

DATE: October 26, 2021

TO: U.S. House Committee on Natural Resources Subcommittee on Water, Oceans, and Wildlife – Oversight Hearing on Protecting Human Rights in International Conservation

FROM: African Wildlife Foundation, Global Leadership

Re: Written Testimony of Kaddu Sebunya, CEO, African Wildlife Foundation

1. Main Points

- A healthy environment is necessary to enjoy human rights fully. The environment is treated as a pre-condition for the satisfaction of human rights, including the right to life, health, food, water and privacy, and cultural rights. **Protecting and restoring nature underpins human rights.**
- Conversely, the most basic human rights — the right to life — can be affected by environmental disasters, long-term environmental degradation, and related life-threatening diseases. **The risk of gross human rights violations is greatest in areas where natural resources face severe threats or decline.**
- Allegations of gross violations and abuses linked to conservation actions surfaced in 2017¹, 2018², and 2019³ reports **point to the need for continued human rights due diligence in planning, finance and implementation in overseas conservation programs supporting hundreds of local communities.**
- United States' support to Africa led to the establishment of critical environmental management and conservation institutions in many countries. In recent decades, support progressed pragmatic community engagement policies, models and approaches. **These approaches have improved natural resource governance, securing land tenure for rural communities and other benefits beyond conservation goals.**
- Safeguards and oversight mechanisms to guard against human rights violations in international conservation are critical. As US Congress and conservation entities consider

¹ Survival International, *How Will We Survive? The destruction of Congo Basin tribes in the name of conservation*, 2017.

² Inés Ayari and Simon Counsell, *The Human Cost of Conservation in the Republic of Congo*, Rainforest Foundation UK, December 2017;

³ Tom Warren and Katie Baker, "WWF Funds Guards Who Have Tortured and Killed People," *BuzzFeed News*, March 4, 2019.

redress measures and safeguards, we cannot allow indifference to set in. **We cannot afford to walk away from the table!**

- **Historical injustice and disregard for human rights in the pursuit of conservation ends are untenable.** The pursuit of community-conservation goals, including youth and women's engagement, contributes positively to realizing many fundamental human rights. The pursuit of nature conservation should never be attained at the expense of the rights of people.
- Abuse comes in many forms. The most visible are physical abuses to people, **but the disenfranchisement and disempowerment of Indigenous Peoples and Local Communities is even more concerning and undermines conservation efforts.**
- **Indigenous Peoples and Local Communities are custodians of nature.** They must play an integral role in the human rights decision making-processes, policy formulation and programming, which impact their lives and livelihoods.
- **As AWF, our sphere of focus is Africa.** For over 60 years, we have worked supporting conservation across the continent. **Over the decades, we have evolved through lessons and experiences from our programs and other engagements. We keep learning to improve our approaches.**
- **At AWF, we have made changes to ensure our conservation practice is centered on a rights-based approach with norms, standards and principles into conservation policy, design, planning, implementation and outcomes evaluation to ensure that our programs respect and uphold human rights and at the same time facilitate Indigenous Peoples and Local Communities to recognize and achieve agency over their resources.**

2. Introduction

Distinguished members of the House Natural Resources Committee, I am honored. Thank you for the opportunity to appear before you to testify on the Advancing Human Rights-Centered International Conservation Act. My name is Kaddu Kiwe Sebunya, and I am the CEO of the African Wildlife Foundation (AWF), a conservation organization Headquartered in Nairobi, Kenya. AWF has a 60-year history dedicated to advancing African-led conservation, working with local communities, governments, civil society, private sector, among other constituencies.

As CEO of AWF since 2019 – and as president before that – I work with African governments, pan-African institutions such as the African Union, the private sector, NGOs and local civil society to raise awareness and understanding of the role of ecosystems, wildlife and wildlands in socio-economic development. Over my 25-year career in conservation, I have encouraged African

leaders to implement policies that empower communities to create wealth for long-term economic and political stability and sustainable development. As well, on the global stage, I have championed conservation investment that is centered on delivering economic benefits to these communities.

My professional experience in conservation at grassroots, national, regional and global levels in the US, Africa, and Europe, includes time with Oxfam UK, the World Conservation Union - IUCN, the US Peace Corps, Conservation International and Solimar International. Developing and advocating for human rights policies and practices has been an essential component of my professional career and a common thread in every role I have held.

Interventions to conserve nature and natural resources are inextricably linked to people's rights to secure their livelihoods, enjoy healthy and productive environments and live with dignity. The pursuit of conservation goals can contribute positively to the realization of many fundamental human rights. Likewise, secure rights — land tenure and having agency in decision-making processes for example — can enable more effective environmental stewardship. However, conservation activities can also generate negative impacts where consequences on human rights and well-being are not sufficiently understood or addressed.

The future of people and nature are intertwined. Acknowledging the rights abuses and ongoing shortcomings of conservation is key to the future success of conservation in Africa. In 60 years of conservation work in Africa, AWF has experienced firsthand and fully acknowledged that poorly planned and executed conservation activities can negatively impact African people. **Particularly vulnerable are underprivileged and marginalized communities in rural areas, whom I will refer to as "Indigenous Peoples and Local Communities"⁴ or IPLCs in this Statement.** Their strong and direct dependence on nature renders them disproportionately vulnerable to the adverse effects of biodiversity loss, climate change and exclusionary practices in decision-making.

Given the direct and indirect dependencies between humans and nature, people play a central role in AWF's organizational strategy. AWF has a responsibility as a duty bearer to rights holders affected by our work. Under my leadership, AWF has made an organizational commitment to respecting, upholding and promoting human rights in all our conservation programs and activities. AWF equally and increasingly demands the same from our partners. Acknowledging, respecting, upholding and promoting the rights of people living with wildlife is a cornerstone of successful conservation in Africa.

AWF commends Congressional leadership in calling for investigations, reviews and measures to address reports of human rights violations in conservation. AWF shares the ambitions and commitment of the United States Congress to ensure that rights-based approaches to conservation are mainstreamed to ensure gross violations are redressed and to avoid abuse of rights in the future.

⁴ [Indigenous peoples and local communities | IPBES secretariat](#): Indigenous peoples and local communities (IPLCs) are, typically, ethnic groups who are descended from and identify with the original inhabitants of a given region, in contrast to groups that have settled, occupied or colonized the area more recently

My testimony will highlight the historical and modern context of conservation in Africa and explain critical challenges and shortcomings of past approaches, including **i) the impacts on African people and the critical role of Indigenous Peoples and Local Communities; ii) why the human rights-based approach is critical to the success of conservation in Africa; iii) and implications for limiting or withdrawing US support to conservation in conflict areas.**

In addition, I will highlight the journey that we have taken at AWF to improve on our commitment to protecting, upholding and promoting human rights in our work and that of our partners.

3. People and Conservation in Africa

Most of Africa's wildlife game reserves and hunting areas were created in the colonial period, with African people often being pushed off their ancestral lands. Once traditional farming, hunting grounds or settlement areas became prohibited areas, Africans could be and often would be jailed if they were caught utilizing any resources from these reserves. The creation of reserves was in no doubt a device to assert competing land claims. The land grab was easier to justify when cloaked in the garb of conservation. In the post-colonial period, game reserves were gazetted as national parks and other types of state-protected areas. The following decades saw minimal shifts as the dominant ideology of pronounced reliance on exclusion and hard-line preservation still held sway, cementing the fortress approach to conservation, further disconnecting people from nature¹².

Recent decades have seen the realization of the complex links between people and nature. The last three decades have seen significant changes in international conservation policy towards more inclusive and participatory processes⁸. Community-based conservation is now a central part of the prescriptions from global institutions or forums such as the Convention on Biological Diversity (CBD) and the International Union for Conservation of Nature (IUCN).

In the CBD, the Akwé:Kon Guidelines set out the rights of IPLCs⁵. Indigenous Peoples and their rights are now more formally recognized in the IUCN structures, including a category of members for Indigenous Peoples and Local Communities, and (as of the September 2021 World Conservation Congress) creating a seat on its governing body (the Council) for an indigenous person.

It is important to note that practical on-the-ground models and approaches for community ownership, engagement, inclusion and benefits from conservation are still evolving. They fall short of adequately compensating for shortcomings, injustices and imbalances of the past.

The role of Indigenous Peoples and Local Communities in Conservation

Traditional indigenous territories encompass around 22 percent of the world's land surface, and they coincide with areas that hold 80 percent of the planet's biodiversity⁷. It has been estimated that 50 percent of protected areas worldwide have been established on lands traditionally

⁵ CBD Guidelines (2004). Akwé: Kon guidelines. Secretariat of the Convention on Biological Diversity

occupied and used by Indigenous Peoples⁶. This overlap increases with the inclusion of local communities, particularly in Africa. **It is no accident that Indigenous Peoples and Local Communities' traditional lands overlap and retain the highest levels of biodiversity in Africa and other parts of the world⁷. They have cultivated nature-based knowledge systems and honor the complex interdependence of all life forms.**

Despite this, IPLCs have rarely been the primary benefactors or leaders of formal conservation^{8,9}. Instead, IPLCs have disproportionately borne the costs of conservation efforts to support wildlife on their lands¹⁰. Studies have demonstrated that the territories of indigenous peoples who have been given land rights have been significantly better conserved than the adjacent lands¹¹.

Biodiversity is essential to Africa's economic growth, addressing the climate crisis and meeting the targets of several Sustainable Development Goals (SDGs)²⁹. To optimize the contribution of conservation in meeting these multiple objectives, the incorporation of Indigenous Peoples and Local Communities in decision-making processes is critically important. The adoption and application of traditional land-use systems and resource governance and management have, in many cases, demonstrated solutions to avoid and reduce land degradation, recovered degraded ecosystems, prevented loss of wildlife and provided multiple societal benefits.

Community-based conservation has its limitations as each community is different and faces many unique challenges and opportunities. Limitations often include internal conflicts over rules, objectives, and benefits. Many IPLCs on their own cannot deal with rapid changes stemming from external forces, including the cultural transitions caused by modernization and the impacts of climate change. Traditional factors are often critical bottlenecks, such as inequities arising from class or social stratification.

Despite shortcomings and challenges, community-based approaches are increasingly important as a way to mitigate against so-called 'green grabbing,' where land is set aside for

Community-based conservation confers substantial conservation benefits this is especially true of indigenous peoples' and local community conserved territories and areas. These include long-term security to important ecosystems and species, corridors and connectivity across large landscapes and seascapes, the maintenance of ecosystem benefits and functions, revival of threatened populations of wildlife, and others.

Kothari *et al*, (2013)

⁶ [Conservation for whom? Displacement or land rights for indigenous groups in East Africa? | Plan Vivo Foundation](#)

⁷ D. Mamo (Ed.), *The Indigenous World 2020* (34th ed., pp. 654–662). Copenhagen, Denmark: IWGIA.

⁸ Kothari, A., P. Camill, and J. Brown. 2013. Conservation as if people also mattered: policy and practice of community-based conservation. *Conservation and Society* 11(1):1-15. <http://dx.doi.org/10.4103/0972-4923.110937>

⁹ Western, D., and R. M. Wright. 1994. *Natural connections: perspectives in community-based conservation*. Island, Washington, D.C., USA.

¹⁰ Kenyan Wildlife Conservancies Association (KWCA). 2016. *Community conservancy policy support and implementation program*. KWCA, Nairobi, Kenya.

¹¹ The Land Portal. "Unprecedented Wave of "Criminalization" Sweeping the Globe to Silence Indigenous Peoples". 28 August 2018: <https://www.landportal.org/news/2018/08/unprecedented-wave-criminalization-sweeping-globe-silenceindigenous-peoples>

environmental purposes such as carbon sequestration.

AWF is advancing an inclusive and participatory community-based approach to conservation, which puts people at the center as custodians and stewards of land and natural resources. Our country programs and partners experience the benefits of community-driven conservation every day in new collaborations with IPLCs.

4. Conservation and human rights

The history of conservation on the African continent and its impact on African people is complicated.¹² The sad reality is that conservation actions have led to severe violations of the rights of African people, particularly vulnerable IPLCs. Violations have included physical displacement from ancestral lands; economic displacement through a change in access to land and resources; verbal, physical and sexual assault perpetrated by law enforcers; and destruction of property and biological or cultural artifacts.

Advancing conservation in Africa can only be successful if there is a full acknowledgment of conservation's past violations and shortcomings, some of which persist until today. **Our challenge is to work on redress mechanisms that allow for clear, stable land tenure while promoting equitable, inclusive, participatory and benefit-sharing models, systems and approaches**¹³.

It is critically important to note that violation of African people's rights in conservation has not been limited to physical abuse or perpetrated only by those in direct contact. Instead, violations have, and continue to, manifest both overtly and in more subtle ways. This is mainly in the decision-making realm; wherein particular rural communities are rarely engaged or allowed to inform decision processes. Many policies and legislation in the developed world and in global decision-making platforms are enacted without due consultation or participation of constituencies that bear the consequences of such decisions.

Traditionally, conservation and development policies, legislation and decisions are made to serve the interest of others and not to align and support the aspirations of rural communities in Africa¹³. **As a result, these policies, legislation and decisions are often disconnected from realities on the ground undermining the fundamental human rights of the poor and most vulnerable.** Many have become barriers for IPLCs to sustainably use the natural resources on which their livelihoods depend — and offer no alternatives to support healthy livelihoods. This disconnection in itself is an abuse of peoples' right to self-determination within their natural context.

¹² Rangarajan, M. (2003) Parks, Politics and History: Conservation Dilemmas in Africa. *Conservation and Society*, 1, 1 (2003)

¹³ Boyd, D and Keene S. (2021). Human rights-based approaches to conserving biodiversity: equitable, effective and imperative. A policy brief from the UN Special Rapporteur on Human Rights and the Environment. Special Rapporteur on human rights and the environment. Policy Brief No. 1

5. Underlying threats to human rights in conservation

There are several areas in conservation that are critically important as they relate to human rights issues. These issue areas have been the source of human rights violations or continue to have shortcomings in conservation practice. The list provided in Box 1 presents a snapshot of some of these issues¹⁴. Apart from the issues presented, here are two underlying factors that we must guard against as we seek to address human rights violations in conservation.

Guarding against indifference

Indifference can easily set in among duty bearers, who may be required in today's policy landscape to pause or in some cases entirely cease US engagement and assistance due to perceived human rights violations within a single park ranger unit or conservation program.

In 2020, we saw US agencies, which had for years provided funding and technical support for conservation in Africa²⁷, adopt a more cautionary stance due to media reporting and fresh allegations of human rights violations³. Steps were taken to buttress vetting procedures and strengthen human rights provisions as part of existing agreements with US partner organizations²⁷.

Unfortunately, we find ourselves in a precarious period in Africa to be adding red tape to the myriad of US and international programs at a time when funding is desperately needed to support critical conservation efforts in African countries. The COVID-19 pandemic has left deep fissures, eroding the capacity to generate revenue to support conservation and livelihoods, further threatening the wellbeing of IPLCs.

To curb the spread of the COVID-19 virus, many African governments implemented severe restrictions with implications on the freedom of assembly and curfews. In addition, millions lost jobs and incomes, especially in the tourism sector. Thousands of schools were forced to shut down, leaving millions of children without education. As millions have become vulnerable due to the pandemic, the uptick in reliance on natural resources points to the critical role of nature in supporting peoples' lives and livelihoods. The increased pressure and reliance on nature raises the need for sustainable use of nature. Therefore, pulling away or limiting US support would undermine conservation efforts needed to ensure the effects of the pandemic do not erode

Box 1: Human Rights Related Issues in Conservation.

- Participation in decision-making (low capacity and power of natural-resource dependent communities)
- Free, Prior, Informed Consent
- Tenure security, especially conflicts between customary and statutory tenure (Legal pluralism)
- Cultural rights and bio-cultural diversity
- Sustainable development
- Equitable benefit-sharing
- Displacement – physical, economic, social and temporal
- Restrictions on resource access
- Law enforcement

¹⁴ Biocultural diversity, defined as the total variety exhibited by the world's natural and cultural systems, denotes three concepts: diversity of life includes human cultures and languages; links exist between biodiversity and cultural diversity; and these links have developed over time through mutual adaptation and possibly co-evolution. Bridgewater, P, Rotherham, ID. A critical perspective on the concept of biocultural diversity and its emerging role in nature and heritage conservation. *People Nat.* 2019; 1: 291– 304. <https://doi.org/10.1002/pan3.10040>

decades off gains. A degraded natural environment is not only a threat to conservation, but also a threat to human wellbeing and human rights.

Guarding against disenfranchisement and disempowerment

We must guard against further disenfranchisement and disempowerment of those that live side by side with wildlife. Human rights abuse comes in many forms. The most visible are physical abuses to people. However, less conspicuous is the damage caused by African conservation and development policies and decisions that are made to serve outside interests and do not align with — or even take into consideration — the lived realities of rural communities in Africa.

The Biden administration is focused on tackling the climate crisis at home and abroad. President Biden himself appeared before the African Union and pledged to engage countries in Africa and the Global South to influence climate action and help mitigate climate impacts. The “Indigenous World 2020” report⁷ noted that while Indigenous Peoples and Local Communities are most likely to be hit first and hardest by the impacts of climate change, they are also the best placed to manage their lands for climate benefits.

For conservation to succeed in Africa, IPLCs need agency and self-determination. The voice of IPLCs must shape the agendas that affect them and their aspirations and must inform external conservation strategies and approaches. They must have agency in decision-making processes related to biodiversity and climate change. Anything short of that not only represents an abuse of their rights but fundamentally weakens chances of success for conservation and climate action. We cannot afford to disenfranchise those most connected to the landscapes and the wildlife — nor is it morally right or ethical to do so.

A major threat to the well-being of Indigenous Peoples, according to the report, is ‘green grabbing,’ which refers to land being sequestered for environmental purposes and access for local communities being restricted in the name of conservation. At AWF, this raises alarm bells. Outdated conservation practices can exclude or displace people from lands that are often not only essential to their livelihoods but also hold great cultural and spiritual significance.

Make no mistake — biodiversity loss is an existential threat to humans — and African countries and African people are directly in the crosshairs of their most detrimental impacts. But to acknowledge Indigenous Peoples and front-line conservation communities that coexist with wildlife in conservation landscapes and to preserve (and in some cases reinstate) human rights in these areas across the continent, African and global leaders must shape and adopt a truly holistic and inclusive global policy agenda that is inclusive at all levels of leadership, extending to tribal elders and the smallest towns and villages.

6. Defining rights-based conservation and rights holders

Rights-based conservation integrates human rights norms, standards and principles into conservation policy, design, planning, implementation and outcomes evaluation to ensure that

conservation practice respects human rights in all cases and supports further fulfillment where possible¹⁵.

Assumed in the rights-based approach, every human being is inherently a right holder who should enjoy universal human rights that must be guaranteed¹⁶. Human rights are universal, and the basic rights of all must be respected (universality). Particular attention is to be paid to the most vulnerable (non-discrimination & equity). In conservation, the most vulnerable are often Indigenous Peoples and Local Communities who rely directly upon natural resources for their livelihoods, cultures and well-being. Within rural communities often Indigenous Peoples and women experience disproportionately greater vulnerability¹⁷.

Why do we need a Rights-Based Approach?

Organizations involved in funding, programming, design and implementation of conservation programs have a responsibility to rights holders to protect and uphold their rights as external duty bearers¹⁸. As external duty bearers, conservation entities are accountable for the social effects of their work. It is expected that duty bearers do their best to fulfill these rights and make themselves accountable and responsive to the people. The foundational and operational principles outlined by the United Nations Guiding Principles on Business and Human Rights provide a sound basis for conservation organizations to understand and uphold their duties as duty bearers concerning human rights¹⁹.

7. Existing pillars for advancing rights-based approach in conservation

While the Universal Declaration of Human Rights²⁰, the International Covenant on Civil and Political Rights (ICCPR)²¹, the International Covenant on Economic, Social and Cultural Rights (ICESCR)²² clearly outlines the basic principles of human rights, there is still a chasm between theory and practice. Emphasis is needed to ensure that the objectives, policies and conservation and development processes are channeled more directly and effectively towards human rights

¹⁵ Campese, J., Sunderland, T., Greiber, T. and Oviedo, G. (eds.) 2009 Rights-based approaches: Exploring issues and opportunities for conservation. CIFOR and IUCN. Bogor, Indonesia. SUBUR Printing, Indonesia xxiv + 306 pages ISBN 978-979-1412-89-6.

¹⁶ UNICEF, Institute for Sustainable Communities & People's Advocacy: Advocacy: People's Power and Participation Guide: <http://www.advocate-for-children.org/advocacy/start>

¹⁷ The principle also applies to the protection of other rights such as ownership and use of traditional knowledge or genetic resources. See, for example the Nagoya Protocol <https://www.cbd.int/abs/about/>

¹⁸ Ljungman, Cecilia M., COWI. Applying a Rights-Based Approach to Development: Concepts and Principles, Conference Paper: The Winners and Losers from Rights-Based Approaches to Development. P. 6. November 2004.

¹⁹ *United Nations Declaration on the Rights of Indigenous Peoples* (2008) United Nations

²⁰ Universal Declaration of Human Rights <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

²¹ International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 49 <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

²² International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27 <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

goals.²³ There lacks diligence, investment, documentation and intentionality in applying principles in practice in the conservation movement.

Rights-based approaches have been politically successful at reconfiguring global discourse on IPLCs. However, numerous obstacles remain in translating that progress to secure human rights into tangible resources “on the ground.” It is vital that the international conservation community support the implementation of rights-based approaches²⁴. Several factors still exist as barriers to the advancement of human rights in conservation. Gaps in knowledge and skills and difficulties translating human rights norms into concrete programming guidance applicable in diverse policy contexts and national circumstances are particularly acute.

A collective and multifaceted effort to urgently address these gaps is required of human rights and conservation practitioners. Addressing these factors does not substitute the need for renewed leadership, commitment and attention to our internal safeguards, accountability systems and redress mechanisms. The openness of US Congress to hear diverse perspectives to inform policy formulation and oversight through this Hearing and other mechanisms is testimony to the kind of inclusive approach that should be further encouraged to improve the rights-based approach to conservation.

The United States, through Congress and government agencies, is well-positioned to be a leader and champion in pushing for the adoption and application of principles and approaches coming from these international processes. Through the *Leahy Process*²⁵ as mandated by US law, US federal agencies require vetting any security force personnel to be involved in US-funded programs²⁶. This includes park rangers and community scouts. The Leahy Process has brought in a critical layer of due diligence to ensure United States funding does not support foreign security forces when credible information shows the forces or individuals have committed a gross violation of human rights.

A Rights-Based Approach To Development

According to the United Nations, “A rights-based approach to development puts the protection and realization of human rights at the center. It uses established and accepted human rights standards as a common framework for assessing and guiding sustainable development initiatives. From this perspective, the ultimate goal of development is to guarantee all human rights to everyone. Progressively respecting, promoting and fulfilling human rights obligations are seen as the way to achieve development. A rights-based approach to development is both a vision and a set of tools: human rights can be the means, the ends, the mechanism of evaluation and the central focus of sustainable human development.”

United Nations Philippines. Rights-Based Approach to Development Programming: Training Manual. July 2002, p. 14. <http://www.un.org.ph/publications/RBAManual.pdf>

²³OHCHR (2006), Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation.

<https://www.ohchr.org/documents/publications/faqs.pdf>

²⁴ Corson, C. & Worcester, J. & Rogers, S. & Flores-Ganley, I., (2020) “From paper to practice? Assembling a rights-based conservation approach”, *Journal of Political Ecology* 27(1), p.1128-1147. doi: <https://doi.org/10.2458/v27i1.23621>

²⁵ 91 GAO, *Combating Wildlife Trafficking: Agencies Work to Address Human Rights Abuse*, GAO-21-139R, October 2, 2020, pp. 1-16, at <https://www.gao.gov/assets/gao-21-139r.pdf>.

²⁶ [Leahy Law Fact Sheet - United States Department of State](#): The term “Leahy law” refers to two statutory provisions prohibiting the U.S. Government from using funds for assistance to units of foreign security forces where there is credible information implicating that unit in the commission of gross violations of human rights (GVHR).

8. Considerations for US Congress in addressing human rights in conservation

Over the decades, US support has been critical in developing pragmatic community engagement policies, models and approaches in Africa²⁷. In many countries, these approaches have emphasized the improvement of governance systems, the benefits of which go beyond conservation goals²⁸. In some countries, such policies and models are increasingly helping secure the rights of IPLCs, including equitable participation and benefit, accountability, tenure and user rights²⁹ 10. However, even with these improvements, we are still far from ensuring a complete absence of human rights violations and ensuring IPLCs have clear, stable land tenure and agency over their natural resources.

For continual improvement on commitments to human rights in conservation United States Congress can build on mechanisms such as the Leahy Process to strengthen safeguards that help avoid violations of human rights in conservation. Equally important is that Congressional leadership can propel the adoption of improved standards and mechanisms that promote human rights-based approaches in conservation and improvement in practices across the globe. Notably, the following underpin our recommendations:

- **Pulling away or limiting US support would undermine improvements** in security that have come from conservation interventions in many areas.
- **Limiting US involvement where there are violations will likely do more harm** as such violations could continue unchecked.
- **Oversight and safeguard mechanisms should go beyond gross violations** (such as torture, rape, the killing of people). They should encompass the full bundle of rights without which we are setting a context where gross violations are more accepted.
- Policies and mechanisms for improved safeguards also need to address Indigenous Peoples and Local Communities' **engagement in decision-making to stop continued sidelining**.
- To stop and avoid future human rights violations, **safeguards must incorporate training and other mechanisms to improve professionalism and practices** in law enforcement, design and implementation of conservation programs.
- **We must be proactive, as opposed to reactive, to truly prevent human rights abuses in conservation**. US support should be more contingent on perpetual human rights sensitivity and awareness training as part of a rights-based approach to conservation instead of implementing training after violations have already occurred.

²⁷ Congressional Research Service (2021) U.S. Funding for International Conservation and Biodiversity, <https://crsreports.congress.gov>, R46493

²⁸ Africa Biodiversity Collaborative Group (ABCG). 'Making community forest enterprises deliver for livelihoods and conservation in Tanzania.' 2018.

²⁹ United Nations Development Programme (UNDP). 'Yaeda Valley Project, United Republic of Tanzania.' *Equator Initiative Case Study Series*. 2021. New York, NY.

AWF recommended the following points for consideration as part of due diligence and proactive steps in integrating checks and balances to improve the mainstreaming of the rights-based approach in conservation.

Mainstream rights-based approach in programming and procurement processes:

- Ensure integration of human rights-based approach in the design of policies and programs and throughout the programming cycle.
- Require submission of human rights-based approach policy, implementation standard, risk assessment framework, management and mitigation plan from prospective grantees as part of the procurement process.
- Provide evidence for acceptability of the proposed program by those rights holders that could be negatively affected (medium to high-risk projects) based on a documented FPIC approach.
- As part of procurement process, require grantees to submit protocols for grievance, complaint/redress mechanisms/procedure regarding their conservation operations.
- Require submission of awareness and training plans for program staff and any partners and vendors associated with the program.
- Submit names of agencies and individuals engaged for Leahy vetting to filter out identified offenders.

Balance punitive measures with improvement of professionalism and practices:

- If the policy is punitive – whether Leahy Laws or agencies newly required to consult a blacklist of “ranger units” that have committed abuses — there must be redress measures for those units to improve their professionalism and practices.
- Develop more channels to establish accountability in countries and within individual conservation programs.
- Governments and NGOs have choices of whom they partner with now, but the situation can worsen without US leadership. Therefore, the US must preserve engagements with key partners in the wake of allegations to allow groups to find alternative programs where funds can be repurposed in the same landscapes or others in the same regions of Africa deserving of conservation support.

Rights-based education and awareness:

- Is it possible to deploy a program solely focused on human rights and sensitivity training to problem units with human rights concerns? We believe the answer is yes. We know that US agencies are adjusting how they operate to address human rights concerns within US-funded programs involving third-party organizations.
- As an addendum to social safeguards plans in writing, AWF strongly recommends training modules for units in areas that have experienced previous incidents.
- Training would be proactive and preventative support to stop human rights violations before they occur.

9. Changes instated at AWF to pursue a rights-based approach.

Today, conservation needs to build on collective commitment towards human rights. At AWF, we firmly believe that conservation decisions, programs and activities do not inherently disadvantage poor, vulnerable or marginalized people dependent upon natural resources. **Done right conservation means investing in human rights. To abandon conservation efforts also means potentially abandoning activities that protect those rights.** As we improve our organization at all levels, we need to be increasingly diligent in our commitment not to support, contribute to, or participate in projects or activities that violate the principle of free, prior and informed consent³⁰.

To improve on our commitments to protect and uphold human rights in all our programs and engagements, we have made several changes, including developing and progressively mainstreaming the following: i) AWF Rights-Based Policy, and ii) AWF Rights-Based Standard, which includes a Grievance Procedure and Tools regarding conservation operations, and a Risk Assessment Framework.

AWF's rights-based policy is grounded in principles provided in the Universal Declaration of Human Rights³¹; the International Covenant on Civil and Political Rights (ICCPR)³²; the International Covenant on Economic, Social and Cultural Rights (ICESCR)³³; and other treaties, standards and approaches. Our rights-based standard gives particular attention to IPLCs and borrowed from the draft³⁵ "[The Land Rights Standard](#)³⁴" (previously the "Gold Standard") for best practice in recognizing and respecting Indigenous Peoples' and Local Communities' land and resource rights in landscape restoration, management, conservation, climate action and development projects and programs provide a valuable foundation for organizations. "The Land Rights Standard" emerged from a collaborative effort between the Indigenous Peoples Major Group for Sustainable Development (IPMG) and the Rights and Resources Initiative (RRI)³⁵.

These core tenets of our rights-based approach are supported by updated principles that are anchored in our values and organizational vision. We have criteria that set our rules for operations and indicators to evaluate internal compliance with the rights-based standard. In operationalizing the rights-based standards, we specify targets, mandatory actions and qualitative and quantitative indicators for internal policy compliance. Guidelines have been developed on specific aspects of

³⁰ FAO (2014) Respecting free, prior and informed consent: practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition" <http://www.fao.org/3/a-i3496e.pdf>.

³¹ Universal Declaration of Human Rights <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

³² International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 49 <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

³³ International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27 <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

³⁴ Rights + Resources (2021). The Land Rights Standard <https://docs.google.com/document/d/1fUaq93M9tRrLDNsDubOtoyBxwxSOMi96Qc4vfhZOXRA/edit>

³⁵ Indigenous Peoples Major Group. Setting a "Gold Standard" - Principles for best practice for recognizing and respecting Indigenous Peoples' and Local Communities' land and resource rights in landscape restoration, management, conservation, climate action, and development projects and programs. Draft 7.1.2019.

the policy, standards and procedures. These will assist staff members, consultants, contractors and sub-grantees and trustees to comply.

In summary, the following form some of the core elements of our Rights-Based Standard:

1. To **acknowledge and respect the full bundle³⁶ of rights** of Indigenous Peoples and Local Communities and especially the women within these groups, including their rights to land, territories and resources customarily owned or used, whether legally recognized or not³⁷.
2. To aid in **securing effective legal recognition** of the rights to those lands, territories and resources, respecting and promoting the customary laws and governance systems that form the basis of these rights.
3. To **plan, initiate, and communicate** projects, programs and initiatives **in full collaboration** with Indigenous Peoples, local communities and women, considering their self-determined development priorities and shifting conservation practices in favor of locally-defined models and approaches within the framework of **partnership and solidarity**.
4. To obtain the **free, prior and informed consent³⁸** of Indigenous Peoples and Local Communities where their collective rights may be affected, recognizing their distinct and differentiated rights, and fully respecting and prohibiting any contact with Indigenous Peoples in voluntary isolation.
5. To respect women's equal rights to lands, territories and resources and their participation and inclusion in the governance of such areas, and to ensure zero tolerance to violence, harassment or intimidation against women in all project operations.
6. To **respect rights to cultural heritage**, recognizing that cultural and natural heritage is perceived and defined by the owners of that heritage, with Indigenous Peoples having the right to control, protect and develop their cultural heritage, including their local ecological knowledge and governance institutions.
7. To ensure that partnerships and agreements with Indigenous Peoples and Local Communities provide for **mutually agreed and equitable sharing of benefits** arising from projects, programs or initiatives, and provide **fair compensation for any current and future impacts** on their lands, territories and resources, including provision for sustainable livelihoods of affected communities.
8. To ensure **prompt and effective remedies** for harms caused by operations from conservation programs, establish independent grievance and redress mechanisms, and address historic harms and their ongoing impacts.

³⁶ This includes access, withdrawal, management, exclusion, and alienation rights, as well as their duration and extinguishability.

³⁷ Including identifying, in collaboration with Indigenous Peoples and other rights-holder groups, the extent of those rights through Human Rights Impact Assessments (additional to environmental and social impact assessments, and explicitly including cultural rights), and understanding that land, territorial and resource rights are defined by customary use and ownership for Indigenous Peoples, and for some local communities.

³⁸ Report of the International Workshop on Methodologies Regarding Free, Prior and Informed Consent E/C.19/2005/3, United Nations Economic and Social Council <http://undesadspd.org/IndigenousPeoples/MeetingsandWorkshops/InternationalWorkshoponFPIC.aspx>

9. To respect, promote and protect the **fundamental rights and freedoms of land and environment defenders**, provide support for access to justice to victims and their families and actively support initiatives to prevent criminalization, threats and violence against them.
10. To **promote the adoption of these Land Rights Standard principles** by others, ensuring commitment to transparency in their implementation and participatory assessments and reporting of the effectiveness of their actions.

10. AWF progress in mainstreaming and implementing a rights-based approach

At AWF, we are already building rights-based training and approaches into our country and policy programs, such as youth engagement and wildlife law enforcement. **We are confident that with continued US-supported efforts, transformative improvements can be made across the conservation sector in Africa.** The following constitute some of the ongoing activities we are undertaking to implement our Rights-Based Standard:

- We have undertaken risk assessments in Ethiopia and Cameroon to help in the development and testing of our rights-based standards.
- We have collated from each department their specific contributions to AWF's rights standards.
- We have undertaken an all-staff training survey to get a better understanding of the training needs and baseline understanding of rights-based conservation to enable us to develop targeted training.
- We are incorporating rights-based conservation as a direct responsibility of each staff and including that in their job descriptions.
- We are ensuring that vendors and partners agree to AWF's rights-based standards and incorporate these in their contracts and agreements.
- We are developing and including community rights-based Key Performance Indicators (KPIs) to ensure reporting from all programs.
- We are hiring a dedicated staff person (Senior Officer, Social Safeguarding) to be responsible for AWF's day to day management of our rights work.
- We have invested and launched a Grievance mechanism which is being piloted in some of our programs.

11. Conclusion

At AWF, we are firmly convinced that the agenda must be owned and led from within for conservation to succeed in Africa. Our mission is to ensure that wildlife and wildlands thrive in modern Africa. Our experts on the ground understand that protecting human rights at all times is required to achieve our goals.

To ensure conservation practice responds to international human rights standards, AWF has established a social safeguard system composed of an overarching policy for a rights-based

approach to conservation and two main pillars, a rights-based conservation standard and a grievance mechanism. The standard is the central piece of AWF's strategy to ensure internal accountability concerning the implementation of rights-based conservation. It lays out conditions to be met and indicators for internal compliance assessments. Conditions demand several procedures and mechanisms such as the grievance mechanism and the risk assessment to mitigate risks and serve as early warning of rights abuses. The standard builds upon the principles for action adopted from The Land Rights Standard³⁴.

As a collective, the conservation sector must step up effort and investments to embed and mainstream rights-based conservation approach in our programs and engagements with partners. We are improving in our commitment to respect, protect, and promote human rights at all times, irrespective of ethnic group, gender, race, sexual orientation, age or class.

We cannot allow indifference or afford inaction. We welcome Congressional actions towards addressing shortcomings in conservation. However, stepping away, cutting support and funding, blacklisting and sanctions cannot be the only recourse. US support is critical to ensure conservation — and the human rights it confers — continues, particularly in some of Africa's troubled countries and areas. Today, the US role is even more critical to ensuring that conservation protects and upholds human rights.

12. Terms and Definitions

- IPLC** **Indigenous Peoples and Local Communities (IPLC)** - For the purposes of this standard, the term 'indigenous peoples' follows the definition or 'statement of coverage' contained in the International Labour Organisation [Convention on Indigenous and Tribal Peoples in Independent Countries](#). Local communities are the people that encompass communities that do not self-identify as indigenous but who share similar characteristics of social, cultural, and economic conditions that distinguish them from other sections of the national community, whose status is regulated wholly or partially by their customs or traditions, and who have long-standing, culturally constitutive relations to lands and resources.
- Human rights** Under this standard human rights are considered those rights defined by the [Universal Declaration on Human Rights](#) and the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIPs), and the [African Charter on Human and Peoples Rights](#) (also known as the Banjul Charter).
- FPIC** **Free, prior and informed consent (FPIC)**, as it most commonly applies to conservation projects, is the principle that a community has the right to give or withhold its consent to proposed activities that are likely to affect the lands and natural resources it customarily owns, occupies or otherwise uses⁴. FPIC is derived from several binding international human rights law instruments and enshrined in the United Nations Declaration on the Rights of Indigenous Peoples.
- IP rights** Indigenous peoples' rights as defined by the [United Nations Declaration on the Rights of Indigenous Peoples](#)¹⁹.