



# GRIEVANCE REDRESS MECHANISMS FOR COMMUNITIES IN LAO PDR

WHERE CAN YOU COMPLAIN WHEN INVESTORS ENCROACH YOUR LAND, POLLUTE YOUR ENVIRONMENT OR FAIL TO KEEP THEIR PROMISES?



# A HANDBOOK FOR COMMUNITIES AND RAI PRACTITIONERS

## Foreword

Land-based investments have become one of the main drivers for growth and rural development in Lao PDR over the past decades. However, in many cases, these investments failed to deliver on development promises made, as they harm the environment and livelihoods of those people affected by the investment or living nearby. Irresponsible business practices like land dispossession, overuse of agrochemicals or poor labour conditions have often led to land degradation and social conflicts. These conflicts can severely threaten the success of an investment; disputes with local communities risk the reputation of an investor and can lead to long-term losses through a delay or termination of business operations.

To avoid this, the investor's strict adherence to national laws and regulations, as well as compliance with international standards and principles, is necessary. This includes systematic and effective engagement with local communities, who are affected by the investment in any manner. On the other hand, local communities must have adequate knowledge and capacities to avail themselves of an effective redress mechanism in the event of complaints.

In some cases, investors have established their own grievance mechanisms to resolve conflicts with stakeholders, allowing local communities or individuals to raise their concerns directly with investors. However, there are also government conflict resolution and grievance mechanisms that local communities or individuals can turn to if investors do not have a corporate grievance mechanism or if they believe resolution through that mechanism is unfair or unlawful.

The government adopted the revised law on grievance redress mechanisms in 2016. However, there is no national framework or guidance for local communities on how to access a company- or government-based grievance mechanism. Therefore, this guide provides practical guidance and steps for affected local communities or individuals to raise their concerns or conflicts caused by land-based investment operations.

This guide is one of three community capacity development products related to responsible agriculture investment developed under the *Promoting Responsible Governance of Investments in Land* (RGIL) project, commissioned by the European Union (EU) and the German Federal Ministry for Economic Cooperation and Development (BMZ). These guides provide in-depth knowledge on responsible agriculture investments, effective and inclusive community engagement on environmental and social safeguards, and the establishment of company-based grievance mechanisms.

It is my hope that this handbook will not only provide valuable guidance for local communities and individuals to seek support when they face concerns or conflicts with investors but also be useful for organisations who work with the local communities on responsible agricultural investment. I would like to take this opportunity to sincerely thank the stakeholders from the government, civil society organisations, private sector, and the RGIL project teams of GIZ and NIRAS, who have made efforts to develop this manual. Finally, I would like to express my gratitude to the EU and BMZ for their financial support.



Minister

**Khamjane VONGPHOSY**

## Preface

For people living in rural areas, it is crucial that they have access to land and that no one can take it away from them. Otherwise, not only their food supply and economic development are at risk, but also their security and social peace. Secure access to land is also very important for achieving the Sustainable Development Goals (SDG) that all countries have set themselves as a common goal, which include not only poverty reduction and food security but also gender equity. It is therefore also fundamental that men and women both have secured land rights.

As fertile land is limited, it is sought after by various actors for different land uses. The competition for land may further be aggravated by commercial agriculture and forestry investments. Such investments are often intended not only to generate the investor's profit, but also to have a positive impact on the overall economy and local communities who are supposed to benefit from better living conditions, employment opportunities and know-how transfer. However, if investments do not follow internationally agreed principles and guidelines and the national legal framework, they run a high risk of having negative consequences on communities and the environment. Investments may lead to land-use disputes, expropriation, and displacement as well as environmental degradation, worsening the socio-economic situation of already disadvantaged groups. To ensure that investments in land generate benefit also for the local population, certain aspects must be considered when designing sustainable and profitable investments in land.

This is where the project Promoting Responsible Governance of Investments in Land (RGIL), commissioned by the European Union and German Federal Ministry for Economic Cooperation and Development (BMZ) comes in. Implemented by GIZ in Laos, Ethiopia and Uganda, the project aims to ensure that investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations, in particular vulnerable groups and women. RGIL works together with target communities, political partners and investors as well as Civil Society Organisations, academia and investor associations on the implementation of good land governance based on international principles such as the VGGTs and the CFS' Principles on Responsible Agricultural Investment (RAI).

A series of guides and manuals were developed and validated in a participatory process with different stakeholders, after assessing actual needs regarding capacity development and analysing existing international and national guidelines, regulations and training materials. They combine important elements from existing products and trainings, and apply them specifically to the process of land-based investments and in relation to identified problems in each country. The various guides and manuals complement each other thematically and can be used both as individual products and as a complete toolkit in the respective country-specific context.

This handbook is part of the Lao PDR capacity development toolkit for responsible land-based investments and gives communities practical information and tips on whom to address and how when difficulties with investments occur. Such difficulties with land-based investments range from investors encroaching communities' land or polluting the environment to failing to deliver on promises. In all these situations, local communities have the right to complain and demand redress. GIZ hopes with this manual to contribute to responsible investments in land in Lao PDR.

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## List of abbreviations

<b>BMZ</b>	<i>Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung</i> German Federal Ministry for Economic Cooperation and Development
<b>CFS</b>	Committee on World Food Security
<b>CSO</b>	Civil Society Organisation
<b>DoNRE</b>	District Office for Natural Resources and Environment
<b>EU</b>	European Union
<b>FPIC</b>	Free Prior and Informed Consent
<b>GIZ</b>	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
<b>NGO</b>	Non-Governmental Organisation
<b>PPC</b>	Provincial People's Council
<b>RAI</b>	CFS Principles for Responsible Investment in Agriculture and Food Systems
<b>RGIL</b>	"Promoting Responsible Governance of Investments in Land" project
<b>SDG</b>	Sustainable Development Goals
<b>VGGT</b>	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food security

## 1. Introduction

*One morning, little Noi<sup>1</sup> woke up to a loud noise. It came from the forest. It rumbled and cracked. Fearfully, she looked out of the hut. The noise became even louder. She ran to her mother and woke her up. Lattana jumped up and knew immediately: this is the sound of bulldozers. She woke her husband, quickly they both jumped into their clothes and ran to the village square. Many other adults also rushed there. They were waiting for the village chief. As soon as he came, they bombarded him with questions. What are they doing there? How can we stop them? How can we drive them away?*

What happened here? Apparently, an investor has started a new project without the residents knowing or agreeing to it. This would not have happened if the investor had involved the local community members in the planning of the project and designed it in accordance with their needs. This is what an investor should do. The investor should inform the local community at an early stage and wait for their free consent. The community has a right to give its *free prior informed consent* (FPIC) or to withhold it. In this case, this seems either not to have happened (sufficiently) or the investor ignores the rejection of the local community. Now the community members are asking themselves what they can do. Who can they complain to and in what form? This is exactly what this guide is about.



Figure 1: Community members complaining to village chief about an investor clearing their land

### This guide tells you what to do in such a situation

If an investor harms you or your environment with their investment, you have a right to complain.

#### Constitution of Lao PDR, article 41:

“Lao citizens have rights to file complaints and petitions and to propose ideas to relevant state organisations in connection with issues pertaining to the public interest or to their own rights and interest”.

You have several options where you can complain: You can complain directly to the company. You can complain to the relevant authority. Or – in case of low-impact disputes with smaller and/or local

<sup>1</sup> Names of persons in this handbook are pseudonyms

companies – you can address the Village Mediation Unit. Whenever you are not satisfied with the result, you can submit a complaint to a court. Finally, you have the right to file a petition to parliament.

In this handbook, we explain in more detail who you need to approach and how, so that your case is heard and you can be given help.

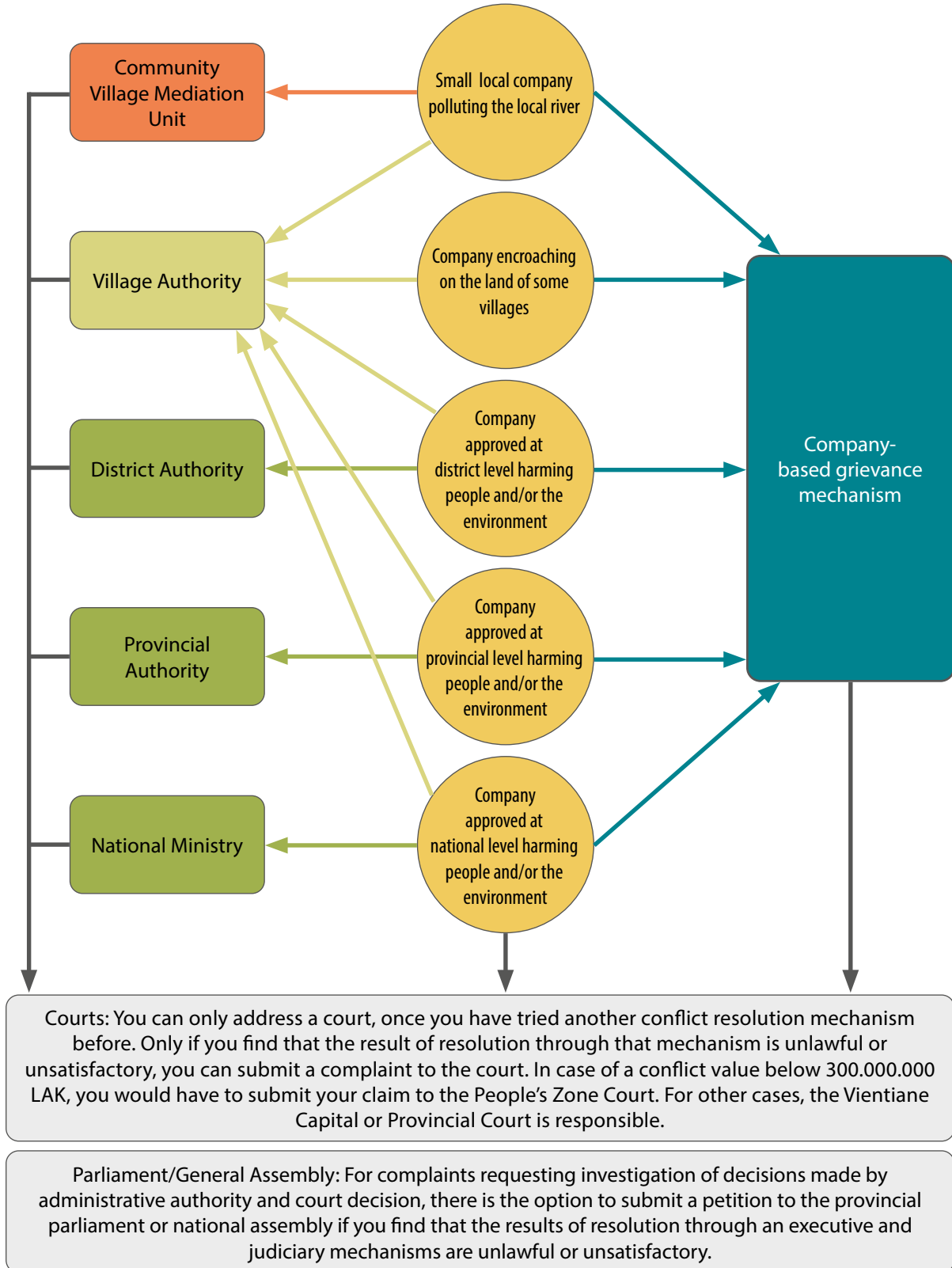


Figure 2: Existing complaint options

## How was this guide created?

The preparation of this manual was part of capacity development activities within the framework of German-Laotian cooperation under the project “Promoting Responsible Governance of Investments in Land (RGIL)”, which is co-financed by the German Federal Ministry for Economic Cooperation and Development (BMZ) and the European Union (EU). The project aims “to foster investments in land that are productive, contribute to sustainable land management and respect the rights and needs of the local population, including vulnerable groups and women.”

In order to ensure that the content and form of the manual meet the requirements and expectations of the government, the private sector and civil society, the development was consulted with these stakeholders through a series of consultation workshops.

## 2. Complaining directly to the company

If your interests and fundamental rights are threatened by an investor, you can complain directly to the investor. The investor is required to provide a grievance mechanism for such cases.

Lao legislation supports the establishment of company-based grievance mechanisms. The decree on environmental and social impact assessment and the one on compensation state that project developers (companies) have obligation to receive and resolve complaints from affected communities (Article 74 of the Prime Minister’s Decree on Environmental Impact Assessment, 2022). Further, in the context of Private-Public Partnership projects, investors have a right and responsibility to establish a simple and effective company-based conflict resolution and grievance mechanism (Article 42 of Prime Minister’s Decree, 2021).

### What are company-based grievance mechanisms?

A company’s grievance mechanism is a post or unit set up by the company to address any complaints or conflicts between employer and employees within the company or between the company and surrounding communities. This can be a complaints office in the case of a bigger company or simply a conciliator or community liaison person in the case of a small company.

Grievance mechanisms allow people to complain about negative impacts they are affected by that are caused by the company as well as to raise concerns when they believe they are being or will be harmed. These mechanisms make it possible that grievances are addressed in an early stage so that they do not escalate. Negative impacts can be remediated early or even prevented. Thus, the advantage of these grievance mechanisms is that they cannot only remediate those adverse effects that have occurred already but also prevent (further) harm. So far, not every company has its own grievance mechanism. As it is still a relatively new requirement for companies in international corporate practice, only a few



companies have set up their own grievance mechanism so far and not all of them yet function 100% according to international standards.

## When can you complain directly to a company?

Companies must deal with your complaint if they have violated your interests and fundamental rights, however, villagers should not wait until an investor violates your rights but you should submit complaint to investors if you have or feel concern about the operation of the investment. It is sufficient if you have reason to believe that a planned investment violates your interests and fundamental rights. You do not have to wait until this happens to file a complaint.

Here are some examples where interests and fundamental rights are violated or going to be violated:

- Land that serves your food production is marked by an investor as the investor's property (hurting your right to food),



Figure 3: Investor cleared farmland thereby negatively impacting local food security

- An investor lays claim to a large area of land that you do not use for production, but on which your water sources are located - whether to supply you with drinking water or with fishery products (hurting your right to water, possibly also right to food and right to health),



Figure 4: Investor blocks access to communal land that local people rely on to access water for consumption and fishing

- An investor lays claim to an area which, if used, would see some or many of your houses demolished, you have not been guaranteed compensation and you have not agreed to it (violating your right to adequate housing and the prohibition of forced eviction),



Figure 5: Investor cleared residential areas that forced local communities to abandon their homes

- From what you know of the investment project, you assume that this investment will have negative environmental effects that are harmful to your health, such as pollution of drinking water, contamination of soils (used for agriculture, livestock or forestry), air pollution, radiation, etc. (violating your right to the highest attainable standard of health),



Figure 6: Local community members worrying about the negative impacts from a land-based investment within their community on environment and health

- You have gathered to make your protest known peacefully. In the process, the investor stopped you from doing so (violating your right to freedom of expression and right to assemble peacefully).



Figure 7: Company representatives preventing local community members from protesting against land clearing at concession site

## How do you find out who to contact?

A company may have its own grievance mechanism or share a grievance mechanism with other companies. It makes no difference to you. You just need to find out who to contact. You can contact the District Planning and Investment Office, the Provincial Department of Planning and Investment, the Chamber of Commerce and Industry or any company personnel to find out. If you have access to the internet, this information should be on the company's website. You may also be able to find a telephone number or email on signs of the company in your area.

## How do you submit a complaint?

Ideally, you should be allowed to submit your complaint informally at any time in your language through a variety of channels (e.g. by telephone, email, post, or direct submission), however, some companies may have their own procedures and you may have to start by filling in a certain form. If you are in doubt about how to make a complaint, contact the company and ask them; or ask someone else, e.g. a Non-Government Organisation (NGO) or Civil Society Organisation (CSO) to do this for you if you want to remain unrecognised. It is best to get a written overview from the respective company of the entire complaint procedure, which tells you what you have to do, how and when.



Figure 8: Local communities can submit their complaints to an investor via different channels

Your complaint should contain the following information:

- What happened?
- Where did it happen?

- Who is affected?
- How extensive is the damage?
- How is the company involved in the situation?

Getting compensation or entering into a dialogue with the company to solve the problem is made easier by giving your name and letting them know how to contact you. However, if you are afraid of reprisals, you can always file a complaint anonymously.

## What happens after you have submitted a complaint?

**Acknowledgment of receipt and information on how your case will be handled:** After you have submitted a complaint, you should receive an acknowledgment of receipt confirming that the company has received your complaint. At the same time, the company should send you information on how your case will be handled and what the next steps are.

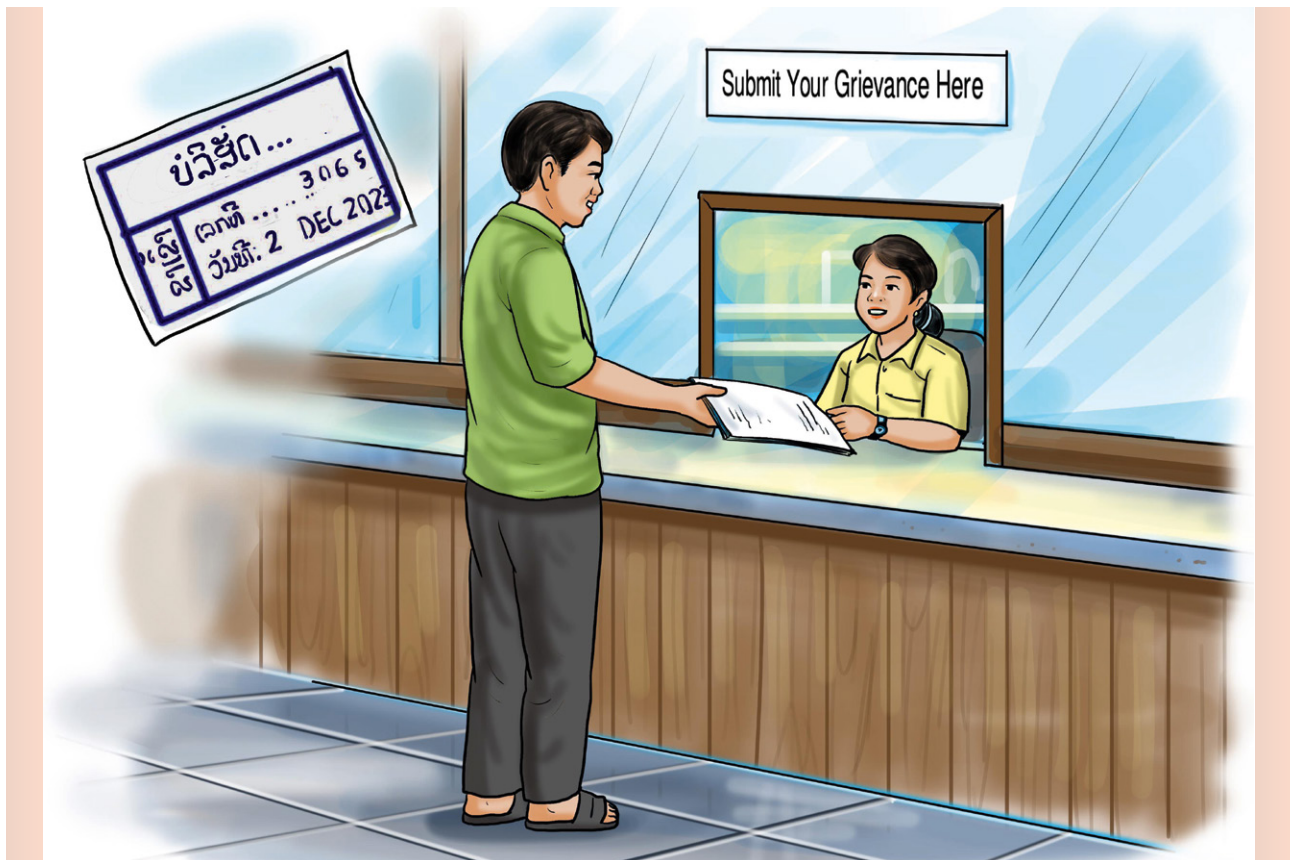


Figure 9: A local community representative submits a complaint to the investor at the company office, and he is provided with a referencing number to acknowledge the receipt

**Examination of the admissibility of the complaint and clarification of facts:** Once the company has received your complaint and confirmed receipt, it examines its admissibility. That means that the company is checking if your complaint is about any negative fundamental rights related social or environmental impact caused by the company. They may contact you if they need further information or clarification. The company is doing this to ensure that they are competent to deal with the case. If they are, they have an obligation to process the complaint.



Figure 10: Representatives of the company examine the petition (left) and then collect facts to verify the case (right)

**Amicable settlement:** Now the actual dispute resolution begins. Here the company cannot simply decide the dispute, but you have to talk or negotiate with each other until you reach a consensus. Only when there is consensus and you and the company agree on the outcome is the dispute resolved. Mediation is the most commonly used method. This means that a third, independent person, the mediator, manages the agreement process. The mediator is only there to guide the agreement process so that you and the company can both present your position, state your interests and needs and then come to a decision together. The mediator is not allowed to decide the case.

In a negotiation or mediation, you can have the support of a legal advisor with whom you can discuss critical issues during the meeting. This legal advisor can for example be someone from an NGO or CSO.

**Timely and adequate redress:** If the company has already harmed you, you are entitled to redress. You must negotiate this during the dispute resolution process. Perhaps the company even has a detailed overview on the different forms of redress (like compensation or reparation etc.) available that specifies who is entitled to what type of redress and under what conditions.



Figure 11: Representatives of the company and the local community negotiating to resolve a conflict arising from an investment. Such a conflict resolution could also be done with the support of a neutral mediator.



Figure 12: Investor and local community representatives signed a Memorandum of Understanding after a conflict has been resolved establishing redress and guaranteeing that the negative effects will cease

### What can you expect as result?

If your concern was justified and the company is indeed to blame for your damage, the grievance procedure should lead to the company changing its course of action and not causing you any further damage. The company should be liable for the damage caused so far. You will have to decide together how to proceed in future, e.g. whether the company should refrain from using your land or compensate you for it. If no agreement can be reached, you still have the option of submitting a complaint to the competent authority (see chapter 3).

### Are you taking a risk by using such a company-based grievance mechanism?

Company-based grievance mechanisms established according to international standards do not pose a risk to the complainants. According to international standards, companies offering grievance mechanisms must protect those people who inform them about negative impacts which their company is producing. They must ensure that your identity remains anonymous and that you are safe from punishment, reprisals, intimidation, retaliation etc. This is called “whistle-blower protection” and is protected under international law.

If you have doubts about a company’s compliance with these standards and fear reprisals, you can always file a complaint anonymously. You can also ask an NGO or CSO to do this for you. Such an NGO/CSO can also help you formulate the complaint and guide and support you through the whole process of making a complaint.

## How much does it cost you?

If you use a company's grievance mechanism, you are not to be charged. The only costs you will have to cover are those for your own expenses like communication, transportation and food to travel to the company.

## 3. Submitting a grievance to a governmental grievance redress mechanism

If the company you are harmed by does not have a grievance mechanism, or you do not have any information about the company, or you are not satisfied with the solution provided by the company, or you simply do not want to contact the company directly, you can submit a grievance to one of the government grievance redress mechanisms.

### What are governmental grievance redress mechanisms?

There are three governmental grievance redress mechanisms that are interlinked: the executive mechanism, the judiciary mechanism, and the legislative mechanism. The executive mechanism concerns administrative bodies at the village, district, provincial and central/national level, such as the village authority, the district authority, the provincial government or a national ministry. The judiciary mechanism corresponds to the justice system with its courts, the People's Zone Court, the Vientiane Capital Court, the Provincial Court, the Regional Court and the Supreme Court. The legislative mechanism leads through legislative bodies such as the Provincial People's Council (PPCC) and the National Assembly. Your entry point is always an administrative body. This can be the village authority or alternatively, it can be a district, provincial or national administration – depending on who of them approved the investment that led to the conflict. In most cases, it might be difficult to find out which authority at which level approved the investment. This is not a problem, because you can in any case always contact the village authority. Depending on how the grievance is dealt with and how satisfied you are with the result, your case can directly be solved by the competent administration or you have to re-submit the case to an administrative body at a higher level or even to a court.

The outcomes of these procedures result either from mediation or a decision made by the head of the administrative unit such as the village chief, governor or minister. They are not legally binding.



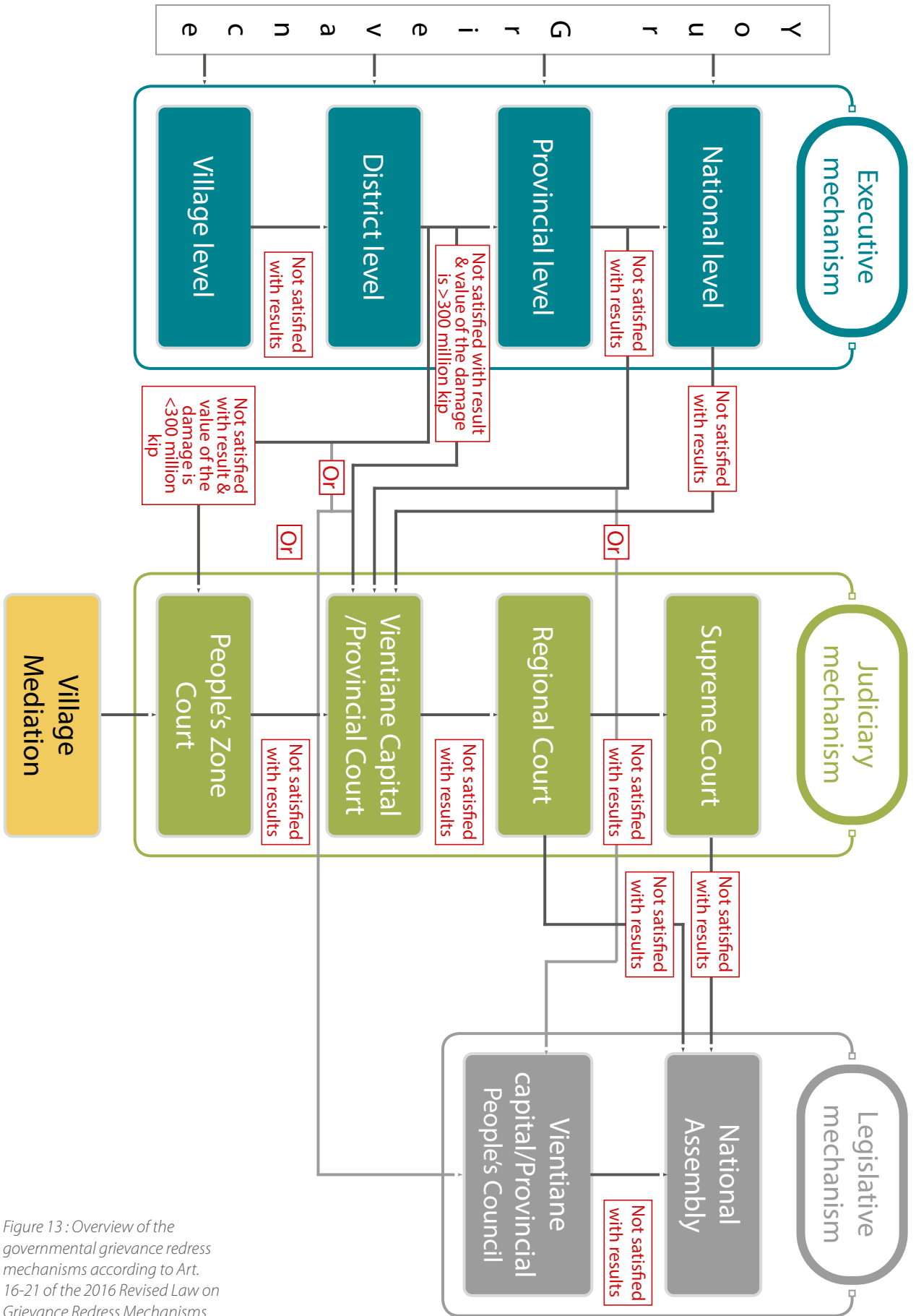


Figure 13 : Overview of the governmental grievance redress mechanisms according to Art. 16-21 of the 2016 Revised Law on Grievance Redress Mechanisms

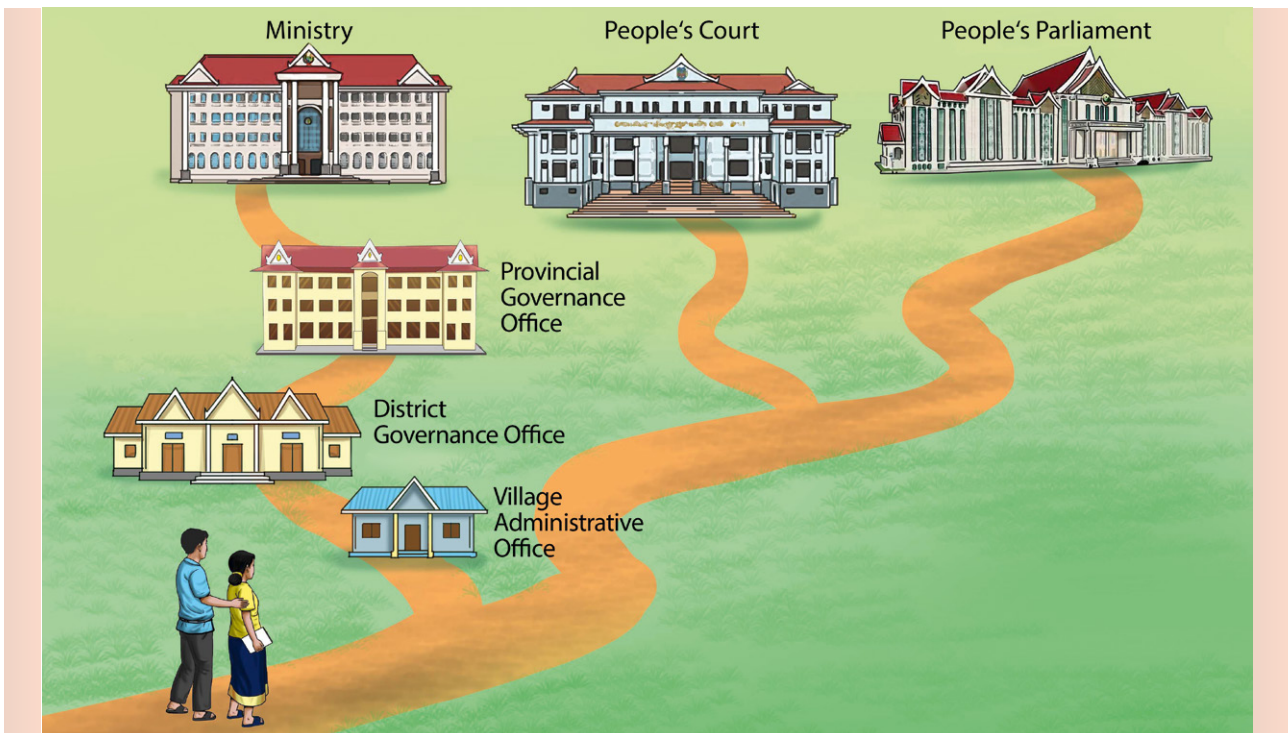


Figure 14: The three government channels (executive, judiciary and legislative) through which communities can file complaints

## When can you submit a grievance to a governmental grievance redress mechanisms?

Whenever you are negatively affected by an investor's action, you can submit a grievance to a governmental grievance redress mechanism. Your first complaint always has to be addressed to an administrative body (executive mechanism), such as the village authority, the district authority, the provincial government or a national ministry. According to the 2016 Law on Grievance Redress Mechanisms, the State Inspection Authority at a respective level will be assigned by the head of the administrative body to coordinate with concerned agencies to handle the conflict, for example with the District Office for Natural Resources and Environment (DoNRE) relating to land issues, with the District Office for Labour and Social Welfare relating to labour issues, etc. (see Articles 19, 20 and 21). If the conflict is about land, you can submit the complaint directly to DoNRE.

Only if there is no memorandum of understanding or other agreement between the investor and government, you can submit a complaint directly to the court. However, the court usually will ask if the case has already been mediated at least at the village level and they want to see the record of mediation. In all other cases, you have to first submit your case to the investment approving authority.

## How do you submit a grievance?

If you wish, you can always submit your grievance to the village authority. No matter who approved the investment, the village authority has to deal with your case. Alternatively, you can directly submit your grievance to the authority that approved the investment. For instance, if an investment, which negatively affects your farmland, has been approved by the provincial governor, you can submit a complaint either to the village authority or directly to the provincial government. Then the governor will assign Provincial State Inspection Authority to coordinate with concerned agencies e.g. with Planning and Investment for

general issues relating to investment, DoNRE relating to land issues, Labour and Social Welfare relating to labour issues to handle the conflict (see Art. 20 of the 2016 Law on Grievance Redress Mechanisms).

According to the Investment Promotion Law (Art. 94 and 95), the complaint should be submitted to a one stop service which has an office at the Department of Planning and Investment at the provincial level and at the Ministry of Planning and Investment at the central level.

For mediation at the village level, complainants can submit a written request or a verbal one (if the person is illiterate). For the executive, judiciary and legislative mechanisms, the complaint has to be written in Lao language. It should include:

- Name and address of the authority to which the complaint is submitted;
- Full name, age, occupation, nationality, residential address, phone number, and email of the petitioner(s);
- A brief summary of the conflict including background, damage, causes, etc., results of previous resolution (if there is), remaining unsolved issues that are proposed for further consideration, and supportive evidence (if there is);
- Location, date and signature of the petitioners.

Villagers who have difficulties accessing justice can request legal aid at different levels: District Office of Justice, Provincial Office of Justice, and Judicial Promotion Department of the Ministry of Justice.

The conditions for receiving legal aid are as below:

- |   |                               |
|---|-------------------------------|
| 1. Poor,                                      | 5. Disabled person,           |
| 2. Vulnerable,                                | 6. Women and children who are |
| 3. Children who need special protection,      | violence victims,             |
| 4. Offenders who are specified by law to have | 7. Human trafficking victims. |
| a lawyer to assist,                           |                               |

Legal aid provides four types of assistance:

1. Providing necessary relevant information,
2. Providing legal counselling,
3. Assisting in preparing all papers,
4. Providing a person representing the claimant during legal proceedings.

## What happens after you have submitted a grievance?

**Conflict resolution at village level:** The village authority can propose a mediation process. If you accept this, you can enter into a mediation with the company (for details see chapter 4). Otherwise, the village authority will investigate the case and take an ultimate decision within 20 days from the date the complaint was submitted (see Article 18 of the 2016 Revised Law on Grievance Redress Mechanisms).

**Conflict resolution at district level:** If the conflict could not be solved at the village level or if you are not satisfied with the result, you can submit a complaint to the district authority. At the same time, if the district government is in any way involved or responsible/accountable for the conflict, a further complaint can be submitted to those district government authorities who have approved the investment. Also, the other party may submit a complaint to the district authority if she is not satisfied with the result by the village authority. Finally, you may directly submit your complaint to the competent district authority without having filled a complaint at village level first if that authority has approved the investment (see Article 19 of the 2016 Revised Law on Grievance Redress Mechanisms).

The District Office for State Inspection has the mandate to coordinate with other concerned agencies to investigate the conflict, gather evidence, and report to the district governor for that a decision on resolving the conflict is to be taken within 30 days from the date that the complaint was submitted.

**Conflict resolution at provincial level:** If the conflict could not be solved at the district level or if you are not satisfied with the result, you can submit a complaint to the provincial government. At the same time, if the provincial government is in any way involved or responsible/accountable for the conflict, a further complaint can be submitted to those provincial government authorities who have approved the investment. Also, the other party may submit a complaint to the provincial authority if she is not satisfied with the result by the district authority. Finally, you may directly submit your complaint to the competent provincial authority without having filled a complaint at village or district level first if that authority has approved the investment (see Article 20 of the 2016 Revised Law on Grievance Redress Mechanisms).

The Provincial Department for State Inspection has the mandate to coordinate with other concerned agencies to investigate the conflict, gather evidence, and report to the provincial governor for that a decision on resolving the conflict is to be taken within 30 days from the date that the complaint was submitted.

**Conflict resolution at national level:** If the conflict could not be solved at the provincial level or if you are not satisfied with the result, you can submit a complaint to the concerned ministry. At the same time, if a ministry is in any way involved or responsible/accountable for the conflict, a further complaint can be submitted to the ministry who has approved the investment. Also, the other party may submit a complaint to a ministry if she is not satisfied with the result by the provincial government. Finally, you may directly submit your complaint to the competent ministry without having filled a complaint at village or district level first, if the ministry has approved the investment (see Article 21 of the 2016 Revised Law on Grievance Redress Mechanisms).

The Department of Inspection of the concerned ministry has the mandate to coordinate with relevant agencies to investigate the conflict, gather evidence, and report to the minister for that a decision on resolving the conflict is to be taken within 45 days from the date that the complaint was submitted.

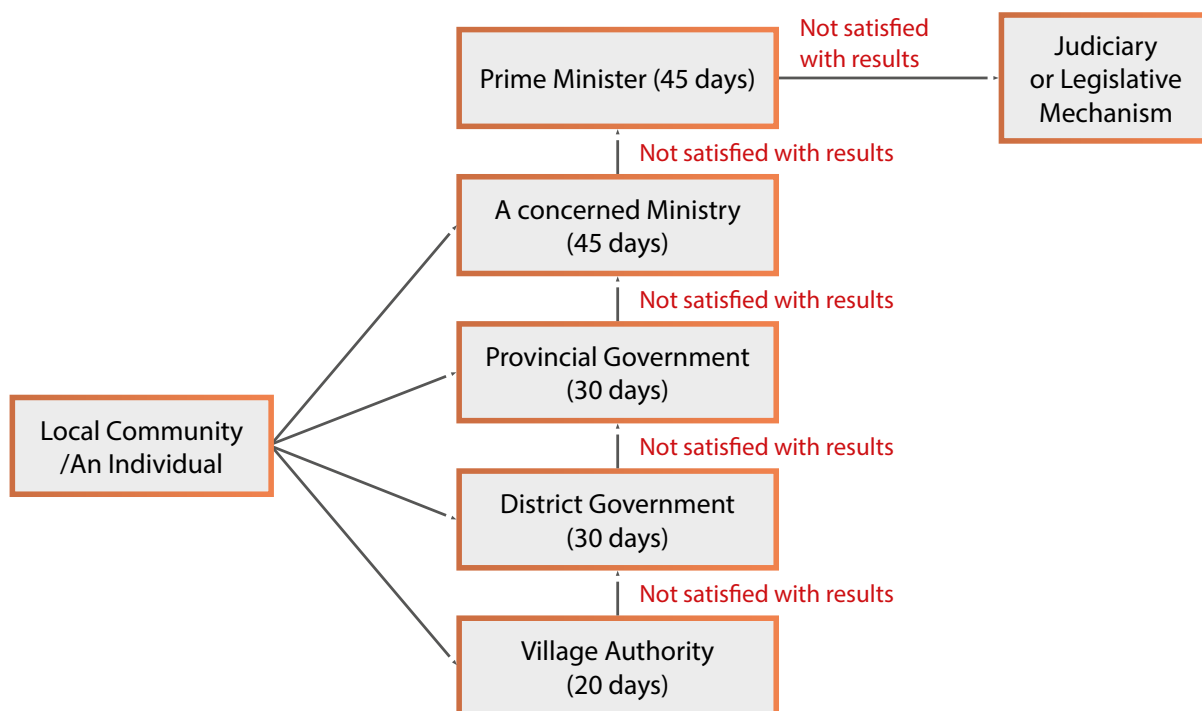


Figure 15: The path of your complaint in the executive mechanism

If the resolution at the ministerial level is not satisfactory, you can submit a complaint to the Prime Minister. Then the State Inspection Authority will handle the case.

**Submitting a complaint to the court:** If you are not satisfied with the results of the resolution through the executive mechanism, you can submit a complaint to Vientiane Capital or Provincial Court. The complaint must be addressed, and a judgement has to be passed within nine months. If the judgment by Vientiane Capital or Provincial Court is not satisfactory to you, you can be submitted a complaint to the Regional Court (consideration within four months), and then to Supreme People’s Court (consideration within three months). The company equally has the right to submit a complaint at a higher level if not satisfied with the result.

With submitting a complaint to a court, you are entering the judiciary mechanism. Here, the dispute will be resolved through the formal process of litigation (court proceedings). This includes investigation, prosecution and judgement. The resolution in this process is quite complicated depending on the types, effects and causes of the dispute as stipulated in the civil and criminal procedure laws.

**Submitting a petition to the Provincial people’s Parliament/Vientiane Capital Parliament:** If your concerns have not been satisfactorily resolved by either the administration (executive mechanism) or the judiciary (judiciary mechanism), and you feel that you have been unfairly judged in all cases, you still have the option of submitting a petition to Parliament (legislative mechanism).

If you consider the decision/judgement of the district or provincial government unfair or unlawful, you can submit a petition for justice to the PPC. Once the petition has been submitted, the PPC will assign a respective committee such as those responsible for justice, security, etc., to review and investigate the case, and report to the president of PPC for consideration within 30 days. Then, the respective committee will send an official notification to the person who submitted the petition and other stakeholders regarding the results of the investigation and the decision of the PPC. The notification will be also sent to a concerned government institution to implement within 30 days. The concerned government sector has to report the implementation of the PPC’s decision back to the PPC within 45 days.

**Submitting a petition to the National Assembly:** If your case could not be solved neither by central government (executive mechanism), the regional or supreme people’s courts (judiciary mechanism) or the PPC (legislative mechanism), you can submit it to the National Assembly. Once the petition has been submitted, the National Assembly must assign a respective committee to review and investigate, and report to the president of the National Assembly within 30 days for consideration. Then the respective committee has to send an official notification to you and to other stakeholders regarding the results of the investigation and the decision of the National Assembly. The notification also has to be sent to a concerned government institution to take on the matter of implementation of the decision within 30 days. The concerned government institution has to report the implementation of the National Assembly’s decision back to the National Assembly within 45 days.

Additionally, you can report your grievance directly to the National Assembly through a hotline number during the ordinary session taking place twice a year.

#### Hotlines at your disposal!

National Assembly hotline: **Dial 156**

Government hotline: **Dial 1516**

#### How to use the hotline?

1. Call hotline
2. Ask for advice from the Justice’s Office
3. Ask for legal support

## What can you expect as result?

Caution is required in these procedures. Not in all cases is the outcome binding and effectively enforced.

All solutions resulting from the executive and decisions made by the executive, for instance by an administration or government, are not legally binding. That means that the company can simply ignore them if the decision is not favouring them.

The judiciary mechanism, however, leads to legally binding resolutions which are enforceable. This means that all conflict parties have to act according to the decision. Therefore, it is important to submit a complaint at a higher level, if you think that a court decision has been unlawful.

Finally, decision by the PPC or the National Assembly is not always effectively enforced, implemented by the concerned government institution and monitored.

## Are you taking a risk by submitting a complaint to governmental grievance redress mechanisms?

There definitely is a risk of spending a lot of time (and eventually money if the complaint is dealt with by the courts) without receiving a just decision that will be enforced. Institutions and actors involved in the executive mechanism may be biased when they have been involved in the approval of the business which is now causing you harm and against which you are complaining. Court procedures are very difficult and costly as you will have to pay a lawyer and a number of fees. As there are no clear rules on when an appeal to a higher instance is allowed, it may happen that you received a fair and lawful decision after spending quite some time and money, but the company will simply appeal at the next higher level and continue to do so until you are running out of money. Concerning the legislative mechanism, the procedure is unclear and therefore for the moment rather a theoretical option. However, with the help of civil society organisations and paralegals, this could be an option, if you have not had justice done to you in any other way up to that point.

Most Civil Society Organisations work in only a small number of districts. For instance:

- Lao Bar Association (LBA) is currently operating in all provinces in Laos. It provides legal aid offering free legal advice, and access to justice to vulnerable, disadvantaged and poor people in rural areas (4th Floor, Vientiane Capital Court Building, KM3 Thadeua Road, Sisattanak District, P.O.Box: 11087 Vientiane Capital, Lao PDR. Office Tel: (856)-(021)-990 445, Fax: (856)-(021)-990 446).
- Village Focus International (VFI) province legal trainings to ethnic and vulnerable groups in Ta-Oy and Lao Gnam districts in Saravan (Phonsavanh Tai village, Sisattanak district Vientiane capital, Lao PDR, Phone: +85621 312519, <https://villagefocus.org/>).
- Mennonite Central Committee (MCC) provides village conflict mediation and legal education in Thathom district, Xaysomboun province, and Xieng Khouang province (House 177 Ban Phonesavahn-Tai, Sisattanak district, Vientiane, Lao PDR, Phone : 021 312901).
- Helvetas provides awareness raising and counselling services to village facilitators and paralegal volunteers that they can support the vulnerable and poor people regarding land and natural resource issues (P.O Box 6367, House No. 143, Ban Phonthan Neua, Unit 15, Rue Phonthan 01000 Vientiane Capital, Phone : 021 263189, <https://www.helvetas.org/en/laos>).

- Association for Development of Women and Legal Education (ADWLE) provides trainings on laws focusing on rights of women to village authorities and Village Mediation Unit in all 18 provinces. Phonphanao villlage, Saysettha District, Vientiane Capital Lao PDR. Tel: 021 262696-97, Website: [www.adwlelaos.org](http://www.adwlelaos.org), Facebook: [facebook.com/adwleສພມສກ](https://www.facebook.com/adwleສພມສກ)
- The Asia Foundation support access to justice through legal aid program for all citizens and promote women's rights and opportunities (23 Singha Road, Ban Phonexay, Saysettha District Vientiane P.O. Box 8032 <https://asiafoundation.org/where-we-work/laos/>)
- Japan International Volunteer Center (JVC) is currently working in Sekong province to provide legal training on the rights of local people on natural resources (<https://www.ngo-jvc.com/en/ourprojects/activities-in-laos/>)
- BEBSEACLES implements community legal education and legal clinic (House No.150/1, 4B Road, Unit 9, Phaxay Village, Sisathanark District, P.O. Box: 01160, Vientiane Capital, Lao PDR <https://www.babseacle.org/laos/>)

## How much does it cost you?

A complaint to the village authority, district or provincial government or ministry requires some expenses including 200,000 kip per conflict for mediation at the village. Petitioners have to pay at least 200,000 kip per conflict for conflict resolution at the district, provincial or central level. The fee increases depending on the value of damage that a conflict may cause. Additionally, petitioners have to cover their own costs for traveling to district or provincial town or to the ministries in Vientiane. Filing a complaint with the court costs a lot of money including hiring a lawyer, travel, fees, etc. A petition to Parliament is certainly time-consuming and will require outside help, which will certainly also cost something.

## 4. Submitting a claim to the Village Mediation Unit

If the dispute is only a minor one about land use rights or minor environmental matters of little financial damage, you can also submit a claim to the Village Mediation Unit in either your village or in the village where the dispute occurs.

### What is Village Dispute Mediation?

Each village in Laos is encouraged to have its own Village Mediation Unit to be able to resolve minor disputes directly at the village level, thus strengthening solidarity within the village and thereby contributing to preserving public security, social order and social justice.

These Village Mediation Units, therefore, have the role to conduct mediation of disputes that occur within the village. They settle disputes by educating, assisting and advising the conflict parties to reach a compromise and jointly agree to settle the dispute.



Figure 16: Village Mediation Unit mediating a conflict between villagers and company

Village Mediation Units comprise of five mediators with one Lead Mediator, one Deputy Chief and three members. If deemed necessary, assistants may support the mediation proceedings. The Village Mediation Units are under the supervision, inspection and technical guidance of the District Office of Justice.

### When can you submit a claim to the Village Mediation Unit?

Village Mediation Units are responsible for small conflicts at the village level. So, if a single person or family or a small group of people have a small conflict with a company, they can approach the Village Mediation

Unit and request mediation. However, this only seems promising if it is a smaller or locally based company or, in the case of a large company, if there is a local contact person. Typical conflicts can be: the violation of the agreed boundary between the company's land and the fields or forests of the local population or the permanent blocking of paths by the company that are to be kept open to the public.



Figure 17: Investor clearing paddy field of a villager



## How do you submit a claim?

You need to submit your claim to the Village Mediation Unit in either your village or in the village where the dispute occurs. You can hand in a written claim, but you can also do so verbally. If you submit your claim verbally to the Village Mediation Unit, they will write it down and read it out to you. If you agree that this is what you are claiming, you need to either sign this memo or put your fingerprints on it as evidence.



Figure 18: Villagers reporting an issue arising from an investment to the village chief; a fingerprint has been collected from reporting person

## What happens after you have submitted a claim?

**Acceptance of the claim and request for clarification:** The Village Mediation Unit accepts the claim by recording it. It shall then notify the parties within three days asking them to provide (further) explanation and/or clarification of the issue. The defendant needs to send these to the Village Mediation Unit within four days from the receipt of the notification.

**Examination of the claim and invitation to the parties:** The Village Mediation Unit shall examine the claim of the parties within three days in order to have a better understanding of the dispute subject to the mediation. If deemed necessary, it shall report the dispute to the Village Head for guidance or to the district Office of Justice or other relevant authorities for their technical input. After examination, the Village Mediation Unit issues invitation letters to the relevant parties to participate in the mediation. With the invitation letter, the parties are informed about the content, date and venue of the mediation. All parties are obliged to participate in the mediation.

**Mediation Proceedings:** The mediation proceedings always follow the same sequences. The mediation starts with information about the mediation process, such as the significance and benefits of mediation, mediation rules, the role and duties of the mediators as well as the rights and duties of the conflict parties, third parties and other participants (see table below). It is important to be aware of the fact, that you have the right to recuse the mediators. If there are justifiable reasons, you or the other party may insist that one or more mediators withdraw. In the second step, you will be asked to present your case while the defendant has to listen. Afterwards, the defendant will provide his comments and you need to listen to it carefully without interrupting him. Afterwards the mediator will ask for the views from the third-party participants and other participants. Once everybody has spoken, it is now up to you and the company representative to reach an amicable agreement. The mediator will assist you in the process. However, the agreement should be reached by you and the company representative. At the end, no matter what the outcomes of the mediation are and if you came to an agreement or not, the mediator prepares a memo in Lao language and reads it out to you and all other participants. If you agree to the content of the memo, you need to sign it or confirm it with a fingerprint.

## Your (and the other party's) rights and duties in a village mediation

Rights	Duties
<ul style="list-style-type: none"> <li>• To submit the claims, explanations or clarifications in relation to the dispute;</li> <li>• To request to see, read, take note or make copies of the content of important documents in the dispute case file;</li> <li>• To ask questions, negotiate, and reach a compromise with the opposite party, other individuals linked to the dispute;</li> <li>• To propose to recuse the mediators with appropriate and credible justification;</li> <li>• To accept or not accept the results of the mediation;</li> <li>• To claim for enforcement of mediation results;</li> <li>• To exercise other rights as prescribed in the Law.</li> </ul>	<ul style="list-style-type: none"> <li>• To participate in the mediation upon the invitation or call from the Village Mediation Unit;</li> <li>• To provide information and evidence to certify the incidents considered by the parties as references for the claims of proposals, explanations or clarification on the dispute;</li> <li>• To bear mediation expenses by dividing the costs by half;</li> <li>• To respect and follow mediation rules (e.g. keep confidential all the information);</li> <li>• To execute the results of the mediation (only if you have accepted the results);</li> <li>• To fulfil other obligations as prescribed by law.</li> </ul>

Source: Decree on Village Mediation Unit, Art. 24

### What can you expect as result?

Village mediation – as any other mediation – does not guarantee that it will lead to a solution to the problem. It is an attempt to come to an amicable agreement. If it fails, there is still legal recourse. This means that you still have the option of submitting a complaint to the competent authority (see chap. 3).

If an agreement is reached through mediation, it should not contradict the laws.

### Are you taking a risk by entering a village mediation?

Village Mediation carries no risk, apart from the fact that you need to pay for it – even if you do not reach an agreement (see below). Since you are negotiating the outcome yourselves and can reject it if you do not agree with it, there is no risk that it will be detrimental to you. As all participants have to guarantee confidentiality, nothing that is said should get out to the public. Your statements cannot be used against you on another occasion.

### How much does Village Mediation cost you?

Regardless of whether the Village Mediation has led to an agreement or not, you will have to pay for it, with the costs being divided equally between the parties to the conflict. So, if you have one company as an opponent, you pay half of the costs. Since the total costs should never exceed 200,000 LAK, your costs in this case would be 100,000 LAK. If you cannot effort the costs, you will be exempted from those charges. For this purpose, you need to get a certification from village authorities certifying that you are unable to cover the costs for the reason of poverty or lack of resources.

## 5. Conclusion

When investors encroach your land, pollute your environment or fail to keep their promises, you have three different options to file a complaint and claim redress and an end to the harm. You can directly submit a grievance to the company in case it has a company-based grievance mechanism, you can submit a grievance to a governmental grievance redress mechanism or, in a minor case you can submit a claim to the Village Mediation Unit. In the case of the company-based grievance mechanism and the village mediation, you will enter a mediation. In case of the governmental grievance redress mechanism, you may also face mediation as long as you file a complaint with a village, district, provincial or national authority.

Accordingly, you should be well familiar with mediation and, before filing a complaint, you should have practiced how to present your case, interests and needs in mediation in such a way that the opposing party and the mediator can easily understand the damage you have suffered and what, from your point of view, needs to be done so that this damage is remedied and does not recur in the future. The civil society organisations listed in Chapter 3 may be of help here.

The choice of the most appropriate way to make a complaint depends probably, among other things, on the existing or conceivable contact with the company and the relationship you have with the administration and the relevant authorities, as well as the nature and value of financial damage from the conflict. In any case, you should choose the path where you can expect the greatest fairness and where you are most likely to be treated as equals. You are free to choose. Only consider that once you have a result from a court, you can no longer file a complaint with the company or apply for village mediation.

It is highly recommended to seek for advice from Lao Bar Association or paralegals before deciding which channel to choose.

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