**World Bank Guidance Note**

**Strengthening capacity for dispute resolution and grievance redress**

**in REDD+ Readiness Phase**

1. **Background**

According to the FMT Note on Enhancing Capacity for Dispute Resolution, a national feedback and grievance redress mechanism needs to be effectively available, and if necessary strengthened, as part of the country's REDD+ institutional arrangements. Such a mechanism needs to be available to REDD+ stakeholders from the earliest stages of R-PP implementation in order to facilitate handling of any request for feedback or complaint by any REDD+ Readiness stakeholders, wherever they originate, with particular attention to providing access to geographically, culturally or economically isolated or excluded groups. **This note proposes an approach to strengthening grievance capacity in the Readiness phase.**

1. **Readiness versus Carbon Fund**

The introduction of REDD will transform the dynamics of conflicts over natural resources. The point is not to prevent or supress conflicts but to predict how they can be created or fuelled by REDD+ and address them.The purpose of this work is to help countries address the contentious issues that can prevent selected countries from crossing the REDD+ readiness finish line.

Addressing potential grievances and disputes will require a strategy that differentiates between the Readiness Preparation stage and Carbon Fund operation stage of the process. During Readiness, the complexity of issues and diversity of actors involved may lead to numerous questions, inquiries, and grievances about the REDD+ Readiness strategy and process. At this stage, lack of a coherent policy framework in place, rules for benefit sharing, clarity over resource property or tenure rights, territorial planning, and stakeholder consultation capacity of national institutions is likely to result in conflict. Prevention and resolution of this type of conflict should happen through the consultation and participation processes that are already in place.

During Carbon fund implementation, grievances are likely to arise around how REDD+ policies and mechanisms are being operated on the ground (e.g. are the beneficiaries receiving what the law says and through accessible mechanisms? Are some people disputing the right to benefits in a given territory?). These types of disputes should be addressed by grievance mechanisms that will have been either designed or strengthened during the Readiness stage.

1. **Approach to Grievance Redress in the Readiness Phase**

The proposed approach recommends three tasks: (i) an assessment of potential conflicts that may arise during both the Readiness and Carbon Fund phases; (ii) identification of existing capacity for grievance redress; and (iii) an action plan that identifies priority areas for strengthening grievance capacity. The action plan should answer the question of how to best spend the $200,000 in dedicated FCPF funds for each country to strengthen their grievance capacity during the Readiness phase.

**Step 1: Assessment of Risks and Potential Conflicts**

A rapid review of contentious issues, stakeholders, and institutional capacity will be conducted, strongly relying on the information already produced by the countries and the delivery partners (World Bank, UN, IDB). Gaps will be filled with in-country interviews. The SESA should provide the basis for much of this work.

The work will start by understanding the ***issues*** that are -or are likely to be- at the heart of disputes related to REDD+, such as clarity over resource property or tenure rights, benefit distribution, cross-sectorial competing interests, decision-making processes, and opposing views over market-based solutions to environmental problems.

The review will map who the key ***stakeholders*** to these issues are, what the nature of the debate on REDD+ is (informed, polarised, etc). Attention will be paid to the local dispute resolution culture and, particularly, to the capacity and track-record of stakeholders to settle disputes through constructive negotiation.

**Step 2: Capacity Assessment**

The review will also cover the availability, credibility and capabilities of ***local and national institutions*** to address the issues that are at the heart of REDD+-related disputes. For each of the institutions that are expected to deal with these issues, there will be a credibility assessment, based on the following criteria[[1]](#footnote-1):

* Legitimacy: is its governance structure widely perceived as sufficiently independent from the parties to a particular grievance?
* Accessibility: does it provide sufficient assistance to those who face barriers such as language, literacy, awareness, cost, or fear of reprisal?
* Predictability: does it offer a clear procedure with time frames for each stage and clarity on the types of results it can (and cannot) deliver?
* Fairness: are its procedures widely perceived as fair, especially in terms of access to information and opportunities for meaningful participation in the final decision?
* Rights compatibility: are its outcomes consistent with applicable national and international standards? Does it restrict access to other redress mechanisms?
* Transparency: are its procedures and outcomes transparent enough to meet the public interest concerns at stake?
* Capability: does it have the necessary technical, human and financial resources to deal with the issues at stake?

Categorising both risks of conflict associated with key REDD+ issues and institutional capacity to address those conflicts is central to this approach. Where capacity and credibility of national institutions are low and the stakes are high, the risk of grievances going unaddressed will be significant. The risk analysis table is a helpful guide:

|  |  |
| --- | --- |
|  | **Institutional Capacity** |
|  | Local Community Boards or Councils | National Courts | National Human Rights Commission | National Ombudsman |
| **How high are stakes?** | Property/Tenure disputes | High/medium | High/low | High/High |  |
| Benefit Sharing  | Etc. |  |  |  |
| Participation in Decision-making |  |  |  |  |

Issues and stakeholder reviews will be mostly desk-based and will initially and primarily rely on the information contained in the R-PP (1a, 1b, 1c) and Strategic Environmental and Social Assessments prepared for and by each country, as described in section 2a of their R-PP. Where SESAs do not provide sufficient input for the review that is relevant from a conflict-sensitive perspective, the gaps will be bridged by strengthening the capacity of FCPF’s SESA team -through training and/or technical assistance- to gather additional information.

Review of institutional capacity to address REDD+-related disputes will require both desk-work and in-country interviews. It will include and support, but not be limited to, the rapid assessments mentioned in section 1.a.8.a of the R-PP and the analysis of institutional capacity referred to in section 2.b.2.4 (feasibility assessment). It will also inquire how stakeholders view and trust the data compiled and produced under section 2.a.

Work will begin with an initial desk-review. Preliminary findings will be shared with FCPF and national authorities to decide if a more thorough review is merited.

**Step 3: Action Plan**

Action plans will necessarily be country specific, but should focus on tangible steps that can be taken within the coming 12-24 months to strengthen grievance capacity. Countries should use the action plans to define how they intend to use the $200,000 in dedicated FCPF funds for grievance redress in the Readiness phase.

In practical terms, there are a small number of components for an effective institutional approach to grievance management:

An easily accessible and well publicised focal point or user-facing ‘help desk’. This can be within the relevant agency or government department, but must be in a location that is seen as credible. Typically, the user should be provided with a receipt and ‘roadmap’ telling him/her how the complaint process works and when to expect further information. This is the point where a grievance log or registry is opened. Recognising that many complaints may be resolved ‘on the spot’ and informally by project staff, there are opportunities to encourage these informal resolutions to be logged here to (i) encourage responsiveness; and (ii) ensure that repeated or low-level grievances are being noted in the system.

Review of eligibility. This should be a procedural step to ensure that the issue being raised is relevant to the REDD+ program. It is often better to ensure a relatively low barrier to entry with quick turn-around rather than to prevent users having their issues considered.

Assign. This stage requires some technical capacity. Grievances should be categorised according to the type of issue raised and the effect on the environment/claimant if the impacts raised in the complaint were to occur. Based on this categorisation, the complaint can be prioritised based on risk and assigned to the most appropriate institution or individual to address it. For example, claims relating to land may be referred to an existing land claims court if this has been identified as a credible institution for resolving these disputes. The process of assigning cases is generally more successful when it is done with the agreement of the user.

Appeals. Repeated complaints or appeals should be dealt with through a defined process. One approach is to refer appeals to the national courts or other suitable process. Alternatively, for sensitive and challenging cases, the mechanism may also convene a senior and independent panel to seek appropriate resolution of the case. This panel may also play the role of providing strategic oversight and assurance of the mechanism through reviewing monitoring and tracking data.

Monitoring, tracking, and reporting on outcomes is essential to promote credibility of the mechanism to users and to encourage feedback and organizational learning. Systemic trends or repeated implementation weaknesses can be more quickly identified.

1. **Examples of Liberia and Mexico**

Liberia and Mexico are two examples where this approach – of integrating with and building on existing capacity – can work in different contexts.

*Liberia*

The REDD+ team looked early into *existing and potential risks* related to land and forestry management and found:

* Overlapping and contested land claims
* Data availability and verification
* Ongoing land policy reforms
* Private Use Permits
* Past history of conflict

Next, they looked at what *institutions* already exist in Liberia to address these risks. At the non-government level, these include:

* Traditional methods for resolving disputes (Palava)
* Community Forestry Development Committees
* Local mediators (trained by Norwegian Refugee Council)
* Land Coordination Centers (in development)

The REDD+ team developed an *action plan* to:

* Embed grievance into the existing FCPF system by adding grievance responsibilities to the TORs for the SESA and REDD+ Coordinators;
* Mandate the national steering committee or the REDD+ Technical Working Group with handling more serious grievances;
* Commission a study to explore, together with national stakeholders, the development of a sustainable, sector-based grievance mechanism.

*Mexico*

Mexico wanted to ensure it had a functioning grievance mechanism in place during the FCPF consultation phase, versus building a GRM that would only function once carbon funds were flowing. Thus their *risk assessment* carefully distinguished between the types of risks likely to arise in each phase (i.e. Readiness and Implementation, or carbon finance). The next step was to map out existing capacity. Their *capacity assessment* found three different entities within the national forest agency that handled grievances:

* one unit receives complaints about poor performance or corruption among public servants;
* another unit handles requests for general public information;
* a third unit handles information requests on forest department operations.

To determine what was working well and what needed to be improved, the Mexican forest agency convened a workshop evaluated the existing capacity against specific criteria (using the World Bank’s “GRM Evaluation” tool) to assess where the gaps were. They shared this evaluation with all participants and used it to guide a discussion on *next steps*. Ultimately, they agreed to:

* Centralize GRM functions in one unit and put in place processes for referrals from the other units;
* Create a mandate for the centralized GRM to handle all forest department issues – not just grievances related to FCPF;
* Link the informal grievance work being done in the field to the central system;
* Create a centralized database of grievances with monitoring and reporting systems.
1. In reference to the report issued in 2008 by John Ruggie, the UN Special Representative of the Secretary General on Human Rights and Transnational Corporations and other business enterprises. [↑](#footnote-ref-1)