

Study on Strengthening Grievance Redress Mechanisms for the Protection of the Basic Services (PBS) Program in Ethiopia

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This Study was commissioned by the Government of Ethiopia (GOE) and its Development Partners (DPs) as a result of discussions and agreements made at the November 8-December 10, 2010 “Joint Review and Implementation Support Mission” (JRIS) relating to strengthening or expanding accountability mechanisms for the Protection of Basic Services (PBS) program. Consultants, Robert C. Randolph and Buli Edjeta, were retained and tasked with undertaking the study and submitting a Report on the adequacy of formal and informal grievance redress mechanisms in Ethiopia which would include recommendations for strengthening existing grievance redress mechanisms and, if deemed necessary, establishing an independent grievance tribunal to hear and resolve grievances relating to the allocation and distribution of PBS funded benefits. Printing and Publication of this Report was made possible through the Protection of Basic Services Program with the support of the World Bank and Kreditanstalt für Wiederaufbau (KfW).

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We very much appreciated the comments proffered by the Stakeholders, particularly the representatives of MOFED, the BOFEDs, the Ethiopian Office of the Ombudsman, and grievance handling officers from the regional states, who attended the Stakeholder’s Workshop on 20 September, 2011 [organized by MOFED and supported by the World Bank and Kreditanstalt für Wiederaufbau (KfW)], and we hope that we have addressed them as fulsomely as possible in Section V.

We would be remiss if we did not take special note of the work of the Ethiopian Institution of the Ombudsman (“EIO”) in promoting good governance and combating maladministration in Ethiopia and, in particular, for their efforts to strengthen and increase the capacity of the grievance handling offices in the regional states. We have very much appreciated the support and cooperation of the EIO.

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We would finally like to express our great appreciation to Professor Zekarias Kenea of the University of Addis Ababa who has assisted us with the finer points of Ethiopian law, particularly with respect to the execution and confirmation of judgments and arbitral awards by the courts and, by analogy, the execution (confirmation or enforcement) of administrative decisions. This Report has also been vetted by an expert in Ethiopian administrative law and international best practices, Ato Mesfin Tafesse, who will be known to many as a former Commissioner of the Civil Service, former Judge of the Civil Service Tribunal, administrative law professor, and practitioner in the field of administrative law. We very much appreciated their review and comments, which have helped us to avoid many missteps in the fields of Ethiopian administrative law and Ethiopian law, generally. Any mistakes that remain, of course, are those of the authors.

Abbreviations, Acronyms, and Defined Terms

APAP	Action Professionals' Association for the People
BOFED	Bureau of Finance and Economic Development (Regional State)
BPR	Business Process Reengineering Initiative of GOE
Consultants	Robert C. Randolph and Buli Edjeta
COPCU	Channel One Programs Coordinating Unit (MOFED Unit)
CSO	Civil Society Organization
CSRП	Civil Service Reform Program
DPs	The World Bank and its International Development Partners and Donors (collectively)
EACC	Ethiopian Anti-Corruption Commission
EHRC	Ethiopian Human Rights Commission
EIO	Ethiopian Office of the Ombudsman
FDRE	Federal Democratic Republic of Ethiopia
GHO	Grievance Handling Office
GO	Grievance Officer
GOE	Government of Ethiopia
GPA	Grade Point Average
GRM	Grievance Redress Mechanism
IBPs	International Best Practices
JRIS	Joint Review and Implementation Support Missions (GOE/DPs)
KfW	Kreditanstalt für Wiederaufbau
MOFED	Ministry of Finance and Economic Development
NGOs	Non-Governmental Organizations
PBS	Protection of Basic Services Program
PSNP	Productive Safety Net Program
SAP	Social Accountability Program
SNNPRS	Southern Nations, Nationalities and Peoples Regional State
ToR	Terms of Reference
WB	World Bank

I. Introduction

A. Executive Summary

The GOE and DPs commissioned this study to determine whether existing grievance redress mechanisms at federal, regional state and local government levels are adequate for dealing with maladministration issues and, if not, whether existing mechanisms can be strengthened to meet international best practices or whether, if necessary, there are compelling reasons for establishing an independent grievance tribunal for PBS where citizens can report their complaints of maladministration and obtain redress for meritorious claims. See Terms of Reference at Section I.B.

In connection with the preparation of this Report, consultants have researched the development of grievance redress mechanisms in developing countries, have tracked the history of the development of grievance redress mechanisms in Ethiopia beginning with Imperial grievance redress procedures and moving to a discussion of the stimulus provided by the Business Process Reengineering (“BPR”)¹ initiative which, in many respects, helped “birth” GRMs in Ethiopia. Consultants have thoroughly researched international best practices for grievance redress mechanisms with assistance of exhaustive computer searches and have consulted with authorities on Ethiopian administrative law and legal culture in reaching the conclusion that Ethiopia should look to international best practices standard to evaluate the effectiveness of its grievance redress mechanisms.²

The methodology utilized by consultants in undertaking this Study and producing this Report is set forth at Appendix C. During the period May-August, 2011, consultants visited regional

¹ The concept of Business Process Engineering was the brainchild of Michael Hammer and James Champy who introduced the concept to the organizational development world in the 1990s. They defined BPR, somewhat unhelpfully, as “the fundamental rethinking and radical redesign of business processes to achieve dramatic improvements in critical contemporary measures of performance, such as cost, quality, service, and speed.” Hammer and Champy, *Reengineering the Corporation-A Manifesto for Business Revolution*, at 32 (1993). Their basic argument, simplified, was that organizations wasted too much time in passing tasks from one department to another in vertically structured organizations, and lose sight of the overall goal in the process. Instead, they championed the development of task-oriented “horizontally” structured teams to perform all tasks in any given process. The BPR concept was enthusiastically adopted by the current government of Ethiopia during the first decade of this century as a way of reorganizing, reforming and improving the service delivery of government administrative agencies and public corporations, such as Ethiopian Telecoms and Ethiopian Airlines. The BPR has received mixed reviews in Ethiopia in terms of results and impact on administrative efficiency and service delivery, but it can be given credit for “birthing” the development of GRMs in Ethiopia.

² In Section II, *infra*, consultants have identified 12 grievance redress mechanism best practices which have been gleaned from the literature. These international best practices are based upon the core principle of administrative adjudication that when a citizen has the right to complain about a governmental action or omission that causes harm or results in the impairment or denial of a benefit, then the citizen should have the corresponding right to have his or her complaint heard by an impartial decision-maker who has the authority to hear the case, issue a decision and have that decision enforced.

states and municipalities which exercised jurisdiction over 98% of the population of Ethiopia. We visited seven of the 9 regional states, omitting because of time and scheduling considerations only Afar and Gambella which together comprise about 1.5% of the population. We conducted “supply side”³ interviews at the regional state levels and at representative woredas (districts), municipality, and kebele levels.⁴ Consultants have also interviewed private sector providers of dispute resolution services, such as mediation and arbitration organizations. These interviews included demand-side interviews with grievants, attorneys, civil society organizations⁵ (“CSOs”), NGOs (both local and international) and DPs. In addition, consultants have done extensive desk research, including exhaustive computer searches, on the subject of GRM international best practices⁶ and the availability of GRMs and other administrative adjudicatory processes in Ethiopia.

We found that a number of regional states (most notably Amhara and Tigray) had begun the process of creating grievance procedures approximating international standards which provide grievants in those states with a forum to complain about governmental maladministration and seek redress for any harm done to the grievant. Amhara has grounded its grievance redress mechanism in legislation approved by the regional cabinet council. Tigray used Amhara’s GRM procedures as a “benchmark” for its draft regulation and procedures manual. These two early adopters have provided other regional states, such as SNNPRS, Benishanghul Gumuz and Oromia, with a template for strengthening existing GRMs based on the BPR or enacting regulations which give new GRMs strong legal underpinnings. These regional initiatives are manifestations of the impact of Ethiopia’s decentralization policies and the ability of federalism, as it currently operates in Ethiopia and elsewhere, to provide a variety of “laboratories”⁷ where experiments in good governance can flourish. We have been fortunate to visit many such laboratories during our field trips to the regional states where good GRMs are beginning to take root with the help of seeding and technical support from the starter regions and the Ethiopian Institution of the Ombudsman (hereinafter EIO or Ombudsman).

We have concluded that Ethiopia has begun the process of implementing grievance redress procedures in the regional states (most notably in Amhara and Tigray), which, if strengthened,

³ In the grievance redress literature, “supply side” generally refers to public GRMs (governmental administrative GRMs, courts) and private dispute resolution providers (such as Arbitration and Mediation Organizations). The “demand side” usually includes citizen users of GRMs, civil society organizations (lawyers, teachers, and other CSOs) and the press. See Varun Gauri, *supra* n. 1, at 8, 12 and 24.

⁴ Kebeles are the smallest division of local government and are villages or urban communities with an average population of 5,000. The next level of local government is the woreda which has an average population of approximately 100,000 persons. See Section I.C, *infra*, and World Bank, *Legal and Judicial Sector Assessment Manual* at 3 (2004), found at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/EthiopiaSA.pdf>

⁵ The World Bank and International Monetary Fund refer to “civil society organizations” as “the wide range of citizens’ associations that exists in virtually all member countries to provide benefits, services, or political influence to specific groups within society. CSOs include: business forums, faith-based associations, labor unions, local community groups, nongovernmental organizations (NGOs), philanthropic foundations, and think tanks. Usually excluded are not only the branches of government (government agencies and legislators) but also individual businesses, political parties, and the media.” <http://www.imf.org/external/np/exr/facts/civ.htm>.

⁶ See Section II.

⁷ The American Jurist, Louis D. Brandeis, famously likened decentralized units of government, which are the product of “federalism,” to “laboratories” for good governance and democracy. See *New State Ice Co. v. Liebman*, 285 U.S. 262, 311 (1932).

can be relatively easily brought to the level of international standards and used as a template for the development of grievance redress mechanisms throughout Ethiopia, including the federal sector. These nascent GRMs can be used for resolving PBS grievances as well as grievances brought by citizens with non-PBS claims. Thus, if Ethiopia continues to build upon and “build out” already existing systems to provide redress for all Ethiopian citizens, including PBS grievants, there will be no need for the GOE and DPs to create an independent tribunal for PBS cases.

These emerging grievance procedures have demonstrated a potential for identifying and correcting maladministration in the delivery of government services and benefits. See cases cited at Appendix B. These indisputable gains in governance and accountability, however, are fragile and reversible. Our research has revealed that the greatest threat to the continued development of GRMs in Ethiopia is the difficulty that all regional state grievance offices have in enforcing their grievance decisions. In order to provide redress for a meritorious grievance, there must be compliance with the decision and, in the absence of compliance, enforcement. Thus, regional states, the federal sector and municipalities should provide their GRM offices with adequate implementation and enforcement powers.

The Report, also, recommends, *inter alia*, as part of the strengthening process that grievance offices should be independent of the executive, have cabinet status and report to the regional council in order to minimize politicization of the GRM process. In addition, grievance officers should be accorded civil servant status in order to provide them with protection from retaliation and thus incentivize good governance, accountability and conscientious administration of grievance redress mechanisms.

Finally, if the GOE and DPs believe that strengthened grievance redress mechanisms in the regional states and the creation of federal grievance redress mechanisms that meet international standards will provide an adequate substitute for an independent PBS grievance tribunal, then the PBS partners should take responsibility for ensuring that these grievance redress mechanisms are as strong and credible as possible, are based on international best practices, and provide citizens, including PBS grievants, with a forum in which to voice complaints. To achieve this end, we have recommended that PBS provide financial, political and moral support for the GRM initiative and that, as first steps, the GOE and DPs should make the GRM initiative a part of the ongoing PBS (II) process and a permanent part of the new PBS (III) process with its own policy dialogue. The GOE and DPs must monitor and follow-up on these critically important GRM initiatives, which have been home-grown in the regional state governments, to make sure that there is continued regional cross-pollination aimed at strengthening GRMs in the regional states and the creation of GRMs at the federal level that function in accordance with international best practices.

In the remaining subsections of Section I, we will review the Terms of Reference (ToR) for the GRM Study (Section 1.B), provide an overview of Ethiopia’s governmental structures (Section I.C), and summarize the historical development of GRMs in Ethiopia (Section I.D). In Section II, we will discuss the concept of “international best practices” which are the metrics mandated by the ToR for measuring regional state and federal sector GRM capacity and efficacy. We will then turn to Section III for a discussion of the efforts being made in the regional states to

create GRMs that are reasonably consistent with international best practices. In Section IV, we have created a “scorecard” which evaluates how well the regional state GRMs measure up to the international best practices standard. We will then briefly summarize in Section V the most pertinent participant comments coming out of the September 20th Stakeholders’ Meeting, responding where appropriate, before cataloguing our Findings and Conclusions (Section VI), setting forth our Recommendations (Section VII) and charting Next Steps for strengthening GRMs in Ethiopia (Section VIII).

B. Terms of Reference

The Government of Ethiopia and its Donor Development Partners (“DPs”) commissioned Robert C. Randolph (international consultant) and Buli Edjeta (Ethiopian national consultant) to conduct a “Study” and produce a “Final Report” that examines the adequacy of formal and informal “grievance redress mechanisms”⁸ (GRMs) in Ethiopia in terms of their conformity with international best practices and their accessibility to Ethiopian Citizens who assert that they have been subjected to governmental “maladministration”⁹ in connection with the distribution or provisioning of basic services, benefits, and entitlements, including government employment.

The multi-donor supported Protection of Basic Services Program (PBS) provides the backdrop for this Study. PBS allocates block grants on a formulaic basis to regional state governments and local government which in theory pay approximately 90% of public employee compensation in five sectors (health, education, agriculture, rural roads, and water), along with investment grants to local governments on a pilot basis. In effect, one can argue that PBS pays a portion of the compensation of all regional government and local government employees (not just salaries and benefits in the five sectors enumerated above) because PBS funds are commingled with funds from other sources that regional state and local governments use to pay employee compensation.

Third parties have publicly asserted that there has been maladministration in the implementation of the PBS program. They have also asserted that current PBS safeguards and existing administrative protections are insufficient and inadequate to ensure accountability and good governance in the PBS program and protect it from maladministration. The GOE has strongly denied these assertions.

⁸ We define a “grievance redress mechanism” as an after-the-fact review of a transaction between the government and a citizen who has been denied a governmental service or benefit where the citizen, as a matter administrative process or regulation, has a right to complain to an impartial third party about governmental actions or omissions in connection with the denial and, also, seek redress for any harm done and/or rectification for any wrongdoing. See generally Varun Gauri, “Redressing Grievances and Complaints Regarding Basic Service Delivery,” at 2-3 (World Bank Paper 2011), found at http://www-wds.worldbank.org/servlet/-WDSContentServer/WDSP/IB/2011/06/22/000158349_20110622085504/Rendered/PDF/WPS5699.pdf (2011).

⁹ The Ethiopian Institution of the Ombudsman describes “maladministration” as follows: “[A] decision reached or discretion exercised in a defective manner – an act or failure to act or an omission, lack of care, judgment or honesty in the management of something – including but not limited to bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude. Maladministration can also be defined as the technical term which describes the actions of a governmental body which can be seen as causing a prejudice or an injustice.” The Ombudsman, Volume 1, Issue 4 at p. 6 (May 2011).

Whatever the merits of these allegations, the GOE and the DPs have publicly declared that they take issues of governance and accountability seriously. They are in agreement that governance and accountability mechanisms should be as strong and credible as possible, should be based on international best practices, and should provide citizens with a forum in which to voice complaints. To this end, both parties fully embrace the premise that a fully functioning GRM system will reduce the incidence of erroneous and/or arbitrary administrative decision-making, deter fraud and corruption, increase stakeholder involvement in and satisfaction with PBS program service delivery, and provide staff with timely feedback to enable them to be more accountable and responsive to program beneficiaries.

Consequently, the DPs and the GOE have commissioned this Study, including this Final Report, to evaluate whether existing grievance redress mechanisms at federal, regional state, district, and local government levels are adequate for dealing with maladministration issues and, if not, whether existing mechanisms can be strengthened to meet international best practices or whether, if necessary, there are compelling reasons for establishing an independent grievance tribunal for PBS where citizens can report their complaints of maladministration and obtain redress for meritorious claims.¹⁰

The commissioning parties have provided consultants with Terms of Reference (“ToR”) that direct the consultants to pursue three broad objectives within the confines of the Study:

- I. Map and analyze strengths and weaknesses of existing formal and informal GRMs in Ethiopia;
- II. Identify and describe GRM international best practices to ensure accountability, improve service delivery, and provide redress for citizens with valid issues; and
- III. Make recommendations for strengthening the capacity of such systems as do exist in Ethiopia for developing complementary GRM mechanisms to improve PBS implementation and service delivery.

Within the context of these broad objectives, the ToR further instructs consultants to produce a Final Report which addresses the following seven sub-tasks, a number of which amplify the three broad objectives:

- i. Map the existing formal and informal grievance redress mechanisms in Ethiopia in terms of their scope, performance, and implementation challenges and take into account regional differences.
- ii. Assess the accessibility and applicability of the existing GRMs for citizens/groups of citizens who may have complaints regarding the implementation of projects and service delivery, including local and indigenous procedures.

¹⁰ See Aide Memoire [between Government and DPs], “Joint Review and Implementation Support Mission (JRIS)”, May 9 – 19, 2011 (June 10, 2011): “Following on the agreement at the November 2010 JRIS, consultants were hired to explore the possibility of an Independent Grievance Mechanism. The work remains at its early stages, and DPs and Government look forward to hearing a report on this work at the next JRIS. While the Government maintains its view that allegations regarding the misuse of resources are not based on credible evidence, and the accountability mechanisms in place for PBS are strong, it remains willing to work with DPs to improve or expand them.” See also Aide Memoire of the November, 2010, JRIS at 9.

- iii. Review the existing GRM structure in terms of international best practices¹¹, and suggest revisions as appropriate.
- iv. Analyze the extent to which current GRMs are being used in Ethiopia and identify the obstacles to their use by citizens (for example, accessibility to certain groups, gender issues, climate of fear, etc.).
- v. Analyze the scope and institutional structure of the redress mechanisms, how grievances are received, analyzed, and responded to, how resolution and/or mediation are handled, and whether previously addressed complaints have led to improvement of service delivery.
- vi. Analyze the strength and weaknesses of the existing GRMs and propose and suggest ways of strengthening existing redress mechanism by involving institutions like woreda courts, civil society organizations, and etc.
- vii. In light of the review, propose improved grievances redress procedures based on the principles of equity, neutrality, integrity, excellence, stewardship, and accessibility to citizens/citizen groups that may be integrated into PBS.¹²

Consultants' research and investigations in connection with this Study have concentrated on the subjects enumerated in the first six ToR sub-tasks listed above: mapping existing GRMs and reviewing their procedures in terms of international best practices (sub-tasks i, iii, and v), assessing their accessibility to citizens (sub-task ii), identifying obstacles to their use (sub-tasks ii and iv), and analyzing strengths and weaknesses (sub-task vi). We are herewith submitting this Report summarizing the findings of our Study and setting forth our recommendations to strengthen or improve Ethiopian GRMs in accordance with criteria set forth in Objective III and sub-tasks vi and vii, above. This Report also incorporates and addresses input generated at the Stakeholders' Meeting on September 20, 2011. See Section V, *infra*.

C. Overview of Ethiopian Governmental Structures

Although all stakeholders and government officials will be more than familiar with the general constitutional and governmental structure of the Federal Republic of Ethiopia, there will be some readers, including those unfamiliar with the Ethiopian context, who will find comprehension aided by a brief overview of Ethiopia's system of constitutional federalism and a basic explanation of the woreda and kebele local government structure.¹³ The 1995 Constitution confirmed the decentralization policies of the 1991 Transitional Charter which replaced the

¹¹ The authors have compiled a list of 12 international best practices which they have gleaned from a variety of international sources. See Section II and, especially, note 20 *infra*. These international best practices are based upon the core principle of administrative adjudication that when a citizen has the right to complain about a governmental action or omission that causes harm or results in the impairment or denial of a benefit, then the citizen should have the concomitant right to have his or her complaint heard by an impartial decision-maker who has the authority to hear the case, issue a decision and have that decision enforced if it becomes a final decision once all appeals have been exhausted. These international best practices have, in addition, been vetted by experts in Ethiopian law, especially Ethiopian administrative law for their adaptability to the Ethiopian legal and cultural context.

¹² See "Terms of Reference for the Review, Development and/or Strengthening of Mediation/Grievance Procedures on Budget and Service Delivery Processes at Regional & Woreda Levels in Ethiopia" at 1-2.

¹³ See generally, World Bank, *Legal and Judicial Sector Assessment Manual* at 3 (2004), found at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/EthiopiaSA.pdf>.

Dergue regime's centralized unitary government with a federal republic. The Federation consists of the central government, nine regional states and two municipalities (Addis Ababa and Dire Dawa). The Constitution assigns considerable authority and autonomy to the regional states and provides that any powers not expressly granted to the federal government are reserved for the regional states.

The regional states are, in turn, divided for administrative purposes into zones,¹⁴ woredas (districts) and kebeles. The woreda and kebele governmental subdivisions were introduced during the Marxist Dergue era as a way of efficiently administering a more centralized governing structure, and this nomenclature has been retained by the 1995 constitution. Each woreda has an average population of 100,000. The kebele is the smallest unit of local government with an average population of 5,000 and is, consequently, the arm of government which is closest to the people. Except for the most remote kebeles, each kebele is generally staffed by four government employees whose salaries are paid by the woreda (The four are the kebele manager, health officer, education officer and agriculture extension agent.). Occasionally, there is a fifth employee, the cooperative promotion officer.

Each regional state has a president or chief administrator as its chief executive, and the woredas are governed by woreda administrators. Legislative authority is vested in a regional state council which has the power to legislate in any area within the purview of regional state jurisdiction. At woreda level, the woreda administrator is accountable to the woreda council. The chief executive of the kebele is the kebele chairman who is advised by the kebele manager (a civil servant with a diploma employed by the district). Both the kebele chairman and the kebele manager are, in theory, accountable to the kebele council.

The 1995 Constitution created an independent judiciary consisting of federal and state courts. The federal judicial system consists of a supreme court, a high court and a court of first instance which have original and appellate jurisdiction and hear cases arising under federal law. Each court of first instance has a civil, criminal and labour division. There is a parallel structure in the regional states.

The Constitution, also, recognizes religious and customary courts as being part of the judicial system. The only religious courts operating at present are the Sharia courts.

There are courts at kebele level, the "social courts", which are akin to small claims courts and which hear civil cases relating to family matters, creditor-debtor issues, contract disputes, landlord-tenant disputes and petty criminal issues. The social courts have been created by state constitutions and are staffed with non-professional judges who are usually nominated by the community. As social courts have not been authorized by the federal constitution, some argue that the courts are unconstitutional.

¹⁴ Tigray has eliminated the zone as a functioning administrative unit of local government.

D. Historical Survey of the Development of GRMs in Ethiopia

We provide here a brief summary of the historical development of GRMs in Ethiopia.¹⁵ In the era of the modern administrative state, government has become increasingly involved in our daily lives through the creation of regulatory and licensing regimes that either limit or authorize much of the activities of the citizenry, especially economic, commercial and land use activities. The broad reach of the administrative state is especially evident in Ethiopia, where the government owns title to the land and exercises administrative jurisdiction over land-leasing and land use transactions. With so many interactions occurring between the citizenry and the administrative state, there is greater probability that the citizenry will be harmed by the commission of an administrative error and, in some cases, by governmental maladministration. Ethiopia has responded to the urging of its citizenry for a system to redress administrative errors, omissions and maladministration with the creation of GRMs at the regional state and municipal government levels.

The concept of a grievance redress mechanism has been rooted in the culture and governance of Ethiopia since, at least, the latter part of the 19th century. During the era of absolute monarchy, there existed the notion, broadly embraced by the people, the nobility, and the monarchy, that justice flowed from the grace and wisdom of the ruler. Any citizen affected adversely by an action of an administrative unit could theoretically submit his or her grievance directly to the ruler, provided that an audience could be secured.

There are reported instances where citizen complaints reaching the ear of the ruler have resulted in corrective action. For example, in 1918, Regent Ras Tafari Mekonnen (the future Emperor, Haile Selassie) sacked all the members of the imperial cabinet save one following public protests about egregious maladministration by many government officials.¹⁶ After his coronation in 1930, Haile Selassie established an ad-hoc administrative court within the Imperial Court, as part of his royal duties, to serve the purpose of receiving, listening to, and addressing grievances from citizens. Still, this system of grievance redress depended upon the divine right of rulers to rule, not upon the rule of law, and has been demonstrative by historians to have been highly personalized and arbitrary.

Gradually, the concept of GRMs came to be rooted in the rule of law with the enactment of laws establishing a professional civil service and, in addition, providing for civil service tribunals to protect government employees from arbitrary and capricious action on the part of their public employers. In the wake of the Revised Constitution of 1955, the GOE established a Public Service Tribunal to handle grievances and complaints that public servants might have against their public employers. Other sectoral tribunals with narrowly defined jurisdiction were added over the years, such as the pension tribunal, the tax appeal tribunal, and the labor relations board.¹⁷

¹⁵ The authors wish to express their gratitude to their colleague, Mesfin Tafesse (attorney, law professor, and administrative law expert), for the research and drafting that provides the background for this section.

¹⁶ Bahiru Zewde, "A History of Modern Ethiopia -- 1855-1991" at 116, 131 (Addis Ababa University Press 2nd Ed.)

¹⁷ A professional civil service with protection for civil servants in the form of grievance procedures can provide the springboard for the evolution of civil service tribunals into mechanisms whereby citizens can challenge

The Marxist Dergue¹⁸ regime (1974-1991) instituted a GRM for handling citizen complaints with the creation of the Office of the Procurator, fashioned on a Soviet model. This office received grievances from citizens and many would have to agree, however reluctantly, that it was effective in addressing grievances within the context of an otherwise repressive and odious governmental regime.

The post-Dergue Constitution of the Federal Democratic Republic of Ethiopia (FDRE) has provided a broader framework for systematizing the GRM concept within a constitutional framework with its emphasis on respect for human rights and fundamental freedoms, especially the right of access to justice,¹⁹ rule of law, and democratic governance. Beginning with the Transitional Government that was established after the overthrow of the Dergue in 1991, the GOE has introduced a number of wide-ranging reforms, including the Civil Service Reform Program (CSRP) of 1996, which has influenced subsequent reform of the federal and regional state administrative systems. The CSRP has great relevance to the present discussion since one of the initiatives in the “Service Delivery Sub-Program” was the promulgation in 2002 of a “Grievance Handling Directive” which provided the initial stimulus for the GRMs that are being devised, improvised and implemented in various jurisdictions, particularly in the regional states.

Subsequently, the GOE pushed the GRM concept even further towards sustainability by making grievance redress a key goal of the BPR initiative. The handling of citizens’ grievances was given an important place in the BPR package that was distributed to regional and municipal governments, and a draft grievance handling guideline was, accordingly, circulated as part of the BPR package. Thus, the BPR provided the impetus and the initial template for the birth of GRMs in a number of regional states and municipalities, most notably Tigray, SNNPRS, Benishanghul Gumuz, and Addis Ababa.

In Section II, we will discuss the concept of “international best practices” which will be the gauge for evaluating the regional state and federal grievance redress systems which we have “mapped” in Section III. The GRM guidelines included in the good governance package envisioned, perhaps naively, GRM uniformity in the regional states. However, as one might expect in a federal system, a uniform GRM spanning the regions did not come into being. Section III’s “mapping exercise” reveals a great many regional GRM variations in terms of the legal underpinnings of the GRM, the governmental entity responsible for administering the

governmental action and appears to have had some impact on the develop of GRMs in Ethiopia. First, once the professional civil service develops a culture of systematic due process for the protection of employee rights, including the right to be heard and challenge adverse evidence in front of an impartial decision maker, there is a likelihood, as appears to be the case in Ethiopia, that due process principles may migrate from the civil service sector to civil society in situations where a citizen wishes to have the same opportunity to challenge or complain about governmental maladministration. If a governmental employee has the right to challenge governmental maladministration, why shouldn’t the ordinary citizen have a similar right? Second, it is difficult, verging on the hypocritical, for the government to deny citizens the right to be heard once it has created the same right for governmental employees. Finally, because of the due process acculturation created in the civil service in connection with the design, management and operation of the civil service tribunals, the civil service will have developed the expertise to, likewise, design and operate GRMs for the resolution of grievances brought by ordinary citizens.

¹⁸ The word “Dergue” has been variously defined as “committee” or “collective leadership.”

¹⁹ Federal Democratic Republic of Ethiopia Const. art. 37.

GRM, structural accountability, GRM procedures, finality of the grievance decision, and enforcement of grievance decision.

II. Summary of International Best Practices

The ToR mandates that consultants use the “international best practices” standard as the metrics for evaluating the capacity and efficacy of grievance redress mechanism currently in use in Ethiopia. Despite the fact that some development experts have begun to advocate for a “best fit” standard for development projects, consultants have concluded for the reasons set forth in the accompanying footnote that the international best practices standard is more appropriate for Ethiopia at its current stage of development.²⁰

Thus, any GRM purporting to emulate “international best practices” should aspire to answer the following questions in the affirmative.²¹

1. Written Procedures. Are there GRM written rules, embodied in statute or regulation, setting forth the procedures available to citizens for asserting grievances involving maladministration and obtaining redress when their claims are adjudged by the GRM to be meritorious?

²⁰ The World Bank has recently begun the advocacy of a “best fit,” rather than a “best practice” analysis when designing and implementing development programs for countries emerging from fragility and violence, countries that do not have functioning governments or whose governments do not have a monopoly of power within country’s borders. World Bank, *World Development Report*, Chapter 5 (2011). The notion is that donors shouldn’t let the best be the enemy of the good, shouldn’t transplant best practice models to countries that do not have the capacity to implement them (Iraq, Haiti, Central African Republic) and, in particular, shouldn’t let the quest for “best practices” get in the way of expediting job creation and the distribution of critical support services to satisfy the basic human needs (food, security, healthcare, shelter) of at-risk populations. Nevertheless, where there is a focus on the justice sector, the thrust still seems to be aimed more at strengthening procedural due process, access to justice and rule of law in the cited countries (Haiti, Columbia, Rwanda, etc.), not lowering the bar. Ethiopia, by contrast, is not a country emerging from fragility and violence. The GOE has a monopoly on power in Ethiopia and governs through a highly organized administrative structure which reaches down to kebele level. With the introduction of the BPR initiative, Ethiopia has already demonstrated its capacity to adopt and implement other international standards nationwide. Consequently, the path forward for Ethiopia is not to lower the bar, but to seek to bring its GRMs into conformity with “international best practices.” This is an eminently attainable goal for a country with a professional civil service whose members are generally well educated, competent and well trained in modern administrative governance.

²¹ This list of international best practices has been gleaned and compiled from various international sources: See generally, OECD, “Checklist for a General Law on Administrative Procedures,” [joint initiative by the OECD and EU produced by “Support for Improvement in Governance and Management” (SIGMA)], www.oecd.org/dataoecd/61/27/37890936.pdf (Sigma 2005); David Post and Sanjay Aggarwal, “Designing Effective Complaints Handling Procedures,” <http://siteresources.worldbank.org/EASTASIAPACIFICEXT/Resources/-GRMP2-Final.pdf>, World Bank (April 21, 2010); Varun Gauri, “Redressing Grievances and Complaints Regarding Basic Service Delivery” found at http://www-wds.worldbank.org/servlet/WDSContentServer/-WDS/IB/2011/06/22/000158349_20110622085504/Rendered/PDF/WPS5699.pdf (2011); Alberta Law Reform Institute, “Powers and Procedures of Administrative Tribunals”, <http://www.law.ualberta.ca/alri/docs/cm013.pdf> (2008). The list has been vetted by the international consultant on the basis of his experience as a practitioner representing clients in grievance redress forums at the local, state and federal level in the United States and his experience as a law professor teaching administrative law to law students and law graduates sitting for the bar. The list also reflects the findings of Ato Mesfin Tafesse, expert in administrative law and practice, in a presentation given to participants in the “Experts Meeting” sponsored by KfW in Addis Ababa on September 22, 2011.

2. Administrative Record Keeping and Monitoring. Are there written record keeping processes in place for “intaking” relevant information about the grievant and grievance, recording procedural steps [(receipt of complaint, receipt of information provided by parties, date and summary of decision, monitoring implementation, appeal (if any)], and the date of closing file?
3. Right to be Heard and Present Evidence. Do the procedures provide all parties with the opportunity to present their side of the issue and rebut adverse evidence or positions?
4. Authority. Do the officials responsible for managing the GRM have authority to investigate complaints, take evidence, make a decision, and order remedial action?
5. Impartiality and Lack of Bias. Are GRM grievance officers governed by a code of ethics that requires grievance officers to be, *inter alia*, impartial and non-partisan (not formal members of any political organization)?
6. Independence of Grievance Office and Grievance Officers. It is important that the regional state GRM be “independent,” have the status of a regional state bureau and, as a best practice, be accountable to the legislature. The head of the GRM should receive compensation equivalent to that of a cabinet officer and have the same status. The GRM should be staffed by civil servants with the protections accorded to members of the civil service. When the GRM is located in, and subordinate to the Office of the Regional State President or the Office of Security, it will be exceedingly difficult for the grievance officer to conduct investigations of offices located at higher levels in the bureaucracy and render impartial decisions, as the GRM will be subordinate to the heads of these offices, subject to their commands, and dependent upon the good will of superiors for salary increases and promotions. Thus, the question is whether the GRM is independent and whether the grievance officers are protected from improper adverse employment action as a result of the grievance officer’s decision (administrative retaliation, loss of employment or employment opportunities, punitive transfers, non-promotion, compensation stagnation or reduction, and dismissal).
7. Non-retaliation. Are citizens who file grievances with GRMs protected from punitive or retaliatory governmental action?
8. Timely Decision Making. Does the GRM procedure provide for a timely written decision or response to the grievant concerning action taken or not taken on the grievance?
9. Training. Have the relevant officials been trained in administrative processes, including managing the GRM process and monitoring the implementation and enforcement of decisions favorable to the grievant?
10. Citizen Awareness. Does the GRM office provide citizens with sufficient written information, when requested, and promote public awareness by providing information on grievance handling through print and electronic media?

11. Appeals. Is there a GRM appeals process that grievants can use if they are dissatisfied with the initial decision or lack thereof?
12. Enforcement. Does the GRM provide for timely and effective enforcement of grievance officer decisions?

After completing Section III's mapping exercise, we will proceed to Section IV to evaluate each of the regional state GRMs in terms of their approximation to international best practices.

III. Existing Formal and Informal GRMs in Ethiopia

A. Relationship of GRMs to PBS Program

The decision of the GOE and DPs to commission this Study and Report was informed by the jointly agreed principle that governance and accountability mechanisms for PBS should be as strong and credible as possible, should be based on international highest and best practices, and should provide citizens with a forum in which to voice those complaints. All parties concur that a fully functioning GRM will reduce the incidence of erroneous and/or arbitrary administrative decision making, deter fraud and corruption, increase stakeholder involvement in and satisfaction with the project, and provide government officials and administrators with timely feedback, which will enable them to be more accountable and responsive to program beneficiaries.

Thus, consultants were not asked to limit their Study to the design of a PBS-specific grievance redress tribunal. Under the ToR, consultants were charged with examining the adequacy of all existing formal and informal grievance redress mechanisms (GRMs) in Ethiopia in the light of international best practices, and, if existing GRMs were found to be inadequate, to either make recommendations for strengthening existing GRMs or, if extant GRMs are not salvageable, then to recommend the architecture for an "Independent Grievance Redress Tribunal" utilizing international best practices. If existing GRMs (strengthened to conform to best practices, if necessary) could be used to handle PBS connected grievances, then it made little sense, from the perspective of policy, cost, comity (between GOE and DPs), and administrative efficiency to establish a completely new "grievance redress tribunal" for PBS.

Based on our mapping exercise and findings, we have concluded that the GRM templates already in existence in Ethiopia, if appropriately strengthened to conform to international best practices, can be used to serve both the users of PBS services and service users generally in Ethiopia. Thus, it would not be necessary for the GOE and DPs to create an independent tribunal for the PBS program. By using the GRM architecture already in place in the regional states for hearing and deciding issues of maladministration arising in the PBS program, suitably strengthened and extended to conform with international best practices, the GOE and DPs can avoid the many jurisdictional, administrative, political, funding, and, perhaps, constitutional

issues that might arise during the course of designing and constructing an independent GRM tribunal for the PBS program.²²

There are compelling PBS policy and administrative rationales for the Government and DPs to do whatever they can to strengthen the capacity of existing and developing GRMs in the regions in order to, likewise, strengthen good governance, fairness, and accountability in the delivery of basic public services. Some have suggested that there are only limited situations where grievances can arise in the PBS context because 90% of the funding goes to fund salaries in only five sectors (health, education, agriculture, water, and rural roads). Specifically, PBS provides block grant funding to the five sectors which are then allocated by formula to regional and local governments. However, this analysis overlooks the fact that PBS funds, in effect, go to pay a proportion of all government salaries in all departments, not just the salaries in the five sectors enumerated above, because the PBS funds are commingled with funds from other sources that government uses to pay for its programs.

Consequently, employment practices, particularly initial hiring decisions where there is no civil service remedy, should merit special attention by the GOE and DPs. Corruption and maladministration in hiring is the cradle of corruption and maladministration in a governmental organization and creates a culture of maladministration which will subsequently expand throughout the organization. A new hire who has achieved his or her position through favoritism, bias, or corruption will likely come to understand that this is a norm that can and perhaps should be emulated when that employee achieves a position of authority. Corruption and maladministration in hiring is like a virus entering a computer that, once inside, rapidly replicates itself exponentially to infect other programs until it ultimately has corrupted the computer and all its programs.

We have found a number of instances of maladministration in hiring that have been identified and corrected by the GRMs in the regions. See Appendix B, Case Studies 4 and 5. We have also reviewed an allegation of maladministration in hiring in one of the federal ministries that, if valid, cannot be readily corrected because of the absence of an adequate GRM in that particular department.

This is not to say that there are no other situations in the health, agriculture, education, water, and rural roads sectors that could be the source of public grievances. Consultants have encountered in the course of conducting this Study disputes over water rights and initial

²² The experience of the Productive Safety Net Program (PSNP) is instructive on this point. PSNP, in 2008, created an extra-legal grievance mechanism, the Kebele Appeals Committee, to hear grievances lodged by participants in PSNP food security programs who claimed that they had been unfairly excluded from participation in one or more of the food security programs. In our Inception Report, filed 29 June, 2011, Consultants found that the Kebele Appeals Committees had fallen into disuse and were essentially inoperable throughout most of the country, especially in Oromia and the South. However, during our visit to Amhara and Tigray during July-August, we found to our surprise that the GRMs created by Amhara and Tigray were hearing and appropriately deciding PSNP cases arising in the kebeles. By the same token, the PBS program, and other programs such as PSCAP can partner with GRMs that are already developed and in the process of development to provide a forum for PBS grievants and other grievants who have claims of maladministration connected with donor-funded governmental programs. See note 28, *infra*, and accompanying text.

placement of students in institutions of higher education, as well as the aforementioned hiring cases. It would be easy to imagine that there are potential grievances in the agricultural and rural roads sector that have not been addressed in the absence of GRMs to hear and decide such issues.

In sum, by embracing, strengthening, extending, supporting, and protecting the GRMs already in place and by championing their extension throughout the regions and into the federal sector, the PBS program can substantially improve governance and social accountability in Ethiopia and can be justifiably proud of having done so. By the same token, however, comity and reciprocity would also seem to require that PBS provide an appropriate level of resources and support to the regional states and federal sector for purposes of strengthening and extending the reach of GRMs in Ethiopia.

B. Grievance Redress Mechanisms in Regional States and Addis Ababa

1. Assessment of Regional States/Addis Ababa GRMs

There are wide variations in the quality and availability of GRMs in the regional states and independent cities of Ethiopia. For example, Amhara was the first state to pass legislation to authorize the creation and administration of a GRM, locating its GRM in the Office of the President. Tigray has followed suit with a draft regulation that it uses as the basis for administering its GRM, but has opted to put the GRM in the Office of Security and Administration. SNNPRS has developed a GRM using the BPR as a basis that is located in the Office of the President, and it asserts that its authority for doing so is based upon the regional constitution.

Oromia has begun the process of creating a GRM, to be authorized by regulation, which will be located in the President's Office. The City of Addis Ababa has created an organizational template for a GRM based on the BPR. The GRM is located in the Mayor's Office, but the office is understaffed and its GRM lacks formal legal authority. Somali Regional State has a nascent GRM, based on the BPR that is located within the President's Office. However, Somali officials recognize the need for a legal basis for the Somali GRM and are considering moving the GRM out of the President's Office because of the inaccessibility of the Office due to security considerations. Benishanghul Gumuz has developed a well-organized GRM process, based on the BPR, located in the office of the President, but the grievance handling experts point out that there is no legal basis for the Office and that its decisions can be ignored by the other cabinet departments.²³ Harari Regional State has an ad hoc GRM that collects and divides the caseload among the Office of the President, the Justice Office and the Anti-Corruption Office.

All regional state grievance handling offices have been given the unenviable task of reviewing decisions made by regional cabinet offices and the president's office, both of which outrank the grievance handling office in the regional administrative hierarchy. The grievance handling offices have noted that there have been challenges to their authority by cabinet offices that have been asked to implement decisions in favor of a grievant and that the grievance

²³ However, grievance handling officers in Benishanghul Gumuz report that compliance has improved since the issuance of a recent Circular from the Office of the President stating that a decision of the Grievance Office has the same force and effect as a decision of the President.

handling office will often have to turn to the regional justice office or the President to have their decisions enforced. The organizational structures for regional state GRMs and the challenges they confront will be more fully discussed below.

- a. **Amhara.** Amhara Regional State has implemented a GRM which approximates international best practices and which is being used as a model for GRM initiatives by Tigray, Oromia and SNNPRS. When the GHO was initially established, the Head of the GHO reported to the President. Although the GHO had “cabinet status,” the Head was not a member of the cabinet.²⁴
 - There is good GRM staffing capacity at zonal and woreda levels in Amhara.
 - Enforcement of GRM decisions is a problem, as in the other regions. See Case Study 7 at Appendix B.
 - The GRM has too many levels of appeal, which create barriers for the grievant with a meritorious case who must hurdle both an adverse decision at the administrative level and the many levels of appeal before getting a final decision from the Regional Office.
 - The departure of the GRM Office Head (who left to become Head of the Health Department), under whose initiative the GRM was designed and implemented, and the seven-month delay in appointing a replacement have blunted the initial momentum of the Amhara GRM and stalled the implementation of new initiatives.
 - Amhara recently completed a state-wide restructuring of government offices which has resulted in the downgrading of its GRM and an accompanying “degrading” of the status of GRM personnel. There are reports of declining staff morale and lessened technical capacity of the staff remaining in the grievance handling offices.
- b. **Tigray.** At the outset, Tigray based its initial GRM on the BPR. However, Tigray now operates its GRM on the basis of a draft regulation approximating international best practices which was modeled on the Amhara GRM. The draft GRM regulation is now pending before the Regional Executive for adoption. The GRM is located in the Office of Security and Administration because, it is said, the Office of Security and Administration has more power to have grievance decisions enforced. This organizational structure may enhance enforcement capability, but it also raises questions concerning the ability of the GRM to investigate grievances filed against the security and police services. For reasons of efficiency, budget, and administrative convenience, Tigray has eliminated the zonal administrative structure; hence, GRM appeals go directly from the district to the region. Tigray’s streamlined appellate structure is an improvement over the Amhara appellate process.
- c. **Southern Nations, Nationalities and Peoples’ Regional State (SNNPRS).** SNNPRS is a decentralized regional state with a decentralized local government structure that has sometimes been likened to local government federalism within a national federal system. The many zones and autonomous “special districts” with such wide variations in language, ethnicity, and culture create challenges for GRM officials who would like to organize a reasonably systematic state-wide GRM. SNNPRS uses the BPR as a model

²⁴ It has been reported that, in a recent reorganization, the status of the office has been “downgraded.”

for its GRM. However, the BPR is only an administrative reform tool, not a proclamation, regulation, or directive authorized by enabling legislation. Thus, the SNNPRS GRM does not have the status of an independent institution with a sound legal underpinning.

- d. **Benishanghul Gumuz.** Benishanghul Gumuz’s GRM is based on the BPR and located in the Office of the President. The GRM Head reports directly to the President, but is not a member of the cabinet. The regional state office has three staff members, in addition to the Head: (1) an intake officer, (2) a civil service and civic association affairs section monitoring officer, and (3) a public affairs section monitoring officer. The regional state office primarily handles appeals from kebeles and woredas and sends cases that have not been heard in the first instance at the local level to the kebele or district for exhaustion of administrative remedies.²⁵ The office has adequate forms for complaints, but no real complaint tracking methodology. When an appeal comes to the office, the case will be reviewed by one of the section officers who, in turn, will make a recommendation to the Head who makes the final decision. Since the President’s Office has issued a circular reminding all officials that a decision of the Head of the Grievance Office is, in effect, a decision of the President, the officers now feel that they have the President “at their back” when they make a decision.

The GHOs at district and zonal levels face severe budget problems. The Benishangul Gumuz GRM, on paper, should have one officer in each of the 21 districts and 2 officers in each of the three zones. At this time, there is only one zone, Assossa, with a grievance handling officer. There are no officers at all in the districts. It has been suggested that the zonal and district authorities have delayed setting up grievance offices to avoid the increased accountability and scrutiny that come with the establishment of a GRM. However, lack of resources and inadequate budgets have been the major cause of the failure to adequately staff the district and zonal offices.

- e. **Harar.** Harar has no formal GRM structure, but the work of handling grievances has been divided, by informal bureaucratic agreement, among the Ethics and Anti-corruption Commission, President’s Office and Justice Office. The grievance handling system needs administrative and legal validation in the form of a proclamation and regulation in order to ensure its survival after the departure of the competent officials who are now administering the process on an ad hoc and cooperative basis.
- f. **Oromia.** Oromia is the most populous and, in many respects, the most important regional state. Oromia surrounds the capital of Addis Ababa (which it calls Finfinne) and is rapidly industrializing (with the help of foreign investment), urbanizing, and suburbanizing. Oromia is fiercely protective of its culture and language and has even taken the step of “Latinizing” its alphabet. In May, we visited a rural district and kebele and found nothing resembling an adequate GRM during our visits. In June, consultant Edjeta did extensive field work in the districts and found that Oromia had no functioning GRMs for resolving public grievances at district level. He did find an interesting development at district level where the civil service officer and good governance officer

²⁵ See Section V.B., *infra*, for a discussion of the doctrine of exhaustion of administrative remedies.

have been put in charge of handling grievances for civil servants and the public respectively and were overseeing the formation of committees in other district offices for handling grievances.

After having seen the GRM activity in Tigray and Amhara in July-August, consultants decided to revisit Oromia to investigate whether there were any new initiatives at the regional level to implement a comprehensive GRM for Oromia. When we visited the Oromia regional state offices in Addis Ababa, we found that a “sea-change” had taken place.

We learned that, after Consultant Randolph’s departure from Ethiopia in May, the Ombudsman’s Office conducted an experience-sharing workshop for the Regions, which included Oromia. We decided to visit the Office of the President and found to our surprise that a nascent GRM initiative was underway led by Obbo Noora. At his request, we provided his office with a copy of the Amhara Regulation. On August 15, we received a call from Obbo Noora informing us that the responsible officials in the regional president’s office welcomed the World Bank/Donor initiative and that Oromia was ready to move forward towards implementing a GRM and hoped to have assistance from the World Bank and its DPs in designing and implementing a GRM for Oromia.

- g. **Somali Regional State.** Somali Regional State has no formal GRM structure. Grievances are handled in the Office of the President by a legal officer who has, of course, many other duties. Equally daunting is the fact that the president’s office is virtually inaccessible to citizenry because of security considerations that limit access in addition to the lack of public awareness about the office. There is finally the issue of adapting GRMs to the local culture: Somali people, we were advised, prefer dispute resolution processes which operate within their clan-based social and political structures.
- h. **Addis Ababa.** Addis Ababa launched a GRM initiative based on the authority of the BPR, but has not created a legal foundation for the office by enacting a formal proclamation and regulation. The mayor’s office has taken on the responsibility for providing overall management and oversight for the GRM initiative. Addis Ababa has, on paper, 426 grievance staff in total: 8 experts in the mayor’s office who handle appeals; 7 staff in each of 10 sub-cities²⁶ (70) who handle appeals from the districts; and 3 in each of 116 districts (348)²⁷.
- The grievance office of first instance is located at district level with an appeal to the sub-city and, then, a final appeal to the Mayor’s Office. Any grievant who comes first to the sub-city (with the exception of land lease cases) is sent back to the District to initiate the process there.
 - The majority of the cases involve land and land lease issues, and Yekka sub-city, which handles appeals from the districts, divides the cases into (1) land-lease cases; and (2) all other “public administration” cases (all non-land lease complaints).

²⁶ Yekka sub-city has only one staff member currently, although Yekka has been allocated 7 staff on the organization chart.

²⁷ One district we visited had only one staff member, not the reported 3, and this seems to be the case throughout the districts.

- Although the GRM structure in Addis is impressive on paper, it does not always exist in fact at sub-city and woreda level. There is an urgent need for additional capacity in the form of:
 - i. A proclamation and regulation to legalize and legitimize the structure
 - ii. Training for officers
 - iii. A budget for awareness campaign and brochures
 - iv. A budget for infrastructure and transportation
2. **Scope and Jurisdiction.** Regions and cities that have GRMs in place will take jurisdiction over most maladministration complaints, including initial hiring decisions for civil service appointments because the disappointed applicant is a private citizen who, by definition, does not have access to a civil service tribunal to complain. Regional state GRMs will not take jurisdiction over the following:
 - a. Cases pending in courts (whether criminal or civil) and cases involving an on-going criminal investigation;
 - b. Cases involving legislation and regulations made by parliament, council, or other legitimate political processes; and
 - c. Cases involving a civil servant who has a job-related complaint or who is subject to disciplinary action.
 3. **Regional State GRM Challenges.**
 - a. Enforcement of grievance decisions made at woreda, zonal, and regional levels is a problem in all the regions. There have been different approaches, none satisfactory, to solving the enforcement problem. These approaches include:
 - i. Locating the GRM in the office of the regional state president or in the office of the chief administrator of the zone or district might enhance enforcement, but then who exercises oversight over the president or chief administrator? Putting the GRM in the security and administration office may also assist with enforcement, but who will investigate the security and law enforcement services?
 - ii. Naming a political appointee as head of a GRM office creates its own problems as the political appointee may have a tendency to bend to the will of his/her political masters.
 - b. Lack of adequate staff and resources for investigation and communication is a second major problem;
 - c. Lack of routinized procedures in a number of regional states for grievance handling, supervision of zonal and woreda offices and, as importantly, monitoring governmental compliance with decisions;
 - d. Lack of adequate grievance staff training;
 - e. Lack of awareness on the part of the public and governmental officials of the existence and function of the Grievance Handling Office;;
 - f. Absence of protective measures to insulate grievance officers from retaliatory action. (We have heard reports from officials in Oromia of officers who have been relocated to remote areas because of their forthrightness in confronting maladministration);
 - g. Lack of a code of ethics.

4. **Grass Roots Challenges (Absence of GRMs at kebele and woreda levels).**
 - a. There is nothing remotely resembling a reasonably adequate GRM at kebele level. Generally, the kebele manager handles grievances. In Productive Safety Net Program (PSNP) kebeles, the less well-off citizenry can qualify for food aid, food for work and pay for work safety net programs. In 2008, PSNP officials and kebele administrations established Kebele Appeals Committees (KACs) to hear “exclusion claims” brought by citizens who complained that they were wrongly excluded from one of the safety net programs. In our inception report, we found that the great majority of these KACs had ceased to function, and that those that remained lacked the requisite independence and expertise to function as reasonably adequate GRMs for resolving claims of maladministration.²⁸
 - b. SNNPRS planned to put a grievance officer in every kebele but abandoned the effort due to funding and management control concerns. Instead, SNNPRS will rely on district level GRMs to correct maladministration and errors at the local level.
 - c. Addis Ababa has an ambitious blueprint which envisions placing 7 grievance officers in every sub-city and 3 in every woreda, a plan which is a long way from realization.

C. Federal Level GRMs and Administrative Processes

1. Ministries

Ethiopia does not have, at present, a federal level Administrative Procedures Act dealing with administrative adjudication and rule-making.²⁹ On the basis of research and interviews with government officials, administrative law experts and academics, consultants have found that there are no GRMs at the federal level that handle and render decisions in response to grievances from members of the public that conform to international best practices, i.e., GRMs that have a legal foundation, systematized and publicized written procedures and the authority to make decisions on grievances and have those decisions implemented.

Each of the ministries has an ethics and anti-corruption office, but there seems to be very little for these officers to do as few complaints seem to be filed and little in the way of record

²⁸ The kebele, in any event, would generally refer an exclusion claim to a broad-based committee or to the whole kebele for resolution. In order to prevail, the grievant must convince fellow kebele members that a better-off neighbor has been wrongly included in the safety net program. By delegating the decision to a committee or to the citizenry at large, the kebele, in effect, has restructured the case into a dispute between neighbors rather than a dispute between the excluded grievant and the kebele that made the exclusion decision.

²⁹ There have been a number of efforts at the federal level to develop a legal framework for addressing public citizen grievances originating in the performance of public administration. In the implementation of its legislative mandate to assist in the work of identifying and recommending corrective action for maladministration, the EIO has been particularly active and effective in collaborating with other institutions to produce a draft administrative procedure act, in addition to its work facilitating the development of GRMs in the regions. The Ombudsman’s initiative follows upon a previous attempt along the same lines by the Justice System and Legal Research Institute (“JSLRI”). These efforts have not yet reached maturity or received formal GOE approval but they may well find their way onto the agenda of a government that has made administrative reform a high priority, especially when they get the government’s full attention. The long awaited adoption of a federal Administrative Procedures Act will bridge a huge gap in addressing the need for a systematic administrative process for addressing citizen grievances.

keeping seems to be done.³⁰ There is, likewise, very little in the way of written procedures or tracking mechanisms at the ministry level ethics offices or grievance committees we visited, except at the Ministry of Health where the ethics officer has, on his own initiative, created an ad hoc complaint handling procedure and authored a brochure to explain complaint filing procedures. He was also able to provide documentation of the filing and tracking of previous complaints. This ethics officer is to be commended for his efforts to be responsive to public grievances, but his office does not have a legal foundation, and he can only make recommendations on the resolution of grievances, not binding decisions.

We also interviewed the Ethics and Anti-Corruption Officer at the Ministry of Education who has been on the job for about six months and has fielded 5-7 complaints usually involving service delivery (teacher placement/student placement in unmarketable degree programs) which he transfers to the Higher Education Desk. Such grievance redress as exists for these complainants is very informal and is dependent upon the good will of the appropriate government official and his or her willingness to correct an administrative error.³¹

Even within institutions of higher education, there seem to be no formal grievance mechanisms to hear complaints of faculty and employees. There is only the traditional mechanism of trying to push one's complaint up the managerial ladder by filing first with the department head, then the dean of faculty, then the vice-president, president, university senate, university board of directors, and so-forth. This mechanism, of course, is open to anyone, but it nevertheless falls way below international best practices. Some employees in the educational system may have access to the Civil Servant Grievance Procedures to process their grievances, but none of the individuals and officials mentioned this avenue of redress.³²

In summary,

- a. There are no formal and regularized GRMs at the federal level comporting with international best practices with a charter to hear and resolve public citizen grievances involving maladministration.
- b. Most ministries have an employee grievance committee (consisting of five members) to hear ministry employee grievances and employee appeals of minor disciplinary actions taken by employers against employees. These committees are management oriented and influenced (3 members appointed by management and 2 by employees) and cannot make a final decision, only a recommendation to the ministry or department head/process owner.
- c. Civil servants can appeal certain "major" disciplinary actions (termination, suspension, and loss of more than two weeks compensation) to the Civil Service Tribunal, which has judges who can make final decisions.

³⁰ At one ministry, for example, we were informed by the ethics and anti-corruption officer who had served for three years that there is no record of any ethics complaints having been filed before his time in office, and that no complaints have been filed during his tenure.

³¹ See Appendix B, case study 10, for an example of a good "social accountability" approach to grievance redress on the part of a very conscientious administrator.

³² Nor was there any mention of the Office of the Ombudsman at Addis Ababa University which, in any event, has only advisory authority.

2. **Ombudsman’s Office.** Although the EIO is to be commended for its conscientiousness in fulfilling its statutory responsibilities (investigating maladministration and making corrective recommendations), the EIO (like similar offices in other countries) has no decision making or enforcement authorities. Nevertheless, the EIO has taken the initiative in providing information to the public and training to the regions with respect to the creation of GRMs that conform to international best practices. This initiative needs to be recognized and supported by the World Bank and DPs.
3. **Ethiopian Ethics and Anti-Corruption Commission (EACC) and Ethiopian Human Rights Commission.** Neither the EACC nor the EHRC have jurisdiction to entertain citizen complaints involving maladministration that do not arise to the level of a violation of the penal code or a violation of “fundamental human rights.” As will be more fully discussed in Section V.C, *infra*, the enforcement jurisdiction of the EACC is limited to prosecuting or causing the prosecution of serious ethical breaches and corruption that constitute violations of the penal code. Likewise, the EHRC has only advisory authority, not decision making power, and can only investigate issues relating to violations of fundamental human rights which will exclude the great majority of complaints of administrative mal-administration.

D. Courts

1. Courts are normally inaccessible and usually inappropriate for complaints regarding service delivery, administrative maladministration and improper hiring practices for selecting candidates for government employment. When compared to the administrative process, the judicial process is usually too expensive and time consuming to serve as an adequate GRM for citizen grievances.
2. Courts, in any event, usually require “exhaustion of administrative remedies,”³³
3. “Social Courts” and “Religious Courts” lack the jurisdiction and competence to hear and resolve complaints of maladministration, some of which involve complex issues of fact, administrative law, and mixed questions of law and fact.³⁴
4. However, judicial review must be available, after exhaustion of administrative remedies, as a “check and balance” against maladministration for those who have sufficient resources to pursue judicial redress as well as to ensure the uniform interpretation or application of administrative laws. Article 401 of The Ethiopian Civil Code provides that “ultra vires” administrative actions can be nullified.

E. Private Alternative Dispute Resolution Processes

5. **Arbitration.** Arbitration works best in construction claims and contractual disputes against the government. The expense of paying the arbitrators, and non-availability when the government has not consented to its use, render arbitration inappropriate for use in administrative cases.

³³ See Section V.B, *infra*, for a discussion of the doctrine of exhaustion of administrative remedies.

³⁴ See Section V.B, *infra*, for a discussion of the capacity of social courts to hear and resolve public citizen claims of administrative malpractice

6. **Mediation.** Mediation has been demonstrated worldwide to save disputants time and money and, in a majority of cases, to leave disputants more satisfied with a resolution that is jointly negotiated by the parties than an outcome which has been imposed upon them by a third party, such as a judge, arbitrator, or grievance hearing officer. Grievance officers, such as those in Amhara, who have had mediation training, find mediation to be a very effective tool for handling disputes. Consultants recommend highly that GHOs provide mediation training for grievance officers and consider designating certain grievance handling officers as mediators.

F. Informal Processes

Informal processes work most effectively in the case of private disputes between two citizens in jurisdictions where there is a strong tradition of informal resolution, as in Somali Regional State, SNNPRS, and Oromia Regional State, and where there is an acceptance of this mode of dispute resolution by all parties.³⁵ The grievance office can sometimes refer the dispute to informal processes for a decision or mediation, such as referral to an elder, but only in rural areas where the populace largely relies on informal modes of dispute resolution. However, principles of sound administrative governance and accountability dictate that the governmental office involved take the responsibility for addressing and redressing meritorious public citizen grievances, rather than sloughing off this important governmental responsibility to third parties who are also private citizens.

³⁵ Informal dispute resolution processes exist throughout Ethiopia, but are stronger in the regional states mentioned above than in other regions. We understand that informal processes are often used in Afar and Gambella, although we did not have a chance to visit those regions.

IV. Best Practices Report Card for Regional GRMs

Consultants have prepared the following table to summarize the extent to which regional state GRMs conform to the 12 international best practices for GRMs set forth in the table below. Many of the determinations involve a relatively “bright line” inquiry, for example evaluating GRMs in terms of IBPs 1-4, 6-9 and 11-12. The GRM either has a legal foundation (proclamation and regulations), administrative independence, written procedures, tracking mechanisms, decision making authority, enforcement authority and a right of grievant appeal, or it does not.

On the other hand, the evaluation of conformity with some IBPs such as impartiality and accessibility (IBPs 6 and 10) will be a matter of degree, depending upon an evaluation of facts and circumstances and the exercise of judgment in arriving at a conclusion.

	Amh.	Tigray	Harar	SNNP RS	Orom	Som	Addis	B-G ³⁶
1. Written Procedures	✓	✓	⇔	✓	⇔	⇔	✓	✓
2. Tracking	✓	✓	0	✓	⇔	0	✓	✓
3. Ad. Due Process	✓	✓	✓	✓	⇔	0	✓	✓
4. Authority	✓	✓	⇔	⇔	⇔	0	0	0
5. Impartiality	✓	✓	⇔	⇔	⇔	0	✓	✓
6. Independence	⇔	⇔	⇔	⇔	⇔	0	⇔	0
7. Non-retaliation	0	✓	0	0	0	0	0	0
8. Decision making authority	✓	✓	0	✓	0	0	⇔	✓
8a. Timely Response	✓	✓	⇔	✓	0	0	✓	✓
9. Training	⇔	⇔	0	0	0	0	0	0
10. Accessibility/ Citizen Awareness	⇔	⇔	0	0	0	0	0	0
11. Right to Appeal	✓	✓	0	0	0	0	✓	✓
12. Enforcement	⇔	⇔	0	⇔	0	0	⇔	0

Code

- ✓ Reasonably consistent with international best practices
- ⇔ Efforts being made to conform to international best practices
- 0 No effort underway yet

³⁶ Benishanghul Gumuz.

V. Review of Comments of Participants at Stakeholders' Workshop

A. Existing Regional State GRMs should be Strengthened and Extended

This Section provides a brief summary of participant comments at the September 20th Stakeholders' Meeting. In the final phase of the Meeting, participants were divided into two groups and were asked to discuss the way forward for implementing GRMs in Ethiopia. The group consensus was that the Amhara model, appropriately strengthened with better enforcement mechanisms, should provide the template for the further development and extension of GRMs in Ethiopia. GRMs must have strong enforcement mechanisms that meet international standards. Grievance offices should be independent, report to the legislature, and be free from political interference. There was also support for consultants' call for greater federal sector leadership on the GRM issue and the development of GRMs at federal level that approximated international best practices.³⁷

At the end of the workshop, the EIO representative spoke and endorsed the Report's findings, conclusions and recommendations. In summary, he stated that the Report's recommendations to strengthen GRMs and expand their use would enhance good governance in Ethiopia and provide redress for citizens who suffered from maladministration. Regional state governments should establish and strengthen GRMs with full commitment to their accountability. In so doing, regional state governments need to allocate sufficient budget and manpower to the GRM initiative. GRMs should be accountable to the legislature at each level as this will encourage public participation in the process. The regional states should share their GRM experiences with each other. There should be strong enforcement mechanisms and a commitment from the regional state executives to support the GRM initiative and the principle of non-interference with grievance handling mechanisms. GRMs conforming to international standards were necessary to correct maladministration in government and improve service delivery.

He responded to the contention that Ethiopia already had GRMs that conformed to international standards at the federal level by pointing out that these institutions were sectoral institutions with very limited jurisdiction. Consequently, having independent GRM institutions at the federal level to handle public grievances is both necessary and inevitable.

There were a number of points made at the September 20th Stakeholder's meeting that warrant consideration and a response. First, several participants suggested that Ethiopia should consider using the social courts for hearing and redressing claims of maladministration at the kebele level and, during the final "next steps" group work, one sub-group suggested referring

³⁷ There were a number of dissenters who asserted that there were already GRMs at the federal level conforming to international standards that could be used by members of the public, including PBS grievants, to resolve and provide redress to victims of maladministration. Those assertions will be addressed in Section V.C., *infra*.

such cases to religious courts. Another participant suggested that such disputes could be heard by the Labour Courts.

Second, several participants were critical of the Study's finding that there were no GRMs available at the federal agency level in Ethiopia for hearing public grievances that conformed to international best practices and its recommendation that the federal government should champion the creation of GRMs at the federal level to hear and redress citizen claims of maladministration. These participants asserted that Ethiopia had no need for new GRMs at the federal level because there were already perfectly good federal administrative GRMs (the Ethics and Anti-corruption Commission, Human Rights Commission and Ombudsman) and Tribunals that were available for hearing and redressing citizen grievances relating to maladministration. We will address these points in Sections V.B and V.C respectively.

In sum, the consensus view was that the Amhara GRM model, if provided with greater independence and enforcement powers, should be used as a template for the further development of GRMs in Ethiopia and their extension throughout the country to other regional states and the federal sector.

B. Social Courts, Religious Courts and Labour Courts Lack Jurisdiction

Exhaustion of Administrative Remedies

The view that grievants should turn to the courts, especially the social courts, to request a hearing and redress for a claim involving governmental maladministration or error at the kebele level and before all appeals of right have been exercised violates one of the cardinal rules of administrative jurisprudence-- that of "exhaustion of administrative remedies." The exhaustion rule embodies the principle that the citizen must first "exhaust" all administrative remedies before going to court in order to give the bureaucracy the first opportunity to correct administrative error.

From the perspective of the relationship between the citizen and the government, the exhaustion doctrine serves the good governance and social accountability principles that the citizen must be given a chance to be heard in front of the government agency that is assertedly responsible for the act of maladministration.³⁸ Reciprocity on the part of the citizenry also

³⁸ When citizens believe that government no longer listens to them, they may sometimes, out of frustration and desperation, take to the street to get their point across and demand the changes which they believe the system is no longer capable of delivering. The situation is akin to that of a pot of boiling water on a stove which has no outlet for the venting of steam. Sooner or later there will be an explosion. Recent events in North Africa and the Middle East may be illustrative of this phenomenon.

The lesson was learned by the Amhara government in the aftermath of the 2005 elections, which revealed a decline in support for the government. On the basis of an evaluation of why citizens voted as they did, the government determined that many citizens were casting protest votes for opposition parties, or not voting at all, because the citizenry had concluded that there were ruled by a government that no longer listened to them or cared about their concerns. As a consequence, the Amhara government concluded that it had to be more accountable to the people. In order to demonstrate its seriousness about implementing concepts of accountability and good

requires that the grievant bring the error to the attention of responsible government officials and pursue all administrative avenues for corrective action before dragging the agency into court.

Finally, the GRM can serve as an effective management tool. GRM statistics, properly collated and evaluated, give managers feedback about potential maladministration and mismanagement in administrative units that have inordinately high grievance filings and the opportunity to take corrective action in time to mitigate any damage done by misgovernment and avert more serious political and administrative problems.³⁹

In sum, principles of good governance, administrative efficiency, social accountability, and conservation of judicial resources all lead to the conclusion that it is inadvisable to unnecessarily clog the dockets of courts with administrative disputes that should be initially heard and resolved, if possible, within the confines of the bureaucracy. By the same token, good governance and accountability also require that complaints of maladministration against government officials and agencies should be heard by GRMs that conform to international best practices. Sound administrative practice and good governance require that a bureaucracy have self-correcting mechanisms for identifying and correcting mistakes. Citizens should not have to turn to third parties, whether courts, informal processes, or other administrative bodies, when it is the responsibility of the governing administrative entity to address and correct administrative maladministration.

Social Courts and Religious Courts Lack the Jurisdiction and Competence to Function as GRMs; Labour Courts Lack Jurisdiction Over Claims of Maladministration

Social Courts have been established at the kebele level in most regions and are accountable to the kebele council. These courts do not have jurisdiction over administrative matters, except in the Municipality of Addis Ababa, where they have been given limited jurisdiction to hear certain land disputes. Social Courts are courts of limited jurisdiction which can hear disputes between individuals where the amount in controversy is less than 1500 Birr⁴⁰ and some minor criminal matters involving individuals. Social court judges (except in Addis Ababa) are without exception non-lawyers who have “day jobs” and serve without pay in a volunteer capacity. Social courts hear the usual disputes between neighbors and citizens involving creditor-debtor issues, landlord tenant disputes, negligent destruction of property or injury to another, arguments over water rights, ownership of animals and animal trespass, intentional destruction of property, domestic discord and family issues, and minor criminal matters, such as petty theft, assault, and disturbances of the peace.

Past studies have been extremely critical of the capacity of these courts to competently resolve questions of fact and issues of law.⁴¹ In addition, social courts can hardly be the appropriate forums to handle a dispute between a government body and a citizen due to their

governance, Amhara enacted and implemented a reasonably effective GRM based on a regulation having the force of law.

³⁹ Amhara, for example, conducts studies of kebeles with disproportionately high filings and remediated grievances in order to pinpoint governmental units which may have maladministration problems.

⁴⁰ In Addis Ababa, the jurisdictional limit has been increased to 5000 Birr.

⁴¹ See generally Abera H. Mariam, *APAC's Experience on Social Court Judges Training* (Mekele 2002).

perceived lack of independence and impartiality. The social courts, in any event, lack the expertise to handle claims of administrative maladministration which often involve complicated questions of administrative law and procedure and mixed questions of law and fact that require some familiarity with the legal and administrative processes. That Amhara and Tigray did not turn to the social courts when designing and implementing their GRMs is a telling comment on the capacity of these courts to handle and decide complaints of maladministration in the context of governmental actions.

The only religious courts currently in operation in Ethiopia are the Sharia courts which have limited jurisdiction over family law and inheritance matters, provided that all parties consent. They do not have jurisdiction over claims of maladministration lodged against the government. Giving religious courts jurisdiction over administrative cases, or even referring administrative disputes to religious courts, would appear to violate the principle of separation of religion and state enshrined in the Constitution of Ethiopia.⁴²

Informal processes have the same weaknesses as social courts when viewed as vehicles for hearing and deciding claims of maladministration—lack of authority, lack of jurisdiction, lack of capacity, lack of administrative appellate remedies and lack of judicial review. It is unlikely that the “judge” will have any familiarity with administrative law and procedure. However, in regions where informal processes have been customarily used to resolve disputes, such as in Somali, informal processes can be used to mediate claims of administrative malpractice provided that both the grievant and the government entity agree.

Finally, “Labour Courts” are unavailable to grievants with claims of maladministration as they lack the jurisdiction to hear such claims. The labour courts are specialized courts created by Parliament to hear the disputes and claims of individuals arising out of the employee-employer relationship.⁴³ All other courts or semi-tribunals or specialized tribunals of a similar nature, mentioned at the Stakeholders’ Meeting as proxies for GRMs, such as the public/civil service tribunal, the tax appeal commission, and the pension tribunal, are sectoral in their nature, limited in their jurisdiction, and only address the concerns of a very narrow segment of the Ethiopian public. As the EIO representative pointed out at the Stakeholder’s meeting, these sectoral tribunals lack jurisdiction for hearing and resolving the great majority of claims of maladministration, which fall outside the competence of these highly specialized bodies that cannot in any way, either singly or collectively, be likened to grievance redress mechanisms open to all citizens with claims of maladministration.

C. There Are No GRMs at Federal Level Conforming to Best Practices

The Study found that there are no GRMs at the federal level comporting with international standards which have the jurisdiction and competence to hear and redress claims of maladministration brought by the public. However, a number of the participants at the

⁴² Federal Democratic Republic of Ethiopia, Const. art. 11.

⁴³ Ethiopian Labour Proclamation No. 377/2003 at §138. Disputes involving collective bargaining agreements between groups of employees, such as unions, associations and “collectives,” on the one hand, and employers, on the other hand, are committed to the jurisdiction of the Labor Relations Board, which is composed of representatives of employees, management, and the government. *Id.* at §144.

Stakeholders' Meeting argued, in rebuttal, that the Ethics and Anti-Corruption Commission, the Ethiopian Human Rights Commission, and Ethiopian Institution of the Ombudsman would be available to grievants to hear and redress citizen claims of maladministration by federal agencies. Regrettably, this is not the case.

The jurisdiction of the Ethics and Anti-Corruption Commission ("EACC") is limited to "serious breaches of the codes of ethics" and "corruption" which has been defined as a violation of the FDRE Penal Code or other law relating to corruption.⁴⁴ Although it has no power to prosecute ethical breaches which are not a violation of the penal code, the EACC can prosecute or cause the prosecution of "corruption offences specified in the criminal code or in other laws."⁴⁵ The EACC also has the power to engage in public awareness campaigns and studies.⁴⁶ Thus, the EACC would not be an available forum for the overwhelming majority of grievants with claims of maladministration that do not rise to the level of criminality or other prosecutable violations of corruption laws.

The jurisdiction of Ethiopian Human Rights Commission ("EHRC") is limited to questions involving "human rights" defined as "fundamental rights and freedoms recognized under the Constitution of the Federal Democratic Republic of Ethiopia and those enshrined in the international agreement ratified by the country."⁴⁷ Again, the EHRC would not be an available forum for claims of maladministration as such claims rarely, if ever, rise to the level of violations of constitutional and fundamental rights; nor would the EHRC be able to provide redress and rectification as it has only investigatory and advisory authority.

Finally, the EIO does admirable work investigating claims of maladministration in the federal sector and recommending resolutions to be considered by the relevant governmental body and the grievant. However, the EIO has neither decision making authority nor enforcement power and thus cannot be used as a GRM. The EIO's planned expansion into the regions will severely limit its capacity to take on the additional and heavy responsibility of administering a GRM with decision-making and enforcement powers.

⁴⁴ Proclamation No.434/2005: The Revised Proclamation To Provide For Special Procedure And Rules Of Evidence On Anti-Corruption at §2.1.

⁴⁵ *Id.* at §7.

⁴⁶ *Id.* at §7.1 and 7.2.

⁴⁷ "Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000" at §2.5;

VI. Findings/Conclusions

A. Accessibility and Applicability of GRMs

Amhara, Tigray, SNNPRS, Benishangul Gumuz and Addis Ababa. Amhara, Tigray, SNNPRS, Benishangul Gumuz and Addis Ababa have “identifiable” offices which are open and available for citizens who may have complaints regarding maladministration and service delivery.

Only Amhara and Tigray have reasonably adequate GRMs. Both GRMs represent variations on the part of regional state governments, operating within a federal system, to enhance good governance. The basic thrust is to describe effective grievance hearing bodies, their powers and responsibilities, their proceedings, and the nature of the relief they provide to citizens. The Tigray rules, also, include the rights of citizens to get information from the concerned government office about how to file and process a grievance and how to exercise their right to be free from retaliation.

But even these two leadership regions should consider amending their regulations in some respects to conform to international best practices. In Amhara, there are too many levels of appeal which, in some cases, might deter the grievant from processing a meritorious appeal. An Amhara complainant who is dissatisfied with the decision at the kebele level, can appeal to the woreda preliminary grievance hearing body and, if dissatisfied, to the public grievance hearing body and, if dissatisfied, to the chief administrator of the woreda and, if dissatisfied, to the zonal public grievance hearing body, and, if dissatisfied, to the zonal Administrator, and finally, if dissatisfied, to the regional public grievance hearing body.

With the benefit of hindsight and experience, Tigray has simplified and expedited the appellate process. Tigray complainants appeal first to the grievance hearing body at the woreda level and, if still dissatisfied, to the regional office. Tigray as a matter of policy has opted for a shorter appellate pathway than Amhara.

Both Tigray and Amhara have to do more to strengthen the capacity enforcement powers of their GRMs. The Tigray document has stronger language than Amhara’s as it commands lower-level officials to enforce grievance decisions. Amhara simply imposes a “duty” on officials to see that decisions are enforced. However, neither Amhara nor Tigray takes into account the potential role that courts can play in dealing with the problems of enforcement that currently afflict and impede GHOs in all the regions. All regional states aspiring to have effective GRMs, not only Amhara and Tigray, should give their GRMs authority to go to court to seek binding orders for enforcing decisions and securing citizen’s rights.

Harari Regional State, Somali Regional State and Oromia. The Harari Regional State grievance mechanism is run on an ad hoc basis by conscientious officials from three offices who share the case load generated by grievants who come to Justice Office, Ethics and Anti-Corruption Office and President’s Office, respectively, seeking redress. The process needs a legal basis, in the form of a proclamation and regulation, written working procedures and a

public awareness initiative to inform the citizenry where to go and what to do to obtain redress of their grievances. As noted previously, the Somali grievance office lacks procedures, and accessibility is restricted because of security concerns. Oromia is just beginning to develop the legal foundation, organizational structure, and procedures necessary for implementation of a GRM initiative.

B. Obstacles to Use.

For most Ethiopians, the unavailability of GRMs is the biggest obstacle to use. Where GRMs are available, lack of public awareness, a culture of non-complaint, and, in some instances, a climate of fear and lack of faith in the system are further obstacles to the accessibility of GRMs. We have found one instance, documented in a grievance file, of overt maladministration with respect to the evaluation of applicants for a competitively advertised position. See Appendix B, Case Study 5 (“In the Clear”). The DPs and GOE must implement appropriate safeguards to ensure that, where public employment is funded from donor sources, such instances of maladministration in hiring and administration can be quickly identified and corrected. In the case study, identification and correction was in fact successful due to the availability of an efficient and impartially administered GRM.

C. Uniform and Predictable Procedures.

With few exceptions, there are no institutionalized uniform and predictable procedures in Ethiopia for receiving, evaluating, investigating, and resolving grievance related disputes. Where grievances are properly handled and resolved, however, there does appear to be an improvement in service delivery.

D. Strengths.

The strength of existing grievance redress mechanisms is that, where they exist, GRMs that approximate international standards have proven capable of identifying and correcting maladministration, and providing redress for citizens with meritorious complaints. See Appendix B, Cases 1-5.

E. Weaknesses.

- **Enforcement.** The major weakness of existing mechanisms is the inability of grievance officials to enforce their decisions, which neuters GRM effectiveness and demoralizes both grievants and grievance officials. The two enforcement case studies cited in Appendix B, “Zenebe’s Case” (case 6) and the “Amhara Enforcement Case Study” (case 7), document the enforcement problems now hindering the work of grievance officers in the regional states. As one conscientious grievance officer told us, “It breaks your heart to work hard to investigate the facts of a meritorious grievance, try to do the right thing for a citizen who has a meritorious case and then have the grievance decision ignored at the municipal or district level below.”

- **Lack of Status and Independence.** GRM officers uniformly agree that the regional state GRM must have the same status and be located at the same bureaucratic level as the other regional state cabinet level bureaus in order to maximize compliance with their decisions and minimize challenges to their authority. Implementing and enforcing GRM decisions is made more difficult when the GRM office is placed at a lower level in the bureaucracy and has less status than another bureau which it must approach to secure compliance with its grievance decision. In Tigray, the GRM is a sub-bureau level office located in the Security and Administration Bureau. Lack of independence and bureaucratic equivalence with the other bureaus makes it more difficult to secure compliance with a grievance decision which is adverse to a bureau or to the President's office. In Amhara, the GRM head formerly reported to the regional president, but the office has been downgraded to sub-bureau status, and its head now reports to the head of the Office of the President. There is a concern that this downgrading will increase the enforcement challenges now confronting Amhara grievance offices. In other regional state offices, the GRMs are also located in the Office of the President, which is a potential deterrent to the investigation and resolution of any grievance originating in the president's office.

In sum, regional state GRMs should be located in “stand-alone” regional state GRM bureaus, and GRM bureau heads should have the same status and level of compensation as other regional state bureau heads. For the same reasons, zonal and woreda GRM offices should be located at the same level in the bureaucracy as other zonal and woreda offices, and GRM office heads should have a status equivalent to that of other office heads.

- **Capacity and Resources.** GRM offices in all regional states are handicapped by budgetary shortfalls, inadequate office and infrastructure facilities, and insufficient staff to handle investigate grievances and properly handle caseloads. GRM personnel are not paid commensurate with their workload and responsibilities and are not receiving adequate training.
- **Kebele Grievance Handling.** At the kebele level, there are no GRMs which approximate international best practices. In all cases, the kebele chairman (or administrator who reports to the kebele chairman) is both the final decision maker and decider with respect to any complaints against him/her or kebele officials. For the time being, regional states lack the budgetary and administrative capacity to place adequately trained grievance officers in the kebeles, except perhaps in municipal kebeles, and will have to rely on properly trained officers administering GRMs consistent with best practices to correct maladministration at the kebele level.

F. Recommendations for Improvement.

Based on our review, we are recommending the adoption of improved grievance redress procedures for the regional states and the introduction of GRMs at the federal level which conform to international standards. See Section VII, *infra*. GRM regulations should be strengthened to insulate GRMs from political influence, give GRMs adequate enforcement powers, ensure that GRMs are accessible to citizens and citizen groups, and protect grievance officers from retaliation for their decisions.

VII. Recommendations

At the outset of this Report, we emphasized the critical importance of monitoring and building upon the important GRM initiatives outlined above that are being home-grown in the regional states, not parachuted in from abroad, to make sure that there is regional cross-pollination to protect the good governance efforts now germinating in the regions and follow-up at the Federal level to extend the good governance template to the federal sector. To that end, we make the following recommendations:

1. The GOE and DPs should at the upcoming JRIS make the “Strengthening GRMs Initiative” a permanent part of PBS (II) as a first step towards making the GRM initiative a central part of PBS (III) in its own right with a policy dialogue. The GOE and DPs should agree on an “Endorsed Implementation Plan” for strengthening existing GRMs in the regions and introducing GRMs consistent with best practices at the federal level. Next steps would include, but not be limited to, the following:
 - Appointing a staff member or local consultant with knowledge of the regional state GRMs to serve as liaison to the regions for purposes of assisting with the strengthening of GRMs in the regions and monitoring regional state GRM progress towards compliance with international best practices.
 - Partnering with the EIO to strengthen GRMs at the regional level and introduce and implement GRMs at the federal level.
 - Developing “Model GRM” proclamations, regulations, procedures, and operations manuals for creating, implementing, and administering GRMs at the regional and federal levels.
 - Organizing training programs for all GRM officers at the federal, regional state, zonal, woreda, and independent city levels to include mediation programs.
 - Developing a model code of ethics for GRMs.
 - Sponsoring periodic experience sharing workshops for grievance officers and experts.
2. The regional state GRM offices should, at the very least, have maximal independence, bureau status, and authority and, ideally, report to the legislature or regional council. The head of the regional state GRM offices should have the status and authority of a bureau head with equivalent compensation.
3. Federal, regional, zonal and woreda GRM officials/staff should be given civil service status, be free of partisan political connections, and be protected from retaliation for their decisions.⁴⁸
4. GOE and DPs should ensure that the level of compensation of GRM employees is pegged at a level that is commensurate with their responsibilities and work load. GOE and DPs

⁴⁸ In the regional states, some GRM officers are civil servants and some are political appointees. Some civil servants think that they might have more enforcement power if they held a political appointment, while some political appointees worry about exposure to political pressure and manipulation because of lack of job security and would, therefore, like to have civil service status. Consultants are of the view that the best solution to the enforcement and independence issues lies in upgrading the status and authority of the GRM to cabinet level and insulating GRM officers from political pressure by giving them civil service status.

should provide funding for additional for training (to include dispute resolution, mediation, and working styles recognition training), communications equipment, and infrastructure. GOE and DPs should implement oversight and monitoring of GRM offices to ensure that they function as designed and in accordance with best practices.

5. Regions should provide their GRM offices with adequate implementation and enforcement powers. It is of course the responsibility of the executive to implement the decision of the grievance officer with appropriate enforcement mechanisms but where executive implementation does not seem to be readily forthcoming, then GRM offices should have the authority to initiate enforcement actions, either directly or through the relevant Justice Office.
6. A code of ethics should be drafted and promulgated for GRM officers, having appropriate sanctions and disciplinary measures for infractions.
7. The GOE and DPs should follow up on these recommendations by funding an experience sharing workshop, in cooperation with the EIO, to be attended by regional officials, GRM office heads and officers and GRM/administrative law experts which will review, revise, if necessary, and publish model GRM proclamations and regulations consistent with international best practices in order to provide efficient, predictable, and impartial grievance decisions for Ethiopians who have complaints relating to maladministration.
8. PBS funding should be made available for GRM training, including mediation techniques, for regional state, zonal, woreda and independent city grievance redress officers.
9. GRM offices should consider having dedicated mediation officials in each office, so that grievance officers can refer cases to a mediator who has had special training in alternative dispute resolution. In Amhara, grievance officers have had mediation training and report that they have had success in mediating some cases where the parties are amenable to settlement short of decision, but state that the office lacks capacity to both manage the grievance docket and also provide mediation services to disputants who have “mediatable” cases.

VIII. Next Steps

1. The GOE and DPs should at the upcoming JRIS make the “Strengthening GRMs Initiative” a permanent part of PBS (II) as a first step towards making the GRM initiative a central part of PBS (III) in its own right with a policy dialogue. The GOE and DPs should agree on an “Endorsed Implementation Plan” for strengthening existing GRMs in the regions and introducing GRMs consistent with best practices at the GOE federal level. Next steps would include, but not be limited to, the following:
 - Appointing a staff member or local consultant with knowledge of the regional state GRMs to serve as liaison to the regions for purposes of assisting with strengthening of GRMs in the regions and monitoring regional state GRM progress towards compliance with international best practices.

- Partnering with the EIO to strengthen GRMs at the regional level and introduce and implement GRMs at the federal level.
 - Developing model GRM proclamations, regulations, procedures and operations manuals for creating, implementing, and administering GRMs at the regional and federal levels.
 - Organizing training programs for all GRM officers at regional, zonal, district, and independent city levels to include mediation programs.
 - Developing a model code of ethics for GRMs
 - Sponsoring periodic experience sharing workshops for grievance experts
2. GOE and DPs should hold a GRM “Follow-up and Review” meeting/workshop for Stakeholders, Government and GRM professionals no later than March 30, 2011.
 3. PBS should devote sufficient time at the May, 2012, JRIS to discuss implementation steps taken up to that date and charting the way forward to complete implementation of the GRM initiative.

IX. Conclusion

The regional states have made great strides in developing and implementing GRMs in Ethiopia. These gains flow either directly or indirectly from the policies of decentralization and federalism that have enabled the regional states to experiment with new approaches to good governance and social accountability. One of these approaches has been the introduction of grievance redress mechanisms. As the case studies in Appendix B demonstrate, GRMs can be effective in rooting out maladministration when staffed with competent, conscientious, and dedicated officers who are free from political influence, have adequate budgets, and who have the capability to have their decisions enforced. However, this positive momentum can become stalled, and reversed, if grievance handling offices are downgraded in importance, are not given adequate staff and resources to handle the cases on their dockets, and suffer loss of staff morale because of the failure of their governments to enforce their decisions.

Thus, we recommend locating regional GRMs in regional state bureau level organizations which are independent of the executive and staffed with grievance officers who have civil service protection and the capacity to either independently enforce their decisions or the authority to call on the appropriate justice office or the courts to bring an enforcement action. We also recommend extending the GRM initiative to the federal sector. Professionalization of the grievance handling offices at all levels of government will require additional funding, more training, and the continued commitment of the GOE and DPs to good governance and social accountability. If PBS decides to look to the extant GRMs identified in this Report to handle PBS grievances, then PBS should assume some of the burden for strengthening the GRMs to bring them up to international standards and ensuring that they continue to meet or exceed international standards in resolving citizen grievances, including PBS grievances.

Appendix A: Bios of Authors

Robert C. Randolph



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A partner in the international dispute resolution firm of Carr, Swanson and Randolph, Bob Randolph brings a background in law, academics, business and government to his current work in the evaluation, design and implementation of dispute resolution systems.

Bob is an expert in administrative law and adjudication, having studied administrative law with Professor Stephen Breyer at Harvard Law School (now Mr. Justice Breyer of the US Supreme Court) and having taught administrative law and constitutional litigation at Seattle University Law School (then known as UPS law School). Bob is intimately acquainted with grievance redress procedures as a practitioner, as well as an academic, having represented clients in grievance proceedings at the federal, state, local government and collective bargaining (labor law) levels during his career as a practicing attorney in Seattle, Washington.

Over the past twenty years, Bob has been actively involved in the international arena as a diplomat promoting conflict resolution and dispute prevention (USAID); an international arbitrator and mediator; a business executive managing companies in Asia; and a Conflict Resolution expert with experience in Africa, Asia, the Middle East, Southeastern Europe and the USA.

From 1998-2001 he headed the USAID Asia & Near East Bureau (Senate Confirmed) where he had responsibility for democracy, governance and conflict resolution programs in Egypt, Morocco, West Bank/Gaza, Lebanon, Jordan, Sri Lanka, Indonesia (Acheh and East Timor), India and the Philippines (Mindanao Disarmament, Demobilization and Reintegration issues, including land tenure issues.).

Over the past decade, Bob has advised the Nigerian government on the drafting of a new alternative dispute resolution law and has managed the design and implementation of mediation and conflict resolution programs in Croatia, Bulgaria, Nepal and Egypt. Prior to his current involvement assessing the capacity of grievance redress mechanisms in Ethiopia, Bob worked in Egypt to design and implement a mediation centre for the Ministry of Investment.

Bob is a member of the Washington State and Virginia bars. A Rhodes Scholar, Bob holds an MA from Oxford University in Politics and Development Economics (Magdalen College). He is an honors graduate of Harvard Law School and recently earned a LL.M. in International Tax (with an international business, tax and dispute resolution focus) from Georgetown Law School (2002).

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Buli Edjeta is the Managing Director of RECOT- Research, Consultancy and Training Institute. An anthropologist by training, he is an expert in decentralizations, local government and pastoralist systems, including informal dispute resolution processes. His background has been particularly useful and important for a nationwide comparative study of grievance redress mechanisms, from a perspective of federalism and decentralization, currently being used in the various regional states of Ethiopia. For example, in 2008, Buli was a member of a World Bank research team examining the implementation of the Protection of Basic Services Program in Amhara, Oromia and Afar regional states within a framework of decentralization and accountability. He presented the final results of the Study on behalf of the team at a regional conference in Kampala, Uganda in 2008. This work built on a foundation laid by Buli's previous participation in a study on Ethiopian Decentralization practices for the African Local Governance Group.

He has since sharpened his expertise in decentralization with his participation on a team studying decentralization in Uganda for the Associated African Professional Researchers and a study on the effect of decentralization on the work of an Agency with responsibility for the welfare of women and children in the Borena District.

Buli's understanding of the mechanics of grievance redress mechanisms has been informed by his previous work examining informal dispute resolution processes in Oromia for Oromia Regional State and his extensive research for such NGOs as Mercy Corps, CARE and Action for Development (AFD) on the use of informal dispute resolution mechanisms by pastoralist groups for the prevention and resolution of conflict.

He has published widely and has participated in many fora, both domestically and internationally, on issues related to decentralization and dispute resolution mechanisms, particularly informal processes.

Buli holds a MA degree in social anthropology from the University of Addis Ababa (2001) followed by an M. Phil degree from the University of Bergen (Norway) in 2004.

Appendix B: Case Studies

1. Water Point Wars: Shutting off the Favoritism Spigot (Addis Ababa).

‘A’ and ‘B’ are neighbors living in adjacent houses. A lives in a kebele/government house while B lives in a private house. For a number of years, A and B had been using the same public water point provided by the city to those living in government housing. However, B then approached the kebele authorities to transfer the title to the water point to her private house so that she could have exclusive use of the water point. The District Grievance Handling Officer (GHO) then wrote a letter to the district water office to change the title of the water point to B. Although the GHO had no jurisdiction over water point entitlement issues, the Water Office changed the title to B.

Subsequently, the GHO who had initiated the change in title in favor of B was replaced by a new GHO. A then approached the new GHO who reviewed the facts and process and concluded that the previous GHO had no jurisdiction over water point entitlement issues and had acted outside his authority and unfairly in initiating the transfer of the water point title to B. The new GHO then wrote a letter to the Building and Design Office, recommending reversal of the decision on the ground that A was fully entitled to the use of the water point. The Building and Design office wrote to the Water Office forwarding the grievance officer’s recommendation. The Water Office accepted the recommendation of the grievance officer and is now processing the paper work to reverse its previous decision and reinstate A’s right to use the water point. (District 5, Yekka Kifle Ketama, Addis Ababa City Administration)

2. The Wife’s Case: Protecting the Wife from Husband’s “Land Grab” (Tigray)

In a Tigray Kebele, the husband asked Kebele officials to give him title to land which his wife inherited from her family, and the kebele complied. The wife complained and then filed a complaint with the Woreda grievance officer who issued a ruling that the land in question was the separate property of the wife. The case was taken to the Regional Grievance Office which affirmed the decision of the Woreda in favor of the wife.

3. The Widow’s Case: Protecting Women’s Property Rights (Amhara)

Asqual married a man who had four children by his first wife. His land was registered with the land office pursuant to the land registration act of 1989. When the husband died without a will, Asqual, along with the other heirs (the four children of the first wife) went to court to have the estate “probated”. The Court ruled that, pursuant to law, Asqual was entitled to one-half the land. However, the clerk of the court “erroneously” drafted the Judge’ order as giving Asqual equal shares with the four children, reducing her inheritance from 50% of the property to 20%. As she couldn’t read, she was unaware of the “error”. The clerk then notified the Kebele of the Court’s decision, transmitting the order to Kebele. The Kebele, in accordance with the language of the court order, registered Asqual as having title to only one-fifth of her husband’s land. She

complained to the Kebele which stated that its hands were tied because it couldn't change the decision of the court. She then went to District Grievance Office. Although the District acknowledged that it had no jurisdiction over court cases, it asserted that it could intervene under §9, 6 of The Amhara Regulation which provides for grievance officer intervention in cases of unlawful or constitutional implementation of the laws and, accordingly, wrote the Kebele, asking for clarification. The Kebele wrote back saying it had no choice but to enforce the decision of the court.

After receiving the Kebele's reply, the Grievance Officer went to the Court, obtained the file and found that the judge had awarded half of the estate to the wife. The Grievance Officer then contacted the Judge. Although the Judge was on vacation, he came back to Court, reviewed the file and told the grievance officer that the order was contrary to his decision awarding half the estate to Asqual. The Judge corrected the file and ordered a re-division of the property in accordance with his initial decision. The heirs went back to court and got an injunction from another Judge forbidding re-division of the land, arguing *stare decisis* and reliance on the Court's initial decision.

When Court resumed in September with the vacationing judge back on the bench, Asqual went back to Court where the Judge ruled that its previous decision, as corrected, should be enforced. In the end, Asqual got half the property.

4. The Training College Case: Maladministration in Hiring (Amhara)

An applicant competed for a job at the government training college, and got the position, but the Head of the Training College refused to hire her. She appealed to the District Grievance Office and won her case. The Training College refused to comply, and she took her case to the Zone which decided for the grievant. There was a further appeal to the Region, which also decided for the Grievant. On the basis of the ruling of the Regional Grievance Office, the District Justice Office went to court to enforce the decision. The Court ordered the Training College to hire the grievant, and fined the Head 1000 Birr. According to Regional Grievance Office, the grievants appeals to the Zone and Region were unnecessary. When the Training College declined to appeal the District Grievance Office's decision in favor of the grievant, the District decision became a final decision which should have been enforced by the District Justice Office. However, this decision was not enforced, in part, because the Grievance Office did not take it to the Justice Office.

5. "In the Clear": Grievance Officer Corrects Maladministration in Hiring

In the Zone, the Office advertised a vacancy for an officer to serve at District level, in the District branch office of the Office. The District Administration handled the recruitment process. However, the District Administrator eliminated 'B' from competition and determined that the position should be given to A as the best qualified occupant. There were allegations, relied upon by the District, that B was a member of an opposition political party, had forged his credentials and was known in the community as a person who engaged in unethical behavior.

B then came to the Zonal Complaint Office to file a complaint, asserting that none of the charges against him were true. The complaint officer investigated B's complaint, obtaining the recruitment criteria advertised by the agency and B's educational credentials which he found to be in order. The complaint officer confronted the District Administrator with this information, who repeated the above allegations. However, since the complaint officer had verified B's credentials, he found that the accusations were unsubstantiated, upheld B's complaint and ruled that B's name should be included in the list of qualified applicants.

The District Administrator did not want to enforce the decision of the grievance officer, asserting that B had not taken an oral exam. The grievance office went to the District Administration officer to conduct another investigation and requested, and inspected, all the files and documents related to the District's recruitment for the position.

- The GO asked for production of any forged document that B had allegedly submitted on behalf of his application. No forgery was found.
- The GO found minutes of 3 meetings of the recruitment committee (ordinarily, only one meeting is required). The minutes of one meeting disclosed that B had taken his oral exams, that he had "sat" for the exams with three other candidates and that there were no gaps in his qualifications.
- The GO found that B had met all the recruitment qualification and stood first among the candidates
- The GO found that the local district Party office had written a "clearance" and recommendation letter for B saying that there was no problem which would prohibit B from getting employment.
- The GO then went to the Kebele to investigate B's alleged unethical behavior and bad reputation in the community and interviewed several people in the kebele. Everyone stated that B was a well-mannered, conscientious and responsible person who, as far as anyone knew, had not engaged in unethical or disreputable behavior.

After completing the investigation, the GO reported his findings to the Administrator and his conclusion that B should get the position. On the basis of the decision and findings, B was appointed to the position.

6. Zenebe's Case: Is Justice Delayed Justice Denied? (Amhara)

- Zenebe is employed at a private garage in Chegni Town, Awi Zone, 240 KM away. It took him 3 days to get to Bahir Dar, he says.
- He had 240 Sq.M of land, with an orchard. The Town wanted to build a school, and took his land, along with that of 12 others. The 13 appealed, and the Town formed a committee to examine the ownership rights of the 13. The Committee verified that 12 had legally titled, but determined that it couldn't verify that Zenebe had legal title.
- Zenebe complained to the Town grievance committee, which said that it couldn't entertain the case because final authority was vested in the Ownership Committee. He then went to the District who told him, he asserts, that it couldn't intervene because the man was a very powerful presence in the District.
- He went to the Zone Grievance Officer who verified that he had title to the land, and ruled in his favor, stating that he should have been given compensation a year earlier. The

Municipality appealed to the Zone Administrator who endorsed the decision of the Zonal Hearing Officer on November 13, 2010 (2002).

- The Town appealed to the Region, which endorsed the decision of the Zone on September 3, 2010 (12/25/2002). The Decision was forwarded to the Mayor's office, and a representative of the Town took Zenebe to see five plots. Zenebe said he would take plot A, but nothing has happened. Zenebe told the Regional Staff that he had been approached by a middle-man who said that a little baksheesh would take care of the problem. Zenebe said he wasn't going to go down that road, having won fair and square in the grievance process.
- Six months later the Mayor "requested", instead of ordering, a subordinate to give Zenebe the land. Six months later, the subordinate wrote back to the Boss, asking for specifics as to exactly what land should be given Zenebe, citing a proclamation issued 30 years ago.
- The other claimants have gotten new land. Zenebe has been given the run around for almost two years, and asserts that he has lost profits of 5500 Birr (grew trees for sale) because of the delay in compensating him.
- The Acting Head of the Office, thinks that, on some level, the dispute between Zenebe and the Town has become "personal." Nevertheless, the District should enforce the decisions, taking the Municipality to Court, if it has to. The Justice Department has sent a circular to every Branch, saying that grievance officer decisions must be enforced. Zenebe is still waiting for enforcement of his grievance decision.

7. Amhara Enforcement Case Study

The case concerned 4 Kebele employees who had been hired 25 years ago by Municipality on a three-month short-term contract, which could be renewed every three months. According to the Grievance Office, Ethiopian labor law provides that if the Employer fails to non-renew after six months, then the employees have a right to the job with certain protections against "at will" dismissal. After the BPR ("Business Process Re-engineering) was initiated, the Kebele terminated the employees without pension or other benefits on the ground that they were employees at will. They were replaced by new employees who were hired on a non-competitive basis.

The four employees appealed to the Municipality who ruled for the Kebele. They then appealed to the District Grievance Office which ruled that, although they were not entitled to a pension, they were entitled to a severance payment. The Municipality refused to comply with the decision, and appealed to the Regional Grievance Office, which upheld the decision of the District Grievance Office in favor of the employees. When the Kebele refused to comply, the grievants returned to the Regional Grievance Office which upheld its previous ruling.

The Regional Grievance Office reasoned that the employees were not entitled to a pension because they were not civil servants; however, the Region ruled that since the Municipality failed to follow its procedures and had not renewed the employees within the prescribed period of time, the employees could not be terminated at will and were entitled to compensation. The Regional Grievance Office asked the Regional Justice Office to enforce the decision, and the Regional Justice Office remanded the case to the District Justice Office which refused to enforce because, as it asserted, that there were no legal ground for holding for the grievants. The Region

argues that, whether or not there were adequate legal grounds for the decision, the decision is a final decision, and entitled to be enforced, because the Municipality didn't appeal. When the grievants returned to the Grievance Office on Monday, July 11, they were told that they need only recourse an appeal to the Office of the President in order to have their decision enforced.

8. The Fourteen Years War (Tigray)

Aleqa Hilluf Gebremedin is 65 years old with 6 children, 4 of whom he is still supporting. In 1997, Aleqa's land, along with that of many of his neighbors, was taken for construction of the Obelisk in Mekele by the Municipality of Mekele which offered replacement lots to the dispossessed. 226 dissatisfied and dispossessed residents approached the Municipality, claiming that the replacement plots were not equal in value to the land taken. The Municipality denied the claim, and the claimants appealed to President of Tigray Regional State.

Seven of the grievants, including Aleqa, were then arrested and imprisoned for "inciting unrest", as they were charged with being the leaders of the complaint group. Aleqa was imprisoned for two months and, finally, posted bail with a payment of 1000 birr. The Justice Office then formally charged the "seven" with inciting unrest. There were convicted and fined 300 birr.

The "seven" then dropped their request for additional compensation (in addition to the land) and said they would be satisfied with any kind of replacement land, but the municipality told them they weren't entitled to any compensation. Aleqa asked who made that decision, and was told "the people of Mekele said that you shouldn't be given any kind of compensation".

Aleqa then went to President's office who told him to bring his case to court. He went to court and lost. In 2000 (1992), the same President gave compensation of 175 square meters to six of the seven protest leaders, but not Aleqa as he was in Addis at the time. After he came back to Mekele in 2005, Aleqa again appealed to the President. "The President asked me where I was when the other 6 got their land, and I told him I was in Addis". The President told me that I could take the case to court, as he was not giving me my land. I said "I am not going to court, since the court has denied me previously".

Aleqa asserted he has been asking for compensation for the past five years, but has gotten repeated denials. He then appealed, in writing, to the new Head of the Regional Administration and Security Bureau (which handles grievances in Tigray). The Bureau Head, Aleqa says, was surprised that his case had not been resolved during the previous 14 years. The Bureau Head wrote to the municipality asking for clarification. The municipality wrote back to the Bureau Head confirming that Aleqa had not been given any compensation when the six were compensated.

According to Aleqa, the Bureau Head wrote the municipality advising that it compensate him for the land and the house on his property. In 2007 (1999), the municipality gave him 175 sq m of land. He then asked for compensation for two houses; 8 measures of stones; 500 cactus trees, 30 acacia trees and other valuable trees on 3000 sq m of land. The Municipality denied the claim, asserting they knew nothing about the trees. Aleqa appealed to the Zone, the municipality sent a letter to the Zone in support of its position, and the Zone affirmed the denial of the claim.

Aleqa then appealed again to the President in May 2010 (2002); the President sent him to the Security and Administration Bureau which, in turn, sent him back to the Zone, saying that the issue should be dealt with at the Zone. “I was told by the Zone that I had to go to the Municipality, as it was a municipality complaint.” He went back to the municipality where the Complaint Handling official told him that since the case had been handled by the regional authority, the Municipality couldn’t handle it. “I lost hope and stopped going further.”

This year, a new President was inaugurated, and Aleqa started the process again in May, 2011 (2003). The President’s Office sent him to the Security and Administration Bureau office where there was a grievance process. He told the Grievance Officer he had lost his farmland and couldn’t provide for his family and had nothing to eat. He had to sell the land given to him as compensation in order to provide food and education for his family. He asserted that the law said he was entitled to 500 Sq M, and he has been repeatedly denied compensation

The Grievance Officer (GO) listened attentively and then questioned the grievant. The GO then asked: “where is your proof?” (Aleqa replied: “ I am not lying”) and “why did it take you so long to come here after you were directed to do so by the President’s assistant?” (H said “I didn’t know about the office”) The GO then provided an example of similar cases where he had ordered reconsideration and requested additional clarification. He said, “I am going to do the same for you, but why did it take you so long?” Aleqa replied again that he didn’t know about this office.

The GO then told Aleqa that “you shouldn’t perceive us as doing you an injustice; we are trying to correct the situation.” We will send this back to the grievance officer in the District, and he will conduct an investigation. The burden of proof is on the municipality; if there is a further denial and appeal, we will ask for more information from you—photos, testimonials and tax records, etc. We have the power of enforcement because they are handling this case under the new procedure.” Aleqa said this was the right procedure and accepted the Grievance Officer’s decision.

9. Random Sampling of Tigray Grievance Cases

- a. We reviewed 10 written decisions involving appeals from an urban woreda, all of which seemed to have been decided on the basis of law and reason.
- b. Eminent Domain. For the Grievant where the municipality demolished grievant’s house, and gave her another place to live which was apparently inadequate. Her claim for damages was sustained.
- c. Failure to provide proper “plan”. For the Grievant where the grievant applied for a plan, and the municipality gave her an improper plan.
- d. Improper assessment. Grievant claimed there was an improper assessment, but provided no documentation. The Region asked for documentation, and the grievant failed to respond.
- e. Size of compound claim. Claimant asserted he was entitled to 140 sq meters, and that he had been give an undersized compound. Region ordered a remeasurement.

- f. Donation claim. Farmer had two lots, donated one to his daughter as a gift. The farmer applied for registration for his daughter, and the kebele rejected his application on the basis that the “donation” was illegal. He appealed, and, when the Region asked for additional evidence in support of the legality of the claim, he accepted the reality that he had no chance of prevailing.
- g. Land Grab Case. Husband asked that Kebele give him title to land which his wife inherited from her family. Woreda ruled that the land was the Wife’s separate property, and the Region affirmed.
- h. Ownership of property. There were two people in the kebele with the same name—A and B who was the rightful owner of a tract of land. “A” put a notice in the newspaper to “quiet title” to the land, asserting that he was the only owner. “B” saw the notice and appeared in the Kebele to protest, and the Kebele ruled for B. A appealed, and the Region affirmed the ruling for B.
- i. Eminent domain. The kebele took over a tract of land to give to a foreign investor and subsequently demolished the homes of people living on the tract. The claimants filed a grievance asserting that the kebele had not given them adequate notice of the demolition, and, as a consequence, personal items stored within the homes had been destroyed. The kebele produced evidence of having given notice on three separate occasions, and grievants appealed. Decision of Kebele affirmed.
- j. Lot size (Eminent Domain). The grievant whose home had been taken by eminent domain claimed the replacement lot was not as large as the previous lot. The kebele maintained that the replacement lot was larger. The Region said it would order a new measurement, but cautioned that, if the new measurement showed a larger lot, as the kebele maintained, then the lot would have to be resized downward. The grievant dropped the appeal.
- k. Lot size. Claimants say that the seized lot was 180 sq. meters, and the replacement was 140 sq. meters. The region affirmed the kebele on the basis that the case was governed by a regulation that limited replacement lot size to 140 sq. meters.

10. Federal Sector: Ministry of Education (Higher Education Desk).

Such grievance redress as exists for these complainants is very informal and is dependent up the good will of the appropriate government official and his or her willingness to correct an administrative error. For example, we happened to be visiting with the Higher Education Desk officers when an administrator at the University of Haro Maya came to the Ministry to attempt to correct a situation involving the “loss” of the GPA/class standing scores of some 400 graduates that she had previously sent to the Higher Education Office. She was extremely persistent protecting the interests of the students because, if there were no administrative record of the GPA scores of the 400, they would be eliminated from the system and be precluded from consideration for teacher placement and other opportunities.

She finally found the right officials at the Higher Education Capacity Building Desk. Although the relevant official asserted that he had never heard from her, she asked to review the official’s email inbox and found four emails that she had sent to the Higher Education Office, all with the same spreadsheet attached listing the Student GPAs and class standing (written exam, English speaking exam, and average grade). Instead of accepting her electronic submission, the official told her that she would have to return to the University and prepare another list, have the

list signed by the President of the University and then bring the list back to Addis for hand delivery to the Higher Education Office. Fortunately for these students, this conscientious University Administrator was able to protect their rights and future livelihoods, but only because of her conscientious efforts and unwillingness to see these students victimized because of administrative incompetence. If the GPAs had vanished from the system, as might have been the case, the students would have had no administrative recourse to demonstrate that their records had been lost due to administrative ineptitude.

Appendix C: Methodology

Review of Extant Empirical Data, Interviews and Field Visits. Consultants have based their research, findings and conclusions on a review of the literature, on field visits which included interviews with key participants, such as government officials (federal, district and kebele), stakeholders (Development Partners and NGOs), ethics experts, dispute resolution professionals (mediators and attorneys) and academics. Their findings and conclusions will be further refined by input gleaned from a stakeholder’s meeting to be held prior to submission of the Final Report on September 30. The details of the Methodological tools are presented below.

1. **Document Review:** Consultants reviewed such project documents, reports, aide memoires, GRM handbooks, including the BPR, and other extant governmental documents which have relevance to the development of GRMs, both in Ethiopia and world-wide. Consultants, of course, reviewed all regional governmental documents, such as regulations, proclamations, rules and information brochures relevant to the development of GRMs in the regions. Consultants scoured computerized professional, good governance and legal data bases for further information on GRMs, but found few references, except in publications by the World Bank and Asia Development Bank which primarily dealt with the use of GRMs to mitigate problems and complaints that arise in the course of major construction projects.⁴⁹ A Google review, however, revealed that governments in South Asia have begun to institute GRMs as part of their good governance initiatives, perhaps under the influence of the Asia Development Bank. The National Legislature of India, for example is currently considering legislation which would authorize nationwide implementation of GRMs. There is no literature on GRMs in Ethiopia other than the governmental documents noted above.
2. **Key Interviews:** The Terms of Reference (“ToR”) requested a country-wide mapping of GRMs in Ethiopia in both the public, private and traditional spheres, identification of the strengths and weaknesses of existing systems, and recommendations as to what changes may be necessary, if any, to strengthen the system.

Writers who write about GRMs talk about two major categories: “Supply Side” GRM providers (governmental administrative GRMs, courts and private dispute resolution providers, such as Arbitration and Mediation Organizations) and “Demand Side” citizen users, civil society organizations (lawyers, teachers and other CSOs) and the Press. Consultants have approached and interviewed key players, and knowledgeable persons, employed by or associated with supply side providers and demand side stakeholders: government institutions (Federal, Regional, District, and Kebele level), Development Partners, International and National NGOs, Civil Society Organizations (“CSOs”), Lawyers, academics, and local community structures, such as members of Kebele Appeals Committees. .

In the interviews, consultants used a checklist with questions crafted to elicit information about the structure, accessibility, acceptability and capacity of such GRMs as do exist to

⁴⁹ But see Gauri, *supra*, n.1, and sources cited therein.

determine whether such GRMs meets minimum standards for redressing grievances as outlined below.

- **Written Procedures.** Are there written procedures addressing and redressing grievances?
- **Authority.** Do the relevant officials responsible for managing the GRM, have authority to take or demand remedial action?
- **Training.** Have the relevant officials been trained in managing and monitoring a GRM.
- **Citizen Awareness.** Are project beneficiaries aware of their right to file a grievance without being the subject of punitive or retaliatory governmental action?
- **Timely Decision making.** Does the GRM provide a timely written response to the grievant concerning action taken on the grievance?
- **Tracking.** Are there written record keeping processes in place for recording, tracking, monitoring and closing the grievance file?
- **Appeals.** Is there an appeals process that grievants can use if they are dissatisfied with the initial decision or lack thereof?
- **Independence.** Is the GRM independent of both the initial decision maker and the ultimate decision maker?
- **Enforcement.** Do the GRMs have adequate mechanisms to enforce their decisions?
- **Additional Capacity.** If the answer to any of the questions set forth above is “No”, then what can be done and should be done to strengthen or augment the capacity of existing GRMs when measured against international best practices?

3. **Field Visits for Interviewing Regional, District and Local Government Officials and Other Sources.** We visited regional states and municipalities with jurisdiction over 96% of the population of Ethiopia. Although we couldn't visit every zone, woreda and kebele, we tried to make a considered selection of sample zones, districts and kebeles in order to ensure that participant views were broadly representative of the country as a whole. In order to ensure a qualitative sample, our selection criteria include differential livelihood patterns (pastoral, agricultural and urban); diversity and ethnicity; and accessibility and convenience. Selection also took into account the impact to the Social Accountability Program and PSNP GRMs to compare those districts and kebeles that have participated in the SAP and PSNP projects with those that have not. The purpose is to have a qualitative sample.
4. **Case Studies.** Consultants also sought within time and resource constraints to elicit information from both grievance handling officers and grievants concerning the filing, or attempted filing, of complaints and the response of government officials to the filing of such complaints. See Appendix B for a representative sampling of the cases reviewed.