

Office of the Special Project Facilitator

Complaint Handling in Development Projects



Grievance Mechanisms: A Critical Component of Project Management¹

The road to successful project implementation is paved with good intentions. But in our complex and increasingly transparent world, community and employee stakeholders do not always see eye to eye with project objectives, in spite of well-designed and executed plans. Whether the issue is compensation for the relocation of homes or the threat to long-standing cultural norms, project implementation can raise questions and create concerns. A well-functioning grievance mechanism can resolve problems faced by individuals, and it can provide valuable information for managers tasked with implementation.

Defining Grievance Mechanisms

Grievance mechanisms are systems or specified procedures for methodically addressing grievances or complaints and resolving disputes.² In recent years,

an increasing number of grievance mechanisms have been designed and implemented by public and private institutions at the local, national, regional, and global levels. Grievance mechanisms have been used to identify and respond to unintended impacts on individuals, to ensure that the rights of affected parties are respected, and to increase the likelihood that project implementation will proceed without undue delay or complication.

Unlike judicial remedies in which the state has an established process based on legal frameworks, nonstate-based grievance mechanisms take the form of voluntary agreements between parties and are designed as a methodology for resolving complaints by one party against another. An alleged abuse or negative impact brought about by an organization's actions or policies is addressed between the complainant and the public institution or private enterprise.

¹ This paper was written by Doug Cahn, a consultant hired by the Asian Development Bank (ADB) during the period of September 2010.

² Grievances and complaints are used interchangeably here.



Asian Development Bank

Rapid Adoption by Public Institutions and Private Enterprises

Grievance mechanisms are increasingly used as a valued tool in effective public and private sector governance. Institutions ranging in size and scope from domestic enterprises to national conciliation and arbitration services and multilateral institutions have established grievance systems of one kind or another.

In fact, rapid adoption of accountability mechanisms has been a hallmark in recent years among international organizations, including international financial institutions. Starting with the World Bank's Inspection Panel,³ which was established in 1993, all the major multilateral development banks have set up accountability mechanisms—including the African Development Bank,⁴ Asian Development Bank (ADB),⁵ European Bank for Reconstruction and Development,⁶ Inter-American Development Bank,⁷ and International Finance Corporation.⁸ Various bilateral institutions have also established accountability mechanisms in recent years. For example, the Japan Bank for International Cooperation and Nippon Export and Investment Insurance have well-defined objection procedures.⁹ The Office of Accountability of the Overseas Private Investment Corporation (OPIC) responds to complaints from communities that believe they are adversely affected by OPIC-supported projects.¹⁰

A number of other international organizations now also have such mechanisms. The European Investment Bank¹¹ deploys a complaint mechanism that incorporates a two-tiered system, including access to the European Ombudsman. The European

Ombudsman investigates complaints related to the institutions of the European Union.¹²

The Organisation for Economic Co-operation and Development's (OECD) national contact points (NCPs) are designed to promote the OECD Guidelines and to handle inquiries, complaints, and "special instances."¹³ The Guidelines constitute a comprehensive corporate responsibility instrument that provides detailed recommendations for the responsible business conduct of multinational enterprises operating in and from 42 participating countries. The Guidelines address 10 major policy areas, including human rights, supply chain management, labor relations, environment, anticorruption, competition taxation, and consumer interests.

Under the NCP system, trade unions or nongovernment organizations can submit a complaint related to the Guidelines against a multinational company in a member state. On the occasion of the 10th anniversary of the 2000 revision of the Guidelines, OECD-participating governments agreed on the terms of reference for an update of the Guidelines to further promote responsible business conduct.

Under the United Nations (UN) Global Compact, any individual, group, or organization can make an allegation of systematic and egregious abuse by a Global Compact member company of any of the Global Compact's overall aims and principles using its integrity measures.

At the multistakeholder level, grievance mechanisms are linked to collaborative initiatives, such as the Fair Labor Association, the Voluntary Principles on Security

³ See www.inspectionpanel.org

⁴ See www.afdb.org/en/about-us/structure/independent-review-mechanism/

⁵ See www.adb.org/Accountability-Mechanism/default.asp

⁶ See www.ebrd.com/pages/about/principles/integrity/pcm.shtml

⁷ See www.iadb.org/mici/index.cfm

⁸ See www.cao-ombudsman.org/about/

⁹ See www.jbic.go.jp/en/about/environment/guideline/disagree/, and http://nexi.go.jp/e/pdf/08b_1.pdf

¹⁰ See www.opic.gov/doing-business/accountability

¹¹ See www.eib.org/attachments/strategies/complaints_mechanism_policy_en.pdf

¹² See www.ombudsman.europa.eu/home.faces

¹³ Frequently asked questions about the OECD Guidelines and national contact points can be found at www.oecd.org/document/58/0,3343,en_2649_34889_2349370_1_1_1_1,00.html

and Human Rights, or the Global Network Initiative.¹⁴ In each case, a process is established to challenge the commitments made by each of the initiative's participants.

At the enterprise level, grievance mechanisms are increasingly valued as tools for responding to concerns of employees and communities on matters related to their own operations, or the operations of their suppliers or business partners. These enterprise-level mechanisms may take the form of a simple process whereby management augments its industrial relations procedures, on the one hand, to a more extensive and intricate set of procedures for addressing potentially conflicting concerns raised by complex communities, on the other. An assumption underlying the movement to value grievance mechanisms is that the quality of internal and external stakeholder relations is enhanced, leading to higher levels of employee satisfaction and lower employee turnover, among other benefits.

The benefits of grievance mechanisms is evidenced by the fact that many of the world's leading corporations have instituted grievance mechanisms in their operations and find that their return on investment is measured in risk avoidance and enhanced stakeholder support for corporate initiatives.¹⁵ Enterprise-level grievance mechanisms can be particularly effective because they are positioned for quick response from management due to proximity and scale, both critical elements of a well-functioning grievance mechanism.

Role and Function

Grievance mechanisms are generally understood to provide one or more of six different processes that are

used to address a grievance: information, facilitation, negotiation, mediation/conciliation, investigation, and adjudication. In reality, grievance mechanisms are typically found to combine more than one of these processes.

Social audits and monitoring provide periodic snapshots of company impacts, but these static measures do not provide ongoing opportunities for reporting concerns and have been marred in recent years by company falsification of records. Grievance mechanisms are standing channels of communication that are open directly to those potentially impacted. They are related to, but separate from, wider stakeholder engagement. Grievance mechanisms are a means for identifying both isolated problems and systemic challenges that an enterprise or project team will need to address to avoid recurrent disputes.

Crucially, grievance mechanisms at the operational level are also an early warning system that can bring problems to the attention of the enterprise before they escalate into major problems or abuses and engender campaigns, protests, or litigation, with all their implications for enterprise or project operations, reputation, and financial success.

Many executives, particularly at the enterprise level, hold fast to the view that grievances are a sign of weakness in a management system. In contrast, most practitioners of alternative dispute mechanisms, such as grievance mechanisms, believe just the opposite—that grievance mechanisms inform project management of negative impacts that they may not have been previously aware of and that deserve management's attention. Communication channels established to provide complainants access to the grievance mechanism typically provide valuable information about potentially damaging obstacles to

¹⁴ The Fair Labor Association is comprised of human rights groups, labor rights groups, universities, and companies, primarily in the footwear and apparel sector, that are dedicated to ending exploitative labor practices in global supply chains and creating lasting solutions to exploitative labor practices worldwide. For additional information about the Fair Labor Association's third-party complaint system, see www.fairlabor.org/thirdparty_complaints.html. The Voluntary Principles on Security and Human Rights are a guide for companies in the oil and gas sector to maintain the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms. For information about the Voluntary Principles, see www.voluntaryprinciples.org. The Global Network Initiative is a multistakeholder initiative with representatives from the information and communication technology sector (e.g., Microsoft, Google, and Yahoo!) and academic and nongovernment organizations dedicated to protecting and advancing freedom of expression and privacy in information and communications technologies. For more information about the Global Network Initiative, see www.globalnetworkinitiative.org

¹⁵ Case studies of corporate use of grievance mechanisms can be found at BASESwiki, a "collaborative work space for sharing information and learning about how dispute resolution between business and society works around the world." See <http://baseswiki.org/en/BASESwiki:CaseStories>.

project completion. The result is that problems are identified and resolved before they get to a point where the company has no option but to manage the problem with a focus on damage control.

Grievance mechanisms are not meant to replace the routine planning and problem-solving functions in public institutions or private enterprises, however. Nor are grievance mechanisms meant to replace or infringe in any way the appropriate role of trade unions, including the right to collective bargaining. Trade unions play the very useful role in representing employees in dialogue with management. Finally, grievance mechanisms should not be designed or implemented in ways that discourage complainants from seeking redress through judicial mechanisms where available.

Constraints on Effectiveness

The effectiveness of grievance mechanisms can be measured by (i) adherence to components of the mechanism itself, e.g., Did the process steps taken meet the agreed upon timeline for investigation, dialogue, etc. with complainants? and (ii) satisfaction levels of stakeholders, most notably complainants, e.g., Did the complainants believe that they were treated fairly?

However, clear metrics to assess the effectiveness of grievance mechanisms are generally underdeveloped, making it difficult to know precisely how well grievance mechanisms are working. In many cases, a high level of prior knowledge of the mechanism is necessary to access and engage with the grievance mechanism; the process of engagement may be complex and out of step with the capacities of affected employees or communities.

Other constraints include poor access due to great distances between a complainant and the nearest point of access, language and cultural barriers, poor response capability by project management (particularly in the case of urgent complaints), or fear of retaliation.

One often cited measure of success—a low number of complaints filed—is not typically a credible metric

inasmuch as potential complainants may feel that the grievance mechanism is not trusted or legitimate and, therefore, too risky to engage. Similarly, a high number of complaints filed over time may indicate that management is failing to address problems in a sustainable manner.

Principles Developed by UN Special Representative for Business and Human Rights

In his 2008 report to the UN Human Rights Council, the Special Representative of the UN Secretary-General (SRSG) for Business and Human Rights, John Ruggie, established a framework for human rights and business based on three pillars: the state duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and greater access by victims to effective remedies. Regarding grievance mechanisms, Ruggie said:

“Effective grievance mechanisms play an important role in the State duty to protect and the corporate responsibility to respect. Without adequate remedy, the duty to protect could be rendered weak or even meaningless. Nonjudicial mechanisms, whether state-based or independent, should conform to principles of legitimacy, accessibility, predictability, rights-compatibility, equitability, and transparency. Company-level mechanisms should also operate through dialogue and mediation rather than the company itself acting as adjudicator. As part of the corporate responsibility to respect, grievance mechanisms help identify, mitigate, and possibly resolve grievances before they escalate and greater harm is done.”¹⁶

Based on extensive multistakeholder consultations, Ruggie established continuous improvement as an additional, seventh principle. Unless a company is open to feedback about its impacts on its external stakeholders, Ruggie asserted, it cannot be confident that it is not infringing upon their rights.

¹⁶ The Framework, along with a full complement of submissions, commentary, and documentation about the work of the UN Special Representative for Business and Human Rights, can be found on the Business and Human Rights Resource Centre website. See www.reports-and-materials.org/Ruggie-protects-remedy-framework.pdf

The Principles are designed to be applied as a group, since it is together that they represent and reinforce the rights-compatible approach.

This approach to grievance mechanisms, with its strong emphasis on creating a process that is viewed as legitimate and trusted through the eyes of all stakeholders, is both innovative and significant. No longer is it sufficient for complaints to be addressed solely through management fiat. Dialogue and engagement, using processes that are accessible, predictable, and conducted in a way that embraces transparency, are now considered best practices.

While these Principles were developed with a great deal of stakeholder consultation, Ruggie acknowledged that they would require testing in order to better understand how or in what ways they might require modification or support from additional tools before they are broadly replicable.

Testing the Principles

Preliminary research by the Corporate Social Responsibility Initiative at Harvard's Kennedy School of Government suggests that grievance mechanisms designed jointly with the groups that may need to access them can reduce frivolous complaints, improve relationships, build trust, improve productivity, and reduce litigation. However, Ruggie has argued that more systematic research is needed to test these findings and understand more about how grievance mechanisms that comply with the SRSG's Principles can benefit both company and stakeholders. In turn, this research is expected to show whether the Principles themselves need further refinement.

In March 2009, the International Organization of Employers, International Chamber of Commerce, and the Business and Industry Advisory Committee of OECD announced their intention to collaborate with Ruggie "on a project that is designed to pilot his proposed Grievance Mechanism Principles... [working with] a small number of companies from relevant sectors that would test pilot these Principles at plant or project level and disseminate the results as part of the learning experience." This project will run to January 2011 and involve four companies: two from the extractives sector and two from sectors that

depend heavily on supply chain production. The purpose of the pilot is twofold:

- To test the impact that mechanisms that meet the Principles can have as a means of risk management and accountability for companies, as well as a means of remedy for impacted stakeholders.
- To learn lessons about how the Principles can be practically applied to reflect operational realities in diverse geographic, cultural, legal, and commercial settings.

The Way Forward

Grievance mechanisms are a valued tool to be used in project creation and engagement with affected persons around the world. The use of grievance mechanisms has become *de rigueur* in public institutions and world-class private enterprises. They have inherent value and are increasingly understood as such due to the attention and guidance that the SRSG Principles have created, bringing long-lasting impact on the design and implementation of grievance mechanisms at all levels, be they at the enterprise, national, regional, or international level. How to apply the SRSG Principles will continue to be an area of learning and experimentation, but the fact that the Principles are at an early stage and do not have long years of historical experience should not deter project managers from applying them. In communities where enabling environments are weak, i.e., where the awareness, external resources, community support, and resources necessary to support the grievance process are underdeveloped, capacity-building initiatives will be extremely useful.

Grievance mechanisms are not a substitute for good community engagement strategies or management-employee communication programs that result in improved relationships with employees or communities. However, they are an essential component of projects that are respectful of the rights of those affected by project design and implementation, reducing risk and contributing to long-term support for public and private sector activity.

Characteristics of a Good Complaint-Handling Mechanism

- Is known to the public and affected persons (APs)
- Has a systematic way of recording and monitoring the progress or resolution of issues
- Is accessible to all APs irrespective of their economic status, literacy level, ethnicity, caste, religion, gender, disabilities, geographical location, etc.
- Includes participation, representation, and consultation of APs in its design, planning, and operational processes
- Provides security (both physical and psychological) for APs to participate without fear of intimidation or retribution
- Has respect for the dignity and self-esteem of APs and an empathetic relationship toward APs
- Provides equitable access for APs to information, advice, and expertise
- Has different levels to allow for appeals
- Has a reasonable time frame that prevents grievances from dragging on unresolved
- Evidences social and cultural appropriateness of the systems, approaches, and methods adopted
- Possesses values, attitudes, and commitment to fairness and justice
- Shows transparency, accountability, and objectivity in conducting grievance redress processes and realizing their outcomes
- Is independent and has a clear governance structure with no external interference with the conduct of grievance redress processes and reaching agreements
- Shows clarity in procedures, processes, and time frames adopted
- Has flexibility in decision-making processes, taking into account the unique and diverse character of grievances
- Is in compliance with existing systems without undermining them
- Is run by professionally and technically competent grievance redress mechanism (GRM) implementers who have been able to win trust and recognition from the communities
- Shows respect for the freedom of APs to opt for alternative GRMs if they so decide

Importance of Individual Staff and Government Approachability

APs do not always approach formal GRMs. The experience of the ADB-assisted Southern Transport Development Project (STDP) in Sri Lanka points to a large number of APs first approaching individuals and their respective institutions

outside formal GRMs to find redress for their grievances. Staff or regional offices are the “front-liners” and set the tone for credible complaint handling. If APs are treated fairly and respectfully, and appropriate information and guidance are provided at this stage, many grievances and complaints can be resolved at these individual levels, and only more complex issues are elevated to the appropriate GRMs. Attitudes and behavior, listening skills, ability to demonstrate empathy, and taking complaints seriously determine the first impression complainants get, which influences their readiness to contribute to problem solving.

Creating Awareness

GRMs should be widely publicized among stakeholder groups, such as the affected communities, government agencies, and civil society organizations. Lack of knowledge about GRMs results in people not approaching and using them, and they eventually lose the relevance and the validity of the purpose for which they were created. People should also be informed about their options, depending on the types of complaints, but should not be encouraged to submit false claims. Criteria for eligibility need to be communicated. An effective awareness campaign, launched to give publicity to the roles and functions of the GRMs, should include the following components:

- scope of the project, planned construction phases, etc.;
- types of GRMs available;
- purposes for which the different GRMs can be accessed, e.g., construction-related grievances, land acquisition and compensation-related grievances;
- types of grievances not acceptable to the GRMs;
- who can access the GRMs;
- how complaints can be reported to those GRMs and to whom, e.g., phone and facsimile numbers, postal and e-mail addresses, and websites of the GRMs as well as information that should be included in a complaint;
- procedures and time frames for initiating and concluding the grievance redress process;
- boundaries and limits of GRMs in handling grievances; and
- roles of different agencies such as project implementers and funding agencies.

A variety of methods can be adopted for communicating information to the relevant stakeholders:

- display of posters in public places such as in government offices, project offices, and community centers;
- distribution of brochures;
- village-level leaders to hold small-group discussions;
- community-based organizations; and
- print and electronic media, including radio.

Box continued

Elements of the Complaint Register

The regional offices of the STDP each maintain a public complaints register (book) in which complaints received by project managers or staff, either in written or verbal form, are entered.

A complaint register includes

- reference number,
- date of the complaint,
- name of the complainant/s,
- gender,
- national identification number/s,
- address of the complainant/s,
- summary of the complaint, and
- signature of the complainant/s.

Evaluating the Complaint-Handling Mechanism

An evaluation system should assess the overall effectiveness and the impact of the GRMs. Such evaluations can take place either annually or biannually, and their results should contribute to improving the performance of the different GRMs and provide valuable feedback to project management.

The following questions can be addressed in such evaluations:

- How many complaints have been raised?
- What types of complaints have been raised?
- What is the status of the complaints (rejected or not eligible, under assessment, action agreed upon, action being implemented, or resolved)?
- How long did it take to solve the problem?
- How many APs have used the grievance redress procedure?
- What were the outcomes?
- Are the GRMs effective in realizing the stated goals, objectives, and principles?
- Are the GRMs capable of responding to the range of grievances specified in their scope?

Source: ADB. 2010. *Designing and Implementing Grievance Redress Mechanisms: A Guide for Implementors of Transport Projects in Sri Lanka*. Manila.

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