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The Reformed Financial Mechanism of the UNFCCC

Renegotiating the role of civil society in the governance of climate finance

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Executive Summary

Most existing international financial institutions (IFIs) have been criticised for the ‘exclusivity’ of their decision-making processes. With even developing country governments struggling to be counted, civil society is a distant third or even fourth (after business) when it comes to influencing these institutions. The grassroots communities that are most directly affected by IFI policies are at an even greater disadvantage than ‘global’ civil society: far away from the corridors of power where decisions are taken by people who are in no way accountable to them, the chances that they can defend their interests in any meaningful way have been slim.

Yet, the importance of civil society engagement are widely acknowledged – especially in a world where ‘global governance’ (to the extent that that term can be used to describe current arrangements) functions in a democratic vacuum with little by way of direct representation or accountability. IFIs, in particular, *need* civil society engagement to provide them with a veneer of legitimacy and openness. In addition, the strengths that civil society organisations and institutions bring to planning, implementing and monitoring global and national goals are well documented.

Most IFIs therefore have formal processes in place for civil society engagement at the level of policy making (by the IFI Board, Council or Executive Body), as well as measures to encourage civil society participation in implementation of funded activities. To what extent have the processes put in place by IFIs succeeded in bringing the voices of poor and disadvantaged sections of civil society to the decision-making table?

This paper analyses the processes for civil society engagement instituted by the Global Environment Facility (GEF) and the World Bank’s Climate Investment Fund (CIF), to draw lessons for a proposed model for the future climate change finance institution or mechanism. It finds that although both models liberally employ the terminology of inclusivity and democratic process with regard to civil society (such as ‘GEF Family’, ‘NGO self selection’, ‘partnership’ and ‘active observer status’), they do very little more than provide an occasional venue for civil society to voice concerns. Interactions between the IFI governance bodies and civil society are mostly one-off events rather than a continuous and integrated process of mutually beneficial engagement. Even these events are sometimes carried out as “orchestrated token participation designed for non-input” (as the first CIF Partnership Forum was described by one civil society representative).

This analyses finds three main problems with the GEF/CIF model of civil society engagement: its top-down structure; the lack of resources for civil society to play their role; and the lack of processes or redress mechanisms to ensure that concerns raised by civil society are addressed.

Both the GEF and CIF models of civil society engagement are designed to mirror the top-down and dubiously representative functioning of IFIs, which end up being more successful in reaching out to ‘global’ civil society than to local communities and grassroots organisations. The term ‘civil society’ is left under-defined to paper over differences between its global, national and local constituents, as well as their varied interests and perspectives.

The crippling effects of the lack of resources to back up civil society engagement are

well documented in an independent review of the GEF NGO Network carried out in 2005. The review found that lack of resources hampered the ability of regional focal points to reach out to national and local members, and constrained NGO engagement. With additional funds only available for attending Council sessions, the Network could do little more than patch together weak lobbying during these sessions. While NGOs were mildly successful in communicating GEF procedures to the local level, there were no resources to gather and channel lessons learnt from local implementation to the GEF Council or Assembly.

As a result, the Network had minimal or non-existent impact on the implementation or monitoring of local GEF-sponsored activities. Interest in the Network was waning – at least in part because NGOs have realised that in the absence of funds and capacity to actually network, participating in the Network is a waste of time and unlikely to make a real difference. The review also documents the low priority given by the GEF Secretariat and Council to the NGO Network. Several proposals for funding submitted by the Network were rejected. The Network received no attention from the Secretariat other than during the Council and Assembly sessions, and the Secretariat and Council had no strategy for engaging the network as a key partner. The Council, meanwhile, was said to have shot down proposals from the Secretariat for a more inclusive role for NGOs in the Council deliberations.

Finally, accountability seems to be missing both ways in the relationship between IFIs and civil society. The latter may be given space to voice their concerns, but there is little else they can do to ensure that these concerns are acted upon. The example of a GEF project in India, described in Box 2, shows how even the support of an independent Inspection Panel is no guarantee that remedial action will be taken. The GEF NGO Network, meanwhile, was also found lacking accountability measures by the 2005 review. For instance, serious allegations of electoral violations were allegedly glossed over without any response or action. Such instances weaken the moral authority, and hence voice and role, of civil society.

Under these collective circumstances, ‘civil society engagement’ ends up merely as a fig leaf to grant weak legitimacy to IFIs where none has been earned.

This paper calls on civil society to lay down their ‘terms of engagement’ – a set of minimum conditions that they need in place to play a role in the effective use of funds – before they agree to engage in any formal civil society process. The terms should include devolved decision-making on the use of the funds, adequate resources for civil society engagement, and effective redress mechanisms at the nation and global level.

In return, civil society should commit to a high standard of accountability, and a commitment to the principle of subsidiarity in their own functioning. Transnational civil society will have an important role in ensuring that the international governance arrangements are fair, in the effective delivery of results, and in guaranteeing that the functioning of the global mechanism itself is transparent and accountable. They also have a role in supporting national and local civil society organisations by acting as a conduit for information and providing support and resources. However, it is the latter (national and local civil society), which has a key role in planning, prioritising, implementing and monitoring funded activities. This division must be respected, to ensure that the ultimately intended recipients of the funding – the ‘grassroots level’ – can directly influence how the money is used.

The paper proposes a model for ‘bottom-up’ civil society representation based on the creation of adequately funded and accountable National Civil Society Networks (NCSNs), with an integral decision-making role in National Trust Funds (NTF). The NCSNs should include all non-government actors that are involved in planning, implementing or monitoring

activities funded through the NTF. The members of the NCSN would regularly elect a National Civil Society Board (NCSB), including a Chair and other office holders (to be decided by the country depending on factors such as its size and diversity) for a fixed term of two to three years.

The key roles of the NCSB would be to establish rules and procedures to ensure the accountability of the National Network to its members; influence national government policies and decisions related to the use of the funds through participation in the governance of the National Trust Fund; and to represent the Network at national, regional and global levels (including, for instance, meetings of the Executive Board of the RFM, thus eliminating the current random selection of representatives).

Funds for the functioning of the NCSN could be allocated upfront by the global governing body, which could agree, for instance, that a set percentage of the funds received by a country should be automatically allotted to the civil society network. This would address concerns such as those raised by the GEF, about the independence and integrity of the Network.

From the very start, the institutional arrangements and procedure for dispute settlement at the national and global levels must be made clear - both, to ensure that citizens can dispute funding decisions made by national governments, as well as to enforce the accountability of civil society. In case of a dispute or disagreement at the national level, a local or national-level dispute settlement mechanism easily accessible to individuals and civil society must be the first port of call, rather than an international body or panel. Either the existing legal system could be modified and strengthened to accommodate this, or an existing body, if found suitable, could fulfil this role. For instance, *lok adalats* or people's courts are sometimes held in India to reconcile differences between individuals and the State. Similar dispute settlement procedures that are accessible by civil society will be needed at the global level as well. The World Bank's Inspection Panel or the UN Ombudsman and Mediation Services could provide a starting point for designing such a mechanism - although it will need more 'teeth' to ensure that its recommendations are carried through.

Civil society can lend legitimacy to existing global institutions that currently function in a (global) democratic vacuum where affected communities have no representation in decisions that affect their lives. However, global institutions must be willing to earn such legitimacy, by providing civil society with the conditions and resources they need to be effective.

I. Introduction

International financial mechanisms (IFIs) are notorious for the ‘exclusivity’ of their decision-making.¹ The donor-driven governance structures and rules of the Bretton Woods Institutions, for instance, have drawn fire more or less from their establishment for their lack of transparency and inclusiveness. Networks and institutions have formed around the world entirely dedicated to their reform.

With even developing country governments struggling to have their opinions counted, ‘civil society’ is usually a distant fourth when it comes to influencing IFIs (after business interests – although some would argue that business vies closely for second place with developing country governments).

Local communities that are directly affected by IFI policies are at a distinct disadvantage. They are far away from the corridors of power where decisions concerning their everyday lives are being taken, usually by people who are not directly accountable to them through any direct chain of democratic process, and hence need not answer for the consequences of their decisions. Under these circumstances, the chances that communities affected by the IFI decisions can defend their own interests in any meaningful way are generally slim.

Yet, the importance of civil society engagement is globally acknowledged – no less by the IFIs themselves. Civil society participation is firmly established as a central tenet of the ‘good governance’ agenda that emerged globally in the late 1980s, a high-ranking Commandment in the pursuit of sustainable development.² Since IFIs can hardly call for democratic and inclusive implementation by developing country governments without at least a general nod in the direction themselves, most IFIs have in place some formal processes to engage with civil society.

¹ See for instance Zedillo, E et al. (2009). *Repowering the Bank for the 21st Century: Report of the High-Level Commission on the Modernisation of World Bank Governance*. October

² Van Thijn, E. and Bernard, A. (1998). In Bernard, A., Helmich, H., and Lehning, P.B. (eds), *Civil Society and International Development*. OECD, Paris

How effective have these processes actually been? Have they succeeded in bringing the voices of poor and disadvantaged sections of global society to the table where decisions are taken? Or, as this analysis suggests, *does civil society engagement serve merely as a fig leaf to grant legitimacy where none is earned?*

These are very important questions as the world stands on the verge of designing the governance architecture for climate change finance. The case of climate change finance – particularly adaptation – is an interesting one where the terms ‘aid’ and ‘charity’, normally used in the context of official development aid, are less accurate. Although the global negotiations shy away from the terminology of liability and polluter pays, it is still much harder to justify that climate change finance should be governed by the ‘polluters’ (instead of ‘donors’ or ‘tax payers’, as they would be called in the case of ODA).

The need for climate funds to be used effectively, however, remains stronger than ever. It is broadly recognised by all countries involved in the global negotiations that failure to do so would result in harm not just to the communities that the funds are meant to benefit, but result in catastrophic impacts on the world as a whole.

As the global community stand on the verge of designing an effective delivery mechanism for climate change finance, this is a good time to review why civil society engagement is important and how it can be made more effective. This analysis will explore the definitions of ‘civil society’ in the context of international finance for climate change; briefly revisit the role that civil society can play; review past efforts to engage civil society in the management of climate change finance under the Global Environment Facility (GEF) and the World Bank’s Climate Investment Funds (CIFs); and finally, will propose a ‘bottom-up’ model for civil society engagement that aims to create a more straightforward chain of accountability between affected communities and global decision-making.

The paper recognises that civil society engagement is not the only prerequisite for giving voice and representation to affected communities, or the only principle of good governance that rich countries should be eager to export to developing countries. Equally important is the extent to which the governance and institutional structure heeds the principle

of subsidiarity: that a central authority should have a subsidiary function, performing only those tasks that cannot be performed effectively at a more immediate or local level as close to the ‘citizens’ as possible. This principle is enshrined in the constitutions of most of the world democracies, as well as formal arrangements for interstate governance.³

In the case of climate change finance, this would imply that decision making on the use of the funds is devolved to the national and local level, with effective accountability and reporting mechanisms in place. The broad structural proposals put forward as the Reformed Financial Mechanism (RFM) reflect this principle and are therefore taken as the basis of the recommendations for more effective civil society engagement set out later in this paper.⁴

The Adaptation Fund Board has sadly lagged behind when it comes to defining a strong role for civil society in its own decision-making – although in some ways it has paved the way for greater civil society involvement in national-level implementation. Instead of the global ‘Implementing Agencies’ relied on by the GEF and other financial mechanisms, the Adaptation Fund allows direct access by National Implementing Entities to oversee implementation of activities by ‘executing entities’. In principle at least, civil society organisations are not excluded from taking on the role of executing entities. How this works out remains to be seen – but on the whole, the Adaptation Fund Board undeniably and urgently needs to review and strengthen its procedures for civil society engagement.

II. Defining civil society, and its role

In the broader social sphere, definitions of civil society vary widely. Whereas some scholars see civil society as the social area between the closed family group and the state (including business), others feel that actors in the markets should be excluded. Those in the second camp see civil society as the middle ground between governments and the private sector – the *third cell*, which mediates between government and the private sector, replacing

³ Such as the European Union – see Treaty of Maastricht

⁴ For details on the proposal for a Reformed Financial Mechanism, see Muller, B. and Gomez-Echeverri, L., (2009). The Reformed Financial Mechanism of the UNFCCC: Architecture and Governance. Oxford Climate Policy. <http://www.oxfordclimatepolicy.org/publications/ecbiBrief-RFM.pdf>

a binary (government and private sector) model.⁵

In the specific context of climate change, the definition of civil society continues to be ambiguous. It is not always clear, for instance, whether the private sector, or in fact even government bodies, are included or excluded. The text of the UN Framework Convention on Climate Change (UNFCCC) only refers to civil society in the context of observers to the COP, which include private sector observers as well as government and non-government agencies.⁶ The GEF and World Bank CIFs do appear to exclude business groups from the definition of civil society.

A more explicit definition will be necessary in the context of participation in climate finance-related decision-making and implementation, particularly given that businesses and communities will be competing for the funds. The inclusion of the private sector in the definition of civil society has both advantages and disadvantages. Although it may serve to reinforce the idea of equality among stakeholders and encourage dialogue with other groups, the private sector actors are usually better resourced and connected, and there is a danger that they could drown out the voices of more marginalised groups. The private sector has also sometimes been found to be a reluctant participant in any stakeholder process where they may be required to make concessions to community rights; they prefer to employ alternative arrangements to influence governments and institutions.⁷ Under these circumstances, it is better to ensure that any such negotiations take place in the public domain where private sector interests are accorded equal weight as community interests.

⁵ Lehning, P.B. (1998). *Towards a Multi-Cultural Civil Society: The Role of Social Capital and Democratic Citizenship*. In Bernard, A., Helmich, H., and Lehning, P.B. (eds). *Civil Society and International Development*. Paris: OECD.

⁶ According to Article 7.6 of the UNFCCC, '[a]ny body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.'

⁷ Apte, T (2006). *A People's Plan for Biodiversity Conservation: Creative Strategies That Work (and Some That Don't)*. IIED Gatekeeper Series 130.

The strengths and limits of 'global' civil society

The definitions of civil society are progressively blurred as we move away from the level of households and communities, to the national, and then global level. It is not only a question of which actors should be included in the definition, but also increasingly of legitimacy and accountability. Within a democratic society, civil society members or organisations may promote what is considered a minority view, but there are mechanisms through which affected citizens can challenge or reject such views – either through a legislative process or eventually through exercising their franchise. No such mechanisms currently exist at the global level.⁸

Box 1. Agents of Change

A study of the micro-mechanisms through which global processes have impact on domestic policy and institutions in developing countries was recently carried out in Costa Rica and Bolivia - two countries that have taken great strides towards meeting global goals for biodiversity conservation.¹²

The study found that although there was enormous global influence on domestic politics and institutions through funding, technical resources, and expertise, the global influence on political change was all but absent. Foreign influences are equally absent when it comes to outmanoeuvring intransigent bureaucrats, taking advantages of rare windows of opportunity, and forging alliances with diverse civil society organisations. Moreover, the political skill sets needed to win such national struggles require a long-term in-country presence that very few foreign advocates or international organisations possess.

Steinberg proposes that change in developing countries is most effectively achieved through a combination of the financial and scientific resources of the international community, and the political resources of the domestic community. The latter include expansive social networks, an intricate knowledge of institutional relationships and tacit rules of political engagement, and a decades-long presence, which is needed to take advantage of sporadic opportunities for agenda setting and to ensure long-term programme success. The domestic community is also likely to have more legitimacy for demanding change from national governments, and can afford to be more critical of national policies.

Global civil society can support this change, by ensuring that the domestic community has the resources it needs from outside – finance, information and expertise – to hold the governments accountable, while at the same time helping to translate local experiences to make them relevant for effective global policy making.

In the absence of direct accountability, it is a very thin line that separates the role of global civil society in promoting more democratic globalisation, versus reinforcing its current undemocratic nature. As this boundary needs to be clearly understood and

⁸ Anderson K and Rieff, D (2004). Global Civil Society – A Sceptical View. *In Concepts of Global Civil Society Part 1*. London School of Economics.
<http://www.lse.ac.uk/Depts/global/Publications/Yearbooks/2004/Chapter104.pdf>

acknowledged in the design of any formal process for global civil society participation, the following section will attempt to elaborate the difference.

‘Global civil society’ is a rather nebulous entity, made up of individuals and institutions representing a diverse range of interests. The extent to which each member individual or institution is able to influence global policy depends on a variety of factors, including capacity and resources, and the relative power of their national governments in the global arena (which has little to do with the size of their national constituencies). These factors currently favour mainly Northern representatives of global civil society. This works to the disadvantage of individuals and institutions from the South.⁹

‘Transnational’ civil society, as it has been called to reflect the fact that it is not global in representation, can (and often does) play an important role in promoting democracy *between* nations, prodding rich country governments to acknowledge the rights and interests of poorer and weaker countries, supporting the voices of their counterparts in developing countries, and pushing for increased transparency and accountability in global institutions and processes.¹⁰ In addition, many transnational development NGOs are involved in implementing projects on the ground in developing countries.

However, the interests of transnational civil society and national civil society or local communities are not always aligned. Sometimes, conflicts arise between local interests and ‘the greater global good’. In such cases, if (members of) transnational civil society choose to use their more powerful status to override local concerns, and to influence action *within* (developing) countries that goes against local or national interests, they could end up reinforcing the undemocratic nature of global governance.

For instance, many Northern groups support and actively lobby for the World Bank to cease funding fossil fuel energy projects in developing countries. This is despite the fact that: (a) developing countries do not as yet have international obligations to reduce their emissions; (b) there is as yet no way of reimbursing developing countries for the additional costs of investing in alternate energy sources; and (c) there are currently no arrangements for

⁹ <http://www.hapinternational.org/pool/files/aartscholteaccountable.pdf>

¹⁰ <http://www.hapinternational.org/pool/files/aartscholteaccountable.pdf>

renewable energy technology transfer in place. The lobbying by Northern NGOs for a halt in fossil fuel loans could be viewed as ‘arm-twisting’ local communities to give up or put off access to energy through a World Bank loan, even in the absence of a multilateral agreement that requires such action.¹¹

Some see this ‘death of national sovereignty’ as a natural and desirable outcome of globalisation and increased global policy-making. Unfortunately, however, the loss of sovereignty seems to apply only to developing countries – in this case, specifically those that rely on the World Bank for funding energy infrastructure. This is apparent even as richer countries cling to and continue to defend their sovereignty. Such selective loss of sovereignty is far from acceptable.

It is very important for ‘global’ civil society to constantly monitor its own role and show respect for the principles of subsidiarity and accountability that they would like to see in the governance of climate finance. They have an important role to play in ensuring that global institutions and policies create the space for grassroots civil society to have a genuine voice in planning, implementing and monitoring. They are essential to the work of empowering local and national civil society with the capacity, information and resources they need to make their own decisions and influence their political systems (*see Box 1*). They should, however, resist the temptation to prescribe solutions.

Civil society and a climate change finance mechanism

In the context of climate change finance, civil society has at least three important roles to play:

- relaying information - by translating local level experiences to inform and influence global decision-making, and for translating global decisions for local implementation;
- ensuring accountability, transparency, equity and effectiveness in (global and national) decision-making and implementation; and
- planning for and implementing projects and activities to achieve international goals (often at lower cost and with greater effectiveness than government agencies), while promoting innovative approaches.

The first two apply equally to national and global or transnational civil society, but the

¹¹ See for instance Sharma, A. (2000). ‘Whose carbon hypocrisy?’ in *Down To Earth*, Centre for Science and Environment, New Delhi. <http://www.indiaenvironmentportal.org.in/node/6426>

third role is mostly relevant for national and local civil society, particularly under the devolved decision-making structure proposed by the RFM. Civil society can indeed be an effective and innovative partner in planning, implementing and monitoring local-level action. There is an increasing recognition that such a role should undoubtedly be strengthened; however, it should not be at the cost of replacing or undermining national governments.

III. A review of two existing models of engagement

This section analyses the models used by the GEF and CIFs for civil society engagement. The GEF has nearly two decades of experience. The CIFs are more recent, and although a review may be considered premature, early signs show that they have a tendency to follow the GEF model without taking on board many of the lessons and concerns clearly spelled out in an independent review of the GEF NGO Network. Given the similarity in approach from these two models, a description of the civil society engagement processes employed by the two funding agencies is given in the next section, followed by a common analysis.

GEF NGO Network

The GEF NGO Network was set up in May 1995 to establish a formal dialogue and partnership between NGOs and the GEF Secretariat, the GEF Council, the GEF Assembly and various partner agencies. NGOs are defined as *non-profit organizations whose mandate, experience, expertise and capacity are relevant to the work of GEF including: local, national, regional and international organizations -- including NGO networks, Indigenous People's Organizations, CBOs and academic and research institutions.*¹²

The Network has a membership of 600 accredited NGOs.¹³ It is coordinated by an elected Central Focal Point and overseen by a global Coordinating Committee composed of 17 Regional Focal Points from different geographic regions and representatives of

¹² GEF (1995). *Criteria for Selection of NGOs to Attend/Observe Council Meetings and Information on NGO Consultations*. GEF/C.3/5. February.

¹³ GEF NGO Strategic Plan <http://www.gefngo.org/index.cfm?&menuid=29>

Indigenous People's Organizations.

A budget of US\$50,000 is available to cover the travel costs of 16 Network members from developing countries to attend Council meetings (and the preparatory and GEF-NGO Consultation meetings that take place before the Council meeting). The Central Focal Point is allotted 10% of the travel grant to cover overhead costs such as administering the travel grant and coordinating participation. The costs of regional networking and communication are to be borne by the organisation (or individual) serving as Regional Focal Point.

Of the 16 funded participants, 10 are given access to the bi-annual Council meetings, and five can attend Council proceedings as observers and make interventions at the discretion of the Chair. The selection of funded participants is based on a set of 'self-selection' criteria adopted by the Council, including:

- broad-based geographic representation;
- expertise on GEF thematic areas;
- NGOs most suited to address Council agenda items at any given session;
- balance of international, national and local (including indigenous) representation
- a broad base of interests;
- rotation among NGOs at Council sessions, while taking into account the importance of continuity.

THE ROLE OF THE GEF NETWORK

The GEF Council stipulates that the key role of the NGO Network should be to communicate information on the GEF to the NGO community and other stakeholders at the national, regional and international levels. GEF procedures to apply for, and receive funding, are described as 'arcane' in one performance review of the GEF¹⁴, and indeed need serious explanation. The Network played a role in distributing published material to clarify these procedures, particularly in the early years.

In August 2008, the Network itself adopted a ten year strategic Plan, in which it defined the following objectives for the next decade:

- To enhance the role of civil society in safeguarding the global environment;

¹⁴ GEF 2005. *Overall Performance Study 3: Progressing towards Environmental Results*. http://www.gefweb.org/monitoringandevaluation/MEPublications/MEPOPS/documents/Publications-OPS3_complete_report.pdf

- To strengthen global environmental policy development through enhanced partnership between Civil Society and the GEF; and
- To strengthen the GEF NGO Network Capacity.

Somewhat oddly, the role of the Network in the actual implementation of projects and activities at the national and regional level, or even the relationship between the Network and NGOs involved in implementation, is not very clearly defined. Several official GEF documents refer to stakeholder participation in GEF-funded activities.¹⁵ The *Instrument for the Establishment of the Restructured GEF* includes a paragraph on the role for civil society generally (beyond the Network) in GEF project preparation and execution, as does a 1996 document on *Public Involvement in GEF-financed Projects*.¹⁶ In addition, the New Delhi statement of the First GEF Assembly noted:

The GEF should increase consultations with NGOs and local communities concerning GEF activities...including the active involvement of local and regional experts and community groups in project design and implementation.

Although there is no direct connection with the GEF NGO Network, the GEF Small Grants Project (SGP) is worth mentioning here as an approach that has been more successful in reaching out to communities. The relatively decentralised structure of the SGP comes closest to allowing for national and local level decision-making – grants of upto US\$50,000 are channelled directly to community and non-government organisations, through voluntary National Coordinators (NC) and National Steering Committees (NSCs), the latter comprising representatives from local NGOs, government, academia, UNDP and occasionally co-funding donors, indigenous peoples' organizations, the private sector and the media. □□The NSC develops a country programme strategy, considers whether proposals for grants are feasible and meet SGP criteria, and what kind of technical support is needed for implementation. The NSC is responsible for final approval of grants, helps undertake site visits and review, advises on design of grant proposals, and ensures monitoring and evaluation.¹⁷

¹⁵For instance, see http://www.gefweb.org/Operational_Policies/Public_Involvement/public_involvement.html

¹⁶ http://www.gefweb.org/Operational_Policies/Public_Involvement/public_involvement.html

¹⁷ <http://sgp.undp.org/index.cfm?module=ActiveWeb&page=Webpage&s=HowdoesSGPwork>

BOX 2 THE GEF NGO NETWORK IN PRACTICE

Setting aside large tracts of land as ‘protected areas’ for biodiversity conservation has always been a controversial concept in India. Poorly planned efforts to conserve the tiger in the 1970s and 1980s alienated communities living in and around these protected areas, as they felt tiger conservation was being prioritised over their own basic needs. Communities were often evicted from protected tiger reserves without viable alternative livelihoods. Tiger numbers declined rather than increased as local populations turned a blind eye or even actively supported poaching.

Against this politically charged background, a US\$67 million GEF Ecodevelopment project was launched in seven National Parks across India in 1994. The project was to be funded partly by GEF (US\$20 million), the World Bank (US\$28 million), the Indian government and ‘village beneficiaries’. The World Bank was the Implementing Agency. The term ‘ecodevelopment’ was meant to reflect the lessons learnt from previous conservation efforts in India and other developing countries – mainly, that conservation efforts cannot be successful without taking local community needs into account. Planning documents appeared to reflect this lesson, and were liberally sprinkled with words such as participatory processes, micro-plans and consultations. As the project evolved, however, it soon became clear that the only new element in the ecodevelopment approach was the terminology.

In almost all the seven project areas, local communities protested at their lack of involvement in planning – including plans for the so-called ‘voluntary relocation’ of communities living inside the forest areas. In the few places where micro-plans were actually prepared, input from the communities was simply disregarded when it ran counter to the outdated Indian Wildlife Act (for instance, when communities demanded land or fishing rights).

Despite protests from local communities and support from local and national-level NGOs, none of the three partners (the government of India, GEF and the World Bank) showed any signs of relenting. The Centre for Science and Environment (CSE), then the GEF NGO focal point for the South Asia, made several attempts to get the concerns of the communities heard in New Delhi, as well as in Washington through interventions made in the GEF Council meetings and during the GEF Assembly in New Delhi in 1998 (where affected communities were present to make their case).

Frustrated by the lack of response, local NGOs and communities in Nagarahole National Park in south India sent a letter to the World Bank Inspection Panel in 1998.¹⁹ The Panel is considered an important precedent in international law, as it provides an opportunity for local citizens to challenge the activities of an international institution. It was created in an attempt to increase the accountability of the World Bank and to improve compliance with its social and environmental policies. The letter from the local communities of Nagarahole claimed serious violations of the World Bank’s own stated Operational Directives, including one which called for the *informed participation of the potential affected peoples themselves*, and another on Disclosure of Information.

The Report of the Inspection Panel, placed before the Executive Directors of the Bank in October 1998, agreed that the concerns raised by the communities were valid. They confirmed serious flaws in the design and basic premises of the project: *The Panel finds that certain key premises underlying the design of the project at the Nagarahole site are flawed, as a result of which there is a significant potential for serious harm. It therefore recommends that the Executive Directors authorize an investigation into the case.*

Instead of authorising such an investigation, however, the Bank directors ruled that a full investigation was not warranted and merely called for these flaws to be rectified during the course of implementing the Project. The project continued into a second and third phase, although Nagarahole was excluded in Phase III. Bank documents record the Project as completed satisfactorily – including an unbelievable satisfactory rating for social and community benefits.²⁰

Since this debacle, policy changes have taken place within India, to guard against such blatant disregard for community rights. In 2006, a Tribal Rights Act was passed which among other things laid out a procedure by which people can be resettled from areas if it is found to be necessary for wildlife conservation – including irrefutable proof that relocation is scientifically necessary and that no other alternative is available; a process of public consultation; and consent from the local community. The resettlement must provide not only compensation but also a secure livelihood. In 2007, a National Resettlement and Rehabilitation policy was also agreed.

An independent review of the SGP carried out for 1999-2000 concurred with the First GEF Overall Performance Study that (a) many SGP projects appear to deliver more favourable cost-benefit ratios than larger projects, and (b) the SGP's importance to developing countries derives from "the way in which it links, global, national and local-level issues through a transparent, strongly participatory and country-driven approach to project planning, design and implementation".

Both reviews call for additional funding for the SGP, noting that the NCs have been extraordinarily successful in mobilizing and energizing inputs from a wide range of talented and experienced individuals now working towards GEF goals *on a voluntary basis*. The evaluation noted that not only are the NCs being asked to do too much with too little resources, they could achieve much more with greater support.¹⁸

AN ANALYSIS OF THE NGO NETWORK'S EFFECTIVENESS

Over the 18 years of the GEF NGO Network's existence, how effective has it been in influencing Council decision-making, and bringing to the table concerns of local communities that have been affected by GEF projects?

An independent review of the GEF NGO Network took place in 2005, financed by the GEF Secretariat. The review concluded that the GEF's long acclaimed unique model of a network of NGOs engaged in both its decision-making body and its activities on the regional and country-level, is ineffective. The Network, as a group of NGOs strengthening the role of the NGOs in local GEF-sponsored activities through monitoring and /or active involvement, appears to be minimal or non-existent. Its current role is almost exclusively limited to engaging with the Council and Secretariat twice a year during Council meetings. Even this function had notably weakened in the year before the review was conducted.¹⁹ Similar concerns were raised by the GEF's second Overall Performance Study (OPS-2).

Although it recognised the potential importance of an NGO Network to help GEF

¹⁸ Wells, M.P. et al. Report of The Third Independent Evaluation of the Global Environment Facility Small Grants Programme 1999-2000. <http://sgp.undp.org/download/SGPThird%20IndependentEvaluation.pdf>

¹⁹ GEF (2005). *Review of the Non-Governmental Organization Network of the GEF*. GEF/C.27/Inf.5. October 24

strengthen and maintain its impact on the ground and improve its weak stakeholder base, the 2005 review noted the following barriers to success:

WEAK REGIONAL FOCAL POINTS

- RFPs were not often in touch with the other members of the Network in their region and did not disseminate information about GEF activities effectively. The RFPs pleaded lack of capacity and resources: they were not provided with either in order to carry out the networking. The focus of the Network on influencing the GEF Council rather than simply following project activity at the local level, is also commented on in the review. It is explained by the fact that this was the only element for which the Network actually received funding.

LACK OF ACCOUNTABILITY

- The Network lacked a clear long-term vision, and accountability measures were absent. Serious allegations of electoral violations (such as abbreviated polling periods and misinformation) were said to be glossed over without any response or action. The overall effectiveness of the RFPs was found to be in further decline in the years preceding the review: more than a third of the RFP positions were vacant. The review noted low morale and infighting among the RFPs.

NON-RESPONSIVE CONSTITUENCIES

- RFPs complained that they had trouble engaging NGOs in their region in the activities of the network. They lacked the resources to engage their constituencies through translation of documents into local languages, or meetings to consult, exchange ideas and provide training. OPS-3 also pointed to the lack of resources as a constraint to effective NGO engagement.

LOW PRIORITY GIVEN TO THE NGO NETWORK BY THE GEF SECRETARIAT AND COUNCIL

- The NGO Network received no attention from the Secretariat other than during the Council and Assembly sessions, and the Secretariat and Council had no strategy for engaging the network as a key partner. Only one part-time staff member worked on coordinating civil society engagement, and described the position as ‘isolated’ from GEF’s other sections. The Secretariat has rejected several proposals for funding submitted by the Network on grounds, among others, that such funding would compromise the independence of the Network.

LACK OF ENGAGEMENT WITH IMPLEMENTING AGENCIES, AND POLITICAL RIVALRIES

- The NGO network had very limited interaction with UNEP and UNDP, while the interaction with the third implementing agency, the World Bank, was non-existent. The review mentions an attempt made by UNEP to help the NGO Network raise funds: the attempt was apparently thwarted due to rivalries between the Secretariat and the Implementing Agency.

UNWILLINGNESS OF SOME GEF COUNCIL MEMBERS TO ALLOW A MORE INCLUSIVE ROLE FOR NGOS IN THE COUNCIL DELIBERATIONS:

- The review mentions attempts by the Secretariat to promote a more active role for NGOs during Council session, which were shot down.

On the whole, it seems clear that with only sufficient funds available for attending the Council sessions, the NGO Network has only been enabled to patch together weak lobbying during Council sessions. There are no resources available to channel lessons learnt on the ground. Interest in the Network is waning – at least in part because NGOs have realised that in the absence of funds and capacity to actually network, participating in the Network is a waste of time and unlikely to make a real difference. Following the review, attempts have been made to revive the Network. It is too early to say whether these attempts have succeeded.

Civil society participation in the World Bank CIFs

More recently, the World Bank's Climate Investment Funds (CIFs) have initiated a process to promote civil society participation in Trust Fund Committee meetings. In April 2009, the Clean Technology Fund (CTF) and Strategic Climate Fund (SCF) Trust Fund Committees agreed the *Guidelines for inviting representatives of civil society to observe meetings of the CIF Trust Fund Committees*.²⁰

The proposed CIF model has several similarities to the GEF model: NGOs 'self-select' representatives; limited participation is allowed during meetings; and annual Partnership Forums (similar to GEF-NGO consultations) are planned. Travel costs for representatives

²⁰ <http://siteresources.worldbank.org/INTCC/Resources/GuidelinesforInvitingRepresentativesofCivilSocietytoObserve-final-April20.pdf>

from developing countries to attend the Trust Fund Committee meetings may be covered by the budget of the CIF Administrative Unit upon request.

Representatives selected to attend the meetings are responsible for consultation with other stakeholders in their constituency; representation in meetings of the interests of their constituency, not just of their own organization; and compliance with agreed consultation guidelines/standards developed by a representative group of their constituency. These representatives are called ‘active observers’ because as with the GEF, they will be allowed to request the floor during discussions of the committee, as long as they coordinate their input to save time. They can also request the co-chairs to add agenda items, and recommend that external experts to the Trust Fund Committee or the co-chairs speak on an agenda item.

BOX 3. THE FIRST CIF PARTNERSHIP FORUM

The CIF Partnership Forums seem to have had a shaky start. Civil society participants at the first Forum, held in October 2008, came away disappointed as the format of the meeting did not provide adequate opportunity for them to raise the concerns they had about the way the funds are created and governed. The second Forum, which was meant to take place in 2009 has been postponed until March 2010.

According to one participant, the first Forum was ‘orchestrated token CSO participation designed for non-input’ rather than an opportunity for stakeholders to raise the many concerns they already had about the CIFs. After the first Forum the following concerns were raised by civil society participants, in a letter to the organizers:

The Forum failed to address key questions put forward by the CSOs in advance, relating to how the CIFs will be governed, what will be funded, and how the funds will be dispersed. Instead, broad questions on learning and priorities beyond projects were put forward for discussion. No common ground was created by discussing CSO concerns directly.

The placement of individuals from different sectors in mixed tables, who then reported as a group, made it impossible for stakeholders to form coherent statements of their concerns and proposals for the CIF.

The use of the instant survey technologies by hand-held response transmitters was inappropriate and diversionary. It took up critical chunks of time and disallowed real feedback from the group. The questions were often extremely loaded, such as those on whether the World Bank should release all the information or just a manageable amount. The categories for responses often forced respondents to choose one of a series of equally important issues for the World Bank to consider in running the CIFs. Most important, however, it was totally inappropriate to use percentages to characterise approval or disapproval among a group which is entirely unrepresentative of the population it was meant to serve. The 3-4 billion poorest people of the world were represented by between 4 to 8 people in a room of 200 (down to 100 in the afternoon). While a 4-8% response would seem insignificant in the graphs and percentages shown on the screen, their concerns should never be so easily dismissed. The use of this technology was only effective as a way to avoid relevant feedback.

Input provided by civil society was, on occasion, ignored and censored.

Following the decision not to hold a Partnership Forum in 2009, civil society representatives from the UK wrote to the CIF management asking them to reconsider the postponement, given the short time-span of the CIFs. Second, they pointed out that such a decision would serve to reinforce civil society’s concerns about the lack of a genuine process of stakeholder engagement. A response from the CIF Administrative Unit of the World Bank indicated that the Forum was postponed partly due to the concerns raised by the NGOs after the first Forum, and that these concerns would be addressed in the design on the Forum planned for March 2010.

The CIF guidelines recognise three distinct constituencies of legitimate observers – civil society organisations (CSOs), indigenous people and the private sector. Each constituency is expected to ‘self-select’ representatives. CSOs include *any independent non-profit organisation of individuals working towards a common objective whose mandate is relevant to the purpose and objectives of the fund...[including] large international NGOs as well as national and community-based organisations (CBOs).*

The following numbers of observers are to be allowed to attend each meeting:

- *CTF Trust Fund Committee*: Four CSO representatives which may include representatives of NGOs, development and environment institutions and think tanks, local communities and indigenous peoples groups; two representatives from business associations and groups, one from a contributor country and one from a developing country.
- *SCF Trust Fund Committee*: Four CSO representatives with balanced development status/gender/geographic representation; two Indigenous Peoples representatives; and two Private Sector representatives
- *PPCR Sub-Committee*: Four CSO representatives with balanced development status/gender/geographic representation; two Indigenous Peoples representatives; two Private Sector representatives; and one representative from a community dependent on adaptation approaches to secure livelihoods

To ensure continuity and consistency in representation, the guidelines recommend that constituencies appoint representatives for a fixed time period. Resolve, the organization appointed to manage the CSO self-selection process, has recommended a two-year period with staggered terms. Resolve has also developed a set of criteria for selecting civil society observers with the help of an Advisory Committee.

In addition, annual ‘Partnership Forums’ will be held for stakeholders, which include donor and eligible recipient countries, multilateral development banks (MDBs), UN and UN agencies, GEF, UNFCCC, the Adaptation Fund, bilateral development agencies, NGOs, indigenous peoples, private sector entities, and scientific and technical experts to discuss the strategic direction, results and impacts of the CIFs. The first such Partnership Forum took place in October 2008, and the second one will take place in Manila in March 2009 (*see box: Partnership Forum*). The fact that travel costs for developing country participation in the Partnership Forums are covered, but that travel costs to committee meetings ‘may’ be covered upon request, seems to indicate that stakeholders are expected to have their say mainly at the Forums rather than at the actual decision-making committee meetings. It is curious that the CIFs choose to separate the Partnership Forums in time and location from the committee meetings. This seems to reduce even further the chances of NGOs influencing decisions.

The GEF/CIF model, and its challenges

The GEF and CIFs model of civil society engagement are fairly similar, with:

- a globally centralized, top-down structure for civil society participation in Council/Committee meetings, based on ‘self-selection’ and with little distinction between transnational/ national/ local civil society;
- limited funding for civil society representatives to travel to the meetings, with no other resources for civil society engagement; and
- limited rights to make interventions during the meetings at the discretion of the Chair, but no voting rights to influence decisions, no ombudsman, or any other enforceable means to ensure that civil society concerns will be addressed or taken on board.

This model clearly fails to harness the strengths of civil society, to ensure more effective national and local implementation.

TOP-DOWN PROCESS

The first problem with this model is that it forces civil society to echo the top-down structures of IFI decision-making, which are out of touch with local realities where projects are implemented. The process is designed to reach out most successfully to Northern-based or national-level civil society groups, instead of the grassroots groups that are actually involved in implementation of activities funded by the mechanism or institution.

QUESTIONABLE LEGITIMACY

Terms such as ‘self-selection’ may give the impression of a highly democratic process. Ensuring fair and legitimate representation is an extremely difficult – some might even say impossible – task to achieve in this global-to-local manner. There is no definable ‘global constituency’ for either nomination of candidates or for voters. Even if specific groups such as the private sector are explicitly excluded by definition and nomination and voting is restricted, say, to ‘accredited NGOs working on sustainable development’ in a specific geographical region, this is an extremely loose and wide definition. There are no voting lists to ensure a fair ballot or, put more provocatively, rule out ‘rigging’ by obliging friends or even a computer. The legitimacy of the group that is chosen to represent the diverse and vast interests of ‘global civil society’ is questionable.

AN IMPOSSIBLE TASK

Even if the results of such a random election process were to be considered acceptable, the ‘winners’ have a daunting task. They are expected to represent and collect views from a large and undefined constituency with a multitude of interests, *without additional resources or capacity*. As the review of the GEF Network amply illustrates, this is a considerable

responsibility for organisations that are already short of resources and capacity. A model that merely creates a space for civil society to ‘engage’ without addressing their existing limited capacity can only expect superficial engagement.

NO MECHANISMS FOR GLOBAL OR NATIONAL REDRESS

Even if the civil society overcomes the barriers and makes relevant and important interventions, neither the GEF nor the CIFs currently offer any assurance that such concerns will be addressed. Furthermore, in a national context, civil society may not have any such assurance but they have recourse to courts and laws if governments breach rights. In the case of the ecodevelopment case study explored earlier, changes in national policy were eventually achieved, but not in time for the ‘victims’ of the ecodevelopment project. A stronger redress mechanism is needed both nationally and internationally.

SHOULD CIVIL SOCIETY CONTINUE TO ENGAGE?

By accepting the weak terms of engagement offered by the GEF and CIFs, civil society is in danger of granting them undeserved and cheap legitimacy while being forced to echo elements of global governance that most need to change – such as disregard for the principle of subsidiarity, and clear lines of legitimacy and accountability from the global to the local. Without formalised processes to draw the most relevant information relating to local level needs and implementation, to represent those that need representation, and to define a common but strong agenda representing their myriad interests, civil society representation stands on a very shaky foundation and can be easily sidelined by decision-makers for not being representative enough.

III. Terms of engagement

Civil society brings sufficient advantages to the table to demand minimum terms of effective engagement with international financial institutions or processes. It is widely acknowledged that effective civil society participation can keep global policies and actions rooted in reality; ensure better success with national implementation of global goals; and confer legitimacy on an international institution or process. Before agreeing to participate, however, civil society should ensure that they have the minimum conditions in place to carry out their role effectively. These include:

- **Respect for subsidiarity**, reflected in the governance and architecture of the global financial mechanism, as well as in the structure and functioning of civil society engagement.
- **Adequate resources** to allow civil society to perform their task effectively, made available in a way that does not compromise the integrity of civil society engagement
- **Effective redress** mechanisms at the national and global level, to ensure that civil society concerns are not brushed aside.

In return, civil society should be willing to maintain the highest **standards of transparency and accountability** in their own functioning. How can these elements be brought together coherently in practice?

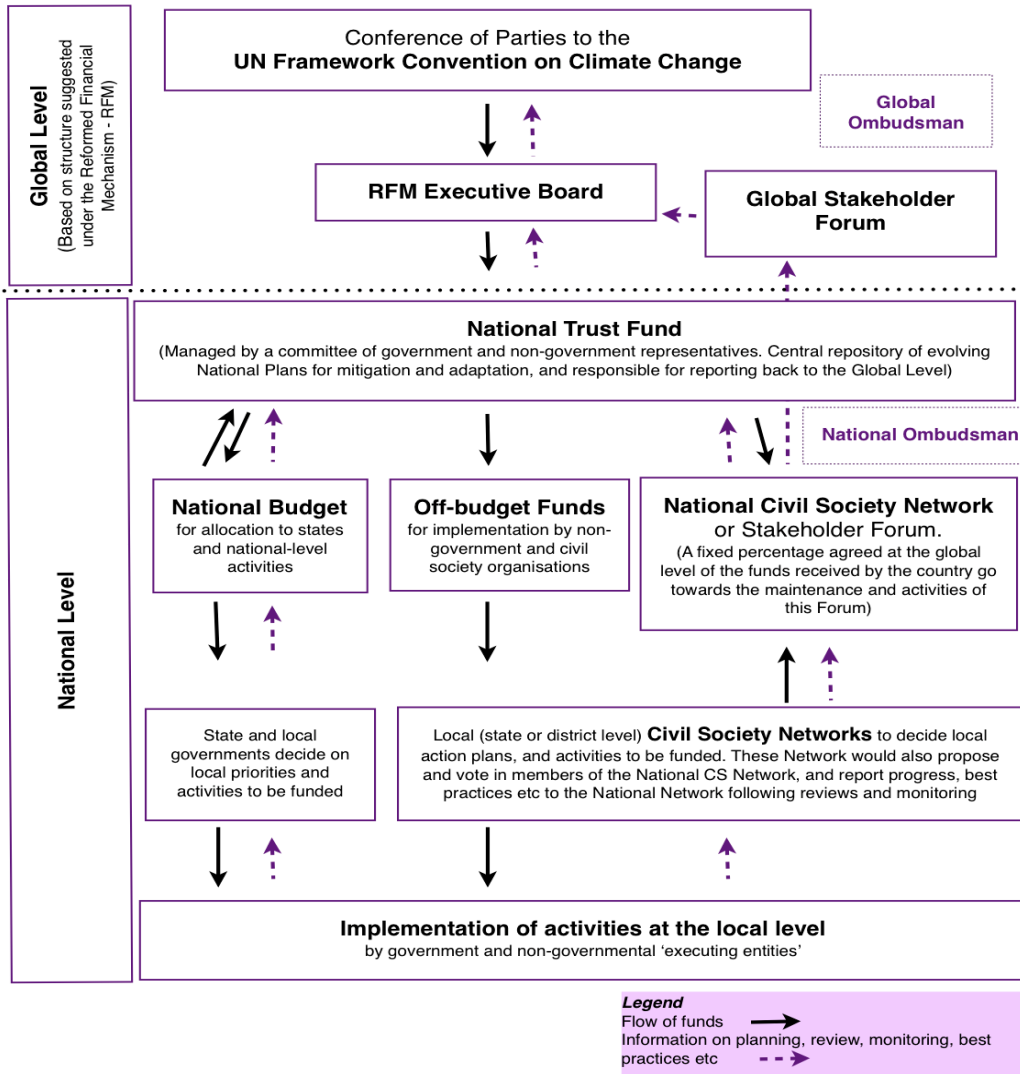
RESPECT FOR SUBSIDIARITY

The RFM model proposes a way in which the global architecture and governance of climate finance can be made more responsive to national and local needs, and is therefore taken as a suitable model around which effective civil society engagement can be built.

To allow for funding decisions to be taken at the national and local (rather than global) level, RFM proposes *National Trust Funds (NTF)*, along the lines of the Bangladesh Multi-Donor Trust Fund. It is proposed that climate funds from national and global sources could be pooled together in this Trust Fund. A *National Trust Fund Committee* could be set up to govern this Trust Fund, comprising both government and non-government representatives. This Committee would take decisions on elements such the proportion of funds that should be included in national budgets for better mainstreaming in national development plans and allotment to sub-national governments, and what proportion should be kept ‘off-budget’ for funding non-government activities.

This would be accompanied by a ‘bottom-up’ *National Civil Society Network (NCSN)*, which includes all non-government actors that are involved in planning, implementing or monitoring activities funded through the NTF. The members of the NCSN would regularly elect a *National Civil Society Board (NCSB)*, including a Chair and other office holders (to be decided by the country depending on factors such as its size and diversity) for a fixed term of two to three years. The key roles of the NCSB would be to establish rules and procedures to ensure the accountability of the National Network to its members; influence national government policies and decisions related to the use of the funds through participation in the governance of the National Trust Fund; and to represent the Network at national, regional and global levels (including, for instance, meetings of the Executive Board of the RFM, thus eliminating the current random selection of representatives). Regional civil society hubs of

Figure 1: Proposed structure of a climate change finance mechanism, to benefit from civil society engagement at the local, national and global level



some sort would be useful, not only to encourage cross fertilisation of ideas but also to elect regional representatives from among the members of the various NCSBs.

Transnational civil society will have an important role in ensuring that the international governance arrangements are fair, in the effective delivery of results, and in guaranteeing that the functioning of the global mechanism itself is transparent and accountable. They also have a role in supporting national and local civil society organisations by acting as a conduit for information and providing support and resources. However, it is the latter (national and local civil society), which has a key role in planning, prioritising, implementing and monitoring funded activities. This division must be respected, to ensure that the ultimately intended

recipients of the funding – the ‘grassroots level’– can directly influence how the money is used.

ADEQUATE RESOURCES

The National Civil Society Network will need funds to function effectively and to build a strong institutional foundation, including a permanent Secretariat to retain capacity as well as institutional memory. (The Secretariat could also be tasked with keeping track of activities funded through the National Trust Fund, with the aim of recording good practices and lessons learnt, and in preparing regular performance reports that are publicly available.)

Instead of depending on national governments, it could be agreed at the global level (by a democratic Executive Committee including representatives from all regions) that a set percentage of the funds received by a country should be automatically allotted to the NCSN, which can be supplemented by national contributions where possible. Allocating the funds upfront would address concerns such as those raised by the GEF about the ‘independence’ and integrity of the Network.

The funds allocated in this manner are *not* to implement projects, but rather to increase the capacity of national civil society to participate in decision- and policy-making with regard to the use of funds from the international mechanism and monitoring of results. Funds for implementation by civil society must be made available through whatever process is established by the NTF for the allocation of the ‘off-budget’ funds. Any civil society organisations, irrespective of whether or not they are members of the NCSN, should be eligible to apply for off-budget funds in the national kitty. (The Adaptation Fund Board is a step in this direction, as it does away with the previous function of global implementing agencies by allowing direct access, and opens the door for non-government agencies to take on the role of ‘Executing Entities’.)

EFFECTIVE REDRESS MECHANISMS

It should be clear from the start how the governing body of the financial mechanism as well as civil society can be held accountable. A global Ombudsman or dispute settlement body/mechanism can be appointed to ensure that both sides live up to the rules of engagement. The UN Ombudsman and Mediation Services could provide a starting point for such an Ombudsman – although it will need more ‘teeth’ than, for instance, the World Bank’s Inspection Panel to ensure that its recommendations are carried through.

A similar system will be needed at the national level, to ensure that citizens can dispute funding decisions made by national governments, and to enforce the accountability of civil society. A national level Ombudsman or Dispute Resolution Mechanism can be established to address conflicts between state and civil society, and also complaints against the Network. The existing legal system could be modified and strengthened to accommodate this, or an existing body, if found suitable, could fulfil this role. For instance, *lok adalats* or people's courts are sometimes held in India to reconcile differences between individuals and the State.

HIGH STANDARDS OF TRANSPARENCY AND ACCOUNTABILITY

Clear lines of accountability will be necessary to ensure the integrity of the NCSN, with fully agreed objectives, rules (including for regularly electing representatives from within the national Network), and indicators of performance.

In addition, national governments will need to ensure that they have the requisite capacity to interact with civil society. This includes the ability of members working on core decisions to hold related regular meetings, and ensuring that civil society is kept regularly informed. Whereas interacting with a Network instead of several institutions will be more efficient, one person within the Secretariat or Ministry working on civil society engagement in the periphery of the organisation will not be sufficient.

IV. Conclusions

In recent decades civil society organisations have contributed towards making the existing global governance system, such as it is, more accountable and transparent. They have also proved their ability to implement projects and activities that promote innovative solutions, often at lower costs. Often, they have better access to target audiences, are able to promote better synergies and contribute to more effective monitoring.²¹

Civil society can lend legitimacy to existing global institutions that currently function in a (global) democratic vacuum where affected communities have no representation in

²¹ Bleaney, A. and Saint-Laurent, C. (2009). Review of practices on NGO/ CSO participation and recommended measures for NGO representation at meetings of the CIF Trust Fund Committees. IUCN

decisions that affect their lives. However, global institutions must be willing to earn such legitimacy, by providing civil society with the conditions and resources they need to carry out their tasks effectively. Civil society must be engaged from the very start, during the design of institutional architecture and policies, to ensure a well-integrated *process* rather than one-off events such as the GEF NGO Consultation or the CIF Partnership Forums.

At the same time, civil society must take steps to promote more accountability in its own functioning, and refuse to engage with processes that call such accountability into question. In their own functioning, they must be wary of repeating the very mistakes they seek to correct.