

Fiji REDD+ Feedback and Grievance Redress Mechanism

DELIVERABLE 2

February 2018



**Assessment and Recommendations
of Existing Issues and Structures**



REDD+
FIJI

 **Integra**

Table of Contents

<i>Acknowledgements</i>	<i>i</i>
Executive Summary	1
General Findings of this Study	2
1. Introduction	6
1.1 Purpose of the Study	7
1.2 Contents of the Study	8
2. Methodology	9
2.1 Study Objectives and Approach	9
2.1.1 Objectives and Structure of the Study	9
2.1.2 Approach.....	10
2.1.3 Study Methods.....	14
2.1.4 Constraints and Limitations.....	19
3. Governance, Policy, Law, and Management	21
3.1 International Laws and Guidelines.....	21
3.1.1 International Laws Related to REDD+	21
3.1.2 International Guidelines and Standards.....	25
3.2 National law, Regulation, and policy.....	28
3.2.1 Forestry and Land Use	29
3.2.2 Protected Areas and Conservation	31
3.2.3 Agriculture	32
3.2.4 Environmental and Biodiversity Protection	33
3.3 Land Tenure and Management	33
3.3.1 Land Tenure.....	33
3.3.2 Forest and Land Management.....	35
3.4 Gender and Social Inclusion.....	38
3.4.1 Gender.....	39
3.4.2 Social Inclusion	40
3.5 Customary Lore for Land and Property	41
3.5.1 Conflict Between Lore and Law	41
4. Existing Grievance Redress Mechanisms and Institutional Capacity	44
4.1 Existing Structures for Grievance Redress.....	45
4.1.1 Framework for Governance	45
4.1.2 Customary/Traditional or Informal System.....	47
4.1.3 Alternative Dispute Resolution.....	51
4.1.4 Formal System.....	54
4.2 REDD+ Institutions Institutional Capacity	59
4.3 Gaps/Issues Identified in Related/Existing GRMS in Fiji	63
4.3.1 Key Findings	63
4.3.2 Weaknesses and Challenges to Setting up a FGRM Framework.....	64
5. Potential Risks for Conflict and Grievance for Fiji's REDD+ Program	66

5.1. Existing Conflicts	66
5.1.1 <i>Conflicts from Early REDD+ Pilot Project and Readiness Activities</i>	69
5.2. Potential Grievances Related to REDD+	75
5.2.1 <i>Socio-Economic Drivers</i>	77
5.2.2 <i>Legal Drivers</i>	78
5.2.3 <i>Environmental Drivers</i>	79
5.2.4 <i>REDD+ Program Drivers</i>	79
5.2.5 <i>Political Drivers</i>	81
5.2.6 <i>Cultural Drivers</i>	81
5.3. Lessons Learned and Recommendations	81
5.3.1 <i>Awareness and Capacity</i>	81
5.3.2 <i>Governance</i>	83
5.3.3 <i>Accountability</i>	84
5.3.4 <i>FPIC</i>	84
Attachments	86
Attachment 1: Acronym List.....	87
Attachment 2: Bibliography.....	89
Attachment 3: Interview List	92
Attachment 4: Tools and Techniques	95
Attachment 5: Fiji REDD+ RSC Membership and Roles	103

Table of Tables and Figures

Table 1. Institutional assessment	2
Table 2. Areas of potential conflict for REDD+	3
Table 3. Research questions guiding the desktop study	12
Table 4. Site selection criteria	15
Table 5. Relevant REDD+ related legislation, regulations, policies, and guidance	28
Table 6. Land typology	34
Table 7. Institutional assessment – informal system	49
Table 8. Institutional assessment – semi-formal system	54
Table 9. Institutional assessment – formal system.....	55
Table 10. Current dispute/conflict types without REDD+	66
Table 11. Current dispute/conflict types on REDD+ sites	70
Table 12. Drivers for potential grievance with REDD+ readiness and implementation	75
Figure 1. Sources of information consulted for the FGRM	11
Figure 2. Map of Drawa’s eligible carbon offset areas	16
Figure 3. Map of Serua.....	16
Figure 4. Working with Drawa leadership to inform focus group discussions	19
Figure 5. UN-REDD/FCPF guiding principles for developing a GRM.....	44
Figure 6. Existing FGRM for iTaukei disputes	46
Figure 7. Traditional greeting with <i>sevusevu</i> to instill and enhance goodwill.	47
Figure 8. Informal system	48
Figure 9. Informal system of consultation with village leadership.....	50
Figure 10. Institutional mapping of REDD+ entities.....	60

Figure 11. Recording grievances and barriers in Serua	69
Figure 12. Women engaged in community consultation in Drawa Village.....	78
Figure 13. Discussions on benefit-sharing with Drawa Forest Block.....	80

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Executive Summary

The *Fiji National Reducing Emissions from Deforestation and Degradation (REDD+) Programme* was established in 2009. In 2010, the Fiji Cabinet endorsed the *Fiji National REDD+ Policy*¹ and the Fiji Permanent Secretary of Fisheries and Forests officially launched the Policy in March 2011. The REDD+ Policy, alongside the *Fiji National Climate Change Policy* (2012), guides the REDD+ Program's implementation. The REDD+ Policy provides the framework for the planning, coordination, and implementation of REDD+ activities across Fiji. Through its dedicated REDD+ Unit, the Ministry of Forests (MoF) serves as the lead national implementation agency for REDD+ and is responsible for administering, managing, and overseeing the program. The implementation of the program is guided by the National REDD+ Steering Committee (RSC) composed of 19 representative members from various sectors and agencies and is coordinated through the REDD+ Secretariat. The Ministry of Economy (MoE) is the national focal point for the United Nations Framework Convention on Climate Change (UNFCCC) and acts as lead negotiator at international climate change meetings, as well as the lead finance agency. The MoE supports lobbying for Fiji's REDD+ agenda at international meetings and provides relevant policy support with other countries. The MoE houses the Climate Change Unit and engages with REDD+ financing and technical development partners. REDD+ readiness in Fiji follows a hybrid approach; REDD+ will start from the subnational-level through pilot projects that will later be nested into a national program. The first nationally approved REDD+ pilot project is underway in Emalu, Navosa province on Viti Levu. Additionally, Conservation International in Viti Levu, Ra province, is implementing a community reforestation project and Live & Learn (a nongovernmental organization) is implementing a community forest management and carbon offsetting project in Drawa, Vanua Levu. These on-going activities and Policy are expected to inform the development of the Fiji National REDD+ Strategy.

In May 2015, Fiji became a recipient of the Forest Carbon Partnership Facility's (FCPF) REDD+ readiness grant amounting to United States Dollar (USD) 3.8 million. Under this grant, and overseen by the REDD+ Steering Committee, several readiness assessments are currently being undertaken in support of the National REDD+ Strategy that define and detail social and environmental safeguards; monitoring, reporting, and verification (MRV) of carbon emissions reductions; and identify drivers of deforestation in Fiji. With a focus on compliance and donor requirements and with a respect to the agreements of the UNFCCC, an assessment of modes and means of grievance redress mechanisms (GRM) and institutions are also necessary with respect to national and donor requirements. The development of a feedback and grievances redress mechanism (FGRM) specific to REDD+ activities will incorporate existing GRM's as appropriate and outline how to receive and respond to concerns, complaints, disputes, and any other contentious issues arising during readiness and implementation phases of REDD+ programming.

This study is the first part of the development of a FGRM that (1) identifies and analyzes legislation and policy that impacts REDD+, (2) analyzes Fiji's existing institutional capacity and mechanisms used to respond to and resolve conflict, and (3) identifies existing and potential

¹ The Fiji National REDD+ Policy is implemented within the framework of the National Forest Policy 2007 and is aligned to the objectives of the Fiji Sustainable Economic and Empowerment Development Strategy (SEEDS).

grievances and conflicts that may arise as a result of REDD+. The findings in this study are derived from desktop research, key informational interviews, focus group consultations, and workshops with current and potential REDD+ beneficiaries and relevant stakeholders. A summary of general findings from the institutional and risk assessments is included below; followed by considerations to inform the design of the Fiji REDD+ FGRM.

General Findings of this Study

- 1. Institutional Assessment:** There are significant gaps in grievance redress processes within formal systems, where grievances are currently determined for conservation and land use and land management activities by three primary institutions (*iTaukei Land Trust Board*, *iTaukei Land and Fisheries Commission*, and the *Land Bank*, under the Ministry of Lands and Mineral Resources), if they are not resolved at the informal-level. These prevailing formal institutions, with GRM processes that are of most relevance for REDD+, are either poorly established or inconsistent with how they process, manage, and address grievances. Each institution evaluated was relatively weak across all seven FCPF guiding principles² (see *Table 1*) and free, prior, and informed consent (FPIC) was not well executed. A disconnect exists between non-legal or traditional structures, where most land and related disputes are resolved within communities (following FCPF guiding principles), and formalized legal structures. Existing mechanisms at the formal-level are inadequate to support REDD+ and informal systems do not have the legal clout, resources, or technical capacity to address grievances fully at the community-level. Alternative dispute resolution (ADR) approaches have been used in conservation areas with more success to assist with conflict resolution, but they are neither consistently applied nor well-communicated to communities as viable options and lack enforcement abilities because of their semi-formal status.

Table 1. Institutional assessment

Institutional Assessment of Existing GRMs								
FCPF Guiding Principle	Availability, credibility, and capabilities	Customary	Formal			Semi-Formal (alternative)		
			TLTB	TLFC	Land Bank	Sugar Cane Tribunal	Sawmillers Association	NGO (Live & Learn)
	Legitimate	X	X	X	X		X	X
	Accessible	X	X	X	X	X	X	X
	Predictable	X		X		X	X	X
	Equitable	X		X				X
	Transparent	X					X	X

² Derived from the UN Human Rights Council, 2011. Report of the UN Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie: Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework. A/HRC/17/31, 21 March.

	Institutional Assessment of Existing GRMs							
FCPF Guiding Principle	Availability, credibility, and capabilities	Customary	Formal			Semi-Formal (alternative)		
			TLTB	TLFC	Land Bank	Sugar Cane Tribunal	Sawmillers Association	NGO (Live & Learn)
	Rights compatible	X	X	X	X		X	X
	Enabling continuous learning					X	X	X

* "X"s in grey are expressed thusly because they narrowly met the guidance and are very weak in their current state.

- 2. Potential for Grievances and Conflicts:** Risks were assessed at current REDD+ sites (national and project-driven) and potential REDD+ sites identified during other REDD+ readiness activities. Existing risks are connected to disputes involving land tenure, relationships between investors, and land administration that drive forest and land conflict. At REDD+ pilot sites disputes involving the aforementioned risks were evident, but were surpassed by far greater concerns tied to benefit-sharing, resource rights, and a lack of overall understanding and FPIC regarding REDD+ activities (see *Table 2*). The highest rated risks come from the absence of legislation and policy on carbon-ownership and clarity on management and use of forests and forest products in conservation areas.

Table 2. Areas of potential conflict for REDD+

Prioritized Grievances	Possible Grievance Outcomes		
	Existing Forest and Land Conflict	Existing REDD+ Grievance	Potential REDD+ Grievance Drivers
	Tenure Rights	Benefit-sharing	Socio-Economic (e.g., benefit-sharing)
	Boundary Disputes	REDD+/Conservation Lease Terms and Enforcement	Legal (e.g., lack of REDD+ legislation)
	Administration of Customary Land	Awareness of Rights and Access to Resources	Environmental (e.g., land loss)
	Landowning Units and Investor Relations	Boundary Disputes	REDD+ Programme (e.g., ownership)
	Awareness of Rights and Access to Resources	Sustainability and Ownership	Political (e.g., insecurity of tenure)
			Cultural (e.g., forest-dependent peoples)

Potential risks that are specific to REDD+ activities involving benefit-sharing and land use will be unresolved without the employment of REDD+ legislation, greater specificity in current legislation regarding carbon ownership, and the design of a national land use plan for Fiji. The pending Forest Bill (2016) inadequately addresses issues regarding ownership, resource rights, or third party claims on forest-sequestered carbon, which will incubate disputes in the future. Overall Fiji's existing REDD+ Policy provides guidance for the facilitation of REDD+, but the absence of law means that enforcement will be problematic. The absence of a proper national

land use plan also offers fundamental challenges to implement REDD+ and other resource allocation activities at the local-level given the lack of comprehensive overview. This undoubtedly will become an issue for REDD+ project sites, where land use planning is needed to aid communities in proper management of their land for conservation, agriculture, and plantation.

3. Approaches, strategies, and recommendations: The results of the institutional and risk assessments, coupled with data collected from various stakeholder groups, resulted in the identification of gaps and issues in existing GRMs, challenges for setting up a FGRM Framework, and a series of lessons learned. The following high-level summary of findings (expanded on in Section 5.3) recognizes the challenges of current GRM structures and provides three key areas for improvement.

- **Synergy between systems and improved governance.** Building on the policy recommendations listed above, there must be a mechanism that supports good governance and rule of law that complements existing structures. The FGRM for REDD+ will need to create synergy between customary and formal means of grievance redress, whilst facilitating third party interventions to provide an independent review and audit of grievances under the Program. It was determined, through consultations and research that the best placement for a FGRM is at the semi-formal level; improving dispute resolution processes at the community-level prior to engaging in an ADR mechanism. Opting for resolution where possible in the communities first, and then providing additional support (e.g., information on legal rights and additional resources) and technical skills through the intervention of third parties (e.g., CSO, NGO) to help facilitate resolution with inputs from the RSC (in an advisory capacity) before resorting to judicial means. The FGRM for REDD+ should be seen as the “in-between” step for stakeholders when informal disputes fail, where access to information and technical capacity is needed, and to avoid more costly, time consuming, and less effective resolutions at the formal-level. This intervening step is crucial given the high potential for conflict, the unpredictability and inequity of decision-making, and the non-transparent processes currently experienced in the land use and land management sector.

It is also recommended that a more institutionalized approach for REDD+ would support a semi-formal mechanism that adds legitimacy and legal standing whilst encouraging resolution in the more traditional system. This would require REDD+ legislation crafting the legal provisions necessary in contracts for leased lands that acknowledge and support a FGRM that is impartial and acceptable for both iTaukei and government parties and is representative of other vulnerable, marginalized, disadvantaged, and minority groups that will be impacted by REDD+ programming.

- **Improved awareness and capacity building for all stakeholders on REDD+ programming and benefits.** The goal and function of existing GRMs are confusing and unclear to the majority of the stakeholders consulted, most visibly at the village and community-level, where the potential for REDD+ conflicts will likely arise. Landowning units and surrounding communities with strong REDD+ potential must be engaged through a combined education and communications campaign that delivers *consistent* messaging on REDD+ programming (e.g., ecosystems management, benefit-sharing) from all multiple actors (e.g., ministries, RSC, NGOs) that also alleviates confusion

regarding policies, rights, and benefits for stakeholders. This can be provided through NGOs, Government and funding bodies, and CSOs that are already playing a role as local facilitators in conservation and REDD+ activities, in the vernacular language, on all facets of the proposal under guidance from the RSC – again to ensure consistent messaging.

Capacity training must also be augmented through the strengthening of national networks at provincial and district-levels, which distils down to the village-level, regarding information sharing. Key messages must be basic and simple vis-à-vis the rights of landowners. This entails current rights enjoyed and those that are likely to be affected, payment systems, and equitable compensation sharing mechanisms including fair representative entities that are more appropriate to existing traditional structures.

- **Accountability and free prior and informed consent.** In order to render a trustworthy mechanism that is intended to guarantee fair, objective, and impartial treatment thorough consideration of all the parties involved will be required. Given that the proper governance mechanism for all native land is largely entrenched within the TLTB ambit, with ancillary working support from TLFC (same Ministry), the development of a FGRM must consider coordination, development, and codification of current TLTB procedures; adding necessary missing elements such as FPIC requirements and its universal applicability. REDD+ is a “new product” and as such there will need to be a reworking of exiting structures through institutional strengthening of matters concerning FPIC, substantiating of rights, and proper understanding leading on to its valuation.

1. Introduction

Forests represent the majority of land in Fiji and are important for the livelihoods of communities and the national economy. Fiji has an estimated 1.1 million hectares of forest, covering about 56% of its total land mass. Forest clearance can largely be attributed to agriculture, infrastructure, mining and gravel extraction, and settlement establishment. Degradation is mainly attributed to logging, introduction of invasive species, firewood collection, and burning of forests (Conservation International, 2017). The Fiji National Forest Policy (2007) emphasizes the application of sustainable forest management principles and improving the livelihoods of rural forest owners, moving from the now outdated Forest Decree of 1992, which focused primarily on timber extraction. The Government of Fiji aims to combat these drivers of deforestation and degradation by implementing a program to reduce emissions from deforestation and degradation (REDD) and prospect current large areas of degraded and unutilized land in Fiji for afforestation and reforestation to increase carbon stock (Plus+).

Fiji has recognized REDD+ as an opportunity to contribute to global efforts to reduce greenhouse gas emissions (GHG), whilst strengthening the socio-economic situation of its forest resource owners and protecting its forest ecosystems. REDD+ is seen as an instrument to achieve these goals and will play an important role in Fiji's development path, as forests hold an important place in the country's culture, history, environment, and economy. Fiji does not yet have a specific legislative framework for REDD+, although it is considering making amendments to its main forest law, the Forest Decree 1992, to incorporate specific provisions to regulate REDD+ activities.³

In Fiji customary landowning units (LoU) communally own an estimated 88-90%⁴ of forestland. As such (by virtue of major forested land being on land categorized by law as native land), Fiji recognizes that the vast majority of Fiji's forests are owned by Fiji's indigenous people and therefore the knowledge and rights of indigenous peoples are guaranteed, as defined under the Declaration on the Rights of Indigenous Peoples (UNDRIP)⁵, the Convention for the Safeguarding of the Intangible Cultural Heritage (UNCSICH), and other international instruments on rights of indigenous people (Fiji Forestry Department, 2011). The REDD+ Program therefore requires extensive consultations, partnerships, and safeguards for communities that recognize traditional customs relating to forestland ownership and management.

While communal land ownership is not uncommon in the Pacific Island region, Fiji is a special case poised for REDD+ implementation because of its well-developed system for registration⁶

³ These are mooted changes and there is no clear timeline for this change.

⁴ This statistic is currently being reviewed to account for loss of land from erosion and accretion.

⁵ Fiji was not a signatory to the UNDRIP. However, Fiji recognizes the intents of UNDRIP given its saving provisions in past and present Constitutions regarding inherent safeguards with regards to customary land and the current institutions that specifically administers and control iTaukei land augmented with specific governance structures.

⁶ The Native Land Register ("Red Book") or *Vola ni Kawa Bula* (VKB) is the official Fijian register of native landowners living descendants and emanates from recordings of the Native Lands and Fisheries Commission (conducted by Ratu Sir Lala Sukna in the 1930s) that culminated in the demarcation of all iTaukei LoU boundaries, sociological hierarchies, and pre-colonial migration patterns. It forms the instructive basis that disputes in land and leadership titles are settled today.

and leasing of customary land, as well as its experience with benefit-sharing with landowners for the distribution of lease revenues. The debate regarding property rights (carbon) ownership is less understood, and therefore there are (as yet) no policies in place.

Current systems and mechanisms for grievances that already recognize customary land owners and communities can allow for a more seamless integration of FGRM that align with existing approaches to benefit-sharing, conflict resolution, institutional arrangements, and forest monitoring systems. Improving, building, and enforcing FGRM will be critical to success of the REDD+ readiness and implementation of REDD+ activities in Fiji.

1.1 PURPOSE OF THE STUDY

The purpose of the FGRM consultancy is to support the MoF, provide advice to the REDD+ Steering Committee, and assist the REDD+ Unit and REDD+ Secretariat in building a long-term and effective REDD+ program that emphasizes the application of sustainable forest management principles and improves the livelihoods of rural forest owners. This study is a first step (Phase 1 of our overall approach) towards the design of a FGRM that promotes transparency and accountability that will reduce the vulnerability of communities and strengthen their participation in REDD+ programming.

Our research will build on the existing social, political, and economic structures in Fiji to develop an integrated, acceptable, and functional FGRM for the implementation of climate change mitigation efforts under the REDD+ Scheme. It examines GRM at the national-, sub-national-, and community-levels in Fiji, whilst addressing critical gaps, incorporating community feedback and respect for existing systems, and providing recommendations for actions to strengthen institutions.

The specific requirements of this study as outlined in the TOR are two-fold:

1. Identify potential grievances and conflicts that may arise as a result of REDD+ and analyze existing processes and mechanisms that could be utilized to address these conflicts.

- Assess the scope and effectiveness of existing formal (including legal, policy, and regulatory frameworks) and informal (including non-legal frameworks and traditional structures) FGRMs at national, sub-national, and local-levels.
- Identify potential conflicts and contentious issues that may arise from various REDD+ activities and identify issues that are specific to certain target groups (e.g. women, leaseholders).
- Assess whether existing structures adequately address the feedback and grievance redress needs of each REDD+ target group and stakeholders (local communities, women, youths, land users under different tenements, etc.).
- Identify and develop interventions and mechanisms and where required, make adjustments and additions, to strengthen existing FGRM structures (formal and informal) to support the REDD+ program.
- Identify various approaches and structures against the various types of issues and target groups to allow for appropriate responses to different grievances.

2. Identify actions and strategies to enable the Fiji National REDD+ institutions to support the successful and sustainable implementation of the Fiji REDD+ FGRM.

- Assess existing REDD+ institutional and management structures and processes (RSC, REDD+ Divisional Working Groups, REDD+ Secretariat, REDD+ Unit, etc.).
- Identify actions and strategies to strengthen the national REDD+ structures and processes.
- Assess how the consultation and participation processes can be strengthened to support the implementation of the FGRM.

1.2 CONTENTS OF THE STUDY

This study consists of five sections. The first section provides an overview of the REDD+ system in Fiji and purpose of the study. The second section outlines the methodology for both the study and the next phase (design of the FGRM). The third section details international and national legislation, policy, and guidance/standards on forestland tenure, land use, and forest management, and their impact on REDD+. This includes a discussion on the formal and informal structures in place for the management of land in Fiji. The fourth section builds on the information provided on formal and informal structures by providing a review of existing legislation, policy, regulations, and procedures in formal and customary legal framework for resolving conflict and grievance redress processes in Fiji, specifically relating to forestland. This includes an institutional assessment for REDD+ entities and others related to the implementation of REDD+ activities. The final, fifth section, identifies potential conflicts and contentious issues that may arise from various REDD+ activities and issues with institutional structures and includes recommendations for consideration for the development of the FGRM.

2. Methodology

In this section the methodology for the design of the overall FGRM is presented. The structure for the study is outlined and more detail is then provided about the study design, sampling, data collection, and analysis. The section ends with a discussion of the challenges, expected outcomes, as well as limitations of the study.

2.1 STUDY OBJECTIVES AND APPROACH

This study conducts a rapid assessment of the social, cultural, legal, and institutional aspects of issues and conflicts that may potential arise from REDD+ in Fiji, and the status of existing mechanisms that can be retrofitted or improved to resolve REDD+ related conflicts. Given that nearly 90% of forested land in Fiji is located on iTaukei land, this study primarily focuses on the legal framework that applies to iTaukei land and does not address the framework for REDD+ relating to State or Freehold land.

2.1.1 Objectives and Structure of the Study

The overall objective of this consultancy is to develop a framework for the Fiji National REDD+ Program that actively engages concerned stakeholder groups and supporting institutions in REDD+ readiness and implementation phases, addressing both the positive and negative feedback from different stakeholders affected by climate change. This will be accomplished by effectively and efficiently designing a strengthened FGRM that receives and responds to concerns, complaints, and grievances (“feedback”) that stakeholder and other parties may have during the readiness and implementation phases of REDD+.

This study is part one of four phases – *Research and Analysis* – providing information that (1) focuses on the identification of potential grievances and conflicts that may arise as a result of REDD+ and the analysis of GRM that could be utilized to address these issues and (2) identify actions and strategies to enable the Fiji National REDD+ institutions to support the successful and sustainable implementation of the Fiji REDD+ Program.

The team responsible for the execution of this study consists of three subject matter experts on conflict and resolution, climate change, and social dynamics. Ms. Corey Nelson is a trained climate specialist, anthropologist, and communications specialist. Mr. Ulai Baya is a land conflict, grievances and redress, and land management specialist. Ms. Mereseini Seniloli is a gender and social inclusion specialist.

2.1.2 Approach

The approach for the FGRM consultancy aims to be holistic and transparent. The team proposes an integrated and systemic approach that consist of four distinct phases, with Phase 1 being the focus on this study (also referred to above as “part one”):

- Phase 1: Research and Analysis
- Phase 2: Design of FGRM and Reporting Forms
- Phase 3: Training Report and Communication Plan
- Phase 4: Validation

2.1.2.1. Phase 1: Research and Analysis

This study’s research is characterized by the exploration of three key sources of information characterized as a desk research (literature review), open dialogue, and stakeholder consultations (see *Figure 1*) to inform a holistic understanding of historical and current trends necessary to construct a baseline assessment on grievances in forest management and land conflict.

For the desk research four types of thematic studies were conducted – conflict, legal, environmental, and social. Baseline information on grievances in forest management, including the historical trends, current practices, and potential future of communities and other stakeholders to utilize such grievance mechanisms were collected and analyzed. Guiding research questions that the team sought to answer in this desktop research are shown in *Table 3*.

In addition to desk research, the team conducted in-depth consultations with relevant stakeholders – local communities (currently engaged in carbon offsetting+ activities and those interested in REDD+, forest officers, academia, civil society organizations (CSO), nongovernmental organizations (NGO), subject matter experts, private sector actors, and decision-makers in government). These consultations were used to further validate the desk research, triangulate information, and provide on-the-ground realities in a participatory process executed through workshops, focus group discussions, and one-on-one interviews.

With the set of guiding research questions, the team visited stakeholders and facilitated interviews and discussions on several relevant topics such as: existing and potential grievances in forest management activities, level of awareness and participation in the readiness process, and the technical and communication requirements of the future grievance mechanism. The team led a moderated discussion during the Inception Workshop to garner feedback and inputs on potential issues for REDD+ grievances and used that feedback to inform the study design and guiding questions for consultations. A “Validation Workshop” will be held at the end of the FGRM consultancy to share findings with the same attendees.

Figure 1. Sources of information consulted for the FGRM

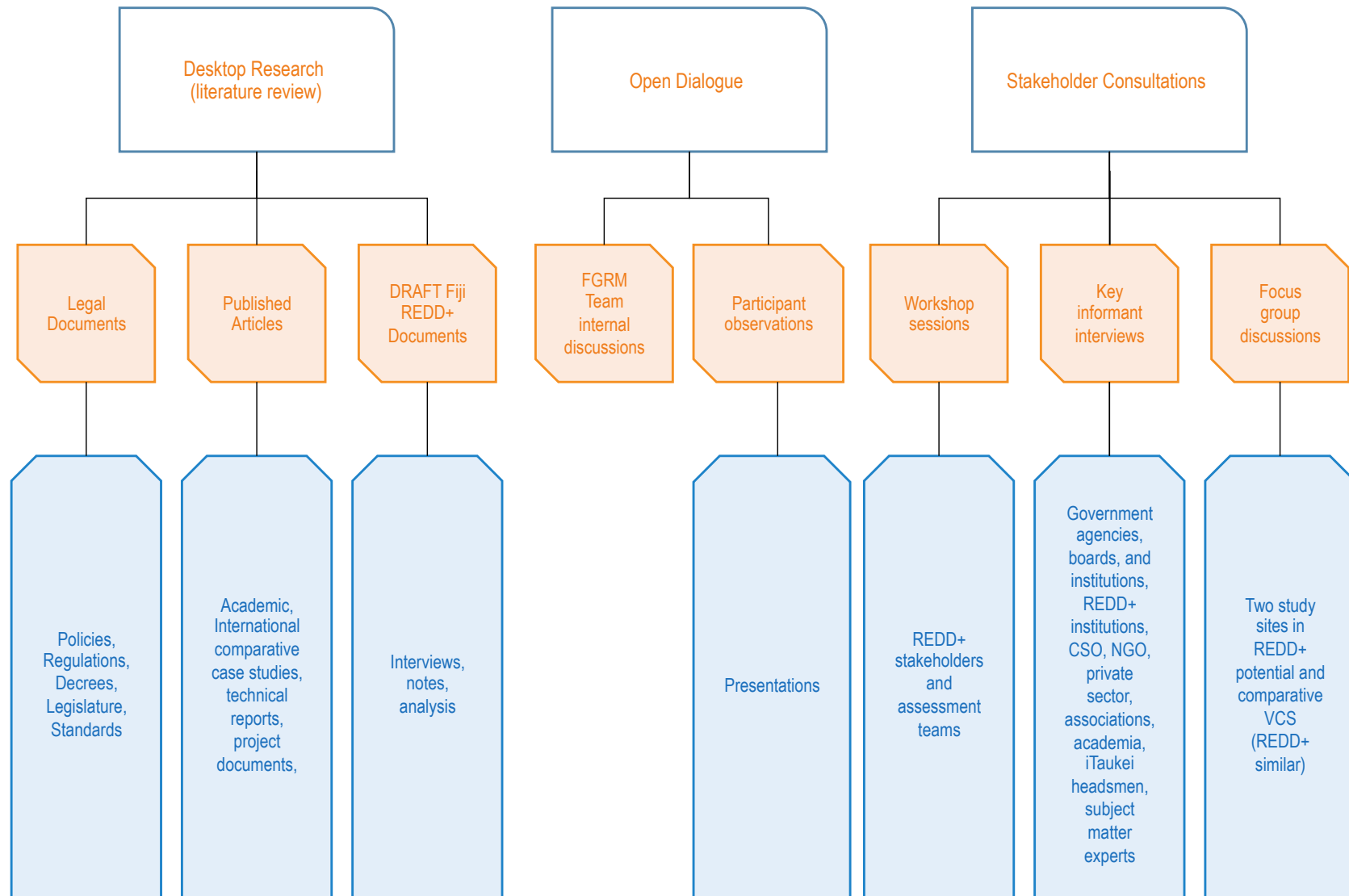


Table 3. Research questions guiding the desktop study

Thematic Study	Guiding Research Questions
Conflict	<ul style="list-style-type: none"> • What structures currently exist to address grievances and conflicts (informal and formal) • Related to REDD+? • Are there clear procedures and timeframes for decisions? • Are the procedures of current institutions accessible and unbiased? • Are the procedures and outcomes transparent to meet public interest and concerns at stake? • Are there alternative points of raising issues to current institutions to avoid delays? • Are relevant institution's operations seen as fair, independent and impartial? • Is there further recourse for parties if not satisfied? • Is there fair representation? • Are grievances treated confidentially?
Legal	<ul style="list-style-type: none"> • What are the legislation and policies in place that impact REDD+ activities? • What types of grievance-related policies, procedures, mechanisms are currently in place that are related to land use, management, and tenure? • How are these legal instruments affecting and driving grievances? • Are there conflicts between legislation, policies, and procedures that need to be addressed? (gaps and deficiencies)? • Is carbon as a right clearly articulated in terms of its ownership and its trade? • How is carbon ownership related to land ownership? • How will income from forest carbon capture be calculated? • How can forest carbon income inform equitable benefit-sharing?
Environmental	<ul style="list-style-type: none"> • What grievances and conflicts are expected to occur with ongoing pressure from climate change? • How are ecosystem services valued? • What are the environmental impacts that can occur from REDD+ activities?
Social	<ul style="list-style-type: none"> • What is the history of grievances in the forestry sector? • What is the evolution of responses? • What are the informal mechanisms used to handle forest-related grievances? • How do the informal and the formal system work together to address grievances? • Are women consulted at any stage of the conservation of forests projects? • Are there barriers towards the inclusion of women and youth on conservation of forests? • What are criteria of inclusion of men, women, youth and the disabled on conservation of forests? • What are the mechanisms of inclusion of men, women, youth and the disabled? • Are women's grievances registered in the informal and formal systems? • Do women and youth receive their monetary benefits equally with the men? • Is the existing benefit-sharing system of monetary value from forest conservation fair to all members of the LOU?

Potential Conflict Risk Assessment

The information collected in this study describes the breadth of current and potential issues that are likely to be at the core of conflicts and disputes over REDD+ activities and maps on how key stakeholders influence the issues, and the nature of the debate over each issue. The team assessed the social, cultural, environmental, and legal norms in resolving conflict for an active carbon and conservation, payment for ecosystems services site in Fiji (Drawa) that has been active since 2010, focusing on customary norms in resolving conflict. The past record of key stakeholders in resolving conflict will be used to assess the likely risks presented by different potential issues. The assessment also looks at the role of women and minorities in potential conflicts and assesses the risks to these special groups in the REDD+ process.

Existing Conflict Resolution Mechanisms and Institutional Capacity

Parallel to the identified potential risks, the team also conducted an assessment of the capacity of existing REDD+ institutions and management structures in resolving conflicts arising out of the REDD+ readiness and project activities. This component of Phase 1 looked at key characteristics of REDD+ involved institutions, such as accessibility, credibility, and compatibility with various REDD-related and donor standards for conflict and human rights; and legal mechanisms and institutional performance to develop a complete profile of existing pathways for resolving conflicts relating to REDD+ in Fiji. The institutional capacity assessment follows the FCPF/UN-REDD's guidelines (June 2015) on GRM and is elaborated on in *Section 4*.

The team assessed both formal and informal institutions at the national-, sub-national-, and local-levels to assess how different actors – individuals, specific social groups, communities, and private and public institutions – currently use these institutions to resolve conflicts and the strengths and weaknesses of different approaches and past precedent.

2.1.2.2. Phase 2: Design of FGRM and Reporting Forms

In the second phase of the FGRM assignment, the team will build on the inputs from all consultations to develop a FGRM based on existing practice that aligns with the objectives of the REDD+ Policy, supported by the REDD+ Unit and REDD+ Secretariat, and is approved by the REDD+ Steering Committee. The design will take into consideration both formal and informal networks for redress. The design process will include strategic choices based on purpose and functionality of the FGRM, as well as integrating the mechanism into the National REDD+ Strategy.

The team will also design a standard feedback and grievance redress form (in close consultation with the Ministry of iTaukei Affairs, Ministry of Rural and Maritime Development, the National Disaster Management Office, and the RSC) that can be used for iTaukei village headmen to record and report issues and grievances for both the REDD+ readiness (potential sites) and implementation stages. Another form will be designed for forestry or other relevant officers to record issues and grievances relating to REDD+ activities under their authority. The use of a specific “form” versus other avenues of reporting will be examined in order to propose a culturally appropriate and sustainable approach.

2.1.2.3. Phase 3: Training Report and Communication Plan

Once the REDD+ Secretariat has approved the training approach and grievance forms, the FGRM team will conduct a training of trainers for the above-targeted groups on the use of the

form (carried out in collaboration with the REDD+ Secretariat). Feedback on the form and the reporting and recording process will be collected after the training from all participants in order to improve the process. The final forms and results of the training will then be shared in a “Training Report” with the REDD+ Steering Committee.

In addition to the grievance mechanism itself, the team will develop a communications plan to inform all stakeholders about the existence of the FGRM and instructions of operation. The communication plan will include aspects of stakeholder-targeted communication channels, facilitators, multipliers and possible timelines.

2.1.2.4. Phase 4: Validation

After completing research, conducting consultations, providing analysis and recommendations, and drafting the FGRM and reporting forms, a final inclusive report will be submitted to the REDD+ Unit and RSC for final approval. After approval the team will present its findings and FGRM design at the Validation Meeting. Soliciting inputs from stakeholders, the team will then account for comments collected and finalize the consultation.

2.1.3 Study Methods

For this study desk research was conducted in the context of a literature review that reviewed existing laws, frameworks, legislation and policies of the Fijian Government and its relevant institutions, agencies, and boards; existing GRMs; and ongoing reports and assessments for REDD+ readiness (i.e., Social and Environmental Safeguards Assessment (SESA); Drivers of Deforestation and Degradation (DoDD) Study; and the MRV Report). This research was supplemented with additional consultations from interviews and discussions to validate findings and target issues related specifically to grievances and redress.

2.1.3.1. Field sample sites and selection criteria

SITE SELECTION CRITERIA

This study selected two main locations for community consultations with iTaukei and forestry officials (see *Figures 2 and 3*): *Drawa (Drawa Village, Batiri, Lutukina, Vatuvonu)* and *Serua 1 (Nabukelevu, Naboutini, Nakorovou)*. These sites were covered over duration of two weeks and included community consultations (with over 75 participants) that enhanced understanding of actual grievance and redress issues in active carbon offset and conservation (REDD+ similar) and potential REDD+ sites.

Criteria used for site selection was proposed in the Inception Report (D-1) and was further refined with feedback from the Inception Working Group. The FGRM team considered 10 sites where there is current conflict around forest and land management and conservation and used the following criteria to down-select for community consultations (see *Table 4*):

- **REDD+ active or potential sites:** There are currently two active REDD+ sites in Fiji⁷: Emalu is the only nationally approved site and Drawa is the first and longest on-going independent conservation and carbon offsetting project (since 2010); not yet nationally

⁷ NatureFiji – *Mareqeti Viti*, an active local conservation NGO, has also been involved in the national REDD+ process through their community awareness program for their conservation project site in Ra.

approved for REDD+⁸. The team selected Drawa, an active carbon-offsetting site to acquire perspectives of community members and stakeholders already actively engaged and more readily informed on REDD+ policy and benefit-sharing, in order to understand current conflicts and grievances that have stemmed from implementation. Drawa has both plantation and native forests and as such could elicit grievances from both REDD+ and logging activities. Equally important for the FGRM was to visit a potential REDD+ site where community members were less informed, or else have very little understanding of REDD+. In Serua, in the village of Nabukelevu, there is one last remaining native rainforest in the area that is endangered of being logged. The villagers are keen on keeping the forest protected, but in order to do this they must have an alternative livelihood (e.g., ecotourism like they have with *River Fiji* operators) to support the community. The landowners have been visited by REDD+ representatives, but are awaiting follow-up. Both of these sample sites will help inform planning and readiness by the REDD+ Steering Committee that can be used as a guide for addressing other potential REDD+ site grievances.

- **Accessibility** was also a consideration for the site selection. For example, Emalu (Fiji's first REDD+ site) is logistically challenging to visit and with the short timeframe allotted for the FGRM consultation was removed from consideration and the Drawa REDD+ site was selected.

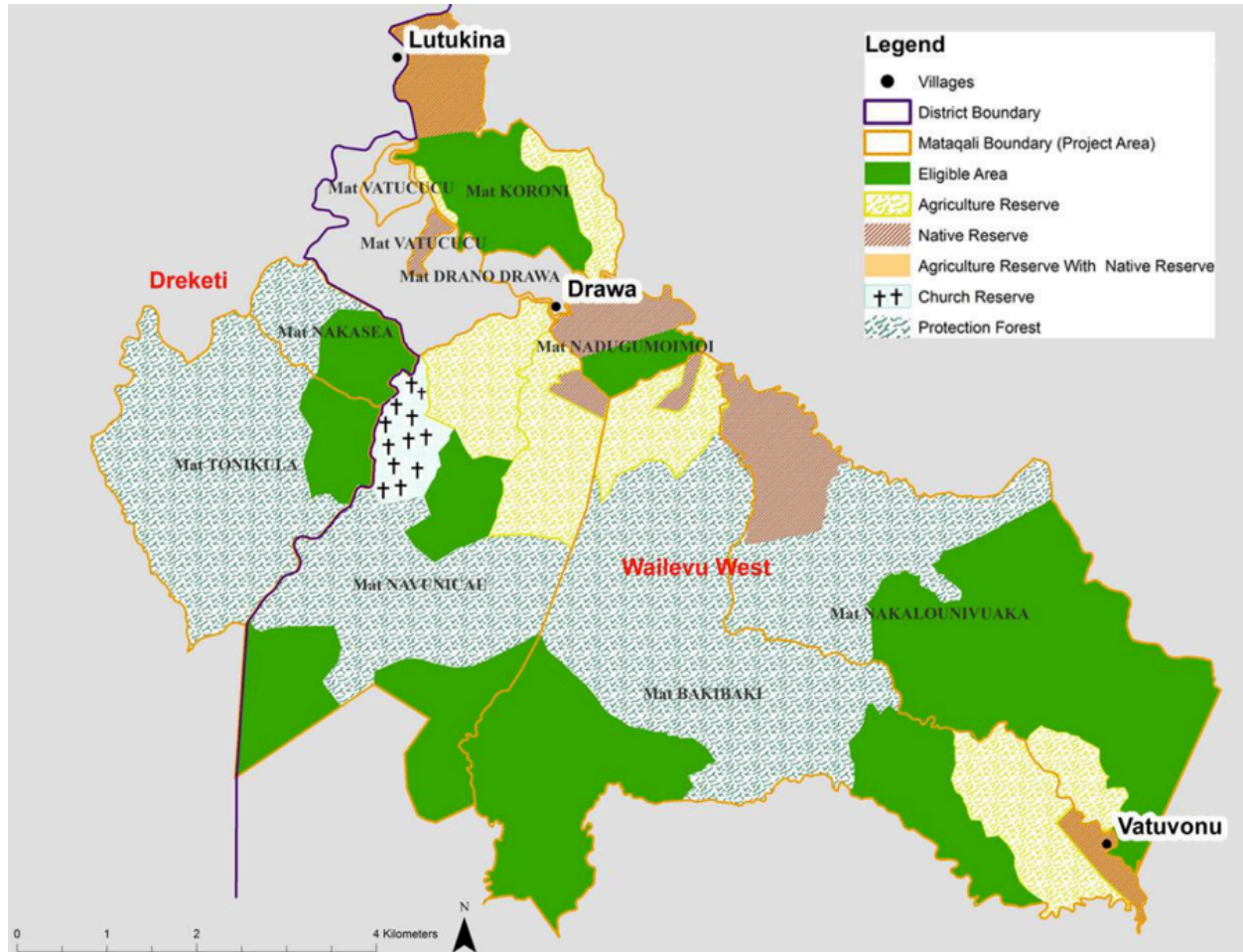
Table 4. Site selection criteria

Possible Site	REDD+ or Potential	Biodiversity Hotspot / Protected Area	Forestland Type	Present Conflict Risk Rating*	Logistic Challenge Risk Rating*
Emalu	REDD+	protected area	native	2	3
Drawa	REDD+	protected area	native and plantation	3	2
Nakauvadra	potential	protected area and biodiversity hotspot	native and plantation	3	1
Dreketi/Drawa	potential	protected area	native and plantation	1	2
Kadavu-Nabukelevu	potential	protected area	native	1	3
Yawe	potential	protected area	native and plantation	3	3
Ra Tomanivi	potential	protected area and biodiversity hotspot	native	3	1
Serua 1 (highlands)	potential	protected area and biodiversity hotspot	native and plantation	3	1
Serua 2 (coastal)	potential	protected area	native (mangroves)	2	1

*rating from 1-3, with 1 low, 2 being moderate, and 3 high.

⁸ Drawa is under the volunteer market scheme (VCM) and follows a payment for ecosystem services (PES) approach using Plan Vivo Standards, which has them excluded from the national carbon accounting program at the moment because the national program uses verified carbon standards (VCS). The offsetting cannot be done until the government has endorsed the project (have partial as of 2016).

Figure 2. Map of Drawa's eligible carbon offset areas



*Lalabalavu, J., et.al, 2015.

Figure 3. Map of Serua



- **Potential / on-going categories of conflict:** There are five broad categories of conflict that stem from land leasing issues that will have bearing on all REDD+ activities regarding boundary disputes, quality and clarity of contracts, land trust management, and benefit-sharing mechanisms. The risk assessment and consultations included sites that collectively exhibit the following types of conflict:
 - i. *landowner and landowner* (e.g., boundary disputes on development projects where required land is pledged by more than one LoU);
 - ii. *landowners and government* (e.g., landowners preferred option for land can be against national interest);
 - iii. *government and trustee* (e.g., trustee unlawfully executes its duties, such as providing long-term leases to government entities on wrongful legal basis);
 - iv. *landowners and investors* (e.g., investors breach conditions of the lease by carrying out activities beyond lease boundaries); and
 - v. *investors and government* (e.g., investors are in breach of foreign investment rules).
- **Forest types:** REDD+ activities are implemented in two forestland types in Fiji: native and plantation (pine and mahogany) and each comes with a different set of challenges on ownership and property rights (e.g., bundled elements). There is also a lack of clarity from landowners around the perceived value of the different forestland types and how carbon for emissions will be calculated. Native forests are evaluated as having more monetary value by the iTaukei Land Trust Board (TLTB) because of the exotic and endemic tree types, as compared to plantations and this has an impact on the compensation value owed to landowners for conservation, which is the category for REDD+ leasing.
- **Environmental/biodiversity “hotspots”:** Biodiversity rich and protected areas are considered priorities and will create a set of potential risks for REDD+ to include land use, encroachment, and land ownership issues. Building from the work already drafted by the SESA and DoDD, the team has selected sites where there is potential for these grievances to be exacerbated (*Serua I*) and where there are mechanisms in practice that are already attempting to address these complaints (*Drawa*) with local communities.

2.1.3.2. Data sources

This study relies primarily on qualitative data, although both qualitative and quantitative data was collected. The qualitative data consisted of the reflections of respondents and interviewees on perceived types of conflict, challenges with existing grievances mechanisms, and solutions for improvement of GRM and institutions that handle them. The qualitative data provide inputs on the number and disaggregation of disputes and types, timeframes for resolutions, and processes for GRM. Primary and secondary data was collected – primary from the consultations (presentations, note taking, and questionnaires) and secondary from the literature review

(published, peer-reviewed, case studies, documents, articles, journals, legislation, organizational diagrams, etc.)

2.1.3.3. *Data collection tools and techniques*

OPEN DIALOGUE

The team comprised of academically and field trained subject matter experts participated in all aspects of data collection and that debated and critically evaluated the information collected through open dialogue with each other, through direct engagement from their own established networks, and through direct and participant observation at presentations (such as the *Regional Dialogue and Learning Mission on Integrating Biodiversity and Climate Change at the National Level*, held 23 – 27 October 2017) .

KEY INFORMATIONAL INTERVIEWS

The team conducted over 60 informational interviews with REDD+ institutions, academia, NGO and CSO representatives, government counterparts and key ministries and agencies, private sector actors, and subject matter experts (see *Attachment 3*). These interviews covered a range of topics from conflict between local people and land management trusts, to trust and transparency issues between governments and investors. Interviews with forestry and climate change mitigation (i.e., REDD+) officers, iTaukei headsmen, and community welfare and sector groups were also conducted to help identify and explain customary and traditional conflict management systems and practices. Interviews were carried out at an individual and team-level.

Questionnaires and Participatory Tools

The team developed two broad sets of tools (see *Attachment 4*): (1) questionnaires for consultations at the national, sub-national, and local-levels for institutions and officials that are or will be involved in REDD+ FGRM (a credibility assessment based on the FCPF's GRM principles), and (2) participatory tools for community consultations to understand current and potential grievances related to REDD+ and their perception of the process for reporting grievances and reaching resolution (informal and formal systems). Several other methods were applied to gather as much as possible information from the field in the short time dedicated for this portion of the assessment, such as case study analysis, focus group discussion, workshops, and key informational interviews. This information was then used in conjunction with the desk research for a potential conflict risk assessment for REDD+ activities and an institutional assessment of institutions involved in REDD+.

WORKSHOPS

Workshops were hosted at the beginning of the FGRM consultancy to provide a forum to share research methodology, approach, and site selection criteria with relevant stakeholders. This workshop also provided an opportunity to explain the purpose of the FGRM consultancy and garner feedback from stakeholders involved in the other ongoing FCPF/World Bank supported assessments and studies. This information was integrated into the team's approach and provided a space for sharing knowledge across all REDD+ readiness activities. A workshop will be held at the end to share the results of the FGRM findings and proposed design for feedback and comments.

FOCUS GROUP DISCUSSIONS

Focus group discussions were held at the community-level in each selected site. These were hosted in community halls and involved representative beneficiaries, to include iTaukei headmen (see *Figure 4*), vulnerable population such as women, youth, elderly, and those with disabilities. The objective of these discussions was to gather specific information about forest management, conflict, gender issues, ethnic issues, forest encroachment, livelihood issues, and property disputes. The team's Social Expert led discussions, with both Team Leaders serving as facilitators. An output from these discussions will also be the inputs for proposed training and communications plan for FGRM.

2.1.3.4. Data presentation and analysis

All data was condensed, categorized, and recorded and secured by the DC-based Team Leader. Information was analyzed by all members of the team for inclusion in this study, as well as feedback that will build into the design of FGRM and any resulting reporting forms. Qualitative data is presented systematically and sequenced for strengthening critical analysis. Quantitative data is tabulated in the study and analyzed accordingly.

Figure 4. Working with Drawa leadership to inform focus group discussions



2.1.4 Constraints and Limitations

This study and consequently the design of the FGRM faced time, logistic, and political constraints:

- (a) **Competing priorities of key institutions as a result of Fiji's Pre-Climate Change Conference of the Parties (COP) and COP23 activities.** Fiji's presidency role in COP23 affected timing of communication responses and substantial progress with regards to

interview and information access. Most of the senior personnel within the related Ministries crucial to the FGRM study were involved in COP23 preparatory planning and engaged overseas travel during this assessment.

- (b) **Location and cost of community consultation sites and processes for engagement.** Fiji has one nationally approved REDD+ project site and one carbon offset site, each located in the interiors of the two respective main islands in Emalu and Drawa. Challenging logistics and timing made a trip to the national REDD+ site in Fiji impossible, however Drawa (which has been working on carbon and conservation since 2010) is a VCM REDD+ site that was more easily accessed for the Team. Planning to access this site (and a REDD+ potential site in Serua 1) required intense preparation procedures expected of iTaukei administrative structures of government. Engagement had to address provincial-level protocols through the *Roko Tui* (Provincial Coordinator) before it was considered at district-levels and before accessing the LoUs at village-levels. In addition, consultancies had to be planned with iTaukei headsmen on pre-approved days by the community and required *sevusevu*⁹ ahead of the actual consultations themselves (i.e., requiring a formal meeting the week before the community meeting). The cost of conducting consultations is also quite high in these communities.
- (c) **Contention from certain institutions that were not satisfied with the REDD+ process** and in particular the perceived intent of the REDD+ Secretariat and the Government of Fiji to design an FGRM process for REDD+ that could intercede with legally mandated mechanisms already in place. As there is no current REDD+ legislation, enforcement of any FGRM will be problematic. The team experienced undue delays in response from some of the leading institutions critical in the FGRM studies given their core responsibilities and long historical association with matters at stake in the analysis of key FGRM issues. These responses were relevant to planning REDD+ GRMs for the future.
- (d) **Sequencing of analytical studies.** The REDD+ process for assessments was conducted out of order and as a result placed limitations on this research. Ideally, the FGRM consultancy is intended to follow the DoDD, building on the information collected on conflict and potential risk for REDD+ readiness and implementation. As it is the FGRM commenced during the on-going revision of the SESA and at the same time as the start of the DoDD. All studies components are now in concurrent development, albeit in varying progression stages. Use of relevant information from those aspects of the concurrent studies that were intended to be completed prior, therefore impacted the FGRM study.

These constraints were met and addressed as best as possible with additional research, formal introductions from the REDD+ Secretariat for meetings, and an extended timeline for the study.

⁹ *Sevusevu* was often required prior to community consultations in order to secure the goodwill of the community via headsmen, and to explain what the consultation will address (exchange of kava).

3. Governance, Policy, Law, and Management

This section presents a relevant background on the formal system of international laws, guidelines, and standards that are relevant to REDD+ grievances, as well as a history of national policy and regulations on forest and land use and other relevant sectors that will impact REDD+ programming. Land tenure and management are then outlined, pursuant to the application of policies and legislation. Customary law is detailed at the end of this section to address the overlap and sometimes conflict between the formal and informal systems, because within the current policy environment REDD+ is where the two legal systems will converge.

3.1 INTERNATIONAL LAWS AND GUIDELINES

Fiji has ratified four instruments under international law that are related to grievance redress and conflict and has recognized the protection of and respect for the knowledge and rights of indigenous peoples. These conventions are instrumental in respecting the rights of indigenous peoples participating in REDD+ and the protection of flora and fauna in these conservation areas.

3.1.1 International Laws Related to REDD+

ILO Convention 169 on Indigenous and Tribal Peoples (1989)

The International Labour Organization (ILO) is a binding international treaty that regulates different aspects with regard to the rights of indigenous peoples from policy, recruitment and conditions of employment, vocational trainings, education, and communication to land rights.

PARTICIPATION

Fiji ratified the ILO 169 Convention on September 1991.

REDD+ CONTEXT

Fiji's proposed framework for FPIC and benefit-sharing for REDD+ will therefore need to comply with Fiji's international obligations under ILO 169. Fiji's REDD+ Policy states that the country will recognize and be consistent with the United Nations (UN) declaration monitoring of the safeguards for indigenous people's rights. This monitoring could be supported by the Human Rights and Anti-Discrimination Commission, which is responsible for monitoring compliance with international human rights standards and receiving complaints about alleged human rights abuses (s 45, Constitution).

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)

UNDRIP reflects more strongly the rights of indigenous peoples than ILO 169. In this declaration the UN recognizes indigenous peoples as a *separate and distinct group* from the general population and, as such, governments will need to adjust national legislation to accommodate. This treaty promulgates participation of indigenous peoples in decision-making within their livelihood areas, but does not recognize a comprehensive right to remuneration or compensation in the case of economic development.

PARTICIPATION

Fiji is not a signatory, nor has it ratified UNDRIP, but has recognized the protection of and respect for the knowledge and rights of Indigenous Peoples as stated in the Declaration through

policy. This includes full and effective participation of indigenous peoples and other relevant stakeholders and the equitable distribution of benefits to rights owners and the consideration of gender issues.

REDD+ CONTEXT

Consultations regarding the leasing and use of iTaukei¹⁰ land occur between landowners and the TLTB. The iTaukei Land Trust Act (Revised 1985) contains limited provisions requiring the TLTB to obtain the consent of landowners before land can be leased, licensed, or revoked as an iTaukei reserve (s. 14-17). However, Fiji does not yet have a specific law or comprehensive guideline that ensures the full and effective participation of indigenous peoples in relation to all developments, which affect their land and natural resources (i.e., carbon). In progressing towards this goal it must be a priority that there is clear articulation of property rights law followed by a need for public awareness (in order to clarify processes and methodologies) pertaining to the equitable treatment of the nature and extent of customary property. In particular, the assessment of customary rights and interests whose continued practice are likely to be inconsistent to unfettered realization of REDD+ project goals. It is therefore crucial that there is an available pathway for communication to clarify complex reordering and new understanding of property, such as those presented by REDD+ and the possible grievances it will likely present.

The recognition by the Courts for locus standing for representative capacity by authorized individual LoU members to instigate action of malfeasance on behalf of the LoU against agents such as TLTB is progressive in this regard. The decision of the Court of Appeal in the matter of *Narawa v NLTB* in 2007 reinstating the earlier principle of *Waisake Ratu No.2 v Native Land Development Corporation & Anor* CA No 801/1984 is a crucial reinforcement of landowners' position that landowners may not necessarily agree on all principles with that of the developers or agent acting to their benefit (i.e., TLTB) and that they have representative recourse. The recognition of the divisions of operable LoUs in the *mataqali* or *tokatoka* (meaning formal recognition of these entities) renders more power to inform the process by way of extra checks on process to ensure FPIC in specificities of projects such as forest carbon sequestration.

To remedy this, Fiji's National REDD+ Program has supported the development of a national guideline for FPIC and is proposing to trial an FPIC process at the Emalu REDD+ Pilot site. The Ministry of iTaukei Affairs is the lead agency guiding the development of an FPIC guideline for Fiji. The guideline will be used not only for REDD+ activities, but is intended to apply to all consultations with iTaukei resource owners in relation to resource access and development as similar to that proposed for REDD+.

Convention for the Safeguarding of the Intangible Cultural Heritage (UNCSICH) (2003)

UNCSICH is designed to protect intangible cultural heritage referred to as “practices, representations, expressions, knowledge, and skills – as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage” (UNCSICH, 2003). For the purposes of this Convention, consideration is given solely to such intangible cultural heritage as is

¹⁰ “iTaukei” is not precisely defined in the Fijian Constitution (2013), however, reference to iTaukei is made in the Preamble as “the indigenous people (or in relation to land) as...iTaukei ownership of land, unique culture, custom and traditions and language”.

compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development (Article 2).

PARTICIPATION

Fiji ratified UNCSICH in January 2010.

REDD+ CONTEXT

In context of the plurality of register in relation to land ownership systems in Fiji, UNCSICH is relevant because it raises awareness of the different manifestations of cultural property that may be deemed intangible. In Fiji there is no legal framework for customary land ownership, however protections are offered through statute as well as the Constitution of Fiji under the Native (now iTaukei) Lands Act (1978) [Section 3] – “Native lands shall be held by native Fijians according to native custom as evidenced by usage and tradition.” In the context of REDD+, given the inclusivity of customary property and forest as a recognized cultural space the lack of legal distinction has the potential to cause disputes in future.

Convention on International Trade on Endangered Species (CITES) of Wild Flora and Fauna (1997)

The Convention on International Trade in Endangered Species (CITES) 1997 works by subjecting international trade in specimens of listed species to certain controls. These require that all import, export, re-export, and introduction from the sea of species covered by the convention must be authorized through a permitting system. CITES guides development of sustainable forest management policies with regards to conservation of bio-diversity in natural forest and all forest activities that can also have impact on aquatic and marine biodiversity. Each Party to the convention must designate one or more management authorities in charge of administering the licensing system and one or more scientific authorities to provide advice about the effects of any proposed trade on the status of the species.

PARTICIPATION

Fiji accepted the offer to accede to CITES in 1997, thereby recognizing the nations endemic resources and providing an obligatory undertaking for its effective conservation and management. The implementing national law for CITES is the Endangered and Protected Species Act 2002.

REDD+ CONTEXT

As a contracting party to the convention, listing on the International Union for Conservation of Nature (IUCN) Red List of Threatened Species (1964), outlined in Fiji’s Endangered Species Protection Act (2002) schedule, and as identified in Fiji’s Biodiversity Strategy and Action Plan (2007), there are several species of native trees and plants listed under protection of the convention, as well as fauna that are being impacted by logging and other deforestation activities where lack of enforcement is a sizable issue. Fiji is required under the Convention to monitor and identify biodiversity and conduct Environmental Impact Assessments (EIA), which will include any REDD+ activity considerations on eligible conservation site locations

United Nations Framework Convention on Climate Change (UNFCCC) (1992, Rio de Janeiro)

The UNFCCC's ultimate objective is to stabilize GHG concentrations "at a level that would prevent dangerous anthropogenic (human-induced) interference with the climate system." It states that: "such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and to enable economic development to proceed in a sustainable manner" (UNFCCC, 1992). The UNFCCC entered into force on 21 March 1994 and is ongoing today, with the next UN COP23 occurring this year (6 to 17 November 2017) in Bonn, Germany, hosted by the Secretariat of the UNFCCC and presided over by Fiji. At the UN COP23 nations of the world will meet to advance the aims and ambitions of the Paris Agreement and achieve progress on its implementation guidelines.

PARTICIPATION

Fiji ratified the UNFCCC in 1993.

REDD+ CONTEXT

Apart from being part of the global consensus on climate change, Fiji's noted measures taken to fulfill its obligations of the UNFCCC may give rise to opportunities for the forestry sector. Opportunities in carbon sequestration and trading in forest carbon credits from conservation of existing forest or through rehabilitation measures of reforestation will impact REDD+.

United Nations Convention on Biological Diversity (UNCBD) (1992, Rio de Janeiro)

The objectives under this Convention are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding¹¹.

PARTICIPATION

Fiji ratified the UNCBD in 1993 and the Cartagena Protocol in 2003. Fiji joined the Nagoya Protocol in 2014 through accession.

REDD+ CONTEXT

There are two protocols, the Cartagena Protocol on Biosafety (2003) and the Nagoya Protocol on Access and Benefit-sharing (2014), that have relevance for REDD+ programming. The Cartagena Protocol governs the movements of living modified organisms resulting from modern biotechnology from one country to another. The Nagoya Protocol aims at sharing the benefits arising from the utilization of genetic resources in a fair and equitable way. Both protocols address access to genetic resources and the fair and equitable sharing of benefits and have provisions on the protection of traditional knowledge, FPIC, and benefit-sharing.

¹¹ Article 1 of the Convention.

3.1.2 International Guidelines and Standards

It was anticipated that an FGRM could enhance responsiveness during readiness stages and implementation phase with regards to stakeholders' concerns. According to Fiji's Readiness Preparation Proposal (R-PP) documented 22 January 2014, a clearly defined redress mechanism will form part of the country's REDD+ management framework. Further, this FGRM needs to be made available to stakeholders early in the R-PP implementation stages to render ready a framework able to handle feedbacks or complaints that stakeholders may have about REDD+ readiness activities.

The R-PP document highlights the ongoing involvement and continuing roles of the TLTB and the iTaukei Land and Fisheries Commission (TLFC) in the adjudication of customary land disputes. However, it is suggested that dispute resolution processes will need to vary to allow for timely and flexible responses. That said, Fiji's preparation document also acknowledges that any designed FGRM for REDD+ would be assessed for its suitability once the REDD+ implementation framework is clearly defined.

3.1.2.1. *International Guidelines*

FOREST CARBON PARTNERSHIP FACILITY (FCPF) / UNREDD GUIDELINES (2013)

UN-REDD and FCPF established a set of benchmarks and guiding principles known as the Joint UN-REDD/FCPF GRM Guidance. Under this REDD+ framework, a GRM is defined as:

“...organizational systems and resources established by national government agencies (or, as appropriate, by regional or municipal agencies) to receive and address concerns about the impact of their policies, programs and operations on external stakeholders. The stakeholder input handled through these systems and procedures may be called “grievances,” “complaints,” “feedback,” or another functionally equivalent term.

GRMs are intended to be accessible, collaborative, expeditious, and effective in resolving concerns through dialogue, joint fact-finding, negotiation, and problem solving. They are generally designed to be the “first line” of response to stakeholder concerns that have not been prevented by proactive stakeholder engagement.

GRMs are intended to complement, not replace, formal legal channels for managing grievances (e.g., the court system, organizational audit mechanisms, etc.).” (FCPF/UN-REDD, June 2015).

Fiji must adhere to these guidelines in order to be considered fit to participate in REDD+ projects under the FCPF program. Hence, stakeholder consultation that occur for this purpose (including those led under this study) must follow a set of designed principles including the following:

- **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes. Accountability for ensuring that the parties to a grievance process cannot interfere with its fair conduct is typically one important factor in building stakeholder trust.
- **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.

- **Predictable:** providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.
- **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.
- **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake.
- **Rights compatible:** processes are generally more successful when all parties agree that outcomes are consistent with applicable national and internationally recognized rights.
- **Continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.

3.1.2.2. *International Standards*

CANCUN STANDARDS (2010)

REDD+ has the potential to deliver social and environmental benefits that go beyond the reduction of GHG emissions but which may also entail potential risks to people and the environment. These benefits and risks will depend on a number of factors related to national circumstances – such as how REDD+ actions are designed, how successful these actions are in addressing the drivers of deforestation and forest degradation, and the barriers to sustainable management, conservation and enhancement of carbon stocks as well as where, how and by whom these actions are implemented.

In order to protect against these potential risks while promoting benefits, UNFCCC requires the development of a system that provides information on how safeguards are being addressed and respected through the implementation of REDD+ activities. Seven safeguards are in place that must be supported throughout the implementation of REDD+ actions. These are known as the "Cancun Safeguards", and were agreed to at COP16 held in Cancun (2010). An appreciation of the Cancun Safeguards requires that Fiji's GRM must be cognizant of the seven safeguards as highlighted in order to avoid triggering any of the standards set.

This include the following:

1. Actions that complement or are consistent with natural forest programs and various international agreements
2. Transparent and effective forest governance structure
3. Respect the knowledge/rights of indigenous peoples and local communities taking into account international obligations national circumstances and laws and UNDRIP (2007)
4. Full and effective participation of relevant stakeholders in particular indigenous peoples and local communities

5. Ensure actions are not used for conversion of natural forests but instead incentivize protection
6. Address risks of reversals
7. Reduce displacement of people

The application of these safeguards can help to reduce potential risk and conflicts for REDD+ around issues such as customary tenure, property rights, rights of indigenous and local communities (FPIC), corruption, food insecurity, threats to biodiversity, conversion of natural forests to plantations or other land uses, displacement of deforestation to other areas.

REDD+ SOCIAL AND ENVIRONMENTAL STANDARDS (SES) (2012)

The REDD+ Social and Environmental Standards (SES) are required standards for all forms of fund-based or market-based financing (Swan and Walcott, 2017). The primary role of REDD+ SES is to provide a mechanism for country-led, multi-stakeholder social and environmental performance assessments of REDD+ program design, implementation and outcomes, and to enable countries to show how internationally and nationally defined safeguards are being addressed and respected. The standards cover all social and environmental elements of the “safeguards” agreed under the Cancun Standards (2010) and are intended to complement other social and environmental approaches, such as the World Bank’s SESA and UN-REDD tools.

Fiji’s REDD+ project development, as evidenced through progressive findings of the on-going SESA study, reinforces that social and environmental standards are designed to assist governments in the satisfactory implementation of REDD+ process through safeguard standards. These are designed, as a management tool that accommodates multi-stakeholder process with the policy aim to promote sound management of the environment while balancing social and economic development needs. As such, SES allows for the management of environment by linking activities and perspectives of different stakeholders with equitable sharing of benefits and costs through the use of a variety of tools rather than following a single fixed prescriptive approach (R-PP, 2014)

Governments can apply these standards to improve anticipated outcomes of REDD+ programs through the assessing of potential impacts, both positives and negatives of the proposed REDD+ strategy, upon which the basis of future Environmental and Social Management Framework (ESMF) will be developed. It is anticipated that the standards from SESA will be developed in tandem with strategic options through national dialogue process, which will culminate in the provision of cumulative assessments of potential impacts of REDD+ resulting in the different strategy options.

Accordingly, a national system will be devised as anticipated through the formulation of a system that ensures that the policies, laws, and regulations that set out safeguards for REDD+ (including a FGRM) enables affected stakeholders to receive feedback and responses to the implementation of safeguards. This must undoubtedly identify and use processes for effective resolution of grievances and disputes relating to the design, implementation and evaluation of the REDD+ program. These include, amongst others, rights to lands, territories, and resources relating to the implementation of REDD+ program.

3.2 NATIONAL LAW, REGULATION, AND POLICY

This section outlines the context for formal and informal forest and land management systems and law on which the REDD+ program is built. Other relevant sectoral laws and policies that may influence REDD+ are also included, but forestry and land use are recognized as the sectors with the greatest impact on REDD+ implementation. A historic overview is provided in order to provide context of tenure and an understanding of how policies have impacted or created grievances as they exist today (see *Table 5*).

Table 5. Relevant REDD+ related legislation, regulations, policies, and guidance

Legislation	Regulations	Policies	Guidance
Draft Forest Bill (2016)	Draft Harvesting Regulation (2017)	Agriculture Sector Policy Agenda (2014)	Sandalwood Manual (2015)
National Research Bill (2016)	Preservative Timber regulation (1996)	Draft Energy Policy (2013)	Nursery Manual (2015)
Land and Water Resources Management Bill (2016)	Forest Fire Prevention Regulation Cap 150 (1972) – Revised (1985), Repealed by the Forest Decree (1992)	Climate Change Policy (2012)	Green Growth Framework (2014)
Fiji Mahogany Industry Decree (2010) – Replaced Mahogany Act (2003)	Forest Guard Regulations (1975)	REDD+ Strategy (2012)	Clean Development Mechanism (CDM) Policy Guideline (2012)
Land Use Decree (2010)	Sawmillers Regulations (1968)	REDD+ Policy (2011)	Forest Harvesting Manual (2010)
Bio Security Promulgation (2008)		Fiji National Biodiversity Strategic Action Plan (2007)	Forest Harvesting Code of Practice (FFHCOP) (2007)
Environment Management Act (EMA) (2005)		Forest Policy (2007)	
Forest Decree (1992)		Forest Certification Policy (2007)	
Fiji Pine Decree (1990)		Forest Plantation Policy (2007)	
iTaukei Land Trust Act (1985)		Rural Land Use Policy (2006)	
Native Land Trust Act (1978) – now iTaukei Land Act		Draft Water Policy (2005)	
Agricultural Landlord and Tenant Act (1967)			
Mining Act (1966)			
Forest Act (1953)			
Land Conservation and Improvement Act (1953)			
State Lands Act (former Crown Lands Act) (1946)			
Fisheries Act (1942)			

CUSTOMARY LORE

Customary systems are also included in this section because of the application of both systems in the facilitation of access to land and resource developments on customarily owned lands in Fiji. Whilst the two systems function independently, it is observed that an innovative approach is required when the two are conflated, which will occur under REDD+.

3.2.1 Forestry and Land Use

3.2.1.1. *Forest and Land Use Policy*

Fiji's first national forest policy was adopted in 1950. This was further progressed into the **Forest Act (1953)**, which was purposely driven towards the commercial exploitation and production of forest products to boost the nation's economy. The **iTaukei (former Native) Lands Act (1978)** also recognized forest activities, advocating for productive use of the land with minimal attention to soil and water conservation. Given the passage of time and the changing nature of commerce in light of insatiable demand of resources both on local and global market, a fresh outlook considering conservation and sustainable management was perhaps crucial in warranting much needed legislative changes.

The Forest Act was later replaced by the **Forest Decree (1992)**, which holds very limited provisions and focuses on timber extraction. The Decree does not apply to mahogany plantation land; therefore activities related to the management of mahogany are outside the mandate of the Department of Forests (this can give rise to potential conflict in the management of forest areas, especially protected areas). The **Forest Policy Statement (2007)** promoted a shift to a sustainable forest management regime that considered from climate change and the impacts of globalization and market forces, from the Decree's previous emphasis on commercial exploitation of timber resources. This policy shift reflects the multiple uses and purposes of forest management in light of recent developments, such as the preponderance of sustainable environment practices and global concern for the environment. This includes sustainable forest management, conservation, and the use of forests as carbon sinks. The Policy recognizes the economic potential of the sector as a major source of foreign exchange and aims to develop the sector in a way to ensure this is maintained. The Policy promotes conservation, rehabilitation, and sustainable forest management in alignment with the **Rural Land Use Policy (2006)** that stresses the social role of forestry in creating a sustainable rural environment, employment and income opportunities. Both of these policies had implications for REDD+ activities as they recognize the need to engage and involve local stakeholders and landowners in the sustainable management, protection, and rehabilitation of resources. The Land Use Decree (2010) provides more expressed for purposes of land use, through mining, agriculture, and tourism activities. There is opportunity to obtain a lease for the purposes of conservation efforts (REDD+) under this Decree although this remains to be explored.

The most recent proposed bill on forest governance that will have the biggest consequence for REDD+ is the **DRAFT Forest Bill (13) (2016)**, which proposes to repeal the Forest Decree when passed. As proposed, the Bill (all nine parts and 54 sections) presents a more comprehensive legislation for forest intent on resolving the deficiency with the existing Decree, relating to forest management, licensing, and harvesting. The draft captures a synoptic adaptation regarding legislative coverage of changing worldviews towards sustainable management of

forests and pertinent issues therein. The Bill purports to enable the implementation of the Forest Policy and close the gap between Fiji's forest policy and legislation.

The Bill does not offer a working definition of *carbon ownership*, although ancillaries such as carbon credit, forest carbon, carbon stock, and emissions are defined. The facilitation of carbon trading under REDD+ is specifically addressed, as is the transfer of carbon rights under [s.33]. There is a possibility that strategy options from REDD+ studies currently underway may receive comprehensive coverage of the highlighted issues regarding the articulation of forest carbon as "property" through regulations provisioned under [s.50]. Carbon ownership therefore may be presumed by construction when relevant sections are read together.

The Bill requires any person setting up or seeking to implement projects, programs, and activities in the Fijian forestry sector involving transfer of forest carbon property rights, under a Clean Development Mechanism (CDM), REDD or REDD+, shall be required to:

- (a) make an application in writing to the Conservator prior to the
 - i. implementation of the project, program or activities;
 - ii. settlement of any contractual arrangements between buyers, sellers or brokers of carbon units; and
 - iii. actual transfer of carbon property rights in a carbon market transaction; and
- (b) ensure compliance with the Fiji REDD+ Policy.

With respect to forest carbon trading, the Bill places all of Fiji's forest carbon projects through the Board [s.6] to appoint a Forestry Licensing Committee under [s.10] pertaining to licensing, generation, validation, verification, and registration of Fiji forest carbon certificates, standards, and procedures for project implementation and approval under REDD+, which is covered by way of regulations under this Bill.¹² It is hoped that the existence of a 10 membership Board, comprised of representatives of sectorial leading players such as TLTB and MoF [s.6], in regards to forestry and licensing and other matters including carbon trading, may allow for the logical progression of a FGRM under this Bill.

3.2.1.2. *REDD+ Policy*

The REDD+ Policy (2011) supports the current Forest Policy's and the Draft Forest Bill's strategic objectives to contribute towards the development of a national carbon trading policy and to strengthen the capacities to facilitate access to all available international financing mechanisms such as the opportunities in the context of the UNFCCC. Additionally, CDM have developed policy guidelines (2012) by the National Carbon Trading Technical Team to support climate change mitigation efforts. The policy guidelines are intended to act as an aid in administering, managing, facilitating, and controlling CDM processes in Fiji.

¹² FELA Law and Policy Analysis under the Drivers of Deforestation and Degradation REDD+ activity.

GRIEVANCE PATTERNS AND TRENDS

At the time of this study, the Draft Forest Bill is progressing through Parliamentary processes. According to the coverage of the Bill, it is still unclear who owns forest-sequestered carbon. Further, the Bill does not provide an indicative framework that addresses the inherent dualism of customary and western models of property in customarily owned resources. This will impact the valuation of carbon in future. Furthermore, the Bill does not offer clarification on how carbon might be legally accessed by third parties wishing to own it if it is on land they are leasing. Without legal elucidation the ownership issues regarding carbon will be a contentious issue and will incubate disputes in the future.

Overall Fiji's existing REDD+ Policy provides guidance for the facilitation of REDD+, but as it is, it remains largely a statement of intent, not supported by legislation. The absence of law means that enforcement will be problematic without option for legal sanctions, especially in the definitional ambit of its operations in relation to other existing laws and regulations within the resource and development sectors.

Furthermore, the absence of a proper national land use plan offers fundamental challenges to implement of REDD+ and other resource allocation activities at the local-level given the lack of comprehensive overview. Critical considerations that are contingent to long-term grant of tenure, such as a resource audit to determine availability of reserved arable land for future maintenance and support of the LoU may be overlooked. This undoubtedly will become an issue for REDD+ project sites, where land use planning is needed to aid communities in proper management of their land for conservation, agriculture, and plantation.

3.2.2 Protected Areas and Conservation

Protected area laws can play an important role in achieving emission reductions and removals from the forest sector by providing long-term legal protection for forest areas that are set aside for conservation. Fiji does not have a designated national law for protected areas, although the Forest Policy (2007) identifies as one of its main actions needed is to create a protected area system for the conservation of representative sites of Fiji's native forest types. Existing laws provide some options for protecting and managing forest areas, but as a whole these only provide limited protection for conservation purposes. For example, the **Land Conservation and Improvement Act (1953)** was intended to make provisions for the conservation and improvement of land and water resources, however it lacked the necessary personnel and financial resources to be effectively enforced. As such, the **Land and Water Resources Management Bill (2016)** is intended to replace the Act, including provisions for the management, conservation, and improvement of land and water resources in Fiji.

In 2014, Fiji developed and launched the **Green Growth Framework** for Fiji; a government blueprint for sustainable development. The Framework promotes a sustainable relationship with nature building on the foundation for a clean and healthy environment as laid out in the Fiji's Constitution (2013). In support of REDD+ *Thematic Area 3: Sustainable Islands and Oceans* recognizes an effort to encourage afforestation, reforestation, and conservation of natural forests in Fiji. In particular, the framework recognizes that efforts of REDD+ and protected areas management are contributors to sustaining forest resources and recommends the urgent need to look at innovative benefit-sharing arrangements as an option for formal leasing to encourage reforestation and planting and encourage ownership and partnership with communities. Some of

the key strategies relevant to REDD+ activities include the goal of developing a land use plan (to coordinate and manage competing demands for land) and the development of a natural resource management (NRM) system that is inclusive and integrated.

GRIEVANCE PATTERNS AND TRENDS

The mooted change in terms of the Land and Water Resources Bill (2016) and the Green Growth Framework is a step in the right direction, but cannot be expected to address all deficiencies of the current Act that is to be replaced. There must be the assurance of adequate funding and technical capacity of personnel to oversee implementation and institutional support. Failure to do so may add an extra layer of complexity to the visual recognition of ongoing grievances without meaningful mechanisms to address the issues and bring closure to parties involved.

3.2.3 Agriculture

The Agricultural Land and Tenant Act (ALTA), 1976 was introduced to rationalize the leasing of all state, freehold, and customary land for agricultural purposes outlining the rights and responsibilities of both landlord and tenants. Principal provisions include: security of tenure, control on rents, payment of compensation by landlords for improvements made by tenants, application of certain statutory conditions to agricultural tenancies, statutory periods for reassessment of rent, a tribunal to which a landlord and tenant may apply in the case of dispute, strict limitations on and control of share cropping, and damages to the landlord in the case of deterioration or degradation to the land. This Act did not account for the unsustainability of land use practices, thus the 2020 **Agriculture Sector Policy Agenda “Modernizing Agriculture” (2014)** was devised to address the lack of awareness about the interdependence of conservation and development. Whilst the Agenda did state a goal of more sustainable agriculture practices, it did not reach far enough to include climate-smart or environmentally friendly agriculture practices.

GRIEVANCE PATTERNS AND TRENDS

The ALTA initiative was predominantly intended to increase agricultural production. Since its passage, ALTA’s comprehensive legislative support includes a Tribunal grievance process designed to manage issues of farmer and millers in terms of sugar cane production. ALTA leases are a special type, tantamount to some sort of subsidy to what was understandably Fiji’s main economic drive after political independence in sugar cane. Mechanisms of ALTA leases including terms, lease allotment sizes, ground rental, and adverse possession are all facilitated through the Tribunal.

In the early 2000s, ALTA leases began to expire on customarily held land and landowners were not keen on renewing leases, citing the extractive nature of capped rental under ALTA. These rental terms offered up to 6% of unimproved capital value, which is a hypothetical basis of value determination, and is not pegged according to market forces of willing buyer/seller paradigm. Wording in the rental applications were vague and not equitable to LoUs, but always to the farmers benefit, with wording such as “up to” 6%, where individual farmers with the wherewithal had intervening lawyers to pay anything “below” 6%. The economy of customary land as utility provided for ALTA leases therefore was not a good investment for customary LoUs and is still a source of contention today.

3.2.4 Environmental and Biodiversity Protection

Fiji has two primary pieces of legislations that protect its environment and biodiversity: the **Environment Management Act (2005)** and the **Endangered and Protected Species Act (2002)**.

Under the Environment Management Act (EMA) the Conservator of Forests (an approving authority) is required to direct that an EIA process be carried out for all commercial logging operations (s. 27, Schedule 2). REDD+ activities could trigger the requirement to conduct an EIA if the REDD+ activities could challenge or contravene established customary controls over the use of natural resources, or where an EIA is required as a condition of international or local finance [Sch. 2(u) and (w)].

Fiji's Endangered and Protected Species Act works hand-in-hand with the National Biodiversity Strategic Action Plan to protect and encourage customary use of biological resources in accordance with traditional practices that are compatible with conservation or sustainable use requirements as stipulated under Article 10c of the UNCBD (IUCN, 1994).

GRIEVANCE PATTERNS AND TRENDS

Fiji has some well-written and thorough contemporary pieces of legislations regarding the protection of the environment and biodiversity. Legislative intentions are undoubtedly well meaning and within the contemporary governance expectation globally. However, the extent in which the legal provisions and supporting policies and codes are to be realized depends on technical capacity and institutional funding to implement and monitor the laws.

According to on-going research produced for the World Bank Fiji's SESA, there are gaps between theory and actual practicality of what is happening on the ground. Logging under Fiji's harvesting code is a case in point, where there are different interpretations on how laws are to be applied by timber companies and forestry officers. These discrepancies often lead to compromised application, far from the intention of the law. Overtime, if unchecked such compromised application becomes acceptable as it ossifies into the unofficial acceptable means to an end albeit unlawful. This has become a major source of conflict between landowners and logging contractors where the power balance in the communities changes through succession.

The question of the employment (or lack thereof) of EIAs and its strict monitoring of conditions is similar and can be somewhat perfunctory given the severe lack of resources and personnel to attend to complaints from landowners, especially in maritime and rural Fiji. In the absence from official monitoring, landowners and investors can come to *vakavanua* arrangements beyond the terms of the EIA thus compromising what was agreed to in the first place.

3.3 LAND TENURE AND MANAGEMENT

3.3.1 Land Tenure

Fiji's earliest recorded reference to forestland tenure predates the establishment of the formal Fijian Government in 1874, where local and foreign interests participated in the commercial sandalwood trade in Bua. As such, there were no formal property titles in existence, and very little is known of the land typology other than it was held in customary form. The constituent elements of ownership rights and interests of the tenure types involved were also poorly understood. However, early settler advisors did recognize customary connection between lands

hosting sandalwood resources and the traditional authority of incumbent chiefs (Fonmanu, et al., 2003). Fixed by the British at inception of sovereignty in 1874, Fiji currently has three land tenure types: State (Crown), Private Freehold (fee simple), and Customary (iTaukei), which are still held today. A brief summary of the various typologies background is provided in *Table 6*.

Table 6. Land typology

Land Typology	National Composition	Brief Description
Customary	88-90% percent	Land held under customary ownership and registered under LoUs. iTaukei land is further partitioned into two categories: (1) reserved land for “maintenance & support” to service future needs of members, and (2) iTaukei land which can be accessed through leasing regime of the TLTB.
State	2-4%	This also includes all foreshore land below the high water mark, soil under Fiji waters, and beds of navigable rivers and streams. As in the case of customary land, State land cannot be bought or sold, but can be leased – granted and managed by the Director of Lands.
Freehold	8%	Private title to land is guaranteed by virtue of Registration under the Torrens System. Land can be purchased, transferred, or leased through negotiation by the parties under market conditions, but is subject to the <i>Land Sales Act (CAP 137)</i> . Amongst other restrictions, the Act limits how much land can be purchased by individuals who are not Fijian residents and by companies not wholly owned by Fijian citizens.

3.3.1.1. Forestland Types

The Forest Policy established the categorization of forestland types or permanent forest estate (PFE) to ensure the sustainable management and protection of its forests.¹³ The PFE classification are: (i) multiple use forest; (ii) protected forest; and (iii) plantation forest. In order to establish the PFE the Forest Policy identifies the need to carry out a national forest inventory and land use planning as key actions, to be carried out by the Forestry Department together with the Ministry of Agriculture (MoA). The forest inventory will take into account the entire forest ecosystem, not just forest resources, and assess biodiversity, environmental values, and non-timber forest products. The national forest inventory will be used to identify areas for protection, rehabilitation and sustainable management for the PFE providing a baseline for sustainable forest management.

Given the percentage distribution of tenure, it is noted that, major forest plantation schemes undertaken by the Government of Fiji (pine and mahogany) are premised on iTaukei land held under long-term leases. These planting schemes began during the late 1960s. Sanctioned by the government, these projects were implemented nationally with full support of the relevant ministries, institutions, and boards. Some LoUs, subject to land availability, opted for private forest plantation on their own land, a venture that in most cases required little external approval, other than the consensus of the members of the LoU.

MANGROVES

Given that nearly 90% of forested land in Fiji is located on iTaukei land, this study primarily focuses on the legal framework that applies to iTaukei land and does not address the framework

¹³ These PFE’s are captured in the current Draft Forest Bill, but are not recognized categories in law yet.

for REDD+ relating to State or Freehold land. It is noted however that Fiji has included its mangrove forests under its REDD+ Program because of its important role in the livelihood of local coastal communities. Under the Draft Forest Bill, mangroves are classified as protection forests, where “protection forests” means “forest areas which are maintained under permanent forest cover, especially dedicated to the protection and maintenance of biological diversity and ecological integrity together with values such as water supply, soil conservation, cultural, heritage, or other historical significance, or scenic appeal, where forest use, if any, is restricted to harvesting” [s.2, Draft Forest Bill 2016].

The governance of mangrove is complex involving the Department of Lands, the MoF, the Ministry of Fisheries, as well as customary rights of adjacent LoU. Mangroves in Fiji are owned by the State, as mangroves are found on foreshore land, including the carbon stored in them. The Director of Lands can grant a lease to use foreshore land, but only with the approval of the Minister [s.21, State Lands Act]. The lease must also specify the purpose for which the foreshore is to be used and the lessee is then entitled to use the land for that purpose [s.22, State Lands Act], as such this mechanism could potentially facilitate REDD+ activities.

GRIEVANCE PATTERNS AND TRENDS

Current legislative protection pertaining to mangroves is through its association through shared responsibility with three pieces of legislation as mentioned above. If the current trend of shared responsibilities of mangroves continues with State Lands, Fisheries, and Forestry compartmentalizing their respectful areas of interests, mangroves per se will be reduced to the tragedy of the commons resource. The “Review of Policy and Legislation relating to the Use and Management of Mangroves in Fiji” (2016) highlights these existing deficiencies and proposes how best to proceed if sustainable management of mangrove resources were to improve. As it is, given the plethora of interest on mangroves, delay in proposed legislative sanctions on mangrove protection is likely to see worsening, but continuing trends of conflicts in its use from traditional customary fishing rights owners, other users, and the Ministry of Lands and/or other government services agencies. In the long-term, absence of specific legislation and specific policies on mangrove will have cumulative deleterious impact on coastal communities as the Environmental Management Act and State Lands Act does not have provisions for sustainable management of mangroves. Given the status quo of fragmented policies and enabling law affecting sustainable use and management of mangroves, a centralized coordinating agency may be a temporary fix to address lack of public understanding of the processes involved in dealing with mangroves sustainably as a resource. The implementation gaps at this stage are too big, which at all costs must be addressed through a satisfactory level of funding and increase of skilled personnel.

3.3.2 Forest and Land Management

Customary land (where REDD+ activities are most likely to take place) in Fiji is administered and managed by the TLTB, aided through verification and validation process through the TLFC, and the Land Bank (Department of Land Use).

3.3.2.1. Administration

The TLFC has the mandate to determine disputes relating to customary boundaries, including disputes as to the headship of any LoU, which may be appealed to the iTaukei Lands Appeals Tribunal [s.6, 17, iTaukei Lands Act, Cap.133]. Forest access and ownership rights to forest are in contestation in relation to boundary disputes, where the role of the TLFC is more prominent.

Customary titles to land were recorded, boundaries demarcated and traversed, and mapped drawn during the work of the Native Lands Commission (now TLFC). As such, these disputes are often settled with some certainty and predictability given that issues of ownership are deduced from the recorded facts from the Commission ably aided by genealogies of living members of each LoU in the recording of the Register or “Red Book” (VKB).

3.3.2.2. *Leasing and Licenses*

Per the Forest Decree, the felling or taking of timber from all types of land tenure is prohibited without a license [s.8 and 28]. The Decree provides for two types of license:

1. **Timber license:** not exceeding 10 years (in practice most are renewed annually)
2. **“Forest concession” timber license:** The Conservator of Forests may issue timber licenses for a period of 10 to maximum 30 years, under certain conditions. These are sometime referred to as *forest concession licenses*, “where the applicant undertakes to establish and operate processing facilities for the timber authorized to be taken under the license”.

There are currently only two forest concessions in Fiji, both on Vanua Levu, which together cover 14.9% of Fiji’s total land area (Trenorden, 2013). Most timber extraction takes place under annual licenses. The widespread use of annual licenses for timber extraction is failing to facilitate long-term management and investment in Fiji’s forests. Consequently, most development on iTaukei land takes place either under lease or license. iTaukei land cannot be bought or sold (except to the State) and in Fiji, forests are owned by the person or people who own the land (Trenorden, 2013). By contrast, where land has been leased for plantations, the lessee will own the plantation forest although the landowners (lessor) still own the land.

LEASING THROUGH THE LAND TRUST BOARD

In terms of land administration and governance, the TLTB, formerly known as the Native Land Trust Board, is mandated to administer and control all iTaukei land in Fiji for the benefit of customary landowners (with the exception of iTaukei land that has been deposited in the Land Bank under the Land Use Decree), although ownership remains with the customary owners [s.4, iTaukei Land Trust Act, Cap.134]. The Board can grant a lease for up to 99 years, whereas land leased under the *Agricultural Landlord and Tenant Act* can only be leased for up to 30 years.

All leases are recorded in the “Register of iTaukei Leases” kept by the Registrar of Titles [s.10, iTaukei Land Trust Act]. Before the Board can grant a lease or license it must prove that the land is not being used by the landowners and will not be required for their use, maintenance, or support [s.9]. There is no express provision in the iTaukei Land Trust Board Act that requires the Board to obtain the consent of landowners *before* allowing their land to be leased or licensed, unless the land is iTaukei reserve land [s.16(2)]. This has caused conflict, given that the lawful execution of its trustee powers by the TLTB vests itself with the control and administration of all native lands in Fiji by virtue of [s.4, Cap.134]. The operation of this section and its impact on all customary land in general renders management power to the TLTB, creating the perceptive implication of *disempowerment* to LoU.

iTaukei lands falls under two categories: (1) reserved lands for maintenance and support of LoU and (2) non-reserved land, which can be leased by TLTB subject to the LoU having no immediate requirement for its use. Reserved lands cannot be dealt with by TLTB until consent is provided by 60% of the LoU that it be “de-reserved” and then leased to investors on a long-term

basis. What is typically not expressed as part of the consultation with the LoU is that once the lessee is unable to meet contractual obligations under the lease agreement, the land does not retain its designation for future maintenance and support, but is available to be leased to willing third parties without the consent of the LoU.

LEASING THROUGH THE LAND BANK

Since 2010, alternative long-term leasing of iTaukei land can also be facilitated under the “Land Bank”. The Ministry of Lands and Mineral Resources is responsible for all state lands, including mangroves, and houses the *Land Use Unit*, which is in charge of the Bank. The Bank, which includes iTaukei as well as State lands, offer access to land available for lease and development activities (contingent on land availability), requiring LoU to deposit land and subsequently accept, by the Minister, under the requirements of the Bank as “designated” land. Although the Land Use Unit can provide a higher rental return to landowners because it does not charge an administrative fee like the TLTB, so far only a relatively small volume of land has been leased through the Unit (Trenorden, 2013).

It would be possible to use the leasing arrangement administered by the Land Use Unit to facilitate REDD+ activities, however the reservation in pledging land under the Bank is due to the extinguishment of the ability of the LoU to legally enforce its rights against the State [s.15, Land Use Decree 2010, Vol.11, No.78]. Any proceedings brought under [s.15] must be immediately referred to the Chief Registrar, who must issue a certificate terminating proceedings [s.15(2) and s.15(3)]. During the terms of sublease of the land by the State, the LoU must continue to pay rates and taxes [Land Use Regulations, Vol.6, No.12, Reg.4, Schedule 2, Form 4, Clause 4(a)]. In addition, the LoU may not terminate or assign the lease [Schedule 2, Form 4, clause 5(c) and 5(d)(i)], while the State must promptly pay all rent received to the landowner’s trust without deduction [Reg.17(c)]. The LoU constructive involvement in the negotiation and the final analysis of the economic benefits derived from their land is unclear.

Forest concessions

A concession (timber license) is usually held by individual landowners or by a LoU, in which case the incorporated body leases the land from the landowners through the TLTB. Under this agreement, the logging company becomes responsible for implementing the terms of the concession, and the concession holder pays the landowners an annual rental fee in addition to royalties. This is another possible mechanism that could be used to facilitate REDD+ activities.

Plantations

Large-scale plantations were first established in the early 1960s for pine and mahogany. Fiji Pine Limited was created in 1991 and owns the largest pine plantation areas in Fiji. Fiji Hardwood Corporation Limited was created in 1999 and owns the majority of mahogany plantations in Fiji. Pine plantations are still regulated under the Forest Decree, whereas Mahogany plantations are regulated separately under the Mahogany Industry Development Decree (2010) and the Mahogany Decree (2013), which shifted control and administration of mahogany plantations from the owner and the Department of Forests to the Mahogany Industry Council regardless of any of the formal arrangements that may have been secured before 2010. Mahogany trees are also subject to the control of Fiji Hardwood Corporation Limited and therefore management of the trees may conflict with other forest management initiatives by others within the same area.

One of the impacts of the current Decree was the “de-reservation” of any mahogany plantation reserved in a forest or nature reserve, which effectively enables logging to take place.

Most commercial plantations are established on land leased under the iTaukei Land Trust Act. In cases where community plantations are established on communal land this is usually facilitated on customary understanding without the need for any binding agreements. As such, ownership of trees is separate from ownership of land in forest leases. Where the TLTB has granted leases and licenses relating to forest over iTaukei lands these interests take precedence over customary arrangements informally made by LoU and other community decisions for access and development of forest products.

Customary rights

The Forest Decree protects the customary rights of individual landowners to cut or remove forest produce from iTaukei land without a forest license, although where the land is leased the consent of the lessee will still be required [s.21]. Under this provision, forest products can be taken in accordance with custom if it is necessary for the construction of a dwelling house, the construction of village infrastructure or for firewood for domestic purposes (although this does not apply if the land has been declared to be a forest or nature reserve) [s.21].

GRIEVANCE PATTERNS AND TRENDS

It must be stressed that customary tenure, is not inimical to development and economic development. Furthermore, customary tenure, as it is proven in Fiji, can offer certainty for long-term business ventures through leasing regimes of the TLTB and, more recently, the Land Bank. However, operationalization of leasing regimes that straddle the compromised intersection of both customary and common law property is unique in that it must exist near the fulcrum point to balance both paradigms.

This has been the intent in Fiji in the facilitating of leases of customary land, however the reality of implementation exposes gaps. If unresolved this will result in more entrenched conflicts. The leasing regimes as they currently exist provide different procedures and basis of financial return to customary owners. The variations in valuation methodologies upon which rentals are derived by these two institutions are poorly understood, especially when both lands are in the first instance customary. Further procedural rights of customary owners in some cases are truncated or diminished therefore having adverse effects on landowner/investor relations in some instances. Unless there is an attempt to harmonize service delivery that will render consistent outcomes and respect the rights of all parties, conflicts are bound to continue.

3.4 GENDER AND SOCIAL INCLUSION

Gender and social inclusion considerations (youth, handicapped, disabled, and other vulnerable populations) are fundamental to ensuring that a potential FGRM will not only be assessable by all aggrieved parties, but ensures that the mechanism is effective for the immediate as well as the long-term. Presently, gender and social inclusion considerations are manifested in the land use and forestry sector in both international and national policies.

3.4.1 Gender

3.4.1.1. International Policies

Fiji is signatory to the *Convention of Elimination of Discrimination Against Women* (CEDAW), is committed to the *Beijing Platform for Action* (MWCPA, 2015), and is committed towards achieving Sustainable Development Goal (SDG) by the year 2030 on gender equality. The fifth SDG aims to achieve ending all forms of discrimination against women and girls as a basic human right and as a crucial element for accelerating sustainable development. It has been proven time and again, that empowering women and girls has a multiplier effect and helps drive economic growth and development across the board. Fiji is also committed towards achieving the fifteenth SDG on “Life on Land” is gender crosscutting. Human life depends on the earth as much as the ocean for sustenance and livelihoods. Plant life provides 80% of our human diet and we rely on agriculture as an important economic resource and means of development. Forests account for 30% of the Earth’s surface, providing vital habitats for millions of species and important sources for clean air and water; as well as being crucial for combating climate change.

3.4.1.2. National Policies

In its People’s Charter for Change, Peace, and Progress, the Fijian Government has established “11 Strategic Pillars” to guide its economic development (MWCPA, 2015). Gender mainstreaming is included in three of its strategic pillars:

- **Pillar 4** – Enhancing public sector efficiency, performance, effectiveness of service delivery,
- **Pillar 5** – Growing the economy while ensuring sustainability, and
- **Pillar 8** – Reducing poverty level to a negligible level by 2015.

Fiji has also developed a “Women Plan of Action” (2010 – 2019) in response to its commitment to the Beijing Platform for Action. Fiji, together with other Pacific Islands Nations, has committed itself to the advancement of women in its Pacific Platform for Action (2005 – 2015). Thus, the Fiji Government has committed itself to gender mainstreaming in all its public sectors’ efforts. The National Gender Policy (February 2014) promotes a society free of all forms of gender based discrimination and ensures that both men and women participate fully in and enjoy equitably the development processes and outcomes. The Policy aims to: (a) improve the quality of life of men, women, boys and girls, at all levels; (b) reinforce the multifaceted links between gender equality and sustainable development goals in national development; (c) promote active and visible gender mainstreaming in all sectors; and (d) remove all forms of gender inequality and gender discrimination in Fiji. Fiji’s MoA and MoF agendas integrate gender considerations into their core mandates and programming that will impact REDD+ activities.

MINISTRY OF AGRICULTURE

The MoA stated goal is to “Build Sustainable Communities”, alluding to the rural and urban communities because it is the national government’s primary responsibility to ensure food security alongside the primary economic goal of increasing income and employment opportunities in the rural communities. The core national agriculture development objectives are:

- Build modern agriculture in Fiji as an organized system of producing, processing, and marketing crops, livestock, and aquaculture products.

- Develop integrated production, processing, energy, and transport infrastructure support system for agriculture.
- Improve delivery of agriculture support services.
- Enhance capabilities to generate fund and secure investment through foreign investment, public private partnership, and other innovative business arrangements.
- Improve project implementation and policy formulation capability within the MoA and its partner institutions.

It is assumed that the MoA's core goal and objectives have provided the platform for gender mainstreaming better serving male and female farmers.

MINISTRY OF FORESTS

Under the Forest Policy Statement, men and women are encompassed in the words 'forest resource owners' and 'community participation'. There are no specific references in the Policy to gender roles of community members, who not only own the forest and its resources but also utilize the forest and its resources as sources of their livelihood.

3.4.2 Social Inclusion

There is a decision-making process in iTaukei communities with regard to REDD+ initiatives. The village chiefs and heads of the various *mataqali* (clan) are the decision makers in the iTaukei village. Women are not often involved in the final decision on any major communal activity, but their voices are heard when the chief or the elder chairing the village gathering requests their input during the deliberation process when the final decision is made. However, that does not prevent them from reiterating their issues in the community meeting. Women who marry men of LoU that are outside the concerned village often do not have a voice at all.

Inclusion of men alone in the REDD+ project may result in lack of support from women who are affected by the initiatives. Male development agents who assume that forests are men's sole responsibility are typically at the core of this affliction. The timing of project consultations can also cause create absence of participation, where women are not able to attend due to the burdening of one of their assumed *gender responsibilities*¹⁴. The overburdening of one of these roles will consequently impact their ability to maintain the others.

Women are also users of forest resources and have a right to know what is happening to their forests in terms of development. Gendered division of labor demonstrates that women harvest forest resources as source of their livelihood (e.g., tree fruits and nuts to sell in markets, tree barks, plants for herbal medicine), as such they should have a voice in how forest and forest by-products are used within and by their communities.

Youths, whether male or female, also have roles in their respective communities. Typically male youths assist their parents in certain chores, such as livestock husbandry and the collection of firewood. Female youths typically assist their mothers in welfare and communal roles (e.g.,

¹⁴ Women's multiple responsibilities may include: reproductive (child bearing), welfare (family care), productive (e.g., harvesting agriculture, domestic work), and communal (community activism).

domestic chores and looking after the elderly). Both male and female youths also utilize the forests through vocation, such as tour guides in the eco-tourism industry. Thus, the youths have a say concerning forests, especially when they turn 18 years of age.

The disabled members of the LoUs currently do have a voice regarding land use and management, as their vote counts towards the 60% of the LoU members registered in the VKB to require for consent. If elderly or disabled members are incapacitated and unable to attend meetings they are consulted within their homes.

Indo-Fijian communities, while not land owners, are also impacted because they lease land and have a structured mechanism for resolving issues pertaining to land-use or livelihood. If the land issues or land disputes are not able to be resolved internally, the police department is consulted. Depending on the issue, the police refer the matter to the appropriate department to act on.

3.5 CUSTOMARY LORE FOR LAND AND PROPERTY

Since it gained independence from the United Kingdom in 1970, Fiji has had various constitutions as well as some periods without a constitution during military rule. On 7 September 2013, a new Constitution came into force (s 162, Constitution of the Republic of Fiji). The new Constitution reaffirmed the already well-established position concerning customary land in Fiji, namely that “The ownership of all iTaukei land shall remain with the customary owners of that land and iTaukei land shall not be permanently alienated, whether by sale, grant, transfer or exchange.” [s.28]. The State can compulsorily acquire land, but only if it pays compensation on an agreed or just and equitable basis [s.27, Constitution].

The Fiji legal system does not expressly recognize customary law, or “lore”, except for a provision in the iTaukei Lands Act which provides that ‘native land shall be held by [iTaukei] according to [iTaukei] custom as evidenced by usage and custom’ [s.3, iTaukei Lands Act, Cap.133]. Thus, Fiji’s customary ownership is afforded space and can operate distinctly and separately from a more western imposed system. By allowing the coexistence of the systems, side-by-side in its day-to-day operability, Fiji creates a unique situation through co-existence in the plural registers of western common law versus the customary.

3.5.1 Conflict Between Lore and Law

Customary lore in relation to land and property in Fiji takes root in an unwritten cultural paradigm, where people, land and sea are considered one. This view of property is all-inclusive in nature and is often referred to as a “bundle of rights” – an oversimplification of complex property rights. Rooted in lore, the “bundle of rights” theory in this instance elucidates an understanding that multiple parties can simultaneously own property. By way of analogy, a reference can be made to a bundle of sticks – where each stick represents a particular right. A stick (right) can be removed, held, and used by another other than the owner. The user however must return that stick at the cessation of its use back to the owner.

3.5.1.1. Leasing and Licensing

In light of the tensions presented by the unique mix of elements in the facilitation of leases, it is expected that administration of customary land will continue to present a constant challenge.

GRIEVANCE PATTERNS AND TRENDS

Conflict has often erupted between landowners and the land-leasing agents of the TLTB¹⁵. The 2010 “Annual Report of Fiji’s Independent Commission Against Corruption” (FICAC) cited 323 matters regarding unresolved land issues against TLTB (FICAC, 2010). The High Court decision in the matter of *Atu Tiva v Native Lands Trust Board (2007) FJHC117, HBC 81 of 2005*, emanates from an earlier matter by the same plaintiff regarding the appropriateness of an extension of an expiring forestry lease for mahogany plantation for up to 99 years in rural Serua. The area was considered “unplanned”, outside the margins of settled and properly designated areas. It was held that TLTB could not issue leases beyond a 50-year term over the area given its classification, contra to the provisions of *TLTB Leases and Licenses Regulations*. Hence the lease was deemed unlawful from the date of original grant. In response, TLTB sought legislative reprieve by formal Gazettal through the Cabinet by way of Amendments to *iTaukei Land Trust Board Leases and Licenses Regulations (2007)*, which provided retrospective approval of 99-year leases for development leases or leases granted in the public interest, such as tourism leases. This case demonstrates the complexity of competing interests and the importance of establishing a strong FPIC legislative basis if REDD+ projects are to comply with international requirements. TLTB has been experimenting on a new type of lease and recently issued a 99-year “conservation lease” to the Emalu REDD+ project site.

3.5.1.2. Benefit-Sharing and Carbon Rights

Fiji does not yet have legislation that specifically addresses property rights for intangible elements, such as carbon. In 2013, the Secretariat of the Pacific Community (SPC) and *Gesellschaft für Internationale Zusammenarbeit (GIZ)* commissioned a comprehensive study on forest carbon rights in Fiji, which identifies how the ownership of carbon rights can be derived from existing law, which makes recommendations for law reform to clarify the ownership and use of carbon rights.

“In the absence of specific legislation, it can be inferred that as landowners own the land and the forest growing naturally on their land, it follows that they must own the carbon rights as well. This applies for iTaukei land, State land and freehold land” (Trenorden, 2013).

GRIEVANCE PATTERNS AND TRENDS

This is not a debate unique to Fiji over “who owns the carbon in the trees”, rather Fiji is distinctive in that there is a conflict between what customary lore dictates and what western law has left unaddressed. The customary system supports that landowners own everything from the sea to the air. And where trees have been planted, the person who planted the trees will also own the forest carbon rights, so long as the planting was done with the informed consent of the landowner. Where iTaukei land has been leased, the carbon rights remain with the lessor (landowner) unless the lease expressly states otherwise. This may have important implications for plantations in Fiji, most of which are established on iTaukei leased land.

¹⁵ Given the recent origins and the operation of the Land Bank leasing arrangements in Fiji, this study is not aware of any practical issues arising from leasing or licensing through this option at this time.

The REDD+ clause, which has only recently been introduced in iTaukei leases (in the case of Emalu as precedence), may offer some opportunity for leases involving plantations to be renegotiated to address carbon rights and benefit-sharing. Where a forest concession or timber license is in place, the legal position appears to be that carbon rights do not pass to the concession holder. When the landowners agree to lease the land and permit logging there is no expectation that carbon rights would also pass to the licensee. This complexity on element rights is further exacerbated by legislation around mineral and mining rights. All minerals and crude oil, wherever found, is owned by the State [s.3, Mining Act]. Legislative clarification regarding the ownership and use of forest carbon rights in Fiji is required.

4. Existing Grievance Redress Mechanisms and Institutional Capacity

This section reviews the existing structures and processes for resolving conflicts and grievances in Fiji, specifically relating to forest and land use (most relevant for REDD+). This section will determine whether existing structures adequately address the feedback and grievance redress needs for REDD+ and provide recommendations for improvement or strengthening of those mechanisms. Existing GRM within Fiji are evaluated using the UN-REDD/FCPF Guidelines (see *Figure 5*), where mechanisms are intended to be accessible, collaborative, expeditious, and effective in resolving concerns through dialogue, joint fact finding, negotiation, and problem solving in order to effectively resolve stakeholder grievances.

Figure 5. UN-REDD/FCPF guiding principles for developing a GRM



4.1 EXISTING STRUCTURES FOR GRIEVANCE REDRESS

Over 15 GRMs were reviewed for this study. Based on this extensive amount of research, in conjunction with stakeholder consultations at the national, sub-national, and local-level, and the thematic overlap between land administration and management arrangements with REDD+ there were three categories that emerged for addressing grievances in Fiji that were evaluated: (1) customary/traditional or informal, (2) alternative dispute or semi-formal, and (3) formal systems. Referenced GRMs are listed below with the most relevant examples for REDD+ italicized and further evaluated through an institutional assessment.

1. Customary/Traditional or Informal Systems

- iTaukei
- Indo-Fijian

2. Semi-Formal or Alternative Dispute Resolution Systems

- Sugar Cane Tribunal
- Live & Learn (NGO)
- Sawmillers Association
- Fiji Pine and Fiji Hardwood

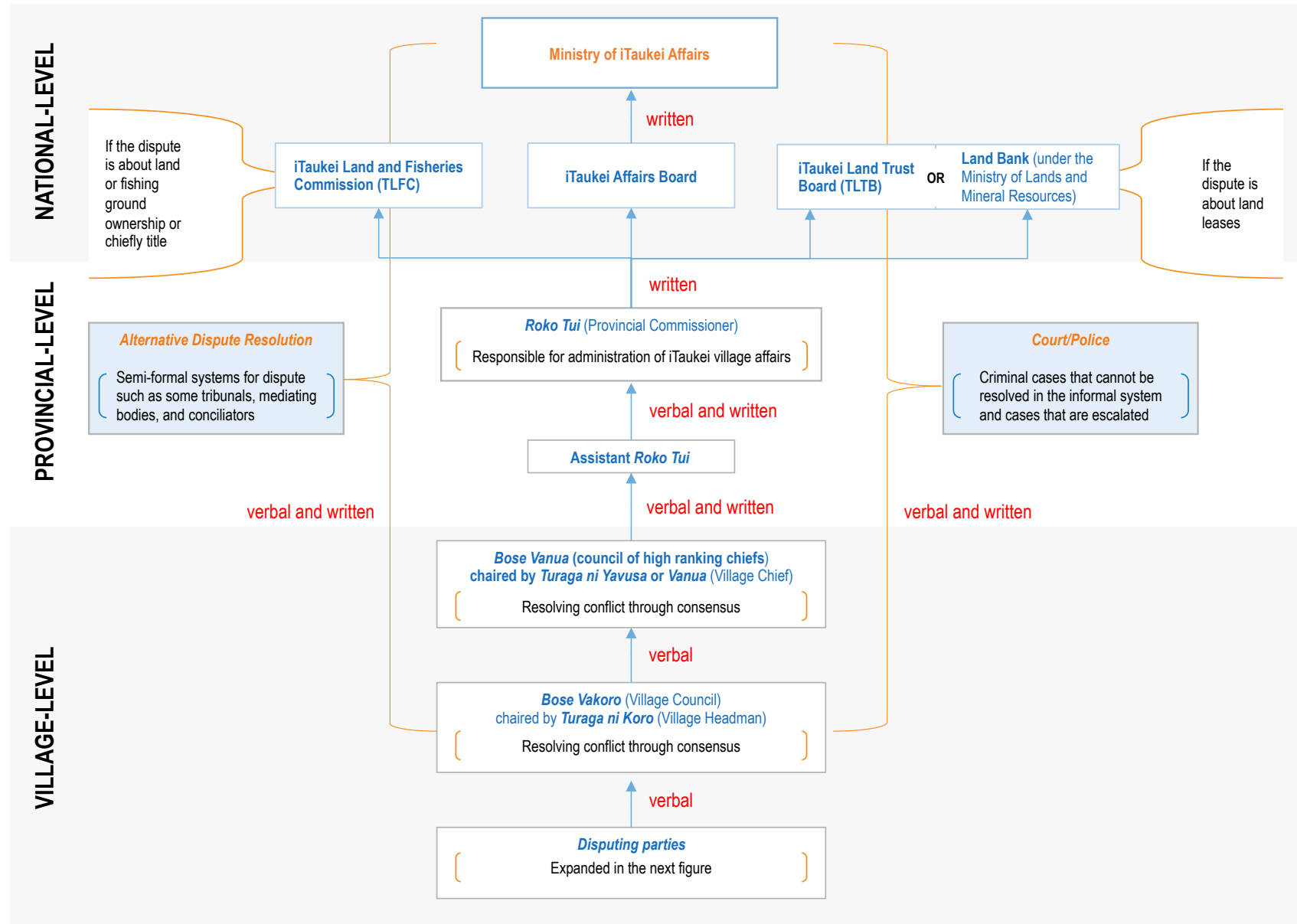
3. Formal Systems

- iTaukei Land and Fisheries Commission (TLFC)
- iTaukei Lands Trust Board (TLTB)
- Ministry of Lands and Mineral Resources (Land Use and Land Bank)
- iTaukei Affairs Board
- Ministry of Forests

4.1.1 Framework for Governance

Fiji operates within a dual system of governance, a non-legal or traditional structure, where most land and related disputes are resolved within communities, and a formalized legal structure that resolves grievances prior to a use of a judicial system/court to determine resolution. This bifurcation has existed in relative harmony, where it is often preferred and even encouraged by institutions and landowners to resolve disputes at the informal-level. REDD+ will have to operate effectively in both given the nature of land administration systems in Fiji. Cession has been towards the recognition of both systems operating in harmony and this has, to some degree, provided protection of rights and interests of the landowners by avoiding land alienation and at the same garnering support for non-landowning peoples through offerings of long-term access through leases. In order to understand the formal, semi-formal, and informal mechanisms that exist in Fiji it is important to understand the present government structure (see *Figure 6*).

Figure 6. Existing FGRM for iTaukei disputes



4.1.2 Customary/Traditional or Informal System

The customary system operates outside of legal tenure and is how many disputes are handled by iTaukei, when possible. This system capitalizes on traditional means of conflict resolution that is mostly verbal and is decided under leadership of the Village Headman or Chief. There is a higher value placed on maintenance of good relationships amongst villagers and therefore decisions receive greater support and buy-in.

Figure 7. Traditional greeting with *sevusevu* to instill and enhance goodwill.



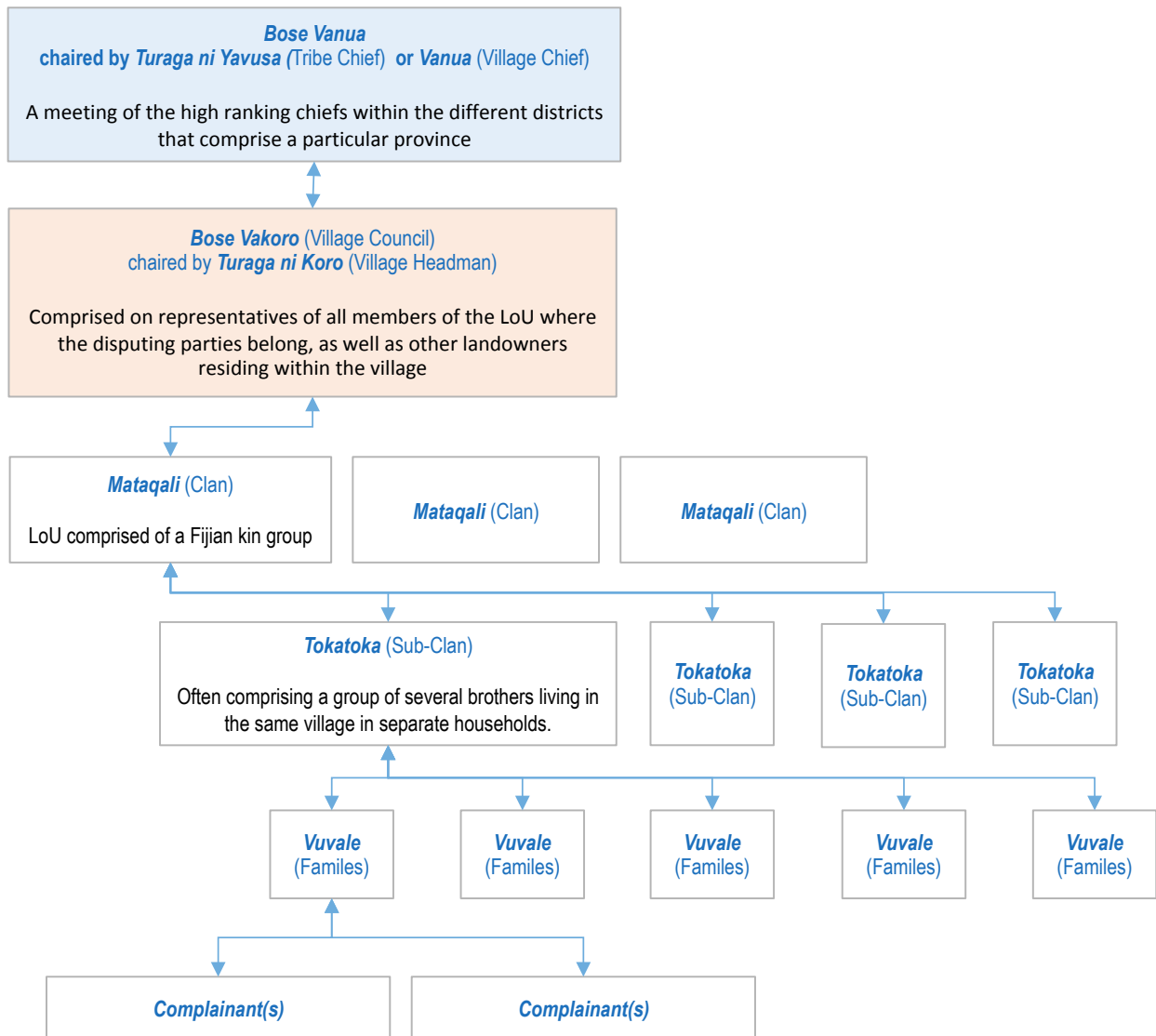
4.1.2.1. Process

Disputes move through a traditional hierarchy and are decided upon by village leaders (see Figure 8). Anyone is allowed to voice a grievance in the village, including women, youth, and other vulnerable peoples. Informal procedures for dispute and resolution and the implementation of decisions are well known to villagers and are the most common and preferred way to handle conflict in Fiji. According to community members the grievance system is almost completely undocumented and is based on an oral tradition for dispute resolution.

Once a complaint is made the first step is to resolve the issue at the *Vuvale* (Family), *Tokatoka* (Sub-Clan), and *Mataqali* (Clan) levels, where the leader of each social body decides upon the outcome after talking to the injured parties and reviewing the complaint. Should the dispute remain unresolved (either because the decision is seen as unsatisfactory to the majority or because it is perceived as biased) then the dispute is elevated to the *Bose Vakoro* (Village Council), which is chaired by the *Turaga ni Koro* (Village Headman). The Village Council is comprised of representatives of all members of the LoU where the disputing parties belong, as well as other landowners residing within the village and the Village Council makes a decision. The Village Headman can resolve the issue independently or convene the council to resolve the

dispute. To circumvent doubt and to negate allegations of bias (perceived or actual) it is often the case that the Village Headman seeks the decision of the Village Council to show a wider basis of consideration ensuring community participation at the same time fostering community reception to the decision. Local solutions often underscore local ownership within the village thus exerting confidence and obligation towards resolution.

Figure 8. Informal system



Besides being cognizant of the village and community daily activities, the Council deals primarily with issues regarding development (e.g., infrastructure, education, water supply, sanitation) and hosting government visits. Should disputes remain unresolved they can then proceed to the *Bose Vanua* (meeting of the high ranking chiefs within the different districts that comprise a particular province) chaired by the *Turaga ni Yavusa* or *Vanua*. The Chair has the authority of traditional leadership augmented by wisdom handed down through generations of his/her people. Only VKB registered individuals can participate at this level. Protocol is very

strict and issues that are decided upon include titles, roles, visiting delegations, and installment of new chiefs, new/amended customary laws. Some issues may bypass the *Bose Vakoro* and the *Boso Vanua* and go directly to the Provincial Council (there are 14). This occurs when grievances cannot be resolved at the customary level so the Council is asked for assistance. The Provincial Council usually sits every month or when there is an urgent agenda matter at the behest of the Provincial Office through the Roko.

In both sessions (*Bose Vakoro* and *Bose Vanua*) the Head informs the participants regarding the dispute and the objective of the session. The Head allows the complainant to present his/her grievance in the meeting. If a complainant is unable to present, his/her case then a close relation (e.g., parents, uncle) will vouch for the missing participant, publicizing for all members the facts, causation of events, and so forth, of the case. Unlike western style mediation and ADR, traditional resolution is a public affair, which is conducted thusly as a form of honor – a demonstration that nothing is being hidden from the community and the complainants. It also serves as a public display of remorse and acceptance once the case has been decided – for those considered to be at fault and for those that have been victimized.

After the presentation the Head seeks views of witnesses and attending council members. Once all voices are heard, the Head consults with disputants and may seek outside mediation or resources (e.g., Fiji Environmental Law Association (FELA), government information, subject matter experts from NGOs) in inform the resolution. Once a decision has been made by the Head the resolution is submitted verbally back to the community.

4.1.2.2. Effectiveness of decisions being made

There was a clear preference for the informal system (see *Table 7*) during the community consultations and by institutional stakeholders. The customary system is seen as a first step towards dispute resolution and it offers the most benefits for iTaukei because it is free, parties involved are better informed regarding the nuances of the conflict, history of actors and situation, it is easier for parties to navigate (accessible), which results in faster resolution. There is also a high percentage of success for redress at the informal-level because of the overall ownership of the decision-making process and its outcomes. Having community members that have a stake in the outcome be involved creates legitimacy and a system of trust. Community members know the disputants, which further binds them to the decision being made and a higher degree of accountability. There is a possibility of leaders being considered biased and prejudiced in decision, but this tends to be compensated by having other representation on the councils.

Table 7. Institutional assessment – informal system

FCPF Guiding Principle	Institutional Assessment of Existing GRMs			
	Availability, credibility, and capabilities	Customary	Availability, credibility, and capabilities	Customary
	Legitimate	X	Equitable	X
	Accessible	X	Transparent	X
	Predictable	X	Enabling continuous learning	
	Rights compatible	X		

* "X"s in grey are expressed thusly because they narrowly met the guidance and are very weak in their current state.

There are challenges however with the informal structure in that decisions are not recorded and that even though decisions are morally binding they are not legally binding. In each of the community consultations, groups readily identified the challenge with a lack of documentation for grievances and expressed a strong interest in having a form or mechanism in place that would allow for a written record. The use of a grievance redress form would allow for greater transparency and would enable continuous learning once a written record has been established to review and assess how decisions are made and their consequent outcomes.

Another struggle that was noted by the community is the lack, or relative absence, of resources to address or inform decision-making around resource or other legal rights (rights compatible). The informal system does and will continue to require outside support informing them of their rights, options, and overall awareness on key issues. This function has been provided by NGOs and CSOs, who also have occasionally provided mediation for grievances. These organizations serve as trust agents because they have significant knowledge about both systems – informal community systems and legal systems (i.e., human rights and environmental law).

Women who are members of the LoU participate freely and effectively in the informal system. Women typically feel that they have a voice and a right to be heard in the community meetings. However, some women may feel uncomfortable sharing their opinion if it contradicts a male kin. This could be improved by allow women an opportunity to sit together, without men, and discuss some of the issues they deem important prior to meeting with the community and presenting their concerns as a collective.

At the informal level, success and the way forward between contesting parties is a lubricant for social cohesion within the daily business of village/community affairs (see *Figure 9*). Even if the issue(s) at stake is/are resolved and parties consent to suggest solution(s) this must be formally endorsed and witnessed by the Provincial Council through the Roko.

Figure 9. Informal system of consultation with village leadership



4.1.2.3. *Indo-Fijian GRM*

Indo-Fijians are not landowners, however they can be involved in disputes as the result of leasing and it is important to note that in these instances grievances and disputes are addressed differently. Indo-Fijian communities have a structured mechanism for resolving issues pertaining to land-use or livelihood. If the land issues or land disputes are not able to be resolved internally the police department is consulted and, depending on the issue, refer the matter to the appropriate government line ministry. Communities expressed a preference for resolving issues informally where possible as this creates less tension and suspicion based on ethnicity with regard to land utilization.

4.1.3 **Alternative Dispute Resolution**

Existing ADR mechanisms in Fiji are semi-formal and an alternative to the court system, but function as a second tier to dispute resolution. These mechanisms are an option if disputes are not resolved at the traditional level and/or may be the proposed course of action. ADRs can include mitigation, arbitration, conciliation, or some combination of the different approaches (e.g., mediation and conciliation). These ADRs exist inside and outside of government line agencies through tribunals, inside government ministries as mediation units, and in the informal sector as a method to create better-informed decisions that may require a more complex understanding of land use and management (e.g., requiring expert knowledge of human rights, land, resource, or environmental law). These mechanisms can be flexible; often adaptable to the circumstances in which the grievance arises, cost effective, easily accessible, and more convenient than going through the formal system or court. The challenges to the application of ADRs include, lack of awareness on existence, misunderstanding of use, and its semi-formal nature, which complicates enforcement of resolutions in certain cases.

4.1.3.1. *Process*

Within Fiji there does not seem to be a consistent application of ADR types across jurisdictions, instead there is a variety of approaches used. Broadly, this “semi-formal” approach can be a more facilitative process with mediation being the most common at the local-level, a blend of arbitration and conciliation more common at the tribunal or industry-level, or mediation through contractual requirements.

FACILITATION AND MEDIATION

Facilitation and mediation was most prominently seen in the Drawa Forest Block project-lead VCM through the partnership the Block has with the NGO Live & Learn. In this capacity Live & Learn has engaged in disputes at the informal-level (primarily as a mediating force for disputes within the Block; secondarily as a facilitator for market-based agreements and concessions) and to a lesser extent at the formal-level as a facilitator and negotiator for the terms of their conservation lease with TLTB.

Under this ADR the role of mediator and advisor provided by a third party (NGO) is seen as fruitful by the community and their preference for this form of conflict resolution comes as a close second and rather a compliment to the customary system, providing consistent input on applicable national and international recognized standards for REDD+. In order for this mechanism to work, all parties involved have to agree to the outcome of the terms, which, with no legal enforcement could present a problem. The solution used currently by Live & Learn has

been to act as a resource for the community, an investigator when needed, but they leave the decision-making up to the community entirely.

Under the Nakua Program, which is the umbrella program for the Block, all internal operational grievances under the VCM are resolved via an internal complaint and dispute resolution policy that follows a process of problem identification, cause analysis, solution design, and an implementation strategy all in consultation with or led by the Block. The process follows a hybrid approach with informal communication through oral means blended with written documentation of the grievance, and a formal process should a conflict be unresolved by informal means. Each formal communication in the dispute resolution process is evaluated by all parties to the dispute and is recorded. In this aspect this form of ADR allows for regular analysis of the frequency, patterns, and causes of grievances and the effectiveness of outcomes that are accessible to the community in the form of documentation, which can lead to improved policies, procedures, and practices to improve performance and prevent future harm.

The entire process can take an estimated two-weeks to one-month, depending on the grievance type, as stated by Live & Learn and the Block, which is far superior to the formal sector. Representatives from *mataqali* and the Block (which have female and male participants) are involved in every step of the process. Landowners in the Block are thus empowered to deliberate over grievances brought before them with greater access to information. The kinds of grievances raised were primarily related to land ownership disputes and issues with consent and rules for inclusion in REDD+ activities.

MEDIATION

A more structured semi-formal ADR is utilized by the timber industry through an agreement/contract drawn between the Licensee and the Contractor, where the Licensee is the landowner, or a representative of the LoU, and the Contractor is the management representative of the logging company. Under this mechanism a more formalized structure is put in place that binds both parties to the contract and provides a GRM that attempts to resolve conflicts between the Licensee and the Contractor through mediation, in order to avoid court proceedings. The process is more inclusive and follows an evolving FPIC-approach that requires members (men, women, and youth) of the concerned LoU convene and conduct a needs assessment appraisal for their community. The Contractor then incorporates such identified needs into the agreement upon approval. Should there be a dispute raised in relation to these terms by the Licensee it is the responsibility of the Contractor to resolve the dispute before seeking formal resolution.

All stakeholders see the process as mostly transparent in that there is a simplified decisions-making process that relies on consultations with the community for resolution and is based on the terms of the contract. Grievances occur when agreed conditions in the contracts are not honored or adhered. When grievances do occur it is the Contractor's utmost intention to have them resolved amicably to avoid the blocking of logging operations. The community therefore sees the timeframe for resolution as rather expeditious. Discussions are conducted amongst the LoUs and the Contractor where the issues are clarified, and informed decisions take place to the satisfaction of TLTB and the operations continue. In this capacity there is value to having the third party investor involved because they can push TLTB to make faster decisions.

Disputes at the informal-level are mostly verbal and are typically not recorded; only documented once a decision has been made and then relayed back to the Licensee – although this is not a consistent practice. This process is not seen as equitable, despite its foray into facilitating peace

between the parties, this is wholly reliant on the strength of the voluntary commitment of the parties. A formalization agent, whereby an agreement is formally documented and witnessed by the Provincial Office through the Roko would create a more formalized and committed structure.

ARBITRATION AND CONCILIATION

Another ADR form that may prove less useful for REDD+ is a model used by Fiji Sugar and is examined herein. This sector uses a blend of conciliation and mediation to resolve disputes before they reach courts and sometimes in lieu of. In this arrangement, generally, there is a Commission or coordinating body, a Tribunal that adjudicates contractual relations between the disputant(s) (e.g., farmers, millers) and the corporations or investors, and a Council that acts on behalf of the disputant(s).

Grievances are typically reported through the Council (verbal) and then transcribed for submission to the Commissioner who calls parties together and makes a decision based on the available evidence. If the Commissioner is satisfied that no useful purpose would be served in continuing conciliation they can certify the dispute as unresolved and refer the matter to determination by the Tribunal, where the decision is final. Decisions can be appealed through courts, but only on jurisdictional grounds as these decisions are seen as legally binding and a filing is made to the Tribunal Registry. This process can take months to reach resolution depending on the complexity of the grievance and the proliferation of pending cases.

This ADR is not seen as equitable or transparent because the Commissioner is often working with limited information and insufficient evidence when having to make a decision, yet their decision is binding and does not require justification or the logic beyond the decision itself be provided to the complainant. The Commissioner may even refer the matter to the Tribunal for determination and the Tribunal may determine the matter in a summary manner without hearing witnesses.

4.1.3.2. *Effectiveness of decisions being made*

The most useful and effective ADR for consideration in REDD+ programming is the combination of facilitation and mediation (see *Table 8*). This ADR offers community's additional resources to help inform their understanding regarding human rights, environmental, and resource law. It also provides communities with the option to involve an informed negotiator who can act on their behalf with investors and in negotiation of their terms of contract with land trustee (TLTB or Land Bank). This ADR can help communities record their grievances and provide greater legitimacy and transparency to the process through the institutionalization of written forms and recorded decisions. NGOs and CSOs can provide an unbiased third party perspective and offer to help facilitate for a more informed decision by community members through the provision of services such as business, governance, and technical support. This approach was widely supported in both communities consulted as they desired greater of awareness on their rights and more resources to support them regarding REDD+ policies, processes, and procedures.

Table 8. Institutional assessment – semi-formal system

	Institutional Assessment of Existing GRMs			
FCPF Guiding Principle	Availability, credibility, and capabilities	Semi-Formal (ADR)		
		Sugar Cane Tribunal	Sawmillers Association	NGO (Live & Learn)
	Legitimate		X	X
	Accessible	X	X	X
	Predictable	X	X	X
	Equitable			X
	Transparent		X	X
	Rights compatible		X	X
	Enabling continuous learning	X	X	X

* "X"s in grey are expressed thusly because they narrowly met the guidance and are very weak in their current state.

4.1.4 Formal System

Legislation has given the ultimate decision-making power regarding forestry and land-use to the TLTB and Land Bank, with the TLFC as an intermediary. TLTB handles boundary disputes and the TLFC only intervenes if conflict is not resolved after boundaries are surveyed. The Ministry of iTaukei Affairs role in engagement with TLTB and the Land Bank is one of professional technical support though the provision of services through the confirmation of membership, boundaries and leadership through the VKB, handled through the Chairman of the TLFC. Disputes handled by the formal system deal with tenure rights, boundary disputes, administration of customary land in regard to leases, land use and investor relations and are supported by legislation, but act as a resolution mechanism that is an alternative to court. Most disputes are processed through TLTB and the Land Bank that will impact REDD+, with TLFC serving in more of an advisory role as the authority however on customary land ownership.

4.1.4.1. Process

When disputes cannot be resolved through traditional means and the use of an ADR is not appropriate or has failed, decisions regarding iTaukei land are first elevated to the Assistant *Roko Tui* and the *Roko Tui* (Provincial Commissioner) at the provincial-level. If a dispute cannot be resolved at the provincial-level the *Roko Tui* submits a report to the iTaukei Affairs Board who then submits a report to the Ministry of iTaukei Affairs. If the dispute is about land ownership (including fishing land) the *Roko Tui* will submit the grievance to the TLFC for a decision. If the dispute is about land leases, then the *Roko Tui* will submit the grievance to the TLTB or the Land Bank (whomever is the holder of the lease) for a decision. TLTB and the TLFC participate through the provision of different areas of specialty, serving as primary and final decision-makers (jointly, where possible) in the adjudication of customary land disputes. This process is a combination of verbal and written deliberation at the provincial-level and then written only at the national-level for the purposes of recording final decisions.

4.1.4.2. Effectiveness of decisions being made

Overall, communities and internal stakeholders assessment of the formal system was relatively weak (see *Table 9*).

Table 9. Institutional assessment – formal system

	Institutional Assessment of Existing GRMs			
FCPF Guiding Principle	Availability, credibility, and capabilities	Formal		
		TLTB	TLFC	Land Bank
	Legitimate	X	X	X
	Accessible	X	X	X
	Predictable		X	
	Equitable		X	
	Transparent			
	Rights compatible	X	X	X
	Enabling continuous learning			

* "X"s in grey are expressed thusly because they narrowly met the guidance and are very weak in their current state.

Following FCPF guiding principles there was an obvious disconnect between how institutions found themselves to be functioning with perception on the ground by communities and organizations. The system is seen as unpredictable, often times inequitable, anti-transparent, and not rights-comparable. Community consultations revealed an overall feeling of discontent and a labeling of formal systems as biased, in favor of investors and the state, corrupt, and unjust. There are discrepancies between how processes and procedures are followed and communicated, as well as the consistency and legitimacy of their application across multiple government entities. A more detailed assessment following the FCPF guiding principles across the formal sector follows:

Legitimate: TLTB and the Land Bank are weak in terms of trust building by the communities because their policies and processes are not clear and decisions are often made in a vacuum with little awareness of input from landowners after they have registered their complaints. Neither institution seems to enable trust from the community for whose use they are intended, and they are not seen as being held accountable for the fair conduct of grievance processes. Grievances are submitted through verbal (phone calls, in-person, voice mail) and written (email, text, letter) means, but there is not a consistent method for recording grievances or processes for how and when they will be addressed.

Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.

These institutions are accountable for the fair conduct of grievance, however the government seems to great sway over the decisions being made and the result is an inconsistent decision-making protocol with leaning outcomes that does not enable community trust in the systems.

Both the Land Bank and TLTB have monitoring units that are designed to ensure the harmonization of decisions being made, however these are housed internally and are not managed through a third party to properly remove institutional bias. TLTB also conducts exit surveys for feedback and this information is vetted and analyzed by a third party/consultant, but the information is not made publically available. Structures are being continuously improved and these systems can be the foundation for improved processes in order to ensure there is little interference from all parties to the grievance.

Accessible: Formal institutions are seen as mostly accessible, with gaps that must be readily addressed to improve processes. Grievances move from the informal to formal sector (typically when unresolved or when ADR fails) through submission to the Provincial Council, of which there are 14. Grievance remittance can be established through the Village Council, or individually, directly to the institution (via email, text, phone, in-person, mail).

Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.

There is a lesser-known route that can be taken through the Prime Minister's office, through the public relations group that will receive more expeditious treatment (often a 24-hour turnaround as compared to the several months it may take through the more common institutional routes). There is concern regarding adequate assistance for those who may face particular barriers such as language, remoteness of location (which includes high costs), and complete understanding of their rights in regard to legislature.

Barriers to access are most apparent in the awareness of internal processes for how grievances are processed and difficulty in access for more remote landowners and tenants. The Land Bank, for example, doesn't have representation outside of Suva. The most that can be done by the way of government support is a courtesy call on behalf of a complainant, via the Ministry of Lands and Mineral Resource's regional branch. Most communities do not have mobile or Internet access unless they travel to more densely populated towns and the cost of travel may be too high, which means that the Bank is not accessible by those in more remote locations, those without technology assistance, and those more impoverished. TLTB is in the process of decentralizing their services so that it can be more accessible to the public through telecommunication and technology, facilitating greater access to people in rural areas. However, there is a pervasive lack of awareness on how grievances are processed and handled internally at TLTB by complainants. There is a lack of communication and outreach regarding how decisions are facilitated and made inside TLTB. This is coupled with a defunct database system for registering and managing complaints that is not consistently used or updated (similar with Land Bank), resulting in another barrier to access. Language is also seen as a barrier as most documentation and materials produced by these institutions is in English only.

Predictable: Most landowners, tenants, and community members have an general understanding of the procedures for submitting grievances to the TLTB, Land Bank, and TLFC. However, there is not clarity on the outcomes available or means of monitoring implementation. In order for a mechanism to be trusted and used, it should provide public information about the procedure it offers. Timing is for the process towards a decision

Predictable: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcomes available and means of monitoring implementation.

was varied differently across all those interviewed, making it rather unpredictable for it and when a decision might be reached. TLTB, TLFC, and the Land Bank have designated policies

for the turnaround time for the grievance process, ranging from two weeks (TLFC or Land Bank) to 3 months (TLTB) at the earliest. Reported cases however can range from upwards of several years (in the case of Drawa and Emalu's REDD+ leases) or within 24 hours (through the Prime Minister's office), with no consistency and a great reliance on the complainant to follow-up. Current understanding from the FGRM Team's research of current policy and procedures for TLTB predicts that a lease can be formally granted from the initial authorization meeting to the issuance of lease agreement in 3 months. This of course may be subjected to caveats of unforeseen developments during the process that may delay the process longer.

The open door policy with TLTB and the Land Bank (multiple means of registering a complaint with inconsistent use of database management) create confusion, loss of information, and prioritization not based on need, but on "who you know". Communication is also poor and case documentation often goes missing, requiring the complaint(s) to produce letters sent from the institutions back to the institutions, increasing the time-line for resolution (this was not such an entrenched issue at TLFC).

The Land Bank's *Policy Monitoring Unit* and the TLTB's *Communications Unit* are designed to control timelines for grievances, where information is shared and monitored through monthly meetings. TLTB as Trustee of all customarily owned land has access to the Provincial Council (link at Provincial-level between Government and the informal entities of the different LoUs within the Province) and the TLFC that bring some certainty and formal authority to such determinations. The presence of the two institutions besides TLTB also formalizes the outcomes and allow for rapid removal of hurdles rising from the disputes. TLTB and the Land Bank have acknowledged that there is a need for greater improvement in the system and awareness to maintain more informed timelines.

Equitable: Communities expressed a lack of due diligence or openness necessary to engage in a grievance process on fair, informed, and respectful terms with TLTB and the Land Bank. There was a notable desire expressed during community consultations and confirmed by institutional representatives for more accessible and understandable information regarding legal and customary rights. As a result of the lack of complete access to information regarding grievance processes there is a perception that processes are unfair and that trust agents are looking out for government and investors interests rather than iTaukei.

Equitable: seeking to ensure that aggrieved parties have reasonable access to source of information, advice and expertise necessary to engage in a grievance process on fair, informed, and respectful terms.

These feelings are at times informed by perceptions of what community members hear, see, or experienced in their socio-economic context as compared to other LoUs outside the local socio-polity, where similar deals may appear to be more favorable. In other instances, landowners may feel aggrieved and betrayed given, although retrospectively, the lack of complete competence in dealing of their resources through their trustees. Such complacency can amount to loss of equitable compensation to landowners and alternatively present an unjust economic enrichment to investors and government.

Transparent: Neither TLTB, TLFC, or the Land Bank is perceived by iTaukei or tenants as transparent. All three entities are riddled with organizational, communication, and outreach challenges and do not communicate well with clients regarding progress of grievances. There is recognition in these institutions

Transparent: keeping parties to a grievance informed about its progress and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake.

that there is need for an improved communications plan as they do not proactively inform clients about progress and nor provide insufficient information on status of claims (this relates more to TLTB and Land Bank).

Another collective issue noted was the poor method of recording, mining, and management of data for grievances. Each institution has a database system, but not all information is logged into case files. Case information is primarily recorded and maintained through paper filing and are checked out by officers through a registry (not uploaded into the database system unless it is a “milestone”), which has resulted in “misplaced” or “lost” documentation, often requiring the client to maintain their own separate file to supplement and hedge for the loss of key paperwork. This is rather impossible for iTaukei and tenants that do not have access to technology or the financial means to maintain filing in their homes.

Both the Land Bank and TLTB have dedicated officers whose responsibility is to keep track of all complaints in the database systems. For TLTB there is a Complaints Management Officer (CMO) and for the Land Bank there is a Complaints Advocacy Officer (CAO), who are responsible for taking the recorded complaints and inputting them into the databases, along with decisions made by the Division Managers (Land Bank) and Regional Offices (TLTB), checking for compliance, and closing them out in the system. The Land Bank has also developed a separate Harmonization Unit that is independent from their Policy Unit, responsible for conducting random audits to help reduce bias. TLTB allows for an annual independent audit. Neither shares the information publically for accessibility to clients¹⁶, although both claim to use the information for continued process improvement internally and training.

It remains very unclear how decisions are made internally and very little is publicized about the presence of their GRMs; capacity, timeline, or procedures in terms of finalizing outcomes. None of the GRMs are appropriately advertised or communicated to affected people at the moment.

Rights Compatible: Institutions in the formal system are viewed as being consistent with national and internationally recognized rights (see *Section 3* for more detail). While there is still noted progress towards improvement and clarification in declared Acts and Bills, most iTaukei and other key stakeholders agree that processes are generally focused on being compliant with existing recognized rights. iTaukei rights are paramount and uniquely protected in Fiji, further legitimized through the Ministry of iTaukei Affairs and iTaukei Affairs Board.

Rights Compatible: these processes are generally more successful when all parties agree that outcomes are consistent with applicable national and internationally recognized rights.

There are inherent weaknesses with the most common complaint regarding consent for land use is the lack of FPIC in processes. There is little awareness for clients on understanding of their rights, before the sign lease agreements (they should use land use as a resource, but don’t know what services they provide so not utilized). This is a recognized shortcoming, but there are ongoing processes to better integrate FPIC into process for all institutions in Fiji, to include a stronger enforcement during EIA.

¹⁶ Fiji’s FICAC posts audits of TLTB on <https://www.ficac.org.fj>, however the only audit the FGRM Team found that provided information about issues with the GRM was from 2010. Other annual audits posted did not identify or address GRM issues.

Benefit-sharing and rights to carbon not being specified in law and the lack of REDD+ legislation will further complicate matters should they not be readily addressed *prior* to the implementation and consequent receiving and distribution of REDD+ funds.

Enabling Continuous Learning: Consultations with key institutions revealed an overall lack of capacity to address grievances in either a timely or consistent manner. Interviews at the institutional-level with the Land Bank, Provincial Land Use Offices, TLFC, and TLTB found officials are frustrated with a lack of resources, training, or formalized processes for grievance redress. There is low capacity for those trained in how to read files and clear understanding of rules, processes, and procedures.

Enabling Continuous Learning:
drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.

All three institutions have Units that review grievances for compliance and aim for a regular (monthly) analysis of frequency, patterns, and causes of grievances the reality is that these mechanisms are not capable for performing as desired because of a lack of human, technological, and financial resources that create a rather rigid barrier for improvement. In order for these institutions to truly be dedicated to drawing on lessons learned and continuous improvement to address and potentially prevent future grievances more resources, training, and competency will be required – this will be a major source of concern for REDD+.

4.2 REDD+ INSTITUTIONS INSTITUTIONAL CAPACITY

An Institutional Assessment for REDD+ is provided based upon how grievances are handled at the only current national pilot site in Emalu. However, as Fiji is still in the readiness phase there is no current GRM to deal specifically with REDD+ activities and most grievances are addressed through TLTB and TLFC (Land bank does not currently have leasing arrangements for REDD+).

Given Fiji is only in the readiness phase, strategies, legislative sanctions, and policies are expected to follow before full project implementation. Innovative thinking is expected to navigate the current interface of the two grievance systems, with respect to land administration that has been part of Fiji's history since 1874.

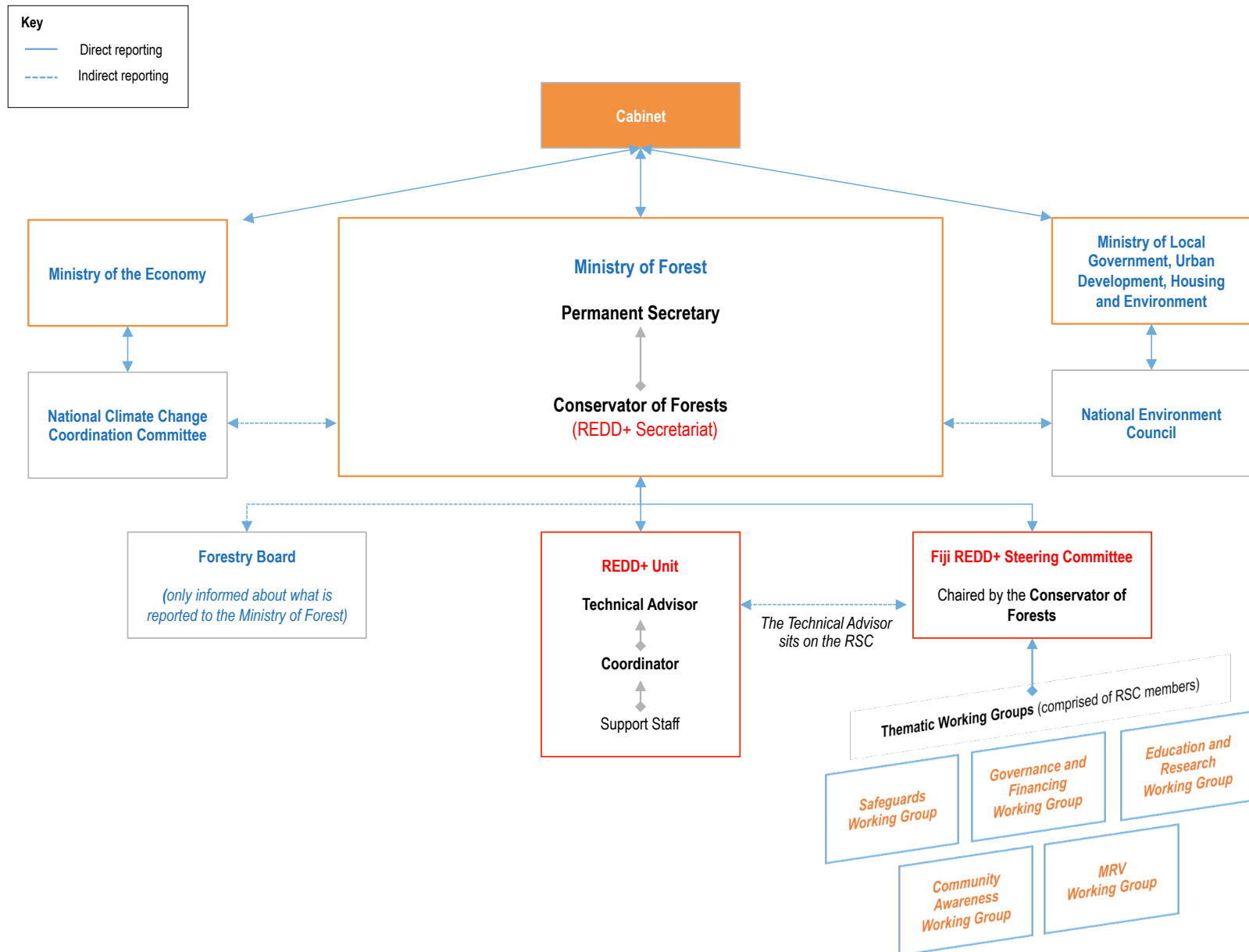
4.2.1.1. REDD+ Institutional and Management Structure

A mapping of REDD+ Institutions is included in *Figure 10* and a detailed listing of roles and responsibilities is included in *Attachment 5*.

REDD+ SECRETARIAT

The Conservator of Forests serves as the chairperson of the REDD+ Secretariat and is responsible for managing the REDD+ Unit, acts as Chairperson for the RSC, and communicates to the National Environmental Council (NEC) and the National Climate Change Coordination Committee on the progress of Fiji REDD+ readiness and activities (pending). The Conservator reports to the Permanent Secretary in the MoF and accordingly informs the Forestry Board about all Board meetings. For the RSC, the Secretariat sets agendas, convenes meetings, and ensures that they are properly conducted. The Secretariat acts as the point of contact for the Fiji RSC and external organizations.

Figure 10. Institutional mapping of REDD+ entities



REDD+ UNIT

The REDD+ Unit acts as a focal point for the public on REDD+ issues, for the development and implementation of the National REDD+ Program, as well managing the FCPF grant. The Unit is also responsible for the development of systems to monitor forest carbon stock changes, the development of social and environmental safeguard information systems and to facilitate awareness-raising and learning programs on REDD+.

The REDD+ Coordinator (to be hired) and Technical Adviser are responsible for ensuring the effective implementation of all tasks outlined in the FCPF Readiness Grant Agreement and reports directly to the REDD+ Secretariat. The Adviser is expected to collaborate closely with the member agencies of the RSC and other government agencies, NGOs, CSOs, the private sector, and development partners to achieve this end. The Advisor coordinates and consults with the Secretariat on all aspects of given tasks

The Adviser directly supervises and guides the staff of the REDD+ Unit to ensure fulfillment of positional TORs and evaluates performance annually. The Advisor also oversees day-to-day management and operation of the Unit, ensuring timely submission of quarterly work plans and budgets to the Forestry Department and supports the Secretariat with the preparation of reports, information papers, cabinet briefs and other documents for the purpose of reporting to national and international agencies, bodies, and forums. The Advisor (and Coordinator) will also assist in the communication of the Unit's work ensuring that REDD+ activities undertaken through the FCPF grant are communicated and reported nationally, regionally, and internationally.

REDD+ STEERING COMMITTEE (RSC)

The RSC is a multi-stakeholder committee comprised of 19 representatives from the key stakeholder groups identified as being relevant for REDD+. The different agencies and structures are responsible for incorporating REDD+ activities into their organizational planning and budget and thus ensuring REDD+ activities are supported through the different sectoral agencies. Members who attend the REDD+ Steering Committee meetings are required to make decisions on behalf of their departments and organizations.

The overarching function of the RSC is to coordinate and facilitate the implementation of the Fiji REDD+ Program. In fulfilling its function, the RSC must ensure that a transparent and effective multi-stakeholder governance process is followed and that the safeguards identified under policy statement 5.1 (Fiji REDD-Plus Policy, 2011) are considered.

4.2.1.2. *Process*

Emalu is the largest of Fiji's established REDD+ project sites (established 2012) and has potential for increasing economic windfall from carbon credits payments pertaining to its forest sequestered carbon. The project site is over 7,300 ha and is predominately covered by pristine forests. The approved project site is on customarily held lands and is registered under one LoU, who resides at Draubuta Village in the highlands of the Navosa Province.

Currently, all grievances are passed through informal and formal channels (TLTB, TLFC) and are not segmented by procedures or policies from the REDD+ Secretariat. Therefore the effectiveness of decisions being made regarding grievances is moot because of the Secretariat's current delegating of authority to communities or formalized entities that handle land management, leasing, and conservation issues.

4.2.1.3. *Effectiveness of decisions being made*

Institutional management structures and processes must be cognizant of the unique socio-cultural space that informs national and sub-national considerations in the readiness stage and progressive transformation into implementation. The following considerations are proposed for the guidance of FGRM design

TLFC on the RSC: Noted in the formal GRM assessment (above) and in the assessment of current and potential risks (see *Section 5*) is the duality of systems that govern grievances in Fiji. Herein, the prominent missing link is the absence of the iTaukei Lands and Fisheries Commission (TLFC) at the Steering Committee-level. Whilst the presence of the umbrella body of TLFC is acknowledged, the nature of possible multi-layered complex disputes that may arise between customary lore and formal systems under TLTB warrants TLFC's presence in the RSC, rather than in proxy as it currently stands.

Early data collection to inform design: Another notable absence that should have been in place during readiness to help guide the FGRM and to help inform project design and preparation for potential grievances would have been to include early experiences/lessons for assessment through data collection. Recording grievances and the process and issues with resolution at the informal and formal-level from the start would have built a platform for lessons learned and helped better inform FGRM design.

Adapting but not relying on existing GRMs: In the case of Emalu, the REDD+ Secretariat should use existing GRMs as guidance, but should augment existing platform to consider comprehensive and inclusive FPIC procedures fostering effective working relations between TLTB and the different arms of the Ministry of iTaukei Affairs including TLFC. To this end, the Secretariat must be fully appraised of the context of the ownership background that may be largely untreated through the process of title formalization of TLTB whose presence can be easily deduced through early proactive collaboration with TLFC.

Stronger consultation and participatory process to support GRMs for REDD+ process: Several opportunities exist to strengthen the consultative process for REDD+. Recommendations include: (1) The prospect of instituting written anthropological connection reports¹⁷ to add a dimension on user rights, above and beyond the records of registered living members and boundary demarcation provided by the TLFC. (2) Defined engagement protocols to deal with the various aspects of ecosystem services to minimize conflicts. This involves an improved and more consistent FPIC processes instituted at the inception stage through readiness; improved communication of the phases of REDD+ and obligations on behalf of the government (or project agent) and the communities themselves. (3) A disclosure package for benefit-sharing that addresses distribution of funds, ecosystem valuation, maintenance and site protocol, and ownership rights and resources.

¹⁷ A written document that is usually accompanied by genealogies (family trees) and a map of cultural important sites. It can also include photographs, video, recordings, and other print material. The Connection Report is the a fairly standard way to present evidence used to support a Native Title claim and determine whether the claim meets the criteria for Native Title.

4.3 GAPS/ISSUES IDENTIFIED IN RELATED/EXISTING GRMS IN FIJI

4.3.1 Key Findings

- There currently exist a bifurcation between customary and legally supported GRMs, but there is a desire to utilize both systems by all interested parties in the resolution of conflicts.
- Traditional customary mediation processes at the village-level are currently the main channels of resolving grievances and/or disputes. Almost all issues arising out of any contestation regarding traditional boundaries and ownership issues can be solved at village level.
- There will need to be clearly mandated support and encouragement from the formal sector for the informal system to address conflicts prior to the use of ADR or formal intervention.
- Institutions should encourage dispute resolution at the informal-level as a first step because it facilitates faster resolution of issues and helps maintain peace at the village-levels, which may otherwise be strained if left to the perceived adversarial formal systems which are non-transparent, expensive, and can be divisive in the end.
- Existing GRMs are not comprehensive enough to support REDD+ programming at the informal or formal-level and semi-formal systems are not institutionalized. This will create inconsistency and accountability problems in the handling of grievances and in the management of processes and outcomes when dealing with enforcement.
- It is necessary to create a complementary route to the existing formal structure because of its weak institutional ranking. The proposed FGRM for REDD+ should be designed for intervention at semi-formal level of grievance redress, so as to build upon customary approaches and to compliment instead of replacing current legal/formal redress systems. The use of outside mediation support either by an NGO, Legal Association, or REDD+ Unit to help support communities throughout the design, leasing, and implementation process will create a more legitimate and accountable system that is trust-building and sustainable.
- Formal systems are only based on current law and do not on the future relationship between disputants.
- Formal systems are slow and unpredictable in resolution processes. This has resulted in the creation of new tensions, loss of trust, and exacerbated conflict because of the lapse timeline and poor data management.
- The formal system is mostly inaccessible to forest users because they require a substantial amount of financial resources to file a case, hire a lawyer, travel to court, etc. There is also a legal literacy gap, poor understanding of complicated contracts, and a fear of going to court because of lack of knowledge and perceived bias.
- Gap in understanding of how grievances are currently addressed by the formal sector. There must be a better communication, outreach, and awareness campaign employed in order for

iTaukei to understand their rights and the processes and procedures for how grievances will be addressed.¹⁸

- Decision-making on REDD+ grievances must include multiple stakeholders' perspectives and allow for the complaint to be well informed of the process. There is a need for an independent review board to provide auditory services.
- The FGRM should be designed to accommodate different communities/individuals at different levels appropriately.
- There should be a designated Grievance Officer(s) (or a clearly mandated responsibility) to handle REDD+ grievances and to ensure that the Secretariat and Steering Committee are aware of the grievances from the public and the necessary actions to improve them.

4.3.2 Weaknesses and Challenges to Setting up a FGRM Framework

- There are currently inadequate regulatory contexts to support REDD+ programming either through legislature directly for REDD+ or contextually through the Draft Forest Bill that address key issues such as the definition of carbon property rights and benefit-sharing.
- Although there are GRMs in existence (at varying levels of development) under the several government agencies and institutions that currently deal with resources and land management issues, it would be proleptic to assume that existing mechanisms are “fit for purpose”. As such, there is no current FGRM in place specifically capable of addressing the intended grievances and conflicts for REDD+. Given that REDD+ is a new product it will require substantial reworking of exiting structures through institutional strengthening of matters concerning FPIC, substantiating of rights, and its proper understanding leading on to its valuation.
- There is disconnect between formal and informal sectors and this will create problems for enforcement.
- Gap in active distribution or information sharing between sectors and government on REDD+ issues.
- Inadequate funding, human resources, and equipment required for handling grievances within the public sector resulting in poor monitoring and implementation.
- Lack in relevant skills and knowledge of how to handle and address grievances at the provincial and national-level (e.g., no specific rules written or they are in process, no training, low technical capacity).
- Convergences between jurisdictional mandates due to lack of clear legislation or regulatory guidance on grievance redress with REDD+.

¹⁸ Although noted in previous sections that the focus of this assessment is on iTaukei as landowners, the same applies for non-iTaukei who mostly lease land or own freehold land. Their grievances are still yet to be addressed by the formal sector for example; expired land leases for those who lease land, and poor farm road conditions caused by logging trucks for those who own freehold land.

- Absence of a national land use plan has resulted in conflicts of jurisdiction between competing sectors within the same land area and over the same resources, which will inevitably also affect the implementation of REDD+ program and any proposed FGRM in the future.
- There is a concerning lack of awareness on REDD+ program, incentives, and rules by the communities involved.
- There are inadequate or absent dispute resolution clauses in leasing contracts.

5. Potential Risks for Conflict and Grievance for Fiji's REDD+ Program

This section summarizes the different types of grievances that can influence REDD+ readiness and implementation. First, existing grievances (non REDD+ related) from land and forest governance are identified and discussed. Second, current REDD+/carbon offset grievances are identified and analyzed. Third, possible drivers identify potential conflicts and contentious issues that may arise from various REDD+ activities. Stakeholder views on conflict and GRM identified by stakeholders are included throughout and are bolstered by lessons learned at the end of the section.

5.1 EXISTING CONFLICTS

Existing conflict in Fiji's forestry and land sector can be grouped into five broad categories, issues regarding (1) tenure rights, (2) boundary disputes, (3) administration of customary land, (4) LoUs and investor relations, and (5) awareness of rights and access to resources (detailed in *Table 10*). This is not an exhaustive list, but representative of the information tabulated from a review of legal documents, key institutional interviews, community consultations in REDD+ and potential REDD+ sites, and expertise of subject matter experts in environmental law and the regulatory field of land conflict. During stakeholder consultations stakeholders expressed many grievances, but in this section we only explore those grievances related to impacts around forestry and land and resource management, which will have implications for REDD+.

Table 10. Current dispute/conflict types without REDD+

Dispute	Grievance	Engaged in Conflict				Description of Conflict
		LoU	TLTB/Land Bank (Trust/Agent)	Government (Regulatory Body)	Investor	
Tenure Rights	Use of land-FPIC Process	X	X		X	LoU disputing the renewal of a lease executed without grant of member's consent
	Lease Review	X	X		X	LoU losing lease income from missed periodic rent assessment and missed economic opportunities to LoU from incomprehensive resource access and development negotiations.
	Customary Access Arrangements	X	X		X	Communal arrangement with non-members of the LoU for right of access and use of land without formalized agreements
	Village Reserves	X	X	X		Land reserved for village location may belong to a particular LoU who may abuse power.
	Customary Inheritance Claim	X		X		Rights of adopted children may not have equivalent translation to customary LoU membership of adopting parents.

Dispute	Grievance	Engaged in Conflict				Description of Conflict
		LoU	TLTB/Land Bank (Trust/Agent)	Government (Regulatory Body)	Investor	
	Customary Property and Proper Market Considerations	X		X	X	Valuation of customary resources such as intangible connection to land not readily accepted in the economic matrix of benefit-sharing.
Boundary Disputes	Boundary Definition	X	X	X		Boundary description on the TLFC record conflicts with oral evidence of community members of the LoU due to loss of traditional knowledge. Lack of precise spatial information leading to different interpretation of boundary.
	Validity of land tenure change	X	X	X		Change in land use sought during initial grant may pose different environmental and social risks to LoU
	Individual vs. community	X	X			A particular member of the LoU may wish to fence his garden or compound against the wishes of the rest of the LoU members
	Loss of traditional knowledge on boundary	X	X	X		Integrity of customary basis of boundary may be lost thus leading to conflicting interpretations
Administration of Customary Land	Lack of acceptance of formal institution		X	X		Conflicting advice by institutions pertaining to land (e.g., TLTB and TLFC or Provincial Office)
	Transfer of Land	X	X	X	X	Scheduled "A" and "B" land returned to TLTB administration from State allocated to wrong LoU by the Yavusa (Tribe, Administration Unit).
	Conflict definitions on "harvesting"	X		X	X	Implementation of Harvesting Code manifestly applied differently by the various government commercial arms of forestry developments
	Restrictive and blanket terms of contracts are not tailored to land use	X	X	X		Use of template agreements limits innovation and fit for purpose agreements.
	Lack of coordinated approach between admin bodies	X	X	X		Conflicting policies of administration bodies may lead to improper land use (e.g., productivity vs. sustainable use/conservation approach)

Dispute	Grievance	Engaged in Conflict				Description of Conflict
		LoU	TLTB/Land Bank (Trust/Agent)	Government (Regulatory Body)	Investor	
Landowning Units and Investor Relations	Expiration of lease	X	X	X	X	Option to renew not consented at expiry of lease
	Disputed contractual terms	X	X		X	Landowner disputes activities allowed on leased land, or lessee indulges in improper development outside the boundaries of the lease agreement Agreements not upheld, e.g., in terms of compensation and royalties
	Distribution of finances	X	X		X	Land Bank does not distribute funds equally, unlike TLTB
	Overplanting and exceeding agreed upon land use	X	X		X	Fiji Hardwood and Pine plantations areas surpassing agreed plantation (surveyed) areas into customary lands used for subsistence.
	Lack of resources to conducting monitoring of terms	X			X	Conditions of agreement impossible to be monitored by LoUs (e.g., Logging in areas pledged for Conservation 200-meters from Riverbanks under River Fiji requires more resources given grandiosity of scale)
	Damage to the environment causing danger for communities	X			X	Damage to the road and environment by logging trucks, which are stipulated as improved maintenance in contract terms
Awareness of Rights and Access to Resources	Lack of awareness of project activities or goals	X			X	Landowners not fully aware of aims of projects by investors and consent to logging by third parties.

An analysis of the on-going and persistent conflict in the forestry and land use sector demonstrates that there is a lack of coordination and trust that exists between primarily (although not exclusively) between LoUs and counterpart land administration and government units and investors. While boundary definitions and ownership also create tension these issues are more easily resolved because of the demarcation of land ownership provided by the VKB.

Most of the disputes arise from uncertainty and misinterpretation around terms and agreements in leases and contracts and the lack of disclosure regarding this information. Entities (i.e., TLTB and the Land Bank) designated to act as “trust agents” for the LoUs, legal vehicles designed to handle all matters arising from access and development of land including dispersing of financial benefits to members, are often not held accountable for decisions made (with little explanation or information offered as to the reasoning’s behind decided outcomes), have often sided with

investors over communities, and are not transparent regarding financial distribution or terms of agreements with investors (lack of due diligence).

The last conflict in particular is compounded by the LoU's confusion regarding their rights, obligations, and role in the management of their land. Most information is not easily accessible or understandable to community and LoUs, as a result of language and legal literacy barriers, resulting in ill-informed landowners and communities who feel taken advantage (see *Figure 11*).

Figure 11. Recording grievances and barriers in Serua



These conflicts have been in existence for years and it is anticipated that they will not be resolved, but will rather encroach on REDD+ activities. REDD+ can play a role in improving LoUs awareness regarding their rights and options for improved management of forestland, but will face the same obstacles regarding restrictive and unclear lease and contract terms between land agents, the government, and investors. As a result there will be a relatively high number of grievances received in REDD+ implementation areas related to conflicts that are already occurring.

5.1.1 Conflicts from Early REDD+ Pilot Project and Readiness Activities

The first nationally approved REDD+ pilot project is underway in Emalu, Navosa province on Viti Levu. The pilot is located on one of the largest pieces of land (7,400 ha) to be owned by a single LoU (approximately 40 people), consists of only native forests, and is governed by an established Trust. Live & Learn is implementing a project-based approach to community forest management and carbon offsetting in Drawa, Vanua Levu. A Cooperative involving eight *mataqali* forming the Drawa Block Forest Community Cooperative (DBFCC) governs this site, overseeing plantation and native forests for conservation and carbon credit. These two sites are seen as *the* REDD+ pilot sites in Fiji and both were consulted (the Drawa site was visited by the FGRM Team and Emalu's REDD+ Coordinator was consulted) for the purposes of evaluating

existing grievances that stem from REDD+ readiness. Of the two sites only Emalu is nationally approved, whilst is the first and longest on-going independent conservation and carbon offsetting project (since 2010)¹⁹.

In this section we examined grievances related to on-going REDD+ activities (see *Table 11*), extracted from community consultations, interviews with Project Coordinator and Forestry Officers, and RSC Member's and GIZ (provides technical and policy support for entire REDD+ Readiness process). Of the grievances tabulated areas of conflict fell into categories: (1) benefit-sharing, (2) REDD+/conservation lease terms and enforcement, (3), awareness of rights and access to resources, and (4) boundary disputes.

Table 11. Current dispute/conflict types on REDD+ sites

Dispute	Grievance	Engaged in Conflict				Description of Conflict
		LoU	TLTB/Land Bank (Trust/Agent)	Government (Regulatory Body)	Investor (REDD+)	
Benefit-sharing	Carbon ownership	X		X	X	No current legislation that clearly addresses ownership of carbon property rights, which will result in future conflict.
	Distribution and financial accountability	X	X	X	X	Unclear how funds are received, spent, and accounted. This may result in the request of an audit by community members.
	Lack of awareness of project activities or goals	X	X		X	Disagreement by community and REDD+ on details of project implementation
	Alternative livelihoods	X			X	Options needed to provide alternative livelihood support to communities expected by LoU as part of REDD+ readiness in communities
	Timelines for financial distribution	X	X	X	X	Timeliness are unclear and not adhered to by TLTB for investment and by REDD+ for implementation of activities, which have resulted in prolonged waiting periods and the decision by some LoUs to log rather than wait for conservation funds
	Access to other forest products/ resources	X	X		X	Debate over the ownership of other forest products and what is allowable for extraction in REDD+ / conservation areas.

¹⁹ The Block is in the process of getting national approval and are members of the REDD+ Steering Committee providing updates on progress and receiving feedback from the committee for improvement under the national scheme.

Fiji REDD+ Feedback and Grievance Redress Mechanism (FGRM)
Deliverable 2: Assessment and Recommendations of Existing Issues and Structures

Dispute	Grievance	Engaged in Conflict				Description of Conflict
		LoU	TLTB/Land Bank (Trust/Agent)	Government (Regulatory Body)	Investor (REDD+)	
						There may be endemic flora and fauna yet to be discovered in conservation areas, hence there may be potential for medicinal products, but there is no benefit-sharing mechanism in place.
REDD+/ Conservation Lease Terms and Enforcement	Lease terms	X	X		X	TLTB states that leasing process should take no more than 3 months and it has reportedly taken years for existing sites. Lease is not fit for purpose and needs to address options for alternative livelihoods and access to other forest products not in conflict with REDD+.
	Land use	X	X	X	X	Lack of land use planning in general and unclear terms around land use within REDD+ sites. Use of land near REDD+ sites has impact on conservation. For example, haphazard logging and farming results in degradation of land (soil erosion and air pollution) which impacts surrounding conservation plots.
	FPIC	X	X	X	X	Lack of comprehensive understanding of the basis of REDD+ and how the existing global mechanisms fits into the local context of facilitating carbon reduction emission and how funds are allocated to this and appropriately apportioned based on capacity of local community forest.
	Responsiveness of queries	X	X		X	Proven 5 months or more to resolve issues or simply unanswered queries, questions, clarifications by TLTB and REDD+
	Access to reliable information	X	X	X	X	Negotiations are not on good faith, which may strain future relations between the parties.
Awareness of Rights and Access to	REDD+ awareness	X			X	Limited awareness of REDD+, although most stakeholders were familiar broadly with the purpose of

Dispute	Grievance	Engaged in Conflict				Description of Conflict
		LoU	TLTB/Land Bank (Trust/Agent)	Government (Regulatory Body)	Investor (REDD+)	
Resources						REDD+ most complained that it was not revisited or detailed enough. Lack of awareness may lead consenting not fully aware of the future risks that may adversely affect the LoU.
	Legal literacy	X	X	X		Communities need better understanding of legislature and policies concerning resources and governance.
	Authority	X	X	X		LoU grants authorization for activities as allowable on their customary land and also the grant of lease and sometimes authority is inappropriately usurped within the LoU.
	Language barrier	X	X		X	Laws and leases not in native Fijian language resulting in marginalization of certain groups.
Boundary Disputes	Boundary definition	X	X	X		Boundary description on the TLFC record conflicts with oral evidence of community members of the LoU due to loss of traditional knowledge. Lack of precise spatial information leading to different interpretation of boundary.
	Boundary overlaps	X	X	X		Boundary overlaps often mean that land needs to be surveyed and can result in longer processing time and eventual grants of lease, which can have long-term implications for REDD+ in terms of overall project support and recognition by all LoUs.
Sustainability and Ownership	Maintenance issues	X		X		Poor maintained site by the LoUs, requiring government support (i.e., MoF and MoA) maintain the site.

These two pilot projects provide an opportunity to provide insight and understanding of the important differences and similarities between national and project-based approaches to REDD+. Lessons learned from both of these activities were captured and will have implications for the design of a suitable FGM for REDD+. Although different in approach (project vs. national) some of the same problems were faced by both activities, the most prominent being issues regarding

leasing for conservation, benefit-sharing, and awareness, which will continue to be cause discord for REDD+ going forward.

Whist TLTB leases are routinely finalized within three months, both Drawa's and Emalu's agreements took longer than expected to facilitate and secure, with Emalu finalizing their lease at the time of this study and Drawa's still pending.²⁰ Issues abound as listed in *Table 8* above, but considered the most significant and highly prioritized by stakeholders, directly related to REDD+ activities were:

- **Changes in lease terms.** For example, the Drawa Forest Block proposed an original lease term of 30-years. With the change of administration in 2014, a change of policy in enabled through a new law, mandated that all commercially leased land have tenures of 99-years, unless the Prime Minister approves a shorter term. This is problematic because the LoUs are now tied to a lease that will outlive the people committing to it; obligating future progeny to terms that they did not agree to or a change in land use.²¹ In addition, the lease terms are designed on the updated inventory value for carbon in the conservation area. However, these inventories are dated and there is not current agreement about when the reassessment should occur.
- **Leases are not fit for purpose.** The leases issued for the purposes of REDD+ are conservation leases and do not currently address how other forest products (firewood, medical, etc.) may be extracted from the conserved forests, without penalty or disruptions to the REDD+ terms of agreement. This has caused uncertainty about what alternative livelihoods are allowed and has resulted in some communities "accidental" violation and subsequent exclusion from REDD+ programming. For example, a *matqali* originally included in the DBFCC cut a road through their conserved forests to allow greater access to the main road and as a consequence violated the terms of their lease and decreased their area of eligible land. This resulted in their dismissal from the program. In addition, as there is no national land use plan, it is unclear how land can be designated creating overlaps in jurisdictions creating confusion about how the land can be managed at the local-level to account for timber, agriculture, and conservation efforts.
- **Carbon and land rights are not secure.** There are two challenges that the REDD+ communities detailed regarding ownership of the land that is used for REDD+. The first being the land for REDD+ is not entirely secure because the Government can take the land through *compulsory acquisition* and the only protection is the lease (which does not yet exist in Drawa for example). In addition, the ambiguous nature of carbon property rights in Fiji, provides a source of contention as even the Draft Forest Bill does not expressly designate carbon ownership. The Government has previously stipulated that mineral rights belong to the State and there is a fear of parallel development that without adequate legislation carbon will also become State-owned.
- **Eco-system and Valuation.** Two issues arose most prominently around perceived value, the first regarding ecosystem services to the communities and the second in relation to forest

²⁰ As of the time of this study the Drawa Block had received an offer from TLTB and are in the processing of getting 60% LoUs signatures to complete the contract.

²¹ The Government states that the 99-year lease is given to "provide security for the project".

types. For communities the perceived value of ecosystem services is rather low. It is not well understood how conserving the forests will afford them any benefits over felling trees for timber. There is also perceived value difference between native and plantation forests (with leases facilitated through TLTB) that is not well understood or set. The basis of chargeable premium over large tracts of iTaukei land and the valuation basis for rental calculation create conflict with TLTB and between different REDD+ sites communities (where some receive more favorable terms than others).

- **No LoU can exist in isolation.** Thus far, written reports makes clear contra distinction of the forested area under the project and parallel progression of reforestation initiatives on nearby customary held lands belonging to different LoUs from that of the larger Emalu project. There is an underling issue, although seemingly innocuous, which must be well understood by project financiers, agents, and interlocutors in terms of risks regarding potential conflicts, especially where people are related but registered under different LoUs. What is foreseeable is a burdensome demand for a thorough FPIC process, especially full disclosures in relation to lease income, potential carbon credits income, how it is calculated and derived, the construction of legal entities to hold derived benefits, and overall benefit-sharing mechanisms that are culturally appropriate and acknowledged as best serving to current traditional structures. Equity where LoUs with standing trees may draw returns differently from those with afforestation lands will demand clearer articulation.
- **Distribution of funds.** There was a clear preference for the TLTB form of equitable distribution (as compared to the Land Bank's use of a Trust) to distribute funds to communities LoUs. However, only clan members registered in the *Vola ni Kawa* receive their share of lease money because the funds are dispersed through bank accounts. Thus there are those registered in the VKB without bank accounts that do not receive their portion of the lease monies. In addition, the timeline for the securing of funds is vague and communities take issue with not knowing when they will receive disbursements.
- **Understanding and awareness of rights and resources.** Communities expressed a strong desire to have access to resources (human and financial) that would provide them with a better understanding of legislature, policies, and their rights regarding resource ownership, management of land, and governance.

Whilst there are unambiguous and prescriptive terms regarding who should and what percentage of the LoU can provide authorization and consent for development projects, the considerable and nature of rights likely to be adversely affected remains a complex matrix to address. Complicating matters in regard to comprehension is also a legal literacy and language barrier (as laws and leases are not in native Fijian) resulting in marginalization of certain groups.

It remains unclear for communities what the rights, policies, and procedures are under the REDD+ Program (e.g., EIA process, FPIC, benefit-sharing). It was evident from the mapping exercise undertaken with community members that the path for grievances at the formal-level and within REDD+ were less clearly understood. For Drawa the carbon-offsetting project managed by the Drawa Block and Live & Learn have a project-designed GRM. However, the GRM is not in Fijian and the community relies on the NGO to help them resolve more complex problems when it comes to negotiations for the lease (the REDD+ Working Group performed this service as well for Emalu) and understanding of rules and laws around

benefit-sharing and requirements for REDD+ certification. There will be a continued need to have resource groups (e.g., NGOs, legal associations such as FELA, REDD+ Unit) provide technical expertise to communities to inform them of their rights, advocate on their behalf, and provide training on REDD+ site management. It is evident that awareness and participation are at the center of REDD+ discussion coming from consultations with different stakeholders.

5.2 POTENTIAL GRIEVANCES RELATED TO REDD+

There are a countless number of issues that will most likely occur at various levels and within various sectors throughout the process of REDD+ readiness and implementation. Some we can predict, others we cannot. The point of this study is not to predict every possible grievance that may transpire, but to identify the core areas of conflict and use them as indicators of what is most likely to transpire. This assessment will aid those responsible for grievance redress to better position themselves to successfully manage conflicts as they surface.

Based on the analysis of previous conflicts in the forestry and land use sectors and the already present conflicts in REDD+ readiness pilot sites, this section presents an analysis of drivers that may contribute to conflicts or grievances under REDD+ and assigns categorical ratings of the risk of different types of conflict (see *Table 12*). Any outstanding land disputes will likely be exacerbated through REDD+ as disputes increase as the value of land and its forest carbon is recognized.

Table 12. Drivers for potential grievance with REDD+ readiness and implementation

Category	Driver	Impact on Landowner	Landowner Coping Strategy	Potential for Grievance
Socio-Economic	Limitation on type of allowable alternative land use as other permissible land use cannot be inconsistent with REDD+ activities	Limited diversification opportunities on the land to increase alternative income	Source alternative income from non-land based activities like fishing or plant extractives for medicinal purposes	High
	Changing interest of forest user	Need for more products to enhance alternative livelihood	Engage in non-forest dependent livelihood like bee-keeping	High
	There is no benefit-sharing REDD+ model in Fiji (Drawa pilot site has a model in place, but there is not a national model)	Unequal distribution of benefits	Review of benefit-sharing institutional arrangements and advocacy for transparent and accountable governance structure	High
Legal	FPIC not practiced	Rights not respected	Advocacy	Medium
	Boundary disputes between landowners	Cannot provide good title due to uncertainty and loss of investment opportunity with unrecognized rights	Seek Conflict Resolution/Advocacy	Low

Fiji REDD+ Feedback and Grievance Redress Mechanism (FGRM)
Deliverable 2: Assessment and Recommendations of Existing Issues and Structures

Category	Driver	Impact on Landowner	Landowner Coping Strategy	Potential for Grievance
	Leasing and licensing disputes	Bad relationship with investors	Advocacy	High
	Poor implementation and/or enforcement of the law (or no legislation around REDD+)	Impacts on forest management and use, including developments around REDD+ sites (e.g., illegal logging, mining)	Awareness and advocacy	High
	Carbon property issues	Uncertain economic future and loss of income	Seek other alternative economic sources	Medium
	Lack of awareness of legislation that addresses unsustainable land use practices	Loss of land quality	Advocacy	Medium
	Lack of National Land Use Plan	Random land use that are not fit for purpose	Advocacy	High
Environmental	Loss of usable land	Current and future land needs of the LoU at threat.	Seeking of customary access and land use rights from other LoU.	High
	Loss of water resources	Current and future water needs of members no longer sustainable	Advocacy or Migration to other LoU land through customary arrangements	Low
	Eroded customary land for conservation	Corruption or encroachment of farming and logging in REDD+ sites and conflicts within LoU	Awareness	Medium
	Natural disasters (cyclone, draught), or forest fires	Damage to conservation areas impacting forest investments	Awareness	Low
REDD+ Program	Inadequate information sharing and participation of stakeholders	Loss of community support and information gaps	Advocacy	Medium
	Perception about the value of ecosystem services not good	Limited possibilities of alternative income	Advocacy	Medium
	Benefit-sharing with landowners	Unclear basis of benefit-sharing	Advocacy	Medium
	Poor implementation of safeguards requirements	Forest and Environment degradation and cascading loss	Advocacy	Medium

Category	Driver	Impact on Landowner	Landowner Coping Strategy	Potential for Grievance
	Poorly designed or managed REDD+ project	Unintended consequences and loss of potential income and economic opportunities	Advocacy	Medium
	Lack of community ownership	Greater reliance on the government for maintenance support	FPIC and Awareness	Low
Political	Insecurity of Land Tenure	Impossible to provide a good title thus loss of investment opportunity	Seek informal and formal resolutions through advocacy	Low
	Corruption (undue influence, bribery)	Improper dealings, non transparent and loss of economic opportunities	Advocacy	Low
Cultural	Indo-Fijian not recognized as customary landholders	Potential conflict in regard to leasing of the land and who owns the carbon rights	Awareness	Low
	Forest-dependent peoples that have access to the land, but are not owners (expatriate women, etc.)	They may live or rely on resources from conservation areas and this could cause conflict	Involve them in the consultation and participation process and allow them to serve as monitors and stewards for conservation.	Low

5.2.1 Socio-Economic Drivers

The intention behind REDD+ is the commercialization of conservation through sustainable use of forest and surrounding resources. As such, this opportunity is afforded to all members of the LoU, including women, youth and those in more vulnerable groups (see *Figure 12*).

Most female *mataqali* members are overlooked in consultations and discussions because they do not reside in the village and are considered belonging to their husband's family. However, female *mataqali* members retain landowning rights till death and some even register their children to their *mataqali*, rather than the customary registration with their fathers. This is an important consideration and is most visible in Emalu, where 80% of the *mataqali* are women. The Fiji REDD+ program requires that all *mataqali* members be involved all decision-making process and an attendance register and documentation of every meeting should be produced.

Women have also historically missed out on receiving lease payments in the past, tied to issues with not having a bank account. Often women landowners are also asked to sign consent forms *after* the lease agreements have been made and sometimes the payments, resulting in loss of pay. TLTB has acknowledged this and has improved their processes, but there is still an issue with

access to monies to those without bank accounts and there is little awareness training yet to be conducted about the payment process.

Figure 12. Women engaged in community consultation in Drawa Village



Equal representation is another key issues that must be made available and operations must be accepted, as fair and representative by trust agents that are responsible to the LoUs. Potential conflicts may arise in cases of mismanagement in the handling of benefit-sharing and its equal distribution, which if untreated may have divisive impacts amongst relatives and families. Access to funds and information will be critical for all members of LoUs and this will be even more important for the more remote communities, where native forests are most present. There is also a new type of forest user that is being developed as a product of conservation efforts, one that understands eco-system services, but needs options to support conservation beyond timber and extractives. This use not only relies on traditional livelihood practices, but is also invested in gathering other forest products (plants) and developing alternative livelihoods (bee keeping, kava). This is limited currently and is not consistent with REDD+ activities, but there is room to address this in both REDD+ legislation and in TLTB lease terms. There is no benefit-sharing REDD+ model in Fiji (Drawa pilot site has a model in place, but there is not a national model).

5.2.2 Legal Drivers

Creation of market in property rights requires that property (land and element) rights be clear and secure. Land and boundary disputes will persist where lease terms and agreements are made without FPIC and where terms (e.g., 30 vs. 99-year lease) are not seen as favorable by the communities that are investing in sustainable forest conservation. In the case of forest carbon property in Fiji, this is still poorly formulated and will consequently be poorly enforced without REDD+ legislation and carbon ownership detailed. There is a concern that funds from REDD+

will go to the government once forest conservation will become a profitable scheme (similar to extractives and mineral rights). Beyond varying interpretations and gaps in law, this is exacerbated in Fiji through the present of two different systems of laws, in customary versus common law that has different origins, but co-exists. Without the encouragement of enforcement given to traditional law there will continue to be conflict regarding rights and resolutions.

5.2.3 Environmental Drivers

Forest degradation and deforestation from logging and impacts from natural hazards and climatic changes will impact communities where there is potential for REDD+ conservation. The lack of a national land use plan has created poor land management practices, where agricultural and timber extraction can encroach on conservation areas and the fallout from activities creates further degradation to the land around conservation areas (e.g., land erosion, air pollution, lack of clean water, etc.). Multi-sectoral land use planning at the national and project-level will be critical to address these issues. Reforestation is also an issue and needs to be addressed, this consideration was not included in the original planning for example, at the Drawa site.

Natural disasters may also impact REDD+ work and planning as conservation areas may receive damage from cyclones, floods, landslides, and droughts. This will impact forest investments and may require additional funding for disaster management.

5.2.4 REDD+ Program Drivers

The biggest drivers from REDD+ center on information sharing and participation and issues with benefit-sharing. There is poor understanding in communities around REDD+ policies and rules, which has already impacted some communities ability to sustain involvement in REDD+ activities.²² There is also a little awareness by community members regarding the value of ecosystem services and the case for conservation or how they can use land-planning schemes for better land management. This lack of understanding about REDD+, conservation, and land management creates less buy-in as compared to the immediate monetary compensation of timber, with rules that are more comprehensible to the communities.

Different recognition of REDD+ sites are also a source of confusion and conflict where a hybrid scheme that allows for national and project-based REDD+ activities is permissible according to Fiji's National REDD+ policy, but this is not necessarily so in practice. This is evident in the preferential treatment for national schemes over project in terms of leasing terms.

Benefit-sharing is a delicate issue, which was expressed in every consultation (see *Figure 13*). This issue of creating an absolute level platform can only be achieved through thorough the FPIC process followed by disclosures and assessment of risks. TLTB is usually assigned the responsibility of facilitation on behalf of the LoUs, which demands a better understanding of what is proposed including the economies of scale involved. How funds are distributed (seems to be decided differently at the project level as cooperative for Drawa and as a trust for Emalu), the

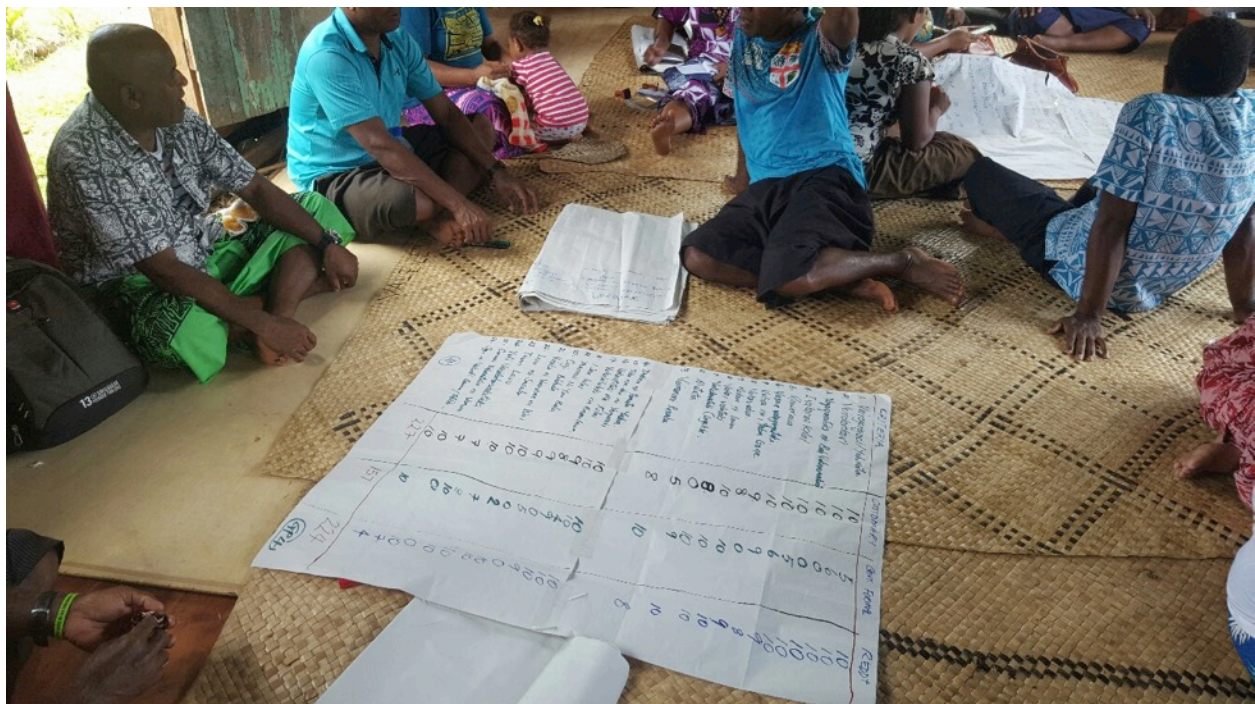
²² In Drawa, one LoU had to be removed from the Block because the cut an access road through their conservation forest. It was not clear to the community what the rules for REDD+ management of land was at the time.

distribution amounts (30/70 Emalu and 40/60 Drawa in favor of the communities), and even how trees are valued is unclear.

Stakeholders have expectations that REDD+ will provide benefits for forest protection and to improve their current livelihoods. If this is not the case this will also become a grievance. Clarity around the responsibility for forest protection and sustainability and maintenance of REDD+ sites will also create issues if not clearly expressed early in inception with the communities through FPIC. For example, in Emalu the conservation site is seen as being poorly maintained by LoUs, consequently requiring government support (i.e., MoF and MoA) to provide upkeep. This in turn created an expectation by the community for government maintenance of the site and a decrease in the level of ownership over the site. This can also create another potential area of conflict should either party feel the other's responsibility is not being followed through.

REDD+ will also need to alleviate the fear that REDD+ projects will create strict or stringent rules about use and extraction of forest products (e.g., travel further for wood for fire, no plant products, loss of land for agriculture or forest by-products). REDD+ is a familiar word in most communities, but the actual process was not well understood by potential sites (Serua). There was inconsistent communication by REDD+, where visits occurred to the communities and presentation were made, but then never followed up, which created uncertainty and a lack of commitment felt by communities (loss of trust). An improved communication plan and stakeholder engagement plan at the community-level is required.

Figure 13. Discussions on benefit-sharing with Drawa Forest Block.



5.2.5 Political Drivers

Insecurity of tenure can be a major driver of conflict if not properly addressed. In Fiji laws whose operation takes priority over existence of ventures, such as conservation leases, include the issuance of logging and mining interests. The Department of Environment is the final statutory approving authority for proposed resource access and development ventures. The current application process is not transparent and which considerations elicit the approval or refusal of a proposal cast doubts and burden in the minds of willing partners in the community and project financiers. The absence of clear governance and procedural policies creates tension and fuel for future conflict.

5.2.6 Cultural Drivers

Non-iTaukei communities, specifically the Indo-Fijians and Chinese farmers, have yet to be fully engaged in land conservation work, including REDD+. These communities have not been considered in most land-based or marine conservation work because they are not often landowners. For the most part, non-indigenous communities have small land areas and will have little impact on any REDD+ initiatives around issues of tenure. However, they are tenants and there may be conflicts around issues of carbon rights if ownership is not clarified. Carbon rights as it stands flows with the ownership of the land and the transfer of this ownership is not deemed automatic even at leasing. There must be a clear and concise agreement between the landowner and the lessee for this.

Another case is where the landowners are not living on or utilizing their forest, but the land is used by other clans or groups as agreed through customary arrangements (these can date back many generations). These informal (traditional) agreements are hard to break due to the cultural and kinship ties linked to it. Consultations with these groups will require a sensitive approach so as not to instigate conflict between the parties.

Forest-dependent peoples that have access to the land, but are not owners (expatriate women, etc.) may live or rely on resources from conservation areas and this could be another driver of cultural conflict. They should be involved in the consultation and participation process and there may be a role for them to serve as monitors or stewards for conservation.

5.3 LESSONS LEARNED AND RECOMMENDATIONS

5.3.1 Awareness and Capacity

- Potential REDD+ sites (i.e., Serua) are aware of REDD+'s *existence* through an initial consultation by the REDD+ Unit, but there was no follow-up or clarity around objectives, rules, and policies and procedures. The low level of awareness is a serious concern for implementation and will be cause for missed expectations and understanding of the purpose of forest driven investment by communities. If REDD+ is implemented without boosting the awareness level of local users, there will be an overflow of awareness-related grievances that may be expressed through more sensitive issues of benefit-sharing. Therefore, as explained previously, the design of the FGRM will allow wide enough accessibility for local users so they can have a channel of communication to talk and learn about REDD+.

- Poor understanding of ecosystem services by communities, which has resulted in several not being interested in participating in conservation/REDD+ programming. A possible solution is to educate communities during site selection and compare ecosystem services to their super market needs, showing the cost for loss of these services up front.
- Permit NGOs and CSOs, with relevant government departments, to conduct village awareness on REDD+ through workshops and training in conflict management in the Western, Northern, Central and Easter Divisions. Priority should be given to those villages that have potential REDD+ sites. The use of effective educational media, such as videos, in both vernacular languages and English is imperative.
- Fiji's REDD+ Program launched a website in which policies, procedures, strategies and related documents are available (although not current). In the present situation, remote local people, especially women, poor, and marginalized groups are unaware of the specifics of the program and lack access to this information. If the REDD+ program is implemented in the current state, it will suffer from lack of support of the local peoples/communities without better communication and outreach. Therefore, disclosure of the policies, procedures, and safeguard documents at local/community level are necessary for smooth implementation of the REDD+ program in the future. These aspects must be taken into consideration in the FGRM design by building it to the local level and opening possibilities for information transfer.
- Fiji has chosen to take a 'hybrid' model for REDD+ implementation, which includes payments flowing at the national, programmatic, and project-scale as specified in the National REDD+ Policy (R-PP) however in practice there have been challenges with implementation and recognition of project-scale activities. For example, the Drawa site is still not being recognized (formally approved by the government, meaning that offsetting cannot be done until the government has endorsed the project) complicating future programming that is inconsistent with current policy.
- Participation is viewed differently with the national and project-based REDD+ activities. There is perceived preference for nationally managed programs that has manifested in a concern that project-based interventions are not being integrated into the current REDD+ scheme. Common questions posted by local participants in Drawa Block show a level of distrust towards the Government as a result. It is therefore imperative that the FGRM opens communication between local level users and creates possibilities for information sharing that leads to an improved understanding of the intentions of the Government that align with all (hybrid) REDD+ projects.
- The goal and function of GRM are unclear to the majority of stakeholders in REDD+. A few knowledgeable people on GRM functions (forest officers, certain NGOs and interest-based organizations like FELA) were also highly educated on REDD+. It will be important to provide a full explanation of the GRM design process and subsequent roles and responsibilities for beneficiaries, government entities, and supporting mediators in the design of the FGRM to steer REDD+ towards success.
- Public awareness of the presence of GRMs within the institution, its procedural process, timelines and options of other avenues, if required for further redress need to be instituted.

- According to FCPF/UNREDD guidelines the GRM should operate independently of all interested parties in order to guarantee fair, objective, and impartial treatment to each case. Making decisions by entities having a stake in the process is thus unacceptable (this includes also the government in some specific cases) so third party mediation is recommended.
- Need for trained GRM staff that can be responsible for handling and management of REDD+ related grievances, similar to TLTB and Land Bank Units. Additional staff to pursue completion complaints, training and awareness on internal procedures, and the development materials to raise awareness for grievances and redress.
- Local users do not understand REDD+'s performance-based system. Communities are concerned that they will be barred from gathering forest products. There is a concern about whether communities will be able to comply with a new trade system for generating alternative income.

5.3.2 Governance

- Boundary distinction is critical and needs to be part of any REDD+ process during readiness for site selection. Emalu still needs its boundary to be mapped out on the ground by physical markings as neighboring provinces are encroaching into the protected area. Various LoU also noted this in Serua under the River Fiji Conservation Project where there is not proper demarcation of ownership, which causes boundary disputes and where Fiji Pine and Harwood surpassing agreed (surveyed) plantation areas.
- Without REDD+ legislation in place and adequate laws to support benefit-sharing GRM enforcement will be difficult if not impossible and accountability non-existent.
- There is a need for a national land use plan because of issues with competing jurisdictions and management. Even if a site is marked as a conservation site timber is still being logged, unlawfully. Different authorities also have different rules (what is "harvesting" according to the timber companies vs. the forestry officials) and overlaps in jurisdiction can lead to community disputes
- As part of REDD+ readiness in site planning, a community land use plan should be designed (with support from the REDD+ Unit, NGOs, relevant ministries and boards, etc.) to provide communities that are participating in REDD+ means to allow for multi-sector land use that aligns with REDD+ policies whilst promoting alternative livelihood options, allowing for agriculture and timber space as needed, and for human settlements (this was done in Drawa).
- Re-examine the Endangered Species Legislation, which protects the native trees, which are being logged. Conservation efforts may foster greater buy-in by communities if there is greater awareness of protected species.
- Sustainable alternative livelihood sources to support the loss of land for purposes of agriculture or timber should be sought immediately for the landowners (e.g., *yaqona*, ecotourism, bee-keeping). This must be supported with technical expertise offered as part of the readiness process through engagement with NGOs that can assist in the development of proposals to secure funding and to provide implementation support for communities to become self sufficient.

- Benefit-sharing structures need to be supported through account set-up and management for disbursement of funds for access to all members of LoUs; having a system in place to check that funds are being accessed.
- Distribution needs to be equitable amongst the landowners where there are differences in the membership size of LoUs, acreage, and even forest density where timber stocking will have an impact. The conflicts will come once there is actual distribution of funds.
- Updated inventories are needed. For example, in Drawa 18,800 tons were evaluated 10 years ago for the Block's conservation site. It would be better to assess carbon every 5 years with the renegotiation of the lease and based on the "Project Monitoring Reports" that contain assertions of the quantified ecosystem services benefits delivered by the project during the relevant (3-yearly) monitoring period. This quantitative assertion is the basis for issuing PES units (e.g. carbon offsets) to the project.
- Use of different forms of management will need to be assessed in order to secure the most appropriate for communities (e.g., cooperative or trust). The number of LoUs involved is also contributory to the multitudes of interest that needs to be negotiated through TLTB. Benefit-sharing expectations will also be subjected to similar tensions.
- Forest users favor submitting grievances at the local-level. Whenever this system is insufficient, stakeholders should be able to propose an alternative locally operating grievance redress system in which all parties are represented. Stakeholders agree that the most important reason for choosing a collaborative model is because REDD+ beneficiaries should maintain ownership of the decision and, as a result, it will have greater chance of success.

5.3.3 Accountability

- Nothing is recorded at the community-level GRM. There is a need and desire for a written record to offer legitimacy to the process as well as a recording of grievance and response to encourage continued learning.
- Recognition of a hybrid system to cater for western and customary structures. A need for the formal system to respect the traditional in a far more legitimate way to give weight to the GRM. This can be done through encouragement by institutions to resolve issues at the informal-level in contracts and in support of the outcomes proffered.

5.3.4 FPIC

- FPIC needs to be integrated and adjusted to reflect REDD+ parameters so communities are better informed on programming and expectations.
- Consultations with key stakeholders and beneficiaries revealed a positive perception about REDD+, once they had been more informed about the process and benefits of the program – predominantly provided by members of district networks, CSOs, and NGOs active involvement in REDD+ activities. However, potential sites revealed that very few of the community level forest users have received the opportunity to participate in a REDD+ yet, so there is an information gap that needs to be addressed.

- From stakeholder consultations, the study team collected a variety of perspectives on rights, policies, and procedures under REDD+ program, but it was consistently unclear where or how grievances need to be resolved for REDD+ or who responds to them. Currently, all grievances are handled through TLTB (formal) or through intermediaries of ADR (Live & Learn). This process needs to be specific and clear and resourced appropriately to respond to a variety of risks and for different forest users as appropriate.
- Perception and transparency about timeframes need to be explicit with communities made thusly during FPIC. Communities need to be informed of the timeline for all phases of REDD+ with quarterly reports and disbursement of information. There must be an expectation set early on regarding when funds may actually be disbursed and the steps in the process that must be met before.
- Communities need support in the negotiation of conservation lease terms, grievance redress for REDD+ because of technical competencies, and in understanding their rights. NGOs, CSOs, and Legal Association (FELA) can be tasked to support REDD+ in providing these services to the communities to help minimize misunderstands and conflicts and to remove bias.
- Leases must be fit for purpose and allow for alternative dispute resolution in clauses.
- Terms of leases need to be consistent in how distribution is offered, expectations for management (government vs. landowners) of sites, and regulations for land use so that there is not perceived favoritism.

Attachments

ATTACHMENT 1: ACRONYM LIST

ATTACHMENT 2: BIBLIOGRAPHY

ATTACHMENT 3: INTERVIEW LIST

ATTACHMENT 4: TOOLS AND TECHNIQUES

ATTACHMENT 5: FIJI REDD+ RSC MEMBERSHIP AND ROLES

ATTACHMENT 1: ACRONYM LIST

ADR	Alternative Dispute Resolution
ALTA	Agricultural Land and Tenant Act
CAO	Complaints Advocacy Officer
CDM	Clean Development Mechanism
CITES	Convention on International Trade on Endangered Species
CMO	Complaints Management Officer
COP	Conference of Parties
CSO	Civil Society Organization
DBFCC	Drawa Block Forest Community Cooperative
DoDD	Drivers of Deforestation and Degradation
EIA	Environmental Impact Assessment
EMA	Environment Management Act
ESMF	Environmental and Social Management Framework
FCPF	Forest Carbon Partnership Facility
FELA	Fiji Environmental Law Association
FGRM	Feedback and Grievance Redress Mechanisms
FICAC	Fiji's Independent Commission Against Corruption
FPIC	Free, Prior and Informed Consent
GHG	Greenhouse Gas
GIZ	<i>Gesellschaft für Internationale Zusammenarbeit</i> (German Agency for International Cooperation)
GRM	Grievance Redress Mechanism
ILO	International Labour Organization
iTLTB (TLTB)	iTaukei Land Trust Board
iTLFC (TLFC)	iTaukei Lands and Fisheries Commission
IUCN	International Union for Conservation of Nature
LoU	Landowning Units
MoA	Ministry of Agriculture
MoE	Ministry of Economy
MoF	Ministry of Forests

MRV	Monitoring, Reporting, and Verification
NEC	National Environmental Council
NGO	Nongovernmental Organization
NRM	Natural Resource Management
PES	Payment for Ecosystem Services
PFE	Permanent Forest Estate
REDD+	Reducing Emissions from Deforestation and Forest Degradation
R-PP	Fiji's Readiness Preparation Proposal
RSC	REDD+ Steering Committee
SDG	Sustainable Development Goals
SEEDS	Sustainable Economic and Empowerment Development Strategy
SES	Social and Environmental Standards
SESA	Social and Environmental Safeguards Assessment
SPC	Secretariat of the Pacific Community
UN	United Nations
UNCBD	United Nations Convention on Biological Diversity
UNCSICH	United Nations Convention for the Safeguarding of the Intangible Cultural Heritage
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
USAID	United States Agency for International Development
USD	United States Dollar
USP	University of the South Pacific
VCM	Verified Carbon Monitoring
VCS	Verified Carbon Standard
VKB	<i>Vola ni Kawa Bula</i> (Native Land Registry)

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ATTACHMENT 3: INTERVIEW LIST

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ATTACHMENT 4: TOOLS AND TECHNIQUES

Example FGRM Questionnaire – Institutional

ORGANIZATIONAL COMMITMENT

1. Do the project management and staff recognize and value the GRM process as a means of improving public administration and enhancing accountability and transparency?
2. Is grievance redress integrated into the project's core activities?
3. Is grievance redress integrated into staff responsibilities job description and responsibilities?
4. Is GRM appropriately resourced and monitored?

PRINCIPLES

Legitimacy

5. Does the GRM operate independently of interested parties?
6. Is the GRM widely perceived as independent?

Accountability

7. Is the GRM accessible to all stakeholders, irrespective of their remoteness, gender, language, education/ literacy, fear of reprisal, or income level?
8. Are the procedures to file grievances and seek action easily understood by project beneficiaries?
9. Can grievances be filed anonymously?
10. Are there alternate points of contact, to avoid delays?
11. Is the GRM appropriately advertised and communicated to project affected people?

Predictability

- 12. Is the GRM responsive to the needs of all complainants?
- 13. Does the GRM offer a clear procedure with timeframes for each stage and clarity on the types of results it can and cannot deliver?
- 14. Is there a pathway for recourse if parties are not satisfied?

Fairness

- 15. Is the grievance treated confidentially, assessed impartially, and handled transparently?
- 16. Are the procedures perceived as being fair to all parties to the conflict?
- 17. Is there fair representation of all parties?

Rights Compatibility

- 18. Are the GRM's outcomes consistent with applicable national and international standards?
- 19. Does it restrict access to other redress mechanisms?

Transparency

- 20. Are the GRM's procedures and outcomes transparent enough to meet the public interest concerns at stake?

Capability

- 21. Are there dedicated and trained staff available to handle GRM?
- 22. Do you have human, technical, and financial or other resources needed to deal with the conflicts at present (and future)?

- 23. Are there dedicated and trained staff available to handle the GRM?
- 24. Is staff given learning opportunities and do they receive any systematic reviews of their performance?

PROCESS

Uptake and Sorting and Processing

- 25. Do multiple uptake channels exist?

Acknowledgement and Follow Up

- 26. Are complaints acknowledged in writing?
- 27. Does the acknowledgement outline the GRM process, provide contact, details and indicate how long it is likely to take resolve the grievances?
- 28. Are there clear timetables that publically available?

Verification, Investigation, Action

- 29. Is the merit of each grievance judged objectively against clearly defined standards?
- 30. Are investigators neutral or do they have a stake in the outcome?
- 31. Is action taken on every grievance?

Monitoring and Evaluation

- 32. Is there a process to track grievances and assess process being made to resolve grievance? Do you have a database?
- 33. Are there indicators to measure grievance monitoring and resolution?

34. If there is data being collected, is this data used to make policy and/or process changes to minimize similar grievances in the future?

Feedback

35. Does a user survey exist to get feedback on the credibility of the process?
36. Is such feedback publically available?
37. Is there the right to appeal?
38. If yes, are the GRM users informed of this right?

Analysis

39. Is there a process to analyze the effectiveness of this GRM?
40. Is there a timeframe?

Example FGRM Participatory Tools

INCLUSION/ PARTICIPATION ANALYSIS

Objective:

1. To collect and analyse information on the inclusion of community members in the Conservation of Forest project cycle.
2. To examine the fact on whether women were consulted at any stage of the Conservation of Forest project.
3. To identify any constraint or barrier that exists for the participation of men or women on Conservation of Forest project.

Procedure:

1. Draw a table of the Conservation of Forest project cycle.
2. List down all stages of the project cycle on one axis, and the various assessment tools on the other axis.
3. Complete the table with responses provided by the consulted group.

Example:

Stages of Conservation of Forest Project	Who is Included?	Criteria for Inclusion	Mechanisms of Inclusion
Identification	Men	Landowners	Separate consultations
Value of Ecosystem			
Formulation			
Appraisals	Men	<i>Turaga Ni Koro</i>	Meeting
		Landowners	
		Youth	
Implementation/ Work planning			
Review	<i>Turaga Ni Koro</i>	<i>Turaga Ni Koro</i>	Meeting
Monitoring	Men	<i>Turaga Ni Mataqali</i>	
		<i>Turaga Ni Vanua</i>	
Final/Impact evaluation	<i>Se bera ni cava</i>	<i>na</i>	<i>vakatorocaketaki.</i>
Benefit Sharing	<i>Se bera ni cava</i>	<i>na</i>	<i>vakatorocaketaki.</i>

Source: Expatriate Women, Vunisea Village, Ra, FIJI SESA Consultation on 29 Nov. 2016

TYPES OF CONFLICTS ANALYSIS

Objective:

1. To identify existing conflicts around forest and land.
2. To identify types of conflicts those exist.
3. To identify the conflicts' frequency and severity.

Procedure:

1. Draw a circle showing 'forests'.
2. List all the conflict issues that have occurred concerning the forest management of its resources.
3. List the no. of occurrences of the identified conflicts in a year. Use blue marker.
4. Identify by a score (1-10) the severity of the conflict issues. (1 – least severe – 10 most severe). Use a red marker.
5. Draw a line to separate the informal system and formal system.

GRIEVANCE MECHANISM MAPPING EXERCISE

Objective:

1. To identify the grievance mechanism that is currently exists.
2. To identify types of feedback and grievance mechanisms.
3. To identify the informal and formal systems of feedback and grievance mechanisms.

Procedure:

1. List one of the identified 'conflicts' from the previous exercise.
2. Write the 'conflict' on left side of the butcher paper and map out the process on which it is raised to relevant authority.
3. Use black marker to map out the grievance flow chart highlighting authorities involved.
4. Similarly, map out the 'feedback' mechanism using the blue marker.
5. Along each way identify the 'means' used e.g. verbal, writing letters, etc. Use red marker.
6. Indicate the length of time to get a feedback.
7. Repeat the above for a different type of conflict.

FEEDBACK AND GRIEVANCE MECHANISMS ANALYSED

Objective:

1. To identify the strengths and weaknesses of each system.
2. To identify the system preferred by the community.

Procedure:

1. List the identified 'systems' at the top of respective columns.
2. Develop the 'criteria' by asking the questions: "What is the good about it?" Continue asking until there are no more replies.
3. "What is the bad about it?" Continue until 10-20 criteria re produced.
4. Ask the group to turn all negative criteria into positive ones.
5. Use a scoring system to rank the preferred system. 0

CRITERIA	Traditional System	Government System	Company's /REDD+ System
Demonstrates good understanding of raised grievances			
Good negotiation facilitation skills			
Discourages competition amongst key actors			
Encourages cooperation amongst all			
Maintains good relationship amongst complainants			
Respects the status of key people involved			
Provides timely feedback			
Ensures positive attitudes towards third parties			
Strengthens good relationship amongst all involved			
Successful in addressing grievances			
Demonstrated substantial input to livelihood of communities			
TOTAL			

ATTACHMENT 5: FIJI REDD+ RSC MEMBERSHIP AND ROLES

Steering Committee Membership and Roles

The roles of the member agencies and organizations are listed below:

1. **The Ministry of Forests (MoF)** is the lead agency and national REDD+ focal point in Fiji and is in charge of overall REDD+ coordination and implementation. The Conservator of Forests approves all REDD+ Project proposals and activities after consulting with the REDD+ Steering Committee. The MoF is currently implementing the “Strengthening REDD+ Readiness Project,” which includes a Fiji REDD+ Project Coordinator.
2. **The Ministry of Economy (MoE)** hosts the National Climate Change Unit, which supports the national REDD+ program and reports to Cabinet level. The MoE also provides advice on climate financing
3. **The Ministry of iTaukei Affairs** is responsible for developing and promoting policies to ensure good governance and welfare of the *iTaukei*. This Ministry strives to ensure that the rights and interests of the iTaukei are safeguarded in the REDD+ process.
4. **The iTaukei Land Trust Board** is the custodian of iTaukei land in the country. Almost 90% of land in Fiji is customary owned. The Board provides guidance on the use of iTaukei land and represents the interests of iTaukei landowners on land dealings.
5. **The Department of Environment** is the national focal point for the Convention on Biological Diversity (CBD). This is the lead agency in ensuring biodiversity is protected and monitored at the national level.
6. **The Ministry of Lands and Mineral Resources** looks after State land including mangroves. This Ministry hosts the *Land Bank* where landowners can “deposit” their land to be invested by the Department on their behalf. The Ministry provides guidance on the use of State land and on land deposited in the Land Bank. The Ministry is also responsible for regulating the exploration and development of Fiji’s mineral, petroleum and other related non-living resources of the country.
7. **The Ministry of Agriculture** is the lead agency for the agricultural sector and is the national focal point for UNCCD. The department guides the development and implementation of agriculture policies and incentives to support REDD+ strategies. Given that agriculture is the main cause for deforestation in Fiji, the department plays an important role in addressing this issue.
8. **The Ministry of Rural and Maritime Development and National Disaster Management** is responsible for administering government activities at the Provincial & community level. The Provincial Administrators are close to the ground and will support the coordination and monitoring of REDD+ pilot site activities.
9. **REDD+ Civil Society Organization (CSO) Platform** consists of several NGOs and CSOs that carry out REDD+ activities and contribute to the development of national-scale M&E,

provide inputs into guidelines on safeguards, ensure compliance of national procedures and contribute to exchange of experiences and lessons learned, support social inclusion and gender integration and empowerment, etc. The Platform is chaired by the *Soqosoqo Vakamarama* and is supported by Nature Fiji-*Mareqeti Viti* and Live & Learn.

10. **Private Sector** plays an important role in reducing forest degradation and in the implementation of the Fiji Harvesting Code of Practice (e.g., Sawmillers Association).
11. **Fiji Pine Limited** is a public enterprise and one of the largest plantation industries in Fiji. The company will support and identify opportunities for REDD+ activities pertaining to plantations.
12. **Fiji Hardwood Corporation Limited** owns majority of the mahogany plantations in Fiji. The company will support and identify opportunities for REDD+ activities pertaining to plantations.
13. **Yaubula Management Support Teams** are under the provincial Offices and placed within the offices of the Roko at the various Provinces to support conservation and informed decision-making regarding NRM.
14. **The Pacific Community (SPC)** is the regional intergovernmental organization providing technical and policy support in the area of forestry other and land use sectors.
15. **The University of the South Pacific (USP)** is a regional University. The Institute of Applied Sciences of USP provides technical, research and policy support in the area of biodiversity assessments and monitoring.
16. **Fiji National University (FNU)** is a local University. The College of Agriculture, Fisheries and Forestry provides technical, research and policy support in terms of forests.
17. **The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)** provides technical and policy support for entire REDD+ Readiness process.
18. **The Department of Women** looks after women's interests and is the responsible agency for the National Gender Policy.
19. **The Ministry of Youth and Sports** ensures the representation of youth interests. Coordinates a country's largest network of youth groups – from rural and urban areas.