

## **Recommendations for WWF's Proposed Operating Framework for the Ombudsperson**

*16 December 2022*

Thank you for the opportunity to provide comments on the draft Operating Framework for WWF's Ombudsperson Office. We are civil society organizations and individuals who have advised communities seeking justice through accountability mechanisms. We seek for WWF's Ombudsperson process to be as effective as possible for the communities who need to access it.

After reports of serious harm stemming from its conservation activities, WWF committed in 2019 to strengthening its accountability to affected communities, including by creating the Ombudsperson's Office. As an independent accountability mechanism, the Ombudsperson's Office will be essential in ensuring the implementation of the Environmental and Social Safeguards Framework and the sustainability of WWF's projects. A forum where local communities affected by organizational activities can raise grievances and receive remedy is an essential way for an organization to hold itself accountable to the institutional standards it purports to follow. Local communities are best placed to know how to conserve their own environments. Hearing from them about unintended negative impacts is therefore critical.

The draft Operating Framework is a significant step to operationalizing WWF's accountability mechanism. It is therefore critical that the framework enshrine a mandate and process that is accessible to affected communities, equitable, and results in the meaningful remediation of harms. Crucially, an accountability mechanism is just one part of an effective accountability framework. In addition to operationalizing the Ombudsperson's Office, all of WWF, including WWF International, WWF Country Offices, and WWF National Organizations, must wholeheartedly commit to preventing, addressing, and remedying harms to communities and to do so transparently.

We have divided our comments on the draft Operating Framework into three charts below. The first chart highlights certain provisions in the draft framework that are positive and should be maintained in the final framework. For some of these provisions, we have included recommendations for further strengthening the provision and ensuring that it is properly implemented in the forthcoming procedures. The second chart includes changes to the draft framework to make the case process more accessible, transparent, and effective. The third chart identifies areas that are not included in the draft framework with recommendations for their inclusion.

Our recommendations are grounded in the UN Guiding Principles on Business and Human Rights' Effectiveness Criteria for non-judicial grievance mechanisms - legitimacy, accessibility, predictability, equitability, transparency, and rights-compatibility. Additionally, our recommendations reflect best practices of existing independent accountability mechanisms.<sup>1</sup> Based on our experience supporting communities to use independent accountability

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<sup>1</sup> Multiple Authors, *Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms*, 2021, available at: <https://accountabilitycounsel.org/wp-content/uploads/2021/12/good-policy-paper-final.pdf>

mechanisms, and our policy advocacy to make these mechanisms more effective, we are confident that the Ombudsperson's Office will be a more effective channel for remedy and accountability if these recommendations are implemented.

Thank you for the opportunity to review the draft operating framework. If you would like to discuss our recommendations further, please reach out to Margaux Day, Policy Director at Accountability Counsel ([margaux@accountabilitycounsel.org](mailto:margaux@accountabilitycounsel.org)).<sup>2</sup>

**Submitted by:** Accountability Counsel

**Endorsed by:**

Center for International Environmental Law

Centre for Financial Accountability

Corporate Accountability Lab

“EcoLur” Informational NGO

Green Advocates International

Initiative for Right View (IRV)

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Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)

NGO Forum on ADB

No Business With Genocide

ONG Sustentarse (Chile)

Rainforest Foundation UK

Recourse

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<sup>2</sup> Accountability Counsel is a non-profit organization that amplifies the voices of communities around the world to protect their human rights and environment. As advocates for people harmed by internationally financed projects, we employ community-driven and policy-level strategies to access justice. We have advised communities as they navigate accountability mechanism processes and have relied on that experience to advise on the policies and procedures of most existing independent accountability mechanisms.

**1. The following chart includes examples of good practice that should remain in the final Operating Framework:**

Relevant Clause of the Operating Framework	Recommendation
<p><b>Choice of Grievance Mechanisms:</b> Para 12: “Office-level operational grievance mechanisms are central to organizational accountability. The Office will provide an additional, complementary channel for communities to raise their concerns to an independent mechanism that reports directly to the International Board. [...]”</p> <p>Communities may choose which forum they would like to use. It is important that this choice is informed, and both the Office and WWF have a responsibility to ensure that complainants are made aware of the different forums available to them.”</p>	<p><b>Comment:</b> Based on our experience working with communities who seek justice through grievance mechanisms, we know that the decision to submit a complaint to a grievance mechanism can be difficult in that it can increase safety and security risks. We also have seen that not all grievance mechanisms are equally effective for communities. Therefore, we appreciate that the draft framework allows communities to choose whether to file to an office-level grievance mechanism, the Ombudsperson, or both. The framework also rightly acknowledges that Office-level operational grievance mechanisms, while eminently important to the larger culture of organizational accountability, are not an adequate substitute for an independent grievance mechanism.</p> <p><b>Recommendation:</b> We recommend this language remain in the final operating framework.</p>
<p><b>Representation:</b> Fn7 to Para 17: “Complaints may be brought on behalf of an individual who has been adversely impacted. In these instances the representative must establish a mandate to represent the individual. The Office’s procedures will go into more detail in this regard.”</p>	<p><b>Comment:</b> Enshrining complainants’ right to representation is a necessary element of an effective grievance mechanism and helps to address some of the power imbalances that often exist between project-impacted communities and implementers. Even the best grievance mechanism processes require time and resources to engage with, and complainants’ right to representation helps ensure communities can actually participate in the process.</p> <p><b>Recommendation:</b> We recommend that the language enshrining the right to representation remain in the final framework. As noted in the chart below, we also recommend that the framework include language confirming that representatives can engage throughout the case process.</p>
<p><b>Monitoring for Problem Solving:</b> Para. 27: “Where the complainant, WWF and other relevant stakeholders reach agreement following the collaborative problem-solving process, the Office will monitor implementation of the terms of the agreement.”</p>	<p><b>Comment:</b> Monitoring of agreements is necessary to ensure that they are fully implemented. We appreciate the inclusion of this provision in the framework.</p> <p><b>Recommendation:</b> As procedures are further developed, it will be important for monitoring to include consultations with the complainants and site visits. Additionally, the Ombudsperson’s Office should monitor the implementation of remedial actions in response to a compliance assessment until all areas of non-compliance have been addressed.</p>

Relevant Clause of the Operating Framework	Recommendation
<p><b>Recommendations Concerning Imminent Harm:</b> Para. 38: “The Office has the discretion at any stage to make confidential recommendations to WWF Boards concerning WWF activities that are the subject of a complaint process. This could include a recommendation that the WWF activity stop or does not commence due to concerns regarding imminent harm.”</p>	<p><b>Comment:</b> Prevention of harm should be a priority for WWF and in that regard, WWF Boards should want the Ombudsperson to alert them if made aware of imminent harm. As complaint processes can take a year or more to complete, it’s important for the Ombudsperson’s Office to do what it can to ensure that, if needed, measures will be taken to protect affected communities from harm throughout the process.</p> <p><b>Recommendation:</b> We appreciate the inclusion of this provision and recommend that it remain in the final framework. However, there may be some circumstances where it would be appropriate for these recommendations to be made public. We therefore recommend the deletion of the word “confidential” from the provision.</p>
<p><b>Independence of the Ombudsperson’s Office:</b> Para. 52: “The Office is structured with the Ombudsperson as its head, directly accountable to the WWF International Board. The Ombudsperson is not part of, and does not report to, organizational management.”</p>	<p><b>Comment:</b> We appreciate that the framework enshrines the independence of the Ombudsperson’s office, which is crucial to the legitimacy of the office to communities affected by the WWF’s work.</p> <p><b>Recommendation:</b> We recommend this clause remain in the final framework.</p>
<p><b>Provisions Regarding the Independence, Credibility and Integrity of the Ombudsperson’s Office:</b> Para. 53</p>	<p><b>Comment:</b> The provisions relating to the hiring and employment conditions of the Ombudsperson, including involvement of external stakeholders, determination of compensation, removal with cause, post-employment ban, and lack of managerial involvement in budgetary decisions, all go towards strengthening the independence and credibility of the Ombudsperson’s Office. Processes that safeguard the independence of the office is crucial for empowering the Ombudsperson to effectively implement their mandate.</p> <p><b>Recommendation:</b> We recommend this language remain in the final framework.</p>
<p><b>Provisions Relating to Budgetary Resources:</b> Paras. 53(e) “The WWF International Board will provide the Office such budgetary resources as sufficient to carry out its activities. The budget will be determined on an annual basis taking into account a number of factors, including staffing and case management needs.”</p>	<p><b>Comment:</b> A well-resourced Ombudsperson Office is necessary to adequately respond to and resolve complaints. WWF’s projects will be more sustainable if the Ombudsperson Office adequately responds to and resolves complaints, and therefore WWF should ensure that the Ombudsperson Office has the resources it needs.</p> <p>When starting a mechanism, it can be difficult to assess the budget required. The budget should not be based solely on caseload. From our experience, we have seen the</p>

Relevant Clause of the Operating Framework	Recommendation
<p>“66. The WWF International Board will approve the Office’s budget.”</p>	<p>importance of a sufficient budget for outreach and other activities so that communities fully understand the grievance handling options available to them.</p> <p><b>Recommendation:</b> We recommend this language remain in the final framework. Further, we encourage the WWF International board to ensure that the Ombudsperson truly has adequate resources.</p>

**2. The following chart indicates areas of improvements required in the operating framework:**

Relevant Clause of the Operating Framework	Recommendations
<p><b>Scope of the Office’s work:</b> Para. 5: “The Office will respond to, and meaningfully and fairly address, ESSF-related concerns relating to WWF activities.” <i>See also</i> paras. 8(a), 14(a), 17(a), and 17(c)</p>	<p><b>Issue:</b> Environmental and social harm stemming from a WWF activity can extend beyond the parameters of the ESSF, and WWF should want its projects to do no harm. The Ombudsperson’s Office should therefore receive complaints about and attempt to facilitate the resolution of any environmental or social concern stemming from a project. For example, at the International Finance Corporation’s Compliance Advisor Ombudsman, “Complaints may relate to environmental and social harm regarding any aspect of the planning, implementation, or impact of a Project or Sub-Project.”</p> <p><b>Recommendation:</b> Para. 5: The Office will respond to, and meaningfully and fairly address, <del>ESSF-related</del> <b>environmental and social</b> concerns relating to WWF activities.” <i>See also</i> paras 8(a), 8(c), 14(a), 17(a), and 17(c)</p>

Relevant Clause of the Operating Framework	Recommendations
<p><b>Implementation of Compliance Assessments:</b> Paras 8-9: “8. The first phase of the Office’s operations will span up to two years, during which the Office will, in terms of this Operating Framework: .... c. Develop and propose to WWF Boards draft provisions for addition to this Operating Framework that describe the support the Office may offer WWF Boards in conducting ESSF Compliance Assessments.</p> <p>9. During the second phase of the Office’s operations, the Office will conduct collaborative problem solving processes in terms of this Operating Framework, and will also provide any Compliance Assessment support in accordance with the provisions developed in terms of paragraph 8(c) of this Operating Framework.”</p>	<p><b>Issue:</b> We are concerned that the compliance assessment function will not be established for another two years because this may leave communities without an avenue to access justice. Compliance Assessment (also known as Compliance Review) is a standard feature of independent accountability mechanisms. Although some community grievances can be addressed through problem solving or dispute resolution, some cannot, either from the outset or after a problem-solving process has failed.</p> <p>Our understanding is that WWF Boards currently have an obligation to investigate allegations of environmental and social harm. This obligation is in no way diminished by the creation of the Ombudsperson Office, and the framework should clarify as much.</p> <p>In addition, the Ombudsperson’s Office can better assist the WWF Boards with their fiduciary duty to investigate if it also has a mandate to conduct compliance assessments. The Ombudsperson’s additional layer of independence can help ensure a predictable and fair assessment process and offer a much-needed governance check on WWF projects.</p> <p><b>Recommendation:</b> The framework should more clearly state that the Ombudsperson’s Office will have some role in compliance assessment and commit to clarifying that role in the next year. In the meantime, the framework should further clarify the WWF Boards’ obligation to investigate and provide details of what that investigation process entails.</p>
<p><b>Choice of Grievance Mechanism:</b> Para. 11: “Office-level operational grievance mechanisms are central to organizational accountability. The Office will provide an additional, complementary channel for communities to raise their concerns to an independent mechanism that reports directly to the International Board. Well-functioning national operational grievance mechanisms should, in most instances, be the most appropriate forums to address complaints. The Office and the operational grievance mechanisms form part of an accountability framework through which ESSF compliance is assured.”</p>	<p><b>Issue:</b> According to the Operating Framework, the Office of the Ombudsperson is intended to be an “additional, complementary channel” to office-level/national operational grievance mechanisms. The Operating Framework also empowers communities to choose the forum they would like to use and underscores that this be an informed choice. We are concerned that language that frames national operational grievance mechanisms in “most instances” as the “most appropriate forum” could suggest to communities that they should first approach office-level/national operational grievance mechanisms, in violation of their right to choose the forum of their preference. This potential ambiguity could create risks for communities who do not feel safe raising issues to national offices.</p> <p><b>Recommendation:</b> We recommend a slight edit to address the above concern. Para 11:</p>

Relevant Clause of the Operating Framework	Recommendations
	“in <del>most</del> <b>some</b> instances, be the most appropriate forums ...”
<p><b>Prohibition of Complaints Concerning the Impacts of Global Public Goods:</b> Para. 18: “The Office will not deal with a complaint that: ... d. focuses exclusively on global impacts of a global public good;”</p>	<p><b>Issue:</b> WWF’s activities can have major impacts on public goods, including the climate, and the Ombudsperson’s Office should be able to address concerns with these impacts.</p> <p><b>Recommendation:</b> This provision should be deleted.</p>
<p><b>Consideration of Resource Allocation in Determining the Eligibility of Complaints:</b> Para 18: “The Office will not deal with a complaint that: [...]</p> <p>k) if the Office believes that it would be an inappropriate use of resources to deal with the complaint”</p>	<p><b>Issue:</b> This provision is vague and therefore risks an arbitrary rejection of an otherwise eligible complaint. Resource allocation should not affect the eligibility of an otherwise eligible complaint to the Ombudsperson’s office. Moreover, failing to address environmental and social concerns out of concern for resources can lead to the magnification of harms that will require additional resources to address.</p> <p><b>Recommendation:</b> This provision should be removed from the framework.</p>
<p><b>Determination of Ineligibility:</b> Para 19: “The Office has the discretion to close any complaint at any stage if it determines that there are reasonable grounds to believe that the complaint does not meet the eligibility criteria.”</p>	<p><b>Issue:</b> As a mechanism committed to the principles of predictability and transparency, it is important that complainants are given clear and cogent reasons for why the Ombudsperson office determines a complaint to be ineligible. Such a practice will further allow a complainant to resubmit their complaint if the ineligibility arises out of a remediable reason. This practice will also help mitigate the risks of paragraph 18(k) discussed above.</p> <p>Additionally it is unclear why and under what circumstances the Office has the power to close a complaint at <i>any</i> stage, even though the complaint had previously made it past the eligibility stage.</p> <p><b>Recommendation:</b> Para 19: The Office has the discretion to close any complaint <del>at any stage</del> if it determines that there are reasonable grounds to believe the complaint does not meet the eligibility criteria. <b>The Office will provide the complainant with a clear and detailed explanation of the reasons for the determination.</b></p>
<p><b>Transparency:</b> Para: 21 “The Office will provide, in a format as agreed by the WWF International Board,</p>	<p><b>Issue:</b> The Office of the Ombudsperson has committed to the principle of transparency including “[m]aking every effort to keep the complainant, WWF and any other relevant</p>

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<p>public reporting at the aggregate level showing breakdowns according to region, and the status of the case (open, resolved, not resolved).”</p>	<p>stakeholders informed about processes and the progress of a complaint, and ensuring transparency of number of matters reviewed and resolved.”<sup>3</sup> This commitment is undermined if the Office only publicly reports case data at an aggregate level. Maintaining a complete public complaints registry that includes case-specific reporting is essential to promoting transparency in the overall mechanism.<sup>4</sup> It is also important to note that complainants’ request for confidentiality is not at odds with the principle of transparency and can be balanced through redaction of personally identifiable information in publicly available documentation.</p> <p>Publishing information about specific cases would also increase the legitimacy of the Ombudsperson’s office in the eyes of potential complainants. In our experience, communities often ask what they can expect from a case process and one way they answer that is to look at what prior complainants experienced. If this information is unavailable, it is more difficult for potential complainants to determine whether engaging with the Ombudsperson is worth the risk.</p> <p>Publishing a case registry has two other benefits as well: (1) it helps address unequal access to information; and (2) it can support the safety of complainants. Whether a case registry exists or not, local governments and WWF offices are likely to be aware of complaints to the Office; in contrast, other communities impacted by WWF projects will not be. And regarding safety of complainants, in our case experience communities raising complaints who choose for their identities to be made public also seek for additional publicity and official acknowledgement of their complaint to help protect against reprisals.</p> <p>In our experience advising organizations establishing independent grievance mechanisms for the first time, we often hear concerns that publishing case information will increase litigation or regulatory risks. Thus far, those risks are largely hypothetical with few lawsuits relating to issues brought to grievance mechanisms. That said, a strong</p>

<sup>3</sup> WWF, *Proposed Operating Framework for the Ombudsperson (Operating Framework)*, 2022, Page 10, available at: [https://wwfombuds.awsassets.panda.org/img/original/proposed\\_operating\\_framework\\_for\\_wwf\\_ombudsperson\\_en.pdf](https://wwfombuds.awsassets.panda.org/img/original/proposed_operating_framework_for_wwf_ombudsperson_en.pdf).

<sup>4</sup> Multiple Authors, *Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms*, 2021, Page 29, available at: <https://accountabilitycounsel.org/wp-content/uploads/2021/12/good-policy-paper-final.pdf>



Relevant Clause of the Operating Framework	Recommendations
	<p>independent grievance mechanism, paired with a strong institutional response to the mechanism’s findings and work, is in fact a safeguard against litigation and regulatory non-compliance because it offers a channel to hear from and address issues by people closest to a project. If the Ombudsperson adequately hears from and responds to complainants, then there will be less risk of litigation or regulatory findings of noncompliance.</p> <p><b>Recommendation:</b> We recommend that the operating framework include the following language: “The Office shall maintain a transparent and comprehensive online Register. The information posted on the Register shall include pending, completed and closed cases and all relevant documentation relating to Complaints processing, including Complaints with links to complaint letters (redacted if Complainant(s) request confidentiality), decisions on Complaints eligibility, assessment reports, Problem-Solving report and agreements, terms of reference for Compliance Review reports, monitoring reports and final monitoring reports. All material shall be provided in full and posted online as they become available and remain there indefinitely.”</p>
<p><b>Independent Fact Finding:</b> Para. 23. “Collaborative problem solving is not focused on finding fault and does not judge the merits of a complaint. <b>The Office does not undertake any independent fact finding as part of collaborative problem solving.</b> The primary objective is to help the complainant, WWF and any other relevant stakeholders identify and implement their own solutions to address the complaint.” [Emphasis added]</p>	<p><b>Issue:</b> In our experience advising complainants, fact finding is a common and necessary part of problem-solving processes at other mechanisms. It is common for parties to disagree on or need more information about key facts to be able to negotiate a durable agreement. For example, additional studies might be needed to determine the value of people’s land, the impact of a project on water quality, or an assessment of who received which benefits. In these circumstances, the mechanism will help facilitate such fact-finding.</p> <p><b>Recommendation:</b> To clarify that certain fact-finding processes may need to occur to support the problem-solving process, we recommend that additional language be added.</p> <p>“23. Collaborative problem solving is not focused on finding fault and does not judge the merits of a complaint. <del>The Office does not undertake any independent fact finding as part of collaborative problem solving.</del> The primary objective is to help the complainant, WWF and any other relevant stakeholders identify and implement their own solutions to address the complaint. <b>Although the Office does not undertake independent fact finding, it will facilitate fact-finding processes in furtherance of the</b></p>

Relevant Clause of the Operating Framework	Recommendations
	problem-solving process.”
<p><b>Unilateral Termination of a Problem Solving Process:</b> Para. 25: “The complainant, WWF and other relevant stakeholders are expected to act in good faith and the Office has the discretion to terminate any process in the event it determines there is a lack of good faith or sufficient progress being made to justify continuation of the process.”</p>	<p><b>Issue:</b> Problem solving processes are often not straightforward or linear, with varying periods of progress. Even though there may be periods when there is no sufficient progress, dynamics can change that could lead to the parties reaching an agreement. As long as the parties agree to continue in this process, the office should not unilaterally close the process.</p> <p><b>Recommendation:</b> Para. 25: “The complainant, WWF and other relevant stakeholders are expected to act in good faith <del>and the Office has the discretion to terminate any process in the event it determines there is a lack of good faith or sufficient progress being made to justify continuation of the process.</del>”</p>
<p><b>Sequencing of Problem Solving and Compliance Assessment:</b> Para. 30. “Where the complainant and WWF are not able to reach agreement, the Office, will refer the matter to the relevant WWF Board and WWF senior management so that a Compliance Assessment can be conducted. The WWF Board will take into account any concerns the complainant may have regarding the conducting of a Compliance Assessment.”</p>	<p><b>Issue:</b> Similar to our concern that the Ombudsperson Office’s compliance mandate is not yet clear, we also seek clarification that the Ombudsperson’s problem-solving process will not delay the WWF Boards’ obligation to conduct a Compliance Assessment. WWF Boards have a duty to investigate. Therefore, WWF Boards should not need to wait for a problem-solving process to conclude to begin their investigation. A compliance assessment and problem-solving process should be able to occur in any order, including simultaneously. Complainants should be consulted on the sequencing.</p> <p><b>Recommendation:</b> We recommend the following language.  “Compliance assessments and problem-solving can occur in any order, including simultaneously. Also, where the complainant and WWF are not able to reach agreement, the Office, will refer the matter to the relevant WWF Board and WWF senior management so that a Compliance Assessment can be conducted. The WWF Board will take into account any concerns the complainant may have regarding the conducting of a Compliance Assessment.”</p>
<p><b>Protocol in Cases with Human Rights Abuses:</b> Para. 31. “The Office will notify the relevant WWF Board and WWF senior management of any allegations of human rights abuses. WWF will follow its Response Protocol for Human Rights Abuses (Response</p>	<p><b>Issue:</b> The Ombudsperson office’s problem-solving process needs to be driven by and respect the agency of complainants. As a result, the Ombudsperson Office must make complainants aware of all consequences of filing a complaint, including the Response Protocol for Human Rights Abuses. Because filing a complaint about human rights abuses triggers WWF’s Response Protocol, the Ombudsperson Office needs to make</p>

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Protocol).”	<p>complainants aware of what to expect from this Protocol in particular.</p> <p><b>Recommendation:</b> At minimum, the final Operating Framework should include a link to the Response Protocol for Human Rights Abuses and include it in an annex. We also recommend the following language:</p> <p>“The Office will notify the relevant WWF Board and WWF senior management of any allegations of human rights abuses. WWF will follow its Response Protocol for Human Rights Abuses (Response Protocol). <b>The Office will make complainants aware of the Response Protocol.</b>”</p>
<p><b>Project-Specific Advice through Advisory Services:</b> Para. 36: “Where there is no perceived or actual conflict of interest in doing so, the Office may also provide technical advice on WWF projects and programs, where such advice furthers the aims of the Advisory function outlined above.”</p>	<p><b>Issue:</b> Although we see the merit of the Ombudsperson office offering its expertise and advice to improve WWF projects, it is difficult to know under what circumstances there would be no perceived or actual conflict of interest with project-specific advice. Communities may be concerned about potential conflict of interest issues when they file a complaint on a project that the Ombudsperson’s office has provided advice through its advisory services.</p> <p><b>Recommendation:</b> We recommend that this provision either be deleted or that the Ombudsperson designs further safeguards to prevent potential future conflicts of interest on projects that communities might raise issues about to the Ombudsperson.</p>
<p><b>Threats and Reprisals:</b> Para 49. “While WWF and the Office will seek to support the safety and wellbeing of any complainant and their family members, all such persons will be advised by the Office that neither WWF nor the Office has the ability or capacity to provide or ensure the protection or anonymity of any person, and neither WWF nor the Office has judicial or enforcement authority. The Office will strongly encourage anyone who is threatened to seek help from the appropriate authority.”</p> <p>Para 50. “If requested by a complainant, WWF, the</p>	<p><b>Issue:</b> It is a positive step that the Framework has explicitly acknowledged the ever-present threat of reprisals that complainants face even when they engage with institutional mechanisms of accountability. However, in order for the Office to be committed to the principles of fairness and rights-compatibility, the framework has to go beyond mere acknowledgement and implement a protocol that identifies responsible individuals and triggers processes that can effectively “assess, prevent, and/or respond to concerns of threats and reprisals.” The provisions in their existing form do not treat this as a mandatory requirement but merely allows WWF, Office, and other relevant stakeholders to take action as and where they can. Such a lack of clarity in who has to take action and what type of action can be taken will lead to confusions and delay in the assistance WWF or the Office can provide in times of emergency. A detailed and well-thought out protocol on retaliation will further support the safety and well-being of</p>

Relevant Clause of the Operating Framework	Recommendations
<p>Office, and other relevant stakeholders may, as appropriate and within the scope of their respective roles and mandates, coordinate on measures that seek to assess, prevent, and/or respond to concerns of threats and reprisals and will attempt to do so in a way that is informed by the complainant.”</p>	<p>WWF staff who can also be victims of threats and reprisals.</p> <p>Retaliation against complainants can also take the form of human rights abuses including “loss of life, loss of liberty, attacks on persons, torture, degrading treatment or other forms of discrimination.”<sup>5</sup> It is important that the Framework clarifies whether WWF’s Response Protocol for Human Rights Abuses could be triggered in such a situation.</p> <p><b>Recommendation:</b> The Ombudsperson Office should develop a detailed policy and procedure for threats and reprisals.</p>

**3. The following chart includes issues not currently addressed in the Operational Framework:**

Missing Topic	Recommendation
<p><b>Drafting of the Future Procedures</b></p>	<p><b>Issue:</b> The draft operating framework makes multiple references to additional procedures. We agree that further procedures will be necessary to communicate the process to potential complainants. Good practice at other institutions is that a mechanism has the authority to operationalize its own mandate and draft its own procedures. We assume that the Ombudsperson will have the authority to draft its own procedures. Out of an abundance of caution, we are including this recommendation below.</p> <p><b>Recommendation:</b> We recommend that the Ombudsperson Office have the authority to draft necessary procedures to operationalize the Operating Framework and that this authority be enshrined in the Framework.</p>
<p><b>Commitment to Remedy</b></p>	<p><b>Issue:</b> While we agree that the Ombudsperson Office is a benefit to WWF in that it helps strengthen the sustainability of WWF’s projects across the board, its primary stakeholders are project-impacted communities. In that regard, a primary objective of any accountability mechanism is to facilitate the remediation of harm experienced by affected communities. This needs to be made explicit so that communities considering accessing the Office can better understand what to expect. Because of accountability</p>

<sup>5</sup> WWF, Response Protocol for Human Rights Abuses, 2019, available at: [https://wwfint.awsassets.panda.org/downloads/response\\_protocol\\_human\\_rights\\_abuses.pdf](https://wwfint.awsassets.panda.org/downloads/response_protocol_human_rights_abuses.pdf).

Missing Topic	Recommendation
	<p>offices being situated within the same institution that funds and implements projects and because institutions often have many different accountability-related processes—such as a whistleblower hotline, internal monitoring &amp; evaluation practices, and an audit function—the draft framework needs to be explicit that its purpose is to hear from and remedy issues impacting communities.</p> <p><b>Recommendation:</b> The operating framework should explicitly state that the Ombudsperson will help facilitate remedy.</p> <p>“14. In summary, the Office’s mandate is to:</p> <ul style="list-style-type: none"> <li>a. Meaningfully and fairly address <del>ESSF-related</del> <b>environmental and social</b> concerns brought to the Office relating to WWF activities;</li> <li>b. <b>Facilitate access to remedy for people impacted by WWF activities;</b></li> <li>c. Enhance the human rights, social and environmental performance of WWF activities by contributing toward institutional accountability for ESSF compliance; and</li> <li>d. Support the culture of continuous learning, and strengthen WWF’s collaborative problem solving capabilities.” </li></ul>
<p><b>Explicit Recognition of Indigenous Populations:</b></p>	<p><b>Issue:</b> Although the draft framework is consistent with good practice at other accountability mechanisms by permitting complaints in any language and enshrining the principle of gender inclusivity, the draft framework does not explicitly recognize impact on or rights of Indigenous Peoples and Local Communities.<sup>6</sup> Indigenous Peoples can face particular challenges when engaging with accountability offices. For example, accountability processes often do not create space and time for collective and community-specific decision-making processes.</p> <p>The draft framework can go beyond recognizing “respect for community agency and self determination” to ensuring that the Office is an accessible choice for Indigenous Peoples and Local Communities. Best practices at other mechanisms include among other things allowing complainants to submit complaints in various forms, either in</p>

<sup>6</sup> This is at odds with other WWF policies that explicitly acknowledge the impact of WWF’s work on these populations. For example, the WWF Statement of Principles on Indigenous Peoples and Conservation (1996 and updated in 2008) and WWF Network’s Guidelines Prevention of Restriction of Rights and Involuntary Relocation and Resettlement of Indigenous Peoples and Local Communities (2018).

Missing Topic	Recommendation
	<p>writing, orally, or via recording. Similarly outreach activities should also be “undertaken in languages communities understand and via methods that accommodate their cultural backgrounds, literacy, and technological constraints.”<sup>7</sup></p> <p><b>Recommendation:</b> We recommend the following language be added:  “13. The Office will take into consideration the following principles: [...] (f) <b>Inclusivity of Indigenous Peoples and Local Communities.</b>”</p> <p>Further, the Office can consider adding the following:  “When the case process involves Indigenous Peoples, the Office will take particular care to respect community-specific decision-making structures, gender inclusivity, history and legacy issues, customary practices, ancient traditions, language preferences, existing legislation on prior consultation, and capacity-building needs.”<sup>8</sup></p>
<p><b>Rights Compatibility of Agreements</b></p>	<p><b>Issue:</b> During problem-solving processes, it is not uncommon for project-impacted communities to feel pressure to agree to provisions even if they are not in their best interest. This can include agreeing to provisions that limit their own rights. We recommend that the Ombudsperson office assume the responsibility of only facilitating agreements that are rights-compliant.</p> <p><b>Recommendation:</b> We recommend the following language be added:  “In pursuit of a resolution, the Office will not knowingly support agreements that would coerce one or more Parties, be contrary to WWF policies, or violate applicable domestic laws or international law.”</p>
<p><b>Availability of Ombudsperson to advise potential complainants</b></p>	<p><b>Issue:</b> In our experience, it is common for communities considering filing a complaint to want to reach out to accountability offices seeking to better understand the process. At times, communities do not know if this is an option or not. To better clarify that the Ombudsperson office would be available to speak to potential complainants about what to expect from the process, this option should be explicitly enshrined in the operating</p>

<sup>7</sup> Multiple Authors, *Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms*, 2021, Page 28, available at: <https://accountabilitycounsel.org/wp-content/uploads/2021/12/good-policy-paper-final.pdf>.

<sup>8</sup> This is adapted from IDB's MICI Consultation Guidelines para. 4.19.

Missing Topic	Recommendation
	<p>framework.</p> <p><b>Recommendation:</b> We recommend the following language be added:  “43. Promoting awareness and understanding will include a range of initiatives, including:  a. Implementation of a communications and outreach program;  b. Dissemination of information and training across WWF;  c. Annual public reporting at the aggregate level;  d. Responding to inquiries from potential complainants about the complaint process  and  e. Development of a website.”</p>
<p><b>Access to WWF Information</b></p>	<p><b>Issue:</b> For the Ombudsperson’s Office to effectively carry out its mandate, it must have access to all relevant project documents and staff. This includes information from WWF at all levels and relevant third-party information.</p> <p><b>Recommendation:</b> We recommend the following language be added:  ““In connection with a complaint, the Ombudsperson’s Office will have full and direct access to relevant WWF staff and all project files (including electronic and hardcopy files) and will have access to cabinets and other storage facilities. WWF staff will be required to fully cooperate with the Ombudsperson’s Office. The Ombudsperson’s Office will have the ability to ask WWF staff to make arrangements to interview third parties and to request the submission of relevant documents.”</p>