020) with the State Government of Assam, the Bodoland Territorial Council and the International Rhino Foundation. The strategy involves enhancing protection in the existing rhino-bearing areas, undertaking range expansion through translocations to reintroduce rhinoceroses in potential rhinoceros habitats, and securing and managing the habitats of rhinoceroses.

9.2.2 Forest departments

The State Forest Departments are arms of the state governments mandated to manage forest areas including protected areas. The officers of the Forest Departments are drawn from the Indian Forest Service. Management of the national parks, including activities such as the organisation and control of forest guards, fall under the Forest Departments. Kaziranga National Park comes under the Forest Department of Assam, while Pench Tiger Reserve and National Park come under the Forest Department of Madhya Pradesh.

WWF India plays a very limited role both within the national parks that are the subject of this review and within national parks in general. Its staff members only enter national parks with special permission from the appropriate Forest Department for specified activities such as species monitoring. WWF India staff do not organise, manage or participate in forest guard patrols. WWF does not have any presence in Pench Tiger Reserve, and its only involvement with Madhya Pradesh Forest Department has been the provision of relatively small amounts of equipment up until 2017 (this involved: in 2011 – 320 mosquito nets; in 2013 – a patrol vehicle and 450 winter jackets; in 2015 – 500 backpacks, 500 hunter shoes, a patrol vehicle, 500 rain-gear suits and 500 water bottles; and in 2017 – 200 rain-gear suits).

In Kaziranga National Park, the WWF India Kohora office on the outskirts of the park has only six employees, and the bulk of its budget goes towards support for the local community and monitoring of wildlife corridors.

WWF India's specific support to the Assam Forest Department consists of the identification, monitoring and protection of critical wildlife corridors between Kaziranga and Karbi Anglong in the Kaziranga Karbi Anglong landscape, translocation of rhinos to create additional rhinoceros populations in Assam, and training and support to the staff of the Forest Department.

One aspect of WWF India's work with the Forest Departments is the provision of training, lectures and workshops for protected area staff on conservation, climate change and working with communities. At field level, WWF India has been providing training to rangers on wildlife monitoring, human-animal conflict management, the Indian Wildlife Protection Act, general enforcement training and human rights.

Forest staff at ground level comprise three categories: range officers, who are recruited at state level; forest guards, who are usually (but not always) recruited from the local community and are regular government staff; and forest watchers, who are almost always drawn from local (and indigenous) communities. Watchers work with forest guards, are not government employees and are poorly paid, but are highly experienced trackers deployed to monitor wildlife and activities within the parks.

9.3 Factual Findings Related to the Allegations against WWF India

WWF India is alleged to have had knowledge of human rights abuses committed by rangers in Pench and Kaziranga, to have supported and collaborated with the alleged violators, and to have failed to take sufficient actions to prevent, respond to and remedy such human rights abuses.

In addition, WWF India is alleged to have supported the 'shoot on sight' policy proposed by the Chief Warden of Kaziranga National Park, M.K. Yadava, in his report and recommendations on magisterial powers and anti-poaching strategies, by contributing to the report, and through attendance at an international conclave hosted by him. Support for such a policy is also attributed to remarks made by Dr Dipanker Ghose, representative of WWF India, in a BBC interview.

The list of alleged abuses included: torture of teenagers; the beating to death of a man who was collecting wood in Pench; the killing of Goanburah Kealing in Kaziranga; the shooting of Akash Orang in Kaziranga; the torture of Mono Bora in Kaziranga; and evictions that resulted in two deaths in the course of the expansion of Kaziranga.

The Panel has found that WWF India staff members only had contemporaneous knowledge of three of the allegations, relating to the shooting of Akash Orang, the beating to death of a man in Pench and the evictions in Kaziranga. The Panel has found, based on extensive interviews with WWF India staff and review of both hard-copy and electronic documents, that WWF India was not aware of the remaining alleged incidents until they were reported in the media.

9.3.1 Pench allegations

It is alleged that WWF knew of an incident in which a man was killed by rangers after he was found collecting wood in the forest near Pench Tiger Reserve in June 2018. Eight forest rangers were arrested and the police said that one of them had confessed that the man's body had been burnt in the forest to destroy evidence.

Factual finding: The staff of WWF India no longer worked at Pench in 2018. They were unaware of this incident except for one staff member who recalled hearing mention of the case, including that a ranger had been prosecuted for murder, during a meeting with government officials in 2018.

WWF response: Following receipt of the allegation, the CEO of WWF India made inquiries with the government and was informed that actions had been taken by the government in accordance with the law.

9.3.2 Kaziranga allegations

(a) Shooting of seven-year-old boy

The shooting was first reported in the BBC News article “Kaziranga: The park that shoots people to protect rhinos”, published online on 10 February 2017. It is alleged that WWF India knew of this incident in which, in July 2016, a seven-year old boy was making his way along the main track through one of the villages bordering the park when he heard guards shouting “rhinoceros” and got shot by them. He sustained an injury to his calf, and despite surgery, was still barely able to walk. The article records that the park authorities admitted to a mistake, paid the boy’s medical expenses and gave the family compensation of 200,000 rupees (about USD 3,000), which his father considered not much given the scale of the injuries.

Factual finding: WWF India staff were aware of the incident at the time, as it was widely covered in the media. The Assam Forest Department accepted responsibility and paid compensation.

WWF response: The CEO of WWF India raised concerns about the shooting with the Assam Forest Department shortly after the incident and received a letter from the Forest Department addressed to WWF India and other organisations associated with tiger conservation, explaining that the shooting was a regrettable accident.

(b) Eviction by state police of indigenous persons in September 2016

It is alleged that state police evicted two villages as part of the expansion of Kaziranga National Park, resulting in two deaths.

Factual finding: WWF India staff were aware of the evictions taking place at the time as the news was reported in the media as well as being live-streamed. The evidence establishes that the evictions were unrelated to the future expansion of the park but related to encroachment of people into the park area and that the police were executing an eviction order issued by the Guwahati High Court. Protests turned violent and two individuals were killed by the police.

WWF response: WWF India clarified that they were opposed to forced relocations and sometimes assisted communities to negotiate voluntary relocations in their best interests. As a rule, however, WWF India does not get involved in legal processes of the government or court in relation to land issues. If violent evictions or relocations arose in villages where WWF worked, affecting communities with whom the organisation was directly engaged, WWF would assist the communities to approach the relevant redressal channel.

9.3.3 Allegation that WWF continued support for rangers

It is alleged that WWF has supported and collaborated with rangers in protected areas that have been the subject of allegations – despite knowing that human rights abuses were being committed – including through the provision of batons and anti-riot equipment, night-vision goggles, uniforms, evidence kits, drones, vehicles (Jeeps, 4-wheelers, trucks) and weapons, and through the provision of legal support and medical care, in addition to funding combat and ambush training for rangers in Kaziranga National Park.

Factual findings

The Panel reviewed documentation relating to numerous WWF India projects, including projected plans, budgets, and income and expenditure reports detailing support provided to the Forest Departments in various parts of India, including Assam for the period from 1997 to 2018, and Madhya Pradesh from 2001 to 2017. It is clear that WWF India does not provide cash or any other direct financial support to the State Forest Departments, but did provide equipment, such as boots, seasonal gear and transportation.

With regard to the items mentioned in the allegations, the Panel found that during the period reviewed, WWF India provided uniforms (boots, winter jackets, rain gear, protective vests and helmets), evidence kits for testing of rhinoceros DNA, vehicles (jeeps, boats, motor cycles), and night-vision monoculars for monitoring animals.

In addition, WWF India provided medical care and various training sessions to Assam Forest Department in Kaziranga. The training included patrolling and combat techniques and arms handling for anti-poaching patrols. WWF India arranged for this training for forest guards in Kaziranga to be delivered through the South African Wildlife College in 2016, as part of the IRV 2020 programme. The State of Assam was implementing the IRV 2020 rhino range-expansion programme with the target of increasing the rhino population to 3,000 by 2020.

WWF India also provides Assam Forest Department with law enforcement monitoring and spatial monitoring and reporting (SMART) tools. This involves logging details of areas covered by patrols onto Android software, which in turn helps track movement of animals, to better protect them from poachers.

The level of financial support provided by WWF to the Forest Department for these activities is fairly low and in 2016 equated to only 3.6% of WWF India's overall spend on conservation.

The Panel found no evidence of the provision of weapons, batons, anti-riot equipment or drones, or the provision of support on legal matters to the Forest Departments as claimed in the allegations. The Government of India has strict laws against receiving weapons from NGOs; the purchase and supply of guns and corresponding licences are controlled by the Ministry of Home Affairs.

9.3.4 Allegation that WWF should have done more to address human rights abuses

WWF India is alleged to have supported a 'shoot on sight' policy proposed by the Chief Warden of Kaziranga National Park.

Factual findings

The Panel considered the BBC report and various documents concerning this allegation. In August 2014, Mr M.K. Yadava, Chief Warden of Kaziranga National Park, submitted a report

on the increasing incidence of poaching in Kaziranga. His report was titled, *Detailed Report on Issues and Possible Solutions for Long Term Protection of the Greater One-Horned Rhinoceros in Kaziranga National Park*.

Two WWF India staff members provided written comments and inputs to specific sections of the draft report that had been sent to WWF India by the Chief Warden. This input related to technical issues, including: securing corridors; improving conditions of anti-poaching camps in the park; landscape conservation; balancing development and conservation by building strong relationships between the national park and people; Kaziranga watershed and its degradation; provision of amenities for fringe populations; and availability of vehicles and funding issues.

The report was not shared in its entirety with WWF even though WWF India staff members were listed as peer reviewers. WWF did not endorse the report or sign off on it. Mr Yadava's call in his report for stronger action against poachers, submitted by him to the Guwahati Court, was not supported by the State government.

The allegation that WWF India supported Mr Yadava's recommendations also relies on the attendance of a WWF India staff member at an international conclave on rhino conservation, hosted by Mr Yadava, where the Chief Warden of Chitwan National Park in Nepal, accused of human rights abuses in Chitwan, was also present. Mr Yadava's report was discussed at the conclave. The allegation also asserts that a BBC interview with Dr Dipankar Ghose (Director of Species and Landscape Programme, WWF India), in which he stressed that rhino poaching has to stop, was evidence that WWF India supported a 'shoot on sight' policy in Kaziranga National Park.

A provision in the Criminal Code, made applicable to all forest officers by order of the Governor of Assam, provides for a forest officer to use his firearm in self-defence in a life-threatening confrontation. The order, the Panel was told, was a special prosecution process initiated due to the political and social volatility prevailing in the region at the time and does not confer immunity or impunity. Where shootings do occur, they must be reported and are subject to judicial scrutiny.

Apart from this provision, Indian law does not come anywhere close to sanctioning a 'shoot on sight' policy.

However, the reported killings of 50 alleged poachers by park rangers in Kaziranga over a three-year period, highlighted in the BBC documentary *Our World: Killing for Conservation* in 2017, raised public concern over the conduct of anti-poaching efforts.

9.4 Assessment

When considering WWF India's alleged involvement with, support for or connection to any of the human rights abuses allegedly committed by State Forest Departments, the Panel has given due consideration to the type, level and overall context of the work carried out by WWF India, the organisation's mandate, and WWF's relationship with the Indian national and state governments and local communities. A further consideration is that WWF India did not have contemporaneous knowledge of the majority of the alleged incidents.

With regard to allegations that WWF supported a 'shoot to kill' policy for Kaziranga National Park, the Panel finds that WWF India's involvement in commenting on Mr Yadava's report and participating in the international conclave were based on WWF's conservation expertise,

and strictly limited to technical matters, and that WWF had been given only limited insight into the report. Hence, the actions of WWF India cannot be seen as supportive of a 'shoot on sight' policy. Further, the Panel concludes that Dr Dipankar Ghose's responses in the BBC interview cannot be objectively read as an expression of support for a 'shoot on sight' policy.

The Panel finds that in the overall context of WWF India's mandate, their support for the State Forest Departments has been measured and appropriate for conservation work.

The Panel notes the progressive steps taken by WWF India to obtain the prior informed consent of communities with which it works. It is encouraging that WWF India employs 50 social scientists trained specifically to work on the interface between conservation and sustainable development.

WWF India's social policies have committed it to change its previous stance of viewing allegations of human rights abuse by government employees as the concern of the government and not the concern of WWF India. WWF India is now considering strategies on how best to respond to allegations of human rights abuses by government employees. The organisation has a mandate to address and redress such abuses where it can. Where WWF India is in a position to prevent or mitigate human rights impacts that are directly linked to its operations or services through its working relationships, WWF should do so, even if it has not contributed to the adverse impacts.

Whilst WWF India considers that as a conservation organisation, its mandate, capacity and expertise to address and, where appropriate, redress allegations of human rights abuses committed by Forest Departments is limited, the Panel encourages WWF India to do more both to empower local communities and to make them more aware of their rights. A concrete way that WWF India could achieve this is through helping communities become more aware of how to submit claims for damage caused by wildlife.

With regard to assessing WWF's accountability for human rights abuses, the Panel notes that WWF India has no role in managing the national parks in question; it has limited access to the parks and does not participate in patrols. There is a legal system in India capable of handling complaints against park rangers, and it has done so in the past. The Panel has found no evidence that WWF knew about the allegations of human rights abuses but then did nothing about them.

WWF India has recognised the need to have clear internal guidelines on what staff should do when they learn about human rights allegations: they are to follow up with the government and ensure that the allegations are being properly addressed. The ongoing work on updating the WWF India Grievance Redressal and Complaints Resolution Process is a good start. It includes, for the first time, a commitment to assist affected persons to access relevant grievance redressal systems to get their complaints addressed.

WWF India has recognised that a more comprehensive approach to training staff members on policies and ensuring compliance is required. The organisation has therefore recruited a Senior Manager for Policies and Safeguards whose role is to focus solely on compliance, training, roll-out and monitoring of policies.

The Panel finds nothing untoward about WWF's provision of standard fieldwork equipment to rangers. This is normal assistance for conservation work supported by NGOs and donors. Some assistance is humanitarian in character, such as support for field medical camps and assistance for guards when they are injured in attacks by wild animals.

The Panel does not view the provision by WWF India of funding for training of rangers on how to use weapons safely and to engage with poachers effectively (even where that includes combat training) as enabling human rights abuses. Better trained guards may well contribute to reduced use of force and fewer killings and injuries.

Firearms training accompanied by instruction directed towards limiting the use of firearms to the bare minimum necessary, in accordance with the United Nations *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, could contribute to harm reduction.

With respect to allegations of shootings by government employees, the Panel does not adopt a position on the circumstances, whether the shootings were unjustified or not, or whether the subsequent responses and investigations by the government were adequate or not. Those are matters well beyond the scope of this Review, which is focused on WWF. Indian law should not be construed as authorising a 'shoot on sight' policy, and WWF India has never taken a position in favour of such a policy.

Recommendations

Recommendation 1. Ensuring that rangers are well trained

Where WWF India provides support for law enforcement, protection services or anti-poaching campaigns, it should ensure that the rangers are well trained on all aspects of the use of firearms, including respect for the human rights of local communities and those suspected of poaching.

Recommendation 2. Respecting human rights and the rule of law

Where WWF's commitment to the rule of law is assailed by association or implication, such as with Mr Yadava's statement on impunity, WWF India should assert its own principled position of respect for human rights and the rule of law by making clear that it would oppose a 'shoot on sight' policy.



CHAPTER 10

WWF INTERNATIONAL AND THE WWF NETWORK

This report focuses primarily on allegations of human rights abuses committed by rangers, including ecoguards, in and around protected areas in the Congo Basin, Nepal and India. There is no suggestion that WWF staff themselves were involved in the alleged abuses but the question of WWF responsibility is raised because of its support to government agencies engaged in law enforcement and anti-poaching activities in those protected areas. WWF is accused of continuing to support those agencies and failing to take appropriate action even when the organisation was made aware of alleged human rights abuses, in contravention of its own policies and commitments. WWF knowledge of, and response to, the allegations are dealt with in the relevant country Chapters 4 to 9. In this chapter the Panel considers whether WWF International and the WWF Network put in place adequate safeguards and took appropriate action as required by its own social policies and international norms.

WWF International is the Home Office legally and administratively responsible for the country offices in the Congo Basin, but several WWF National Organisations (NOs), most notably WWF Germany and WWF US, also have direct funding and project relationships with those country offices. WWF US is the Home Office responsible for WWF Nepal while WWF India is a National Organisation with its own Board of Directors. Both can also receive funds from other donor NOs. In this chapter the Panel discusses these complex governance relationships in the context of five significant areas that are at the core of many issues covered by this report, namely:

- implementation of social policies and commitments;
- implementation of complaint mechanisms;
- use of informants;
- handling of communications; and
- new safeguards and quality assurance measures post 2018.

10.1 Implementation of Policies and Commitments

Over time WWF has developed numerous social policies and commitments, as summarised in Chapter 3, beginning with the *Statement of Principles on Indigenous Peoples and Conservation* (first issued in 1996). These policies have been generally good in principle but gave little direction on implementation, and performance has varied across the WWF Network. To address these shortcomings, in 2019 WWF developed and adopted the Environmental and Social Safeguards Framework (ESSF), which was designed to assist with the application of the Network's social policies to set a minimum standard for WWF work globally.

The responsibility for implementation and monitoring of the social policies is shared between WWF International, National Organisations or Programme Offices implementing WWF projects, and donor NOs transferring funds to other offices. In practice, however, these distributed obligations have tended to obscure clear lines of responsibility and accountability

so that implementation of social policies on the ground has been inconsistent and, in many respects, ineffective during the period covered by this report. There are a number of factors which have contributed to these failings, as described below.

10.1.1 Absence of appropriate mechanisms to implement policies

In 2010, WWF adopted a document entitled *Social Dimensions of Conservation and Natural Resource Management: WWF's Principles, Policies and Implementation Framework*, which summarised WWF social policies adopted to that point and set out principles that WWF considered fundamental to successful integration of social dimensions in WWF's programmes and projects. These included the establishment of accountability measures, including audits, complaint mechanisms, and the monitoring of compliance with social policies by third parties implementing activities under WWF's responsibility. The *Framework* noted that successful integration of social dimensions of conservation into WWF's programmes and projects would depend on adequate capacity and knowledge, and supportive institutional mechanisms and partnerships.

The *Framework* described five elements that together were intended to provide a structure for effective social policy implementation. These were:

- involvement of the Social Development for Conservation (SD4C) network, described in Chapter 2;
- recognition of the need to strengthen capacity, skills and knowledge within the WWF Network in order to deliver and monitor the implementation of social policies;
- integration of social policy principles in the design, implementation and monitoring of WWF programmes;
- establishment of accountability measures, including processes to monitor and evaluate compliance with the social policies and procedures, and to receive and resolve complaints; and
- effective communication both internally and externally, and the application of policy principles in partnerships with governments, donors and the private sector.

Although the *Framework* identified a key role for the SD4C network in implementation, there seems to have been limited follow-up or support to SD4C. In June 2014, the Conservation Committee endorsed the SD4C's *WWF Action Plan on Social Development for Conservation*, which was designed to accelerate the integration of social policies and enhance accountability and monitoring of social dimensions in all WWF offices and programmes. This Action Plan was updated in 2017 and integrated into the *WWF Social Policy Roadmap*.

The Roadmap sets out a 2025 Vision that WWF's conservation work contributes to sustainable development and social equity through the integration of social policies and principles, the adoption of a human-rights-based approach in the WWF Practices and offices, and effective accountability systems. The Roadmap also identified specific deliverables such as Free, Prior and Informed Consent (FPIC) Guidelines (to be delivered by 2018) and stated that WWF would perform due diligence and risk management for all of its partnerships (including with governments) and develop templates for partnership and third-party (consultant) agreements that include commitments to human rights.

On paper, this was, and is, an effective framework and plan for the implementation of WWF's social policies. In practice, SD4C may have been effective in some country programmes but, as far as the Panel can judge, support for SD4C seems to have been patchy and inconsistent. The SD4C community was set up as a voluntary network of WWF staff, taking on this role in addition to their regular work and responsibilities at the country level, but with no authority (or resources) to ensure stronger implementation of social policies across national programmes. In the Congo Basin, for example, WWF International did not establish any effective mechanisms for implementing the *Framework* and action plan consistently across country programmes, and two of the countries of concern – Central African Republic (CAR) and Democratic Republic of Congo (DRC) – never had an SD4C representative. This seems, at least in part, to be due to lack of resources within project budgets to build capacity and fully address social issues.

The problems concerning implementation of social policies are well illustrated by what happened with WWF's *Statement of Principles on Indigenous Peoples and Conservation*, first published in 1996. To its great credit, WWF was the first major conservation organisation to formally recognise the rights of indigenous peoples and endorse the FPIC principle. An evaluation in 2007 of the implementation status of the 1996 *Statement of Principles* revealed limited internal and external awareness of the policy, difficulties in translating its broad principles into locally relevant action, and a lack of resources, training and operational guidance.

In response, WWF committed to take further steps to increase policy oversight and to support capacity and accountability at Country Office and Network levels. Unfortunately, the evidence gathered in the course of this review indicates that these recommendations have not consistently translated into effective action on the ground. The Programme Operations Monitoring Unit (POMU), responsible for monitoring projects until 2014, did not include human rights or relations with local communities in its Key Performance Indicators, and the Panel has found no other mechanism by which these issues were reported to WWF International. It was not until December 2017 that a Social Policy Manager was appointed, specifically to lead on the implementation of social policy issues for the whole WWF Network. WWF staff interviewed across the Network for this review had widely varying degrees of awareness and understanding of WWF's social policies, and Programme Offices did not always have the appropriate expertise on staff to adequately implement social policies.

While it is understandable that it takes time and effort to implement new measures across a far-flung organisation, the Panel's review suggests that there was a consistent pattern within WWF of identifying a problem, developing a policy, initiating a review and useful recommendations but then failing to follow up adequately. While WWF approved a series of social policies, implementation was slow and limited on the ground, perhaps because of lack of funding and appropriate expertise.

Aside from committing greater resources to capacity building and implementation through its own offices, another mechanism to promote more effective implementation of social policies would have been to ensure that the partners with whom WWF works are also explicitly committed to application of those policies. The implementation framework noted above required that WWF should actively seek out and engage with partners that could complement WWF's expertise to effectively implement its social policies, and that WWF should apply the policy principles in its partnership activities with governments, donors and the private sector. In several country programmes WWF did work on specific projects with partners with greater expertise in community development and addressing social inequity, e.g. Oxfam (in DRC) and CARE (in Nepal).

The picture with state partners, however, is more complex. In many of the states where it works, WWF policies on human rights and indigenous peoples commit to higher standards than those applied in national practice. In respect of those jurisdictions relevant to this review, WWF International has agreements and MOUs with state partners for support to protected areas and wildlife and forest conservation in DRC, CAR, Republic of Congo (ROC) for TRIDOM, and Cameroon – see Chapters 4 to 7 for full details. Some of these MOUs relate to specific co-management agreements for individual protected areas, such as Salonga (DRC), Dzanga Sangha (CAR) and Ntokou Pikounda (ROC), where WWF staff are designated as park directors even though authority over protected area staff and responsibility for hiring and managing ecoguards remains with the respective government agencies. WWF US, as an international NGO, has a country agreement with the Government of Nepal whereby its Country Office, WWF Nepal, provides technical and financial support to the Department of National Parks and Wildlife Conservation (DNPWC) and the Department of Forests and Soil Conservation (DFSC), but has no co-management agreement for the national parks. WWF India is a National Organisation subject to national laws and regulations; it works with the Ministry of Environment and State Forest Departments. It plays a very limited role in the national parks, where its work is mostly confined to joint monitoring of wildlife species.

The allegations of human rights abuses focus on the actions of rangers and other personnel employed by state partners to carry out law enforcement and anti-poaching activities in and around protected areas. Therefore, it would seem that those country partnership agreements were a key opportunity for WWF to influence the approach of their state partners in relation to human rights issues. Yet none of the MOUs covering the period of complaints contain provisions relating to monitoring the activities of state agencies in relation to human rights, or those specifically relating to indigenous people.

Although all of the offices in the Congo Basin fall under the authority of WWF International, WWF staff in Gland seem to have had very little role in reviewing the country agreements, with responsibility delegated either to the Regional Office for Africa (ROA) or the relevant WWF country office. Although this seems consistent with the intent of the Truly Global initiative to increase empowerment at a local level, it appears to contravene a WWF International ‘rule’ that projects over USD 200,000 should be signed off by headquarters. The main WWF drivers behind many of the Congo Basin projects seem to have been WWF Germany, WWF US and other members of the country stakeholder groups (donor WWF NOs), which were mobilising and negotiating the funding from major bilateral and multilateral donors. Given the key role that these WWF donor NOs were playing, they clearly had a responsibility – along with ROA and the country programme offices – to ensure compliance with Network social policies in project design, implementation and monitoring. Yet none of the reviewed project agreements between WWF donor NOs and WWF country offices prior to 2019 imposed any requirement for monitoring of human rights due diligence.

A review in 2018 of the MOUs or Co-Management Agreements (CMAs) for the Congo Basin countries noted that none of the CMAs emphasised the WWF commitment to uphold and support human rights. That review recommended that WWF should conduct a comprehensive evaluation of all CMAs in place but this did not happen. This is regrettable since such an evaluation could have provided useful lessons on better defining roles and responsibilities, accountability and ‘red lines’ for future WWF CMAs. Instead the Chief Operating Officer sent a memo to all WWF offices that report to WWF International stating that agreements could only be signed with senior management approval from WWF International. In early 2019 a new CMA, signed on behalf of ROA for the Dzanga Sangha Protected Area in CAR, did make some reference to human rights training for ecoguards

and paid particular attention to the interests of local communities, including indigenous populations. Meanwhile, WWF prioritised a review of activities in Salonga National Park, DRC, which was the subject of specific allegations. Although the Salonga MOU officially expired in 2018, WWF has continued to provide support to the national park while discussions continue about a new agreement. Since early 2020 any proposed new CMAs or projects within high risk landscapes will be subject to review by the new Conservation Quality Committee (see below).

Prior to 2018, the practice around risk assessments for new initiatives or renewals of agreements seems to have been inconsistent and highly variable across both the WWF International programme and the Network as a whole. Some risk assessments were undertaken for new projects, but there was no uniformity around this issue and what, if any, steps were taken to mitigate risks would depend on the project. Judgements on this issue were left to the Programme Offices, potentially with advice from POMU or ROA in WWF International, or the donor WWF NO. Where undertaken by Programme Offices, risk assessment seems to have focused primarily on financial impropriety and corruption issues rather than social issues and human rights. While Programme Offices will still have initial responsibility for assessing risks in the context of new projects, since 2019 any new project and programme arrangements will be covered by the newly introduced requirements under the ESSF as well as enhanced quality assurance reviews (see below).

10.1.2 Confusion over responsibility for implementation

One of the principal difficulties in ensuring consistent social policy implementation seems to have been a lack of ownership of the issue both within WWF International itself and at the country programme level in the Congo Basin countries. There seems to have been parallel confusion between WWF US and WWF Nepal, even though WWF US first put in place a safeguards framework in 2013 when it became an implementing agency for the Global Environment Facility (GEF). Initially, however, WWF US seems to have applied those safeguards only in relation to its GEF projects and, from 2016 onwards, to projects in its Green Carbon Fund (GCF) portfolio.

The complex inter-relationships between WWF International, WWF donor NOs and the WWF Programme/Country Offices, and government entities with which they deal, created difficulties and confusion when it came to accountability for monitoring implementation of social policies and commitments. For many of the Congo Basin projects it seems as though donor NOs had a direct relationship with Programme Offices, while WWF International played little or no active role (and was even bypassed) in active review of project design or oversight of implementation, even though those country programmes officially fall under WWF International.

It is worth noting that where funding comes originally from a major bilateral or multilateral donor via a WWF NO, the project must also comply with the safeguard assessments of the originating donors, and those partners may also play a role in monitoring project implementation. It is surprising, therefore, that those major donors were also slow to respond to complaints about human rights abuses in projects that they were supporting, especially since in some cases those donors were represented on project steering committees or received information about allegations of abuses directly from Programme Offices. In effect, responsibility for safeguards was often delegated in cascading lines of responsibility from major donors, through WWF NOs, to country level without ensuring adequate capacity or resources within Programme Offices to fulfil those delegated responsibilities.

It is also right to note that the updated ESSF Framework (see below), issued in August 2019 and in the process of being rolled out across the Network, provides greater clarity around responsibilities for ensuring that WWF's social policies are incorporated into project planning and implementation. Under the new Framework, and additional quality assurance measures, stronger controls should apply where projects carry the potential for human rights impacts. There is also an enhanced oversight role for WWF International both for country programmes under its own management but also for high risk landscapes/seascapes across the Network as a whole.

10.1.3 Lack of structure to ensure effective implementation once projects are up and running

WWF recognises that the nature of its structure, and in particular the diversity and funding modalities of its network, creates challenges in terms of ensuring the dissemination and uptake of Network policies. Since 2017, all employees of WWF have had to confirm that they have read, understood and are fully committed to WWF International policies. The formal WWF staff appraisal process also involves, amongst other matters, a check that staff have read, understood and are complying with WWF's policies, although staff interviews suggest that many staff had limited and uneven knowledge of these policies.

Beyond these formal steps, WWF's main mechanism for communicating and embedding WWF social policy at a country level has been through the work of the SD4C community headed by the Social Policy Manager. As discussed above, the SD4C network has serious limitations in practice, given that the SD4C country focal points are all individual volunteers, there may be only one or in some cases no SD4C focal point in the country office, and they have no real authority to require compliance. The level of Network support or endorsement for SD4C is still not clear. In effect, in-country compliance with WWF social policies depends very much on the commitment and support of the Country Director. It is clear that WWF needs to strengthen mechanisms to build better social expertise into its programmes.

Responsibility for monitoring implementation of projects and social policies lies with individual offices. The Audit Committee (later the ARCC) of the International Board is responsible for monitoring and assuring compliance for Programme Offices under WWF International's remit. Until 2017, the Register of Strategic Risks maintained by the Audit Committee did not contain any mention of risks associated with allegations of human rights abuses or failures to adequately implement WWF social policies. From 2017 onwards, WWF began to address these deficiencies.

A revised WWF International Risk Register (2017) captured all risk areas and recognised that failure to design and implement adequate social policies could lead to reputational and legal risks. At its meeting in January 2018, the Audit Committee expressly considered human rights, in particular allegations of WWF complicity in human rights abuses. A Network Risk Register was developed and subsequent quarterly meetings of the Audit Committee have received a confidential annex setting out all complaints received and action taken.

All of these steps are very welcome but as of this date there is no effective structure in place that enables the audit function to monitor implementation and compliance with WWF social policies in practice. For example, although the revised WWF International risk register captures all risk areas, currently the WWF International internal audit team does not have the necessary capacity and competence to review implementation of social policies in depth. What is needed, but not yet in place, is to include specialists as part of the team that undertakes social audits in particular jurisdictions. It is clear that both on-the-ground at

Programme Office level and within WWF International itself there was, and is, a serious lack of expertise and capacity to monitor and ensure implementation and compliance with regard to social policies. This needs to be remedied going forward.

In addition to strengthening the internal audit function of Programme Offices, a lot of emphasis is now being placed on the new arrangements introduced by the ESSF and new quality assurance processes to ensure compliance with social and environmental policies across the Network. This involves a stronger oversight role and responsibilities for WWF International in maintaining compliance with the ESSF, and a more consistent project review process across the Network (see below).

10.2 Implementation of Complaint Systems

WWF International recognised as early as 2010 that the successful integration of its social policy commitments into WWF programmes would depend, among other matters, on the establishment of “effective, accessible and transparent procedures to receive and solve complaints”.¹

WWF’s complaint mechanisms prior to 2019 can broadly be categorised as follows:

- global complaint mechanisms for WWF International projects, namely the Expolink whistleblower hotline and the Project Complaints Resolution Process (PCRP);
- Project Complaints Resolution Processes set up by WWF US for its GEF and GCF-funded projects; and
- domestic grievance mechanisms available in-country or established at a project level (e.g. the Bayanga Human Rights Centre in CAR; and the CEFAID-run mechanism in Cameroon).

10.2.1 Global complaint mechanisms

In July 2010, WWF International developed a new WWF International Fraud/Corruption Prevention and Investigation Policy and invested in a commercial Expolink² whistleblower hotline as an internal mechanism to monitor WWF staff conduct, particularly in relation to fraud and corruption. It was not originally designed for receiving complaints from external parties about the conduct of WWF staff or WWF partners, nor did such complaints originally fall within Expolink’s terms of service.

Instead, the original intention was that the PCRP would be the vehicle by which complaints could be made by external parties. Launched in January 2016, the PCRP was described by WWF as a global complaint mechanism designed specifically for third parties who had been negatively affected by WWF’s activities. The PCRP was intended to be applicable across the Network and to function separately from any domestic grievance mechanisms. Although the relevant WWF Programme Office or project would be contacted for a response to the allegation, the complaint process was under the review and monitoring of the Compliance Manager (serving as the Project Complaints Officer) in the Office of the Director General of WWF International in Gland.

¹ *Social Dimensions of Conservation and Natural Resource Management: WWF’s Principles, Policies and Implementation Framework 2010.*

² <https://www.expolink.co.uk/>.

While some offices did receive training on social policies, there was little progress in uptake and implementation of the PRCP on the ground; however, some offices did develop other domestic grievance mechanisms more suited to their national context or even designed for individual projects. By the end of 2017, the PRCP was still not functioning effectively and had received no complaints. WWF then agreed with Expolink that the whistleblower hotline could be expanded to receive complaints from third-party stakeholders, including other NGOs, about alleged human rights abuses and/or failures to respect indigenous peoples' rights.

In 2018, WWF introduced the WWF Network Standard 'Speak Up!' policy to allow for reports not only by WWF employees but also by third-party stakeholders, community members or other beneficiaries of WWF activities. In principle, this could be used to report allegations regarding human rights abuses committed by rangers. Importantly, the policy's guidance clearly delegated the responsibility for responding to a complaint to the individual WWF offices.

10.2.2 Domestic complaint mechanisms

Country-specific complaint mechanisms are described in the respective country chapters. The ESSF, introduced in 2019, includes a commitment to establish grievance mechanisms at national and landscape/project levels as needed, as well as an enhanced process of escalation of complaints to WWF International. Prior to this date there was no consistent policy or practice in regard to setting up domestic grievance mechanisms.

In Cameroon, WWF has supported a mechanism administered by a local civil society organisation that is able to receive allegations of ecoguard misconduct as well as other issues of mistreatment of the indigenous Baka people. The mechanism was expanded and strengthened in 2019–2020 in partnership with the Cameroon National Human Rights Commission but, pending additional funding, it only extends to two of the three parks in south-eastern Cameroon in which WWF works (see Chapter 4).

In DRC, the only implemented grievance mechanism was in connection with a carbon project in the east of the country. A grievance mechanism for Salonga National Park has been discussed for many years but it was only in 2020 that a call for tenders was issued (see Chapter 5).

In CAR, WWF supports the Bayanga Human Rights Centre, which provides services to indigenous peoples and local communities on a range of issues, including – but not limited to – complaints relating to the Dzanga-Sangha Protected Area (see Chapter 6).

In the Republic of Congo, a complaint mechanism specific to the Messok Dja area was established in 2019 and is currently administered by WWF ROC staff directly (see Chapter 7).

In Nepal, the WWF complaint system in place prior to 2018 does not appear to have been well advertised, accessible or promoted to local communities. There is no formal mechanism for WWF to be informed of alleged human rights abuses during anti-poaching missions in protected areas or in other areas where WWF works (see Chapter 8).

In India, the Grievance Redressal and Complaints Resolution Process is now being updated. Where complaints relate to public servants, WWF will assist affected persons to access the relevant grievance redressal system to get their complaints addressed (see Chapter 9).

From the Panel's review it seems that the development of in-country grievance mechanisms for affected parties has been slow and *ad hoc*. There has been no consistent process within WWF to identify and build on successful models, or to replicate them elsewhere. In some countries, Programme Offices developed complaint mechanisms at national or even site level and these replaced the function of the PCRCP. In a few countries, e.g. CAR and Cameroon, WWF has supported independent, grievance redress mechanisms run by local civil society organisations. A key constraint in establishing in-country grievance mechanisms may have been the lack of project resources for such purposes. Where mechanisms were created they often seem to have relied for funding on additional projects designed specifically for that purpose

10.2.3 Complaint resolution

From the Panel's review it seems that WWF International and the Network were very slow to give effect to the commitments set out in the 2010 *Social Dimensions of Conservation and Natural Resource Management Framework* to establish grievance mechanisms. The steps that have been taken have too often been largely inadequate to address complaints of human rights abuses, or *ad hoc* and too-long delayed. As an overarching global complaint mechanism, the PCRCP was a failure and never used as intended. Instead, WWF International expanded the Expolink whistleblower hotline beyond its original design to accommodate human rights complaints from third parties. Even then, affected communities were unlikely to be able to access a hotline that required access to telecommunications, so complaints were apparently mostly from international NGOs on behalf of local communities.

Moreover, until recently WWF does not appear to have had a uniform process for responding to and managing human rights complaints, either at local level or at regional/international level. Where WWF International did accept that investigations should be carried out, it left the responsibility for investigations to the Programme Offices concerned, including bringing issues to the attention of the relevant government authorities. There was no established process or guidance from WWF International as to how investigations should be carried out. That gave rise to concerns about the propriety and adequacy of the investigations themselves, and the competence, experience and impartiality of local staff to undertake such investigations. Some Programme Offices, e.g. Cameroon and CAR, responded by engaging a third-party NGO to receive allegations and to redirect them appropriately, while others responded by passing on information about allegations to the responsible protected area agencies or government prosecutors. A similar situation prevailed in Nepal and India where WWF passed on allegations to government departments. Although the need was identified to clarify protocols to escalate and respond to allegations, it was not until much later – in 2019 – that a written escalation protocol was developed.

Given these constraints, it is perhaps not surprising that WWF International struggled with how best to respond substantively to allegations received. Towards the end of October 2018, internal discussions took place in relation to the Congo Basin countries on the roles of audit and risk management with regard to WWF's social policies and human rights commitments. There was debate over what, if anything, WWF was required to do, where and how WWF was responding, who had been informed, and what were WWF's legal responsibilities in specific situations. Some immediate next steps were identified. These included: compilation of Programme Office and WWF International headquarters logs of all current allegations, with details of their status and follow-up; a response and escalation protocol; clarification of the role of SD4C in managing and mitigating risks of human rights abuse, including compliance with social policies in the internal audit process; and development of a human rights due diligence framework.

Those steps were sensible and necessary, and it is right to note that some of them had been taken by the end of 2019. Complaint logs were compiled and the risk of human rights abuses and non-compliance with WWF's social policies were integrated into the WWF International Risk Register. Following the media allegations of March 2019, WWF International collaborated with WWF US to develop the Environmental and Social Safeguards Framework (ESSF) which incorporates a partial human rights due diligence framework. The ESSF, introduced in 2019, includes a commitment to grievance mechanisms and an enhanced escalation process for serious complaints (see below). However, the *Social Policy Roadmap Status Update* for September 2019 notes that there continued to be significant weaknesses in the SD4C system. Discussions on how to strengthen and support this network globally, and especially in the Congo Basin countries, are still ongoing.

Over the years, WWF has identified, developed and approved important policies and commitments at WWF International and Network level to address social issues and human rights. Unfortunately, WWF has been much weaker in delivering effective implementation of, and compliance with, those policies. There have been some interesting initiatives at country level, such as development of codes of conduct, human rights training for rangers, and support for grievance mechanisms led by civil society organisations, with such initiatives supported through specific projects. Unfortunately, WWF has been inconsistent in its approach to addressing and responding to human rights allegations and complaints. Moreover, the organisation has failed to learn from, or disseminate and replicate, good practice across its Network offices, even regionally in the Congo Basin, notwithstanding that this was one of the original objectives behind the establishment of SD4C.

With regard to investigation of complaints, it is worth noting that the UN *Guiding Principles on Business and Human Rights* note that it is not appropriate for organisations to self-investigate complaints of human rights allegations made against them or in relation to their activities. As of today, WWF is still debating how best to deal with investigations of complaints involving rangers, and whether to contract out such investigations to an independent body (as in Cameroon and CAR) to investigate them itself (as in ROC), or to leave them to the government authorities. There are issues as to what standing and authority an international NGO has to undertake such investigations and how organisations like WWF can deal with allegations most effectively. It is still not clear to what extent investigation will be part of the responsibilities of the new Ombudsperson Office.

10.3 Use of Informants

Allegations have been made that WWF uses informants to support anti-poaching activities. It has been alleged that WWF organises, finances and sometimes runs informant networks within indigenous and local communities to provide protected area officials with intelligence. BuzzFeed News further claims that WWF has helped establish informant networks in authoritarian states and has handed over intelligence to rangers and soldiers accused of human rights abuses. It is claimed that these allegations are supported by documents such as the *TRAFFIC Guidelines for Managing Informants*.

Support for the use of informants does not seem to be regular practice across WWF programmes but certainly applies to some of the countries of concern in this report. Indeed, it would be surprising if government agencies engaged in law enforcement and anti-poaching activities did not rely on information networks to improve the effectiveness of their operations. What matters here is the level of WWF support and active engagement in managing and monitoring use of informant networks, and measures taken to protect the rights of informants and of those informed on. The Panel has found no evidence that WWF offices have taken

on the role of establishing or running informant networks. WWF programmes did, however, provide funding for payments to informants, even though the networks were actually managed by law enforcement agencies. For instance, WWF Nepal, through the TRAFFIC programme, provided funds to the national parks service for informants, as well as equipment and training for anti-poaching operations, but was not involved in direct contact with or management of informants.

In 2014, WWF US launched a Wildlife Crime Initiative aimed at reducing poaching and international wildlife trade in endangered species and subsequently provided support for anti-poaching activities in Nepal and the Congo Basin countries. In 2019, TRAFFIC published a manual entitled *Law Enforcement Support Guidelines: A Best Practice Approach to Information Collection, Handling and Dissemination*. These guidelines were developed in collaboration with WWF staff to provide guidance on how to help law enforcement agencies combat wildlife crime and achieve zero poaching.

The guidance emphasises that where information sources are not managed by WWF investigators themselves, they can only be supported through an external partner if certain pre-conditions have been met, namely that: a human rights assessment has been undertaken to mitigate any likelihood of human rights abuses; the approach, procedures and mechanisms for managing information sources are in accordance with the laws of the relevant countries; and the decision to engage a partner to manage the information sources has been approved by someone with the appropriate level of authority. This guidance has not yet been approved at Network level. It is unclear if these documents were circulated to WWF offices in the countries of concern to this review and what, if any, additional training has been offered. Since this guidance was only published in 2019, it is too soon to evaluate how it is being implemented at country level.

10.4 WWF Communications

WWF publishes a wealth of interesting material on conservation success stories, including activities that benefit local communities as well as protect endangered wildlife. The organisation is less forthcoming, however, about the challenges it faces in some of the difficult landscapes where it works, and how it is responding when faced with reports of human rights abuses allegedly committed by some of the institutions it supports.

WWF International has a dedicated media relations team which is responsible for leading on communications issues, coordinating responses across the Network, including with Practices, National Organisations and Programme Offices, and producing relevant communication materials. It is clear from the documents reviewed that there is a significant level of collaboration and cooperation across the Network with regard to devising and implementing a media relations strategy, pulling in information from the Programme Offices and from Practices, with sign-off for public statements at senior levels within WWF International. This is to be expected and is not a matter for criticism.

Where allegations are baseless, misdirected or after investigation shown to be unfair, WWF is entitled to point that out. WWF is right to – and should – give firm and unconditional responses to unfounded accusations, such as that alleging WWF supported a ‘shoot on sight’ policy in Kaziranga National Park, India, or purchased firearms for ecoguards in CAR. In some cases, however, it is clear that to avoid fuelling criticism WWF decided not to publish commissioned reports, to downplay information received, or to overstate the effectiveness of its proposed responses. It often did this even when a full and accurate statement of the situation would have better illuminated the challenges that WWF faces in specific contexts.

In 2013, for example, WWF prepared external press briefings that intentionally left out any reference to WWF's indirect interaction with rebel forces in Dzanga Sangha Protected Area (CAR), for fear of reputational damage. Given the civil war in CAR and that Seleka rebels were already in control of the region, using a private security firm to negotiate with the Seleka was a reasonable and pragmatic way to try to prevent poaching and to protect park staff and local communities (see Chapter 6).

WWF is particularly effective at publicising the good work that the organisation is doing to promote 'inclusive conservation' that benefits both people and wildlife. Among external audiences this may sometimes lead to unrealistic expectations about what WWF, with its limited resources, should and can do in relation to supporting livelihoods and use rights of communities living in and around protected areas. Internally, WWF's primary focus on promoting 'good news' may have led to a culture in which Programme Offices were unwilling to share or escalate the full extent of their knowledge about alleged human rights abuses for fear of scaring off donors or offending state partners. The Panel understands that WWF has to raise funds, and that in-country staff have to maintain working relationships with park agencies at local level, but WWF (at all levels) should be more transparent both internally and externally about the challenges it faces in promoting conservation and human rights agendas. Equally important, it must be more forthright about the effectiveness, or lack of effectiveness, of its efforts to overcome those challenges.

WWF should improve its internal and external communications generally, but doing so is especially important in relation to areas such as Salonga National Park (DRC) and other high risk landscapes that present particularly difficult challenges. Too often, WWF International and other WWF offices dealing with Salonga tended in their internal and external communications, including to the International Board and donors, to present the situation there as being less serious than it really was, or overstated the extent and effectiveness of its responses, thereby exposing WWF to further criticism (see Chapter 5).

Several country programmes have embarked on good initiatives to address alleged incidents of abuse and to support disadvantaged communities, but they might have been able to achieve more if they had been more open and transparent about reporting the challenges they face, and more realistic about the resources and support needed to address them in a meaningful way. It is not reasonable to expect problems never to occur but WWF should always report alleged incidents of human rights abuses as accurately as possible as part of its due diligence and overarching human rights commitments. Although it is natural that WWF will want to publicise the good work that it is doing, particularly in working with communities, it would also be beneficial to give both the public and donors a more frank and realistic appraisal of some of the challenges of working in conflict situations, as was the case in parts of the Congo Basin and in Nepal in the early 2000s.

10.5 Actions taken by WWF after 2018

Starting in 1996 with the *Statement of Principles on Indigenous Peoples and Conservation*, WWF International and the WWF Network have adopted a range of human rights commitments in their social policies (see Chapter 3). These policies are consistent with international human rights norms but application has been slow and uneven across the Network. Beginning in 2019, WWF has made a concerted effort to put in place a number of remedial measures, more consistent and rigorous safeguards, and quality assurance measures across the Network to strengthen implementation of social policies and attention to human rights. If these are to succeed, it is critical that WWF ensures that there is the necessary expertise and capacity, at WWF International, WWF US and other NOs, and at

country level, as well as adequate and sustainable funding to deliver effective implementation and monitoring on the ground, including training for partner organisations.

10.5.1 WWF Environmental and Social Safeguards Framework – ESSF (2019)

In 2013, WWF US became an implementing agency for the Global Environment Facility and as such was required to put a safeguards framework in place for its GEF and, later, GCF projects. It developed these environmental and social safeguards based on the World Bank safeguards. In March 2019, at the request of the NET, a WWF team reviewed the effectiveness of the WWF Network's social safeguards and recommended the modification and extension of the WWF US safeguards to develop an Environmental and Social Safeguards Framework (ESSF), to be applied to programmes and projects across the Network regardless of funding source. The ESSF is an attempt to make the organisation's social policies fully operational and provides an institutional mechanism to manage the environmental and social risks of projects and to deliver better conservation outcomes.

The new ESSF Framework was adopted by the Network in June 2019 and published in August 2019.³ It is not intended to replace the Network social policies but to provide a mechanism for effective design, implementation and monitoring of programmes in the landscapes and seascapes where WWF works. Core components of the ESSF are: standards; a screening tool; a planned multi-tiered grievance mechanism; and a new protocol to escalate complaints.

The ESSF covers ten standards. It incorporates four standards relating to: process, including public consultation and disclosure; stakeholder engagement; environmental and social risk management; and grievance mechanisms. Four safeguard standards address specific risks that typically may arise in WWF projects and which relate to human rights:

- involuntary resettlement (including restriction of use rights as well as actual physical translocation);
- indigenous peoples (including project impacts on indigenous peoples and the requirement for free, prior and informed consent, where appropriate);
- community health, safety and security (covering potential consequences for communities, including consequences of engagement with rangers); and
- protection of natural habitats.

Two other standards focus on pest management and on physical and cultural resources, although these are less likely to arise in typical WWF projects. The ESSF guidance also lists activities that are specifically excluded from WWF support, including (among others) provision of weapons and munitions, military activities, harmful or exploitative forms of forced/child labour, and conversion of important natural habitats.

WWF Programme Offices are responsible for applying the safeguards in-country in the landscapes and seascapes where WWF investments are to be made. The CEO of each WWF legal entity (WWF International and all NOs), alongside their Boards, are fully accountable for country programmes under their legal jurisdiction and must ensure that their overall portfolio is managed in accordance with the standards. A landscape lead in each of

³ WWF Environmental and Social Safeguards Framework: <https://c402277.ssl.cf1.rackcdn.com/publications/1249/files/original/ESSF-073119.pdf?1565364222>.

these entities is responsible for ensuring that safeguard procedures (including screening, development of mitigation plans/actions, establishing relevant grievance mechanisms, etc.) are undertaken for all project activities. WWF Programme Offices will be required to set up grievance mechanisms for stakeholders to lodge concerns regarding implementation of WWF's safeguard policies and to secure satisfactory complaint resolution.

The ESSF is managed and overseen by a Global Safeguards Unit (GSU) established by WWF International within its Global Operations Department. The Unit comprises a Director of Environmental and Social Safeguards and four Regional Heads of Safeguards (two each for Africa and Asia) and is actively recruiting a fifth for the Americas. These safeguard specialists must review and sign off on all risk/risk-mitigation screening conducted by country offices. NOs may additionally appoint their own safeguard specialists who will be accredited by the GSU. This feature ensures a level of central control over project planning, particularly in high risk places. The GSU is also tasked with compiling a database of risk screening, mitigation plans, reports and reviews. All WWF staff worldwide have undertaken obligatory online ESSF training but the framework is still being revised based on internal feedback.

The Safeguards Screening Tool (SST) maintained by the GSU is designed to help identify likely risks associated with proposed activities at a landscape or seascape level. Screening questions relate to environmental impacts and social impacts, e.g. human rights considerations, impacts affecting local communities and indigenous peoples, and gender and labour impacts. For any landscape/seascape, a single screening process is undertaken. Where risks are identified, a mitigation framework must be developed at the landscape/seascape level. Once this has been done, new project proposals in those places can be assessed against the mitigation plans and additional mitigation measures applied, as necessary, to address any new or increased risk. In such cases, a safeguards expert should also review and sign off on these adapted plans. According to the GSU, by May 2020 only 31 out of the more than 300 WWF landscapes/seascapes had been fully assessed; by the end of July 2020, 78 landscapes had either been assessed or assessments were underway. Assessments have been undertaken for the six landscapes covered in this report; mitigation strategies for those landscapes are planned but not yet developed.

In regard to safeguards, special consideration will be given to high risk landscapes and projects, which carry the potential for human rights abuses. All activities and MOUs proposed in fragile or conflict or violence-affected states or regions of states that have a history of systemic human rights abuses fall within this category. Extra due diligence is required, including the use of independent experts to develop mitigation plans, and all proposals must be signed off by the NET, following recommendation by the Conservation Quality Committee (see below). It is expected that the cost of safeguarding actions will be incorporated into project budgets, including pre-implementation work (such as screening, consultations, etc.), mitigation actions, monitoring and reporting, as well as any actions taken to address negative impacts flagged during implementation.

The Panel regards the ESSF as a good first step in ensuring better compliance with human rights and other social safeguards. It will, however, be important to ensure that the ESSF is further strengthened to incorporate, and be fully consistent with, the sometimes higher standards set out in the social policies already approved by WWF so that the ESSF process can become a 'one stop' mechanism to address all relevant concerns. For example, the ESSF standards on involuntary resettlement and indigenous peoples need to be revised to be completely consistent with WWF's existing commitments in its 2008 *Statement of Principles on Indigenous Peoples and Conservation* and its 2018 *Network Guidelines on*

Prevention of Restriction of Rights and Involuntary Relocation and Resettlement. WWF is planning a broad and wide-ranging public consultation on the safeguards; this exercise should include government and other partners, community representatives, and other conservation NGOs with experience of working in and around protected areas.

WWF's plan to apply the ESSF, and specifically the SST, to all landscapes and seascapes is ambitious and will provide useful background and country context for planning WWF activities. The SST provides an indication of risk level but is simply a snapshot in time. The mitigation framework is meant to be a living document responding to risks and changing situations. Since this process is only now being put in place, it is impossible to assess its effectiveness. However, given that most allegations of human rights abuses relate to project implementation, there is still an additional need to carefully apply the ESSF standards to individual projects, and especially those concerned with supporting law enforcement and anti-poaching activities to ensure that effective mitigation measures, grievance mechanisms and adequate resources and capacity for monitoring and supervision are in place. This could include relevant support drawn from other WWF programmes across the Network. The costs of support and monitoring during project implementation should be written into individual project budgets, which must also include adequate resources to build national-level capacity to assess and respond to human rights complaints, and to maintain sustainable funding for country- or landscape-level grievance mechanisms. This may require some frank discussions with donors about realistic resources required to fully implement safeguards.

10.5.2 Quality Assurance

In addition to the ESSF, WWF International introduced in early 2020 a new internal Quality Assurance Committee (QAC), chaired by the Chief Operating Officer (COO). The QAC reviews compliance of all concepts and project proposals put forward by Programme Offices managed by WWF International and which meet any of the following criteria: a total budget of over CHF one million, or a co-financing requirement over CHF 200,000; trigger the safeguard standards, are assessed as a high risk project or occur in a high risk landscape. WWF US and other WWF National Organisations similarly review projects within their own jurisdictions.

At Network level there is an extra element of governance and review of high risk projects through the Conservation Quality Committee (CQC), which first met on 2 March 2020. The CQC is drawn from experts across the Network and has the responsibility to review, advise on, and sign off on high risk projects and to escalate urgent matters or cases of disagreement to the NET, or even to the ARCC and International Board for further review. WWF International is a member of the CQC and also provides its secretariat. The terms of reference for the CQC emphasise that it is not the risk owner for the projects it reviews; ultimate ownership of the risks associated with the delivery of specific projects lies with the relevant office management at country level.

The Environmental and Social Safeguards Framework addresses specific risks of negative impacts for people and the environment in WWF programmes and projects across the Network. A Network Risk Management and Quality Assurance Standard, approved by the International Board in July 2020, provides a common framework to address *all* risks, including social, financial and partnerships. The purpose of this standard is to set out clear roles and responsibilities and the requirements for all WWF offices with regard to risk management and quality assurance. The standard will apply to all WWF activities across the Network. WWF office leaders are accountable for implementation and full compliance with this standard, overseen by national boards where relevant. This includes assessing levels of risk,

maintaining risk registers and escalating serious complaints to WWF International or WWF US or other relevant NOs. The International Board, through the ARCC, provides oversight of the risk strategy.

10.5.3 Accountability and grievance mechanisms

From the Panel's review it seems that prior to 2019 there was no consistent policy in place for country- or project-level grievance mechanisms, which have often been established on an *ad hoc* basis. With the advent of the ESSF there is now a requirement to ensure that appropriate grievance mechanisms are in place at country or landscape level so that affected persons can raise concerns about human rights and other impacts related to WWF activities. Under the ESSF, country-level grievance redress mechanisms will be designed to provide a forum for stakeholders to raise concerns and grievances about a project directly with the management of the WWF country office concerned, and to establish a mechanism for finding satisfactory resolutions. Such mechanisms should consider local cultural and linguistic needs, and logistical constraints in project design. The need for any additional project-level grievance redress mechanism will be established during the design phase of the project.

WWF has committed to establishing an integrated complaint system, incorporating both country- and landscape-level grievance mechanisms, and an escalation process so that serious complaints at domestic level can be escalated to the most senior levels of WWF. In particular, the country office must alert and inform its national board; the NET; the Board of WWF International; and the board and senior management of any WWF donor NO funding the project against which there are allegations. High-level resolutions of grievances that cannot be addressed at project or country level may be escalated to the Ombudsperson Office.

At national level, however, each WWF office is still responsible for developing and maintaining its own customised grievance procedures so that individuals or groups impacted by WWF-supported activities can raise concerns and grievances. Ensuring that such mechanisms are effective will require much greater investment in national staff, capacity building and support at country level. Moreover, WWF is still debating how best to handle investigations of complaints involving rangers at country level.

10.5.4 Ombudsperson Office

As part of the new system, WWF is in the process of setting up an independent monitoring and review function through an Ombudsperson Office to complement but not replace existing WWF grievance mechanisms at the country office or landscape/project level. The Ombudsperson Office will be independent from WWF International line management and will report directly to the WWF International Board. It is expected to have three full-time employees: an Ombudsperson, a Dispute and Compliance Specialist, and a Registrar.

The purpose of the Ombudsperson is to review complaints by any community or group of at least two people that “believes it is or may be negatively affected by a failure on the part of WWF to follow its safeguards, gender mainstreaming, and community rights and resources policies in the design or implementation of a WWF project activity”. Complaints cannot be made anonymously, although confidentiality can be requested. The Ombudsperson will be alerted to any concerns of human rights allegations even if these are being dealt with at the country level. A copy of the relevant case file including the proposed management actions will be sent to the Ombudsperson. The Ombudsperson will monitor compliance by WWF management with proposed actions in the case file and report routinely to the relevant WWF Board(s) as well as to the NET.

WWF has not yet appointed an Ombudsperson. As currently envisaged, there are limitations to the role, in particular the fact that the Ombudsperson will not make a judgement about the merits of a complaint and will not impose solutions or find fault. Instead it seems that the role is more one of mediation and conflict resolution between the affected party and WWF. Even at senior levels within WWF there still seems to be some confusion over the role and remit of the Ombudsperson, and it is clear that definitions of this function are still evolving. It is expected that once the Ombudsperson is appointed, he or she will have the licence to evolve the scope and remit of the office.

The ESSF and additional measures are important steps for putting in place consistent processes across the Network to improve WWF project design and performance in relation to human rights. The procedures are now being rolled out but are currently untested. They will require a substantial investment to build capacity at both headquarters and country level to deliver an effective system. When allegations of human rights abuses are raised in association with WWF or partner activities and/or financing, a swift and thorough response by WWF is required. The overall ESSF was approved by the WWF International Board in June 2019 but the proposed tiered Network-wide grievance mechanism and escalation process is not yet functional. Although the six high risk landscapes of concern to this review have all been assessed through the SST process, no mitigation frameworks have yet been prepared and effective country-level grievance mechanisms are still to be established. The new independent monitoring and review function led by the Ombudsperson is a key feature of the new system, but it is too soon to say whether this extra process will make a significant difference in future. Indeed, the remit and scope of the Ombudsperson Office is still under discussion and evolving.

10.6 Other Actions in response to Human Rights Allegations against Ecoguards and Rangers

As discussed above, WWF's complex governance structure may have contributed to unclear lines of responsibility and accountability, with multiple donors, WWF NOs and WWF International all interacting independently and separately with country Programme Offices. In the Congo Basin, for example, WWF Germany has been a key player in negotiating co-management agreements for Dzanga Sangha Protected Area (CAR) and Salonga National Park (DRC) and has been supporting WWF programmes in the Congo Basin technically, financially and organisationally for several years. In response to specific needs, it has also helped to mobilise additional funding to support individual project grievance mechanisms. Concerned by the allegations, WWF Germany commissioned a report by the Löning Human Rights & Responsible Business consultancy in 2019.⁴ Löning identified several key issues for WWF Germany, including the need for effective human rights governance and training, and better development of social policies, safeguards and human rights assessments. One issue of concern was how major multilateral and bilateral donors passed on their responsibilities and accountability for effective safeguards through the NO down to the level of the country programme, even though they may not have included adequate resources in the project budget for achieving compliance with best-practice standards. To date, WWF Germany has implemented seven of the twelve recommendations in the report, including seeking additional support to enhance human rights due diligence and to support local grievance mechanisms for several Congo Basin programmes. WWF Germany has also actively engaged with WWF International and other key NOs as a member of the CQC.

⁴ The report is available online at: https://www.loening-berlin.de/wp-content/uploads/2019/05/2019-04-26_Loening_WWF-Bericht_ENG-2.pdf.

WWF Germany is active in mobilising further funding for Salonga and the new project is being rigorously reviewed through the CQC.

Other NOs have played an active role in mobilising resources for anti-poaching activities in the Congo Basin, Nepal and India, including providing training for rangers on a project-by-project basis. WWF is now working on a more consistent approach and developing operational guidance relevant to WWF support for law enforcement and anti-poaching activities in government-managed protected areas. This guidance, led by WWF US but expected to apply across the Network, is anticipated to be available in late 2020. This is complementary to a new WWF initiative, a *360 Degree Ranger Plus Capacity Development on Human Rights* programme being developed by the WWF Governance and Wildlife Practices. WWF International, along with other conservation NGO partners, is also working with the International Ranger Foundation through the Universal Ranger Support Alliance (URSA) to implement the Chitwan Declaration of 2019 and an associated action plan. This includes development of a new global code of ethics and conduct for rangers, which will address human rights among other issues.

10.7 Conclusion

WWF was one of the first international NGOs to address the rights of indigenous peoples and to promote respect for human rights in its conservation programmes. WWF was a founding signatory to the *Conservation and Human Rights Framework* of 2009 and has developed several social policies relevant to human rights issues (see Chapter 3). Unfortunately, WWF's commitments to implement its social policies have not been adequately and consistently followed through, even though many WWF projects are working to promote better conditions and livelihoods for affected and disadvantaged communities impacted by the establishment of protected areas.

There has been a particular challenge with addressing human rights issues in projects supporting law enforcement and anti-poaching activities where WWF is funding such activities through state agencies in situations of weak governance and even armed conflict. From the Panel's review of WWF activities, it seems that prior to 2018 there was no consistent and unified effort across the Network to implement practices to identify and mitigate potential human rights impacts and to address complaints about human rights abuses allegedly committed by ecoguards in the Congo Basin and rangers in Nepal and India. WWF International, WWF donor NOs and country programmes have all individually attempted to address human rights concerns – for example through specific training for rangers, development of codes of conduct and establishment of project grievance mechanisms – but these efforts have been *ad hoc* and uncoordinated. A particular failure relates to country and protected area agreements with state parties that have failed to lay out clear roles, responsibilities, rules of conduct and 'red lines' for provision of WWF funding.

In many of the countries where WWF is working, its own human rights commitments and standards are higher than those applied nationally, and in many protected areas the organisation is striving to promote better practice in situations where it has limited control over law enforcement activities and rangers' operations. The situation has been further complicated by WWF's own governance structure, where individual NOs have bilateral relationships and projects with country programmes with apparently very limited consultation or oversight from WWF International, even where WWF International is the legally responsible Home Office for those Programme Offices.

The introduction of the ESSF is a major step forward in ensuring a consistent and coordinated approach on safeguards across the Network with identification of risk level across all landscapes and seascapes where WWF works. All NOs and WWF International are now obliged to screen their projects against the same safeguard standards. Most importantly there are now clearer roles and responsibilities at all levels of the organisation, with WWF International assuming an enhanced oversight role on safeguards standards and processes. There is now a system in place to escalate review of high risk projects to the CQC, which draws on expertise and experience from across the Network.

The ESSF safeguards lay out requirements for mitigation activities and grievance mechanisms for all country programmes but they are not yet in place. WWF has already committed substantial resources to set up a Global Safeguards Unit at WWF International, with oversight responsibilities across the Network, and has plans to establish an independent Ombudsperson Office. Nevertheless, since responsibility and accountability remain at the country Programme Office level it is clear that it will be essential for WWF to make a similar major investment in the skills base, capacity and support for national offices and in-country partners, and to convince donors of the need to allocate adequate resources to do so, as a standard component of all programme and project funding.

Since many of these safeguard measures are new – or are still to be put in place – it is not possible to assess yet how effective they will be in addressing and mitigating human rights concerns. The new processes are complicated and resource-intensive so it is essential that WWF understands, and builds appropriate capacity to mitigate, the risk of adding further complexity to an already-complex governance structure. Many of the landscapes where WWF works face enormous challenges in governance and rule of law. They include important ecosystems and some of the most marginalised human populations. Many projects come with high risk but with potential for high conservation gain. WWF's social policies have long made clear that respecting the human rights of indigenous peoples and local communities is key to sustainable conservation of biodiversity. WWF will continue to be judged on how well it lives up to these high standards.



CHAPTER 11

RECOMMENDATIONS

Recommendations specific to the countries reviewed are included in the chapters for those countries. The following recommendations are directed to the WWF Network as a whole.

Recommendation 1. Integrate WWF's human rights commitments

- (a) WWF should integrate all of its human rights commitments into a single, easily accessible document. WWF's stated commitments to human rights are generally strong, but they have been adopted in different social policies at different times, in different formats. The proliferation of statements makes it difficult for WWF staff, partners and others to understand exactly what WWF's human rights commitments are.

The new document would not supersede all existing social policies, many of which do more than state human rights commitments, and it should certainly not weaken any of WWF's current commitments. The *Conservation and Human Rights Framework* could provide a starting point. Annexes could set out WWF's detailed commitments on specific topics, including on indigenous peoples and local communities, and on rangers and law enforcement. The new statement should reflect the current state of human rights norms and best practices, including the UN *Guiding Principles on Business and Human Rights*.

- (b) The new Environmental and Social Safeguards Framework (ESSF) may provide an opportunity to integrate WWF's human rights commitments into one document, but the current version of the ESSF does not do so. Whether or not WWF chooses to use the ESSF as the means of integrating its human rights commitments, the final version of the ESSF should explicitly reflect, and be fully consistent with, those commitments.
- (c) In the process of developing a new integrated statement on human rights, WWF should consult widely and take into account the views of a wide range of its partners and stakeholders, including representatives of indigenous peoples and local communities, and the experience of other conservation organisations working in similar situations.
- (d) The integrated statement of WWF's human rights commitments should be adopted formally by the International Board.
- (e) WWF should make the final statement public and easily accessible and disseminate it internally and externally to its own staff, its partners, and other stakeholders, including the indigenous peoples and local communities in the areas in which it works.
- (f) WWF should ensure that its human rights commitments are embedded throughout the Network. Several of the Panel's other recommendations are directed at ensuring that WWF has the institutional expertise and mechanisms necessary to implement its commitments. The WWF International Board and WWF International have responsibility for providing clear guidance throughout the Network on how to implement and monitor the commitments.

Recommendation 2. Incorporate human rights commitments in WWF's agreements with governments and other partners

Through the *Conservation and Human Rights Framework*, WWF committed to applying its human rights policies and principles in its agreements with its partners, including by incorporating appropriate provisions on compliance with the policies and principles in subcontracts and partnership agreements. To fulfil these commitments, WWF should take the following steps:

- (a) WWF should include clear statements of its human rights commitments in all of its country and management agreements with governments and other partners. The language should be consistent across all of the agreements. Agreements that provide for, or could provide a basis for, engagement in specific sites should also include provisions relevant to those areas.
- (b) WWF should evaluate all of its existing agreements with governments and, where possible, amend them to include language reflecting its human rights commitments. All new and renewed country agreements should include appropriate language on human rights commitments.
- (c) WWF should ensure that the respective roles and responsibilities of WWF and its partners are clearly set out in their agreements. Titles should reflect actual responsibilities and authority. For example, WWF staff should not be described as directors of parks if they do not have full authority to employ and supervise park staff.

Recommendation 3. Adopt and embed WWF's human rights commitments in relation to law enforcement

Many human rights allegations have arisen because of WWF support for law enforcement and anti-poaching activities in and around protected areas. Agreements with governments contemplating support for law enforcement should reflect WWF's commitments and conditions regarding such support and clearly set out the corresponding commitments of the government.

- (a) WWF should adopt detailed human rights commitments in relation to law enforcement and anti-poaching activities. The draft Principles on Enforcement and Rangers contained in an annex to *ESSF Standard 7 on Community Health, Safety and Security* are a good starting point. In preparing new guidelines on WWF support for law enforcement activities, WWF should consult with human rights organisations and other stakeholders.
- (b) The commitments in relation to law enforcement and rangers should include the codification of WWF's prohibition on funding purchases of firearms, and its standards in relation to informants that are currently addressed in the manual developed with TRAFFIC and published in 2019.
- (c) Agreements between WWF and governments should establish human rights standards for rangers and other law enforcement agents that are at least as stringent as international norms, including the *UN Code of Conduct for Law Enforcement Officials* and the *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, which state, among other things, that law enforcement officials may use force only when strictly necessary and to the extent required for the

performance of their duty, and may never inflict any act of torture or other cruel, inhuman or degrading treatment.

- (d) WWF should develop a standard Code of Conduct for rangers, which should be consistent across all WWF programmes. WWF support to rangers should be tied to compliance with the Code of Conduct, which should be public and disseminated to indigenous peoples and local communities in their own languages.
- (e) When providing support for law enforcement activities in protected areas, WWF should ensure that there are effective systems of monitoring and enforcing human rights standards in place, including due diligence procedures for hiring, training and disciplining rangers. WWF should make clear that it cannot provide support for rangers without effective mechanisms in place to monitor their behaviour, investigate allegations and provide appropriate disciplinary measures for confirmed violations.
- (f) Training should be provided regularly to educate protected area officials, rangers and other law enforcement agents on the Code of Conduct and relevant domestic and international standards. Training should include education and capacity building with regard to interactions with indigenous peoples and local communities. WWF should offer such training to new recruits, with refresher training on a regular basis thereafter. Training on these topics should also be offered, as appropriate, to senior government officials and the judiciary.
- (g) WWF should monitor and report on compliance by rangers and other law enforcement agents in sites to which WWF provides support. In addition to setting up complaint mechanisms, WWF should also regularly consult with indigenous peoples and local communities and take other appropriate proactive steps, such as spot checks on patrols.
- (h) WWF should continue to support international efforts to improve standards, training and welfare for rangers, including through its partnership in the Universal Ranger Support Alliance.

Recommendation 4. Increase WWF's institutional expertise and capacity on human rights compliance

To fulfil its human rights obligations WWF will require a substantial investment in building capacity at headquarters, home office and country level to effectively implement its human rights commitments, including through the following measures:

- (a) The International Board should review its membership and ensure that at least one member is a representative of indigenous peoples, and at least one member has expertise in human rights. This may require recruitment of additional external members.
- (b) WWF International should appoint a Director of Human Rights Commitments and Compliance (HRCC), who would be part of the Senior Management Team and report directly to the Director General. This person should have appropriate experience and expertise in human rights and be on the Conservation Quality Committee. This position would oversee, and be supported by, the office identified or established by WWF International as the appropriate office to hold day-to-day responsibility for coordinating, promoting and supporting implementation of WWF's human rights commitments.

- (c) The HRCC Director would have the direct responsibility for ensuring that Programme Offices under the authority of WWF International understand and implement WWF human rights commitments, as well as the overall responsibility for ensuring that other offices throughout the Network understand and implement WWF human rights commitments. Among other things, the HRCC Director would ensure that:
- all WWF staff are trained in WWF's human rights commitments and social policies;
 - WWF staff in National Organisations and Programme Offices are provided with clear and practical guidance on how to implement WWF's human rights commitments, including those relating to indigenous peoples and local communities;
 - National Organisations and Programme Offices carry out human rights due diligence procedures (see Recommendation 5) in designing and implementing initiatives; and
 - good practices and lessons learned are disseminated and shared throughout the Network.
- (d) The HRCC Director should be responsible for monitoring, and regularly reporting to the International Board on, compliance by National Organisations and Programme Offices with WWF's human rights commitments.
- (e) WWF National Organisations and Programme Offices should each appoint or designate an individual with responsibility to ensure that the office fulfils its due diligence and other human rights commitments, and who has the necessary expertise and support. The individual should report directly to the Executive Director of the office and to the Network HRCC Director. This position may build on the experience learned in the SD4C programme, but it would not be a voluntary position as in SD4C.
- (f) The Network should create a human rights practice group that is chaired by the HRCC Director and includes representatives from offices throughout the Network. The practice group should provide a forum to discuss cross-cutting issues and share good practice.

Recommendation 5. Establish and implement human rights due diligence processes

WWF should clarify and institutionalise the steps required for its human rights due diligence process, including: (a) assessing all actual and potential human rights impacts of its proposed initiatives; (b) consulting with those who may be affected and taking into account their views; (c) ensuring action plans effectively address the human rights impacts identified; and (d) monitoring and evaluating implementation of the plans.

- (a) *Assessment.* The assessment process should identify the potential and actual human rights impacts relating to a proposed WWF project or other initiative. The assessed impacts should include not only those that WWF may directly cause through its own actions, but also those to which it may contribute and those to which it may be directly linked through its partnerships. WWF must take particular care, in accordance with its own commitments and human rights norms, to assess the impacts on rights of indigenous peoples and local communities.

In its draft ESSF, WWF has proposed developing risk assessments and action plans for each landscape and seascape in which it works. However, WWF's own commitments, the safeguard mechanisms of many of its donors, and human rights norms require that assessments of potential human rights impacts and ensuing action plans address and mitigate those impacts at the project level. WWF needs to ensure that its due diligence process applies to all projects and other initiatives that may give rise to human rights impacts, including its country and management agreements with governments and other partners.

- (b) *Consultation.* In accordance with uniform guidance provided by the WWF HRCC Director, National Organisations and Programme Offices should consult with potentially affected stakeholders in assessing potential human rights impacts in the course of designing projects or new initiatives; developing an action plan; and monitoring its implementation. Consultation should begin at an early stage, so that it may provide meaningful input into the assessment and the development of the action plan.
- (c) *Action plan.* The outcome of the due diligence process is to ensure that WWF fulfils its human rights commitments by adequately addressing actual and potential human rights impacts that WWF may directly cause or contribute to, and those to which it may be directly linked through its partnerships. The action plan should clearly identify appropriate actions to prevent and mitigate potential negative impacts, set out the responsibilities of the WWF offices and partners concerned, and provide for sufficient funding and other resources to carry out those responsibilities. For higher-risk landscapes/seascapes, projects and other initiatives, WWF should seek independent expert advice in the course of developing the action plan. Initiatives that may significantly affect indigenous peoples or local communities should be classified as higher-risk.
- (d) *Monitoring and evaluating implementation.* Because human rights impacts may change over time, the responsible WWF office should regularly consult with its partners and affected stakeholders, including indigenous peoples and local communities, to determine the extent to which the plan is meeting its goals and whether the goals remain adequate. On the basis of such tracking and consultation, the responsible WWF office should identify and report on problems, propose responses and, together with the other WWF offices involved, decide on the appropriate actions to take.
- (e) Human rights should be mainstreamed into programmes and projects across the Network, with regular social audits to confirm compliance. Social audit teams could be drawn from across the Network to include human rights expertise. When internal monitoring reveals actual or potential systemic or large-scale problems, independent expert reviews should be commissioned.
- (f) WWF should encourage dissemination of lessons learned and good practice across the Network. There could also be opportunities for cross-Network learning by involving staff from other country programmes to help supervise and support programmes that are facing particular challenges.

Recommendation 6. Ensure compliance with commitments relating to indigenous peoples and local communities (IPLCs)

WWF must take more concrete steps to fulfil the commitments in its 2008 *Statement of Principles on Indigenous Peoples and Conservation* and its 2018 *Network Guidelines on Prevention of Restriction of Rights and Involuntary Relocation and Resettlement of Indigenous Peoples and Local Communities*, including the following measures in each landscape/seascape where its activities may affect the rights of indigenous peoples and/or local communities (IPLCs)¹:

- (a) Each WWF National Organisation and Programme Office in such landscapes/seascapes should have an IPLC coordinator who has expertise in indigenous rights and community consultation, and who has sufficient support to engage with IPLCs in the landscape and to ensure that they have input into the development and implementation of WWF activities.
- (b) WWF should regularly organise inclusive forums at local, national and international levels for discussion of issues concerning IPLCs, and should work to strengthen management and governance of protected areas to ensure that they include meaningful and effective participation by IPLCs.
- (c) WWF National Organisations and Programme Offices should engage with, and where possible employ, indigenous people and members of local communities, especially in relation to conservation and protected area management.
- (d) WWF National Organisations and Programme Offices should partner with and support appropriate local civil society organisations that are already engaged with IPLCs. Where the organisations provide independent advice and support to IPLCs, WWF should ensure that its logistical and financial relationships preserve that independence both in appearance and in fact.
- (e) The due diligence process should mainstream IPLC issues, including by carefully assessing potential impacts on IPLCs and their rights, ensuring full and effective participation of IPLCs throughout the development and implementation of proposed initiatives, and implementing mitigation and monitoring measures that satisfy WWF's commitments in its *Statement of Principles* and *Network Guidelines*, including ensuring that its partnerships with governments do not undermine, and if possible actively promote, the basic human rights and customary resource rights of IPLCs. The due diligence process should identify at the earliest possible stage whether any proposed actions implicate the right of free, prior and informed consent and, if so, make clear how that right will be respected through appropriate procedures and safeguards.
- (f) In relation to protected areas in which customary rights of access and use existed historically but are not currently respected in law or practice, WWF should work with

¹ Indigenous peoples have rights, including the right of free, prior and informed consent, that local communities do not all share. However, some local communities that do not self-identify as indigenous also have close relationships to the territory that they have traditionally occupied and depend directly on natural ecosystems for their subsistence and culture. The members of such communities have rights similar to those of indigenous peoples in relation to the use and enjoyment of their land, territory and resources (see Chapter 3). The Panel uses the term IPLC here to include local communities in this sense.

the authorities, the IPLCs and other stakeholders to promote and support mitigation measures and to develop a plan of action that describes the measures and the arrangements for implementation. These may include recognition of rights of use and access in park management plans, community forests and zoning of protected areas, and clarification of the boundaries of different zones to all interested parties, including rangers and IPLCs themselves.

- (g) WWF International should identify an IPLC Coordinator, who has a mandate to develop and disseminate detailed guidance to all WWF offices on FPIC procedures, implementation of WWF commitments on IPLCs, and mainstreaming IPLC issues into the human rights due diligence process. The IPLC Coordinator should work in cooperation with the WWF HRCC Director.
- (h) WWF should encourage protected areas where it works to adopt the IUCN Green List process. The Green List of Protected and Conserved Areas provides standards and indicators to strengthen good governance and to improve design and planning of protected areas for more effective management and conservation outcomes.²

Recommendation 7. Establish effective complaint mechanisms

WWF should provide for complaint mechanisms at the level of individual countries and at the level of the Network. At both levels, complaint mechanisms should have the characteristics identified in Chapter 3, including accessibility, transparency and independence.

- (a) In all countries, WWF must have a country-level procedure for receiving complaints concerning its staff and those of its partners. (As appropriate, the procedure may be at the level of particular projects.) The procedure must protect complainants from reprisals. Complaint mechanisms should be easily accessible to local stakeholder communities. Information on how to bring complaints should be disseminated in ways that are appropriate to local conditions. This is especially important in countries where stakeholders may not have access to reliable judicial and administrative procedures.
- (b) Where possible, WWF should ensure that communities have access to an appropriate independent complaint mechanism administered by a local civil society organisation. Preferably, such mechanisms should be able to receive, mediate, resolve and refer complaints not only about rangers, but also about other sources of conflict and abuse. To be effective, these mechanisms must be accessible to the local population, staffed by competent experts, and have sustainable long-term financing. The independent mechanisms should also provide channels of communication to bring to WWF's attention complaints concerning either WWF staff, or the staff of partners to which WWF provides support, including rangers.
- (c) Financing for complaint mechanisms, including those serviced by independent civil society organisations, should be sought routinely as part of the financing for WWF landscape and seascape programmes and built into regular project budgets.
- (d) When WWF receives complaints, it should follow through to see that they are appropriately investigated and resolved, ensuring that partners have taken appropriate measures, including, where necessary, disciplinary action. WWF also has a

² <https://iucngreenlist.org/>.

responsibility to track complaints and their resolution in order to determine whether they are isolated incidents or indicative of a more systemic problem. If they indicate a systemic problem, WWF should address the problem in accordance with Recommendations 3 and 5, above.

- (e) WWF International has committed to appointing an independent Ombudsperson, reporting directly to the International Board, who would be able to address complaints from individuals and communities affected by WWF programmes. Many aspects of the proposal are still not clear, including whether the new position would investigate complaints, conduct mediation, provide redress, or some combination thereof.

The Panel supports the creation of the Ombudsperson Office as long as: (a) it has the authority to monitor the effectiveness of the country-level complaint mechanisms, to receive and investigate complaints that are not resolved by those mechanisms, and to provide redress or recommend other appropriate remedies; and (b) it is given sufficient resources to fulfil its mandate. WWF should commit to implementing the recommendations of the Ombudsperson that are directed to it.

Submissions to country-level complaint mechanisms that are not addressed to the satisfaction of the complainant or the relevant WWF office may be escalated to the Ombudsperson Office for its consideration. Broader or systemic complaints should be brought directly to the Ombudsperson Office, either by the complainant or by referral from the local complaint mechanism or WWF office to which the complaint was made.

The Ombudsperson Office should maintain a registry of complaints, which describes the nature of each complaint and how it is being addressed, maintaining appropriate confidentiality. A public summary of that record should be maintained on the website of the Ombudsperson Office, which should be separate from the WWF website but accessible from it.

Recommendation 8. Be more transparent

An important aspect of the human rights due diligence process is communicating how potential and actual human rights impacts are being addressed. Such communications should not be seen as an exercise in public relations or an effort to insulate WWF from criticism. WWF must report honestly and transparently not only its progress in achieving compliance with its commitments, but also the challenges it faces and where it has not been able to meet its goals.

- (a) The full report of this Panel should be translated into French, and appropriate versions should be disseminated to all WWF National Offices and Programme Offices, and made easily accessible to the public on the WWF website.
- (b) Each National Office and Programme Office should report annually on that office's implementation of WWF's human rights commitments. In preparing the report, the office should consult with interested stakeholders inside and outside WWF. The report should fairly and accurately assess progress and obstacles. It should include information on human rights complaints received concerning WWF's work in that country (including allegations of abuses committed by rangers in protected areas to which WWF provides support), and how those complaints have been addressed. For complaints referred to a judicial procedure or an independent mechanism, the report should describe how they were resolved.

- (c) The WWF HRCC Director should publish an annual report on implementation of human rights commitments that incorporates the country-level reports.
- (d) The key documents concerning WWF's involvement in landscape/seascape programmes and projects, including agreements with governments, protected area management plans, codes of conduct for rangers, the action plans described in Recommendation 5, and reports on implementation, should be provided to partners and stakeholders, including indigenous peoples and local communities, that are directly affected. Relevant reports and other documents related to human rights should also be made easily accessible to the public through the WWF website.

Recommendation 9. Mainstream costs of effective human rights compliance into funding

The failure of WWF to fully implement its human rights commitments in the past has been due in large part to a lack of resources within programme and project budgets to engage appropriate expertise, and to build capacity to implement and monitor human rights compliance. Donors must recognise that it is no longer acceptable to fund conservation programmes without including adequate and sustainable funding for implementation and monitoring of corresponding human rights commitments.

- (a) WWF Programme Offices should seek sufficient funding from National Organisations and other donors to implement their human rights commitments effectively. They must make clear to donors the level of resources needed, as a necessary component of conservation initiatives.
- (b) Donors are responsible for due diligence to ensure that the funds they direct to WWF projects are used consistently with their own human rights commitments. Project agreements between donors and WWF offices should include requirements for monitoring and reporting on human rights commitments as part of regular reporting, and donors should pay close attention to how those commitments are being implemented.
- (c) In many of the countries in which WWF works, one of the main challenges it faces is that its human rights commitments set a significantly higher standard than those applied by the national government, especially in relation to the rights of indigenous peoples and local communities. For WWF to meet its human rights commitments, it is often necessary for it to try to persuade governments to do more to fulfil their own international obligations. WWF International, National Organisations, and especially major external bilateral and multilateral donors have much greater leverage than local WWF offices to promote government compliance with human rights obligations. These actors have a responsibility to use their leverage to support local WWF offices by raising concerns over human rights issues directly with the governments themselves and providing political as well as financial support for implementation of WWF's human rights commitments. They should think creatively about how to use their points of leverage, which may include not only agreements and financial relationships, but also capacity-building of partners, public advocacy, personal relationships, and joint action with other organisations.

Recommendation 10. Follow up in two years

The WWF International Board should commit now to appointing an independent expert or body (other than the members of this Panel) to review, and report publicly on, the implementation of these recommendations by the end of 2022.