June 30, 2016

Via Electronic Mail

Grievance Redress Service
The World Bank
1818 H Street NW
Washington, DC 20433

Re: Comments on the GRS Draft Operating Procedures

Dear GRS team,

Thank you for the opportunity to comment on the “Operating Procedures (June 2016) (Draft)” (“Draft Procedures”) for the Grievance Redress Service (GRS). We commend the World Bank for recognizing that, in many instances, grievances from project-affected communities go unheard and unaddressed at both the project level and by Bank Management. As members of organizations that have worked for many years on creating and improving the accountability systems of the World Bank, we believe it is of utmost importance that project-affected people are able to obtain redress when World Bank projects adversely impact them and their environment.

Central to this tenet is ensuring that not only are their grievances heard, but also responded to. Centralizing the process for affected communities by providing them with a corporate window where they can submit their concerns to the appropriate unit in Management has the potential to have positive impacts. The GRS can help streamline the process and ensure that Management tracks and responds to concerns raised by project-affected people by communicating with the relevant teams in the Bank and providing support to Management in formulating their response to the concern.

While we support having multiple avenues and ways by which project-affected people and communities can have their concerns heard and addressed, it is equally important that these avenues are understood by the people who will seek redress and that these avenues are accessible and ultimately effective. To do so, the GRS must be predictable, transparent, and accessible. The GRS must also be explicitly clear about its functions, mainly what it is (a window that facilitates Management’s response) and what it is not (a formal dispute resolution mechanism). With these considerations in mind, we take this opportunity to note several concerns with the GRS and make recommendations for its improvement.

The Lack of Clarity Will Cause Considerable Confusion for Affected Communities.

From its inception, the GRS’s role, particularly in light of other complaints mechanisms, has been confusing. This has been exacerbated by the changing description of the GRS, and its participation in dispute resolution processes led by another international financial institution’s (the EIB’s) independent accountability mechanism (IAM).1 Given the GRS’s ambition to support management and its lack of structural independence, we continue to have serious concerns about the GRS participation in dispute

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1 Although IAMs differ in structure and function, “collectively they share a common mission to independently assess people’s complaints and seek a response to their concerns.” (World Bank, “Independent Accountability Network,” available at: http://ewebapps.worldbank.org/apps/ip/Pages/Related%20Organizations.aspx (last accessed June 28, 2016)). Like other IAMs, the EIB Complaints Mechanism operates independently from management and allows communities to seek accountability and redress without directly negotiating with EIB, government, or client staff who may have perpetrated the harm in the first place.
resolution processes with other, more independent, mechanisms.\(^2\) The meeting on June 22 regarding these Draft Procedures helped clarify some of the confusion, and we hope the GRS will continue to clearly differentiate itself from the Panel, the CAO, and other accountability mechanisms.

We appreciate the clarification in Paragraph 1 of the Draft Procedures that the GRS is “a corporate-level grievance redress service” that provides a window for project-affected people to contact the Bank. Similarly, we appreciate the clarification that its primary function is to support Bank Management and Project Task Teams in developing a response to grievances from people and communities, and to act as a liaison between the Bank and the project-affected people. We hope all future descriptions of the GRS consistently and clearly explain the GRS in this way so that project-affected people understand its role as a corporate-led service where project-affected people can submit concerns to the attention of Bank Management.

**The GRS is not and should not represent itself as a dispute resolution mechanism.**

We are also concerned that the activities and ambitions of the GRS appear at least partly aimed at filling the gap created by the lack of dispute resolution functions at the World Bank Inspection Panel. As elaborated below, the GRS is simply not equipped to meet the dispute resolution needs of communities in the sense that the term is understood in the context of IFI accountability mechanisms.

Dispute resolution with communities in the development context requires considerable resources, specific dispute resolution skills, and a sensitivity to the power imbalances facing communities. As currently constituted, the GRS lacks the resources, knowledge, and skills necessary to serve in this capacity. Further, as a management-led “corporate-level” service, the GRS is not designed to facilitate dispute resolution in an independent, impartial, and community-sensitive way. Unlike engagement through dispute resolution processes offered by some of the IAMs, the GRS is not designed to ensure a fair process and offset the power imbalance usually found between affected people and those designing or implementing a project. Although the GRS can certainly add value for some project-affected communities whose concerns can be addressed directly and relatively quickly by Management, the GRS is not positioned or equipped to manage a formal, longer term dispute resolution process that addresses the power imbalance between affected people and Bank management in a way that promises a fair and effective dispute resolution process with sustainable results.

For an entity to be a viable and legitimate dispute resolution mechanism in this context, the following attributes would have to be present:

- **Independence:** To be trusted and considered legitimate, a dispute resolution body must be independent so that its process is free of control by or influence from the parties to the process. Thus the unit responsible for facilitating dispute resolution must be independent from management, and have strict restrictions on who it employs.

\(^2\) We have significant concerns related to the GRS co-facilitating a dispute-resolution process with the European Investment Bank (EIB) Complaints Mechanism in the Kenya Electricity Expansion project (P103037). While we support communities being able to seek solutions through dispute resolution, the participation of the GRS is problematic given that unlike the EIB Complaints Mechanism, the GRS is not an independent accountability mechanism (IAM). Instead the GRS operates within management and lacks the legitimacy and procedural fairness that an IAM can provide. World Bank management does have an important role in ensuring accountability and redress for the communities in Kenya, but it is best suited to be a party in the dispute resolution process rather than a co-facilitator.
• **Impartiality:** To be considered legitimate, the dispute resolution process must be impartial in both perception and reality. The unit must engage an impartial third-party facilitator (as agreed to by the parties) who integrates relevant parties fairly through a balanced process and puts them on equal footing. It is particularly important that affected people, especially the most vulnerable among them, are represented and empowered to make decisions throughout the entire process. Parties to the process must be able to reach their decisions voluntarily without pressure or intimidation, and the unit must have the authority to monitor any agreements reached through the process.

• **Procedural protections:** Adequate procedural protections are required to ensure a fair process and offset the bargaining disadvantage of affected people who are parties to the process. “Ground rules” must be fair and understood by all parties. Procedures must be easily comprehensible, and the unit and the third-party facilitator must take steps to ensure that these parties have reasonable access to information, advice, and expertise to engage in the process on fair, informed, and respectful terms. The process must not require parties to agree to blanket confidentiality agreements as a prerequisite to participation. However, it should protect the identity of any party that requests confidentiality. Affected people must be allowed to have advisors, counsel, or other representatives to assist them throughout the process.

• **Expertise and Professional Skills:** Effective dispute resolution requires that the unit staff and any impartial third party that it employs are qualified by dispute resolution professionals with highly specialized training and experience, cultural awareness, and temperament.3

• **Ability to Address Imbalances:** Project-affected communities often face a power imbalance when engaging in a dispute resolution as they are often less well-resourced and are engaging with their government, an international financial institution, or a private company. Thus an effective dispute resolution mechanism must have the willingness and ability to put in the time and effort to work with communities to build their capacity and diminish the power imbalance. Unit staff and impartial third parties must be adept at correcting severe power imbalances between parties and comprehending the social, political, and economic dynamics that may create significant obstacles for vulnerable parties to fully participate in the process.

• **Resources:** Although resources alone are not sufficient to sustain a well-functioning dispute resolution process, adequate funding and support are essential. Thus, resources must be dedicated to secure the requisite expertise, logistical support, and other related expenditures (e.g., for travel, technology, translation, etc.) facilitating such a process. This includes support to conduct outreach so that communities are aware of the unit and oriented in the dispute resolution process as well as to monitor any agreements as a result of the process.

The GRS does not have these qualities and thus should not be engaged in or present itself as a dispute resolution mechanism. Instead the GRS should be a predictable, accessible, and transparent window that facilitates a prompt response by Bank Management to address concerns raised by project-affected people and that acts as a liaison between Management and the affected person or community.

**The GRS criteria for admissibility are unnecessarily burdensome and will restrict access.**

Given the GRS’s function as a corporate window for concerns to reach Bank staff and Management, the GRS does not need significant, formal threshold criteria for admissibility that might restrict access and

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3 See, e.g., IFC Compliance Advisor Ombudsman, “CAO Dispute Resolution (Ombudsman),” available at http://www.cao-ombudsman.org/howwework/ombudsman/ (last accessed June 28, 2016) (explaining that their professionals “are trained in assisted negotiation methods – including conflict assessment, mediation and dispute resolution, consensus building, multi-stakeholder problem solving, and interest-based facilitation and negotiation.”).
lead to an unnecessarily formalistic or legalistic approach. Instead, the GRS should receive, track, and respond to all concerns from project-affected people, and if the grievances are not within the GRS’s scope, it should forward them to the entity in the World Bank that can address them. Similarly, if the concerns do not relate to a World Bank project, the GRS should inform the complainant and should make every effort to inform them about who they could contact (i.e. the IFC, another development bank, etc.), when possible. Even anonymous complaints, as suggested by the Draft Procedures, may raise concerns of interest to the Bank and should be reviewed as any other grievance. Further, the GRS should accept grievances in any language as project-affected communities should not be prevented from presenting their grievances to Bank Management because they cannot do so in English or a country’s official language. Our red-line comments below are intended partly to reflect this simplified approach to “admissibility.”

Additionally, we support the project-level distribution of information regarding where project-affected communities can submit their concerns. The Bank should ensure that country offices and all projects will provide information about the various options for communities in an understandable way so that they can decide the avenue they wish to take to have their concerns addressed. Specifically, at the project-level there should be information distributed about the Inspection Panel, the project-level grievance mechanism, and the GRS. Further, the “leaflet” explaining the GRS should clearly explain that the GRS is a management-led window that allows people to contact Bank Management to ask that grievances be remedied. We would be happy to consult on this leaflet as it is being created.

**The GRS should ensure the predictability of the process.**

It is important for project-affected people to understand the functions of the GRS and when to expect communications and responses from the Bank after submitting their concerns. As such, we support the GRS’s outline of the internal procedures. Having clear, public procedures will also enhance fairness. Clear procedures allow affected communities to know what to expect and to ensure that their complaints are being heard and processed in a fair manner.

**The GRS should increase transparency by consistently sharing timely information about complaints.**

To be trusted, the GRS must be transparent, trackable, and ultimately accountable to its stakeholders. The GRS has received 63 complaints. Many of these complaints deal with complex issues, including resettlement, compensation, and impacts on livelihoods. Yet, little information is provided in the public realm regarding these complaints. We support the publishing of an expanded Case Log, or Grievances Register. Currently, the Case Log publishes only five pieces of information: the project name and number, country, the date the complaint was received, the status (i.e., simple notation of “in progress,” “closed,” or “referred”), and a very brief description of the primary grievance(s). To better foster predictability, transparency, and trust, the Case Log should provide more detail so that complainants can know what is happening and can monitor how their concern is being addressed. For instance, the GRS could provide more detail on how it is addressing each grievance, and why, with links to documentation.

**The GRS can do more to protect the security of complainants.**

We welcome the Draft Procedures provision on “Freedom from Retaliation” as a first step in recognizing that those who criticize development projects often face security risks, including intimidation and spurious criminal charges. The ability to freely raise concerns about development projects is vital to

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5 Draft Procedures, para 43.
ensuring that development is sustainable and rights-respecting. We believe that international financial institutions, such as the World Bank, should do more to protect the security of complainants and those involved in a complaint process. With this aim in mind, further clarification is needed on how the GRS plans to operationalize this clause and what resources will be allotted. This would go beyond the provision of offering to keep complainants’ identities confidential. Moreover, any claims that the GRS can maintain confidentiality need to be backed up with clear office procedures and protocols.

Below we have provided red-line comments that aim to simplify the GRS procedures to ensure that all project-affected people will have the opportunity to bring any potential concerns to this corporate window and have them addressed in a systematic, transparent, and trackable way.

Thank you for taking the time to consider our comments. We look forward to continuing our engagement with the Bank on the GRS. If you have any questions or would like to follow-up on this, please feel free to contact us.

Sincerely,

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Section I Introduction and Background

1. The Grievance Redress Service (GRS) is a corporate-level grievance redress service created to receive concerns from project-affected people and communities who believe that a World Bank-supported project (Project) has caused or will cause them harm. The GRS facilitates a prompt response to grievances by providing support to Project teams (Task Teams) to address the issues raised in a quick and effective manner.


Section II Submission of Concerns/ Complaint

Who May Submit a Concern/Complaint?

3. Concerns, or a grievance, complaint may be submitted by anyone or more individuals, or their representatives, who believes they are or may be directly and adversely affected by an active (i.e., not closed) World Bank-supported Project – this includes Projects financed by the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

4. Identity of Complainants. The complaint grievance should, must in most instances, identify the individual(s) submitting the complaint, and how they are or will be affected by the project, whether they are Project-affected individual(s) and/or a community or representative.

5. Confidentiality. Complainants may ask that their identity be kept confidential. The request for confidentiality should be submitted with the complaint. The GRS will attempt to maintain confidentiality of personal or classified information if requested. However, the GRS cannot guarantee that they will be able to do so.

6. Representatives. Complainants may submit their concerns/complaint through an authorized representative. The authorized representative must include his/her name and contact details and sign the complaint. The representative should also provide written proof (such as a signed letter by those they represent) of his/her authority to represent and act on behalf of the complainant(s) in relation to the complaint. The GRS will communicate directly with the authorized representative, as necessary and appropriate, and will keep the representative and/or complainant(s) informed about the status of the complaint.

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1 This includes loans, credits, grants, trust funds, and technical assistance (TA) operations.
Complainants may also submit concerns on their own behalf and appoint a contact person or persons for all communications regarding the complaint.

7. **Anonymous complaints communications.** Anonymous complaints communications make it difficult to respond the specific situation of any complainant but will not be processed, be deemed inadmissible. However, if an anonymous complaint communication contains specific information about Project-related issues, the GRS will follow up with转发 to the Task Team as appropriate for its information and follow-up, where appropriate.

How to Submit a Complaint Concerns

8. **Concerns** A complaint can be submitted in any of the ways outlined below.

   - Via email: grievances@worldbank.org.
   - Via fax: +1 – 202 – 614 – 7313
   - Via mail:
     
     The World Bank
     Grievance Redress Service
     MSN MC 10-1018
     1818 H St NW
     Washington, DC 20433, USA
   - Via Country Office, Public Information Center: A flyer with an attached complaint form will be available.

Format and Language of a Complaint Grievance

9. **Complaints Concerns** may be submitted in the language of the complainant, the Member Country’s official language. All of the GRS correspondence with the complainant will be in English and, where feasible, in the language of the complaint. In the event of any discrepancy between the two versions, the English version will prevail. The GRS will make every effort to correspond with complainant in the language in which the original concerns were submitted. The GRS will seek out translation and interpretation support for affected communities corresponding in local or indigenous languages. Translation may delay the GRS’s timetable in responding and addressing the grievance.

10. No specific format is required as long as the required information is included: (a) identity of complainant(s) and representatives, if any; and (b) information as detailed in the section below. Complainants may use the complaint grievance form available on the GRS website or any format of their choosing.

Content of a Complaint Grievance: Required Information

11. **Subject matter of a complaint grievance.** A complaint grievance must raise concerns with alleged actual or potential harm resulting from a Bank supported operation, regardless of whether the issues raised fall under the Bank’s Operational Policies and Procedures. Complaints Grievances should raise operational matters but need not raise matters of non-compliance with such policies to be admissible addressed.
12. **Substance of a complaint grievance.** The complaint grievance must state the concerns the person(s) have with the project, and where redress for harm is requested, identify any adverse impact(s) allegedly caused or likely to be caused by the Project. Please include any available documentation and correspondence, where possible and appropriate, or upon the GRS’s request at a later date. The complainant(s) may also indicate the desired outcome of the complaint grievance, i.e., how it may be resolved.

11. **Procurement related complaints** pertaining to Projects may be submitted to the GRS by bidders or potential bidders (companies or individuals). These complaints will not be processed following GRS procedures but instead in line with the relevant provisions of the Procurement Framework.

**Section II Admissibility Processing Grievances**

**Scope of Grievances and Admissibility of Complaints**

12. Complaints grievances will be processed are admissible if they meet the following criteria:

- The Project is active, i.e., appraisal has begun and the Project has not yet closed;
- The complaint grievance raises concerns with the planning, appraisal, or implementation of the Project is filed by Project-affected individuals and/or communities, or their representative;
- The complaint grievance alleges that the Project has caused or will cause harm to the individuals and/or communities submitting the complaint.

13. The following issues are excluded from GRS processing:

- Complaints pertaining to IFC or MIGA-supported projects;
- Issues pertaining to fraud and/or corruption in a World Bank-supported project;
- Issues related to obtaining employment with the World Bank and/or the subject Project.

The GRS will make every effort to forward information to the appropriate World Bank Group office when the grievance filed is excluded from GRS processing. Additionally, the GRS will inform the complainant(s) of having done so. The GRS will inform the complainant(s) of having done so. This will include, relaying the information to other development banks when possible.

14. Complaints that are obviously frivolous or absurd are not admissible.

15. **Project level GRM.** If a complaint grievance pertains to a Project with an existing project-level GRM, the GRS will make the complainant(s) aware of its existence and encourage its use. However, it is the decision of the complainant(s) to use the Project-level GRM and/or continue the GRS process. The existence of a Project-level GRM and/or a complaint grievance already lodged with it does not preclude the GRS from processing a complaint grievance it receives.

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2 The Integrity Vice Presidency (INT) is an independent unit within the World Bank Group that investigates and pursues sanctions related to allegations of fraud and corruption in World Bank Group-financed projects.
16. **Complaints Grievances lodged with the GRS and the Inspection Panel.** If complainant(s) file a complaint grievance on a Project with the GRS and the Inspection Panel at the same time, or submit it to the GRS after the Panel process has begun, the GRS will review the complaint grievance and discuss with the complainants and with the Panel on how to proceed. The GRS may not accept complaints once the Board has authorized an investigation by the Inspection Panel on the issues of concern.

**Determination of Admissibility GRS processing**

17. **Registration of complaints grievances.** After receipt of a complaint grievance, the GRS immediately registers it in the Complaints Grievance Register.

18. **Within two business days of receipt of the complaint grievance,** the following takes place

- **Notification of receipt.** The GRS notifies the complainant(s) of receipt of the initial communication complaint. With the notification of receipt, the GRS may also request additional information from the complainant(s).

- **Classification of a complaint grievance.** The GRS determines whether the issues relate to procurement and, if so, or to other matters falling within the mandate of the GRS, as set forth in these Procedures. If the complaint grievance is related to procurement, the GRS forwards the complaint grievance to the responsible Regional Procurement Manager.

- **Notification to World Bank staff.** If the complaint grievance pertains to operational matters, the GRS notifies the Task Team and other relevant World Bank staff including the country team, Global Practices, Regions, the Legal Department, ECR and others as warranted, regarding receipt of the complaint grievance.

19. **Evaluation.** Within 10 business days, the GRS reviews and evaluates the complaint grievance and determines whether the complaint meets the admissibility criteria set forth above, in consultation with relevant staff.

20. **Request for additional information.** During the 10-day admissibility assessment period, the GRS may request further information from the complainant(s). If no response is received from the complainant(s) within 10 business days of the request, the GRS contacts the complainant(s) again. If no response is received within 10 business days of the second request, the GRS will, if appropriate, inform the Task Team and facilitate a response to the grievance con to the extent possible and appropriate given the limited information. The GRS considers closing the process case. However, even if a process case is closed, if the complaint grievance contains specific information about Project-related issues, the Task Team may take action where appropriate.

21. **Complainant(s) will be notified if the grievance will be processed. Admissible complaints.** If the complaint is admissible, the complainant(s) are notified of admissibility.

22. **Non-admissible complaints.** If the complaint grievance is not processed non-admissible, the complainant(s) are notified of this decision and the reasons for it, and are referred to relevant institutions, where appropriate. The GRS may then closes the case process.
Section IV Formulation of Proposal and Implementation

Formulation of Proposal

23. After declaring the complaint admissible, once the grievance is processed, the GRS opens the Formulation of Proposal phase. The GRS and/or the Task Team review the issues raised and discuss possible ways to move forward. The GRS and/or the Task Team contact the complainant(s) to review the concerns and agree on next steps to address the complaint. This communication occurs no later than 10 business days after the GRS has communicated notified the complainant(s) that the grievance is being processed, the admissibility of the complaint to the complainant(s).

24. The Task Team, with support and advice from the GRS, formulates a proposal to address the issues raised in the complaint. Where required and appropriate, the GRS also seeks support and advice of OPCS, LEGEN, relevant GPs, CCSAs, ECR and the Region.

25. Proposal to complainant(s). Within 30 business days after determination of admissibility of the complaint, the decision to process the grievance, the proposal should be presented to the complainant. In exceptional cases, e.g., for complex complaints or grievances supported by a large number of documents, the time limit provided for in this paragraph may be extended and the complainant(s) will be informed accordingly. The GRS consults with and seeks the input of the complainant(s) on all aspects of the proposal.

26. The proposal should include an action plan with a time frame for its implementation.

27. Agreement by complainant(s). If the proposal is accepted by the complainant(s), the Task Team implements it according to the process and timeframe set forth in the proposal. Agreement on the proposal should be reached within 30 business days after the initial proposal has been presented to the complainant. For extraneous circumstances, additional time can be granted if both parties agree.

28. Rejection by complainant(s). If the proposal is rejected by the complainant(s) and/or the complaint grievance cannot be resolved through the process outlined in these procedures, the GRS informs the complainant(s) that no resolution could be reached. The GRS then refers the complainant(s) to other options for remedy, where appropriate.

Implementation of Proposal

29. Implementation. Once the proposal is accepted, the Task Team promptly starts implementing the proposal. The proposed time frame will depend on the nature of the actions. The GRS and the Task Team will inform the complainant(s) in advance and explain the scope of the action plan and the timeframe.

30. The Task Team keeps the GRS and the complainant(s) up to date on the status and progress of the implementation of the proposal until resolution of the complaint. The Task Team may request support and advice through the GRS at any point.

31. Monitoring. The GRS maintains close contact with the Task Team to ensure that the proposal is implemented within the agreed time frame. The GRS also maintains contact with the complainant(s) throughout the implementation period until resolution. The GRS shall put quarterly monitoring reports on its website that update the status of implementation.
Case Concluding the Process Closure

32. Resolution. The GRS considers the complaint grievance resolved and closes the case when there is agreement with the Task Team and the complainant(s) that the proposal has been successfully implemented and the issues addressed.

33. No satisfactory resolution. If complainant(s) believe that the complaint grievance has not been addressed through the implementation of the agreed upon proposal, the GRS and Task Team engage with the complainant(s) to determine whether and how a satisfactory outcome can be achieved. If these additional consultations do not lead to a further agreement, the GRS refers the complainant(s) to other options for remedy, where possible and appropriate. The GRS then closes the case.

Section V Other Provisions

Information Sharing and Communication with Complainants

34. The GRS shares with the complainant(s) all information relevant to the case, including updates on the status and progress of the complaint grievance handling process, to the extent possible and in compliance with the World Bank Access to Information Policy.\(^3\) Once the GRS process has concluded and if complainant(s) did not request confidentiality the GRS will post summaries on the GRS website.

35. The GRS maintains consistent communications with the complainant(s) throughout the process via email, phone communication or other means as preferred by the complainant(s).

Information Dissemination and Outreach

36. The existence of the GRS is advertised through Project Appraisal Documents (PADs), Borrower’s Safeguard Instruments, and the World Bank’s external and internal websites. The principles and operating procedures of the GRS are made available in all official languages of the Bank, both on the World Bank’s website and as a hard copy available in the World Bank’s Infoshop and Country Offices.

37. For stakeholders with no access to the internet, an information leaflet with a complaint grievance form is made available through World Bank Country Offices, the project site, and distributed at outreach events.

38. A dedicated GRS page on the World Bank’s external website provides instructions and a form for submitting complaints concerns (http://www.worldbank.org/grs). The website also hosts materials that may be relevant and helpful to potential complainants.


\(^3\) See http://www.worldbank.org/en/access-to-information
Publication and Reporting

40. The Complaints Grievances Register is published on the external GRS website and regularly updated. The Register contains information on the subject Project (name, number, and country); specific details of the complaint grievance or the complainant(s) will be published unless a request for confidentiality was made are not included.

41. The GRS is responsible for external communications regarding complaints grievances.

42. The GRS produces an annual report and analysis of cases grievances submitted to the GRS, which are also used to improve the operating procedures as appropriate.

Freedom from Retaliation

43. World Bank policies provide for the participation of project-affected people in Project preparation and implementation. In furtherance of these policies, the World Bank also provides access to the GRS. The World Bank will make every effort to ensure that it is the World Bank’s position that complainant(s) who use approach the GRS are protected from must not be subject to any form of retaliation based on the fact that they complained to the GRS.