GUIDING MANUAL
REFERENCE BOOK

A MULTI-ACTOR DIALOGUE MODEL FOR PUBLIC LAND DISPUTE RESOLUTION IN VIETNAM

By
Transformation and Change Management Consulting Co. Ltd.
in partnership with
The Vietnam Lawyers Association and
The Asia Foundation

The Asia Foundation
Improving Lives, Expanding Opportunities

Australian Government

NHÀ XUẤT BẢN HỒNG ĐỨC

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Contents

Foreword and Acknowledgements 1

Introduction 2

The multi-actor dialogue model 2

Understanding of cases in the context of the multi-actor dialogue model 2

Stages of land management potentially fueling claims and petitions 2

Identifying cases in the multi-actor dialogue model 3

The five steps of the multi-actor dialogue model 5

Step 1. Entry 7

1. Summary table for Step 1 7

2. Objectives 7

4. Expected results 8

4. Main activities 9

5. Tools and skills (soft) 10

Step 2. Case analysis 14

1. Summary table for Step 2 14

2. Objectives 14

3. Analysis of differences in actors' perspectives 15

4. Stakeholder analysis 15

5. Notes on Step 2 16

6. Tools and skills 16

Step 3. Stakeholder Facilitation 20

1. Summary table for Step 3 20

2. Objectives 21

3. Identification of the main disagreements among actors and their causes (CC3.1) 21

4. Stakeholder facilitation (CC3.2) 24

Step 4. Dialogue & Negotiation 27

1. Summary table for Step 4 27

2. Preparation of dialogue and negotiation 28

3. Dialogue organization 29

4. Tools and skills 30

Step 5. Commitment monitoring and closing 32

1. Summary table for Step 5 32

2. Monitoring & evaluation 32

3. Monitoring and evaluation criteria 33

4. Tools and skills 34

ANNEX 35

Foreword and Acknowledgements

Over the last two decades, economic and regulatory reforms in Vietnam have stimulated a vibrant residential land market, an urban construction boom and an ascendant middle class. But these reforms have also unleashed waves of conflict over land. "Hot spots" have erupted where people directly, and sometimes violently, challenge state land policies and officials. Both courts and administrative dispute resolution agencies struggle to find lasting solutions to land disputes.

The Asia Foundation, in strategic partnership with the Australian Government's Department of Foreign Affairs and Trade (DFAT), has been working with stakeholders in Vietnam to provide more effective methods for reducing the incidence and intensity of public land disputes (land related administrative disputes). The partnership's first output was a thorough study of the existing conciliation mechanisms in Vietnamese law and five in-depth case studies of public land disputes in Vietnam from a multi-actor perspective. The results of these studies are available at www.asiafoundation.org/publications. The studies demonstrated that the incidence and intensity of disputes were higher when there was a greater divergence in how the actors perceived not only the proper solution but also the problem itself. Convergence in the actors' perceptions occurred, if at all, through a dialogue between land users and officials.

As a result of these studies, the Foundation partnered with the Vietnam Lawyers Association (VLA) to pilot multi-actor mediation of land disputes. The Foundation and Transformation and Change Management Consulting Co. Ltd. (T&C Consulting) worked with the VLA to develop this training manual and conduct training sessions on multi-actor mediation for VLA members and other interested parties. The VLA then successfully pilot tested the method in 11 cases in three provinces and conducted advocacy and outreach to key stakeholders about the method and pilot results. As a result of this work, a multi-actor mediation policy framework now exists that will allow for more rapid, peaceful and equitable resolution of Vietnam's land disputes.

This manual is an important output of the Foundation's partnership with DFAT, and we hope it is useful for those interested in the multi-actor dialogue method and its application to land disputes. Ms. Le Thu Hien led this initiative at the Foundation, with assistance from Ms. Nguyen Thu Hang and guidance at various stages from Dr. Kim Ninh, William Taylor, and Debra Ladner. T&C Consulting was the primary author of this manual, with valuable input from the Government Inspectorate and the VLA. Dr. John Gillespie of the Faculty of Business and Economics at Monash University provided extensive technical guidance in the piloting and comments on the manual. Dr. Samuel Saunders of Sullivan & Cromwell LLP provided additional technical guidance and comments. The Foundation is grateful to all of the participants in the pilot trainings and mediations for their valuable time and insights.

Michael R. DiGregorio, PhD
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Hanoi, Vietnam
June 2015

Introduction

In 2012-2013, the research team at the Transformation and Change Management Consulting Company (T&C Consulting), supported by The Asia Foundation (TAF) and assisted by Professor John Gillespie of Monash University, applied a multi-actor dialogue approach to research five cases of public land disputes (those involving the government) in Vietnam.[1] The findings of this research demonstrated the main reason for most claims or petitions on land acquisition was a dissimilar way of thinking between the two main groups of actors in the land acquisition process, namely the local government and the local people. They differed in three key aspects of thinking: pragmatic, normative and cognitive thinking. In many cases, proposed law and policy improvements (e.g. supplementing the rights and benefits of people whose land was acquired), economic measures (i.e. changes to compensation models), or "propaganda persuasion" were not able to effectively resolve land disputes in a sustainable manner. Conversely, an approach that harmonized the interests of all actors, and gave the local people a chance to have their voices heard early in the land acquisition process helped to reduce the risk of potential claims in the later stages.

Based on the above mentioned research, it was apparent that the development and application of the multi-actor dialogue model is a potential solution for effectively dealing with public land disputes. The Foundation partnered with the Vietnam Lawyers Association (VLA) to develop and pilot a multi-actor dialogue model, with technical support from T&C Consulting. The objective of this partnership and cooperation was to develop and test the model; to enhance capacity for the VLA at the central and provincial level; and to enable other mass organizations to participate in a dialogue process, with the ultimate goal of enabling the participation of all state and non-state actors who deal with public land disputes in Vietnam.

The multi-actor dialogue model

The multi-actor dialogue model proposes to involve all actors in all steps, sequences, and procedures of a case. The actors work together to come to a consensus on solutions and reach a mutual agreement by applying pragmatic, normative and cognitive ways of thinking. This is facilitated by the participation of one or more individuals acting as a mediator of the process.

Therefore, in this manual, we define the multi-actor dialogue model (in the Vietnamese context) as sequences and procedures used by affected citizens, local government authorities, affected businesses (if any), and other interested stakeholders such as civil society and mass organizations (collectively, the "actors") to discover potential solutions and reach an agreement on how to successfully resolve public land disputes, where the actors accomplish this resolution by working together to understand their differences and by reaching consensus on pragmatic, normative and cognitive ways of thinking; and with mediation and facilitation of the process conducted by the VLA and/or other social organizations.

Understanding of cases in the context of the multi-actor dialogue model

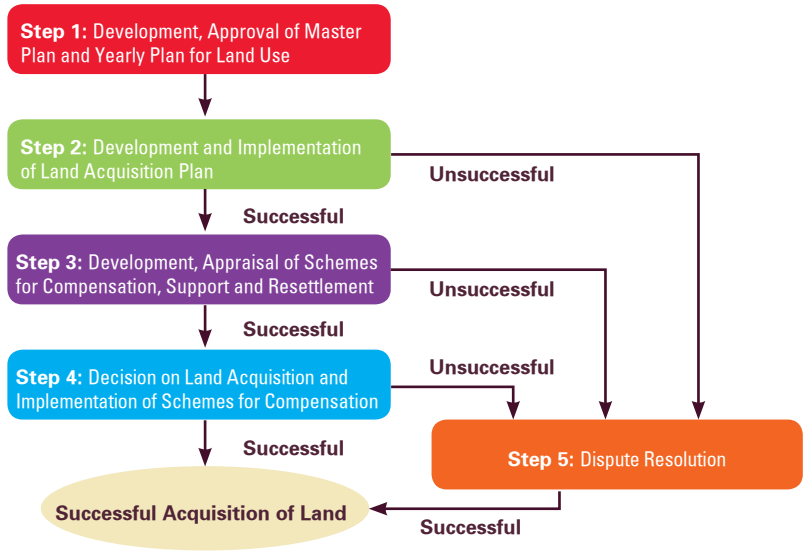
A "case" in the multi-actor dialogue model is defined as a situation in which one or several relations among actors show the possibility for dispute, conflict or contradiction on one or more issues related to the rights and duties of the actors. Issues can include land acquisition, compensation for land acquisition, support, resettlement, enforcement of land acquisition, and administrative petition resolution. Cases can be divided into two groups: 1) cases that show signs of a potential dispute, conflict or contradiction, and 2) cases in which conflicts or disputes have already occurred.

Stages of land management potentially fueling claims and petitions

Specifying the stages of land management at which claims are likely to be filed (See figure below) enables the design of appropriate steps, expected outcomes, and approaches in handling such claims. In addition, it aids in the development of relevant tools and skills necessary to support and facilitate constructive dialogue among all actors. According to current policies and regulations of Vietnamese law, the stages of land management that may lead to claims include:

- Stage 1. Developing and approving the master plan and the yearly land use plan, especially at the district level. Conflicts or disputes among actors generally do not directly arise at this stage, but

[1] *T&C Consulting and Gillespie, J. (2014) "Public Land Disputes in Vietnam: A Multi-Actor Analysis of Five Case Studies with an East Asian Comparative." (S.E. Saunders, Ed.) DFAT-TAF Research Paper Series. Ha Noi, Vietnam: The Asia Foundation.*



The Stages of land management leading to successful acquisition of land.

drivers of potential conflicts and petitions may be evident. These may arise in the determination of the current status of land use and the determination of the location of lands subject to acquisition for national security and defense purpose or social economic development of the country.

- Stage 2. Developing and implementing the land acquisition plan, investigation, inventory, inspection, measurement and enumeration. Drivers of potential conflicts and petitions in this stage include: a land acquisition plan was not announced publicly to all involved, procedures were not strictly and correctly followed, the measurement and enumeration results were different from the land area recorded in the land use right certification, or the enumeration methodology for land assets was not consistent (See more in the below table).

- Stage 3: Developing and evaluating schemes for compensation, support, and resettlement. This stage plays a crucial role in the identification of land type, assets subject to compensation, and land price, all of which serve as a basis for the correct implementation of compensation and measures for compensation value. Therefore, in this stage, the drivers of potential conflicts and petitions would include the following: procedures and regulations were not strictly followed, proposal for compensation, support and resettlement were not transparent or published (local people did not agree with the proposed compensation plan). (See more in the below table).

- Stage 4: Decision on land acquisition, and implementation of a compensation scheme. Conflicts and petitions arise in this stage mostly due to the fact that local people do not agree with the land acquisition implementation (e.g. timing, methodology) or with the particular plan for compensation, support and resettlement. Moreover, petitions can also be seen in the post-resettlement stage when people have difficulty adapting to a new living environment, face a job change, or find out they received unequal compensation compared to other similarly situated residents (see more in the below table).

- Stage 5: Dispute resolution. Conflicts, petitions and disputes in this stage are often the consequence of conflicts potentially hidden in the previous stages. Dispute resolution in these instances is very difficult due to the fact that the conflicts between the actors have already become tense, and altering an established land use plan is more challenging, especially from the government official's perspective. However, with the proper intervention, all the involved actors can still come up to the most feasible and acceptable solution for all (see more in the below table).

Identifying cases in the multi-actor dialogue model

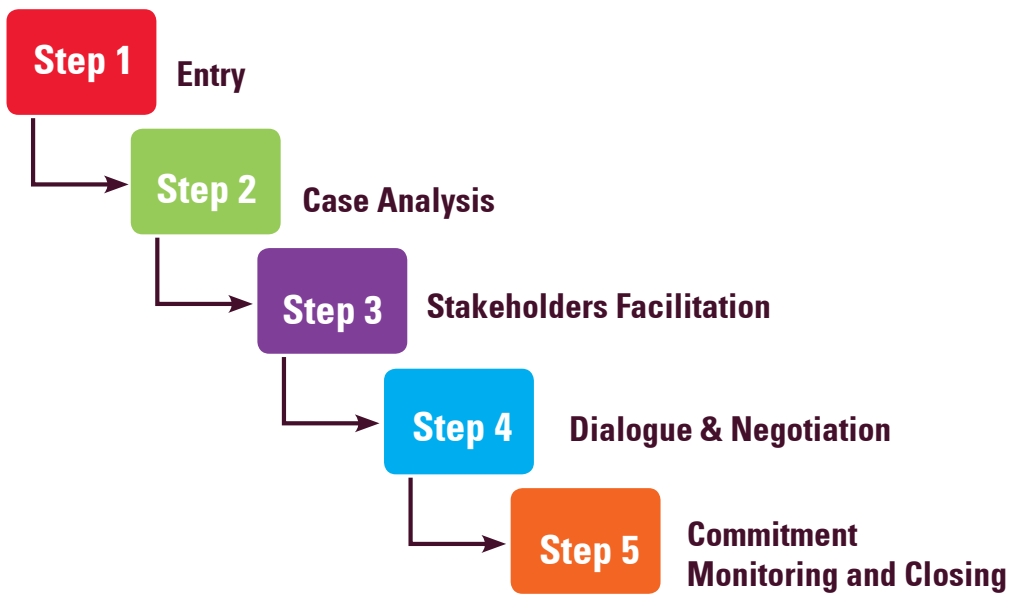
The identification of cases in the multi-actor dialogue model enables the VLA and other socio-professional organizations to assess the status of current petitions and the potential risk of new petitions arising from land acquisition in a specific location. Due to the divergent views of actors in term of rights and obligations, the nature and level of complexity at each stage can differ greatly. Therefore, careful consideration of each stage of land management must be taken into account when identifying cases. Steps, procedures, regulations and requirements by law must be considered on a case-by-case basis. Specifically, the questions in the following table should be considered at each stage when looking for potential cases:

Questions for each stage of land management to help in the identification of cases

Stages	Case Identification
1. Developing and approving the master plan and yearly land use plan especially at the district level.	✓ Is there ground clearance? ✓ Who are the affected groups and what are their qualifications, economic situation, and cultural characteristics? ✓ Are the affected groups informed? ✓ What is the impact of the master plan on the affected groups (livelihood, environment, resettlement, etc.)? ✓ What impact does the master plan have on the emotions of affected groups? ✓ Do the developing and planning procedures comply with laws and regulations (i.e. consultation, evaluation, timing, planning defense)? ✓ Are available feedback channels working?
2. Developing and implementing the land acquisition plan, investigation, inventory, inspection, measurement and enumeration	✓ Does the procedure for developing a land acquisition plan comply with laws and regulations (verification, consultation, and timing)? ✓ Are available feedback channels working? ✓ Does the inventory process comply with laws and regulations (steps, participants, minute, etc.)? ✓ Are inventory results precise (regulations, practices, whether people agree or disagree, etc.)? ✓ Were the affected citizens involved in the land inventory? ✓ Did the affected citizens agree with the inventory and sign the inventory minutes? ✓ How does this stage influence the emotions of affected groups? ✓ How have attitudes about the dispute changed from stage one? ✓ What resources have been allocated to put the land acquisition plan into practice?
3. Developing and evaluating schemes for compensation, support, and resettlement	✓ Does the procedure for developing and evaluating schemes for compensation properly follow the laws and regulations (verification, consultation, and timing)? ✓ Are available feedback channels working? ✓ If compensation is by cash, do the residents agree with price? Is there cooperation/consensus between the Department of Finance and the Department of Planning and Investment? Is the price adjustment temporarily applied or are long-term factors taken into consideration such as inflation and the rate of increase for the value of land overtime? ✓ If compensation is by land allocation, is it the same type of land and are there any supporting conditions? ✓ Are non-financial factors considered and addressed; is resettlement convenient in terms of living condition, long-term livelihood, community culture? ✓ Are all actors participating in meetings and discussing the compensation scheme? ✓ How does this stage influence the emotions of the affected groups? ✓ How have attitudes about the dispute changed from stage two?

Stages	Case Identification
4. Decision on land acquisition and implementation of compensation scheme	✓ How lawful and reasonable are the decisions? (promulgation procedures, time of promulgation since inventory finished, time of decisions to come into effect, individual characteristics of administrative decisions) ✓ Are there differences between performance in practice and proposed scheme? (time, content, measures to implement) • Compensation • Support • Resettlement ✓ Do the affected citizens follow the schemes of compensation, support, and resettlement? ✓ Do the affected citizens delay relocation or not move at all? ✓ How does this stage influence the emotions of affected groups? ✓ How have attitudes about the dispute changed from stage three?
5. Dispute resolution	Types of disputes: ✓ People do not agree with the decisions, actions or behaviors of administrative bodies: • Complaint (in person or written) • File an administrative lawsuit (to the court) • Denunciate ✓ People do not agree with the decision on settlement of claims • Complaint (directly superior administrative body) • File an administrative lawsuit (to the court) • Keep denunciating

The five steps of the multi-actor dialogue model



Steps involved in resolving land disputes cases using the multi-actor dialogue model. The above steps were developed based on the multi-actor approach, which focuses on the supporting and stimulating role of mediators (the VLA and other social organizations).

The multi-actor dialogue model consists of five phases or "Steps" as shown in Figure above. The steps are briefly described here and described in more detail in later sections of the Manual.

- Step 1: Based on the information collected from the province in which the case was filed, an initial analysis of the case should be conducted to determine if it qualifies for multi-actor dialogue mediation. If a case is a good candidate for the method, implementation should continue to step 2.

- Step 2: Collection of information about the case is continued and should include information about the underlying reasons for the petition and the differences amongst the involved actors in terms of pragmatic, cognitive and normative ways of thinking (as detailed later in this manual). The most important outcomes of this step are to identify the underlying motives and feelings of all actors involved. Actors often incorrectly assume that they understand each other's motives (such as why a case was filed), and this misconception can greatly inhibit their ability to work together to solve disputes. Often disputes can also generate strong emotions, which need to be identified and normalized before truly effective dialogue can take place. With the motives and feelings identified in Step 2, the dialogue process can enter into Step 3.

- Step 3: The objective of this Step is to convince all actors to adjust their own priorities in order to compromise amongst themselves in terms of pragmatic, normative and cognitive ways of thinking. To reach the set objective, the mediator plays a crucial role in promoting recommendations of possible solutions, which serve as the basis for the common solution acceptable to all actors in the later stages. Based on the achievements of Step 3, the dialogue process can enter into Step 4.

- Step 4: This is the key Step aimed at encouraging all actors to compromise so that a solution can be met. In this step, all actors need to show their commitment to the implementation of the agreed-upon solutions. Solutions and commitments agreed upon by all actors in Step 4 will be implemented and monitored in Step 5.

- Step 5: In this Step, the mediator will monitor and guide the implementation of the solution, make sure that the actions of all actors are transparent, and remind the actors of their stated commitment from Step 4, if needed.

The Annex to this manual presents detailed information on conflict management techniques that can be employed by the mediator throughout these steps, most especially in Steps 3 and 4. The following sections provide detailed suggestions and instructions for procedures and methods at each Step of the multi-actor dialogue mediation process.

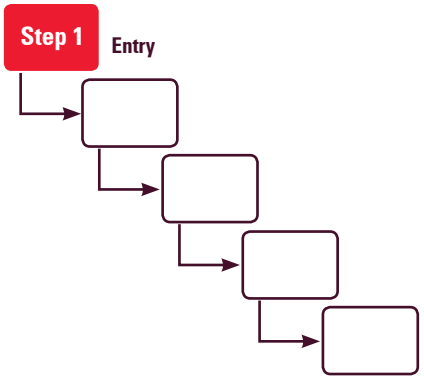
Step 1. Entry

In Step 1, information on the case should be collected to answer the following questions:

i. Is the multi-actor dialogue model suitable to this case?

ii. Do the actors involved in this case accept the mediating and supporting role of VLA and/or other social organizations?

The following table summarizes Step 1 and can be used as a guide when researching and implementing Entry. Each section of the table is explained in more detail below.



1. Summary table for Step 1

<table>
<tr><td colspan="3">Objective: Clearly identify the official role and position of VLA or other social organizations as mediators that initiate, facilitate and support the case resolution process</td></tr>
<tr><td colspan="3">Expected results:
✓ Develop an understanding of the current status of the case and any case - related background information
✓ Identify the possibility for and level of conflict that has occurred or may potentially occur
✓ Establish the participation of the mediator organization</td></tr>
<tr><td>Activities:
✓ Collect information about the case
✓ Conduct a preliminary analysis of the case
✓ Establish the group of mediators
✓ Establish a role and position for mediators</td><td>Main agents responsible
✓ Provincial VLA
✓ Group of mediators</td><td>Supporting agents
✓ VLA at localities
✓ Individuals and organizations</td></tr>
<tr><td colspan="3">Implementation method:</td></tr>
<tr><td>Tools:
✓ CC1.1. Case information collection form
✓ CC1.2. Analysis of problem tree
✓ CC1.3. Work plan and task assignment</td><td colspan="2">Soft skills
✓ Communication, information collection, and relationship building skills (CC1.4)</td></tr>
<tr><td colspan="3">Note: The case's complicacy will determine which approach is more appropriate, multi-actor dialogue or traditional mediation.</td></tr>
</table>

2. Objectives

The main objective of Step 1 is to clearly identify an official position and role for the VLA or other social organizations as mediators that initiate, facilitate and support the case resolution process. However, specific cases may contain important variables that could affect mediator Entry and thus, sub-objectives may be added to Step 1. Some examples are described here:

- For new and unsolicited cases, it may be more difficult to establish a clear role for VLA/organization in the dispute resolution process due to a lack of familiarity of the actors with the VLA/organizations. The VLA/organizations should aim for the establishment of an official position, which would allow them to participate in the dispute resolution. To this end, the VLA/organizations may need to contact all actors and the local authorities directly in order to build trust in the VLA's capabilities and intent. Once

relationships are established, Entry can continue and the process can move on to Step 2.

- For cases where one or more of the involved actors have made an official request for aid to the VLA and/or another social organization, the position and role of the VLA/organization can be established more quickly, assuming the VLA/organization determines the case is appropriate for their participation.

- For complicated cases, in Step 1, it is necessary to conduct the thoughtful analysis in order to avoid cases where the indications of conflicts originated not from land acquisition but from extraneous factors. These disputes may be due to political unrest, in which individuals make false claims with the intent of creating insecurity and conflict between local people and government bodies. If the conflicts originated for both legitimate and political reasons, it is crucial to then identify the extent of the legitimate reasons in order to find an appropriate approach to minimize the risk to the mediating organization following Entry.

4. Expected results

In order to make decisions on "Go or No Go" case entry in Step 1, the following three steps should be taken:

GENERATE A LIST OF POTENTIAL CASES. (INFORMATION SHEET OF THE CASES TO BE FILLED IN AND ATTACHED USING TOOL CC1.1).

Selected cases should have sufficient information for case identification as recommended in the Introduction. Moreover, the selected cases should ideally meet the following criteria to ensure the case is appropriate for multi-actor dialogue:

- Probable reasons for disputes: Administrative decisions or actions/behaviors of local authorities relating to land acquisition or compensation, support and resettlement of individuals or households. Conflicts or disputes originating from illegal actions of one of the involved actors, such as bribery or unauthorized use of public lands, should be excluded.

- The dispute process: Initially, it is recommended to exclude cases that have shifted from civil dispute to administrative dispute. For example, a conflict among co-inheritors regarding equitable compensation following a land acquisition by the Government is less ideal for multi-actor dialogue.

- Actors in the cases: It is recommended to limit the number of cases that have gone through multiple disputes at many levels, including administrative bodies, courts as well as other government authorities, due to the fact that the feasibility of mobilizing participation of the actors to dialogue is likely low. Priority should be given to cases that are close to or already within the decision making authority of administrative bodies of the Government.

- Females and other vulnerable populations: among the list of potential cases, priority should be given to the cases where women or other vulnerable populations (individuals or those acting on behalf of a household) are affected by the land acquisition process, especially for those whose means of living is threatened. For example, when a woman must change her livelihood because her agricultural land was seized and she was forced to move to a common resettlement area.

IDENTIFY DISPUTES AND THEIR UNDERLYING CAUSES USING TOOL CC1.2

In this step, identifying the disputes and their underlying cause(s) in each case is based on preliminary information collected. The result of the Entry Step 1 helps mediators to prepare a plan for facilitating and stimulating dialogues among actors and to resolve the case. In addition, this information can also assist the actors in understanding each other (i.e. both sides of the dispute). This approach is effective because actors are often more open to new ideas that are presented outside of a formal dispute resolution forum.

- Identifying the dispute: The identified problems often reflect the status or possibility of conflict among involved actors with particular signs. For example, a complaint brought against Provincial Level Authorities regarding the removal of 165 households was based on an original dispute over land acquisition and compensation at the District Level. Indicators or signs of a potential dispute can be gauged by the behaviors, actions and attitudes of the actors. For example, actors may not accept monetary compensation or they may not hand over the land or move to the resettlement area; or, they may not be offered monetary compensation or equitable land in the resettlement area. These types of actions are good indicators that a formal dispute may ensue. Disputes identified and assessed at this Step will aid mediators in understanding the nature and level of complexity of the entire case.

- Identifying underlying reasons for disputes: The mediators must clarify the underlying reasons for identified disputes. Often the reasons are discovered based on demonstrations or signs of the issue. In each specific case, reasons can vary; however they are usually grouped in terms of institutional, policy, implementation, and lack of information, human attitudes and behaviors,

etc. Such reasons can also be classified in accordance with the involved actors in the case.

- Gender: women should be perceived as the vulnerable group in the relationship with local authorities with respect to land acquisition, compensation, support and resettlement. Therefore the mediators need to discover the gender-related issues of the case. Are the women the heads of their households? What is their marital status? Will the land acquisition have any disadvantageous effect on them? What is the perception of local authorities on gender balance? Are the rights of women respected and safeguarded?

DEVELOP AND IMPLEMENT A MECHANISM FOR THE PARTICIPATION OF VLA AND/OR OTHER SOCIAL ORGANIZATIONS AS MEDIATORS IN LAND DISPUTE CASES.

The VLA should act as mediator in land disputes cases that arise from land acquisition. However, in specific cases, the VLA can facilitate the participation of other social organizations such as the Farmers' Union, Women's Union and Veterans' Union, etc. The VLA should enlist the participation and contributions of the social organizations in the following cases:

- Often, local authorities or local people will directly request that a social organization provide support (alone or in conjunction with the VLA) in a dispute resolution case. The Pilot Study showed that local authorities often ask for the participation of social organizations at specific stages of the land acquisition process, such as the stages at which they are developing the land acquisition plan or the compensation plan. In order to efficiently coordinate with the VLA during the implementation of the multi-actor dialogue model, or even in the cases where the VLA is not involved, social organizations should be prepared to assist at all stages of the process as soon as requested.

- Based on the missions of social organizations, some organizations may be better-suited to assist in specific cases than other organizations. For example, we recommend that cases primarily involving woman as the head-of-household are handled by the Women's Union, while cases primarily involving agricultural land acquisition should be mediated by the Farmers' Union. In addition, some cases may require the lead mediating organization to consult other relevant organizations for advice and support when necessary.

According to existing legal regulations, the participation of mediators is mainly dependent on the decision of the authorities at various levels (as one of the involved actors in the case), and may only be allowed at specific stages of the process. Therefore, in order to establish a mechanism for proactive and sufficient participation of VLA or other social organizations in the dispute resolution process, the VLA should advocate and encourage local authorities to approve a common framework with respect to their participation in the projects relating to land acquisition, compensation, support and resettlement, as well as in land dispute cases arising from land acquisition. The VLA and other social organizations may also be able to participate through the activities of the provincial advisory board for dispute resolution.

4. Main Activities

Based on the objective and expected results, Step 1 should include the following activities:

ESTABLISH A STEERING COMMITTEE AT EACH LOCALITY

This is an optimal solution that provides a firm foundation for the establishment of the participation of the VLA and other social organizations in dispute resolution arising from land acquisition in that locality. This group can be based on the composition of the Provincial Advisory Board for dispute resolution, or newly established with the participation of provincial Inspector, Department of Natural Resources and Environment, Office of Provincial People's Committee, provincial VLA, and/or the Women's Union and Farmers' Union at the provincial level.

ESTABLISH A STANDING VLA MEDIATOR GROUP/ TASKFORCE IN ORDER TO IMPLEMENT DIALOGUE ACTIVITIES.

This group should include representatives of the VLA and other social organizations with specific qualifications and skills for each position. For instance, the group should include one legal expert on land issues; one expert with knowledge and understanding of minorities; one expert on land clearance, compensation, support and resettlement; one administrative assistant in charge of contact and information collection.

COLLECT INFORMATION ON THE CASE (INCLUDING INFORMATION ABOUT THE INVOLVED ACTORS OR THAT OF CONTRIBUTING TO CASE NATURE CLARIFICATION)

In the Entry Step, contact with the involved actors of the case is often challenging due to the lack of an official mechanism for the participation of VLA and other involved organizations. Thus, information is mainly collected from other available sources, and with the aid of tool CC1.1. Potential sources include:

- Documents: case profiles filed at the authorized government bodies, case profiles prepared by media offices (if any); legal regulations or policies, legal precedent for case resolution. It is important to remain objective and honest when gathering information from secondary sources.

- Involved actors, offices and organizations: As described above, in Step 1, contact with actors is aimed at establishing the official role and status of mediators in dispute resolution. However, information from secondary sources (documents) can be validated by primary sources (actors, etc.).

- Meeting them separately to collect additional information and documents about the case and focusing on information that supports for the claims of all actors, such as paper certifying the origin of land, decisions received by people relating to land acquisition, compensation, support and resettlement, or working minutes, policies, legal regulation for the local authorities.

- Meeting them all together in order to grasp evidence and judgments of all actors' points of view, as well as understand the cooperative and constructive attitudes of actors during the case resolution process.

ANALYZE PROBLEMS AND THE REASONS FOR THE CASE

Problems and the reasons for cases can be identified from the different perceptions of the actors. However, in this step, the mediator should also look for common issues existing amongst the actors. While identifying the reasons, the mediator should clarify the different points of view of each and all involved actors on the problem. Since the ultimate purpose is to encourage the actors to understand the dispute from other perspectives, it is useful to involve the actors in analyzing the problems. (See Tool CC1.2)

CONTACT WITH ALL ACTORS OF THE CASE AND STAKEHOLDERS

The next step should be to understand and identify the reasons for the case. Contact with the involved actors and stakeholders can be done in the following ways:

DEVELOP A PLAN TO FACILITATE AND SUPPORT ACTORS IN THE DISPUTE RESOLUTION PROCESS

Based on the initial nature of the case, the mediator should develop a Plan for facilitating and supporting all actors during the dispute resolution process. The Plan should include the following:

- Objectives, expected results and specific activities.

- Deadlines for each particular activity.

- The main person/people responsible for management of the resolution of the case and support staff.

- Resources needed for implementation (if any).

- Monitoring and Evaluation framework.

5. Tools and skills (soft)

TOOL CC1.1: INFORMATION COLLECTION SHEET

STT	Items	Detailed description
1	**Name of the case**	The name of the case should include information about the type of case, involved actors and the location where the case happened [1].
2	**Brief of the case progress**	✓ Case progress (timeline, with specific milestones, reasons and involved actors) [2] ✓ Case resolution process (timeline, with specific milestones, actors and results) [3] ✓ Describe in detail the current status of the case at the time of the description (including signs reflecting processing of the case if any) [4].
3	**Point of view and expectation of all involved actors in the case**	✓ Identify actors directly involved in the case[5]; ✓ Point of view, expectation and specific ideas of all actors that served as a basis for the petition/continued petition and that are or are not subject to dispute resolution.[6]

STT	Items	Detailed description
4	**Legal documents, plan, program of authorities at all levels from central to local relating to the case.**	✓ List all legal documents and regulations, guiding documents of authorities at all levels from central to local which relate to the pilot case [7] ✓ List all programs, master plans, plans or projects of the authorized offices, organizations, individuals relating to the pilot case [7]
5	**Other relevant information (if any)**	✓ Economic situation, family, culture, tradition, institutional background, policies or other factors that influence point of view, mindset or actions of the involved actors[8] ✓ Capability to influence the point of view or expectation of involved actors (including influencer, methodology and content of the influence)[9] ✓ Other data, evidence and information relating to the case

Table Footnotes:

[1] Example: Dispute/petition of households in commune Y, District X about the land acquisition decision of People's Committee of District X in order to implement a project of Commercial Center building in the district X.

[2] Example: In 2010, in order to implement a policy on agriculture and rural development in District X, Province Z, People's Committee of district agreed by People's Committee of Province Z deploy a project on building post-harvest processing zone for agricultural products located in Commune Y, District X, Province Z. To start the project, District People's Committee issued the decision on land acquisition of the households (number of households, date and number of the decision), which are previously planned for and subject to land acquisition, compensation, support and resettlement, based on the outcome of the measurement and enumeration of land in reality (date of action, number of relevant documents). However, the households (number of households) did not abide by the decision and submitted the petition on land acquisition decision to People's Committee of District X (date of the petition, current status of handling the petition) because according to them the compensation price did not reflect the reality.

People's Committee of District X received the petition and handled it for the first time (number and date of issuance of the resolution decision). However, right after that, households (number of households) did not accept the solution and continued to bring the petition up to the People's Committee of Province Z, explaining that authority at district level did not show sufficient objectivity in dealing with this case, and currently the case is still under consideration.

[3] Depending on the nature of the cases, this information can be combined with the information of case progress to avoid repeated information. At the same time, attention to be paid to the following issues: content of the plan for compensation, support and resettlement, clearly define the content and methodology - how to do it; point of view and result of the petition resolution at district level (detailed and specific solution, right and benefit of all actors and milestones if any); and results of petition resolution of higher authorities (detailed and specific solution, right and benefit of all actors and milestones if any)

[4] Clearly identify the expectation of all actors at current moment. Anticipate and foresee what they are going to do next and specific milestones if any.

[5] Clearly identify name, address as well as analyze role and position of all actors involved in dispute.

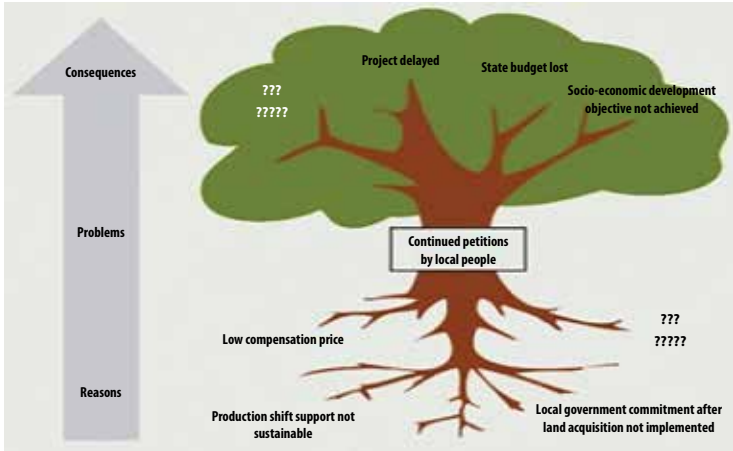
[6] Model of thinking can be used here (three pillars: pragmatic, normative and cognitive) to describe point of view and expectation of different actors as basis for the more in-depth analysis of cases, especially the differences deep inside of each actor. At the same time, the signs to be clearly listed down, such as: request for double price of land, for changing the compensated land area, to be consulted when conducting land acquisition, time of acquisition needs to be appropriate, for commitment in writing, etc., only in such cases land would be handed over to the authorities.

[7] Write down clearly number of documents or papers, date of issuance; offices, organizations or individuals of issuance, or specific content relating to the case. Related documents and papers often include: Laws, decrees, circulars, decisions or guidance for implementation, or implementation organization of authorities at different levels, ministries/sectors, programs, master plans and plans relating to the cases.

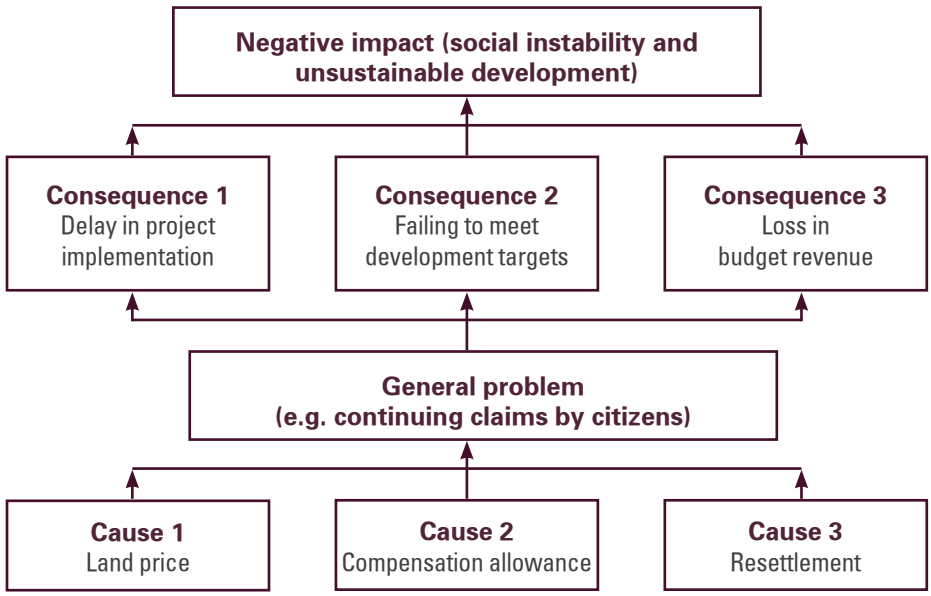
[8] Clarification of the specific circumstances of all actors plays an exceptional important role in dispute resolution process, particularly: livelihood of households subject to land acquisition, cultivated and living habit, custom of people whose land to be acquired; change of policy and law effecting management decision of authorities at different levels; socio-economic development objectives of locality, etc.

[9] Information for assessment of adjusting capability of actors including similar cases that have been resolved in the past, anticipated plans or solutions referred to or prepared by actors in order to protect their rights and benefits, etc.

Tool CC1.2: Problem tree analysis example



The above problem tree analysis sample can be converted into the form of a table for practical application as below:



Tool CC1.3: Work plan and task assignment

Activities	Participants	Focal point	Time	Expected deliverables
Establish a Steering Committee	Representatives of VLA and other related agencies and organization	Head of VLA	Specific	Decision on establishment
Establish mediator group/ Taskforce	Specific person who will facilitate and stimulate actors	Support team of VLA	Specific	Decision on establishment / Task assignment
Collect information of case	Mediator group/Taskforce	As above	Specific	Description and document on case information
Analyze problems and reasons	Mediator group/Taskforce / Steering Committee	As above	Specific	Problem tree of case

Activities	Participants	Focal point	Time	Expected deliverables
Contact with all actors of the case and stakeholders	Mediator group/Taskforce	As above	Specific	Trust built up; Progress report
Develop plans to implement the next steps	Mediator group/Taskforce	As above	Specific	Detailed plan of facilitating step implementation

Tool CC1.4: Skills applicable for Step 1

Requirements for communication skills

- Keep a "neutral" attitude during communication but ensure openness & friendliness in the relationship with actors, especially with people whose land is acquired;
- Avoid "assumed" or "imposed" analysis or judgment as well as subjective statements when communicating with actors;
- Use popular language that is appropriate with the custom, habit and culture of the region; language should be clear, simple, and easy to understand when talking with people;
- Reflect the current status of the case correctly, avoid creating negative or too optimistic expectations about the results while information is insufficient and consensus not yet reached.

Requirements for information collection skills

- Have a thorough grasp of governmental record-keeping in order to gather information efficiently, for instance know the information that can be retrieved from the State Inspection or Department of Natural Resources and Environment.
- Based on the problem tree analysis methodology, identify and classify types of information to be collected;
- Ensure objectivity, correctness and trustworthiness during the process of information collection, maintenance, and utilization;
- Make full use of appropriate technology for information collection and maintenance such as computer, camera, recorder, in combination with traditional way of recording such as taking written notes.
- Prioritize the collection of crucial information about the case over less important data;
- When information collected is contradictory, it is necessary to conduct an appropriate verification methodology in order to dismiss incorrect information.

Requirement for relationship building skills

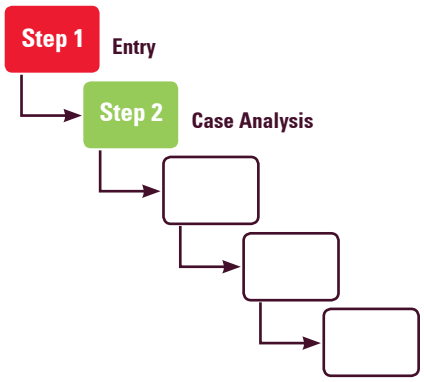
- View the dispute resolution process as the common responsibility of all actors in order to harmonize the interests of individual, State and society.
- Opt for an appropriate approach to change the thinking and mindset of authorities about the role and status of mediator for management efficiency enhancement.
- Promote the participation of other social organizations in dispute resolution in order to enhance the objectivity and persuasiveness in term of dialogue stimulation plans and common solution proposal.

Step 2. Case analysis

This step aims to identify the nature of the case by answering the following questions:

i. What are the causes imbedded in the mindset of different actors leading to potential or actual land disputes?

ii. What is the key issue to be addressed to resolve the case?



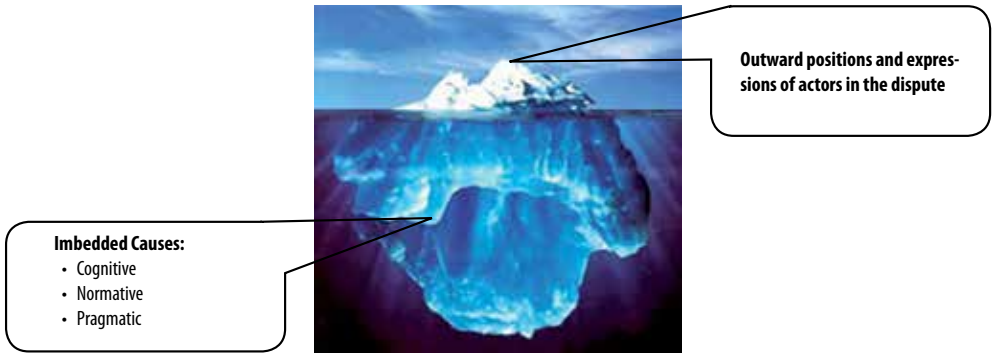
1. Summary table for Step 2

<table>
<tr><td colspan="3">Objective: The case is analyzed based on multi-actor dialogue framework, and a mutual understanding about the actors' differing perspectives is established.</td></tr>
<tr><td colspan="3">Expected result:
✓ Identify the root causes of the case based on the perspectives of the actors.
✓ Identify each actor's interest in the case as well as their potential influences/effects on potential solutions
✓ Identify the most viable approach to facilitate the resolution of the case.</td></tr>
<tr><td>Activities:
✓ Analyze differences in actors' perspectives
✓ Analyze why perspectives have changed overtime
✓ Dialog with key actors and stakeholders
✓ Collect in-depth information about the case
✓ Conduct stakeholder analysis for the case</td><td>Responsibility holder:
✓ Mediators</td><td>Supporting agents:
✓ Local VLA
✓ Relevant individuals and actors</td></tr>
<tr><td colspan="3">Implementation technique:</td></tr>
<tr><td colspan="2">Tools:
✓ CC2.1. Analysis of actors' differences
✓ CC2.2. Stakeholder analysis</td><td>Soft skills:
✓ Communication, information gathering, interpersonal contact (CC2.3)</td></tr>
<tr><td colspan="3">Note: Analysis process, typically stakeholder analysis, may be very sensitive. Therefore, mobilizing as much as possible participation of different stakeholders is needed.</td></tr>
</table>

2. Objectives

Step 2 aims to identify the underlying causes of the dispute from the perspectives of all actors. It is important to understand the underlying dynamics of the dispute, how actors' perspectives have evolved, and what factors seem to drive the dynamics and evolution of the case. It is this Step that differentiates the multi-actor approach from traditional approaches in resolving disputes.

Undertaking Step 2 helps answer important questions such as:



- Although all actors believe they understand the problem and its causes, why can they not work out solutions for the case amongst themselves?
- Are there other important imbedded causes which are not clarified and frankly shared among actors?
- Do emotions such as anger block a clear understanding about the issues?

Step 2 can be seen as the investigation of the underwater part of an iceberg, which cannot be seen from the surface, as illustrated in the below figure.

The main objective of Step 2 is thus to apply the multi-actor approach in analyzing differences in actors' perspectives with regards to the three pillars: cognitive, normative and pragmatic.

3. Analysis of differences in actors' perspectives

An analysis of the differences in actors' perspectives should follow the below sequence of activities (see Tool CC2.1 for details):

- List all causes identified in Step 1 according to their influence on the case (if possible, use a Problem Tree for analysis);
- Ask the actors to prepare narratives explaining their understanding of the dispute;
- Raise concrete questions for the actors to respond to face-to-face or via the questionnaire concerning each cause of the case;
- Synthesize, analyze and assess the extent of differences among actors by using the three pillars: Pragmatic, Normative and Cognitive;
- Ask actors to respond to narratives prepared by other parties in the dispute. What common narrative(s) can bring the actors closer together?
- Reach an agreement between mediators and actors on key differences;
- Communication with actors and stakeholders should be repeated until full understanding of their underlying motivations in the case is reached.

4. Stakeholder analysis

The stakeholder analysis aims to understand the extent of the impact of the case on stakeholders, including direct/main actors and other agents with relevant rights and interests as well as their position/power in deciding solutions for the case. Results of stakeholder analysis help the mediators to develop their appropriate facilitating strategy in the next steps.

IDENTIFY THE STAKEHOLDERS:

- The direct/main actors are usually citizens and the government agencies whose decisions are subject to citizens' claims and dissatisfaction.
- Supervisors of government agencies whose behaviors and/or decisions are subject to citizens' claims and dissatisfaction are other important parties, despite their indirect involvement on the case, since the overall effectiveness of state governance is implicated. In some circumstances, higher level government agencies (e.g. the Provincial People's Committee), ministries and provincial line departments (e.g. the Ministry/Department of Natural Resources and Environment, the Government Inspectorate) may be implicated or interested in the dispute.
- Investors and other households, individuals and organizations, who are also affected by the case in different ways, including delays in project implementation or delays in receiving compensations due to the existence of others' outstanding claims.
- Mass organizations, NGOs/civil society, and the media may also have an interest or stake in a particular dispute, often under the influence of one of the more direct actors.

THE POSITION AND POWER OF THE IDENTIFIED STAKEHOLDERS:

- A stakeholder's position is identified through an assessment of their potential ability to influence solutions for the cases. Stakeholders having important or decisive positions are usually direct actors (if causes of the case fall into their decision making power) or other individuals and organizations (if causes of the case go beyond the reach of direct actors).

- For stakeholders holding decisive positions, the ability to get them to change their pre-conceived notions in the case plays an extremely important role in seeking solutions for the case. An example is influencing the District People's Committee to change the land rating and to apply the proper land price schedule.

- For stakeholders in supporting positions, the key is to influence them to develop supporting options that create added value for the decisive position holders. For example, there may be options to persuade investors to provide further vocational training support for working members of displaced households in a land acquisition scheme.

5. Notes on Step 2

GENDER MAINSTREAMING:

- As discussed earlier, females are often a disadvantaged group in decisions related to land acquisition, land compensation and resettlement support. Therefore, in the stakeholder analysis, determining the position of female actors, including their status, perspectives, and expectations, should be particularly emphasized.

- To protect the legitimate rights of women and girls, in this step, mobilization of the participation of local women's union and other mass organizations is crucial. Communication and dialogue with female stakeholders should be held in the way that is aligned with local culture and customs to encourage them to be open and frank in voicing their perspectives and expectations.

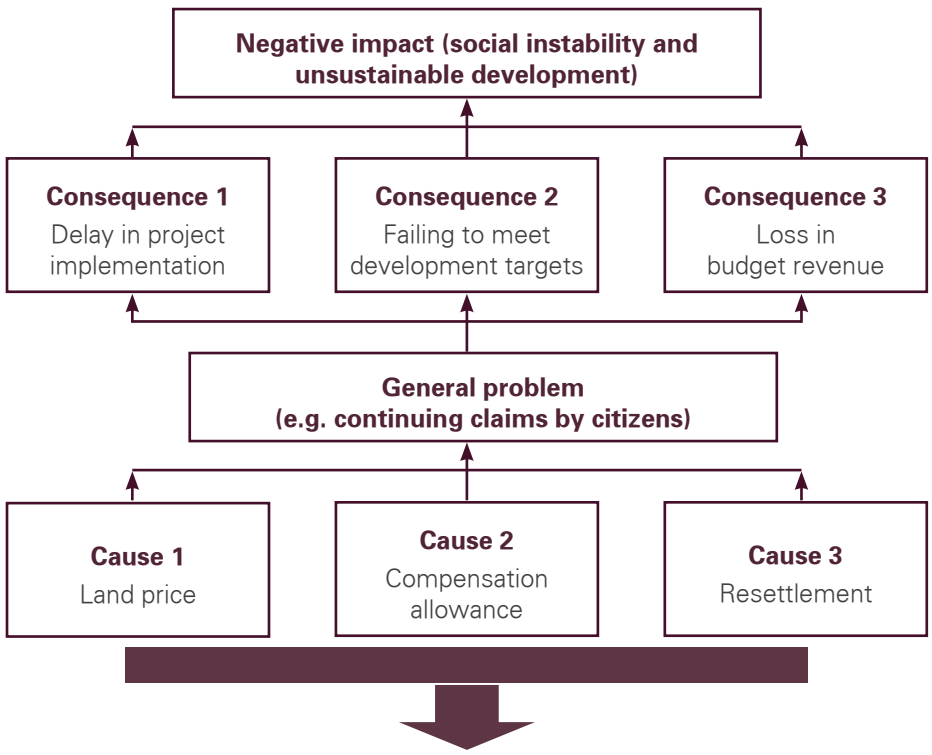
INFORMATION GATHERING:

- Information gathered in this step should shed light on how the stakeholders' underlying motivations have changed over the dispute. Therefore, the main avenue for gathering supplementary information is via direct discussion and dialogue, and open sharing so that their perspectives and expectations can be determined and structured in accordance with the multi-actor dialogue model.

- Supplementary information should also focus on identifying stakeholders' clear perspectives across the evolution of the case. Thus, informal sources of information such as case appealing records including review memorandum, and discussion minutes are important.

6. Tools and skills

Tool CC2.1: Tool for analyzing the nature of the case



	Pragmatic[1]	Normative[2]	Cognitive[3]
Citizen	✓ What do they expect? ✓ Which benefit(s) do they gain from the case? ✓ What is the difference between their actual gains and their expectations? ✓ What is cost-benefit balance? ✓ How have the pragmatic views changed? What factors have changed them?	✓ What evidence supports their perspectives? ✓ What is the basis for such reasons? ✓ Who shares the same perspective and basis? ✓ Has a similar case occurred before? ✓ How have the normative views changed? What factors have changed them?	✓ What are their views and/or comments on governments, investors and/or other stakeholders? ✓ Why do government, investors and/or other stakeholder propose such solutions? ✓ What is the emotional response to the dispute? ✓ How have the cognitive views changed? What factors have changed them?
Government Officials	✓ What are the objective(s) he/she expects to meet in this case (general and specific)? ✓ What are the contributions or impacts towards the compensation for relocated households in the case? ✓ What are the negative impacts on government and citizens if the objective is not achieved? ✓ How have pragmatic views changed? What factors have changed them?	✓ What is base for undertaking the case? ✓ What is base for proposing different options for households? ✓ Has a similar case occurred before? What was the result? ✓ How have normative views changed? What factors have changed them?	✓ What is his/her assessment of the households' claims? ✓ Why do households react in such way? ✓ What is the emotional response to the dispute? ✓ How have cognitive views changed? What factors have changed them?
Investor	✓ What are his/her objectives in this case? ✓ What are his/her costs and benefits from the case? ✓ What benefits does the investor expect to contribute to households? ✓ How have pragmatic views changed? What factors have changed them?	✓ What is the basis for the cost/benefit ratio? ✓ What is the basis for claiming provision of benefits to households? ✓ Arethosejustifications reasonable? ✓ How have normative views changed? What factors have changed them?	✓ What are his/her views on households' claims? ✓ Why do households react in such way? ✓ Are solutions made by government proper? ✓ What is the emotional response to the dispute? ✓ How have cognitive views changed? What factors have changed them?

	Pragmatic[1]	Normative[2]	Cognitive[3]
Other actors (if any)	✓ What are their objectives in this case? ✓ What are their costs and benefits from the case? ✓ What are the benefits that they expects to contribute to households?	✓ What is the basis for the cost/benefits ratio from the case? ✓ What is basis for claiming his/her provision of benefits to the households? ✓ Are those justifications reasonable?	✓ What are their views/comments on households' claims? ✓ Why do households react in such way? ✓ Are solutions made by government proper?

	Citizen	Government	Investor and other actors
Pragmatic[4] (Gap)	Specific actions/responses in the case	Specific actions/ responses in the case	Specific actions/responses in the case
Normative[4] (Gap)	Reasons for actions and responses	Reasons for actions and responses	Reasons for actions and responses
Cognitive[4] (Gap)	Viewpoint when judging underlying factors that lead to actions	Viewpoint when judging underlying factors that lead to actions	Viewpoint when judging underlying factors that lead to actions

- How are the gaps changing over time?
- What factors are driving this change?
- Is there convergence or divergence in pragmatic, normative, or cognitive factors that are driving the dispute?
- Identify similarities in the stories the actors tell about the dispute and find ways of linking the stories.
- Circumvent or deemphasize normative and cognitive differences in the stories.

Footnotes to the Tables:

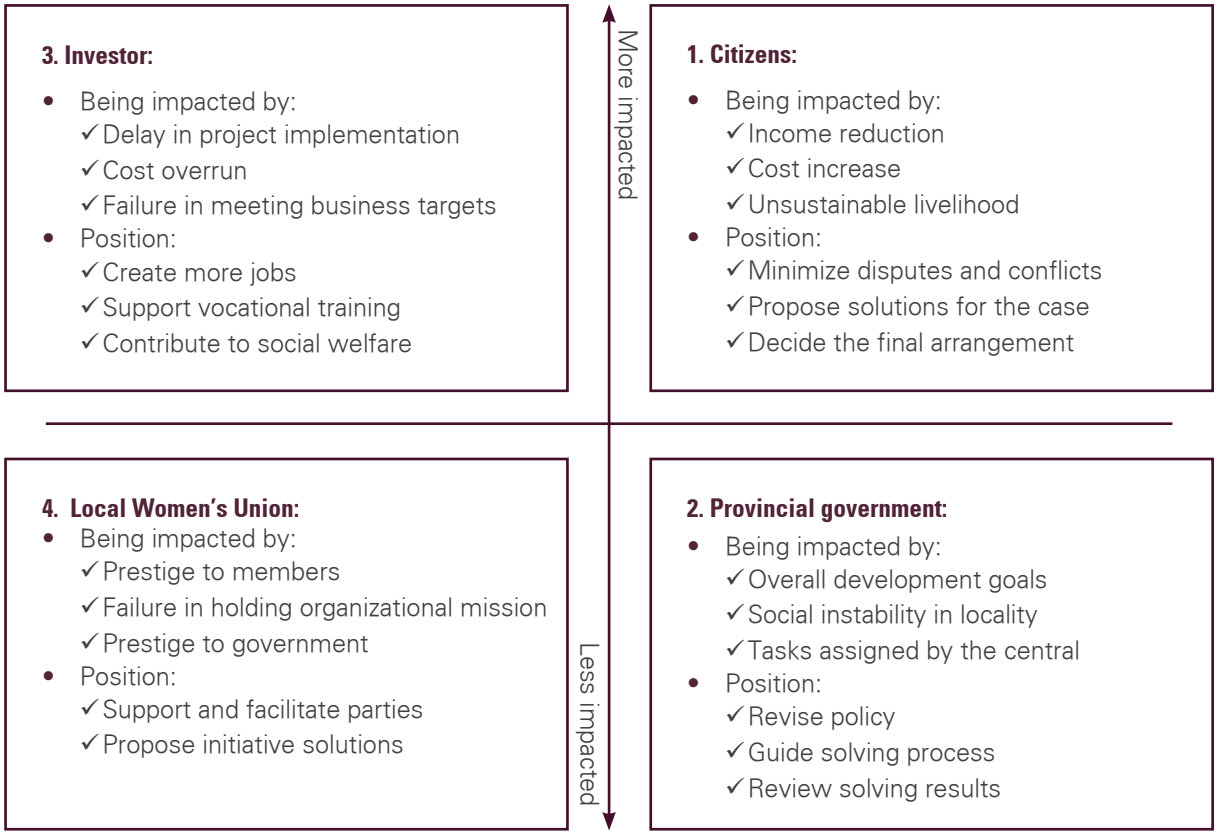
[1] From the pragmatic angle, the analysis should fully cover the specific context of each actor and use other sources of objective information to reveal their actual considerations. For example, some households may dispute the compensation offered because they see that delaying acceptance could yield higher compensation. However, in their explicit arguments, they may allege that the land rating was not precise or the land acquisition procedure was not strictly followed.

[2] The normative factor is perceived as the criteria for actors to assess alternatives. Normative criteria can be formulated based on legal regulations, ethnic norms, customs and habits. For example, some may claim that they could not relocate because (i) the new destination was too far from their parents' graves or (ii) the new destination is too different from their traditional cultivation and production environment.

[3] The cognitive factor is perceived as imbedded perception and thinking regarding case related factors such as location, lives, relationship between citizens and government (especially perceptions about how they have been treated), government and investors, and investors and citizens. For example, some may doubt that the government is able to take care of the citizens or may feel investors' interests have been prioritized over citizens.

[4] Based on the imbedded considerations of each actor, in this table, the main gaps amongst the actor should be identified and structured in alignment with three pillars: pragmatic, normative and cognitive. This is a crucial input for Step 3.

Tool CC2.2: Tool for stakeholder analysis [5]



[5] The above table illustrates an example analysis of the extent of the dispute's impact on various stakeholders and their position (views) in the dispute. This type of analysis can help to choose target actor(s) to influence in Step 3.

Tool CC2.3: Skills used in Step 2

Requirements for communication, information gathering and relationship building skills (See Tool CC1.3):

Requirements for analytical and assessment skills

- Being neutral, precise and credible in gathering and receiving multi-dimensional information as well as identifying the nature of the case from observations of the stakeholders;
- Being proactive in introducing different approaches to adapt to surrounding circumstances including local traditions, customs, habits and living styles in order to capture driving factors of the case. Such approaches may include engagement in community activities in their villages;
- Being neutral, caring, sympathetic, and constructive in dialoging with stakeholders in order to encourage them to reveal their true expectations from the case;
- Being transparent and open in information sharing with stakeholders so that their hesitation or skepticism toward each other or with mediators is eased;
- Being comprehensive in your analysis of the cases in all dimensions including political, economic, social, cultural, customs and traditional, gender and legal in order to provide precise analysis and judgments on nature of the case;
- Being skillful in utilizing analytical and assessment tools including problem tree analysis and stakeholder analysis for each stakeholder;
- Being participatory in identifying, analyzing and judging the nature of the case in order to reach a consensus among stakeholders regarding the problems that need to be resolved.

Requirements for the mediation team and expertise consultation in Step 2

To be effective, the mediation team must be carefully selected. Depending on nature of the case, different experts or experienced persons should be involved. Specifically, participation of the following types of people are important:

- A person who has deep understanding about local context, traditions, customs, habits, and culture;
- A person who has experience in working with relevant organizations and agencies in political and administrative hierarchy, typically with local government when the case occurs;
- A person who has practical experience in legal field, especially land related legal framework in order to capture fully up-to-date regulations and policies.

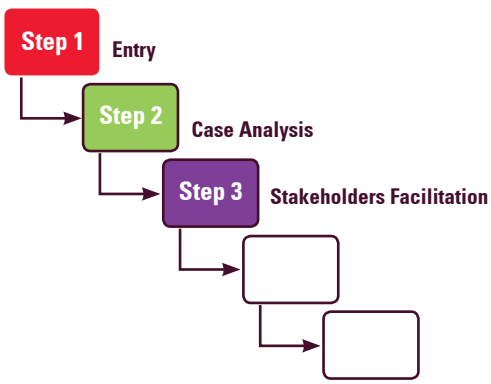
Step 3. Stakeholder Facilitation

The aim of this step is to elicit change in the actors' perceptions. Thus, the mediators should ask:

i. Is it possible for the actors to change their minds about the case on their own?

ii. Do the actors accept changes from each other?

The conflict management techniques in the Annex to this manual should be consulted by the mediator in this step.



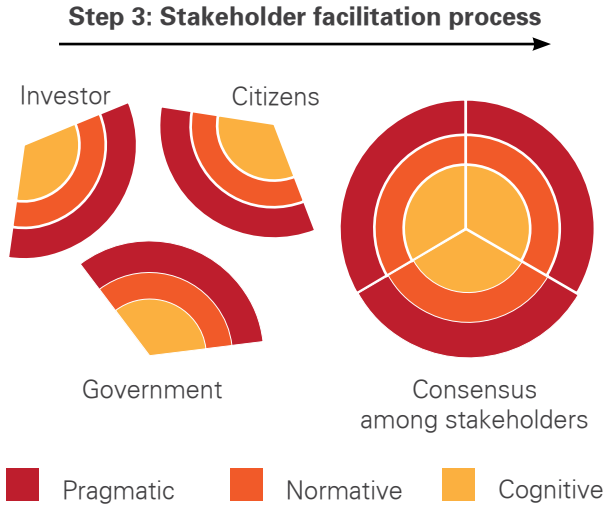
1. Summary table for Step 3

<table>
<tr><td colspan="3">Objectives: Use the multi-actor dialogue process to facilitate compromise among all actors involved in the dispute. Encourage all actors to control their emotions and ask them to suggest possible solutions and openly negotiate with each other.</td></tr>
<tr><td colspan="3">Expected results:
✓ Reach a consensus on major differences and identify the causes of such differences.
✓ All actors adjust their expectations and perceptions.
✓ Reach a consensus on how to solve major issues, and map out a dialogue for the negotiation process involving all actors.</td></tr>
<tr><td>Activity:
✓ Identify and discuss major differences in the perceptions of the actors.
✓ Gather and analyze information relating to the case; share and discuss with actors and stakeholders.
✓ Discuss how to compromise and reach a consensus among actors.
✓ Encourage actors to adjust their narratives in response to narratives from other parties.
✓ Search for common ground and deemphasize normative and cognitive differences.
✓ Dialogue with each other to develop a proposal that can be mutually agreed on the case.
✓ Based on dialogue, synthesize and propose an agreed upon roadmap leading to compromise and resolution.</td><td>Main responsibility:
✓ Established mediation team</td><td>Supporting agents:
✓ Local VLA
✓ Relevant individuals and actors</td></tr>
<tr><td colspan="3">Implementation technique:</td></tr>
<tr><td colspan="2">Tools:
✓ CC3.1. Identification of actors' gaps in thinking and causes
✓ CC3.2. Consensus facilitation</td><td>Soft skill
✓ Facilitating, listening and exploring</td></tr>
<tr><td colspan="3">Note: Applying the guidance in Step 5 for dialogue to lead to narrow divergences.</td></tr>
</table>

2. Objectives

While both Steps 1 and 2 are important, Step 3 is decisive for successfully solving the case. Also, in this step, the role of the mediators is most clearly demonstrated. The mediators are expected to facilitate the process of translating problems perceived by individual actors into mutual problems of the case.

The objective of Step 3 is illustrated in the below figure:



The mediators facilitate the actors in reaching a consensus on their main disagreements and the causes of the disagreements. The mediators also encourage actors to consider other perspectives and propose potential solutions for the dialogue and negotiations in Step 4.

3. Identification of the main disagreements among actors and their causes (CC3.1)

IDENTIFICATION OF THE MAIN DISAGREEMENT AMONG ACTORS

Core causes of the case are issues in pragmatic, normative and cognitive dimensions among actors as found in Step 2. Moving forward in Step 3, the mediators, actors and stakeholders have to identify the main issues and disagreements that led to the filing of the case. The issues may have changed overtime, and it is important to identify the trajectory of the dispute. Usually, the main issue leading to the occurrence of the case is the difference in cognition (especially emotional reactions to disputes such as anger). This issue is also the most difficult to bridge. From his or her own cognition, each actor will come up with different norms and pragmatic calculation.

To identify the main issues among actors, someone needs to investigate the attributes that shape a person's cognition, norms and pragmatic consideration, as shown in the following diagram.

Cognitive

- ✓ Previous case(s) should be reviewed first.
- ✓ How can the issues be solved based on common conventions and customs?
- ✓ Should I believe the government's promise?
- ✓ "Customary law always outweighs formal law", let it be!

- ✓ Don't worry, nobody implements it immediately!
- ✓ Nobody has ever left the boundary of this village!
- ✓ So far, the government has not cared about our interests!
- ✓ There are some households who delay compliance intentionally, but I do not see any of them being sanctioned.

Example on citizens' cognition

In each case, actors tend to have their own judgements based on personal perception, understanding or experience. Their cognition often stems from their perception on the four following issues, which are described by examples of questions often asked by actors.

Factors leading to the case:

- Why did they do it that way? (referring to the government's decision on land acquisition)
- When they decided that, did they care about my interest?
- Have they treated me with respect?
- Have they been provocative and inflaming my emotions?

Rights and obligations resulting from the case:

- What are my rights resulting from the case? How should I exercise such rights?
- What are my obligations resulting from the case? How should I undertake such obligations?

Consequences of exercising or not exercising such rights and obligations:

- What happens if I do not exercise such rights and/or obligations?
- What happens if I do exercise such rights and/or obligations?

Influencing factors of the case:

- How do local customs and habits influence selection of responding actions?
- How do the gender issues influence selection of responding actions?

Normative

- ✓ Do I need to comply with strictly stated requirements?
- ✓ The best option is to find a way to prevent relocation.
- ✓ Can I disobey the government?
- ✓ Should I propose claims that favor my interest first?

- ✓ Must I ask for a reliable guarantee on after-land-acquisition living conditions?
- ✓ I do not want to be less favored than other households, whose lands are acquired before mine.
- ✓ I need to find some way to force the government to be accountable.
- ✓ I'll bring a lawsuit if the case is not solved.

Example on citizens' norms

Normative is the criterion or value based on which actors behave in a specific case. Normative is often consistent and driven by cognition. Usually normative includes the following attributes and values:

Solving a process and procedure for the case:

- Shall I follow that?
- If yes, how?

Rights and obligations resulting from the case:

- What is the best way of dealing with the problem?
- Shall I accept the way the problem has been resolved?
- Is the solution fair compared with similar cases?
- If yes, with what conditions?

Consequences of exercising or not exercising such rights and obligations:

- How do I optimize my benefits?
- How do I minimize costs/negative consequences?

Influencing factors:

- What is the influence of customs and traditions on the case?
- What is the influence of gender on the case?

Pragmatic

- ✓ Should I not obey land acquisition decisions and deny acceptance of compensation allowance?
- ✓ Try hard not to be removed?
- ✓ Should I ask for compensation allowance equivalent to that in urban areas?
- ✓ Should I ask for full compensation rights after the compensation scheme is approved?

- ✓ Should I have my voice heard in the resettlement scheme and should I oversee resettlement preparation process?
- ✓ Should I wait to move until the full infrastructure for the resettlement area is in place?
- ✓ Should the government be forced to sign a commitment to solve any emerging issue after land acquisition?
- ✓ Keep claiming to the central government if my gains are not acquired

Example on citizens' pragmatic consideration

Pragmatic consideration is the concrete behavior of each actor in a given case. His or her pragmatic consideration is often consistent and driven by his/her norms and is calculated by balancing the cost of complying with the settlement against the expected benefit.

Usually, in a case related to land acquisition, actors consider the following issues pragmatically:

1. Calculation of compensation:

- Is it monetary or in-kind compensation?
- What land price schedule is applied and how is the allowance calculated?
- What land survey and rating techniques are applied?
- What is the total value of the compensation allowance?

2. Resettlement support:

- What is the coverage of the support?
- What is the support mechanism (how and who will support)?
- When does the support start and end?
- Where is resettlement location?
- What are requirements for the resettlement area?

3. Triggers of land acquisition:

- Who is responsible for implementation?
- What are the punishments for disobedience?
- What are the remedies to solve negative impacts on gender, customs and traditions?

ROOT CAUSES OF THE CASE

Based on identified differences among the actors, the mediators keep encouraging them to identify root causes of such differences in perceptions and find common ground. Generally speaking, the root causes of the case are also found in accordance with the multi-actor dialogue model. Specifically:

1. Root causes of the cognitive gap in thinking:

- Lack of understanding the reasons for the case occurrence, benefits from the case if any, or solutions for the case.
- Unclear legal basis for solving the case, especially in complicated and long lasting cases, where it is hard to determine the exact legal foundation for case solutions.
- Different ideological and customary understandings about who has access to land and on what terms.
- Lack of communication and explanation among actors, a lack of trust, which leads to misunderstanding and aversion towards one another.
- Anger about how actors have been treated and/or have been forced to change the way they live.
- Lack of transparency in the land management and resolution process for land related cases that leads to imprecise perception on land policy, land acquisition, compensation, support and resettlement.
- Lack of understanding about specific conditions and context. Thus, not all scenarios are taken into account and suitable solutions may not emerge.

2. Root causes of the normative gap in thinking:

- Actors do not have a full understanding for the foundation of case solutions. Hence, criteria and values attached to each behavioral option vary.
- Legislation and regulations governing the case are contradictory and/or fragmented, leading to divergence in actors' chosen behavioral options.
- There is inconsistent application of laws and regulations to similar cases, leading to a diversity of criteria and values used by actors to select behavioral options.
- Applied legislation and regulations are not aligned with reality, leading to the tendency of actors' selecting behavioral options based on ethnic codes, customs and traditions to protect their own rights and benefits.

3. Root causes of the pragmatic gap in thinking:

- Frequent changes in the law and policies directly impact actors' rights and obligations. Hence, they often consider the timing and manner for exercising their rights differently.
- The results of solving similar cases are often against the interests of some actors, especially citizens. Therefore, they tend to go by their own calculation to minimize risks for them.
- Actors lack reliable commitments to exercise their rights and obligations arising from the case. Therefore, they tend to adopt the behavioral options that favor their interests.
- The resolution process does not involve participation of key stakeholders, especially citizen-supporting organizations. Hence, actors holding weaker positions tend to be left alone to protect their benefits in the case.

4. Stakeholder Facilitation (CC3.2)

IDENTIFICATION OF ISSUES FOR FACILITATION

Based on the causes of the differences that give rise or potentially give rise to cases, facilitation approaches can be categorized into two groups (applying Tool CC5.2):

Issues facilitated through direct intervention (because the main cause is lack of information):

- Issues due to fundamentally different normative and cognitive understandings about who has access to land and on what terms.
- Issues due to a lack of information or misunderstandings about the case causes, the case process, or the grounds on which to settle the cases (such as misinterpretation of the provisions of law or misinterpretation of his/her rights in the case).
- Emotions that block compromise (i.e. anger and resentment caused by mistreatment).
- A lack of experience or precedents from similar cases from which to refer to during the process of settlement. This may prevent the actors from getting a solution or settlement for the case.
- No sharing, exchange, or explanation between actors in the case, due to a lack of mutual trust, misinterpretation or even absence of good faith with each other.

Issues facilitated through dialogue and negotiation (because the main cause is due to subjective differences between actors or due to objective reasons, but each actor cannot resolve themselves):

- Differences in actors' view of the basis of the case and the interpretation and/or application of legal provisions to resolve cases where ambiguity and conflict in application of the law exists.
- Provisions of the law applied to the case do not fit with reality, leading to actors choosing solutions based on normative ethics, customs, practices or precedents to protect themselves.
- Policies and laws constantly change, which directly effects the legal rights and interests of actors and therefore, each actor tends to select solutions in his/her favor and thus, different from the others.
- Actors and stakeholders lack of commitment in implementation of rights and obligations arising from the case and therefore, actors tend to give solutions and choose behaviors in different manners.

SELECTING METHODS OF FACILITATION

Based on the issues identified, stakeholder facilitation can be done through the following methods (in each specific case, one of the methods or combinations of methods can be used):

For the issues facilitated through direct intervention

- Select a mediator having a good reputation with stakeholders. Collect information on the stakeholder's interests, or information related to the conditions and circumstances in which

stakeholders would share information with others in order to facilitate mutual understanding among stakeholders and actors.

- Encourage the actors to tell narratives about the dispute.

- Find precedents or a similar case, which contains information about solutions and their advantages and disadvantages that can be shown to stakeholders.

- Create a hypothetical or practical situation that allows the actors to experience the perception of others, thereby promoting mutual understanding or trust between stakeholders and actors.

- Establish a mechanism for sharing and exchanging information, regular contact, openness, trust and transparency with stakeholders and among stakeholders.

Issues facilitated through dialogue and negotiation

- Select competent agencies that have the authority to decide policies, laws or that are responsible for implementing policies and laws to participate in dialogue, and negotiations in order to build a consensus on the settlement of the case.

- Select a facilitator who has a professional understanding of the policies and laws related to complaints, especially regarding land, with the experience and practical knowledge to facilitate actors and offer creative solutions.

- Mobilize the participation of all stakeholders, especially those disadvantaged.

- Encourage the actors to find similarities and linkages in the stories they tell about the dispute.

- Encourage the actors to propose solutions that take into account the narratives told by the other actors in the dispute (solutions based on the broader context and not just their own self-interest).

- Recognize requests of stakeholders and find compromised solutions or alternatives that limit losses suffered by actors resulting from the case.

- Facilitate the actors in identifying strengths and weaknesses of each solution; combine solutions to seek an optimal outcome; formulate concrete steps, schedules, implementation methods and mechanisms for monitoring and evaluation.

NOTES ON THE PROCESS OF FACILITATION AND ACHIEVED RESULTS

Based on the Matrix of monitoring the case resolution process (CC5.2), the stimulators decide on moving to Step 4 (Dialogue and Negotiation) or continue to facilitate-stimulate through negotiating with each side or both sides. To move to Step 4, results of the facilitation should be achieved as follows:

- Scenario 1: When related actors cannot reach absolute consensus on all 3 aspects, include: pragmatic, normative and cognitive way of thinking but make progress on the views about the case and want to record it as the commitment not to complicate the situation.

  For example: The authorities and the people both think that perceptions (on all 3 aspects) of the other side do not like what they expect. However, the authorities recognize that the people are in disadvantaged position (although support is still not provided to improve such condition); the people think that the authorities have made somewhat efforts in their competent (although specific solutions are not yet proposed) and they can reach agreement on not continuing to seek for solutions, and the people will not claim again.

- Scenario 2: When related actors cannot reach consensus on pragmatic way of thinking, but they reach consensus on cognitive and/or normative way of thinking and reach agreement based on such consensus to build the framework for case resolution.

  For example: Although the authorities think that the people do not share with them and claim for own rights; the people think that the authorities have not yet done their best, however, they still accept the plan to support job changes proposed by the local authorities. In this condition, it may consider organizing dialogues and negotiations to reach agreement on specific solution and commitment of related parties to resolve the case.

- Scenario 3: When related actors reach consensus on pragmatic way of thinking, but they not yet reach consensus on cognitive and/or normative way of thinking; have solutions to resolve existent issues and reach agreement on organizing dialogue, negotiation to propose specific solutions.

  For example: The authorities think that the people are in disadvantaged position and the people claim correctly 3 out of 4 contents; the people think that such recognition from the authorities is major effort and accept 3 contents that the authorities propose. Both sides want to clarify how to resolve 3 contents as steps of case resolution; the content of each step; the case-solver and time for case resolution. In this condition, the process of facilitating-stimulating only ends when both sides have prepared specific solutions and agree with solutions of each other.

- Scenario 4: When related actors reach consensus on pragmatic, cognitive and normative way of thinking; have solutions to resolve existent issues but not yet specify on commitment, method of implementation, and reach agreement on organizing dialogue, negotiation to officially implement such solutions.

For example: The authorities think that the people are in disadvantaged position and the people claim correctly 3 out of 4 contents; the people think that such recognition from the authorities is major effort and accept 3 contents that the authorities propose. Both sides have prepared specific solutions and agree with solutions of each other. However, the people have not yet known about the authorities' intention for commitment? Roadmap to implement? What are the levels of specific calculations like? While the authorities have not yet been clear about the attitude, reaction of the people with their specific steps and solutions for resolving the case.

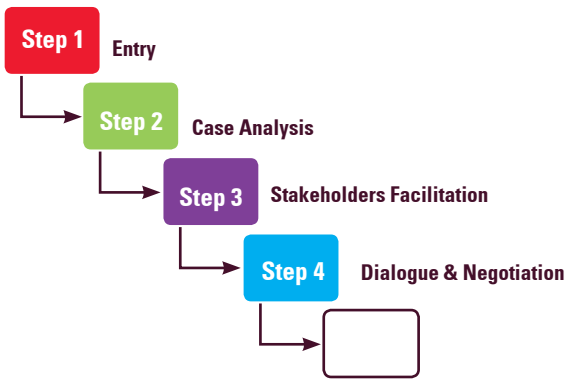
Step 4. Dialogue & Negotiation

This is the essential step to help the actors find and agree on a specific solution to handle the case, answering the following questions:

i. Which solution do the actors agree on to resolve the case?

ii. What commitments do the actors make to implement the agreed solution? What is the specific implementation plan?

The conflict management techniques in the Annex to this manual should be consulted by the mediator in this step.



1. Summary table for Step 4

<table>
<tr><td colspan="3">Objective: To agree on a mutually acceptable solution (including implementation commitments); to agree on monitoring and facilitation mechanisms of mediation team</td></tr>
<tr><td colspan="3">Expected results:
✓ A plan for a detailed and reasonable dialogue
✓ Willingness for stakeholders to participate
✓ Consensus on common solution
✓ Agreed mechanisms for monitoring and promoting compliance
✓ Agreed mechanisms for resolving post-settlement disagreements</td></tr>
<tr><td>Activities:
✓ Develop plan
✓ Synthesize viewpoints of the parties
✓ Prepare documents
✓ Facilitate reaching consensus on a solution and actors commitments
✓ Monitoring mechanisms and post-settlement dispute resolution mechanisms.</td><td>Main responsibility:
✓ Established mediation team</td><td>Supporting agencies:
✓ Local VLA
✓ Relevant individuals and actors</td></tr>
<tr><td colspan="3">Implementation technique:</td></tr>
<tr><td colspan="2">Tools:
✓ CC4.1. Some remarks
✓ CC4.2. Sample form of dialogue and negotiation</td><td>Soft skills:
✓ Facilitating skills</td></tr>
<tr><td colspan="3">Note: Dialogue organization as this step can be carried out several times in step 3 and dialogue and final aggreement will be implemented when faciliation results as Section 4 of Step 3 reached.</td></tr>
</table>

2. Preparation of dialogue and negotiation

OBJECTIVES

Step 4's first objective is to prepare the necessary conditions for the dialogue and negotiation by clarifying the time, venue, participants, content, role and mode of participation of actors and stakeholders.

To take this step, actors need to reach a consensus on the "Cognitive" and "Standard" or satisfy results of the facilitation (mentioned in Section 3.4.3), and thus come together to exchange, share and agree upon requirements and specific plans. Therefore, in the course of preparation, the mediator should assist the actors to thoroughly prepare their proposed solutions, especially plans for specific calculations, before entering into the official dialogue and negotiation.

SPECIFIC ACTIVITIES

- Establish dialogue plan on the basis of consultation with the main participating stakeholders, including the following: the purpose and significance of the dialogue; content of the dialogue; participants; expected dialogue agenda; time and venue of the dialogue.

- Prepare content of dialogue, including: a summary of the causes and solutions according to the actors, what factors are driving change in the dispute, proposal of solutions for case by lead mediator based on analysis of problems, causes and solutions from the side of actors.

- Prepare the dialogue script on the basis of consultation with the main participated stakeholders (especially the narratives constructed by the key actors), including: steps to hold dialogue (arranged chronologically); theme and content of each step; role and content of participation of actors; presiding dialogue.

- Invite independent expert(s) to resolve disputes about facts (such as land values or the potential for job retraining)

- Invite participants and prepare documentation, supporting equipment and other logistics for dialogue, including plan for assigning work within the mediator organization.

IMPLEMENTATION TECHNIQUE

- The plan of dialogue: the dialogue plan should ensure flexibility in terms of names, content and form to suit the conditions and the actual context of the dispute. Specifically:

  - When the VLA actively organizes and presides over the dialogue, with the participation of actors and stakeholders, including governmental agencies, the planning is done according to the above contents.

  - When the VLA is invited to a dialogue with other actors organized by the government, a plan for the VLA's participation in the dialogue should be established. Content and form should be accordingly adjusted.

- Content of dialogue: Depending on the stage of the case, the content of dialogue is prepared based on the results of the above steps, as follows:

  - The problems arising between actors in the case (the results of Step 1).

  - The cause of problems arising between actors; the ability to adjust or change from each stakeholder and solutions proposed by themselves (including content of solutions and conditions to ensure the implementation). Such contents are taken from the results of Step 2 and Step 3.

  - Solutions to handle cases proposed by the VLA should be based on the actors' own solutions and effective precedents in handling similar cases (results in Step 3). In each proposed solution, the content, grounds of proposal, strengths, weaknesses and conditions to ensure implementation (if any) should be clarified.

- The dialogue script: Based on the role of the VLA in the dialogue process (chair or participant), the dialogue script should be prepared under one of the following options:

- Option 1: When the VLA acts as the chair, the dialogue script should follow the below:

  - The chair (co-chair - selected by VLA): responsible for opening, operating and ending dialogue.

  - The push (by VLA selection): responsible for suggesting issues to discuss, especially solutions that may satisfy stakeholders of the dialogue.

  - The stakeholders of the dialogue (authorized representative of stakeholders and related parties): present the case, the ability to adjust and change the priorities and perspectives on the proposed settlement.

  - The chair (co-chair - selected by VLA): conclude the consensual settlement.

- Option 2: When the VLA is joined as a party in the dialogue, the script should be as follows:

  - The stages of participation: VLA may serve to protect the rights and interests of one of the stakeholders, so it can participate in the stage of presenting viewpoints and discussing on the case.

  - Contents of participation: focus on the outstanding problems between the stakeholders, the causes and solutions of the case; analyze strengths and weaknesses of each solution; propose a final solution to solve the case.

  - Mode of participation: in addition to nominating representatives to participate in the dialogue, the VLA may consider mobilizing additional representatives from a number of other social institutions, such as the Farmers' Association, Women's Union, or veterans associations, to raise a voice in protection of the people's rights and interests.

- In order for the dialogue to truly become a forum for stakeholders to seek solutions for outstanding problems, the preparation process should ensure the participation of all significant stakeholders, especially key actors such as the government and the people. Thus, VLA may hold meetings with the actors or seek agreement of each actor before completing the preparation for dialogue.

EXPECTED RESULTS

Expected results in this step are the preparation of the necessary conditions for dialogue and confirmation of the participation of the expected stakeholders of the dialogue. In addition to completion of the necessary conditions for dialogue, such as content of the dialogue, agenda, script and documentation for dialogue, the commitment to participate plays a crucial role to the success of the dialogue. Therefore, besides taking the position of mediator in handling the case, VLA should informally dialogue with each actor, especially with the government, in order for them to see the importance of a genuine dialogue in seeking sustainable solutions.

3. Dialogue Organization

OBJECTIVES

The objective of the mediator in the dialogue is to help stakeholders express their views, thereby reaching agreement on specific solutions and making commitments on measures with a view to ensure the implementation of stakeholders' commitments.

SPECIFIC ACTIVITIES

Organization of dialogue can proceed by different methods, under which specific activities would be clarified. However, whatever method is used, the dialogue generally includes the following activities:

- Opening dialogue: introduction about the purpose and composition, the expected results achieved through dialogue amongst stakeholders and achieve agreement on the dialogue agenda;

- Presentation of views: stakeholders express their views on the case, especially views of the main actors in the case whose differing views are the main cause of the complaints;

- Discuss and agree on: the feedback process amongst stakeholders so as to minimize differences in viewpoints to solve the case and seek consensual solutions;

- End of dialogue: conclude activities of stakeholders to implement agreed upon solutions measures for ensuring compliance.

- Discuss post-settlement mechanisms for resolving disagreements over the interpretation and implementation of settlements.

IMPLEMENTATION TECHNIQUE

- Principles of dialogue: the dialogue process should ensure the principles of equality, voluntariness, objectivity and publicity.

  - Principle of equality: when participating in the dialogue, stakeholders, including the government, are responsible for listening to and respecting the opinions of other stakeholders of the dialogue; ensuring sufficient time for stakeholders to express their views.

  - Principle of voluntariness: To achieve sustainable solutions through dialogue, stakeholders of the dialogue must be "free" to express their views and agree on a solution, not impacted or imposed by any other stakeholder.

  - Principle of objectivity: solutions achieved through dialogue should be grounded on facts or objective evidence of the case and based on the results of open dialogue among all of the stakeholders, not be one-sided.

  - Principle of transparency: an open dialogue will help actors to be more responsible for their choices and strengthen social supervision over the implementation of stakeholders' commitments.

- Opening Dialogue: At this stage, the Chairman of the dialogue should provide a brief overview of the case (happenings of the case and outstanding problems) to stakeholders; thereby clearly state the purposes and requirements of the dialogue; introduce the participants, and conclude program of dialogue.

- Presentation of view: This part of dialogue creates a formal basis for actors to discuss and seek common solutions. The views of actors will have previously been seen by participants in the documents sent prior to the dialogue. Therefore, during the dialogue itself, the parties should focus on the following issues:

  - Point(s) that have not been shown or not shown clearly in documents sent to stakeholders previously;

  - Circumstances or new information about the case that have not been updated in documents sent to stakeholders.

- Discuss and agree on: The process of discussion to find common solutions for the case highlights the role of the mediator. At this stage, the mediator should offer innovative solutions and review such solutions through the feedback of stakeholders, thus promoting stakeholders to agree on the most feasible solution. To obtain that purpose, the mediator should pay attention to the following issues:

  - Proposed solutions should be based on solutions proposed by stakeholders of the dialogue themselves (in accordance with the guidelines in step 4);

  - Proposed solutions should not express the subjective views of the mediator;

  - Proposed solutions should be advisory and preliminary in order for actors themselves to discuss and agree on the final solution by analyzing the strengths and weaknesses of various solutions;

  - On the basis of the final agreed upon solution, actors voluntarily make their commitments for implementation.

- End of dialogue: this is the final stage of the dialogue process and is of great significance to help actors reconfirm their understanding of the case, including the causes and solutions. Therefore, the Chairman of the dialogue should state the following after the end of the dialogue:

  - Summary of views of stakeholders on the case;

  - Summary of the dialogue process relating to solutions of the case;

  - The content of the common solution that was agreed upon by actors through dialogue;

  - Specific actions of actors and stakeholders to implement the common solution, including any role of the VLA;

  - Measures to ensure compliance;

  - Measures for resolving post-settlement disagreement over the interpretation and implementation of settlements.

EXPECTED RESULTS

The results should be shown in the minutes of the dialogue between stakeholders, faithfully reflecting the parties' agreement. Copies of the minutes should be sent to each participant for their reference in the implementation phase.

4. Tools and Skills

Tool CC4.1: Notes

The process of negotiation, dialogue would be started at an earlier time in Step 2, Step 3 and could be replicated in Step 5 because the application of the Multi-actor dialogue model always creates the opportunity for actors and related parties to exchange/express their perceptions as well as reach agreement on solutions for the case. In Step 2, in order to help the actors express all their inner thoughts and to analyze more correctly the nature of the case, the proposals for solutions, strategies to solve the case as well as discovering perceptions of the actors may be implemented.

Regarding to Step 5 in the process of the Multi-actor dialogue, the stimulators should choose the suitable time for implementing after the facilitation and stimulation achieved results as the scenarios mentioned in Section 4 of Step 3. In that case, this step is only regarded as the record, specification and agreement on case resolutions, including the situation of applying Conflict Management when the actors cannot reach consensus on thoroughly resolving petitions or the situation of Dispute Resolution when the actors can reach consensus.

Tool CC4.2: Minutes of the Dialogue

Topic of Dialogue:

Time: **Date..... Month.....Year 201...**

Place:

Participants:

No.	Full Name	Agency Name/Address	Position in the Case	Sex	
				Male	Female
	...				

Contents of the Dialogue:

1. Opinion 1: Mr. / Ms. ....
2. Opinion 2: Mr. / Ms. ....
3. Opinion 3: Mr. / Ms. ...
4. ....

Conclusion of the Meeting:

1. On the content of the Discussion :
2. On the solutions and commitment of related parties (clearly record the solutions, time, people take responsibility for implementing, monitoring)
3. On other issues (if any)

The Dialogue starts at .....

ends at.....

..... date..... month..... year 201....

Secretary of the Dialogue **Chairman of the Dialogue**

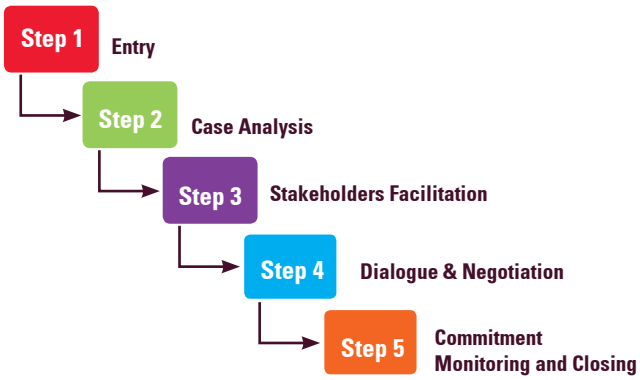
(Sign and Full name) **(Sign and Full name)**

Step 5. Commitment monitoring and closing

This is the final step and answers the following questions:

i. Will the stakeholders fulfill their commitments and implementation plans as agreed or not?

ii. What measures promote the fulfillment of the commitments and plans?



1. Summary table for Step 5

<table>
<tr><td colspan="3">Objective: To ensure the implementation of the agreed commitments</td></tr>
<tr><td colspan="3">Expected results:
✓ Consensus on a plan to monitor the implementation of commitments
✓ Final and sustained resolution of the case</td></tr>
<tr><td>Activities:
✓ Develop a plan and method to monitor the implementation of commitments
✓ Reach agreement between the parties on the plans and methods to monitor the implementation of commitments
✓ Facilitate the implementation of commitments of the actors
✓ Establish a forum/or process where actors can discuss problems that might arise post-settlement.</td><td>Main responsibility:
✓ Established mediation team</td><td>Supporting agencies:
✓ Local VLA
✓ Relevant individuals and actors</td></tr>
<tr><td colspan="3">Implementation technique</td></tr>
<tr><td colspan="2">Tool:
✓ CC5.1. M&E plan
✓ CC5.2: Matrix of monitoring dispute resolution progress</td><td>Soft skill:
✓ Facilitating skill</td></tr>
</table>

2. Monitoring & Evaluation

OBJECTIVES

Monitoring and evaluation aims to give the stakeholders a good grasp on the implementation progress of the common solutions agreed through dialogue and any actions that would promote implementation. Monitoring and evaluation is an on-going process that collects data on various criteria in a systematic way, based on which, instruction and orientation are made for better implementation to realize expected outcomes. Differences in the interpretation of complex resolution settlements are common, and it is important to establish a forum where the actors can come together to resolve disagreements.

IMPLEMENTATION METHOD

- Monitoring and evaluation methods: monitoring of the implementation of agreed solutions will take two main forms: formative monitoring and outcome monitoring.

  - Formative monitoring collects, on an ongoing basis, information on the progress of the implementation. The monitoring is based largely on the information provided by stakeholders or through other sources of information that address the implementation progress (i.e. delayed, on schedule, or ahead of schedule), and the implementation status (i.e. not yet implemented, being implemented and already implemented).

  - Outcome monitoring collects information on the final results of the implementation of the committed solutions. This monitoring method is also largely based on the information provided by actors or other sources of information. Outcome monitoring sheds light on whether the actions taken were appropriate and achieved the common solutions of the dialogue.

- Monitoring foundation: Monitoring is conducted based on implementation plans agreed upon the dialogue commitments and information on the progress of these plans.

  - Implementation plans of commitments: The lead mediation organization can support stakeholders in developing a common implementation plan or specific implementation plans built by each stakeholder according to the commitments depicted in the dialogue minutes. The plan is required to set out what actions to take, the deadlines and criteria to evaluate the degree of completion.

  - Information on implementation progress: the provision of information on the implementation progress should be agreed among stakeholders during the dialogue and documented in the dialogue minutes, especially regarding the timeline, focal point for submission and synthesis of information. In addition, the lead mediation organization can request information from relevant stakeholders on the implementation progress.

  - Establish a forum or process that enables the actors to discuss disagreements about the interpretation and implementation of the settlement.

KEY EVALUATION QUESTIONS

The evaluations should focus on answering specific questions as follows:

- Have the stakeholders complied with the commitment implementation agreed in the dialogue (in terms of substance and timing)?

- Do the actors have a mechanism for resolving post-settlement disagreements?

- Does the commitment implementation achieve the common solutions agreed during the dialogue?

- Are there any changes to the implementation plans that need to be made to achieve the common solutions agreed during the dialogue?

EXPECTED RESULTS

Monitoring and evaluation results can be reflected in periodic reports. A report presents the monitoring results with the pre-determined contents. Pursuant to an agreement between the parties, monitoring reports can be prepared monthly, quarterly or semi-annually and sent to the relevant stakeholders. Along with the evaluation on stakeholders' realization of commitments, the report should clearly state any recommended measures to improve the implementation of the solutions agreed during the dialogue.

3. Monitoring and evaluation criteria

Monitoring and evaluation criteria are developed to measure the degree of success of the implementation solutions agreed during dialogue.

- Relevant stakeholders promulgate specific plans to realize their commitments set out in the dialogue;

- Stakeholders consult and maintain information sharing on implementation progress;

- Stakeholders use forums to discuss and resolve disagreements about the interpretation and/or implementation of settlement conditions.

- Solutions agreed through dialogue are gradually reflected in concrete decisions and behaviors of subjects or stakeholders;

- Decisions and actions of each stakeholder should be to realize the common solutions agreed.

4. Tools and skills

Tool CC5.1: Plan of Monitoring and Evaluation (M&E) and Implementation Activities

No.	Objectives, expected outputs	Activities	Indicators	M&E source	M&E method	Reponsible person(s)	Frequency/ Time of implementation

Tool CC5.2: Matrix of monitoring the case resolution process

Actors	Before applying the multi-actor dialogue model	After directly facilitating	After participating in the multi-actor dialogue	After applying the multi-actor dialogue model
Local Authorities	What are differences? Why? Perceptions?	What are differences? Why? What are Changes in Perceptions?	What are differences? Why? What are Changes in Perceptions?	What are differences? Why? What are Changes in Perceptions?
Local People	What are differences? Why? Perceptions?	What are differences? Why? What are Changes in Perceptions?	What are differences? Why? What are Changes in Perceptions?	What are differences? Why? What are Changes in Perceptions?
Investors (other stakeholders)	What are differences? Why? Perceptions?	What are differences? Why? What are Changes in Perceptions?	What are differences? Why? What are Changes in Perceptions?	What are differences? Why? What are Changes in Perceptions?
Key points that reach consensus and not yet reach consensus		Why do such points/ factors change?	Why do such points/ factors change?	Why do such points/ factors change?
Attitudes to the case resolution process and the facilitators		- Trust the stimulators or not? - Believe that changes/ improvement would happen or not?	- Have trusted the stimulators or not yet? - Why Yes or Not yet?	- Have trusted the stimulators or not yet? - Why Yes or Not yet?

ANNEX

Conflict management techniques

REASONS FOR CONFLICTS

Everything has a reason. To address the conflict, you need to understand the reasons underlying the conflict, which also requires you to understand the general issue of any conflict or opportunity. Studies show that though conflict might be caused by different reasons, these reasons could be classified into three main types:

- Difference in communication
- Organizational difference
- Personal difference

Difference in communication: is disagreement derived from language difficulty, misunderstanding, and confusion in communication. Adults can quickly assume that everything might derive from ineffective communication of information. The problem lies in that everybody assumes that effective communication means others agree with their opinion. It means that people assume that a disagreement means ineffective communication. Many things that seem to derive from lack of sharing information actually happen due to the disagreement in functions, objectives, personality, thinking paradigm or the like.

Organizational difference creates organizational consistency problems. When working with a colleague from a different organization other than yours, your experience-based assumptions might not be true anymore. Individuals may disagree in objectives, solutions, standards and expectations. These conflicts do not necessarily come from miscommunication or personal traits. They come from organizational differences (organizational structure, culture and values).

Personal difference can gear up conflicts, which is the reason why some people find it hard to cooperate. Factors such as qualifications, education and experience develop individual toward different personality and values. As a consequence, some people might not be considered sensitive, trustworthy or easily understood by others.

SELECTION OF CONFLICT MANAGEMENT STYLES

These aforementioned issues are barriers to communication processes. Making efforts to resolve the matters of personality, culture and goals using only your favorite style will often be ineffective. There are at least five conflict management styles:

The Competing (Forcing) Style is when you stress your position without considering opposing points of view. This style is highly assertive with minimal cooperativeness.

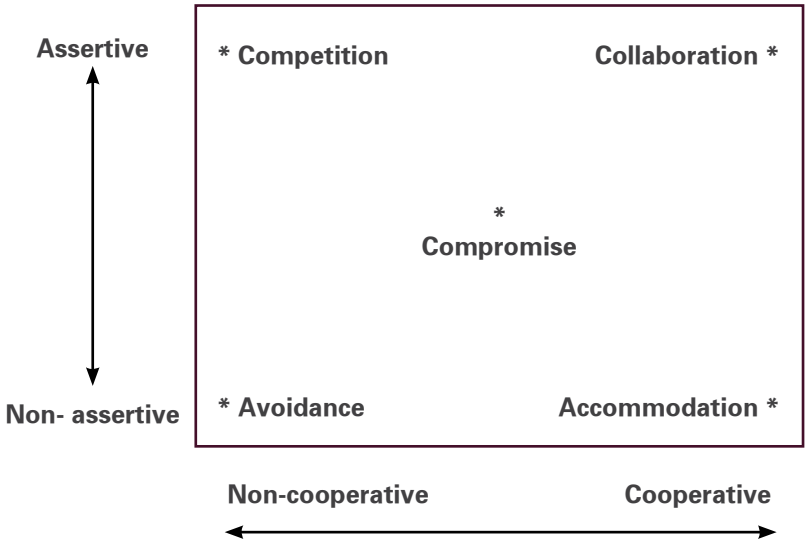
The Collaborating Style is when the concern is to satisfy both sides. It is highly assertive and highly cooperative; the goal is to find a "win/win" solution.

The Avoiding Style occurs when one party is with low assertiveness and low cooperativeness. The goal is not clear and issues to be discussed have been delayed several times.

The Accommodating Style is a style with low assertiveness and high cooperativeness. It is accommodating the concerns of other people first of all, rather than one's own concerns.

The Compromising Style is a middle strategy between cooperativeness and assertiveness. It looks for an expedient and mutually acceptable solution which partially satisfies both parties.

When these five styles are combined, they show the difference in two important aspects: Assertive / Non-assertive and Cooperative / Non-cooperative as follows:



The use of different conflict management styles depends on the situation or the specific case. The movement from cooperation to other styles can be applied to everyone. The difference does not lie in your selection from collaborating style to competing style or avoiding style, but in the way of movement, in voice, in language and time, depending on who you work with.

COLLABORATING

In order to provide a general direction for you to improve efficiency when working with various partners, we have developed a list of basic advantages of collaborating style:

Using a collaborating style

1. To find an integrative solution when both sets of concerns are too important to be compromised
2. When your objective is to learn – e.g., testing your own assumptions, understanding the views of others
3. To merge insights from people with different perspective on a problem
4. To gain commitment by incorporating others' contents into a consensual decision.
5. To improve relationships between the two sides.

COMPETING (FORCING)

In general, forcing style is useful in following cases:

Using a competing style

1. When quick, decisive action is vital – e.g., emergencies
2. On important issues where unpopular courses of action need to be implemented – e.g., cost cutting, enforcing unpopular rules, discipline.
3. On an issue vital to be solved when you know you are right.
4. To protect yourself against people who take advantage of noncompetitive behavior.

AVOIDING

Using avoiding style when

1. When an issue is trivial, of only passing importance, or when other more important issues are pressing.
2. When you perceive no chance of satisfying your concerns
3. When the potential damage of confronting a conflict outweighs the benefits of its resolution.
4. To let people cool down – to reduce tensions to a productive level and to regain perspective and composure.
5. When gathering more information outweighs the advantages of an immediate decision.
6. When others can resolve the conflict more effectively.
7. When the issue seems tangential or symptomatic of another more basic issue.

ACCOMMODATING

Using accommodating style

1. When you realize that you are wrong – to allow a better position to be heard from others and to show that you are reasonable.
2. The issue is much more important to the other person than to yourself – to satisfy the needs of others, and as a goodwill gesture to help maintain a cooperative relationship.
3. To build up social credits for later issues which are important to you.
4. When continued competition would only damage your cause – when you are outmatched and losing.
5. When preserving harmony and avoiding disruption are especially important.

COMPROMISING

Using a compromising style

1. When goals are moderately important, but not worth the effort or potential disruption of more assertive modes.
2. When two opponents with equal power are strongly committed to mutually exclusive goals.
3. To achieve temporary settlements to complex issues.
4. To arrive at expedient solutions under time pressure
5. As a backup mode when collaboration or competition fails to be successful.

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