



Deutsches Institut
für Menschenrechte

Position Paper

KfW's Human Rights Obligations in Conservation Work

The example of La Salonga National Park

September 2020

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1 Background

Governments are due to adopt a new set of biodiversity targets during talks in Kunming, China, next year to replace the 2020 goals agreed in Aichi, Japan, in 2010. According to the draft text, at least 30 per cent of the world's land and seas should be protected in the next decade to prevent the destruction of the planet's biodiversity, compared to 17 per cent in the last decade.¹ If more conservation areas are to be established, safeguards to protect the rights of indigenous and other communities living in or in proximity of protected areas must be in place and effectively implemented by all stakeholders.

Germany's engagement in the protection of national parks in Central Africa has come under increased international and domestic scrutiny in recent years. After international NGOs, such as Rainforest UK,² drew attention to allegations that park staff have committed serious human rights violations such as physical abuse resulting in injuries, rape and murder, German and international media also reported on this issue.³ These allegations have also been the subject of a series of parliamentary inquiries raised by members of the German parliament.⁴ The allegations concern La Salonga National Park in the Democratic Republic of Congo and other protected areas in Central Africa, many of which are supported by German development cooperation via the KfW Development Bank (KfW). The main thrust of the NGOs' reports has been that conservation work is being prioritised over social objectives and that local communities are paying in basic human rights and lost opportunities for that cause. In the case of La Salonga park, much of the direct criticism has been levelled against the ecoguards/rangers tasked with protecting the park, and specifically the lack of adequate training for them as well as the incentive system that encourages them to arrest poachers. A more fundamental critique is the exclusion and/or lack of participation of the local communities in the establishment, management and benefit-sharing of this and other parks. To support partner countries' nature conservation efforts, KfW often works through implementing contractors, such as the World Wild Fund for Nature (WWF) or Zoologische Gesellschaft Frankfurt (ZGF). In the case of La Salonga, KfW signed a consultancy agreement with WWF on behalf of the Congolese partner authority ICCN, the Institut Congolais pour la Conservation de la Nature (ICCN). The ICCN is responsible for the hiring, equipping and discipline of ecoguards/rangers. German development cooperation emphasises that it does not finance the provision of arms for ecoguards. In 2019, in response to the reports referred to above, WWF Germany commissioned a German human rights consultancy

¹ Draft monitoring framework for the post-2020 global biodiversity framework circulated in advance of the 24th meeting of the Subsidiary Body on Scientific, Technical and Technological Advice:

<https://www.cbd.int/sbstta/sbstta-24/post2020-monitoring-en.pdf> (accessed 28.08.2020)

² Rainforest UK (2016): Protected areas in the Congo Basin: failing both people and biodiversity?

<https://www.rainforestfoundationuk.org/media.ashx/protected-areas-in-the-congo-basin-failing-both-people-and-diversity-english.pdf> (accessed 28.07.2020)

³ Deutsche Welle (2019): Nature conservation projects marred by human rights violations.

(<https://www.dw.com/cda/en/nature-conservation-projects-marred-by-human-rights-violations/a-48765516>

(accessed 28.07.2020); Buzzfeed (2019): WWF's secret war.

<https://www.buzzfeednews.com/collection/wwfsecretwar> (accessed 28.07.2020); Guardian (2019): UK charity

knew of alleged abuse in Congo parks but did not act. [https://www.theguardian.com/global-](https://www.theguardian.com/global-development/2019/mar/15/uk-charity-knew-of-alleged-abuse-in-congo-parks-but-did-not-act-sangha-tri-national-trust-fund)

[development/2019/mar/15/uk-charity-knew-of-alleged-abuse-in-congo-parks-but-did-not-act-sangha-tri-national-trust-fund](https://www.theguardian.com/global-development/2019/mar/15/uk-charity-knew-of-alleged-abuse-in-congo-parks-but-did-not-act-sangha-tri-national-trust-fund) (accessed 28.07.2020)

⁴ Deutscher Bundestag (2018): Antwort der Bundesregierung auf die Kleine Anfrage der Fraktion DIE LINKE.

Drucksache 19/4298, 19. Wahlperiode; Deutscher Bundestag (2019): Antwort der Bundesregierung auf die

Kleine Anfrage der Fraktion der AfD. Drucksache 19/10485, 19. Wahlperiode. Other donors face similar

allegations, see UNDP Social and Environmental Compliance Unit (SECU): Case Files SECU0008 and

SECU0009 on Integrated and Transboundary Conservation of Biodiversity in the Basins of the Republic of

Congo

firm to assess its human rights due diligence in the context of wildlife conservation projects.⁵ In 2018, KfW and GIZ had commissioned a study on several of their engagements in Central Africa, and that report was finalised in October 2019.⁶ There is also a case study on development cooperation engagement in Lobéké National Park in Cameroon that the Seminar für ländliche Entwicklung (SLE), a development think tank and training institution, conducted at the request of KfW.⁷

In autumn 2019, KfW commissioned Monkey Forest Consulting (MFC), a consulting company specialising in security and community participation issues, to assess the security and environmental and social management systems at La Salonga. The KfW requested the German Institute for Human Rights (the Institute) to advise it and the MFC on the inclusion and evaluation of human rights aspects in this assessment. Contracted as an independent adviser, the Institute had access to the relevant documentation and participated in meetings between KfW and the consultant. The Institute suggested human rights focus areas for the investigation, commented on intermediary work products and advised on further aspects to be included. The Institute did not take part in the field investigations undertaken by MFC, and its mandate did not include the verification of the allegations against Congolese ecoguards in La Salonga.

In this position paper, the Institute summarises the points covered in its human rights advice to KfW and draws conclusions of relevance for the overall environmental and social management (ESM) of this and other engagements.

2 Human rights in conservation work

States' human rights treaty obligations do not stop at the borders of their territory: States engaging in development cooperation activities aimed at nature conservation in partner states must respect and protect human rights in the context of their own activities and must support their partners in their fulfilment of their human rights obligations. The human rights strategy⁸ of the Federal Ministry for Economic and Development Cooperation (BMZ) transposes these obligations into binding policy instructions that operationalize the pledges made by the German government. The BMZ, as part of the German government, is also the primary duty bearer when it comes to human rights in development cooperation. It has a responsibility to set up its implementing agencies, such as GIZ and KfW, in such a way that they further the implementation of human rights and to ensure that BMZ itself retains the power to ensure that its implementing bodies comply with human rights requirements, the capacity to monitor them and the authority to adjust contract requirements.

Partner states remain responsible for the human rights situation in their countries and are obliged to implement the treaties they have ratified. Home state development

⁵ Löning Human Rights and Responsible Business (2019): Assessment of human rights due diligence processes for WWF Germany. https://www.wwf.de/fileadmin/fm-wwf/Publikationen-PDF/Loening_WWF-Bericht_ENG.pdf (accessed 28.07.2020)

⁶ KfW & GIZ (2019): Human rights and protected areas in the Congo Basin (unpublished).

⁷ Seminar für ländliche Entwicklung (2019): Conflicts, participation and co-management in protected areas. A case study of Lobéké National Park, Cameroon. <https://edoc.hu-berlin.de/bitstream/handle/18452/20776/SLE%20279%20Conflicts%2c%20participation%20and%20co-management%20in%20protected%20areas.pdf?sequence=4&isAllowed=y> (accessed 28.07.2020)

⁸ BMZ (2011): Menschenrechte in der deutschen Entwicklungspolitik. Strategiepapier. https://www.bmz.de/de/mediathek/publikationen/reihen/strategiepapiere/Strategiepapier303_04_2011.pdf (accessed 20.08.2020)

institutions, however, need to have the procedures, setup and instruments necessary to make sure that their support does not further human rights violations in or by the partner state but instead supports the latter in implementing its human rights obligations.

In particular, home states engaging in development cooperation need to pay attention to:

- the human rights of the rights-holders and communities affected by conservation work and the corresponding state obligations arising from the core human rights treaties ratified by the home and partner states.
- the human rights responsibilities of business enterprises involved in their activities regarding how they organise themselves for discharging their duties. This includes KfW, as a state development bank, and WWF as the implementing consultant.

The following human rights are of great relevance in conservation measures affecting rights-holders and communities:

- the principle of non-discrimination (art. 2 ICCPR, ICESCR);
- the right to life and physical integrity (art. 6, 9 ICCPR);
- the right to participate in the conduct of public affairs (art. 25 ICCPR), for indigenous peoples this is operationalised in the principle of free, prior and informed consent (FPIC);
- the right to an adequate standard of living and other basic services: food, housing, water, sanitation, health, education (Art.11, 12, 13 ICESCR);
- accountability and the right to remedy (Art. 2 (3) ICCPR).

3 The UN Guiding Principles on Business and Human Rights

With regard to the human rights obligations of home states and responsibilities of businesses, human rights treaties and particularly the UN Guiding Principles on Business and Human Rights (UNGP) provide a framework that can guide home states and business in discharging their respective duties. While the UNGPs are not binding in a legal sense, the German government has committed itself to implementing them.⁹

Among the UNGP, the following have the greatest relevance for this context:

- UNGP 7, which states that duty bearers have a heightened responsibility to help businesses operating in conflict-affected areas to implement their human rights responsibilities;
- UNGP 8, which calls upon the state to provide for policy coherence;
- UNGP 11, which recognises the responsibility of businesses to respect human rights;
- UNGP 13, which asserts that this responsibility entails avoiding adverse human rights impacts and/or mitigating impacts that do occur;

⁹ See e.g. Coalition agreement (2013): Deutschlands Zukunft gestalten. Koalitionsvertrag zwischen CDU, CSU und SPD, p. 125. <https://www.cdu.de/sites/default/files/media/dokumente/koalitionsvertrag.pdf> (accessed 28.07.2020)

- UNGP 19, which specifies that businesses should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action in order to address potential or actual adverse human rights impacts;
- UNGP 17, which includes provisions on the “how”, “why” and “when” of human rights due diligence;
- UNGP 21, which identifies businesses’ responsibility to communicate externally about how they are addressing human rights impacts/risks;
- UNGP 29, which requires businesses to establish effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted;
- UNGP 31, which sets out the criteria for non-judicial grievance mechanisms.

4 How human rights treaties and the UNGP apply to German development cooperation

Different obligations and responsibilities for the relevant actors flow from the human rights treaties and the UNGP.

- BMZ, as part of the executive branch of the government of the home state, bears obligations under the human rights treaties ratified by Germany and under pillar I (“state obligations to protect”) of the UNGPs.
- ICCN, as part of the executive branch of government of the home state, bears obligations under the human rights treaties ratified by the Democratic Republic of Congo and under pillar I of the UNGPs.
- WWF, as the contracted implementer, is a “business” within the meaning of the UNGPs, and as such bears the responsibilities under pillars II and III (UNGP 29). In analogy to the supply chain classification, WWF, as an implementing contractor, can be considered a tier 1 supplier with the respective human rights responsibilities.
- KfW is a state development bank established under public law, which performs public functions. Some of its subsidiaries are incorporated under private law.¹⁰

In focus: Human rights obligations of state development finance institutions

KfW as a part of the German administration is directly obliged to apply human rights treaties. The question is whether KfW’s subsidiaries which are incorporated under private law, are private entities with responsibilities under the second and third pillars of the UNGP or whether the human rights treaties apply directly.

Under public international law, the actions and omissions of KfW and its subsidiaries are attributable to the German state because KfW implements public policies and is controlled by the executive branch.¹¹ Accordingly, human rights treaty bodies have attributed human rights violations by private actors to states, when the private actors in question are implementing public policies and are controlled by the state.¹² UNGP

¹⁰ See eg DEGinvest <https://www.deginvest.de/International-financing/DEG/%C3%9Cber-uns/Wer-wir-sind/> (accessed 29.9.2020)

¹¹ Draft articles on responsibility of states for internationally wrongful acts, with commentaries, 2001, Art. 5. https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf (accessed 28.07.2020)

¹² UN document A/HRC/32/45, Para 29-34.

4, on the other hand, categorises institutions of development finance as “state-owned enterprises” (SOE). KfW’s entities incorporated under private law would thus be considered business enterprises and come under the responsibilities set out in the second and third pillars of the UNGPs.

In a 2016 report,¹³ the UN Working Group on the issue of human rights and transnational corporations and other business enterprises reported that human rights treaty bodies have associated human rights violations of SOEs with the state’s duty to respect, particularly when they exercise public functions or have delegated authority. States have a particular obligation to use all available resources when performing public functions through state-owned enterprises.¹⁴ Thus, human rights due diligence by entities carrying out public functions such as SOEs – even when incorporated under private law - should be based both on states’ human rights obligations as well as on the responsibilities arising to businesses.

5 Resultant web of obligations

Under the UNGPs, KfW would thus be considered a part of the executive branch of the German government which is subject to the obligations under pillar I. In its 2008 human rights declaration KfW itself states, “As a bank owned by the federal government and the federal states, KfW Bankengruppe considers itself under a special obligation to conduct its business in line with Germany’s commitments under these international agreements.”¹⁵

Germany (and by extension KfW) has flexibility in deciding how to implement these human rights commitments when working with partners in development cooperation. This decision should be based on its assessment of the context and of the partner’s willingness and capacity to uphold human rights, and must be subject to continual review that is informed by monitoring and reporting on the activities’ progress and on changing circumstances and include designing contracts in a way which integrates human rights objectives and provides avenues for ensuring compliance with them.

The overall objective is for Germany, as the human rights duty bearer, represented by the BMZ, to be able to act in compliance with its obligations to respect, protect and help its partners to fulfil human rights in its development cooperation activities.

Although the UNGP provides relevant guidance, the exact allocation of responsibilities will have to be based on a common framework agreed between the BMZ and KfW that covers the full range of human rights obligations and due diligence responsibilities and is designed according to established good practice when it comes to achieving positive human rights outcomes and preventing harmful outcomes.

KfW and its entities, whether considered part of the German government or a SOE with heightened responsibility, have a responsibility to assess human rights risks, to design contractual obligations with a view to ensuring compliance with human rights,

¹³ UN document A/HRC/32/45, Para 30-35.

¹⁴ UN document A/HRC/32/45, Para 22 f.

¹⁵ KfW (2008): Declaration by KfW Bankengruppe on the consideration of human rights in its business operations. <https://www.kfw.de/nachhaltigkeit/Dokumente/Sonstiges/Menschenrechtserklärung-en.pdf> (accessed 28.07.2020)

to carry out regular human rights compliance monitoring as well as to intervene in cases of risks or non-compliance. It must ensure the implementation of human rights due diligence by its contracted implementers, for example by including the submission of human rights risk and/or impact assessments among the contractual duties of the latter.

Political dialogue and other means promoting good governance in the partner state are important for supporting implementation of nature conservation measures. Political dialogue, however, should remain the domain of the main home-state institution (BMZ) and cannot be reasonably delegated to non-state implementers like WWF or even to KfW. While political dialogue is not regulated by human rights law, it should address human rights obligations of the home and partner state. Home states should assess whether the partner state has policy space for human rights implementation and/or reform or whether they (the home states) have the ability to enable or support the creation of such space and of the political will to use it.

6 Operationalising human rights treaties

Experts within the UN system have drawn up guidelines or principles which serve as authoritative guidance for the operationalisation of human rights for specific sectors. These guidance documents focus on the “how-to” of human rights: the procedures, instruments and institutional set-ups necessary to ensure respect for and further the implementation of human rights. The authoritative guidance documents of relevance for the rights and principles listed above include the following:

- Basic Principles and Guidelines on Development-based Evictions and Displacement, issued by the UN Special Rapporteur on the adequate housing in 2007; the aim of this document is to assist states to develop policies and legislation at the domestic level that will prevent forced evictions.¹⁶
- The Voluntary Guidelines on the Governance of Tenure (VGGT) address land rights, including customary tenure rights.¹⁷ The Interlaken Group has adapted these principles for legacy land issues.¹⁸
- For the security sector, the Voluntary Principles on Security & Human Rights (VPSHR)¹⁹ aim at providing companies with guidance on how they can prevent and address potential and actual security-related human rights abuses and violations. This document covers several elements, including a comprehensive assessment of human rights risks, engagement with public and private security providers, regular consultations with communities, human rights screening and training of security guards, as well as systems for reporting and investigating incidents.

In addition to this guidance from the human rights realm, environmental and social safeguard policies of other development finance institutions, such as the World Bank and the IFC, provide guidance on how to structure environmental and social assessment processes. While the protection afforded by these safeguards is still

¹⁶ United Nations General Assembly (2007): Report of the UN Special Rapporteur on the right to housing, A/HRC/4/18, Annex 1

¹⁷ Committee on World Food Security (2012): Voluntary guidelines on the governance of tenure. <http://www.fao.org/tenure/voluntary-guidelines/en/> (accessed 28.07.2020)

¹⁸ Interlaken Group (2017): Land legacy issues. Guidance on corporate responsibility. <http://rightsandresources.org/wp-content/uploads/2017/09/Interlaken-Group-Land-Legacy-Guidance.pdf> (accessed 28.07.2020)

¹⁹ Voluntary Principles on Security & Human Rights. <https://www.voluntaryprinciples.org> (accessed 28.07.2020)

insufficient in some respects from a human rights perspective, some of the process-related requirements that they set out, such as that of drawing up action plans, could serve as a model for other institutions.

7 KfW's human rights declaration and environmental and social management procedure

In 2008, KfW issued a declaration on its commitment to human rights. According to this document: "In its environmental and social guidelines, KfW Bankengruppe has set itself the goal of excluding projects from financing ...[in cases where these] are likely to have unacceptable environmental or social impacts. A breach of human rights can constitute such a case."²⁰ KfW also undertakes to support human rights in its Sustainability Guideline,²¹ which states, inter alia, the following:

- all financial cooperation is subject to an assessment, and KfW seeks to actively support the implementation of human rights in its business operations through the existing instruments at its disposal and in line with KfW's human rights declaration (1.3),
- assessments consider the requirements of the human rights guidelines of the BMZ,²² including the World Bank safeguard policies and IFC performance standards (4.2.2.), the principle of free, prior, informed consent (FPIC), the responsible governance of tenure of land (VGGT) and the UN Basic Principles and Guidelines on Development-based Evictions and Displacements (4.2.3.),
- the KfW Development Bank may require a detailed human rights impact assessment (HRIA) and additional measures aimed at ensuring that human rights are upheld in the event that a critical human rights situation is known or expected, or if the project has effects that may result in conflicts that could significantly harm human rights (e.g. resource use conflicts) (4.3.2.7).

With respect to its rules regarding environmental and social management (ESM) procedures, KfW's guideline provides for

- an environmental and social due diligence assessment (ESDD) (4.), which is intended to steer the project through the life cycle (4.1.3), consisting of a pre-appraisal and, should one be warranted, an in-depth appraisal (4.1.4),
- the ESDD integrates the BMZ human rights guidelines, as well as other standards (see above, 4.2.3),
- Stakeholder engagement is an integral part of the ESDD process (4.9) and the draft environmental and social impact assessment (ESIA) report must be presented to stakeholders (4.9.1),
- the executing agency is required to set up a grievance mechanism (4.9.2),

²⁰ KfW (2008), see footnote 15

²¹ KfW Development Bank (2019): Sustainability Guideline, https://www.kfw-entwicklungsbank.de/PDF/Download-Center/PDF-Dokumente-Richtlinien/Nachhaltigkeitsrichtlinie_EN.pdf (accessed 28.07.2020)

²² BMZ (2013): Guidelines on Incorporating Human Rights Standards and Principles, Including Gender, in Programme Proposals for Bilateral German Technical and Financial Cooperation https://www.bmz.de/en/zentrales_downloadarchiv/themen_und_schwerpunkte/menschenrechte/Leitfadenn_PV_2013_en.pdf (accessed 28.07.2020)

- the executing agency must agree to comply with certain reporting and notification requirements (5.1.1),
- a project database of projects under implementation, with short project descriptions in German, sometimes English. The project description includes the risk categorisation result (6).

UNGP 21 requires that businesses communicate publicly how they deal with human rights risks. For states, transparency is a human rights principle. KfW should increase transparency with respect to how it implements its assessment procedures and how it translates its standards into its contractual relationships and internal procedures.

- KfW should make its screening template for conducting the environmental and social assessment publicly accessible, as the United Nations Development Program does, for instance.²³ This would provide transparency with respect to how human rights are operationalised in this process. KfW should also release information detailing whether and how a HRIA has been carried out.
- When KfW works with contracted implementers, such as WWF, it should also communicate to the public how it goes about assessing the ESMS of these implementers, and how it integrates newly emerging information about implementing partners into ongoing operations.²⁴
- When dealing with implementing contractors, KfW is functionally equivalent to a business that deals with other businesses along its value chain (“development”), and it needs to assess the corresponding risks in a regular manner and develop measures to address them.

8 Conclusions for KfW Development Bank

While the mandate of Monkey Forest Consultation (MFC) was to analyse the management in La Salonga National Park, the German Institute for Human Rights analysed how KfW should discharge its own human rights obligations and/or responsibilities.

As stated above, even when it works through implementing partners such as WWF, KfW remains the human rights duty bearer: (some) activities to implement human rights obligations can be outsourced, but the human rights obligations themselves cannot be. In order to live up to these obligations, the KfW must ensure that the contracts concluded with implementers effectively ensure performance that is fully in line with these obligations and that the KfW retains the power to ensure compliance with human rights, the capacity to monitor and the authority to adjust contract requirements.

Exercise human rights due diligence regarding partner capacity

To exercise due diligence, KfW should assess the capacity of partners and implementing contractors, such as WWF and ICCN, to implement the activities in line with KfW’s sustainability guideline and should structure its contracts with partners and contractors to be fully in line with its human rights obligations. KfW does not disclose

²³ UNDP (no date): Social and environmental screening procedure, p. 24 f, 30 f.
<https://www.undp.org/content/undp/en/home/accountability/audit/secu-srm/social-and-environmental-compliance-unit.html>

²⁴ Such as Löning Human Rights and Responsible Business (2019), see footnote 5.

the scope of its initial risk assessment to the public, nor its assessment of the capacity of partners and contractors to implement projects in accordance with KfW's sustainability guideline. The same holds true for measures it takes to ensure prevention and mitigation and the scope of its own monitoring. To ensure the transparency of its due diligence, KfW should make all those assessments public.

Combine complementary approaches

In its assessment of the local partner institution, MFC states that two conditions essential for implementing human rights-based nature conservation measures jointly with the local partner ICCN are not in place: Firstly, the ICCN and WWF do not share a joint vision for the management of the park and its priorities. The extent to which the ICCN is willing to cooperate in developing such a joint vision is unclear. Secondly, park management has inadequate capacities to deal with management issues, including security, stakeholder management, and ESMS. Therefore,

- Prior to an engagement, either KfW or BMZ should assess the existing policy space in the partner state to engage in reform and assess whether and how this space can be broadened. In order to encourage reform, Germany needs to use its leverage through political dialogue at the ministry level, since this is not something that an implementer or even KfW, as the implementing agency, can do.
- In cases of management weaknesses of local partners, financial cooperation needs to be complemented by technical cooperation, especially in the areas of good governance, including judiciary and security sector reform. Political opportunities (such as the new Congolese land law which provides inter alia for participation of indigenous peoples) could be seized for use as entry points.
- The pre-engagement assessment of partners' will and capacity to reform should include the definition of red lines, which, if crossed, would result in the suspension of the cooperation, for instance, if the partner evinces no will to reform at any level. When withdrawal is being considered or is indicated, human rights require that the human rights risks and impacts thereof are assessed.²⁵

Apply and enhance KfW's environmental and social management system

The BMZ human rights and gender guidelines²⁶ from 2013 include references to human rights standards that implementing agencies are expected to integrate into their own assessment systems. Although KfW has done this in its sustainability guideline, it could enhance the operational relevance of human rights further by establishing a set of minimum standards for the most common human rights risks. These minimum standards should be formulated in explicit terms and contain clear references to rights. Examples for this can be found in guidance documents accompanying the IFC performance standards or the UNDP's standards and screening templates. These could serve as a reference framework for a developing a set of similar standards at KfW.²⁷

²⁵ The withdrawal of development cooperation could be seen as analogous with the imposition of sanctions, on the human rights requirements in that context see: CESCR, General Comment 8, , UN doc E/C.12/1997/8. Para 8, 10-14.

²⁶ BMZ (2013), see footnote 22

²⁷ UNDP (no date), p. 30 f., see footnote 23

Increase transparency

KfW's sustainability guideline addresses land issues and stakeholder engagement. It remains unclear how KfW has assessed the compliance of contractors such as the WWF with procedural requirements such as stakeholder engagement, risk analysis etc. when it works with such contractors.

Transparency about project assessments and project progress is essential for complaint procedures as well as for stakeholder dialogue. Transparency would also support public dialogue and further accountability. This is especially true in an increasingly controversial political climate: Development cooperation as such is being called into question, as are its main actors, i.e. international donors, IFIs as well as NGOs, due to (perceived cover-ups of) human rights violations in their spheres of influence, whether they are involved in nature conservation or humanitarian aid. It is thus all the more important that KfW should be transparent and generate understanding for the challenges as well as dilemmas involved in development cooperation. KfW should follow the examples of other major development finance institutions and issue an "access to information" policy which clearly states that transparency is the rule and confidentiality the exception. The introduction of an access-to-information policy would also be a timely measure in view of the recent court judgements²⁸ (review still pending at this writing) treating KfW as a public authority subject to disclosure requirements.

Appreciate and use grievance mechanisms

While KfW has commissioned several investigations into human rights violations in the context of nature conservation projects, there is a lack of transparency with respect to how KfW has dealt with their results. The use of an established mechanism with established procedures and timeframes would allow investigations to be set up in a coordinated manner. It could also help to satisfy public accountability demands and serve as a basis for communication with stakeholders. Therefore, establishing a complaint mechanism in line with UNGP 31, in addition to local grievance mechanisms, should be a priority for KfW. In order to enable KfW to respond to allegations which are not submitted in the form of a formal complaint, the mechanism could be provided with the authority to conduct suo moto investigations, particularly on systemic issues, its investigation reports should include recommendations for the future. The accountability mechanisms of other development finance institutions such as DEGInvest, AfDB, GCF, EBRD as well as IFC's CAO could inspire KfW in this respect.

Enhance the knowledge base

Finally, many aspects that are of importance for aligning nature conservation projects with human rights are in need of further exploration. KfW should therefore continue to support and be guided by the findings of forums for exchange among researchers and practitioners and research aimed at expanding the knowledge base. Among the issues worth exploring are, for example, successful approaches of community-based forest management, including security management, engaging local nature conservation institutions and effective and accessible grievance mechanisms in difficult-to-access

²⁸ Administrative Court (Verwaltungsgericht) Frankfurt am Main: Klage auf Zugang zu Jahresberichten der KfW-Innenrevision teilweise erfolgreich <https://rsw.beck.de/aktuell/daily/meldung/detail/vg-frankfurt-am-main-klage-auf-zugang-zu-jahresberichten-der-kfw-innenrevision-teilweise-erfolgreich> (accessed 28.07.2020)

areas as well as the protection of human rights defenders and whistle blowers, especially in fragile contexts.