

The Reformed Financial Mechanism of the UNFCCC

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

Anju Sharma

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ISBN: 978-1-907555-06-0

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Second, Revised Edition

Acknowledgments:

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About the author

Anju Sharma is a consultant with many years' experience with national and global civil society organisations. In her former role as Head of the team on Global Environmental Governance at the Centre for Science and Environment in New Delhi, she oversaw the work of CSE as Regional Focal Point of the GEF NGO Network in South Asia. She can be reached at jusharma@gmail.com.

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Executive Summary

Most existing international financial institutions (IFIs) have been criticized 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 legitimacy. 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’, ‘the eyes and ears of GEF’, ‘NGO self selection’, ‘partnership’ and ‘active observer status’), they do little more than provide a venue for civil society to voice their concerns. Interactions between the IFI governance bodies and civil society are mostly staggered 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 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, and end up being more successful in reaching out to ‘global’ civil society than to local communities and grassroots organizations. The term ‘civil society’ is left largely undefined, to paper over differences between its global, national, and local constituents, and their varied interests and perspectives. The importance of bringing *local* experiences to the decision-making table, or of providing a space for local and national civil society to influence global policies, is often forgotten and seldom achieved. 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. For instance, a 2007 desk-based review of the treatment of indigenous people’s and social issues in large and medium-sized GEF biodiversity projects over 2005-2006 found that the treatment of indigenous peoples’ rights continues to be superficial, with the treatment of critical issues such as free, prior and informed consent; informed participation, resettlement and economic displacement often remaining perfunctory or ambiguous.¹

A model that merely creates a space for civil society to ‘engage’, without addressing their existing limited capacity, can only expect superficial engagement. 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 2005.² 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. There were no resources to gather and channel lessons learnt from local implementation to the GEF Council or Assembly. Attempts by the NGOs to raise funds from the GEF initially proved unsuccessful, as the previous GEF CEO felt such funding would compromise the integrity of the Network. Although the amount of funding made available to the Network has been increased following the review, the Network’s capacity and resources to gather and channel lessons learnt from local implementation to the GEF Council or Assembly, or to reflect local concerns, remains limited.

Finally, accountability seems to be missing on both sides of the relationship between IFIs and civil society. The latter may be given space to voice their concerns, but there is little they can do to ensure that these concerns are acted upon. As the case of the India Ecodevelopment Project (see Box 2) shows, the GEF may have access to the ‘ombudsman’ bodies of implementing agencies such as the World Bank’s Inspection Panel, but these have not yet proven sufficient. The GEF NGO Network,

¹ Taylor, L and Griffiths, T (2007). *A desk-based review of the treatment of indigenous peoples’ and social issues in large and medium-sized GEF projects (2005-2006)*. Forest Peoples Programme

² GEF (2005), Review of the Non-Governmental Organization Network of the GEF, GEF/C.27/Inf.5, 24 October 2005

meanwhile, was also found lacking accountability measures by the 2005 review. Such instances weaken the moral authority, and hence voice and role, of civil society. Changes have been instituted by the Network since for a clearer vision and strategy and for greater accountability through election reforms, but the national and local foundations of the Network remain underfunded and weak.

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 supported by a ‘bottom-up’ model of civil society engagement, adequate resources for civil society, and effective and easily accessible redress mechanisms at the national 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 funds are used, and can feedback effectively to policy reform needed at the national and global level.

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 members of the NCSN would regularly elect a National Civil Society Board (NCSB), 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 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 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. 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. 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 could provide a starting point for designing such a mechanism at both the national and global level – although changes will be needed to ensure the independence of the mechanism, and 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 Institutions (IFIs) are notorious for the ‘exclusivity’ of their decision-making.³ 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.⁴ 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

³ 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

⁴ Van Thijn, E. and Bernard, A. (1998). In Bernard, A, Helmich, H., and Lehning, P.B. (eds), *Civil Society and International Development*. OECD, Paris

processes to engage with civil society.

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 recognized by all countries involved in the global negotiations that failure to do so would result in harm not just to the countries and communities that the funds are meant to benefit, but result in catastrophic impacts on the world as a whole.

This analysis begins by looking a bit more closely at the definition and role of ‘civil society’ in the context of international finance for climate change, pointing particularly to the distinctions between global’ or ‘transnational’ civil society, and local or grassroots civil society. It then reviews 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). Finally, it proposes a 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.⁵

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.⁶

The Adaptation Fund Board is sadly lagging 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 a binary

⁵ Such as the European Union – see Treaty of Maastricht

⁶ 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>

(government and private sector) model.⁷

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.⁸ The GEF and World Bank CIFs 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. While on the one hand its inclusion serves to reinforce the idea of equality among stakeholders and encourage dialogue with other groups, private sector actors are usually better resourced and connected and there is a danger that they could drown out the voices of more marginalized 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.⁹ 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.

⁷ 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.

⁸ 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.'

⁹ 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 usually 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.¹⁰

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 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.¹¹

'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

¹⁰ 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>

¹¹ Scholte, J.A. (2004). Civil society and democratically accountable global governance. Government and Opposition, Blackwell Publishing

countries, and pushing for increased transparency and accountability in global institutions and processes.¹² 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 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.¹³

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 mainly 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

¹² Scholte, J.A. (2004). *Civil society and democratically accountable global governance*. Government and Opposition, Blackwell Publishing

¹³ 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>

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.

Source: Steinberg, P.F. (2003). Understanding policy change in developing countries. The Spheres of Influence Framework. *Global Environmental Politics* 3.1 (2003) 11-32

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, be wary of standing in for local civil society in global processes.

Civil society and a climate change finance mechanism

There is a strong recognition that past experiences must be brought to bear in the delivery of climate change finance - particularly to ensure that it reaches communities who need it most, and that it benefits rather than harms them.

In the context of climate change finance, civil society has at least three important roles to play in order to make this happen:

- ▶ relay information - translating local level experiences to inform and influence global decision-making, and global policies and decisions for local implementation;
- ▶ ensure accountability, transparency, equity and effectiveness at all levels (global, national, local) of decision-making and implementation; and

- ▶ plan and implement 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 transnational civil society, but the third role is mostly relevant for national and local civil society.

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.*¹⁴

The Network, which currently has 688 members¹⁵, is coordinated by an elected Central Focal Point (CFP) and overseen by a global Coordinating Committee composed of 17 Regional Focal Points from different geographic regions and representatives of Indigenous People's Organizations. The costs of regional networking and communication are primarily

¹⁴ GEF (1995). *Criteria for Selection of NGOs to Attend/Observe Council Meetings and Information on NGO Consultations*. GEF/C.3/5. February.

¹⁵ GEF NGO Network Website, as of March 2010.
<http://www.gefngo.org/formmaster.cfm?&action=main&menuid=12>

borne by the organisation serving as the Regional Focal Point. An annual budget of US\$ 280,000 is available to cover the travel costs of Network members from developing countries to attend the Council meetings, which are preceded by a preparatory meeting (2 days) and formal GEF-NGO consultation (on the day before the Council meeting).

The selection of funded participants is based on 'self-selection' by the NGO Network, based on criteria adopted by the GEF Council in 1995, 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; and
- ▶ rotation among NGOs at Council sessions, while taking into account the importance of continuity.

Up to ten NGO representatives are allowed to attend the Council meeting, and can ask to speak or submit/circulate written statements to Council members.

The Role of the GEF network: The GEF Council stipulates that the key role of the NGO Network is to promote multi-stakeholder consultations and access to information, and disseminate GEF policy and project information to stakeholders.¹⁶ In August 2008, the Network itself adopted a ten year strategic Plan, in which it defined the following objectives for the next decade:

- ▶ Enhance the role of civil society in safeguarding the global environment;
- ▶ Strengthen global environmental policy development through enhanced partnership between Civil Society and the GEF; and
- ▶ Strengthen the GEF NGO Network Capacity.¹⁷

An analysis of the GEF model's effectiveness: Over the 15 years of its existence, how effective has the GEF Network been in influencing Council decision-making, particularly in representing vulnerable communities that are affected by GEF policies and projects?

¹⁶ GEF (2003). *Clarifying the roles and responsibilities of the GEF Entities*. GEF/C.21/Inf.5. April 16

¹⁷ <http://www.gefnngo.org/index.cfm?&menuid=10>

Within the GEF model, the role of NGOs in influencing policy decisions at the global level, and their role in local-level implementation of GEF projects and activities appears to be de-linked. The achievements of the Network to date, listed by the current CFP, indicate the most success in influencing Council policy:

- ▶ The establishment, review and management of the GEF Small Grants programme
- ▶ The establishment of the Medium Sized Project modality
- ▶ Development of the GEF operational Strategies and Focal area strategies for allocation of GEF Resources
- ▶ Review of the Resource Allocation Framework and system for Transparent Access to GEF Resources.

Such successes are undoubtedly important, but they still fail to bridge the accountability gap between GEF decision-makers and local communities affected by their decisions. Council and Assembly documents also reflect a distinction between the activities of the NGO Network, and stakeholder participation in GEF-funded activities.¹⁸

According to the CFP, although the Network is not directly involved in the implementation of GEF projects, network members who are involved in projects provide regular feedback. This approach seems to have only limited impact on the decisions of the Council related to impacts on communities. For instance, a 2007 desk-based review of the treatment of indigenous people's and social issues in large and medium-sized GEF biodiversity projects over 2005-2006 found that the treatment of indigenous peoples' rights continues to be superficial, with the treatment of critical issues such as free, prior and informed consent; informed participation, resettlement and economic displacement often remaining perfunctory or ambiguous.¹⁹ The experience from the India Ecodevelopment Project, highlighted in Box 2 shows that even when serious concerns expressed by communities have been brought to the attention of the GEF, the result has been far from satisfactory.

¹⁸For instance, see www.gefweb.org/Operational_Policies/Public_Involvement/public_involvement.html

¹⁹ Taylor, L and Griffiths, T (2007). *A desk-based review of the treatment of indigenous peoples' and social issues in large and medium-sized GEF projects (2005-2006)*. Forest Peoples Programme

A key factor here appears to be the limited resource investments (if any) made at the national and local level. Funds are made available only for limited regional and global-level involvement. A 2005 independent review of the GEF NGO Network raised similar concerns – it found that the role of the Network in strengthening the role of the civil society in local GEF-sponsored activities through monitoring and /or active involvement appears to be minimal or non-existent. The Network’s role at the time of the review was found to be almost exclusively limited to engaging with the Council and Secretariat twice a year during Council meetings. The GEF’s second Overall Performance Study (OPS-2) had raised similar concerns. The 2005 review came to the conclusion 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 was ineffective.²⁰

The review found the following factors, among others, limited the Network’s effectiveness:

- ▶ A Network that did not reach out to the grassroots. Regional Focal Points (RFPs) were often not in touch with the other members of the Network in their region and did not disseminate information about GEF activities effectively. They complained that they had trouble engaging NGOs in their region in the activities of the network.
- ▶ Lack of funding and resources. The RFPs were not provided with either in order to carry out the networking. They lacked the resources to engage their constituencies through translation of documents into local languages, or meetings to consult, exchange ideas and provide training. Funding was only provided for travel to Council sessions, and so the Network was focused on influencing the GEF Council rather than following project activity at the local level. OPS-3 also pointed to the lack of resources as a constraint to effective NGO engagement. The Secretariat had justifiably rejected funding proposals on the ground, among others, that such funding would compromise the independence of the Network.
- ▶ Lack of accountability, both between the GEF and the Network, and the Network and

²⁰ GEF (2005). *Review of the Non-Governmental Organization Network of the GEF*. GEF/C.27/Inf.5. October 24

its constituency. 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. The Council opposed a more active role for NGOs during Council sessions. The NGO Network could make interventions and petition the Council Members, but there was no surety that their concerns would be heard or answered. Only one part-time staff member worked on coordinating civil society engagement, and described the position as ‘isolated’ from GEF’s other sections. The Network, meanwhile, 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.

Following the 2005 review (to which the Network responded in November 2005),²¹ the GEF Secretariat and NGOs prepared a paper for consideration by the GEF Council in November 2008.²² The Network committed itself to strengthen accountability and effectiveness; strengthen outreach; improve relations with the Secretariat; look for additional funding to engage NGOs at national, regional and international levels in GEF recipient countries; and build the capacity of NGOs to interact more efficiently with the GEF at the policy and project levels.

In return, the Council increased the support available for NGOs to travel to meetings; approved the resurrection of a ‘Voluntary NGO Trust Fund’; and agreed to allow membership of the Network to be decided by the Network itself, rather than through accreditation by the Secretariat.²³ The process of GEF accrediting Network members was found, by the 2005 review, to be cumbersome for applicants. Moreover, the Secretariat sometimes lacked the information to review accreditation requests, and there were no provisions to review accreditation status.²⁴

²¹ GEF (2005). *GEF-NGO Network Response to the Independent Review of the GEF-NGO Network*. GEF/C.27/Inf.13. October 25

²² GEF (2008). *Enhancing Civil Society Engagement and Partnership with the GEF*. GEF/C.34/9. October 14

²³ GEF (2008). *Enhancing Civil Society Engagement and Partnership with the GEF*. GEF/C.34/9. October 14

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

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 prioritized 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 Nagarhole National Park in south India sent a letter to the World Bank Inspection Panel in 1998.¹ 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 Nagarhole claimed serious violations of the World Bank’s own stated Operational Directives, including one that 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 Nagarhole 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 Nagarhole was excluded in Phase III. Bank documents record the Project as completed satisfactorily – including an unbelievable satisfactory rating for social and community benefits.²

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.

¹ The various attempts made by the local communities and NGOs to communicate their concerns to the Bank are well documented in the case of Nagarhole – see http://www.forestpeoples.org/documents/ifi_igo/wb_ips_nagarhole_may00_eng.shtml. For a video documentary on the Nagarhole case, see <http://www.youtube.com/watch?v=W2AouybAZ-o>

² World Bank (2004). Implementation completion report (PPFI-P9100 IDA-29160 TF-28479) on a credit/grant in the amount of US\$ 48 million to the government of India for India Ecodevelopment Project. Report No: 31736. October

According to a private communication from the current Network CFP, changes are already in place in the functioning of the Network: a clearer vision and strategy has been agreed; elections rules and procedures have been reviewed; and formal channels for complaints put in place. The Secretariat and Council are more supportive of the Network, which has also received additional funding – US\$280,000 to support participation of NGOs in Council and intersessional meetings; US\$50,000 to support the participation of Regional Focal Points in regional meetings; and US\$350,000 provided every 4 years to support input to the GEF Assembly and to the monitoring and evaluation work of GEF. The extent to which these changes prove effective remains to be seen.

The GEF has also recently appointed a Conflict Resolution Commissioner. Reporting to the CEO, the Commissioner does not have the mandate to make recommendations or enforce them, but rather to facilitate mediation between GEF partners.

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*.²⁵

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) have taken place. Travel costs for representatives 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

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<http://siteresources.worldbank.org/INTCC/Resources/GuidelinesforInvitingRepresentativesofCivilSocietyto-Observe-final-April20.pdf>

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 items to the agenda, and recommend that external experts to the Trust Fund Committee or the co-chairs speak on a specific agenda item.

The CIF guidelines recognize three distinct constituencies of legitimate observers – civil society organizations (CSOs), indigenous people and the private sector. Each constituency is expected to ‘self-select’ representatives. CSOs include *any independent non-profit organization 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 organizations (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 Fora’ are 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, (see Box 3) and the second in Manila in March 2010. The fact that travel costs

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.

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.

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 sufficiently similar to merit a common analysis.

TOP DOWN STRUCTURE

Both models have a globally centralized, top-down structure for civil society participation in Council/ Committee meetings, designed to reflect the top-down decision-making structure of their own architecture. The term ‘civil society’ is left largely undefined, papering over differences between its global, national and local constituents, and their varied interests and perspectives. Terms such as ‘self-selection’ may give the impression of a highly democratic process. However, ensuring fair and legitimate representation is an extremely difficult – some might even say impossible – task to achieve in this global-to-local manner. Even if specific groups such as the private sector are explicitly excluded by definition the electorate is restricted, say, to ‘accredited NGOs working on sustainable development’ in a specific geographical region, this is an extremely loose and wide definition. The GEF Secretariat’s attempt to build a Register of Electors through an accreditation process did not prove successful - they simply did not have the information to make decisions about the legitimacy of national and grassroots groups.

The importance of bringing *local* experiences to the decision-making table, or of providing a space for local and national civil society to influence global policies, is often forgotten and seldom achieved. As a result, local and community concerns continue to be underrepresented when decisions are made about what activities should be funded.

LACK OF SUFFICIENT RESOURCES

Both models provide limited funding for civil society representatives to travel to the meetings, with hardly any other resources for civil society engagement, particularly at the local and national levels where capacity and resources are most lacking. The crippling effects of the lack of resources to back up civil society engagement at the national and local level are documented in the 2005 GEF NGO Network review.

LACK OF REDRESS MECHANISMS

Although NGOs have the right to make interventions during the meetings at the discretion of the Chair, they have no way of ensuring that their concerns are adequately taken on board,

and accountability seems to be missing on both sides of the relationship between IFIs and civil society.

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

III. Terms of Engagement in the Management of Climate Finance

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.

By accepting the weak terms of engagement offered by the GEF and CIFs, however, civil society is in danger of granting them undeserved 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 formalized 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.

Before agreeing to participate, 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 addressed.

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

As pointed out in the introduction to this paper, the extent to which a financial institutions and its governance structure follow the principle of subsidiarity is a key element in making a system more responsive to local concerns, and hence more effective. The central (global and/

or national) authority should have a subsidiary function, taking on only those tasks that cannot be performed effectively at a more immediate or local level as close to the ‘citizens’ as possible. 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.

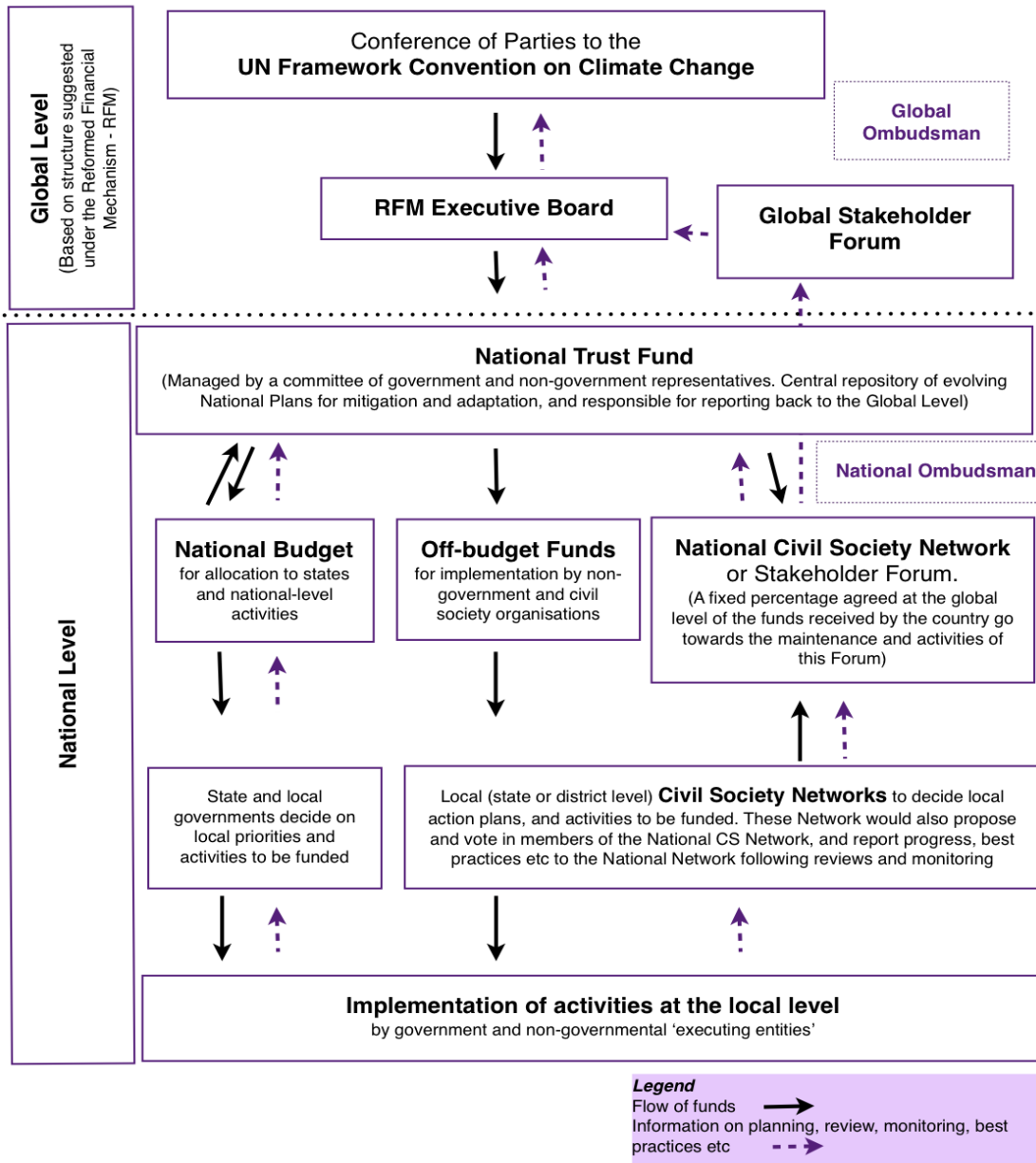
The broad structural proposals put forward as the Reformed Financial Mechanism (RFM) reflect this principle of subsidiarity, proposing a way in which climate finance can be made more responsive to national and local needs. It is therefore taken as the basis of the recommendations below, for more effective civil society engagement.²⁶

First, a brief description of the RFM model: to allow for funding decisions to be taken at the national and local (rather than global) level, the RFM proposes *National Trust Funds (NTF)*, along the lines of the Bangladesh Multi-Donor Trust Fund. Climate funds from national and global sources can then 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.

The civil society component of the RFM would require a corresponding emphasis on resourcing and involving *national and local* civil society. A ‘bottom-up’ *National Civil Society Network (NCSN)* would be needed, which includes all non-government actors that are involved in planning, implementing or monitoring activities funded through the NTF.

²⁶ This paper was written as an input to a larger proposal for a Reformed Financial Mechanism (RFM) to the UNFCCC. For a detailed description of the RFM proposal, please 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>

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



The members of the NCSN would regularly elect a *National Civil Society Board* (NCSB), including a Chair and other office holders (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 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 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. However, unlike the GEF model, the main activities and coordination of the Network would take place at the national and local, rather than the regional, level.

National and local civil society would have a key role in planning, prioritising, implementing and monitoring funded activities. Based on this experience, they will have important lessons that will need to be channeled back to the global level. In doing this, they will need the support of transnational civil society. Transnational civil society will also 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. However, the rights of the ultimately intended recipients of the funding – the ‘grassroots level’ – to directly influence how funds are used effectively (with strong accountability measures in place) must be respected.

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.

ADEQUATE RESOURCES

Undoubtedly the model proposed above, which relies on building the strengths of national and local civil society, will involve more costs. However, this is an investment that is long overdue. Several global processes strive for effectiveness and accountability at the national and local level, without investing in root causes that make both elusive.²⁷

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.)

²⁷ Scholte, J.A. (2004). *Civil society and democratically accountable global governance*. Government and Opposition, Blackwell Publishing

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 GEF SGP described in Box 4 uses such a global allocation, supplemented by national contributions.

Box 4. Small experiment, big success

The GEF Small Grants Programme (SGP) provides an example of the benefits of decentralized decision-making on the use of funds, and a more inclusive and active role for national and local civil society.

Under the SGP, grants of up to US\$50,000 are channelled directly to community and non-government organisations, through National Coordinators (NC) guided by voluntary National Steering Committees (NSCs). The NSCs include representatives from local NGOs, indigenous peoples' organizations, government, academia, UNDP and occasionally co-funding donors, the private sector and the media. The NSC is responsible for developing a country programme strategy, and for the review and approval of grant proposals. It is also responsible for advise on the design of grant proposals, and for monitoring and evaluation.¹

A Joint Evaluation carried out in 2007 validated the success of this decentralized and inclusive approach when it concluded that the SGP has a significantly higher rate in sustaining projects, and a slightly higher success rate in achieving global environmental benefits than GEF medium- and full-size projects.

An earlier 2002 Overall Performance Study (OPS) of the GEF attributed the success of the SGP to *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*. The OPS noted 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* as part of the National Committees. 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.

Sources:

1. GEF and UNDP (2008). Joint evaluation of the GEF Small Grants Programme. June. www.undp.org/evaluation/documents/thematic/sgp/Full%20Report/sgp%20text%20final.pdf
2. Christoffersen, L et al. The First Decade of the GEF. Second Overall Performance Study. www.thegef.org/gef/sites/thegef.org/files/documents/OPS2.pdf%20ENGLISH.pdf

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 organizations, irrespective of whether or not they are members of the NCSN, should be eligible to apply for off-budget funds in the national kitty (although, like the GEF SGP, organizations on the civil society Board or any other group involved in funding decisions should not be eligible for grants, to avoid conflict of interest).

EFFECTIVE REDRESS MECHANISMS

A process to enforce mutual accountability should be in place from the start. If funding decisions are made at the national level, as proposed by the RFM, then an accessible system of resolving disputes will be needed at the national level. Although disputes involving decisions by national governments should be resolved at the national level to avoid undermining governments, a global Ombudsman or dispute settlement body/mechanism will also be needed to resolve issues related to global decision-making.

The analysis carried out before and after the establishment of the World Bank's Inspection Panel provides a starting point for setting up credible and independent mechanisms at both the national and global level. The three-member Inspection Panel was formed in 1993 as a result of pressure from international NGO coalitions with leverage over donor governments, protesting the negative social and environmental impact of Bank projects.²⁸ Three minimum criteria emerge from this analysis, in order to ensure the credibility and independence of a redress or appeals mechanism: *independence*, *public accountability* and *effectiveness*.²⁹

To ensure the *independence* of the mechanism, members should be chosen from outside the institution, and their budget should be independent and adequate. The Bank's Inspection Panel was criticized because panel members were nominated by the Bank President and approved by the Executive Directors; panel members were subject to the requirements of the Bank's Articles of Agreement that demand exclusive loyalty to the Bank; and the President decided the salaries for the members.

For *public accountability*, the public should have access to every stage of the investigation. The Inspection Panel was criticized for excluding the public from access until after the Bank's Executive Directors consider the reports – thus excluding the public from the very stage where additional comment and information concerning panel findings could be important to the Directors' decisions.

²⁸ Fox, J.A and Brown, L.D (1998). *The Struggle for Accountability: The World Bank, NGOs and Grassroots Movements*. Massachusetts Institute of Technology.

²⁹ See for instance Hunter, D (undated). *The World Bank's Inspection Panel: Will it increase the Bank's accountability?* Centre for International Environmental Law.

To be *effective*, the mechanism must have the authority to ensure that their recommendations are acted upon. The power of the World Bank Inspection Panel is limited - nothing in the resolution through which the Panel was formed commits the Bank to rectifying problems uncovered by panel investigations. The Bank President is only required to respond to panel findings by informing the Executive Directors of actions that she or he intends to take, if any. The Executive Directors resolve any conflicts between panel findings and staff responses.

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.³⁰

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 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 that draws heavily from experiences in implementation, rather than staggered events such as the GEF NGO Consultations 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.

³⁰ 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