Community-Based Mediation
TRAINING INSTRUCTOR'S GUIDE

Community
Based
Mediation

Avocats Sans Frontières (ASF) is an international NGO specialised in defending human rights and supporting justice. www.asf.be

Justice Centres Uganda (JCU) is a project of the Justice Law and Order Sector hosted and supervised by the Judiciary to provide free legal services to vulnerable people.

LASPNET is a Ugandan NGO established in 2004 to provide strategic linkages and a collaboration framework for the Legal Aid Service Providers. www.laspnet.org

USAID-SAFE (Supporting Access to Justice, Fostering Peace and Equity, 2012-2017) was a partner in the conception of this manual. USAID-SAFE is a program supporting peace building and conflict mitigation in Uganda by strengthening mechanisms for resolution of conflicts over land, oil and ethnic diversity.

Contents

Foreword

Community-based dispute resolution (i.e., outside the court system) is deeply embedded in Ugandan culture. Local or customary conflict management practices are, for obvious reasons, the preferred route of most people to deal with disputes. Research indicates that most people with a problem such as a land dispute approach local councils, traditional clan leaders, or others with high social standing in the community, such as senior religious leaders, for "mediation".[1] The preference for resolution by traditional leaders is especially strong in the north, where most land is communally held.[2] While some disputes go to courts, these proceedings are usually initiated by those with the ability to access the courts, against the poor. Generally, the courts suffer from huge backlogs and are physically, financially, technically and psychologically inaccessible to the poor.

Despite the compelling reasons for seeking dispute resolution outside the courts, "mediation" in Uganda is very much a mixed bag at present. Many people approached to mediate disputes have had no formal training. Others have been trained by a variety of organizations, but this training is not consistent and often does not comply with accepted international best practices or with community customs and traditions. Because of these inconsistencies, many "mediated" settlements are not honoured, offering incentives to parties to circumvent initial agreements by going to court or finding other providers of conflict resolution services.

Recognising the crucial role of community-based mediation in ensuring access to justice for all in Uganda, Justice Centres Uganda (JCU), Legal Aid Service Providers Network (LASPNET), USAID-SAFE Program and Avocats Sans Frontières (ASF) joined forces to establish a *Training Module for Community-Based Mediators.* It is the first project that seeks to integrate local knowledge and practice in the field of conflict resolution, and internationally accepted standards of conduct and practice of mediation. The main goal of this project is to build and deliver an effective model of mediation practice, consistent with realities on the ground and flexible enough to address the broad spectrum of conflicts in Uganda's diverse regions.

This manual is a guide for people who will train community-based mediators to help resolve disputes in the community in a fast and cost-effective way, sensitive to local cultural realities, but which is also rigorous and complies with accepted international best practices for mediation. It is intended to be used in conjunction with the *Essentials Guide*, which is a short and easy to use summary of principles for community mediators trained through this program.

It is important to note that while this training program was field tested in three culturally and linguistically distinct areas of Uganda (Acholi, the Albertine, and Rwenzori), it is a work in progress and is open to further refinement and improvement with experience.

Finally, the examples used in this model are exclusively directed at land related disputes. This was a deliberate choice as land wrangles are the largest source of family, neighbourhood and clan disputes in Uganda, and the ones most likely to lead to violent consequences if not addressed. The module includes summary materials on land tenure and land rights, adapted from publications of USAID-SAFE. However, the mediation skills taught in this module are generic skills which can – and hopefully will – be adapted to any kinds of disputes suitable for local community-based resolution.

1. *Justice Needs in Uganda 2016: Legal Problems in Daily Life,* The Hague Institute for Global Justice, *Justice needs in Uganda Hill Report 2016.*

2. E.g., see *Land Disputes: Acholi residents resort to local council courts, Daily Monitor,* 23 August 2017, page 13.

Acknowledgements

Introduction

This guide is a resource for designing and delivering training for people from local communities across Uganda that are involved (either because of their traditional roles as elders, clan, tribal or religious leaders, or because they hold an official position as local council courts or area land committee members, etc., or both) in conflict resolution. Most of the conflicts these people are called to solve concern land rights; so land dispute resolution through mediation constitutes the focus of this guide. Nonetheless, the mediation principles, procedures and techniques described in the present guide are generic and can be easily adapted to be used for dealing with any other types of conflicts.

After going through this guide, the trainer should be able to:

— Assess the needs and interests of the trainees and design and organize the learning activities according to them.

— Design training activities and choose the appropriate training techniques for their implementation.

— Create an interactive learning environment in the classroom, engaging the trainees in useful debates and exercises.

— Choose and use the educational materials.

To provide high quality, efficient and effective services to people, mediation providers need proficiency in three areas. These are:

1. Mediation knowledge: Mediators should have accurate and up to date knowledge of the conflict resolution tools, aiming to be the most adequate for the needs of their parties. These needs are different than those of lawyers and legal workers. Mediators should also have extensive knowledge of what mediation is and how it can be differentiated from other conflict resolution methods, of when to choose mediation and when to refuse a case, of how to design the mediation process according to the characteristics of the case and the needs of the parties, of what techniques of mediation work best at a certain moment and how to use them effectively, of what makes a wise and durable agreement and how to formulate its terms for a better understanding of the parties.

2. Mediation skills: Mediators should have good practical conflict resolution skills – for example, knowing how to interview parties effectively, how to facilitate debates to make the most of these exchanges, how to give proper advice to the parties without forfeiting their neutrality and impartiality, how to negotiate effectively, how to write clear and detailed agreements.

3. Skills for managing difficult situations: People asking for mediation often come from the poorest and most disadvantaged groups. Mediators are more likely to meet people who are poorly educated, illiterate, have physical or psychological disabilities, have suffered violence or trauma, etc. Mediators should know how to respond to the special challenges these clients may pose. Also, community-based mediators face many challenges related to abuse of power, bad faith, counterproductive or aggressive behaviour and interference from the audience, situations that can easily escalate to violence. They should be able to cope with these cases and know when to continue or withdraw.

The guide is designed to support instructors in endowing mediators with those three sets of competences.

How to use this guide?

This *Community-Based Mediation: Training Instructor's Guide* is three-folded:

Section I

In Section I, the guide presents the characteristics of the adult learning, the principles of adult training and the effective techniques for teaching mediation to people from local communities involved in conflict resolution activities. Methodological guidance for Instructors in mediation is provided in 6 Steps. Step 3 refers to the content of the training, which is provided under Section II. Step 5 refers to the development of supporting materials which can be found under Section III.

Section II

Section II covers the substance of community-based mediation. It aims not only to enrich participants' knowledge of mediation process but also to develop the skills requested to make mediation an effective and successful mode of solving conflicts. It is split in three parts, each dealing with a fundamental aspect of the mediation process: 1. Principles, 2. Procedures, 3. Techniques. Each part begins with a short summary of the content, the goals, and key takeaways.

Section III

Section III provides tools for instructors to articulate the content into effective training sessions. Templates and examples are provided to help instructors in their task.

SECTION I

GUIDE
FOR TRAINERS
IN MEDIATION

SECTION I

GUIDE FOR TRAINERS IN MEDIATION

Understanding the principles of adult education will help the trainers decide how and when to use the training methods presented in this guide, and how they might adapt them to suit the specific priorities of your learners. In the same way a lawyer or a mediator must understand the interests and needs of their clients or parties, a trainer needs to understand the expectations of their learners to design effective training programs. The characteristics of adult learners and learning preferences determine the choice between a variety of teaching methods, making sure learners have an opportunity to understand and master new knowledge and skills in their future professional activities.

To be effective, a trainer must bear in mind that adults:
- Are usually self-driven.
- Have life experiences that influence the way they learn and what they choose to learn.
- Make immediate connection between what they learn and their professional and personal needs.
- Learn more by doing than just by listening.
- Prefer to be engaged in the design of their learning process.

To best reach adults, there are five key principles the trainer should focus on in the design of her/his training:

1. The material presented should have immediate usefulness to the learners.
2. The material presented should be relevant to adult learners' lives.
3. The training environment should be welcoming so that all learners feel safe to participate.
4. The training presentation should be engaging.
5. The training should be presented in a respectful manner, where learners have an opportunity to share their experiences.

Stories, cases, and anecdotes help make connections. The trainer should have a story related to the topic and be ready to share it with the audience.

What are the key ingredients of an effective training program?
- Listing and explaining the objectives of the learning program so that participants can see how the program connects to their own goals.
- Using a variety of teaching techniques to engage the trainees.
- Providing an opportunity for participants to integrate new knowledge with the previous knowledge by using case studies and role-plays.

One more thing to keep in mind when designing a training program: **different people learn in different ways. Some people learn in a group where they can discuss the information provided by the teacher during lecture. Other people prefer to practice with the ideas or skills presented by the teacher, to be able to experiment and receive feedback in the same time. Some people engage instantly with new ideas while others will keep quiet until they have internalized the new information. None of these are good or bad in themselves; they are just different ways people connect to new ideas and skills. Also, remember that different people absorb information in different ways. Some people learn best while listening, others by seeing and some others by doing. That's why training programs must make use of a variety of teaching formats, techniques and materials.**

This guide covers the 6 major steps for designing a training program:

Step 1

Needs assessment: to identify the audience and their specific learning needs.

Step 2

Learning objectives: to formulate the goals of the training program, connected to the specific learning needs of the participants.

Step 3

To develop content.

Step 4

To decide on teaching methodologies.

Step 5

To develop supporting materials.

Step 6

To design how to evaluate the results of your training and get feedback from the participants.

Step 1

Needs assessment

As we have already pointed out, adult learners tend to engage best when they understand why they need the course and how it will connect to their immediate professional needs. The success of a course is highly dependent on the assessment of those needs and interests.

To have good chance to design a successful course, we need to **know who our audience** is. This means finding the answers to these three questions:

1. Who are we going to teach? We need at least the names and titles of our participants, their location and professions.

2. What is their background? We need to determine our participants' educational backgrounds and professional experience, to determine the depth of information to cover in our class. Connected to this second question is the next one:

3. Will some of our participants need more training or more information than others? When there are significant differences in knowledge and/or skill levels, we might have to consider holding several sessions at different levels of expertise. If this is not possible, we must provide opportunities for the less experienced to learn from the more experienced, without letting the most experienced monopolize the class and the practical activities.

The most effective ways to get these answers are (1) to do a survey or (if the situation does not allow it)/and (2) to interview the participants at the beginning of the course. The problem with the second method is that the trainer will need to make very fast decisions on the spot regarding the formulation of the course objectives, selection of content and choice of methodology and additional materials to use. To be able to do all these, the trainer must be very well prepared for different situations, master a variety of teaching methods and have sufficient additional materials to choose from. Please refer to of this guide for template for needs assessment survey/interview.

Step 2

Learning objectives: formulate the goals of the training program, connected to the specific learning needs of the participants

Every training program needs a clear statement of objectives. This is a statement of what will be the results of the training in terms of what will the learner know or be able to do after completing the program.

Formulating and explaining the objectives is important for both the trainer and the participants. The statement of objectives is a reference point for planning and delivering the training to:

— Ensure the training remains on track and focused.

— Ensure that participants understand why they are there and what they will be doing, and allow the trainer to evaluate the effectiveness of the training after it is completed.

The training objectives are classified according to the major trends and international literature in several levels such as knowledge, skills, competences and attitudes.

1. Level of knowledge: assimilation of information through learning (understanding, analytical skills, synthesis, evaluation).

2. Skills level: what the trainee can do after training – the ability to apply knowledge and use know-how to complete tasks and solve problems.

3. Competence level: the ability to use knowledge, skills and personal, social and/or methodological abilities, in work or study situations and in professional and personal development.

4. Attitudes level: what values and general predispositions are developed that will affect the preferences and behaviour towards persons, things or situations.

A comprehensive formulation of learning objectives consists of the intended outcome + the display condition + the success criteria. The objectives should be formulated in a clear and pragmatic way. The more specific they are formulated, the better. **The SMART** *(where S comes from specific, M from measurable, A from achievable, R from realistic and T from time-bound)* **model** can be used to make sure objectives are sound and useful for both the trainer and the participants. Tool 2 under Section III of this guide offer guidelines on how learning objectives should be formulated.

Step 3
Develop content

The content of the present guide has been developed as a community-based mediation manual which can be found under Section II . Section II can be, if the situation requires, used independently from Section I.

Step 4
Decide on teaching methodologies

The choice of teaching methodologies has to take into account:

— The amount of information that needs to be transferred to the trainees.

— The duration of the training program – the training is projected to have 15 effective hours for 2 and a half days, 5 modules of 3 hours each, + 1 hour for evaluation, feedback and final remarks; if the training will have a different duration, its structure and time allocation for each topic will vary accordingly.

— The needs of the trainees as identified at step 1.

— The general objectives formulated at step 2.

PROPOSED STRUCTURE FOR THE TRAINING PROGRAM

Day One

08.00-09.00	Opening session: introductions, expectations, ground rules, other actions required by established cultural norms
09.00-10.30	Mediation and the mediator – Generalities
10.30-11.00	Break
11.00-12.30	The mediation process – Initiation and preparation
12.30-13.30	Lunch break
13.30-15.00	The mediation process – Mediation sessions
15.00-15.30	Break
15.30-17.00	The mediation process – Final arrangements and closure

Day Two

09.00-10.30	Mediation techniques – Investigative techniques
10.30-11.00	Break
11.00-12.30	Mediation techniques – Control techniques and support techniques
12.30-13.30	Lunch break
13.30-15.00	Mediation techniques – Communication techniques
15.00-15.30	Break
15.30-17.00	Mediation techniques – Problem solving techniques

Day Three

09.00-10.30	Integration of information and practice
10.30-11.00	Break
11.00-12.30	Integration of information and practice
12.30-13.30	Final remarks, evaluation and closure

The use of the teaching methods depends on the nature of the teaching content, the teaching situation and the group of learners. The best training programs aim to combine these methods to avoid monotony.

The methods are:

Presentation/Lecture

This technique is widely used even if it has been widely criticized as inappropriate for teaching adults. Lectures are best used in the following situations:

- To establish a general outline of the subject-matter.
- To create interest by connecting the content and the learners' needs.
- To demonstrate how to approach a field of study and make sense of a lot of data.
- To provide information.
- To provide an orientation and conceptual framework for material.
- To focus on key concepts, principles or ideas.

Lectures are of limited value when:

- Trainees are expected to master complex, abstract or very detailed material.
- Trainees are expected to improve their skills, problem solving, thinking, feelings and attitudes.

Despite its disadvantages, lecture is one of the basic instructional techniques because it is effective when dealing with large numbers of trainees. That is why, instead of removing it completely, the trainer should make use of it when required. Some of the basic requirements on behalf of the trainer for an effective presentation are:

— Thorough preparation and knowledge of the subject by the trainer.
— Objectives clearly specified at the beginning and their connection to trainees' needs explained.
— To use "winning of goodwill" techniques (anecdotes, jokes, stories relevant to the topic) to attract the attention of the trainees.
— To make the lecture as short as possible. Instructors should be aware that research shows that attention and retention to lectures drops off sharply after 12-15 minutes.
— To speak clearly with easy to understand words, accompanied by supportive non-verbal communication tools.
— To use humour and examples.
— To monitor and analyse nonverbal communication of learners and adapt accordingly.
— To not use jargon.
— To have proper appearance and demeanour according to the trainees' values and expectations.
— To maintain eye contact with the trainees.
— To ask for reflections and feedback from trainees.

Questions & answers – pair discussion, group discussion, brainstorming

Pair discussion consists in teaming the participants in pairs who are asked to consider a specific question on their own, then discuss it with their colleague and report the conclusion to the larger group. Pair discussion can be used with a class of any size. It gives participants an opportunity to build confidence in their own ideas, learn from peers, and engage deeply with material covered by lectures. It is a technique to be employed with groups that are not used in interactive learning. It also gives the trainer feedback on how the trainees respond to a lecture – what they have understood and what they haven't; where are the difficult points that need more explanation; how the trainees react to new ideas and concepts?

There are challenges to using pair discussion. For example, there are always trainees who have difficulty discussing with their colleagues or reporting back to the group. Their participation can be encouraged by the trainer by being patient when waiting for the first responses, by calling on someone if there is nobody volunteering and, most importantly, treating each response with respect. Also, the trainer should always check if the lack of response is due to confusion about what she/he have asked and clarify the question.

The use of this techniques is relatively simple and straightforward:

— To define a problem to solve.
— To give the participants time to think of their own answer before any discussion beginning and check if they have understood the problem clearly.
— To pair the trainees with their partners and let them discuss the problem and formulate the solutions.
— Finally, to call some of the trainees to share their conclusion with the entire class; if the class is small, the trainer should ask every pair to present their findings.

Group discussion or group problem-solving is very similar to pair-discussion, but here the trainees are grouped in teams of 3 to 6 and assigned to a specific problem to solve or topic to discuss. This technique works with classes of any dimension (provided the trainer can set up at least two groups).

The challenges with using group problem-solving are similar with those with pair-discussion: there might be participants who do not speak in the group, so the trainer will structure the groups to provide opportunities for participation for people who are usually quiet. Some participants may be new to small-group work and want additional instruction before they will engage with confidence; so the trainer should circulate amongst the small groups as they are discussing and clarify any questions participants have about the material or instructions. The trainer should also challenge the trainees who are quiet and ask them to respond to a specific question that is part of the problem the group has to address.

This technique is also easy to use:
— Organize your participants in small groups of 3-6 people, depending on the size of the class.
— Formulate a problem that relates to the teaching/learning goals of the part of the training program and that must be addressed by each group.
— Each small group should nominate one member to take notes and report back to the larger group.
— Give your participants enough time to discuss the problem and propose solutions.
— Have each group report back and debrief with the entire class.

Brainstorming is a technique the trainer uses by providing a central idea or problem to the entire class asking all the trainees to express their ideas freely. It is highly participatory. The disadvantages of this technique is that it can be turned into a show of imagination rather than one of creation. If the trainer is working with trainees who are not used to the idea of participation in the classroom, she/he might begin by asking them to explore the problem by using pair-discussion. Brainstorming essentially consists in having the trainer to ask the trainees to suggest individually as many ideas as they can to a posed question by encouraging them to express themselves rapidly, spontaneously, without stopping to evaluate or judge each answer.

To be effective, brainstorming has some rules:
— No criticism shall be allowed during the presentation of ideas. No one will insult, demean, or evaluate another participant or his/her response.
— Everyone will have a chance and will be asked to contribute.
— The trainer is in control of the process.
— The trainer prevents the brainstorming from extending beyond its purpose.
— The trainer notes the ideas on the board without indicating any reaction to them.
— The trainer examines the written words and divides them into categories.
— The trainer synthesizes the results at the end.
— There should be a time limit to the exercise (10-20 minutes is recommended, but this will depend on the size of the group and the complexity of the problem presented).

Case studies

The trainer describes a problem – real or hypothetical – and asks the trainees to study it in depth and propose solutions. A case study is a complex exercise which requires more time to be completed. It should not be applied at the beginning of a learning subject but when most of it has been exposed, explained and debated and the trainees have acquired some mastery of it.

The uses of case studies are:

— To foster critical and analytical skills of the trainees.
— To develop in-depth knowledge, especially if the case reflects a real situation.
— To elicit transformation of trainees' attitudes.
— To facilitate communication and induce collaboration between trainees.
— To save teaching time.

The case studies as a teaching technique is more likely to be successful if:

— The case is real and/or realistic.
— Information about the case is clear, complete and logical.
— The case is controversial enough to generate debates and divergent points of view to be discussed by the class.
— There is enough time for study and discussions.

Role plays

Role-plays are simulation exercises where participants take on assumed roles and act out a pre-determined scenario. Examples in the mediation context refer to parties' interviews, preliminary meeting, mediation sessions, dealing with difficult situations, finalizing agreements and other related activities. Role plays are used when the resolution of a problem or conflict requires specific knowledge, skills and attitudes, and give trainees the opportunity to experience real situations in a safe environment where mistakes and experimentation are allowed.

Role-plays provide the trainees an opportunity to practice new and gain insight into new skills. The use of role-plays is essential when the trainer wants to:

— Demonstrate the complexities of the mediation process.
— Ensure participants gain knowledge and practice skills as constructed by themselves rather than passively received in a lecture.
— Discuss explicitly various specific aspects of the mediation process and the mediator's role and techniques.
— Have participants learn and practice the skills they need.

The use of role plays as a teaching technique requires:

— Scenario creation by the trainer.
— Selection of "actors".
— Briefing and coaching of the "actors".
— Set up of ground rules for safety and feedback.
— Preparation of the rest of the class for other roles.
— Set up of a time limit.
— Role playing.
— Debriefing.
— Analyses and recommendation in the class.

To be successful:

— The scenario, rules and instructions should be clear and accurate.
— The scenario should be close to the trainees' interests.
— Participants should be encouraged to fully engage and act naturally and in good faith.
— Trainers should guide players and others.
— Role play should not be interrupted.

Simulations

Simulations are very similar to role plays. The difference is that trainees do not enter a play and act a role; they participate in an imaginary realistic performance trying to think as real people affected by the situation (e.g. to express their opinions as if they were mediators, parties, community members etc.). This technique follows the same rules as role plays.

Some practical advice on choosing teaching methodologies for mediation training:

- Given that most of the participants will probably have experience in the field of conflict resolution, it is crucial that the **needs assessment is done well in advance,** so the trainers are able to choose where to focus their training – usually this means giving much more time and resources to mediation techniques than to mediation generalities or process, as the participants are already accustomed to these topics.

- It usually is very easy to teach the generalities and the mediation process, but very difficult to teach the mediation techniques. Participants often like to engage in long debates over principles of mediation, mediation ethics and mediation procedures. Therefore, the trainers must **keep a close eye to the timetable and step in to lead the discussions in the right direction whenever they tend to go overtime or dwell on the anecdotic.**

- **Presentations and Q&A** on the form of group discussion are the most effective methodologies to deliver the information regarding mediation generalities and the mediation process; **case studies, simulations and role-plays** are essential for teaching mediation techniques.

- **Regarding mediation techniques** teaching – due to our field experience, **we recommend using role-plays as the teaching methodology,** going from the initiation of mediation phase to closure. The trainers will give the participants the roles they have to play and then encourage them to act as they see fit. The trainers then focus on a given set of techniques per each phase of the mediation (for example, investigative techniques during the initiation phase, control and support techniques during the preliminary meeting, communication techniques during the mediation sessions/problem identification phase and problem solving techniques during the mediation sessions/problem solving phase), by stepping in at various moments to point out the techniques used by the acting mediator and advice on how to improve the uses of those techniques. It is important here to stress that the techniques are not specific to a certain phase of mediation process, but they are to be used at each phase according to the needs of the case and of the mediator. The pairing of techniques and phases is just for the sake of training, so the participants understand how they are used and for what reasons.

- The trainers should do a **recap at the end of each session,** pointing out how the material presented during that session fits into the whole training program and how it fulfils the proposed objectives; also, it is of equal importance that the trainers summarize the past sessions at the beginning of each new session, to link the information already delivered to what is going to be presented during the present session.

- Because we are training adults, offering feedback by trainers is always a sensitive issue – adults don't like being shown wrong or criticized in front of their pairs. **As such, we recommend that feedback is always given in a positive way, by highlighting what they have done right and offering advice on future improvement.**

- The trainers must **be aware of various cultural norms and be respectful,** but also to be ready to challenge them (politely and wisely) when circumstances require such a course of action. For example, it is already known that cultural norms sometimes support gender discrimination, making women far less participatory in group discussions and role-plays when men are present and dominant in those groups. Therefore, it is the role of the trainers to get the women to fully participate in discussions and role-plays, to encourage them to voice their opinions and defend their right of opinion in front of possible male challenges.

Step 5

Develop supporting materials

Supporting materials refers to power-point presentations; hand-outs (either for lectures or for exercises); briefings for role plays; templates for various documents that have to be filled out by trainees (mediation agreements; mediation reports etc.). Please check Section III of this guide.

Step 6

Evaluate the results of your training and get feedback from the participants

An evaluation represents the tool that trainers use to determine if the learning objectives of a program were achieved. It addresses these questions:

— Did the participants learn something worthy for their future task of mediating conflicts?
— Were the objectives of the program addressed effectively?
— Are the trainees able to apply what they learned?

The evaluation should clearly identify:

— What is evaluated – knowledge, skills, competence and/or attitudes.
— The performance indicators – how will the trainer measure and assess whether the program goals have been achieved and, if possible, the targets that she/he expected to reach.
— The method used to collect information on the indicators.

Steps of the evaluation process:

— To determine what is to be evaluated.
— To identify and define the indicators of performance.
— To select a method.

The easiest way of evaluating a training program is to gather feedback from the participants using an evaluation survey at the end of each session/module or the entire program. The survey should include short-answer questions or use a numerical scale to have participants rank the value of the content, activities, supporting materials, and their own learning.

If the trainer wants a more in-depth understanding of one or more aspects of a program, (for example how participants apply what they have learned over time), she/he can conduct interviews and ask questions about the trainees' participation in programs and what they thought of the content, activities and supporting materials.

SECTION II

MANUAL FOR
COMMUNITY-BASED
MEDIATION
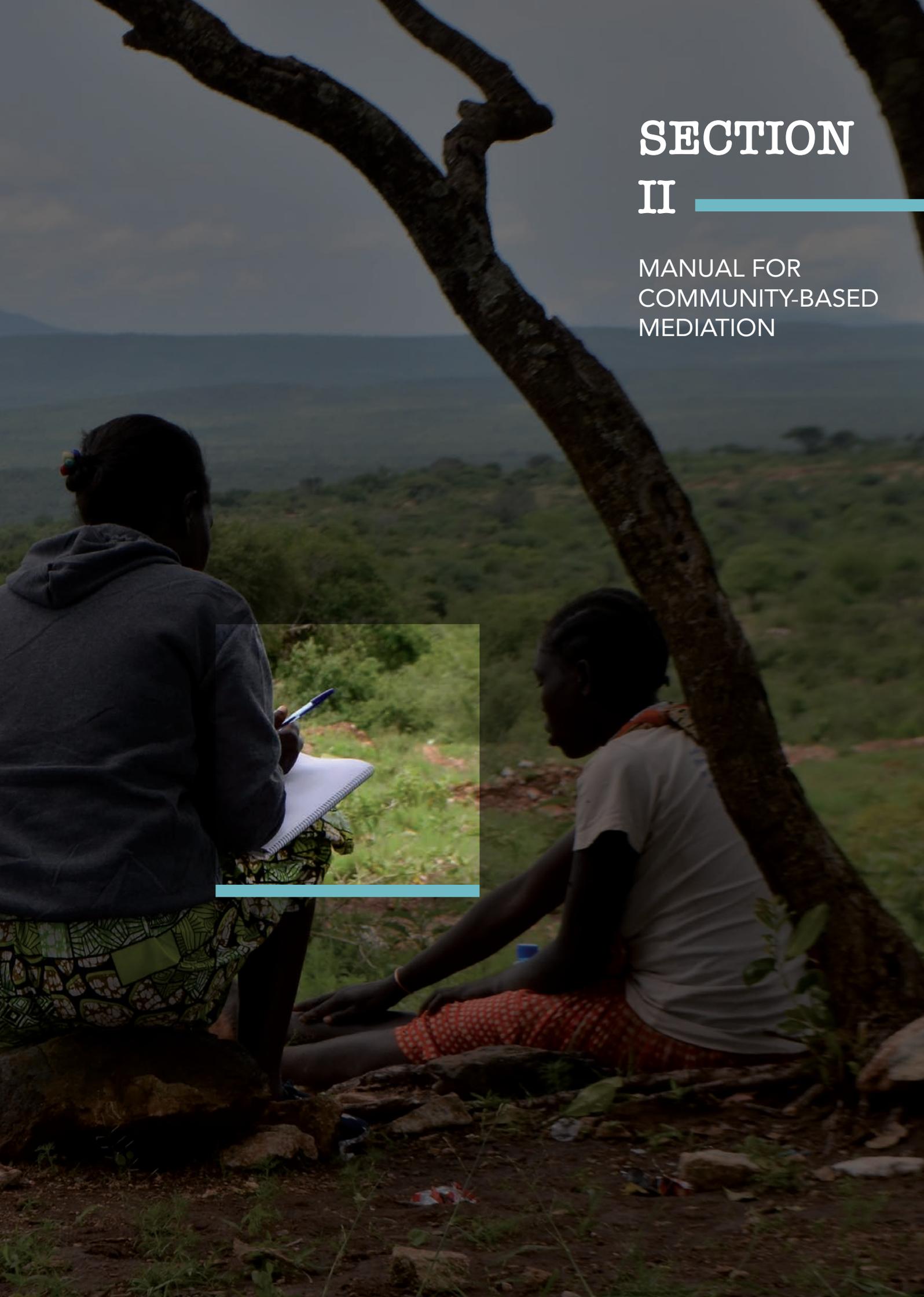
MANUAL
FOR
COMMUNITY-
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Part 1
Mediation and the mediator

CONTENT OF PART ONE:

Definition of mediation as a method of conflict resolution; place of mediation among other methods like neutral evaluation, arbitration, crime stopping and litigation; Definition of the mediator and their roles (close attention paid here to cultural norms regarding community leaders' roles and prerogatives); Qualities of the good mediator; Ethical considerations for the mediator.

GOALS OF PART ONE:

— To help the participants achieve a proper understanding of mediation and the roles of the mediator.
— To develop the participants' capacity to distinguish between various methods of conflict resolution and choose the most appropriate one.
— To familiarize the participants with the fundamental principles of mediation and why they are crucial to success.
— To facilitate participants internalization of the ethics of the mediator and understanding of its impact upon their practice as future mediators.

KEY-POINTS OF PART ONE:

Definition of mediation: mediation is a negotiation facilitated by a third neutral party.
Main characteristics of mediation:
— Voluntary process.
— Third party has no power to impose decisions on parties.

Mediation works best when:
— Parties can fully participate and have the capacity and knowledge to make decisions.
— Parties negotiate in good faith.
— Parties want to preserve and/or improve relationship.
— There are no other better ways of solving the conflict.

Mediation fundamental principles are:
— Self-determination.
— Voluntary process.
— Neutrality and impartiality.
— Confidentiality.
— Transparency.
— Accountability.

Mediator's roles are:

— To set up a safe and effective process of communication between parties.

— To encourage and support the parties to work collaboratively and to remove threats and/or counterproductive behaviour.

— To make sure all parties have equal access to relevant information and fully take part in the process.

Mediator's ethics prescribe:

— To not align her/himself to any party and make them think they are right.

— To not accept financial compensation from one party.

— To not condone crime or use mediation to the disadvantage of the weaker party.

Mediation

Mediation is a negotiation facilitated by a neutral party. It means that mediation happens when parties want to solve their conflict by negotiation, but can't do it, for a variety of reasons. Therefore, the parties need help from a neutral person or persons to overcome the obstacles that block the path to resolution of conflict.

Mediation is one way of preventing, limiting and/or solving conflicts. There are many others, and the mediator must be aware of these options and choose mediation only when this is the most appropriate path to conflict resolution. The primary rule mediators must observe here is: DO NO HARM! That's why mediation should be chosen only when the mediator considers it the most effective way of dealing with the conflict.

THERE ARE MANY PATHS TO CONSIDER FOR THE RESOLUTION OF CONFLICTS:

- *Neutral evaluation:* when the person contacted by the parties has the knowledge, the resources and the capacity to investigate the situation on the ground, identify legal issues and hidden interests of each disputant, document witness testimony and create family tree diagrams to assess legal rights, inform the parties of the provisions of the law regarding the issues at stake and educate them about their rights and the procedures they can use to effectively solve their dispute.

- *Mediation* is a conflict resolution procedure, where most of the decisions related to process design and agreement rest with the parties, who voluntarily choose the mediation as the process for solving their conflict and the mediator(s). The mediator facilitates communication between parties, help them solve their problems, controls the process and supports full participation from all parties. She/he has no power of decision and cannot impose anything on parties against their own will.

- *Arbitration* rests somewhere in-between mediation and litigation. As in mediation, this a private procedure where the parties choose to participate (voluntary process) and choose their arbiter. It is usually less formal than litigation, but like litigation, the arbiter listens to both parties, hears evidence and examines witnesses, and her/his decision is binding.

- *Litigation* is another path to conflict resolution. It is highly adversarial, takes time and might be expensive. But it can be the only path in situation where there is a clear need to establish precedent, to stop further criminal actions or to address blatant bad faith and disregard of the rights of one party from the powerful, the resourceful or the highly connected. Litigation means the parties cede the entire control of the process and results to the courts, and the courts' decisions will be based on the legal argument. Their decisions are binding.

- *Reconciliation* is a process foreseen under Section 160 of the *Magistrates Courts Act* for cases that are simple and of a personal nature, including criminal offenses. Reconciliation is requested by the Magistrate to attempt to solve such issues before they are dealt with in Court, in which case a "reconciliator" is appointed. Reconciliation has its own procedural rules.

- At last, there is the issue of crime and what the neutral person contacted by the parties can do to stop it. *Crime-stopping* is a path to be taken only when the neutral person contacted by the parties considers there is a high danger to parties' property and life or when the actions of the parties cross the law into the realm of criminality. The neutral party can accompany the rights-holder to the most appropriate state institution for report and redress but keep the mediation option open in case the perpetrator of the crime repents and wants to settle amiably. For this last reason, even if the neutral person is assisting one party to report the situation to the proper authorities, she/he must do it without constituting themselves as witnesses and without making the case against the other party; they must keep the door open to mediation if the situation requires. Crime-stopping is most recommended when dealing, for example, with clear cases of land-grabbing or domestic violence. Mediators cannot and must not condone crime and violation of the law. They must not accept cases where a resourceful party grabs the land of a weaker one and then seeks to compromise by using mediation as a tool to keep part of the land it has forcefully taken away or when the physically powerful member of the family uses violence to forbid the other members seeking justice and redress.

THE MAIN CHARACTERISTICS OF MEDIATION ARE:

— **Parties engage in mediation voluntarily**, on their own will, without any outside coercion or imposition; voluntariness refers to the fact that parties choose mediation as a path for conflict resolution fully informed about their options. They also choose the person of the mediator, as appropriate for their case. That is why the mediator's qualities play a key role in the choice of the mediator and, ultimately, in the success of mediation.

— **The mediator does not have any power to impose decisions on the parties.** All that happens during the mediation process must rely on the will and acceptance of the parties.

Voluntariness and self-determination are two distinct aspects of mediation and they should not be confused. **Voluntariness** refers to **parties choosing mediation and the mediator, in full awareness of their options; self-determination** refers to **parties having the ultimate decision-making power in all issues concerning the settlement of their conflict.**

Mediation might be the most effective way of dealing with conflict when:

— Parties want to settle the dispute in good faith.

— Parties have the power and the capacity to negotiate and make decisions (mediators must pay close attention to parties whose capacity to negotiate and make decisions might be impaired by power and knowledge imbalances, cultural bias resulting in intimidation or self-censorship and psychological conditions connected to trauma, posttraumatic stress disorder, age or mental disorder).

— It is the fastest and cheapest way to solve the conflict.

— There is need for parties' reconciliation and preservation of their relationship.

— Using other ways might endanger the property or even life of the parties, when conflict might escalate beyond control, when the involvement of law enforcement or justice institutions could only aggravate the situation.

— When there is need for the establishment of a communication process that prevents the recurrence of the conflict after settlement has been achieved.

The mediator

The mediator is a neutral and impartial person who helps the parties overcome the obstacles to resolution by facilitating the communication between parties. The mediator is a person who works with the parties to help them find solutions to their issues. The mediator focuses on organizing and facilitating the communication between the parties, supports the parties to explore and express their interests and needs. ***The mediator is not a judge nor an arbiter, does not make decisions for the parties and does not impose her/his will on the parties.*** The mediator encourages parties to work collaboratively and intervenes to neutralize threats or intimidation. The mediator ensures that both parties have equal access to relevant information and are heard during the mediation process.

There are several qualities that make a good mediator:

— Integrity, honesty and character.

— Non-biased, does not discriminate, can withhold judgement and can treat people equally, fairly and respectfully.

— Alertness, good listening and communicating skills.

— Empathy.

— Tenacity and good problem-solving skills.

— Adaptability, creativity and quick in making sense of a situation.

— Can think "out of the box".

— Self-control and the ability to establish authority.

— Patience, tact and good manners.

— Appearance, demeanour and credibility.

It is also highly recommended that the mediator should have at least a basic grasp of the legislation and legal procedures regarding the matter of the conflict she/he mediates. For this reason, additionally to mediation training materials, trainees will receive materials summarizing the basic legal principles regarding the matters they are mainly called to mediate (i.e. land tenure and inheritance rights, which are the focus of this training program).

Mediation principles and mediator's ethics

Mediation works best when several principles are observed. The issue of mediation principles is not merely a philosophical one: it's the key for its success. Mediation will fail if certain principles are not observed by the mediator. To make sure mediation has a good chance of being successful, the mediator must:

— Respect the parties' *self-determination:* that is, to respect their will, to refrain from imposing on them what they do not agree, to let them choose their own solution and respect their choices.

— Make sure the parties engage in mediation *voluntarily,* making an informed decision to choose it as the best option for dealing with their conflict. That is why the mediator must educate the parties about what their options are and about the fact that they can choose not only the process itself but also the person of the mediator.

— Be *neutral and impartial:* neutrality refers to lack of interest in the issue at stake; impartiality refers to equal treatment of the parties, disregarding their sex, age, race, ethnicity, clan or family lineage, wealth, power or influence.

— Keep the information received from the parties *confidential:* the mediator should not disclose any information received from the parties to anyone without the express approval of the parties. This principle extends to separate meetings during the mediation sessions and after the mediation process has ended.

— Maintain *transparency* of the process of mediation, so the community and the parties can trust the proceedings and results are fair and acceptable for all.

— Maintain *accountability,* so the community and the authorities can see how the process of mediation was run, how the agreement was built and to increase the chances of state institutions and courts to uphold the decision made by the parties.

Ethical considerations for the mediator

Beyond upholding the principles of mediation, there are several other ethical aspects the mediator should be aware of:

— Most times, the mediator is approached by people involved in a conflict asking for help, not mediation. The mediator should refrain from offering help in a manner that emboldens people to feel the mediator has sided with them against the other, no matter if the mediator is going to mediate or use a different method of conflict resolution.

— **The mediator should not agree to enter into any financial arrangements with one party without prior acknowledgement and acceptance of all parties involved.**

— The mediator should be open and frank about the potential results of the mediation process, by honestly evaluating the chances of settlement through mediation, without inducing the parties to the idea that mediation always solves the conflict, or that it is easy and fast and free of pain. The mediator should be realistic about the chance of mediation to succeed and manage the expectations of the parties accordingly.

— The mediator should not, in any circumstances, condone crime and use mediation to make the weaker party accept a compromise that denies their rights, but she/he should choose a different way of conflict resolution and assist the parties to work their case through those methods.

— The mediator should make sure both parties have equal and full access to information of all kinds regarding their issues at stake.

Part 2

The mediation process

CONTENT OF PART TWO:

Initiation and preparation phase; Mediation session(s) with its two phases – problem identification or exploration/problem solving or resolution; Final arrangements and closure (special emphasis on written agreement content and mediation report).

GOALS OF PART TWO:

— To familiarize the participants to the structure of the mediation process and its stages and phases.

— To develop the participants' understanding of the roles and tasks of the mediator during the mediation process

KEY-POINTS OF PART TWO:

— Model of mediation presented must be adapted case to case.

— Mediation process has three parts:

- Initiation and preparation

- Mediation sessions

- Final arrangements and closure

— The initiation and preparation part refers to:

- Contact made by the party(ies) with the mediator.

- Investigation of the matter by the mediator.

- Preliminary meeting to set up process and ground rules.

— The Mediation sessions part refers to:

- Problem identification or exploration phase, which includes: 1. opening statement by the mediator; 2. parties' statements, which should be uninterrupted; 3. cross-examination and debate; 4. defining and clarifying the issues; 5. setting the agenda for negotiation.

- Problem solving or resolution phase, which includes: 1. separate the problem into its constituent issues; 2. address each issue separately and successively; 3. identify parties' interests and needs; 4. identify potential areas of agreement; 5. identify options and analyse their merits; 6. help parties formulate solutions to each of the issues on the agenda; and 7. note down all these solutions and build the agreement.

— The final arrangements and closure part refers to:

- Checking if the agreement is SMART.

- Checking if the agreement is fully understood by the parties.

- Checking if the agreement terms fall with the range of parties' capacities for implementation.

- Writing and translating the agreement.

- Certification document which specifies that the agreement was read to and understood by the parties.

- Arrangements to monitor the implementation of the agreement.

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The process of mediation is more informal than what usually happens in a court of law. The proceedings and the steps taken by the mediator don't depend on a written code of conduct, but on a set of circumstances that include, but are not limited to:

— Characteristics of the case.
— The situation on the ground, including local cultural norms and practices which may affect what kinds of resolution processes will be most likely accepted and respected.
— The characteristics of the parties.
— The issues at stake.
— Whether the parties have already attempted to solve the conflict through other means and methods.
— The desires and the preferences of the parties.
— The style and personality of the mediator.

We will present a model of the mediation process structure. It is up to the mediator on the ground to analyse the conditions and adapt this model to the needs of the case and those of the parties. This model shouldn't be taken as cast in stone, as a rigid checklist that the mediator must go through, but a set of guidelines that can help the mediator to lead the parties to a mutually acceptable and beneficial solution.

Initiation and preparation of mediation

Before getting into the substance of this phase, there are some general considerations we want to make regarding debut of mediation.

First, we suggest the **use of at least two mediators** in all those cases that requires running the mediation process on the ground, with all the community present. In some communities, local tradition and custom may encourage or even demand more mediators (e.g., the involvement of tribal elders). It is advantageous as two people can much easily cover all corners of the mediation process and its proceedings, can much easily control the process and split tasks to make the process as smooth and effective as possible. If this is not possible, an objective and trusted person should be approached and asked to help the mediator during the mediation process, by taking notes, help control the audience, provide other kind of technical support.

Second, **whenever a mediator from outside of the community is approached and accepted by the parties, it would be recommended to ask a mediator from the community to pair and work together the case.** Of course, that mediator should also be accepted by both parties and not be imposed on them. The mediators will have to meet before the start of the mediation sessions – preferably even before the preliminary meeting if situation permits – and to confer about how they will run the entire process of mediation, to concur on the ground rules and other normative and/or behavioural requests, to split tasks and decide upon all other practical aspects of the mediation.

Third, it should be kept in mind that **sometimes one party approaches an outside mediator for fear that the community norms might be biased against them; or it might be a sign of bad faith** – avoiding the community might be an indicator of the party acting in bad faith or breaching the law – and must be treated accordingly.

For all these reasons, the mediator(s) approached by the parties must be careful to identify what makes for fear of discrimination or bias and what makes for bad faith.

THE USUAL STEPS FOR THE INITIATION AND PREPARATION PHASE ARE:

— One/both parties contact the mediator and ask for help.
— The mediator interviews the contacting party and gathers as much information about the case as possible, asking for evidence supporting the party's point of view and requesting the party to stipulate its demands.
— The mediator contacts the other party and asks for its opinion on the matter, their story, their evidence and their demands.
— If the mediator has the resources and the possibility, the mediator investigates the case by contacting other people from the community about the situation presented by the parties.

At this stage, the mediator must:

— Pay close attention to situations of bad faith.
— Make sure there is no criminal behaviour that would request reporting to the proper authorities; here the mediator should pay attention to cases of domestic violence and gender discrimination, of land-grabbing or other actions that trespass the law and make the necessary decisions regarding the proper course of action required from her/his part.
— Identify potential symptoms of trauma or other mental disorder problems and make sure they are not confused with incidental behaviour - knowing in advance that there is a chance to deal with traumatized parties helps the mediator design and plan the mediation process accordingly.
— Analyse the case and decide if it can be best solved through mediation. If other ways of resolution seem more effective, the mediator should not try to impose mediation, but leave the choice to the parties after sharing with them all information and the arguments for other choices.

If the mediator decides mediation would be effective to solve the conflict, the mediator contacts the parties and asks them to meet at a certain venue, at a certain date and hour. These issues should not be imposed by the mediator but discussed with the parties and decided based upon their preferences and possibilities. The mediator should make sure that the **venue chosen for this preliminary meeting:**

— Has necessary facilities for the meeting.
— Offers security for parties and the mediator.
— Does not favour one party against the other.
— Does not impose an unnecessary burden on one party.
— Offers the necessary conditions for traumatized persons to participate safely and not cause them harm.

When the **preliminary meeting** happens, the mediator should **concentrate on the design of the process of mediation, not on its substance.** The mediator must:

1. Educate the parties on the matter of mediation – explain the process and its steps, explain the role of the mediator and what is expected from the parties, explain joint sessions and the use of caucus, finalization of the process and what may happen after, their rights and responsibilities during mediation, make sure all of them have understood and agreed to these issues.

2. Ensure the parties have all equal and full access to information necessary for the resolution of the conflict.

3. Ask if the parties are acceding to mediation out of their free will and are not coerced into it by others.

4. Once the free will of the parties to attend mediation is established, the mediator exposes, in a neutral, friendly, polite but firm manner, the ground rules of mediation and specifically asks the parties for clarifications – if needed – and consent. Examples of ground rules:

- Parties must listen carefully to each other and don't interrupt; they will have their turn after the one talking finishes.

- Parties should eliminate all sources of distraction during mediation (no talking with others or the audience; switch off the phones; keep small kids away etc.).

- Parties must refrain from making threats, raising voice or become physically aggressive.

- Parties must behave respectfully with each other, with the mediator and with all other participants to mediation.

These are just some examples of what the ground rules in mediation can be. The mediator should be realistic in setting these rules and pay attention to what the conditions on the ground requires or put limits to (e.g., a poor woman with no outside help cannot participate in mediation without her young children, as there is no alternative to that).

5. If the mediation will take place at different date than the preliminary meeting, the mediator and the parties convene on the place, date and hour of mediation. The mediator must be aware that, in the community-based mediation context, it is likely that the mediation would happen in the open, with many people from the community attending and make the necessary arrangements to make sure mediation will flow unhindered by outsiders. Also, the mediator should contact the community leaders/elders to invite them to attend and, if necessary and possible, inform the police and ask for security, as some disputes – especially those over land – can turn violent during the mediation.

6. If mediation is going to happen the same day of the preliminary meeting, those provisions (elders/community leaders' participation, police information and assistance, venue adequacy for mediation needs) should be made in advance of the preliminary meeting, so the mediator and parties can move smoothly to mediation session(s) after the end the preliminary meeting.

Mediation session(s)

It might be the case that mediation can end in one session, during the same day it has started; but there are situations when there might be more than one day and one session needed to get the parties to an agreement. We will present the process here as if there is just one mediation session and make the necessary provisions where there might be more than one.

MEDIATION SESSION USUAL STRUCTURE

Problem-identification or exploration phase

— Opening statement by the mediator

The mediator welcomes the participants, introduces her/himself and register the parties and other relevant participants. Then she/he describes the issues at stake and states the purposes of the mediation process. The mediator stipulates - or reminds, if this is the case - the ground rules and asks the participants to observe them.

— Opening statements by the parties

The mediator invites each party to tell their story and to state their demands. She/he advises all parties to wait for their turn, to not interrupt or disturb the one talking and asks all other participants to refrain to intervene and keep their questions and comments for after the opening statements of the parties.

— Cross-examination of the parties' statements and witnesses

Now the mediator opens the debates by giving the floor to the parties, their witnesses and other relevant participants. The scope of this step is to elicit as much substantial information about the issues at stake as possible. The focus is on understanding each party's concerns to identify their interests and what topics need to be addressed.

▬ Defining and clarifying the issues at stake

With the help of parties and other participants, the mediator identifies the main issues at stake and clarifies the parties' stories and positions regarding those issues.

▬ Set up the agenda of negotiation

The mediator summarizes the debate and makes a list of problems that have to be addressed by the parties in order to solve the dispute.

This first half of the mediation explores the past and the present. It is mostly an emotional and a learning process.

Problem-solving or resolution phase

▬ Separating the problem into its constituent issues

The mediator proposes a list to organize the several topics that the participants want to resolve and splits the main issues at stake into their component parts.

▬ Addressing each issue separately and successively

The mediator invites the parties to address one issue at a time, taking each of its components in succession and identifying the parties' goals and positions.

▬ Identifying parties' interests and needs

Parties tend to see solutions as win or lose based on their perception of incompatible goals and positions. The mediator must work with the parties to move them from positions to interests and needs.

▬ Identifying potential areas of agreement

Based on the newly identified interests and needs, the mediator must orientate the parties to potential areas of agreement and expand those areas.

▬ Identifying options and analyse their merits

To expand the area of agreement, the mediator and the parties should identify options and then start taking them one at the time and analyse their merits and weaknesses. Here the mediator must be creative, keep an even balance between the parties and refrain from manipulating them towards or imposing on them her/his own solutions.

▬ Helping parties formulate solutions to each of the issues on the agenda

When the full range of options has been listed and analysed, the mediator supports the parties in choosing those options that best fits parties' goals, interests and needs and helps them formulate them in a clear manner.

▬ Noting down all these solutions and build the agreement

When the parties choose their options, and turn them into solutions, the mediator must note down all these solutions and build the agreement as a list of solutions to the problems previously identified.

This phase of mediation is oriented to the future. It is a more pragmatic process, a negotiation driven by goals, interest and a rational choice between many practical options.

The default form of the mediation session(s) is the joint meeting, with all the parties and relevant other participants present and talking full part in the debates.

The use of caucus

During the mediation session(s), the mediator can use caucus whenever it is useful. Caucus in community-based context has two meanings:

— To separate the parties from the audience and talk to them confidentially.
— To have separate meetings with each party, giving an equal amount of time for each one of them.

The mediator needs to make clear to parties from the very beginning that they may also request caucus whenever they feel it is necessary. ***The mediator also has to make clear that these separate meetings are confidential, and that no information shared by parties will be disclosed to the other party or the audience without their express authorization.*** At the end of each separate meeting, the mediator must ask the party what information she/he can disclose to the others after going back to the joint session.

Mediation final arrangements and closure

Once an agreement containing the solutions that parties have come to is configured, there is need to make sure that those solutions are not only accepted by the parties and that they are mutually beneficial, but also that they are wise.

The mediator is advised not to rush the agreement but to take time to analyse its merits together with the parties, to make sure that:

— Parties clearly understand and accept the provisions of the agreement.
— The provisions of the agreement are SMART. If they are not, it is highly possible that the parties will breach the agreement in time and the conflict will reoccur.

SMART is an acronym for Specific - Measurable - Achievable - Realistic - Time-Bound. Applying this model to the mediation agreement means that the terms of the agreement must: ***1. Specific*** - be clear and detailed; ***2. Measurable*** - include milestones that can measure the progress of the implementation; ***3. Achievable*** - be in line with parties' goals and interests; ***4. Realistic*** - fall inside the parties' capacities and resources and ***5. Time-bound*** - have a clear timetable for implementation.

Making sure that parties understand and accept the provisions of the agreement and that the agreement is sound, realistic and within the parties' capacities are the key conditions for having a real resolution of the conflict, not just one of convenience.

The mediator is responsible for writing down the agreement. It is possible that the parties do not ask for this or don't attach any significance to a written document. Nevertheless, the mediator should, politely but firmly, insist on putting in written form what the parties have agreed upon. Even if the parties don't feel it necessary for the moment, they might almost certainly need the written agreement afterwards – either for they own remembrance or for supporting their requests addressed to other institutions or authorities. Only a written agreement stands a chance of being endorsed by the courts or other authorities.

For all these reasons, after checking that the parties have understood and accepted the provisions of the agreement, the mediator should:

1. Verify that the terms of the agreement do not contravene existing laws on the matter.
2. If it is the case, check with the elders/community leaders if the terms of the agreement conform to the customs, traditions and cultural norms of the community; but make sure that these norms do not discriminate against the vulnerable (women, children, old people, people with disabilities, trauma, mental disorder etc.) and educate the community if necessary, by using a polite, respectful and neutral language.

3. Write the agreement in a very clear, legible manner, paying close attention to details and, most of all, of the subtleties of language. As it might be the case in many situations, the mediation would be done in local language, but the written agreement uses English. Or the agreement is written in the local language and then translated into English. The mediator should pay close attention to translation and make sure that terms and details of the agreement are not lost or skewed in the process.

4. Ask the parties to sign, visibly and legibly, the agreement. If one or more parties are not literate, they should affix their usual identification sign. If the parties have a national ID, considering adding the national ID number. The document should be issued in as many copies as the parties are, plus one copy for the mediator. All these copies should be signed by all parties and other qualified persons, if the customs such require.

5. After the agreement is signed, for accountability reasons, we strongly suggest the mediator should issue a final document – let's call it mediation report – that contains the names of the parties; the names of the mediator(s); the names of other significant participants; location of mediation; date of mediation, duration and hours; language of the process; if an agreement has resulted – we do not put here the content of the agreement, only if it occurred; if the agreement has been written down and in how many copies; in what language it was written; if, after writing it, the mediator(s) read the agreement loud and clear for all parties; if parties understood and agreed to all of the agreement content; if there were any objections/special conditions attached to agreement; if the content of the agreement was checked against the law and found in compliance; signature of all parties, the mediator(s) and all other witnesses/support persons/ other significant persons present during mediation. This second document is made in as many copies as parties plus the copy for the mediator. The mediator keeps a copy of this document as she/he does for the agreement (for accountability and transparency purposes).

If possible, the mediator should not close mediation before making provisions for the implementation of the agreement terms and monitoring of this implementation. Community attendance of the mediation helps. Also, there may be elders/community leaders that can assist or even take charge of this. It is important to not let implementation rest only on the good will of the parties – difficulties might arise in the implementation process that haven't been foreseen by anyone, mediator included. The parties must know they can rely on the assistance of the community and the mediators for future help if there will be need.

Part 3
Mediation techniques

CONTENT OF PART THREE:

Investigation Techniques; Communication Techniques; Control and Support Techniques; Problem-Solving Techniques.

GOALS OF PART THREE:

— To familiarize the participants with the practical methods they need to master to successfully conduct the mediation process.

— To develop the participants' necessary skills for consensus building in community-based mediation.

— To help the participants learn how to manage difficult situations.

KEY-POINTS OF PART THREE:

— **Mediation techniques** derive from the mediator's roles as investigator, facilitator, problem-solver and supporter.

— **Investigative techniques** refer to conflict analysis methods used to achieve a clear and thorough understanding of the conflict and its causes. Here, the mediator must pay attention to knowledge that parties have about the issues at stake, motivation and attitudes, context, relationship and values.

— **Communication techniques** refer to methods used by mediators to make sure they understand parties' messages and to make sure parties' messages get across the table in a clear, undistorted and positive manner. They include:

- Verbal communication techniques like active listening, questioning, paraphrasing, summarizing and reframing.

- Non-verbal communication techniques like body-language and gesticulation.

— **Control and support techniques** refer to the methods used by the mediators to deal with difficult situations. Difficult situations include:

- Breaking ground rules.

- Counterproductive behaviour and bad faith.

- Non-participation for reasons of intimidation, cultural bias, trauma and other mental disorders.

Caucus is one of the most effective techniques used by mediators to confront unruly behaviour and offer support to non-participating parties.

— **Problem-solving techniques** refer to the way to turn a win-lose approach to negotiation into a win-win one, by using the principled negotiation method. The fundamental tenets of principled negotiation are:

- Separating problems from persons.

- Focus on interests beyond positions.

- Elaborating options.

- Using independent criteria.

Mediation techniques rest upon the roles of the mediator and derive directly from the principles and proceedings of the mediation process itself. The roles of the mediator include – but are not necessarily limited – to:

— Investigate the case and analyse the conflict.
— Facilitate effective communication between the parties.
— Design and control the process of mediation.
— Help the parties to solve their problem.
— Assist the parties in any other ways during the mediation process and make sure that they participate fully, constructively and in good faith.

Accordingly, the techniques a good mediator should master are:

— Investigation techniques.
— Communication techniques.
— Control and support techniques.
— Problem-solving techniques.

These are elaborated below.

Investigation techniques

Refer to conflict analysis methods and how the mediators make sure they identify and understand the problem presented by the parties. It is extremely important that the mediator understand and address the real problem and lead the parties to a real resolution of conflict, not just treat the symptoms and miss the roots of the conflict entirely. Thus, the mediator must identify and address underlying motives such as values, relationship, behaviour and hidden interests.

When the parties approach the mediator, they always present their story to favour their point of view and demands. They want to create bias in their favour. They want to find an ally, not necessarily an objective neutral. The mediator must fight these temptations by mastering and using the conflict analysis techniques.

Parties tend to want to narrate the history of their conflict from the dawn of time. The mediator must keep a clear lead on the information needed to make sound decisions related to:

— Acceptance of the case; the mediator should gather enough information to see if the case can be solved through means at mediator's disposal or should be deferred to other, more appropriate institutions or authorities.
— Selection of the appropriate path for conflict resolution; as we have already said before, parties approach the mediator not to ask for mediation, but for help. The mediator needs reliable information to decide if mediation is the most effective way of addressing the conflict, or there might be other, better ways.

The mediator should gather sound information about the causes of the conflict, to be sure it addresses the right issues, the core of the problem, not just its effects. Conflict analysis starts from the very minute one of the parties approaches the mediator and asks for help. The mediator invites the party to tell their story, but also uses questions to elicit the answers that illuminate the path to a clear understanding of the issues at stake.

To determine what causes the conflict and what makes the conflict intractable to resolution by the parties themselves, the mediator should group the information received in 6 categories – which we will call "boxes":

1. Knowledge
Refers to what the parties know about the issues at stake; to what information they hold about the causes, evolution and potential solutions of the dispute; to how much parties are aware of the laws regulating the field of their dispute; to what parties know and internalize regarding the cultural norms and practices governing the resolution of their type of dispute.

2. Motivations
The mediator must establish the reasons for the parties' behaviour and demands. Usually, the motivations for waging a conflict fall into these 3 categories: 1. substantial; 2. procedural; 3. psychological. Substantial motivations concern the real value of the items at stake. Procedural motivations regard the process of distribution of items at stake. Psychological motivations regard the emotional drivers that make people act in a certain way. The most important aspect concerning motivations is the ability of the mediator to understand the untold rationality beyond the parties' behaviour, elicit their interests and needs, and thus be able to move the parties from their win-lose, winner-takes-all approach to the conflict to a win-win, collaborative approach.

3. Attitudes
Refer to how the parties approach the interaction with each other. Here we talk about dominance, intimidation, revenge, imposing one's will, saving face, inflicting pain and humiliation, etc. The task of the mediator is to identify negative, confrontational attitudes and work with the parties to change them into positive, cooperative ones.

4. Context
No dispute happens in a void. There is always a specific context for every conflict: laws and state institutions; cultural institutions, norms and practices; customs and unwritten rules; social, economic and political realities on the ground; larger societal factors influencing the parties and their environment, working at regional, national and global level; economic and financial trends and practices; access to resources, etc.

5. Relationship
Most conflicts occur between people that know each other – they are members of the same family, village, clan, tribe, people, nation, etc. They have been interacting for a long time, they have a history together. The causes of conflict lie somewhere in this shared past and must be brought to light by the mediator.

6. Values
They make us what we are, they give us our unique identity, are an organic part of our being. They influence every bit of our existence and are untradeable. They are determined by the family and larger social units we belong to; by our unique traits of character; by our faith and beliefs; by our ethnic, religious, sex, age and racial identities. The mediator must understand and respect them. The mediator should also tap into them to create incentives for a cooperative approach of the conflict.

The answers to what causes the conflict lie somewhere in these boxes. The questions the mediator asks during the talk with the parties should direct them to give answers that fall into these boxes. The boxes serve to group the information the parties provide; shed light into the way the parties think and act and for what reasons; but, more than all the above, they serve the mediator to clearly understand what is really at stake and get a glimpse on why the parties do what they do and act how they act.

Another direction for conflict analysis is to identify the ways the parties' approach the conflict itself. There are only three possible ways:

▬ Power-based approach
Parties see the conflict as a competition of wills and resources that they can mobilize to get what they want. They perceive it as a matter of imposing one's will on the other, of establishing one's dominance. They act in a certain way because they can and want something because they see it within their grasp. Parties are highly confrontational, they see the conflict in exclusively competitive terms and they try to achieve their goals by imposing – or threatening to – costs on the opponents.

Rights-based approach

Parties attempt to deal with their issues at stake by determining who is legally or morally right. Each side argues that they are correct and fair. As opponents are usually unable to convince each other of their rightness, they take their dispute to court for a judge or jury to decide.

Interest-based approach

Parties act to reconcile their goals based on their core concerns, needs, desires and fears that underlie their positions. Parties engage into the work of probing for the underlying core concerns, finding common interests, searching for creative solutions, creating value and making trade-offs of various interests they hold.

The higher these approaches are on the ladder, the higher their intensity and their intractability. Consequently, the mediator will have to work with the parties, during the mediation session and even before, to transform their approach from a power-based to a rights-based, and them from a rights-based to an interest-based one. This is possibly the hardest job for the mediator, as moving from a power-based to a rights-based approach is easily understood by most people **but going deeper to understand and address underlying interests is much more difficult,** although it greatly enhances the likelihood of lasting success.

The following text is a simple illustration of a situation seen from a rights-based vs. an interest-based lens:

A brother and a sister have a dispute over a piece of land that the sister was given by their grandfather, which she had forfeited when she married and left the land to move with her husband. That piece of family land was taken over by her brother, who had a big family and had to provide for his numerous children. After a while, his sister left her husband and came back reclaiming her land. She claims that she has a right over that land because it was given – with witnesses – to her by her grandfather. The brother refuses this claim, saying that she abandoned the land when she moved with her husband. The result is a deadlock with parties both relying on witnesses, cultural norms and national laws to make their case. Moving from this rights-based approach to an interest-based approach requires the mediator go beyond what the parties say they want – that piece of land – and move towards the underlying reasons for what they want. Inquiring why the sister wants now the land back, the mediator might find one of the following situations: a. she has definitively ended her relationship with her former husband and she wants to come back to her family (i.e. brother) and live together with them; or b. she found another man and she wants to move together with this one to Kampala, but she needs money, therefore she wants the land back to sell it; or c. she is just temporarily separated from her husband, but hopes to get back to him, so she just need a shelter and a way to make a living until that happen. Each of these alternatives opens a different, but achievable and realistic way of solving the conflict between the siblings, by moving from the deadlock of the rights-based approach down the path opened by the interest-based approach.

Communication techniques

Refer to methods used by mediators to make sure they understand parties' messages and to make sure parties' messages get across the table in a clear, undistorted and positive manner

One of the main roles of the mediator is to open and maintain channels of effective communication. We must bear in mind that there is a significant difference between "communication" and "effective communication". As human beings, we talk, and we talk a lot, but this doesn't necessarily mean that we are good at transmitting and understanding messages. In conflictual situations, the alterations of expression and reception of messages is even more distorted. The mediator must be able to identify the barriers to effective communication between parties and remove them.

Barriers to effective communication:

- Parties do not talk at all one to each other.
- Bad feelings and mistrust, that generate lack of real listening to what the other is saying.
- Persistence of negative messages.
- Language issues.
- Messages are carried by others and distorted in the way to parties.
- Psychological reasons: overconfidence, reactive devaluation, inferiority complex, etc.

To overcome these barriers, mediators must:

- Facilitate direct, face-to-face communication between parties.
- Make sure their messages are transmitted and received as clear as possible.
- Turn negative messages into positive one.
- Eliminate intermediaries.
- Use plain and simple language, avoiding any kind of legal or technical jargon that ordinary people will not understand.

The matter of language in community-based mediation is fundamental. If mediation is done in English,

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The techniques associated with these tasks are:

- **Verbal communication techniques,** including

  1. *Active listening,* which requires that the listener fully understands, responds and then remembers what is being said. To be able to make these happen, the mediator uses techniques like: a. questioning, so the mediator makes sure the message sent by one party is clear and concise, instead of vague and muddled; b. paraphrasing, which is used to clarify the messages but also to turn them from negative to positive; c *summarizing,* which enables the parties to have a good grasp of all they were talking about, to establish trust in the mediator and to make the parties feel they are heard both by the mediator and the other side.

  2. *Re-framing,* a technique used to make the parties see their problem from a different angle, that is more favourable to establish common ground and a path to resolution. This technique aims to turn the parties from perceiving themselves as enemies or adversaries into seeing themselves as partners confronting a communal problem.

- **Non-verbal communication techniques** employed by the mediator to:
  1. Assert their authority and control of the mediation process.
  2. Show empathy and support.
  3. Make people feel they are heard and understood.
  4. Make people feel safe and encourage them to fully participate.

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the mediator should make sure the parties have a good grasp of the language and that, for the sake of transparency, there are people in the audience that can translate the content of the discussions in a proper and effective way to those who don't know English - especially elders/community leaders. If mediation is done in the local language, the mediator must make sure nothing is lost in translation when the agreement is written down in English.

Control and support techniques

Refer to the methods used by the mediators to deal with difficult situations during the mediation sessions. On one hand, it means the control of the process of mediation, to secure a safe space for the parties to interact freely and unimpeded, to guard the parties and the process from unhelpful outside interventions and to eliminate counter-productive parties' behaviour. On the other hand, many times parties need support and encouragement to fully participate in mediation and express their views and desires. Factors such as intimidation, self-censorship, fear of the other party or of consequences, cultural norms, bias and discrimination (especially gender bias coming from cultural beliefs), various forms of disability (particularly mental health issues) can impede one party to take an equal and consistent part in mediation. The mediator must address these impairments and assist all parties to overcome them to fully participate in mediation and to mutually get to an acceptable and beneficial solution.

Special attention needs to be given to **persons with trauma** symptoms or mental disorder. Trauma is the injury resulting from an experience that overwhelms one's ability to protect oneself and stay safe. The mediator should be able to identify the sign of trauma or mental disorder and create a process of mediation that takes in consideration these issues and can deal with them properly. Signs of trauma include, but are not limited to:

— Hyperarousal: people are agitated, have a hard time to focus and remember, have high reactivity, are angry and/or aggressive. Hyperarousal is generally easy to spot, but attention must be given not to confuse these symptoms to incidental behaviour.

— Dissociation: it is basically a withdrawal into one's self; it means that the person is physically present but mentally disengaged; individuals in this situation don't confront or antagonize and may be very passive and compliant, but they are also not truly present.

There are **several rules that must be observed by the mediator when dealing with persons suffering from trauma**:

— Do No Harm!
— Conduct mediation in a familiar and safe environment.
— Venue of mediation is important – for example, for traumatized persons, a clear and unimpeded way to the door or to a safe spot are essential.
— Respect personal boundaries, freedom for the traumatized to disclose personal information at a time and place of their convenience, without pressure to "tell your story".
— Identify and find a proper way of dealing with triggers.

The mediator should take all these factors into consideration when setting the venue and conducting the mediation process, to allow traumatized people to participate on their own terms and ways, without pressure and avoiding triggers and re-traumatization.

Using *caucus* is one of the most effective techniques the mediator can employ to deal with difficult situations. Meeting separately with the parties gives the mediator the opportunity to:

— Address counterproductive behaviour and breaking of the ground rules without embarrassing the party in front of the other or the community.
— Check if the parties feel safe in the presence of each other and the audience.
— Encourage the party that has difficulties in participating to open up, share their fear and frustrations with the mediator and express their opinions and demands.
— Check if there is a case of bad faith and confront it, in a polite but firm manner.
— Elicit opinions and do reality-testing checks without inducing the other party to believe there is connivance between the mediator and their opponents.

If the mediator has a separate meeting with one party, they **must** have a separate meeting with the other party too, even if they don't have important things to discuss. The separate meetings should be allocated the same amount of time. Of course, if the party addressed second feels like it, their meeting can be shorter than the other one, but this must be checked by the mediator, not imposed by them.

Also, caucus in the sense of separating the parties from the audience allows the mediator to:
— Manage counterproductive interference from the members of the audience.
— Check with the parties if they feel safe and secure to continue mediation.
— Address and correct counterproductive behaviour and breaking of the ground rules by the parties without embarrassing both in front of the audience.
— Check if parties want to go ahead with mediation or if they want to take time away and re-convene at a different date, hour or venue.

Given the fact that discussions during mediation – especially when other community members are present – can rapidly turn into violent confrontations, the mediator should secure the assistance of police – if possible and desirable by the parties. With or without the police presence, the mediator should always talk to the elders/local leaders and enlist their support to control the audience and the parties during mediation.

Problem-solving techniques

Problem-solving techniques refers to how to turn a distributive, win-lose approach to negotiation into an integrative, win-win one, by using the principled negotiation method.

Distributive negotiation is characterized by:
— Confrontational, competitive and adversarial behaviour, enforcing the idea that parties are enemies and their dispute is a fight with only one winner possible.
— Parties entrenched in their initial positions, seeing the solution in terms of win-lose, winner-takes-all manner.
— Use of bottom lines and other rigid criteria for building a solution.
— Rests on threats, deception, intimidation, stubbornness, all within the core idea that, if one party holds its ground enough time, the other will give up and comply.

Most of the time, it fails to bring a solution, as the parties become more and more entrenched, dig their heels and refuse to make any concessions, for fear of being perceived as weak and being taken advantage of.

Integrative negotiation:
— Is a collaborative approach to the issues at stake, turning parties from adversaries into partners looking for a common solution to a common set of problems.
— Rests on a set of principles such as: separate the people from the problem, look beyond positions to interest, generate options and use objective criteria to evaluate them (the principled negotiation method, exposed in Fischer, Ury and Patton, *Getting to* Yes).
— Helps the parties to approach the solution in a win-win manner.
— Restores trust and rebuilds the relationship between the parties, minimizing the chances of conflict recurrence.

The techniques used by the mediator to turn a distributive approach into an integrative one are:

— Always focusing on the problem and stopping parties from attacking or blaming each other.

— Digging deeper and deeper into the problem, to carry your parties beyond what they say they want and towards why they want such things; driving them to explore their interests and needs, not their rights and positions.

— Being creative, thinking out of the box, coming up with sound option for the parties to consider and help them analyse their merits and weaknesses.

— Using techniques such as brainstorming, group problem solving, charting ideas and options.

— Encouraging parties to find objective criteria to evaluate their option, instead of relying on personal or other subjective points of view.

— Using positive language, encouraging positive thinking.

— Re-framing the problem from an adversarial view to a common view.

— Turning the parties from perceiving themselves as adversaries having a problem with each other to perceiving themselves as partners addressing a common problem.

— Orientating the negotiation towards the future, not letting them stick to the past.

SECTION III

TOOLS FOR THE COMMUNITY-BASED MEDIATION TRAINING PROGRAM

SECTION III
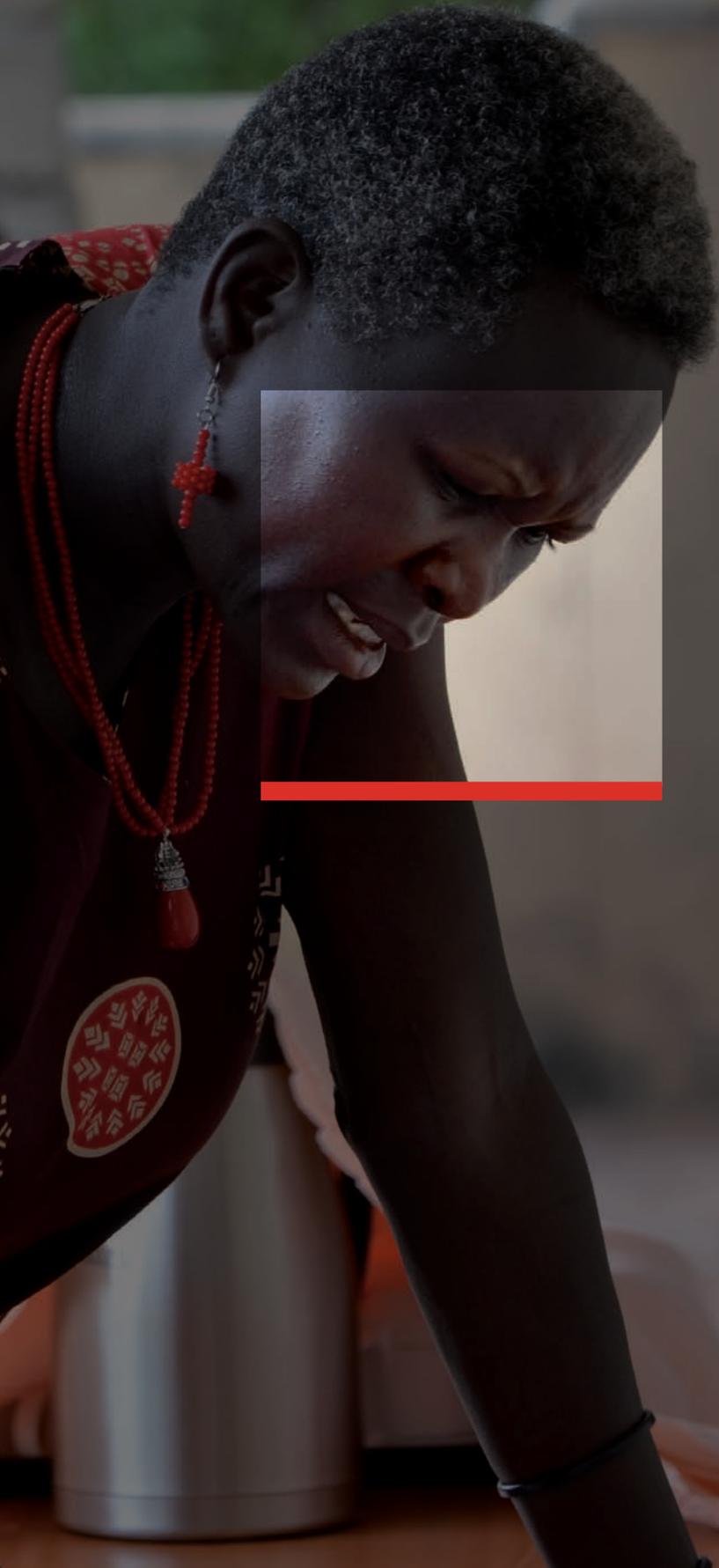
TOOLS FOR THE COMMUNITY-BASED MEDIATION TRAINING PROGRAM

This section refers to materials of practical use for the trainers. They are templates that have to be filled out by the trainers during the training of trainers seminar. The tools include:

Tool 1   Basic survey for needs assessments.

Tool 2   Writing learning objectives

Tool 3   Planning guide for training sessions

Tool 4   Strategies for effective lecturing

Tool 5   Role play cases

Tool 6   Check lists for mediator's documents

Tool 7   Models for effective evaluation and feedback

Tool 1

Basic survey for needs assessment

For survey or interview, the same detailed questions must be asked in order to achieve a sound needs assessment. Here is a succinct list of these questions:

- Name:
- Job/Position title:
- Institution/Social Position:
- Location:
- How long have you worked in the field of conflict resolution?
- How long in present position?
- What are the key skills involved in doing your job effectively?
- What (if any) specialist knowledge is required? (e.g. land rights legislation)
- What is the most difficult part of your task as mediator?
- What is the easiest?
- Do you work as part of a team (e.g. co-mediating, part of a board, using assistants)?
- If so, does everyone in the team do the same job?
- If not, list the different jobs that make up the team.
- What new skills might you need?

- How would you prefer to get these skills?
- How could access to learning and development opportunities help you to do your job better?
- What do you consider to be the main problems facing mediation?
- Did you attend mediation trainings in the past?
- If so, please list them:
- From the trainings you have experienced in the past, from what type have you learned the most?
- Rate by circling from 1 (least) to 5 (most).
- Self teaching/following manuals 1 2 3 4 5.
- Group activities led by a teacher 1 2 3 4 5.
- Completing written assignments 1 2 3 4 5.
- Working in groups during classroom 1 2 3 4 5.
- Doing practical exercises such as case studies and role-plays 1 2 3 4 5.
- What are your overall goals of attending the mediation training course?
- What are your overall expectations regarding the results of the mediation training course?
- What would be the most important thing you hope you'll get from the mediation training course?
- How important for your future performance in the field of mediation would it be for you to have mentor/peer support after completing the course?
- What are other resources you would need to perform as a mediator after you complete the course?
- Any other comments:

Tool 2

Writing learning objectives

To formulate objectives that 1. make sense to participants and 2. whose fulfilment can be assessed at the end of the program; the trainer must use concrete and direct verbs in connection to the actions intended for the participants. A list of these verbs and their connection to actions is provided below.

Examples of wrong formulations:

— The coverage objective: "Students will go over the causes of the Civil War." This says how much they will cover, not what they will learn.

— The activity objective: "Students will watch a documentary and discuss it with a partner." This says what they will do, not what they will learn.

— The involvement objective: "Students will enthusiastically sing an English-language song together." This says how they will do an activity, again, not what they'll learn.

Examples taken from Spalding, Dan. How to Teach Adults: Plan Your Class, Teach Your Students, Change the World, Expanded Edition, Jossey-Bass Higher and Adult Education

Action (from simple to complex)	Verbs
Know	state, define, name, write, recall, recognize, list, label, reproduce, identify
Comprehend	appreciate, select, indicate, illustrate, represent, formulate, explain, classify, comprehend
Apply	predict, demonstrate, instruct, compute, use, perform, implement, employ, solve
Analyse	identify, differentiate, dissect, compare, contrast, examine, interpret, investigate
Synthesize	combine, summarize, restate, précis, argue, discuss, organize, derive, relate, generalize, integrate, conclude
Assess	judge, justify, evaluate, determine, support, defend, attach, criticize, appraise, weigh up

Table adapted from Principles of Adult Education for Legal Aid Training Programs. A Toolkit for Legal Aid Centres in China/ Legal Aid for Marginalized Groups Project, December 2013

Proposed exercise for the training of trainers participants: formulate objectives for each of the 10 sessions of the community-based mediation training manual.

First Session:	Mediation and the Mediator – Generalities
Second Session:	Mediation Process – Initiation and Preparation
Third Session:	Mediation Process – Mediation Sessions
Fourth Session:	Mediation Process – Final Arrangements and Closure
Fifth Session:	Mediation Techniques – Investigative Techniques
Sixth Session:	Mediation Techniques – Control and Support Techniques
Seventh Session:	Mediation Techniques – Communication Techniques
Eight Session:	Mediation Techniques – Problem Solving Techniques
Ninth and Tenth Sessions:	Integration of information and practice

Tool 3

Planning guide for training sessions

Use the template below for effective planning the ten sessions of the community-based mediation training program.

Session no. Location: Date: Hours:	Title of the Session:			
What are the learning objectives of the session?				
Content	Methodology	Time	Additional materials	Notes
1.				
2.				
3.				
4.				
5.				
6.				
...				
How will the venue be set up?				
How will the learning be assessed at the end of the session?				

Tool 4

Strategies for effective lecturing

Structure and advice for effective lecture:

Introduction

— Formulate a question about the participants' current practice. The lecturer should arouse the participants' interest and curiosity by presenting a problem or a current case and inviting them to consider how to resolve it using lessons learned from the lecture. This draws the participants' attention towards the benefits of the lecture.

Content of the Lecture

— Limit the content: too much is overwhelming. Limit content to 4 to 5 inter-related key-points.

— Explain the content from the beginning: tell the participants what they are going to listen to and how it connects with the general objectives of the training. Use a chart, PowerPoint, or a handout with the main key points.

- Use examples and analogies to engage the learners' critical thinking.
- Use visual aids to organize the way learners should be thinking about the lecture's concepts. Examples of visual aids are: handouts, flip charts, transparencies, chalk or white board, and PowerPoint. Keep it simple!
- Summarize periodically.
- Engage the audience. The trainer can use various techniques for this purpose, such as: a. after an explanation, stop and ask the audience if they can identify problems with the explanation; b. stop the lecture and ask learners a particular question.
- Check understanding by invite the trainees to ask questions.

Conclusion
- Recapitulate the major points.
- Restate the opening question or problem, and identify the underlying issues
- Summarize the lecture material.
- Restate what how the trainees might apply the information in the professional activities.

Tool 5
Role play cases

Role play scenario 1

When her husband, Ochan Francis, died, he left Lamunu Evelyn a piece of land with a multi-room house built on it. When Lamunu Evelyn's late husband's mother, Atii Rose approached her and told her about her son's (Lamumu Evelyn's late husband) unfulfilled promise to offer her a room in which to live and some money to support herself, Lamunu Evelyn agreed that Atii Rose could live in one of the rooms of the house, and offered the rent collected from another rental room as a sustainable source of income for Atii Rose. Atii Rose gratefully accepted this arrangement and the matter appeared settled.

Years later, as Lamunu Evelyn's children grew older and prepared to attend university, she found that her limited earning potential as a widow would not allow her to pay for her children's education. With her children now waiting years for the opportunity to attend university, she finally made the decision to sell the home she inherited from her husband and use some of the proceeds to pay for tuition, and some to find a new home for Atii Rose.

But when Atii Rose learned of these plans, and under the impression that the house was rightly hers as the mother of Ochan, she refused to vacate and posted signs all over the house that declared, "This house is not for sale," to deter potential buyers.

Lamunu Evelyn is seeking the help of mediators to solve her dispute with her mother-in-law.

Role play scenario 2

Ojwiya Santa of Omoka kitunge village is a widow and mother of four children who lost her husband in 2003 to the Lord's Resistance Army. She inherited her late husband's land but moved to another district, Masindi district when the war was intense. She returned in 2009 and got ill and was hospitalised with tuberculosis in 2013. She only returned from hospital in 2015 to find that her husband's brother, Okello and his mother, Apio, had sold off part of her husband's land to Ojok who planted pine trees on the land. She reported the matter to the local council leaders and Okello, Apio and Ojok were summoned but they refused to respond to the summon. Ojwija Santa is now asking mediators to help her settle the dispute.

Role play scenario 3

Apio Joyce was married to Mr. Ojara Richard, a soldier who served in the UPDF. He was posted to Somalia for a few years. He has been checking on her and his four children while he was gone, and he would also send money to her for the smooth running of their home. In 2009, he requested to see her parents and marry her. He married her and they acquired land in Pece, Gulu Town where they built a two-bed room house in which they settled with their four children.

His behavior started changing, and he began to come home at strange hours without informing his wife. This led to constant fights. When she realized that he was seeing another woman, she decided to ignore his ways and care for her children. But he eventually stopped providing for his family and chased her away from their marital home with intention of selling the land. She returned to her parents since she had nowhere to go and has lived with her parents since December 2015.

After a short separation, Ojara Richard called Apio Joyce, commanding her to forcefully append her signature to a sale contract so that their land could be sold. Apio Joyce appealed to mediators to help her solve the dispute.

Role play scenario 4

During the LRA insurgency, Mr Orit together with his father relocated to his maternal home. His father died while he was there. Upon his return, he claimed his father's land was too small and therefore wanted part of the land that Ms Aola Nighty tilled with her family. Their fathers were brothers. This was family land that belonged to their grandfather, but each family knew their boundaries. Mr Orit manages his father's portion while Ms Aola manages her father's portion, but both lands belong to the same household.

Traditional leaders sat and adjudicated and agreed to give Mr Orit most of the gardens belonging to the complainant's family, their reason being that Mr Orit being a man would always remain at home to maintain that land unlike Ms Aola Nighty who will eventually be married off. Ms Aola Nighty rejected the outcome and left the meeting while the traditional leaders went ahead and divided the land without an MOU.

She then requested the help of mediators to solve the dispute with Mr Orit.

Role play scenario 5

In 1986, during the LRA insurgency, Mr Ochen Eurukana relocated upon invitation to live with Oloya and the rest of his in laws. Mr Ochen Eurukana was given a piece of land where he lived with his family all these years.

In August 2016, Oloya wanted to survey and register the entire family land including the one given to Mr Ochen Eurukana. Mr Ochen Eurukana objected to this survey on grounds that much as the respondent had genuine intentions to secure the family land, the absence of his name on the land title would expose him or his children and grandchildren to insecurity. He therefore sought for mediation.

Role play scenario 6

In the 1960's Atuhura's father called Byarugaba Mateo gave Mugisa Teopilo a portion of land to settle in with his family. The two families enjoyed a peaceful relationship as neighbours. When the war ravaged Sisulu state, both families sought refuge in the camps. While in the camp, the two elderly men who headed these families passed on, leaving their children and wives. When the war ended, the families returned home to take control over their lands. Upon return, Mugisa's son trespassed on Byarugaba's portion of land now under the administration of Atuhura, Byarugaba's daughter. Mugisa's son convinced Atuhura that he would use the said portion of land only temporarily, but he had the prior intention of selling the said piece of land. When Atuhura learnt about the sale, she reported to matter to the LC 2 who referred her to the LC1. The local leaders attempted a mediation, which turned violent. Now Atahura is looking from help from other mediators to settle her dispute.

Role play scenario 7

Akello Semie and her husband lived on family land since 1972 and had 10 children and 8 grandchildren on the same. Her husband suffered an illness and died. During the LRA war, they moved to the camps but later returned to their customary land - now the disputed land where they own four cows and farm part of the land for survival. Upon return from the camps, she complained that her land had been sold by one Akidi Amina to a politician. Akidi Amina was always frustrating the mediation by clan elders. Akello Semie has contacted the mediators to help her settle the dispute.

Role play scenario 8

Kelementina and Sevirino from Lamoki, Ywaya, Anaka Sub County, Nwoya District, had a boundary land dispute arising from Kelementina encroaching on Sevirino's land. The dispute was so bad that both parties could not talk to each other or even attend any community event where one party was in attendance. The clan elders tried to resolve the issue but both parties insisted that the boundary was as they believed and Kelementina continued to plant her crops as Severino continued to uproot them. The matter was made worse because the boundary markers were no longer there and the elders who could have resolved the issue had died during the LRA war.

Role play scenario 9

Kalina Okot and her husband John purchased a piece of land from Omony in 1970 in Ongedi, Aswa County, Gulu District. She and her husband settled on the land and had two sons Vincent and Otto. During the LRA insurgency Kalina and her family were displaced and moved into the camp. Her husband and two sons passed away and all were buried on that piece of land. However, in 2011, when she wanted to return to her land, she was prevented from doing so by Omony's sons. Kalina is an old, frail widow and her daughters-in-law want to claim the land for themselves. She is looking for help from mediators.

Role play scenario 10

Akoko Mary is a sister to the late Lanyuro, who passed on a few years ago. Lanyuro was a grandfather to Okello Hope, Laker Grace 's nephew. Lanyuro left behind a wife, three sons, a daughter, and a grandson who is an orphan to his deceased daughter.

The land under conflict is five acres in Agwee parish, Laro division. While Lanyuro was alive, he never divided or sold any part of the land, and was known to be opposed to land sales. Okello Hope, Lanyuro's grandson has never known another father or home apart from his grandfathers'. Akoko Mary is married elsewhere in the neighbourhood but also comes home when there are family issues to be resolved and she is called upon.

The community of Agwee was caught in shock when immediately after the death of Lanyuro, his sons, brothers, and other family members held a meeting and started dividing and selling the land. All the three sons got their portions, Akoko Mary also got hers, and Laker and her mother were to share with Okello Hope. A small portion of half an acre was preserved as the grave yard along with a very small portion for Okello. Nonetheless, Laker went ahead and gave that part of the grave yard to one Mr. Odong Thomas. Laker told her nephew, Okello Hope that she had just rented the land to Odong Thomas but had not sold it. After three years of staying on the land, Okello Hope confronted Odong Thomas and confirmed that Odong Thomas had actually bought the land from Laker and that he had already paid almost all the amount he was charged. Okello Hope then went to Akoko Mary and reported the matter. When Laker was asked during a family meeting, she said that land belongs to her and not to any member of the family and so if Okello Hope wants to own the land, he should go to his father's home because he has no land in her father's compound. Okello is looking for help from mediators to resolve the dispute with Laker.

Tool 6

Check lists for mediator's documents

Mediation agreement model (to be adapted according to Ugandan practices)

— Names of the parties
— Brief description of the dispute
— Mediated by [name(s) of the mediator(s)] in the presence of [names of relevant participants]
— Content of the agreement (as detailed as possible)
— Details regarding implementation and monitoring of compliance
— Date and location
— Signatures of the parties and of relevant participants

Mediation report model (to be adapted according to Ugandan practices)

— Name(s) of the mediator(s)
— Location of mediation, date and hours
— Names of the parties
— Names of the relevant participants
— Description of the dispute
— Brief description of the mediation conduct
— Brief description of the result of mediation
— Date and location of mediation report elaboration
— Signature of the mediator(s)
— Signature of the parties
— Signature of the relevant participants

Tool 7

Models for effective evaluation and feedback

Please rank your experience of the training overall:

_____ very satisfied _____ satisfied _____ not very satisfied

Rate 1 (strongly disagree) to 5 (strongly agree) your views on the following statements:

— The objectives of the training were clearly defined.

— Participation and interaction were encouraged.

— The topics covered were relevant to me.

— The content was organized and easy to follow.

— The materials distributed were helpful.

— This training experience will be useful in my work.

— The trainer was knowledgeable about the training topics.

— The trainer was well prepared.

— The training objectives were met.

— The time allotted for the training was sufficient.

— The meeting room and facilities were adequate and comfortable.

Please provide detailed answers to the following questions:

— What did you like most about this training?

— What aspects of the training could be improved?

— Did you feel you had a chance to ask questions and discuss issues of interest to you?

— To what extent did the training meet your expectations? Please explain.

— Please share any other comments you have on the training.