

GUIDE TO LAND MEDIATION

BASED ON THE EXPERIENCE IN THE EASTERN
DEMOCRATIC REPUBLIC OF THE CONGO



Securing land and property rights for all

GUIDE TO LAND MEDIATION: BASED ON THE EXPERIENCE IN THE EASTERN DEMOCRATIC REPUBLIC OF THE CONGO

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THE CONGO



PREFACE



Land is a valuable resource for all human beings. It is also a source of tensions, particularly in post-conflict contexts that are characterized by displacements of people and the destruction of land registries. Identifying mechanisms to prevent and manage land conflicts in a sustainable manner

is necessary to promote peace, secure land rights and improve livelihoods during reconstruction. From this perspective, UN-Habitat, together with its local and international partners, has used land mediation as an essential tool in its action plans in several countries that have been recently affected by conflicts - including Liberia, South Sudan and the Democratic Republic of the Congo - to secure land rights of the people and communities concerned.

Success in the implementation of the land programme, particularly in the Democratic Republic of the Congo, and the need to adapt the mediation method to other countries and regions are the motivations for the development of this guide. The ideas contained here also draw inspiration from land mediation experiences in other countries, particularly in Burundi.

The aim of this publication is to highlight the salient points of the land mediation process. The guide is part of the range of interventions and tools necessary for the prevention and resolution of land disputes in countries that have gone through crises. The process may also be applied in countries where weak institutional, administrative and customary capacities affect the ability of political and judicial authorities to implement land services.

This practical guide particularly targets humanitarian actors who mediate land conflicts, and agencies involved in peace-keeping, community rehabilitation and social cohesion programmes. State institutions in general, and agents in charge of land administration in particular, will find in this guide a set of tools and ideas to manage land disputes and resolve them positively.

A handwritten signature in black ink, appearing to read 'Joan Clos', with a long horizontal flourish extending to the left.

Dr. Joan Clos
Under-Secretary General of the United Nations and
Executive Director, UN-Habitat

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ABBREVIATIONS

CCFM	Community Land Mediation Centre
CSD/IT	Ituri District Commissioner
CLPC	Local Standing Committees of Conciliation
CE	Committee of Elders
CFI	Land Commission of the Ituri
DRC	Democratic Republic of the Congo
FDLR	Democratic Forces for the Liberation of Rwanda
FARDC	Armed Forces of the Democratic Republic of the Congo
GIZ	Gesellschaft für Internationale Zusammenarbeit
NGO	Non-governmental organization
UN-Habitat	United Nations Human Settlements Programme
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees

01

INTRODUCTION

Land conflicts are an integral part of land management. These conflicts, over access to land and natural resources, are more acute in post-conflict situations, as in the Democratic Republic of the Congo (DRC) (European Union and United Nations, 2012).

Land problems are a reality in DRC, and the Land Programme in eastern DRC responds well to the expectations of the people and institutional stakeholders. In the light of the evaluations carried out at the start and the extension of this programme in North Kivu and Ituri, and in South Kivu, it appears that generally the intervention environment is characterized by:

- Strong population pressure and a need for more space for subsistence;
- Frequent forced (internal and cross-border) displacements of populations;
- A volatile security situation in various places due to the presence of armed groups and the circulation of small arms;
- A centralized and largely ineffective land administration;
- The existence of protected areas (e.g. the Virunga National Park, Kahuzi Biega National Park) that occupy a large amount of land in a context of population pressure;
- A malfunctioning legal system;
- A legal dualism opposing the obsolete 1973 Land Law to a range of customary practices ;

- The signing of tripartite agreements on 17 February 2010 for the repatriation of Congolese refugees (involving Rwanda, the United Nations High Commissioner for Refugees, and the DRC) and agreements on the cessation of hostilities between armed groups and the Congolese government before the return of internally displaced people.

In a context of weakened administrative and legal structures, alternative methods of conflict resolution are often recommended to ensure peace, promote safety, and preserve the public interest. These include methods other than legal, e.g. negotiation, conciliation, mediation and arbitration.

WHY IS LAND MEDIATION ADAPTED TO THE POST-CONFLICT CONTEXT IN DRC ?

Several reasons justify it, including:

- it is the most appropriate method in a post conflict period;
- it seeks to maintain or to restore social balance;
- it contributes to the stabilization and the peaceful coexistence of communities that were once opposed to each other;
- it allows for the parties to be fully involved in finding the solution that suits them;
- it is not costly and it saves time.

“Alternative methods” of conflict management refer to the process of building a consensus (between the parties) in order to resolve conflicts (Herrera and da Passano, 2007) and are based on the common interests and areas of convergence. Such approaches are particularly adapted to contexts where what matters most is not to determine who is right, but to preserve the public interest, local solidarity, social cohesion, while safeguarding everybody’s honour.

Above all, this guide explains the mediation method and process, although elements of other methods of alternative land conflict management are included. The focus is on a mediation process that can restore or strengthen interpersonal, community and social relationships. Because of this, mediation should not necessarily indicate the “winner” and/or the “loser”. Moreover, results of mediation are sequential and begin when parties agree to talk/meet and continue until they reach an agreement and implement it.

This document is an operational guide intended to support actions and must be applied on a case-by-case basis. The concrete examples shown in this guide are drawn from the experiences of land dispute resolution and include:

- general information on mediation,
- general principles and values that should accompany each land mediation programme,
- the key steps and the process of mediation,
- the necessary tools to carry out a mediation process,
- the dos and don’ts of mediation.



Open Day on 8 March, 2012 featuring women’s associations at the Kiwanja Land Mediation Centre, in Rutshuru Territory. Photo ©UN-Habitat 2012.

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SOME KEY PRINCIPLES OF A SUCCESSFUL LAND MEDIATION

These principles arise from a review of the land mediation process in the DRC and are based on the following values:

Adopting an approach based on respect for **the rights and obligations** of all parties. For example, it is essential that mediation recognizes, when necessary, the rights, traditions and customs in force in the country and/or in the region.¹ If need be, international statutes, such as the International Law on the Protection of Refugees and Internally Displaced Persons, human rights, the right to housing, etc., should be invoked, including during advocacy and outreach meetings. Sensitization and facilitation sessions can, for instance, echo legal provisions and customary practices relating to women's access to land. In addition, the disputing parties should be constantly reminded of their responsibility for the outcome of the mediation (failure or success) as well as for the implementation and the monitoring of the consensus.²

Integrity, neutrality and professionalism. These principles apply much more to the mediation team.³ Mediators must be people of integrity who respect confidentiality, who have good morals, who are neutral, and who work for peace and justice.

They must constantly inspire confidence. Sometimes the personality of the mediator or the composition of the mediation team can create a better climate of trust between the parties, and so facilitate the search for solutions. The team should also be able to understand their roles, responsibilities and the mandates of the organizations in which they operate. These values are fundamental in a multi-ethnic context where land conflicts often feature opposing community groups.

Proximity, accessibility and reconciliation. Land conflicts are rooted in a given space, and it is usual that interventions occur as close as possible to the area and the parties in conflict. We need to encourage, for example, the physical proximity of land mediation and the mobility of mediators to places where conflicts have been identified. Similarly, having mediation sessions close to the affected people and even holding the mediation session in the disputed area if possible all support the success of the mediation. This notion of proximity must go beyond the physical space to embrace the language of communication, the affordability of costs, the participation and the devolution of powers and skills.

1 The aim here is not to identify the geographical location of the values, but to circumscribe them in the beliefs of the conflicting parties.

2 A consensus is the result of all the formal and informal concessions and of different points negotiated separately by the stakeholders during a mediation process. It is usually presented in the form of a document signed by all the stakeholders and by the mediator, and which may, eventually, become a formal recognition.

3 The mediation team is an expression that covers any person involved in a process of mediation as well as all the others who contribute to the achievement of that process (e.g. mediators, facilitators, drivers, guards, managers, administrators, etc.)

Sensitivity, respect for diversity, dignity and non-discrimination should not be neglected. In some cases of conflict mediation, mediators must take heed of the age, gender, environment factors, level of education, the language as well as the cultural aspects and needs of marginalized groups. One must continually be cautious not to create social antagonisms through the identification of beneficiaries. For instance focusing entirely on the displaced and vulnerable people at the expense of the local or nearby population can create new social and land tensions.

CULTURAL SENSITIVITY

During a conflict over a farm ownership that was opposed by a customary chief and the Bashali Mukoto community in the Masisi territory in Northern Kivu province, UN-Habitat facilitators, in a public meeting (under the palaver tree), asked the chief to declare before everyone the exact size of the disputed space. In the Masisi custom, it is not only very rare that the customary leader is summoned to answer accusations levelled against him in front of his community, it is even rarer that he has to declare the extent of his belongings, including property and assets (land, livestock, home). That interrogation suddenly embittered the public meeting.

The mediator should be tactful in getting information. A consultation behind closed doors, for instance, would help to gather sensitive information, and is useful for the progress of the mediation process.

Moreover, in some societies, **respect for the roles of woman or of the customary leader** in public hearings is still very strong. In cases where customary chiefs or important people are involved in the conflict (as witnesses or as parties in litigation) - which is often the case - the process must be careful and tactful to avoid creating an affront or a "humiliation".

Participation and ownership of the mediation by local organizations and communities are a commitment to the sustainability of the mediation. For example, the people concerned, including returned people, must be involved in the search for alternative and sustainable solutions. It is strongly advised that local organizations are trained and local resources are used to drive alternative methods of land conflict management.

Sustainability of mediation outcomes. To choose lasting solutions means that the stakeholders involved in the mediation should be able to leverage the gains and progress throughout the process. Sharing and celebrating the gains and showing how to capitalize on them can galvanize the parties and avoid conflicts in the future. Also, it is desirable to ensure that the agreements

reached between the parties are realistic and achievable. There should be a balance between the terms of the agreement on the one hand and the ability, resources, and commitment of all the stakeholders on the other to follow the land mediation process to its conclusion. Ultimately, a good mediation agreement should lead to secure land rights, social cohesion and economic recovery. An agreement should not, in principle, be a source of other conflicts, worsen the situation of the beneficiaries, or violate any mandatory provisions and public order.



Awareness-raising activities. Photo © UN-Habitat 2011.

03

MEDIATION: WHAT IS IT,
WHY IS IT NECESSARY, AND
WHO IS IT FOR?

3.1 WHAT IS LAND MEDIATION ABOUT

Mediation is the intervention of a third party that is neutral and does not have any decision-making power. That party's task is to follow the entire process of negotiation and to improve the communication between the parties by helping them find an appropriate solution (Herrera and da Passano, p. 94). Mediation is a process because it is essentially a mix of actions, decisions and gains that can have an impact at the individual, community, societal and even institutional level.

Interventions throughout the mediation process must be neutral, impartial and accepted by the parties; they must also not be decisions made by the mediator as he or she is neither a judge nor an arbitrator.

Essentially, the mediation focuses on supporting parties that have resolved to find acceptable solutions which are suitable for them. Mediation is recommended in highly polarized conflicts where parties have been unable to establish a fruitful dialogue, or when the parties are seemingly locked in a stalemate (Herrera and da Passano 2007).

It is very important to accept mediation as a process of reconciliation between the parties to better understand and find a consensus/agreement over land and other land-related natural resources (forest, coastlines, crops,

grazing) (European Union and United Nations 2012).

Because of this, mediation is synonymous with consensus, support and advice, information, charity, awareness and coaching. Mediation can be a solution in disputes between individuals, communities or groups of people; sometimes a poorly managed or ongoing individual conflict can degenerate into a collective conflict, and vice-versa.

Compared with other modes of land dispute management, mediation is credited with being “free” (for conflicting parties), it requires neutrality, protects rights and individual freedoms, involves all parties in the search for lasting solutions to the conflict, promotes the replenishment of the social fabric through the reconciliation of parties, and uses advocacy with other actors, etc.

Because of this, almost all the development actors use land mediation in one way or another: customary systems, public organizations, civil society, etc. Mediation is also used to solve other social problems such as those related to marriage, cohabitation, inheritance and employment.

Even if land mediation is perceived as being “free” for the “beneficiaries”, it is also true that the financial cost of a land mediation process in a post-conflict context is heavy.

COMMUNITY RAMIFICATIONS OF
AN INDIVIDUAL CONFLICT

In Ituri, an initially isolated and unresolved land dispute progressively developed into a community conflict. A case study of this shows that it began as a conflict over farm boundaries between two people from neighbouring villages, Ndrongo and Bulo, in the Gobi community, in the Walendu Tatsi region.

On the night of Friday 16 September, 2011; a dispute over the farm boundaries on the Kringri Hill began between two farmers living in the villages of Ndrongo and Bulo. The dispute subsequently robbed members of these two villages. According to Land Facilitators of the Ituri Land Commission, each farmer claimed the Kringri Hill was part of the traditional lands of his village. Faced with this, each party sought the support of the residents of his village. Ndrongo Village organized an expedition to Bulo Village with the excuse of claiming ownership of the coveted Kringri Hill. There, they decided to burn the house of one resident. A counter-attack by members of Bulo Village was immediate and caused severe damage as it resulted in fire, assault, looting of property and massive displacement of local people in Ndrongo. The retaliation at Ndrongo also resulted in 38 houses and three classrooms being torched and several serious injuries. Elements of the Democratic Republic of Congo's Armed Forces were positioned on the disputed hill and the abandoned village to

prevent further incidents. Reliable sources explained that the Lendu community living at Ndrongo had been welcomed in that area several years before on the instruction of the deceased Gobi community leader. The Lendu community at Bulo therefore willingly surrendered the lands of Ndrongo for the installation of their brothers who had arrived in the area. However, for the inhabitants of Bulo, the transfer of their customary land, that is their hospitality, was only temporary, but according to the migrants, it was permanent and was why they had claimed ownership of the land on Kringri Hill that had been transferred to them. The conflict caused serious incidents to the point where the two villages were completely burned down and emptied of their inhabitants. Eventually, UN-Habitat, the United Nations Development Programme, the United Nations High Commissioner for Refugees, CFI, administrative, political and customary authorities as well as elders initiated mediation between the two communities in November 2011. This saw the two parties sign an agreement before a severe setback in the first quarter of the year 2012.

Source: Information Note on the Ndrongo-Boulo community conflict (UN-Habitat, 2011)

THE GREAT LAKES PACT AND THE RIGHTS OF REFUGEES AND INTERNALLY DISPLACED PEOPLE

The Protocol on the Property Rights of Internally Displaced Persons and Refugees addresses a key issue for the return and successful reintegration of displaced people in the Great Lakes Region of Africa: the access to land and the recovery of lost, confiscated or expropriated property during the process of displacement and exile. The Protocol recognizes that disputes related to land and property in the context of displacements are a source of recurring conflict and hinder the achievement of lasting solutions for displaced people. To resolve this, it particularly aims to create a legal basis to resolve property related disputes, including the identification of both judicial and traditional mechanisms. It recognizes the basic principles of protection, in this instance, the right of each person to own property (Article 3 (1) (a)); the right to equal protection by law and the principle of non-discrimination (art. 3 (1) (b)). It obliges states, in particular, to establish other community based mechanisms and informal processes to resolve property related disputes (Article 4 (3) (c)).

It is the first multilateral instrument that creates a single regional framework for resolving land and property related conflicts in situations where the owner or the community of origin has been absent for a long period, as well as in situations where expropriation may have been the primary motivation for the displacement. It recalls the legal instruments already in

force at the international level and stresses the need to take into account the needs of vulnerable groups, such as women, children and communities that have a special attachment to their land. In addition, it is the first international instrument to provide that disputes related to property affecting displaced populations must be resolved both by traditional and administrative authorities. This fits the property features in Africa, where many land and property rights are attributed and governed by traditional or customary systems and where state institutions are rarely present or accessible at the local level.

The mediation process entails not only serious technical and security challenges, (e.g. theft, kidnapping, arbitrary arrests, torching of homes, murders, etc.), but also safety and logistical challenges (for example, transport, energy, instability). Financial, human and technical resources are sometimes lacking in political and social contexts that are still volatile. To this end, the ability of land mediation programme managers in post conflict environments to create, imagine, adapt and build consensus are assets. These challenges highlight the need to put in place strategies for sustainable mediation actions and interventions in situations where conflicts may resurface. Hence the importance of empowering communities and individuals with methods that they can use to manage land conflicts independently.

One must not forget that it is already a significant result if it is shown that alternative methods of conflict resolution, such as mediation, have created a conducive environment for conflict resolution before the conflict escalates.

The limits of the mediation relate to the inherent weakness of alternative methods of conflict resolution:

- Mediation depends on the willingness of the parties
- Agreements reached are not necessarily binding
- Adherence to the agreements is not always guaranteed and the pressures are beyond the mediation
- Disputes can resurface
- Parties may contact several conflict management bodies at the same time
- High costs of the mediation process for the facilitating organization
- Mediation does not take into account the acquisitive prescription
- The mediator's conflict management capacity
- The mediator may be called to testify in court, etc.

During the mediation process, the mediator may be confronted by many challenges:

- The unavailability of parties, and/or resource people
- The bad faith of parties and/or the authority
- The knowledge of land legislation by one of the parties and ignorance about the legislation in the other
- Community manipulations and inter-ethnic distrust, etc.

GOOD OR BAD FAITH OF THE PARTIES

In a land dispute in Kashuga, a village of the B/M Okoto Community in the Bashali Chiefdom, in the Masisi territory, an individual opposed his tribal chief. The chief said he did not recognize the individual concerned and argued that he had met the individual for the first time in 2002. On that occasion, the man complained about the tribal chief to the Assistant Administrator in the Mweso/Territory of Masisi. The second time they met was in 2012 during mediation by UN-Habitat land facilitators. In reality, the subject lives in the village and his Chief knows him very well.

What land mediation is not

It is wise to remember that the mediation cannot be a substitute for legal bodies and therefore cannot return a verdict, a sentence, conduct a criminal investigation or an interrogation, make compulsory enforcement of agreements, etc. It is important to explain this nuance and distinction to the disputing parties in the first meeting.

Also, the use of legal terms and techniques circles can confuse parties. This distinction should clear in the habits and attitudes of mediators. Furthermore, the suitability of the mediation may be compromised if one of the parties decides to take the matter to court.

Mediation can complement, but not replace, other informal systems and institutions of land dispute management which may be in place, including legal aid clinics and customary courts.

3.2 MEDIATION, FOR WHAT PURPOSE?

Mediation often creates a space for listening, of expression, of tension defusing, of dialogue and of knowing each other. One of the noble goals of the mediation is therefore to gather the antagonists and create the conditions for a dialogue between them.

In the short term, the objective of mediation can be limited to highlighting a dispute and if possible to finding a solution. The most important thing is to target the medium and the long-term goals.

In the medium and long term, the goals can be to promote social peace, secure land rights, prevent conflicts, initiate land reform, and learn to improve land conflict management frameworks and mechanisms;

to improve living conditions and productivity, launch a process of behaviour change, etc.

3.2.1 MEDIATION AND SECURE LAND RIGHTS

It is desirable that land mediation results not only in secure land rights - a keystone for the peaceful use of soil - and the strengthening of social peace, but also in the start of a socio-economic development and the



**Land mediation activities, Rutshuru territory- Northern Kivu.
Photo © UN-Habitat 2012.**

strengthening of the community spirit. Mediation which aims to secure land rights also leads to:

- the peaceful development of space, land or even the improvement of housing and the exploitation of natural resources;
- a trusted place for members of the community to go to about other occupations such as economic, social and cultural activities without fear of being robbed or of being contradicted by their family or community.

It is important to note here the difference between security (which is an act or a fact) and security of tenure which is an evolving and dynamic process.

03

MEDIATION: WHAT IS IT, WHY IS IT NECESSARY AND WHO IS IT?

3.3 MEDIATION, FOR WHO?

In the DRC's post-conflict situation, land mediation was put in place to facilitate the return and the socio-economic reintegration of people (returned Congolese and repatriates). However, displaced people, vulnerable local populations (children, widows, the elderly, the disabled) and those in low economic situations are also affected by this land programme that is built on the International Covenant on the Great lakes and the rights of Displaced Persons and Refugees.

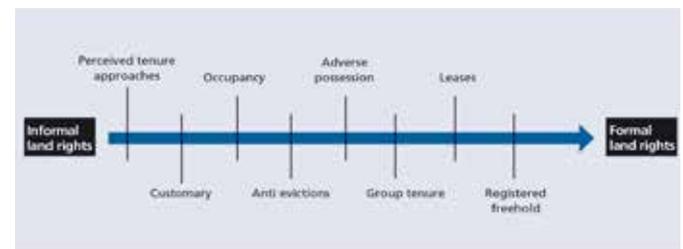
Finally, it should be remembered that mediation has been institutionalized and put at the disposal of people by some states across the world to manage different conflicts.

Security of tenure does not necessarily mean the issuance of a land title or possession of an "official" document, even if these references provide a higher degree of security or enjoyment. The legitimacy and good faith aspect in the use of rights is very important. In a context where displaced people have lost the documents, the lack of titles does not mean that they lost their land rights.

For example, it is possible to reconstitute rights through testimonies of neighbours and to record them in a document at the community level.

In a post-conflict context, where written documents are rare, it is recommended that the mediation programme works with land administration institutions this land programme that is built on the International Covenant on the Great Lakes and the rights of Displaced Persons and Refugees.

Mediation can also benefit any group of people who are far from legal institutions that can rule on their land disputes, or groups that are far from other civil authorities. (both formal and informal) so that land mediation arrangement deeds (e.g. agreements, consensus, arrangement, "tokens") serve as a basis or beginning of "evidence" of the tenure or of securing land rights.



Continuum of land rights © GLTN, 2008.

MEDIATION BENEFITS AND PROTECTS MARGINALIZED POPULATIONS

The Batwa people illegally occupied plots belonging to other people thus creating land conflicts. A plea made by UN-Habitat to the North Kivu Provincial Government (also to the provincial Minister of Land Affairs) resulted in the allocation of plots in a new concession to benefit 147 Batwa households. Given the complexity of the procedure for obtaining land titles, tokens issued by the Land Administration in Goma Ward were granted to the Batwa to provisionally certify their rights to those plots.

3.4 BACKGROUND TO MEDIATION: ORALITY AND LAND RIGHTS IN POST CONFLICT PERIOD IN EASTERN DRC

In a post-conflict environment, to gather evidence, including written evidence, is difficult because of war, insurgency, fires or even the non-existence of written documentation or deeds (the culture of orality). In many cases, land rights are transferred from parents to children. However, some members of the community may sometimes use the context of war to register false claims, support false statements, resort to forgery and use forgery in writing to, challenge, rightly or wrongly, the authenticity of a signed deed.

Most acts do not relate to succession, that is to say, it is only in extremely rare cases that you can find the will. However, it is often acts of inter vivos disposition that are available, and most of them are land transactions under private signature, except for cases involving major concessions/plantations which often have legal title deeds or cases of funds which have been transferred under customary law. It also happens that even the testimony is lacking when some or all the witnesses in a conflict are deceased or living outside, far from the place where the mediation is taking place. The recommended solution in this case is to gather information from neighbours/residents or local elders, including village chiefs, community or group leaders or their descendants.

In a context where traditional power is transmitted by lineage - kingship for example - it is true that in cases of conflict, customary powers are challenged by litigants when the latter appear to be dominated by groups who do not uphold the values rooted in the society, such as people who practise corruption, extortion, greed and deceit especially if these tactics are used by the powerful member of the community to support the weaker party in land mediation case.

Sometimes the question of displacement in the middle of an intervention is a source of land dispute in the sense that a village abandoned by a group of people can be

occupied by other displaced people for a long period of time. Over time, these IDPs tend to consider themselves to be the owners of the land abandoned by previous occupiers, and engage in risky developments, such as the erection of tombs, which are likely to cause confusion or conflict in the future.

With regard to the signs used for the delineation of boundaries, it is often the case that trees and boundary stones are unearthed and moved; that beds of rivers are moved just to eliminate evidence that indicates boundary lines. However, if a removed tree, for example, had been big or old, it would not be uncommon to find traces of it having been there. This will, however, require the mediator or the facilitator to conduct a thorough investigation of the site where the tree used to be, following the indications of the residents. This search should help him find the remains of the roots of that tree.

All this points to the fact that the mediator or facilitator should be a capable, informed, patient, attentive and

anthropological man or woman, otherwise he/she may fall into the trap of only seeing the tomb erected on the plot/ field and missing the bed of the river or of the unearthed or removed tree. He or she should have an analytical and critical mind, and especially should have time to analyse things to rule out arbitrary aspects of the mediation process; he or she must be more of an observer and a listener than a protagonist.

In many cases of land mediation, it is difficult to stick to the evidence because communities, aware of their property rights, are not only often annoyed by questions, but they are also in a weak position to retain or obtain land titles. Most of the time, vulnerable people find it difficult to present written evidence certifying their property rights. Also, the context in which mediation takes place requires that the mediator pays less attention to written evidence, but he/she directs and facilitates the claims of all parties. Therefore, written evidence is not always a requirement for the resolution or the success of mediation in some cases.

THE LAND MEDIATION PROCESS

As already said, land mediation is a process in which the results are spread over time and do not stop with the signing of an agreement/arrangement. It is the opening of a door to security of tenure and ensures the continuation of social cohesion and the improvement of livelihoods.

4.1 ELEMENTS FOR THE IMPLEMENTATION OF A LAND MEDIATION PROGRAMME

To achieve these objectives, the following are important in the implementation of a land mediation programme:

- Identifying, training and deploying the mediation team in the field of land conflicts;
- Developing mediation tools, procedures and mechanisms for the team;
- Registering the mediation request or query from the first conflicting party in a dispute;
- Assessing whether mediation is appropriate for the case, or referring it to the institution that is most competent;
- Contacting (or inviting) the party or parties involved;
- Carrying out sustained actions of awareness and advocacy to explain, for instance, methods and existing mechanisms (including mediation) to resolve conflicts. Raising awareness can also explain the legal provisions and support for land-related rights;
- Getting agreements in principle for the launch of the mediation process to be explained to parties involved;
- Identifying and categorizing the different types of conflicts and stakeholders; this enables you to spot the most recurrent or complex conflicts for prioritization and to obtain baseline data for monitoring and evaluation;
- Undertaking the documentation and research/verification of facts and evidence;
- Identifying influential and supportive people and institutions (e.g. customary, traditional and religious institutions, political personalities, businessmen, military, police and administrative authorities, de facto authorities, including warlords, civil society organizations);
- Identifying the needs, challenges, opportunities, risks, applications and entry points (starting with priority actions and implementation in sequence of interventions) both before, during and after the signing of the agreements;
- Holding mediation sessions in the most conducive space, time and atmosphere;
- Preparing, clarifying the contents and ensuring the signing of the agreements by parties involved as well as witnesses;
- Finding the recording mechanisms for formalization or legitimization of results. In cases where agreements are reached and the context is ready, the documents can be recorded and distributed to individuals and relevant institutions;
- Making the local authority sign the agreement;
- Manually archiving and, if possible, digitizing the agreements;
- Identifying the accompanying measures, including innovative and income-generating projects ;
- Identifying needs in the various sectors, such as income-generating activities, social work, basic

services, a strengthened sense of community, the preservation of the environment, the promotion of social peace, etc.

- Identifying stakeholders and partners who can intervene through activities to capitalize on the benefits of mediation (strengthening of rights, the sense of community, creation of opportunities at the economic, educational, health, capacity-building and know-how levels);
- Developing and strengthening the capacity of both beneficiaries, land stakeholders and institutions;
- Strengthening the institutions and land management systems;
- Establishing the communication and information systems to support the process;
- Training of trainers and experienced people to replicate/disclose the alternative methods of land conflict resolution and up-scaling;
- Developing and implementing tools, processes, procedures and standards, and refining them gradually based on best practices;
- To identify opportunities to start a process of land reform or the upgrading of the institutions which were not operational;

THE APPROPRIATION OF LAND MEDIATION BY CUSTOMARY CHIEFS

In Masisi and Rutshuru, UN-Habitat initiated the creation of “Elders’ Committees” within the Land Mediation Community Centres. These were made up of customary chiefs and elders of villages and towns affected by the activities of land mediation. Armed conflicts in these two areas, especially in Masisi, contributed to the weakening and sometimes the negation of power and legitimacy of traditional leaders. First of all, the establishment of Elders’ Committees did not only favour the appropriation of alternative methods of conflict resolution by customary chiefs and notables of these areas, they also strengthened their capacity to prevent and manage land disputes. Secondly, the concerted action for land disputes between these Elders’ Committees and land mediators contributed to the restoration and strengthening of customary authority. This also prepared them for inheriting the management of Land Mediation Community Centres to sustain the gains made by the Land Programme in eastern DRC.

- Documenting and disseminating practices, processes and lessons learned through publications such as newsletters, concept or information notes and the compendium of arrangements;
- Creating a linkage between the mediation process, legal authorities and traditional leaders;
- Gradually considering the exit of mediators and the transfer of knowledge and know-how.

Security of tenure through mediation could be leveraged into the start of sustainable development which could have economic, social, environmental, cultural, community, legal, institutional and political aspects.

MEDIATION CONTRIBUTES TO SOCIAL COHESION

In the Hewa Bora land dispute in a peri-urban neighbourhood in Goma in Northern Kivu, the Batwa (marginalized people with a nomadic lifestyle) have been accused of improperly occupying land belonging to others. Land mediation facilitated tenure security activities following collaboration between UN-Habitat, the United Nations High Commission for Refugees and GIZ with the support from the provincial government (provincial department in charge of Land Affairs). The government provided the UN-Habitat mediation team with technical services (cadastre) which worked very well with the communities in place. Site development through community works and participation by Batwa people in the construction of cottages created, on the one hand, an environment of social cohesion and economic dynamism in the Hewa Bora site and, on the other hand, allowed the Batwa to occupy land parcels.



Involvement of young people in land mediation activities through awareness raising and engagement.
Photo © UN-Habitat 2011.

4. 2. Land mediation actual steps

Objective: Contribute to the resolution of land disputes for a lasting peace in DRC

STEPS	MEETING	WHAT	WHO	WITH WHAT	FOR WHAT RESULT
		SPECIFIC TASK/CONTENT	FACILITATION	EDUCATIONAL SUPPORT	RESULT
Contact with the mediator (CCMF, referencing, on-site)	1st meeting	<p>CCMF/ ON-SITE</p> <ul style="list-style-type: none"> Hearing of First Party Establishment of committees for collective conflicts if any Filling out of the Mediation Form Invitation of parties Receipt of elements of the case <p>REFERENCING</p> <ul style="list-style-type: none"> Receipt and recording of the reference document Identification, localization of the parties and their hearing if possible Filling out of the Mediation Form (Oral, verbal or via a messenger) Invitation of parties if necessary 	<ul style="list-style-type: none"> Programme team CS and CLPC Partners Beneficiaries Other resource persons 	<ul style="list-style-type: none"> Mediator's Notebook Invitation Mediation Form Daily Register for the registration of land conflicts Data base Available Directory of conflicts referred Form, referencing letter or minutes of the humanitarian meeting 	<ul style="list-style-type: none"> Land conflicts are registered Claims of one of the parties are known The parties are invited
Hearing of opposing parties	2nd meeting	<ul style="list-style-type: none"> Identification of invited parties Establishment of committees for cases of collective disputes Recording of statements of the opposing parties Programming of confrontation Identification and invitation of potential witnesses Receipt of evidence 	<ul style="list-style-type: none"> Programme Team CLPC/SCF and CS People who responded to Other resource persons 	<ul style="list-style-type: none"> Mediator's Notebook Mediation Form Form, invitation referencing letter and/or Minutes of the humanitarian meeting Ticket of appointments scheduled and accepted 	<ul style="list-style-type: none"> Statements of opposing parties invited are known All parties adhere to the mediation process Definition of next steps of mediation, scheduled and accepted The witnesses listed are invited

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THE LAND MEDIATION PROCESS

STEPS	MEETING	WHAT	WHO	WITH WHAT	FOR WHAT RESULT
		SPECIFIC TASK/CONTENT	FACILITATION	EDUCATIONAL SUPPORT	RESULT
Actual Mediation phase	3rd meeting and phase	<ul style="list-style-type: none"> • Preparing the framework of the mediation (awareness, statement of facts, confidence building among the parties...) • Confrontation of parties • Receipt and analysis of the evidence (documents), • Hearing and confrontation of The witnesses and other resource persons • Visit on the disputed land, if necessary • Identification or participatory Research for possible solutions to the conflict, if necessary • Reorientation, ranking in the case where there are obstacles in the mediation 	<ul style="list-style-type: none"> • Equipe du programme, • CLPC/SCF et CS, • Other resource people 	<ul style="list-style-type: none"> • Mediator notebook, • Mediation form, • Data base, • Legal texts, customs and habit within the law, • Items in the case,... 	<ul style="list-style-type: none"> • The parties to the conflict are put together and accept the dialogue • The conflict is better known • Possible solutions, conflict are identified
Closing of the mediation	Penultimate meetings	<ul style="list-style-type: none"> • Development, adoption and signing, publicity of the arrangement • Reconciliation ceremonies • Make stakeholders sign the consensus • Manually archiving and, if possible, digitizing of the agreements • Identify roles and responsibilities to monitor and evaluate key mediation steps • Referencing and/or re-orientating the conflict, • Classification for various reasons (disengagement of the parties, referral (during) of the tribunal, interference of the authorities) 	<ul style="list-style-type: none"> • Programme team, • CLPC/SCF and CS, • Other resource people 	<ul style="list-style-type: none"> • Mediator notebook, • Mediator form, • Legal texts, customs and tradition within the law, • Elements of the case, Decametre 	<ul style="list-style-type: none"> • The conflict is closed, • Social cohesion between parties is improved and restored, • The conflict is closed, referred,

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LAND MEDIATION TOOLS

The mediation process can be long and complex. Mediation must be supported by numerous tools, processes, harmonized standards and mechanisms throughout its progress. This list of tools is illustrative:

- Index of land conflicts(written in local language);
- Mediation form;
- Register of the beneficiaries' hearing;
- Register of land conflicts;
- Note of appointment;
- Mediator's Notebook;
- Case reference form;
- Outline of the articles in preparation for media, newspapers, community radios, etc.;
- The database for data collection, storage, and monitoring of mediation cases;
- Database manual;
- Code of conduct of the mediation team;
- Training manuals for land tenure facilitators and mediators;
- Sensitization tools (leaflets, posters, newsletters, etc.);
- Invitation letter template for parties in the conflict and for witnesses;
- Attendance sheet for mediation sessions;
- Guide to written documentation, photographic and videos mediation sessions;
- Checklist or system of following up the implementation of commitments contained in the agreements;
- Documentation template of practical cases;
- Framework for the facilitator or the land mediator's good conduct;
- Code of good conduct of the mediation team;
- Training manuals for land facilitators and mediators.
- Tools and systems for monitoring and assessing: impacts, sensitization, mediation, training, secure tenure, reforms and land policies, etc.

Annexed to this guide, you will find examples of these tools.

The follow-up of the implementation of commitments is through various means (phone conversations with beneficiaries, the report by the authority in the disputed area, by family members of one of the parties formerly involved in a conflict, or by an evaluation mission). There are two possible options:

- *For the agreement signed at the CCFM or in a public office (the Congolese National Police, chief of the community, the administrator of the land. This often happens when the mediation is conducted jointly with the state or the customary authority). In these cases of land conflict resolution, the implementation of the agreement is not automatic. Such is the case when the agreement is signed between parties within the CCFM or when the disputed land is located in an area that is inaccessible for the mediation teams (insecure or inaccessible due to bad roads). Therefore, the facilitator turns to the local chief who is either a member of the Elders' Committee or CLCS to help parties implement the agreement on the ground.*

Using the feedback which may come from the parties themselves or from the local authority, the mediator shall ensure that both parties live together after implementation of the aforementioned agreement.

- For agreements reached on the land (that is the origin of the conflict), the implementation is usually not a problem because each part is reassured of its rights after the mediation.
- Concerning the *recording of the agreement*, it should be noted that agreements are kept in duplicate (one copy to the CCFM and another to the Central Office in Goma) and encoded in the database as an appendix to the mediation form on the resolved land conflict.



A woman testifying in the delimitation of a field during land mediation. Photo © UN-Habitat 2011.

06

DEALING WITH OBSTACLES IN MEDIATION

Conducting a mediation process requires the mediator or mediation team to be able to overcome several challenges. Some illustrative examples of hindrances to land mediation are presented below:

- **“Forum shopping”**. One or all parties decide(s) to bring (their) dispute before various institutions in charge of solving land disputes (family, customary courts, legal authorities, local authority working in the domain of land tenure, etc.) all at the same time to find a solution;
- **Managing proximity and distances**. Some land conflict authorities or management bodies are very remote and inaccessible to the dispute scene and to the people involved. If it is not possible to locate places of mediation close to the main areas of conflict, it is recommended to go to the beneficiaries if possible or to refer to others by entrusting the case to local NGOs, for example, that are not bound by United Nations security standards;
- **Corruption and poor land governance** in the territory of some land administration agents are major challenges that must be faced. The corrupt nature of some agents of the institutions, influence peddlers, abuse of authority and power as well as a general lawlessness are common examples. Influence peddling of some military, political, religious and economic stakeholders regularly appears as explicit or implicit causes of land disputes. It is often recommended to draw a map of the stakeholders and others’ interests in land in order to plan appropriate strategies for hidden or uncovered interests. It must be ensured that land administration plays a role of good governance;
- **Sudden interruption of the mediation process**: the mediator should be prepared for the a sudden interruption of the process. This may be related to the unavailability of one of the parties, to the relatively free nature of land mediation, to the withdrawal of a party from land mediation, to the absence of a party from the area of action of the agency (for example, a foreign countries or different provinces), to the death of one of the parties during the land mediation process, or to private and personal reasons. Also, decisions and rulings made by traditional or legal authorities often do not create the possibility to initiate land mediation;
- **Interference of some de facto authorities and their allies** in cases where they support one or the other party or when they are directly involved in the conflict. Authorities may also prevent the other side from attending the land mediation, or else intimidate, arrest, torture, or kill undesirable parties;
- **Elements of the regular or irregular armed forces** can intimidate and terrorize parties in the conflict or one of the parties, thus jeopardizing or ruining the mediation process.

These parties involved in a mediation process may resign themselves not to lodging a complaint against the armed groups for fear of reprisals. At times these armed groups use other local people with guns, given the proliferation of light weapons or small-bore shotguns in post-conflict contexts.

- **Limits of the delegation of power.** In post conflict areas, many parties act through intermediaries. For example, the military, big landlords and landlords use their representatives, lawyers or managers who are often members of the community in conflict. These representatives often do not often have the authority to carry on with the land mediation process until the end as there are sometimes questions to which they cannot give final answers, for instance in cases where it is necessary to suggest solutions that affect a piece of land for the benefit of the needy. The same problem can arise when groups of individuals act through the intervention of representative committees.
- Sometimes **ethnic divisions** make it difficult to reach a consensus.
- **The mediator's attitude:** it may be that the behaviour of the mediator or of the tenure facilitator compromises the mediation process. For example, the mediator's may tend to dominate the parties or to appoint himself as a judge, the ignorance of the principles of good conduct (e.g. neutrality, impartiality, independence, autonomy,

CONFLICTS AND REFUGEES

Bibwe is a village in the chiefdom of Bashali Mukoto in Masisi land and is an estimated 400 hectares. In 1967, this village received approximately 3,000 Rwandan refugees who lived there for about 30 years, during which some of them bought pieces of land that they turned into flourishing pastures. In 1995, these refugees returned to Rwanda and the lands were recovered by the first "owners", estimated to be 2,723 families. With "Amani leo" military operations against the armed groups - namely the Democratic Forces for Rwanda Liberation and others - which started in early 2011, the local government ordered these families to leave Bibwe to return to refugee camps in Bweru, Kitso, Mpati, Kivuye, Nyange Bweru Kalengera, where they still live. Meanwhile, of these former refugees, 2,740 people have returned to Bibwe since September 2011 with the blessing of a de facto authority and a former and very influential war lord in the community.

incorruptibility), bad temper, his being incapable of conducting the mediation.

- **Parties' attitude:** the intransigence of the parties or of one of them is often a big obstacle to the progress of the mediation process. This occurs when one party does not want to concede. Bolstered by undisclosed support, one of the parties may persist in taking the case to the legal authorities to weaken the party that cannot afford the legal costs (get a lawyer, pay procedural fees, etc).

- In some cases, the parties decide by mutual consent to return the file to the family council from where it initially came.
- Misunderstanding the mediation programme or the mediator's role.

WORKING WITH STAKEHOLDERS

Progress in the mediation process requires the active involvement of traditional leaders for a successful outcome. In addition to land mediators, traditional leaders play the role of a resource person with absolute neutrality by providing information on local history or by giving some essential details in the search for solutions. It may be that, at times, traditional leaders do not make themselves available when they are called upon in a mediation; however, their involvement in the mediation process is essential, especially for “community” land conflicts. Another factor that limits the involvement of some traditional chiefs in the process is that there is no charge for mediation, which prevents chiefs from profiting from the resolution of land conflicts in their offices (legal expenses and settlement fines paid by parties). In Ituri, for example, some chiefs in the villages of Mahagi appeared to be both hostile and suspicious *vis-à-vis* Land Coordinators of Ituri

Land Commission, and considered their contribution to the land mediation process as a loss of earnings for the chiefs who are supposed to resolve disputes.

Some local leaders from various communities may derail the due to lack of genuine reconciliation between ethnic communities after the inter-ethnic war. Parties in conflict may feel that mediation could lead to their eviction. Others may refuse the “win-win” principle often characterizing the outcome of the mediation. Youth and women’s groups from different ethnic communities may block the process if they are not sufficiently involved in the mediation, especially if mediation does not take their claims into account or does not protect their interests in land.

6.1 WHEN TO CALL FOR A MEDIATION?

In post conflict contexts, land mediation is appropriate:

- In situations where there are “returnees” who lack documents, or there are issues related to the clarification of land rights and stability;
- When the authority of the state is weakened (when administrative, political, military, police and legal institutions are not satisfactory or are absent in a given country);
- When land administration and other formal conflict management systems lack confidence;
- In cases where an oral tradition is common;
- When those requesting mediation do not have

PARALLEL ADMINISTRATION

Kitshanga and its surroundings in the Masisi area in North Kivu Province have experienced a parallel administration for several years. Besides the traditional and administrative institutions, other informal authorities set up by an insurrectionary movement have operated there. Among others, there are the police and intelligence service that have particularly dealt with land problems. Those bodies served more people who had close ties or ethnic affinity with them or with the leaders of the movement. For instance, one party involved in a pending case either at the village chief or in another regular administrative institution could retract and go to the police or the similar intelligence service to influence the outcome. This held up the course of the conflict resolution process and forced the opposing party to pursue the matter before the parallel institutions, which were apparently more powerful than the regular ones. Suspicion about the lack of objectivity from the leaders of the parallel organizations took its toll on some beneficiaries who found UN-Habitat's mediation and advocacy undermining their authorities. In fact, UN-Habitat regularly advocated for their release from jail following land-based civil cases.

enough economic resources and are vulnerable or marginalized.

6.2 WHEN DOES MEDIATION BEGIN AND END?

Mediation is a process with several stages; these are the preliminary work, the actual mediation phase and the post-mediation period. Stakeholders' roles and attitudes change at every stage. Nevertheless, it is preferable to think before the preparation of mediation sessions about the creation of opportunities for the parties to reconcile or to identify a solution (even if it is temporary) to their disagreements; this, is an integral part of land mediation. Possibilities for reconciliation are, for example: the use of intermediaries to bring the parties together, to meet in get to know one another better, to refer the case to another jurisdiction, sensitization on a specific topic, etc.

It is important to know when mediation starts and stops. Mediation is a progression that includes several scenarios. The following steps illustrate a typical progression of mediation from the time when the case is brought to the attention of the mediator or mediation team until the implementation of agreements between the parties.

MEDIATION IN 10 POINTS

- (1) The request for mediation from the land mediator;
- (2) The analysis of the context, scope, object and causes of the conflict;
- (3) The invitation of parties, witnesses or resource people (this invitation may be made directly or through an intermediary);
- (4) Exchanges between the parties or witnesses;
- (5) The review and analysis of facts to identify the implications of the conflict;
- (6) The analysis of documents or components of the file/ tenure certificate or title deeds;
- (7) Listening to witnesses – chiefs, administrative authorities - neighbours or residents - family members, etc.
- (8) Visits to the area to assess the realities and context, to interact with parties involved in the conflict, to understand the respective claims of the parties;
- (9) The exploration of possible solutions, assisting the parties to draft agreements and signing the arrangement;
- (10) The collective monitoring and the implementation of agreement

In general, land mediation stops when discords over land cease and a peaceful and sustainable use of land is being carried out by the parties, or one of them, depending on the case.



Kiwanja Land Mediation Community Centre's mediation team briefing the USAID delegation during an evaluation mission of the UN-Habitat land programme in eastern DRC. Photo © UN-Habitat 2011.

07

HOW TO SUCCESSFULLY CONDUCT A MEDIATION PROCESS

As has already been said, land mediation process in which the results are spread over time. The process does not end with the signing of an agreement/arrangement, but is also the entry point to secure land rights. It ensures the upholding of social cohesion and the improvement of livelihoods.

The mediation process can be divided into three major phases: the preparatory phase (before), the mediation sessions (during), and the monitoring and evaluation of agreements and the impacts (after).

7.1 BEFORE THE MEDIATION/PREPARING THE GROUND

Before the beginning of land mediation sessions, the following activities must be undertaken:

- mobilizing financial resources for the programme;
- analysing the types of land tenure and conflict;
- clarifying the categories/typologies of land conflicts that may be addressed by the mediation;
- understanding the general context of land tenure, which allows for a rapid assessment of tenures and conflicts as well as the existing mechanisms of conflict resolution, including the alternative mechanisms and their effectiveness;
- documenting local and customary practices (land law, estates, forest law, agricultural law, etc.);
- collecting information on the context of land conflicts to develop references for the evaluation of the mediation as well as the impact of the interventions. Parameters for monitoring the impact of the mediation must be determined prior to implementing the programme. It is advisable to adopt a holistic approach (see the impact and scope of land mediation at the social, emotional, cultural, economic - livelihoods -, environmental, and policy reforms levels, etc.) to highlight the impacts and the direct results in the short, medium and long terms;
- assessing the magnitude of the mediation needs and services;
- evaluating the space in which the mediation is going to be held; in a mediation centre, with a mobile team, on the ground, under the palaver tree, at the headquarters of customary chiefs;
- mapping of stakeholders/institutions and identifying the roles they can play in the process of conflict mediation (facilitation, support, reference of cases, etc.); thus, it is important to emphasize here the lists of institutions of reference for instances of conflicts identified;
- identifying the pilot priority areas;

- carrying out an assessment of the security status in the areas of conflict and the feasibility of the intervention;
- recruiting and training the mediation team where there are no community institutions for conflict resolution. Where they exist, strengthening the capacity of their members;
- establishing and clarifying the roles and responsibilities of the facilitators/moderators and other personnel;
- preparing reports and partnerships with the institutions (customary, religious, administrative, judicial, academic, etc.) by forging strategic alliances and by establishing trust between partners and stakeholders;
- establishing the technical, logistical and managerial system of the programme;
- facilitating advocacy, awareness and discussion; these meetings are important to the communities, for example, as they offer opportunities to reconcile before the mediation. Therefore, other systems and methods of land dispute resolution may be presented: Elders' Committee, the administration, knowledge of both parties, church/religious denomination, etc.;
- sensitizing and informing stakeholders (tools of awareness) on the mission of the mediation

THE ROLE OF SENSITIZATION DURING THE LAND MEDIATION PROCESS.

Sensitization and facilitation are an integral part of a land mediation programme. If carried out well, they can be used as to relay information and educate the population on their rights and obligations with respect to land tenure.

Sensitization must be clearly targeted with messages and methods that are appropriate. Targets in the context of land mediation include, populations, traditional leaders, legislative and administrative authorities, land administration, military and police authorities, judicial and civil society players.

The outreach and mediation team can make use of tools such as applicable legal instruments, modules, leaflets, bulletins, films, songs, theatre, etc.

The outreach mechanisms used are the focus group, radio and TV programmes, exchange workshops and days of reflection, massive sensitizations, interpersonal visits, open days, conference debates, symposia.

Sensitization messages: these vary from one theme to the next. They can deal, for instance, with women's rights to land, the right of returned and repatriated displaced people - refugees - to land, inheritance rights, conflict resolution and peaceful cohabitation, existing methods for conflict resolution.

Manage the expectations after sensitization (sort cases for mediation and understand the risks associated with it).

programme. This sensitization exercise can use several media: leaflets, microphones, radio, public displays, information box, newspapers, including television, etc.);

- putting in place tools, procedures, and standards to run the programme;
- developing and testing the methods, tools and systems for monitoring and evaluation as well as studies of impacts.

7.2 HOW IS THE MEDIATOR CONTACTED?

Several mechanisms exist to contact the land mediation team. The following three modes are common:

1. Conflicting parties come of their own volition to the Land Mediation Community Centre or introduce themselves to the mediation team after being informed through outreach and awareness campaigns, training and information workshops on land, open days, word of mouth, etc.
2. Parties directly contact the mediation team while roaming the land.
3. Cases are referred to the mediation team by other institutions such as local authorities (traditional chiefs, administrative authorities), humanitarian and development organizations, land administration, parliamentarians, Ministry of Land Affairs, local NGOs, etc.

7.3 DURING MEDIATION SESSIONS

This step can be divided into several sub-steps that are mutually reinforcing and are not necessarily chronological.

7.3.1 HOW TO SUCCESSFULLY CARRY OUT MEDIATION SESSIONS?

Once people in conflict and the mediation team or the mediator are in place, mediation sessions can begin.

Holding these sessions requires that the:

- preparation of the mediation framework and space, which must be welcoming, without interruptions, inspire trust and confidence and encourage open dialogue;
- mediation team receives cases of conflict;
- a distribution or allocation of contentious cases - files - to members of the mediation team based on criteria such as availability, gender, the origin, maturity, profile/expertise, the nature of the conflict;
- mediator clarifies their role, responsibility and mandate to the persons or entities involved in the conflict (at the earliest opportunity). For example, the mediator may remind the parties that his/her role is to facilitate communication, moderate the discussions, help manage the emotions and encourage open communication between the parties in conflict so

that they find the solution. The mediator may also explain how the mediation will be conducted (rules); for example, respect each other, speak in turn, listen carefully, do not interrupt each other, stay calm, do not insult anyone or fight. Sometimes, parties in conflict feel tense in a session of mediation, especially with the repressive character inspired by a tribunal in rural areas. In this case the mediator must relax the atmosphere using (historical and contextual) anecdotes (and even some cases of successful mediations);

- mediator also explains the difference between the mediation process and the legal procedure or the customary court. This allows the parties to know whether they need to continue on the path of dialogue. The mediator may for example, point out the merits of the saying “it’s better to have a bad arrangement than a good trial”;
- mediator empowers the parties by recalling that the resolution of the land dispute by mediation will depend on their own will. This point allows the parties in conflict to forge open communication.

7.3.2 HOW TO ANALYZE LAND CONFLICTS?

The analysis of the conflict is regarded as a practical process of review and understanding of the reality of the conflict from various perspectives. This understanding is the basis on which we can develop strategies and plan actions.

To analyse the conflict, some practical and flexible steps are suggested :

- documentation of the case, which consists of hearing the party requesting mediation. This conversation also allows you to identify the allies (in the collective/ community conflict), the type of conflict, gather the necessary information to better understand the contours of the conflict, collect the “evidence” and facts;
- the decision to refer the case or to invite the parties in conflict to the mediation process;
- hearing separately from the party/ies, opponent/s and acquiring the information likely to better inform all about the object and the nature of the conflict. It is desirable that this hearing is carried out separately initially to better understand the points of view and identify later the common points and/or stumbling blocks;
- the exchange between parties in conflict is the process by which each party presents the facts about their claims in the presence of the other. The role of the mediator is to control the process as well as manage the speaking time in accordance with the agreed basic rules. Based on the presentations, the mediator could review or summarize the most important points of each presentation, to highlight the common points, clarify the points of contention in the conflict and identify issues to deal with in the

mediation. If need be, the opportunity may be given to the dependants or the identified associated parties to express themselves in order to produce a unit of claims and witnesses.

QUALITIES OF A GOOD MEDIATOR (FEW EXAMPLES):

- **Creativity:** it is linked to neutrality. If the mediator is personally involved in a conflict, then his/her capability of openness will decrease.
- **Flexibility:** for a mediator, flexibility refers to listening, understanding and accepting different opinions without judging. He/she must also know how to act within the framework and the reality of each actor and identify the issues likely to bring the parties closer.
- **Patience:** be patient means taking into account the time required for each party to speak and try to understand the position of their opponents. In land conflicts where the factors of identity or of social capital are sometimes involved, parties sometimes need a lot of time to find a solution. A mediator who does not consider that factor runs the risk of hindering the negotiation process. It lies solely with the mediator to understand the needs by showing intuition.
- **The ability to build possible scenarios:** the mediator must have the necessary skills and master the techniques and instruments to predict the possible evolution of the situation as well as the benefits and the likely risks.

- **Communication:** a fruitful dialogue based on good verbal communication. The challenge is to allow each party to explain their point of view and to express their needs, but also to help them better understand themselves. To improve the communication between the parties, it is also useful to emphasize the positive aspects of each situation and to encourage them to express themselves in a constructive manner. As a general rule, practitioners should try to be confined to the issues raised with each of the parties and not to add others.
- **Organization:** good organization is fundamental for a successful mediation process. Stakeholders and the mediator will have to choose a venue, a date and a timetable for the discussions.
- **Independence:** the land mediator must not be guided by racial, political, religious, or tribal considerations.
- **Impartiality:** land conflicts can sometimes involve members of the mediator's community. He/she should not, in such cases, favour any party throughout the process.
- **Expertise in land law:** the land mediator must know written and customary land law.

- the collection of information from other parties mentioned (witnesses, allies, etc.) in a separate manner;
- the coaching of parties heard in the description of their needs, expectations and interests and those of the other parties. The mediator must use tact to ensure that the description is not turned into a reprimand or accusation, but assists in the presentation of facts and expectations;
- field visits and holding of public mediation sessions, if necessary;
- the search for solutions is the stage in which the mediator provokes exchange between parties on the possible options. In turn, each party gives one or many possible solution(s). As a result of this exercise, several solutions are often proposed. It therefore lies with the mediator to understand the visions and expectations of all parties and to establish the links. After this, the mediator must help the parties to assess the various possible solutions proposed in the light of law, customs, social justice, equity, etc. It is the crucial step of the culmination of the process; ultimate outcome;
- field visits and holding of public mediation sessions, if necessary;



Facilitation in the signing of an agreement after the mediation in favour of parties who do not know how to write. Photo ©UN-Habitat 2012.

7.3.3 HOW TO REACH A CONSENSUS IN LAND MEDIATION?

Recording the solutions to be agreed upon by parties in conflict by an agreement is such an important step in the mediation process that success is sometimes measured by the number of agreements and certifications signed. However, several other activities are also important in the “conclusion of the agreement”:

- Securing parties’ commitment. It is often appropriate to work with parties to identify the opportunities of mutual assistance for the implementation of the contents of the agreements. At the same time,

parties may be called upon to identify the acts that can threaten and undermine the gains made in the mediation process;

- Prepare the mediation agreement; summarize the essential decisions that the parties have arrived at as a result of the mediation. This agreement may recognize the failure, the complete or partial resolution of the dispute. In the case where parties

SOME KEY MEDIATION SUCCESS FACTORS:

- the assurance that parties in conflict shall agree on the process and have the same level of information (the asymmetry of information can be interpreted by a party as patronage and therefore undermine the process).
- The real intention of the parties is to seek a negotiated solution (their good faith).
- The mastery of the conflict by the mediator.
- The existence of credible evidence (written evidence, testimonials, etc.).
- a good management of the conflict by the mediator (positive attitudes, especially within the parties).
- Collaboration with customary, administrative and legal authorities.
- Help parties in conflict to respect each other and to value each of the contributions; that is, to understand that each of the parties benefits from the conflict being eroded

agree to end the dispute, for example, the agreement may be documented in writing and may specify, among other things, the identity of the parties in conflict, the location of the object, the date of the signing of the agreement, the terms, signatures of parties and witnesses, facilitators, the signature of the local authority, photos of parties/ fingerprints. In a context where the level of education is low, it is highly advisable to add photos of parties in dispute with their wives and children, as well as a brief description with references to neighbours, secure spaces, a map or diagram or sketchy representation of the land with all the photos. It is important to ensure that parties have understood the commitments that they have made before following-up on the arrangement;

- Sign the agreement or arrangement (this can be solemn) and give copies of the agreement to the stakeholders and to relevant services;
- Publication/display of the agreements of the mediation;
- Recording the gains and the related documents in the database management and storage system (if possible, scanning of the agreements in the database which can be maintained by the project or handed over to the administration, and other services for the drafting and constitution of some sort of register of acquired rights).

WHAT TO DO WHEN MEDIATION IS UNSUCCESSFUL

The mediator should not be discouraged when the parties are unable to find an arrangement or agreement. In many cases, the mediator can and must continue to assist and encourage the parties to search for amicable solutions. The mediator must be able to identify the party that disagrees, or that has a tendency to retract, in order to direct talks with them.

In the case of extreme resistance, and with the consent of the parties, the conflict may be transferred to another mediator, who may also refer the case to other partner organizations and/or the judiciary. If the mediation has managed to strengthen the reconciliation of the parties in conflict, to strengthen community ties and to contribute to social cohesion, but without reaching an arrangement, the mediator will have played an important role and it is not accurate to talk of an unsuccessful mediation. In fact, it is not uncommon to see parties coming back to the mediation table to resume the process after trying other options.

It is necessary to indicate here that the duration of a mediation process is relative and depends on several factors: the nature of the conflict (individual, collective or community), the availability of parties, the good faith of the parties, the ability and experience of the mediator, the accessibility, etc. Similarly,

It is difficult to predetermine how many mediation sessions or field visits will be necessary before the signing

of an agreement, even if in the majority of cases three to four sessions on average are sufficient. The mediation of certain complex land conflicts may even take more than a year.

THE REGISTRATION SYSTEM OF MEDIATION DATA AND OUTCOMES

The sustainability of gains resulting from a successful land mediation requires, among others things, security and a good recording system of different materials, including minutes of signed arrangements, mediation forms, mediation reports, photos, videos and other related documents. For example, in the context of a land conflict opposing local communities of Bulo and Ndrongo areas in the Walendu Tatsi area of Djugu, in Ituri, a mediation agreement was signed by parties and their witnesses. This agreement was validated by the chief of Gobi, the head of Walendu Djatsi Sector, the head of Post Blukwa, the head of the Office of State of Libi and the Administrator of the Territory of Djugu. The agreement was scanned and both electronic and paper versions were kept in the archives of UN-Habitat offices. All signatories and technical services members of the monitoring committee of the conflict received each a copy of the agreement. The mediation follow-up form was already established for this purpose. Photos and videos obtained during the mediation were classified in the same folder named "Mediation of Ndrongo-Bulo Land Conflict". Soon after, a participatory demarcation of the disputed limits was carried out between the two communities by planting eucalyptus trees as boundary demarcations as defined by the agreement.

FEEDBACK FROM THE MEDIATION

Mrs X living in Kalengera in the community of Kisigari in Bwisha Chiefdom, petitioned the Community Land Mediation Centre (CCFM) of Kiwanja over a land dispute in opposition to her brothers. After the death of her husband, his younger brothers chased the widow from her husband's farm and plot. She was a mother of five children and had no other means of livelihood apart from the farm, she settled in the Kiwanja IDP camp (Monusco Camp). The Kiwanja CCMF has been dealing with this land conflict since October 2001. After five mediation sessions, an agreement was signed in her favour. Here is what she had to say :

I had tried to petition several institutions with a view to finding a solution to my problem in vain. Everywhere I was asked to give money. So I explained my problem to UN-Habitat's teams, who invited some of my in-laws, with whom we had several discussions. Thanks to their facilitation, my in-laws eventually accepted to give me back my farm and my plot. This situation made me leave the IDP camp, occupy the plot and cultivate the farm that was given back to me. I live in my community and they support me. I do not know how I can thank UN-Habitat for their work, because it is thanks to that institution that I will start taking care of my children; it is also thanks to them that I strengthened my bonds with my family-in-law.

7.4 AFTER THE SIGNING OF THE AGREEMENTS: MONITORING AND EVALUATING THE MEDIATION RESULTS

The signing of an agreement during the mediation process does not mean that the conflict is resolved, or that the mediation is accomplished. On the contrary, a very important step is to make the necessary arrangements for the implementation of the commitments, the monitoring of impacts, as well as the follow up of cases that have not led to a consensus. Even if the role and the direct involvement of the mediator are reduced after the signing of the agreements (mainly if the agreement identifies other stakeholders who should monitor the implementation of commitments), the mediation team must still continue to encourage the parties and to initiate actions such as those below:

- the process contributes and contributed to reconciliation, forgiveness, respect, and peaceful coexistence;
- secure and protect acts and other mediation documents in a database that can be kept by the programme or any associated institution;
- photocopying, scanning, and duplicating the deeds to avoid losses, bad weather, abuse and counterfeits;



Delimitation of boundaries of parcels with the shrubs in the Territory of Djugu-Ituri. Photo © UN-Habitat 2012.

- responsibilities of each party in the implementation of the result or the agreement;
- acknowledging and commending parties for their efforts. This kind of appreciation and encouragement should be repeated in all the key steps of the mediation: from the acceptance of the call for mediation to the implementation of commitments;
- in case of a minimal agreement, it is advisable to sign a commitment on the minimum gains and, if possible, identify the additional possible references to manage the remaining components of the dispute. For example, the mediator should be able to present the available options where disputes and grievances can be referred: justice, centre, customary court, etc. ;
- in the event that parties disagree on the solutions to the conflict, they can always commit to adhere to the other achievements of the mediation: respect the other party and their point of view, the improvement of the other party's positions, etc. ;
- collecting the feedback from parties to understand how the mediation process helped them or not, and how the process can be improved;
- putting in place of systems of assessing impacts, including satisfaction and perception surveys, (tenure security perception survey at the beginning, and follow-up throughout the process to assess the changes, frequent field visits on the site of the conflict);
- assessing, with stakeholders, how the mediation process carried out up to the signing of an agreement, positively or negatively affected the climate of the relationship, friendship or affection that had been damaged between the parties previously separated by a conflict. Essentially, the issue is to see if the process contributes and contributed to reconciliation, forgiveness, respect and peaceful co-existence;
- identifying the exact steps, the calendar and the clear

- continue to implement the evaluation mechanism at regular intervals of the programme's impact on the daily life conditions of the people. Apart from impact perception surveys among the "beneficiaries", the programme can evaluate aspects such as the return and the integration of displaced people in the region, stability, social and community cohesion, development of livelihoods or commercial activities, etc. ;
- establishing a specific system of evaluation of the mediation programme on secure land rights. For example, the system should be able to detect and document how the mediation has contributed to the emergence of other types of rights and tenure: ownership, rental, assignment, transfer, inheritance, loan, etc.;
- establishing the system to monitor and evaluate the impacts of the evaluation programme involving other stakeholders, institutions and land agencies. For example, land mediation interventions may have consequences and indirect or unexpected impacts among the authorities (judiciary, customary, council of notables, religious institutions, NGOs, etc.) that were traditionally in charge of managing the conflicts and that could perceive that the mediation programme would reduce their authority and power. On a positive note, the results of a mediation can be leveraged to enrich or launch the reform process. This kind of risk and impact must be arranged and managed. It should be noted that follow-up and evaluation start at the beginning of the programme and continues after the signing of agreements;
- capitalizing, drawing lessons, disseminating and sharing the information with the team and stakeholders;
- documenting the process and good practices in order to better inspire the module and other interventions (this documentation process can start well before);
- identifying the options and opportunities for secure land rights, those in conflict prevention as well as the opportunities for socio-economic reintegration;
- using mediation "success stories" (examples of successful mediation) for the mobilization of resources and advocacy (testimony and dissemination of good practices), animation, popularization and sensitization;
- identifying and strengthening the capacities of champions, messengers, outreach officers, torch-bearers in the community (traditional, community leaders, women associations) who can carry the message and continue land mediation initiatives;
- identifying opportunities to strengthen the collective and community dynamics: playground, social house, archival centre where mediation documents are preserved, etc.;

- identifying and promoting support measures, lasting solutions (depending on whether it is in a humanitarian or stabilization context);
- considering mechanisms for the institutionalization of methods of mediation. For example, the methods may be appropriate through existing organizations such as the local land administration, local land commissions, NGOs, traditional authorities, etc., which may become the mediation and security “one-stop-shop” land security. This institutionalisation may help clarify the real or perceived value (legal,

SUSTAINING MEDIATION GAINS

Sustaining mediation gains and supporting the process is, for example, feasible through the implementation of capacity building in informal and community mechanisms and processes of land conflict resolution. This could be done in such a way that the proof of ownership based on verifiable and trustworthy testimony is enough. It is also possible to establish an adequate programme for property registration according to which property deeds, including land, acquired under the traditional and formal systems are recognized. It is desirable to carry out actions, such as training of trainers, to promote ownership of the tools and mechanisms of land mediation among local stakeholders: customary chiefs, local/national administration, local and international NGOs, protection and humanitarian agencies; in short, land coordination or a land group, depending on the situation.



Women showing their tenure evidence on the Hewa Bora site, North Kivu. Photo@UN-Habitat 2012.

social, economic and administrative) of agreements or mediation certificates.

DON'TS'	DOS'
Think that the signing of an agreement means the end of the mediation	Mediation is a continued process in which successes can be measured from the time when parties approach the mediation services up to the implementation of the results of the agreement, the strengthening of the security of tenure, the occupation and the smooth spatial implementation, etc.
Consider that mediation must resolve all land problems	Mediation facilitates cohabitation links, eases tensions, etc

THE ITURI LAND COMMISSION (CFI)

It was created on 4 February, 2008, in Bunia, by Decree NO CDD/IT/ 320/032/2008 of the Ituri District Commissioner.

The creation of this Commission was motivated by the urgent need to strengthen the conditions for lasting peace in the District of Ituri through:

- the establishment of extra-judicial mechanisms for peaceful resolutions of land disputes;
- the possibility of holding conventional conciliations which aim to propose a solution to two or more people or two or several communities in conflict in Ituri, before bringing the disputes to courts in case of unsuccessful conciliation;
- the need to create a reception area for the collection of land-based complaints from the public;
- the decree creating the CFI gave the institution the specific mandate to provide guidance to local communities in conflict over land or land-related issues so that they resolve the matter peacefully through a negotiation and mediation process; thereby promoting the universal culture of respect for land legislation.

To achieve these overall objectives, CFI seeks to eradicate any mistrust that distils prejudices imposed by cultural differences through the running of awareness campaigns on the peaceful coexistence of individuals within the community as well as among communities. During these campaigns, courageous listeners do not hesitate to denounce the hypocrisy of the customary chiefs and politicians who secretly entertain hatred and the spectre of war. Some recognize that the war was being conducted by the rich (Hema and Lendu) against the rest of the population. That is why traditional chiefs, local authorities and community leaders attend and take part in debates during campaigns.

After the departure of CFI's traditional partners, namely the European Union through the RCN NGOs Justice and Democracy, UN-Habitat developed a partnership with CFI which was based on two essential steps. During the first step, CFI, which no longer had any activity on the ground, was involved in several actions initiated by UN-Habitat in Eastern Province. CFI supported the idea of the creation of the Ituri Land Group, which is a consultative forum that holds monthly meetings with land stakeholders in Ituri. CFI assumes the presidency while UN-Habitat is in charge of the technical secretariat.

Collaboration with CFI subsequently created by the launch of a project supporting the prevention and positive management of land conflicts in Djugu and Mahagi with the financial and technical support of UN-Habitat since

May 2011. The project is now in its third phase of implementation and has had an impact in the attenuation of community tensions in several conflict-prone communities. Resource people selected within local communities and trained as Land Facilitators are transferred in CFI field offices to work in the prevention and resolution of land disputes. Since then, CFI land facilitators work under the technical supervision of UN-Habitat land mediators, and various tools for monitoring land conflicts, mediation and massive outreach campaign are given to Land Facilitators for the collection and analysis of good data.



Dissemination of tools for the prevention and resolution of land disputes with IDPs in Kitshanga, Territory of Masisi.
Photos © UN-Habitat 2012

08

CONCLUSION

This guide to land mediation is drafted mainly by the UN-Habitat's Land Mediation Team which has been deployed in DRC since 2009. It is inspired by field experience. The goal is not to make a library or research book for universities, but to create a simplified tool that can contribute to the establishment of a land mediation programme and to guide stakeholders in the context of such a project, or those who do land mediation as a profession.

It does not claim to have exhausted all the possibilities or all scenarios around land mediation but, in a general way, the publication deals with all the intricacies of the process that revolve around the parties' willingness to resolve the conflict.

Thus, the guide has, briefly, discussed the principles that must be observed; it has defined what mediation is; traced the steps of the mediation process, insisted on what needs to be done by the mediator in order to successfully complete the process; and mentioned the challenges that may be encountered in the process. The authors did their best to illustrate the points through examples drawn from the experience of the execution of a land mediation programme in DRC.

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BIBLIOGRAPHY

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WEB SITE

<http://www.glt.n.net/index.php/projects/land-programme-in-drc>

APPENDICES

APPENDIX 1: MEDIATION FORM



LAND MEDIATION FORM

(Note: In case of insufficient space for a given column, please use the back of the sheet)

1. MEDIATOR'S CONTACT MODE:

By the CCMF Conflict referred by the partner

Identified conflict on the field

2. LAND MEDIATOR'S NAME:

3. DATE OF MEDIATION Mediation Date (D/M/Y):

4. PLACE OF MEDIATION (location of the disputed object or location of parties)

Province:

District:

Territory:

Chiefdom

Sector:

Grouping:

Locality:

Village:

Hill:

5. NATURE OF THE CONFLICT

Individual Collective Community

APPENDIX 1: MEDIATION FORM CONTINUED

Other ⁴

6. IDENTIFICATION OF THE PARTIES IN CONFLICT Part 1 or Group 1 Representative:

Name:

Post Name:

First Name:

Marital Status: Married Single Widow (er) Divorcee

a. Sex: M F

b. * Status

REF DEPL RET LOC

c. Number of households involved in the conflict

⁴ Any conflict which is not individual or collective or community

APPENDIX 1: MEDIATION FORM CONTINUED

	DISPLACED	RETURNED	LOCAL	REPATRIATED	OTHER	TOTAL
Distribution of households according to their status						
Number of household						
Distribution of beneficiaries according to their gender						
Male						
Female						
Distribution of beneficiaries according to the Marital Status						
Widow (er)						
Divorcee						
According to the state of vulnerability						
Orphan (Child)						
Disable						

2. (Physical, phone, email) Address:

3. Profession/occupation:

Part 2 or Group 2 Representative:

Name:

Post Name:

First Name:

a. Marital Status: Married Single Widow (er) Divorcee

b. * Sex: M F

c. * Status

REF DEPL RET LOC

APPENDIX 1: MEDIATION FORM CONTINUED

d. Number of households involved in the conflict

	DISPLACED	RETURNED	LOCAL	REPATRIATED	OTHER	TOTAL
Distribution of households according to their status						
Number of household						
Distribution of beneficiaries according to their gender						
Male						
Female						
Distribution of beneficiaries according to the Marital Status						
Widow (er)						
Divorcee						
According to the state of vulnerability						
Orphan (Child)						
Disable						

(Physical, phone, email) Address:

Profession/occupation:

Part 3:

Name:

Post Name:

First Name:

a. Marital Status: Married Single Widow(er) Divorcee

b. Sex: M F

APPENDIX 1: MEDIATION FORM CONTINUED

c. Status

REF DEPL RET LOC

d. Number of households involved in the conflict

	DISPLACED	RETURNED	LOCAL	REPATRIATED	OTHER	TOTAL
Distribution of households according to their status						
Number of household						
Distribution of beneficiaries according to their gender						
Male						
Female						
Distribution of beneficiaries according to the Marital Status						
Widow (er)						
Divorcee						
According to the state of vulnerability						
Orphan (Child)						
Disable						

(Physical, phone, email) Address:

Profession/occupation:

6. OBJECT OF THE CONFLICT ⁵

7. CAUSES OF THE CONFLICT ⁶

⁵ Disputed or claimed Rights

⁶ Trigger of the conflict, reason, motive of the conflict

APPENDIX 1: MEDIATION FORM CONTINUED

8. DURATION⁷ OF THE CONFLICT

.....

9. DESCRIPTION OF FACTS (Background, actions already undertaken, potential actions, previous issues between the parties, legal, customary or social answer to the dispute).

.....

10. MEDIATION PROCESS

10.1. Claims of parties in conflict

Party 1:

.....

Party 2:

.....

Party 3:

.....

Third parties⁸

.....

11. OUTCOME OF THE MEDIATION PROCESS

Conflict Resolved Conflict referred to courts Conflict closed

Conflict refers to partners

12. LAND MEDIATOR ASSESSMENT (Supportive factors or obstacles to the mediation)

.....

⁷ Determined from the first act of protest or the determination of the breach.

⁸ Any other person who would have secondary interests in the conflict, without being main party to the conflict

APPENDIX 2: EXAMPLES OF OUTREACH TOOLS

- Newsletter;
- Leaflets on the land program, on themes to be developed during the sensitization (inheritance, land legislation, alternative management of conflicts, peaceful cohabitation ...)
- T-shirt with message on land, on stabilization/pacification;
- Banners with land or peace messages;
- Photos of land events, mediation, sensitization;
- Radio and television broadcasts;

APPENDIX 3: DATABASE TEMPLATE

[Nouveau Compte](#)

[Modifier Mot de passe](#)

[ENQUETE](#)

Vous êtes: "Marie.JosA@e SEKANABO AL
30539

[DECONNECTION](#)

UN HABITAT

BIENVENU DANS MEDIATEUR

Section Database-UN-Habitat/Goma

[NOUVELLE FICHE DE MEDIATION](#)

[OPERATIONS DIVERSES](#)

[Consultez les Rapports](#)

APPENDIX 3: DATABASE TEMPLATE CONTINUED

Vous êtes: "Michel MAPENDO AL-30635"

Quitter

Date début 

Mode de contact :

- Par le CCMF
Conflit référé par le partenaire
Conflit Identifié sur Terrain
Inconnu

Centre de médiation

3. LIEU DE MEDIATION----

3. LIEU DE L'ENQUETE

CCMF

Territoire

Choisir secteur

Selectionner le groupement

Selectionner le village

4. NATURE DU CONFLIT

Individuel:

Collectif:

Autre:

 De nouvelles mi

APPENDIX 3: DATABASE TEMPLATE CONTINUED

Version: "Nom" MATPROC 41-2007 Quitter

5. Identification des parties au conflit

- Personne morale
- Groupe de personnes(Collectif)
- Individu

Identité partie ou groupe 1
Représente par:

* Nom Choisir le sexe

* Post Nom

* Prénom

Etat Matrimonial : Marié(e) Célibataire Veuve Divorcé(e)

Status partie : DÉPLACÉ(E) RETOURNÉ(E) Rapatrié(e) LOCAL Autres

* Répartition ménage				
Déplacé	Retourné	Local	Rapatriés	Autre

Répartition bénéficiaire selon leur statut

APPENDIX 3: DATABASE TEMPLATE CONTINUED

Rechercher par:

Trier par:

- Date début
- Date fin
- Partie 1 au conflit
- Partie 1 au conflit
- Situation du conflit

Ordre de tri:

- Croissant A-Z
- Decroissant Z-A

Recherche toute les fiches dont NumFicheMediation est: AL-30635

Nombre enregistrement trouvé 205

PARTENNAIRES	Numéro fiche	 Conflit opposant	Date du début	Date de la fin						
	1-2011-13	 KONGOMANI et NDENGERA	2011-07-03	2011-07-07				Charger les docs	Afficher	
	1-2011-13	 KONGOMANI et NDENGERA	2011-07-03	2011-07-07				Charger les docs	Afficher	
	100-2011-AL-30635	 SEBUHINJA et BARIHUTA	2011-01-12	2011-04-24				Charger les docs	Afficher	
	101-2011-12-AL-30635	 RUCHAMAKAMBA et SAGAKOTI	2011-02-02	2011-02-21				Charger les docs	Afficher	
	101-2011-AL-30635	 NYIRANDIKUBWIMANA et PASCAL	2011-03-12	2011-04-11				Charger les docs	Afficher	
	102-2011-	 NYIRAKABUHITA et						Charger les docs	Afficher	

APPENDIX 3: DATABASE TEMPLATE CONTINUED

Date debut 

Date Fin 

Choisir le rapport que vous voulez visualiser 

Compilation tout le centre de médiation

- CCMF / Kitshanga
- CCMF/ Kwanja
- equipe UN-HABITAT ITURI
- equie UN-HABITAT SUD KIVU

MEDIATEUR - Version BETA
Section DATABASE-UNHABITAT:Benoit TAMBWE LIKONDO
Contact:+243997251977
mail:tambwesofte@gmail.com

APPENDIX 3: DATABASE TEMPLATE CONTINUED



Statistiques des données sur les conflits fonciers répartis selon leur sexe pour la période du 2009-12-01 au 2012-12-01

	Nombre de conflits fonciers documentés	Nombre de conflits fonciers résolus
Centre communautaire de médiation foncière		
CCMF/ Kiwanja	291	71
CLPC/GISIGARI	13	13
CLPC.BUHUMBA	9	7
Total	313	91

Statistiques des bénéficiaires des conflits résolus(en terme de ménages)

	Population locale			Rapatriés			Déplacés			Retournés			Autres		
	Tot	H	F	Tot	H	F	Total	H	F	Tot	H	F	Tot	H	F
CCMF/ Kiwanja	249	155	94	12	7	5	8	5	4	68	42	26	16	10	6
CLPC/GISIGARI	85	46	39	8	4	4	0	0	0	5	2	3	0	0	0
CLPC.BUHUMBA	14	13	1	0	0	0	0	0	0	0	0	0	0	0	0
Total	348	214	134	20	11	11	8	5	4	73	44	29	16	10	6

Statistiques des bénéficiaires des conflits documentés

	Population locale			Rapatrié			Déplacés			Retournés			Autres		
	Tot	H	F	Tot	H	F	Total	H	F	Tot	H	F	Total	H	F
CCMF/ Kiwanja	1489	1114	375	1366	1250	116	57	40	12	579	431	149	54	47	6
CLPC/GISIGARI	85	46	39	8	4	4	0	0	0	5	2	3	0	0	0
CLPC.BUHUMBA	18	17	1	0	0	0	0	0	0	0	0	0	0	0	0
Total	1592	1177	415	1374	1254	120	57	40	12	584	433	152	54	47	6

APPENDIX 3: DATABASE TEMPLATE CONTINUED

PAGE 3

6. Objet du Conflit

7. Cause du conflit

8. Durée du Conflit

Type de conflit

Choisir dans la liste le type de conflit

Choisir dans la liste le type de conflit

- CONFLIT DES LIMITES
- CONFLIT FONCIER LIE A LA SUCCESSION
- CONFLIT LIE A L EXPLOITATION DES FORETS
- CONFLIT LIE A L EXPLOITATION DES PATURAGES COMMUNAUTAIRES/COLLECTIFS
- CONFLIT LIE A L LIQUIDATION DU REGIME MATRIMONIAL
- CONFLIT LIE A LA DESTRUCTION DEGRADATION ET OU INCEDIE DES HABITATIONS
- CONFLIT LIE AU PARTAGE D ASCENDANTS (ABANDON DE FAMILLE)
- CONFLIT LIE AUX CHAMPS ABANDONNES
- CONFLIT MINIER
- CONFLITS FONCIERS LIES AU REGROUPEMENT DES VILLAGES
- CONTESTATION DE TRANSACTION FONCIERE
- DESTRUCTION DES CULTURES
- DRAINAGE DE BAS-FONDS
- EXPROPRIATION IRREGULIERE (EVICTION)
- INEXECUTION D UNE TRANSACTION FONCIERE
- OCCUPATION ILLEGALE
- SPOLIATION
- STELLIONAT

APPENDIX 3: DATABASE TEMPLATE CONTINUED

			Conflit Collectif														
			Retourné			Rapatrié			Local			Deplacés			Autres		
			Men.	Fe.	Hoes	Men.	Fe.	Hoes	Men.	Fe.	Hoes	Men.	Fe.	Hoes	Men.	Fe.	Hoes
RUTSHURU	BWISHA	BUKOMA	20	3	17	0	0	0	49	19	30	0	0	0	1	0	1
RUTSHURU	BWISHA	BUSANZA	15	6	9	0	0	0	116	45	71	0	0	0	1	0	1
RUTSHURU	BWISHA	BWEZA	61	8	53	1	0	1	39	19	20	0	0	0	0	0	0
RUTSHURU	BWISHA	JOMBA	24	10	14	3	0	3	61	26	35	0	0	0	15	6	9
RUTSHURU	BWISHA	KISIGARI	115	50	65	125	10	115	261	115	146	1	0	0	26	0	25
RUTSHURU	BWITO	BAMBU	59	7	52	4	0	4	321	2	319	8	1	7	1	0	1
RUTSHURU	BWITO	BISHUSHA	38	1	37	4	2	2	5604	509	5095	41	0	41	5	0	5
RUTSHURU	BWITO	BUKOMBO	93	7	86	205	77	128	294	41	253	102	1	55	2	0	2
RUTSHURU	BWITO	KIHONDO	0	0	0	0	0	0	7	0	7	5	0	5	0	0	0
RUTSHURU	BWITO	MUTANDA	305	2	303	2	0	2	5	0	5	151	67	84	0	0	0
RUTSHURU	BWITO	TONGO	174	15	159	1	0	1	64	9	55	3	0	3	1	0	1

			Conflit Individuel														
			Retourné			Rapatrié			Local			Deplacés			Autres		
			Men.	Fe.	Hoes	Men.	Fe.	Hoes	Men.	Fe.	Hoes	Men.	Fe.	Hoes	Men.	Fe.	Hoes
RUTSHURU	BWISHA	BINZA	0	0	0	0	0	0	2	0	2	0	0	0	0	0	0
RUTSHURU	BWISHA	BUKOMA	19	9	10	1	0	1	105	34	71	12	2	7	2	0	2
RUTSHURU	BWISHA	BUSANZA	15	3	12	1	0	1	33	11	22	0	0	0	1	0	1
RUTSHURU	BWISHA	BWEZA	60	5	55	0	0	0	13	3	10	0	0	0	0	0	0
RUTSHURU	BWISHA	JOMBA	36	15	21	22	5	17	107	34	73	7	3	3	1	0	1
RUTSHURU	BWISHA	KISIGARI	28	7	22	9	4	5	166	64	102	2	0	2	0	0	0
RUTSHURU	BWISHA	RUGARI	4	0	4	0	0	0	8	0	8	4	0	4	0	0	0
RUTSHURU	BWITO	BAMBU	7	4	3	1	0	1	19	1	18	8	0	8	1	0	1
RUTSHURU	BWITO	BISHUSHA	56	16	40	33	2	31	1427	106	1321	76	25	51	18	0	18
RUTSHURU	BWITO	BUKOMBO	298	103	195	32	7	25	487	151	336	152	50	103	12	1	11
RUTSHURU	BWITO	KIHONDO	20	2	18	1	0	1	91	25	66	223	103	121	3	0	3
RUTSHURU	BWITO	MUTANDA	6	0	6	1	0	1	54	14	40	12	2	10	2	0	2
RUTSHURU	BWITO	TONGO	38	8	30	3	1	2	112	17	95	31	8	23	3	0	3

APPENDIX 3: DATABASE TEMPLATE CONTINUED

Nouveau Compte utilisateur

Index Number

Nom

Post Nom

Prenom

Niveau d'accès Choisir le niveau d'accès ▼

Compte utilisateur

Mot de passe

Confirmer Mot de passe

Mobile

E-mail

Valider

* Vous devez renseigner soit l'email soit un des téléphones

[Fermer la fenêtre](#)

APPENDIX 4: DATA COLLECTION TOOLS CONTINUED

LAND CONFLICTS DATA COLLECTION TOOL DOCUMENTED BY MEMBERS OF THE CLPC AND/OR OF THE ELDERS' COMMITTEE

Province: Territory: Chiefdom: Grouping: Locality:

IDENTITY OF THE APPLICANT (COMPLAINANT)	NAMES	
	SEX::	Male <input type="checkbox"/> Female <input type="checkbox"/>
	MARITAL STATUS	Married <input type="checkbox"/> Single <input type="checkbox"/> Widow (er) <input type="checkbox"/> Divorcee <input type="checkbox"/>
	STATUTS	Displaced <input type="checkbox"/> Returned <input type="checkbox"/> Repatriated <input type="checkbox"/> Local <input type="checkbox"/>
	FACTOR OF MARGINALIZATION	Orphan <input type="checkbox"/> Disabled <input type="checkbox"/> Widow (er) <input type="checkbox"/> old age <input type="checkbox"/>
	NUMBER OF HOUSEHOLDS	<ul style="list-style-type: none"> • Man: <input type="checkbox"/> • Woman: <input type="checkbox"/>
	ADDRESS	Phone :
	VILLAGE	
IDENTITY OF THE DEFENDANT (ACCUSED)	NAMES	
	SEX	Male <input type="checkbox"/> Female <input type="checkbox"/>
	MARITAL STATUS	Married <input type="checkbox"/> Single <input type="checkbox"/> Widow (er) <input type="checkbox"/> Divorcee <input type="checkbox"/>
	STATUTS	Displaced <input type="checkbox"/> Returned <input type="checkbox"/> Repatriated <input type="checkbox"/> Local <input type="checkbox"/>
	FACTOR OF MARGINALIZATION.	Orphan <input type="checkbox"/> Disabled <input type="checkbox"/> Widow (er) <input type="checkbox"/> old age <input type="checkbox"/>
	NUMBER OF HOUSEHOLDS	<ul style="list-style-type: none"> • Man: <input type="checkbox"/> • Woman: <input type="checkbox"/>
	ADDRESS	Phone :
	VILLAGE	
OBJET OF THE CONFLICT		Field: <input type="checkbox"/> Plot: <input type="checkbox"/> Located at:

APPENDIX 5: REPORTING TOOLS CONTINUED

TYPE OF CONFLICT	Boundary conflict <input type="checkbox"/> Illegal occupation <input type="checkbox"/> Conflict-related concessions <input type="checkbox"/> Conflict related to classified and protected forest <input type="checkbox"/> Conflict related to the sharing of ascendant <input type="checkbox"/> Land conflict related to inheritance <input type="checkbox"/> Despoliation <input type="checkbox"/> Breach of a land transaction <input type="checkbox"/> Conflict related to mining areas exploitation <input type="checkbox"/> Conflict-related destruction, degradation and burning of houses <input type="checkbox"/> Irregular expropriation <input type="checkbox"/> Land conflict associated with village grouping <input type="checkbox"/> Conflict related to disputed land transactions <input type="checkbox"/> Land conflict between farmer and livestock farmer <input type="checkbox"/> Conflict related to abandoned field <input type="checkbox"/> Conflict of sandbank drainage <input type="checkbox"/> conflict related to land rights prescription <input type="checkbox"/> Conflict related to the liquidation of the matrimonial system <input type="checkbox"/> Conflict related to the exploitation of community pastures <input type="checkbox"/> Conflict related to disturbance <input type="checkbox"/> Others <input type="checkbox"/>
NATURE OF CONFLICT	Individual <input type="checkbox"/> Collective <input type="checkbox"/>
MEDIATION PERIOD	From: // / 20 to // / 20
RESULT OF THE MEDIATION PROCESS	In progress <input type="checkbox"/> Referred <input type="checkbox"/> Closed <input type="checkbox"/> Resolved <input type="checkbox"/>
MEDIATION MANAGER COMMENTS	Elders' Committee <input type="checkbox"/> CLPC <input type="checkbox"/>
COMMENTAIRES	

APPENDIX 5: REPORTING TOOLS CONTINUED

DEMOCRATIC REPUBLIC OF CONGO



Monthly Report: month of/CCMF of/ CLPC... .. /CDM... .. / CFI field officeCS... ..

PROJECT TITLE	LAND PROGRAM IN EASTERN DEMOCRATIC REPUBLIC OF CONGO
Report period	
Context and Objectives	
Activities Carried out	
Results	
Obstacles	
Recommendations	

APPENDIX 5: REPORTING TOOLS CONTINUED

DATA STATISTICS

1. IDENTIFIED TYPOLOGY OF LAND CONFLICTS IN THE MONTH OF

LAND CONFLICT TYPOLOGY	CCMF KITSHANGA	CCMF KIWANJA	CLPC	CS	CFI	CDM
Conflicts of illegal field occupation						
Conflicts of field boundaries						
Conflict of illegal plot occupation						
Conflict of illegal hill occupation						
Etc.						
Sub total						

2. DOCUMENTED AND RESOLVED LAND CONFLICTS

	NUMBER OF DOCUMENTED LAND CONFLICTS	NUMBER OF RESOLVED LAND CONFLICTS
Community Land Mediation Centre		
CCMF/Kitshanga		
CCMF/Kiwanja	-	-
CLPC		
CS OF		
CFI ANTENNA OF		
CDM of		
Total		

APPENDIX 5: REPORTING TOOLS CONTINUED

3. Beneficiaries of Documented land conflicts (Number in households)

	LOCAL POPULATION			REPATRIATED			DISPLACED			RETURNED			OTHERS			
	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	
CCMF/Kiwanja																
CCMF/Kitshanga																
CFI de																
CLPC																
CS																
CDM of																
Total																

Comment:

Other

Beneficiaries of Resolved land conflicts (Number in households)

	LOCAL POPULATION			REPATRIATED			DISPLACED			RETURNED			OTHER			
	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	
CCMF/Kistshanga																
CCMF/Kiwanja																
CFI of																
CDM of																
CLPC of																
CS																
Total																

Sensitization activities beneficiaries (number of individuals)

APPENDIX 5: REPORTING TOOLS CONTINUED

	LOCAL POPULATION			REPATRIATED			DISPLACED			RETURNED			OTHERS			
	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	
CCMF/Kistshanga																
CCMF/Kiwanja																
CFI of																
CDM of																
CLPC of																
CS																
Total																

Comment:

1. Statistics on resolved conflicts typology

LAND CONFLICT TYPOLOGY	CCMF KITSHANGA	CCMF KIWANJA	CLPC	CS	CFI	CDM
Conflicts of illegal field occupation						
Conflicts of field boundaries						
Conflict of illegal occupation of plots						
Conflict of illegal occupation of hill						
Sub total						

APPENDIX 5: REPORTING TOOLS CONTINUED

2. Visited sites

TERRITORY/DISTRICT	COMMUNITY	GROUPING	SITES	NO. OF MISSION
MASISI				
RUTSHURU				
KALEHE				
ITURI				
NYIRAGONGO				
Total number of field missions carried out				

APPENDIX 6: PRESENTATION OF IDENTIFIED CONFLICTS (TYPOLOGY)

N°	IDENTIFICATION OF PARTIES	Sex		IDENTIFICATION OF THE OBJECT OF CONFLICT	Observation
		M	F		
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

Comments:

APPENDIX 7: REPORT OF DOCUMENTED LAND CONFLICTS

N°	NAME of PARTIES	Sex		STATUS of PARTIES	IDENTIFICATION OF PARTIES	CONFLICT STARTING DATE	IDENTIFICATION OF THE OBJECT OF THE CONFLICT	CONFLICT TYPOLOGY	ACTIVITIES CARRIED OUT	NEXT STEP	FACILITATOR IN CHARGE OF FOLLOW-UP
		M	F								
Individual Conflicts											
1.											
2.											
Sub-total Type/Individual Conflicts											
Collective Conflicts											
3.											
Sub-total Type/Collective conflicts											
Total general/Type											

APPENDIX 8: REPORT OF RESOLVED LAND CONFLICTS

N°	STATUS OF PARTIES	SEX		STATUS OF PARTIES	IDENTIFICATION	CONFLICT STARTING DATE	CONFLICT RESULTS	ACTIVITIES CARRIED OUT	ACHIEVED TYPOLOGY	NEXT STEP	FACILITATOR IN CHARGE OF FOLLOW-UP
		M	F								
Individual Conflicts											
1.			-								
2.											
Sub-total Type/ Individual Conflicts											
Collective conflicts											
Sub-total Type/ Collective conflicts		-									
Total General Total/ Type		-									

APPENDIX 9: REPORT OF THE OUTREACH RESULTS

DAY AND Date	SENSITIZATION THEME	Site	GOAL	STRATEGIES	Cible												Nombre de:		
					Local Pop		IDPs		Returned		Repatriated		Local Authority		Session	Forms/ Distributed leaflets	Identified conflicts		
					M	F	M	F	M	F	M	F	M	F					
On 06/03/2012																			
TOTAL																			

Comment:

APPENDIX 10: ADVOCACY COMPONENT

ACTIVITIES	OBJECTIVES S	STRATEGIES	IDENTIFICATION OF BENEFICIARIES							LENGTH OF OWNERSHIP	RESULT	FACILITATOR	
			N°	NAME and SURNAMES	SEX	STATUS							
						IDP	RAP	RET	P, Loc				OTHR
			1.										
			2.										
			3.										
			4.										
			5.										
			6.										
			7.										
			8.										
			9.										
			10.										
TOTAL													

Comments:

APPENDIX 11: AGREEMENT OR CONSENSUS MODEL

LAND CONFLICT CONSENSUS (FARM OR PLOT)

Since.....a land conflict exists between.....(First party Identity) and.....
(Second party identity).....over a farm /plot situated at (localisation).....
Occupied through (inheritance, illegal occupation , despoliation...). Mediated by the CLPC/SCRPC.....
In association with (UN-Habitat, chieftdom, Territory administrator ...) the conflicting parties agree as follows:
(Resolutions - rights and obligations - or agreement clauses)

- 1.....
- 2.....
- 3.....

Parties involved in the conflict

- 1.....
- 2.....
- 3.....

The witnesses:

- 1.....
- 2.....

The mediators:

- 1.....
- 2.....

Done at ,....., On..... /..... /

Local Chief's stamp (Chairman of the CLPC)

With the facilitation of CLPC/SCCPA of.....

APPENDIX 12: SUMMARY REPORT

UN HABITAT	SUMMARY OF MISSION REPORT (1 PAGE)		
Name and signature:	Program/Project: Unit:	Tel:	To: Cc:
Mission itinerary :	List of appendices:		
Date:			
Key Partners per site:			
Mission objectives :			
Brief Summary (conclusions/findings of the mission):			
Challenges			
Recommendations/Actions			
Recommendation/Action	Person in charge	Deadlines	

1. Mission summary reports will be sent within 48 hours after the return of mission
2. Mission summary reports must not exceed one page

WHAT IS GLTN?

The Global Land Tool Networks (GLTN) main objective is to facilitate the implementation of the Millennium declaration and the Millennium Development Goals achievement through improved administration and land tenure thanks to tools which help fight against poverty and improve the living conditions of those who are victims. One of GLTN's main values is the protection of the interests of the poor, good governance, equity, subsidiarity, sustainability, affordability and systematic scaling-up approach, as well as gendered perspective.

The Network has seven major goals: establish a continuum of land rights, rather than just focus on individual land titling; improve and develop pro poor land management as well as land tenure tools; unblock existing initiatives; assist in strengthening existing land networks; improve global coordination on land; assist in the development of gendered tools which are affordable and useful to the grassroots. The network includes more than 50 global partners representing development partners, research institutions, civil society. Individual members are over 2000 and come from all continents.

GLTN is funded by several institutions including, the Government of Norway, the Swedish International Development Cooperation Agency (SIDA), Cities Alliance, IFAD, UN-Habitat, and the United Nations Economic Commission for Africa, through the Joint Initiative on land policy in Africa.

For more information, go to www.gltn.net

ABOUT THIS PUBLICATION

The *Guide to Land Mediation* mainly draws its inspiration from practical experience on the ground of the land program conducted by UN-Habitat in eastern Democratic Republic of the Congo, especially in North Kivu, South Kivu and Ituri. It refers, in some places, to other countries experiences in post-conflict situations. This guide offers practical steps and tools used during the land mediation process. The publication highlights, not only the role and responsibilities of mediation stakeholders and 'beneficiaries', but also principles and foundations of a good mediation.

This guide particularly applies to contexts of countries characterized by weak institutional, administrative, customary/ traditional capacities and ineffectiveness at the political, administrative and judicial systems.

This practical guide mainly targets humanitarian actors working on land conflicts mediation, on one hand and stakeholders who are involved in peace-keeping, community rehabilitation and social cohesion programmes on the other hand. State institutions in general and land administration agents in particular will find in this guide a set of tools and ideas to deal with land conflicts.

Program partners and sponsors



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GLTN
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