

From curse to opportunity: Mediation of natural resource conflicts

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Since 1946, at least 40 % of intrastate conflicts have been linked to natural resources. Furthermore, conflicts associated with natural resources are more likely to relapse into violence within the first five years of a peace agreement. Fortunately, an increasing number of peace processes and related agreements include natural resource provisions on a direct or indirect basis. For these and other reasons, resource-sensitive mediation and dispute resolution is becoming an increasingly critical tool for mediators working on regional, national and local levels.

UNEP and the UN Department of Political Affairs (DPA) released a flagship UN resource mediation guide in 2015 outlining strategies and best practices in natural resource mediation (available [here](#)). The process involved over forty international mediators covering natural resources in both local level conflicts as well as within higher level peace processes. This blog provides an overview of key lessons drawn from the UN resource mediation guide and UNEP's experience in the field, as well as a practical example of environmental diplomacy and mediation conducted by UNEP in Ogoniland, Nigeria.

Key lessons on environmental diplomacy and mediation

1. Although natural resource conflicts vary in important ways between the different resource sectors, there are certain characteristics that set them apart from other types of conflict. One of these is the dual nature of most resource disputes being both technically complex and politically sensitive. Mediation is well suited to natural resource conflicts as it can address both these aspects, by taking into account the needs of the parties, multiple forms of evidence and information, and more generally levels of complexity and uncertainty that a traditional adversarial legal process often cannot. Importantly, the mediation process can contribute to establishing and maintaining a long-term sustainable relationship between the parties – e.g. through the joint management of resources and information around such resources.
2. Each natural resource sector – be it extractives, land, or water – generates multiple forms of conflict, which require different approaches in mediation. The design of a mediation process should take into account the

specific characteristics and history of the resource in question, the economic sectors and livelihoods it supports, together with mechanisms for dealing with uncertainty and variability (e.g. ensuring that provisions are flexible and adaptive depending on the needs of the parties). In all cases, it is essential to understand root causes of the conflict, the interaction of natural resources with other conflict drivers, the broader political economy, and the entry points for a mediated solution.

3. All cultures, societies or nations have mechanisms for enabling dialogue between groups and for mediating disputes. Existing local and traditional processes and institutions for building consensus and resolving resource disputes can offer opportunities for integrating environmental and natural resource aspects, provided that they do not lack political legitimacy or exclude specific groups such as women or indigenous communities.
4. A resource mediation process will frequently require engagement at different levels or with different groups of actors beyond the immediate parties to the dispute. Accordingly, a range of peacebuilding tools will be needed, and mediation should be used alongside tools such as conflict prevention, preventive diplomacy, facilitation of dialogue, and consensus-building. These additional channels and consultation processes can provide opportunities for stakeholders to develop more participatory processes and work to modify existing mechanisms. Ultimately, the legitimacy of a dispute resolution process may erode if it is not sufficiently inclusive.

5. All parties should have equal access to impartial, scientific and technical information about the disputed resource. This can be generated by an independent third party, or generated by the parties themselves using jointly adopted international procedures and protocols subject to third party verification standards and externally audited processes. The very process of generating common information can also have confidence-building benefits.
6. Designers of mediation processes should think carefully about which stakeholders to involve. Inviting all stakeholders may, for example, prove too unwieldy or fragmented to produce consensus. Understanding which actors to include in mediation, and the potential political impacts of including some and excluding others, is essential. In turn, ensuring consultation with a sufficiently wide set of stakeholders is crucial to establish and maintain the legitimacy of the process. This is particularly important with vulnerable groups, such as indigenous peoples, women, or youth.
7. Mediators should try to help parties move past zero-sum, win-lose positions, and identify ways that stakeholders can identify shared interests, maximize shared benefits and address common problems and challenges together. When possible, natural resources should be treated as a platform for cooperation that transcends religious, ideological, political, or tribal differences, as initial collaboration can serve as an entry point for further dialogue and confidence-building that may evolve into other areas. However, when the conflict is characterized by deep structural grievances or major

power imbalances, resource mediation may not be the suitable tool to resolve the dispute.

8. Once involved in negotiations, mediators can break down impasses and tensions using a number of techniques: focusing the talks on technical issues; conducting joint information gathering; identifying and sharing multiple benefits; or using scenario-building approaches. Fixed or inflexible default positions can sometimes be altered by moving parties away from questions of natural resource ownership and toward broader issues of benefit-sharing, predictable access, and management – areas where opportunities for mutual benefit can be found.
9. The objective of mediation in the context of a peace process is not necessarily to resolve key resource conflicts during the negotiation, but often to create an institutional framework and momentum that can deal with natural resource issues later. This can for instance be achieved by including direct or indirect provisions on natural resources in the peace agreement, or by embedding issues of natural resource governance in a follow-up track to that peace agreement – e.g. through a commission, a needs assessment, or a peacebuilding plan.
10. A mediated agreement for a natural resource dispute is not the end of the process. Consideration must be given in the agreement towards effective implementation. In many cases, transparent monitoring and verification of compliance with specific resource provisions is essential – this can either be a collaborative and participatory process conducted by resource stakeholders or by an

impartial third party. In this context, access to ongoing mediation and dispute resolution support throughout the implementation of the agreement can be of critical importance. Agreements should provide for adaptability and include provisions on grievance mechanisms and dispute resolution processes.

Case study: Ogoniland

The extensive oil contamination in the Niger Delta is one of the principal drivers of ongoing social unrest and violence. The severe environmental damage threatens human health and has destroyed many thousands of livelihoods across the delta region, with air pollution related to oil industry operations affecting close to one million people. Amid widespread protests and violence in the Ogoniland area, Shell lost its social license to operate, and was forced to abandon its operation in 1993, leaving equipment worth billions of USD stranded, and losing billions more in revenue.

When the government started a reconciliation process between the local Ogoni communities and Shell in 2005, one of the first points of contention was agreeing on the extent and severity of the oil contamination. Given the lack of trust, any information generated by one of the parties was seen as biased and treated with suspicion. Therefore, the first step towards reconciliation required generating impartial scientific information that could be used as the basis for designing a clean-up programme. UNEP was requested to deliver an environmental assessment as well as provide environmental diplomacy support to the mediation process. The work began with an independent technical assessment of the oil contamination in Ogoniland in order to provide a common and authoritative information base to all parties.

The assessment, published in 2011, was the largest and most technically complex ever conducted by UNEP. Over a 14-month period of active field work, the team examined more than 200 locations, surveyed 122 kilometers of pipeline rights of way and reviewed more than 5,000 medical records. Altogether more than 4,000 samples were analyzed, including water taken from 142 groundwater monitoring wells drilled specifically for the study and soil extracted from 780 boreholes. The assessment process itself was also an excellent example of environmental diplomacy in practice. Not only did it have a strict technical focus building on UNEP's neutrality, but the data collection and sampling process was used to engage stakeholders and build confidence in the overall reconciliation effort. Indeed, UNEP directly engaged over 23,000 people in a series of 264 community meetings and town halls. These meetings helped to build local understanding and acceptance of the assessment while fostering community participation and local ownership.

The outcome of the assessment was critical in helping to advance the dialogue between stakeholders on an appropriate clean-up programme in the area. The assessment remains a critical benchmark for local communities and NGOs in terms of monitoring the government's response. Since 2014, meetings have been held between UNEP, Shell, and the government to move the clean-up negotiations forward. An inauguration of the clean-up process was held on 2 June 2016. High-level environmental diplomacy support has been provided by Erik Solheim, former Norwegian Minister for the Environment and International Development, chair of the OECD Development Assistance Committee and incoming Executive Director of UNEP.

The process reached a critical political milestone following the election of President Buhari in April 2015. During his first 100 days in office, the President committed to initiate the clean-up of oil contaminated sites across Nigeria and to implement the recommendations of the UNEP assessment. Negotiating parties have agreed on an initial one billion USD roadmap for the clean-up programme in Ogoniland, and are discussing next steps. UNEP has signaled its availability to support the clean-up process by acting as a third party to conduct monitoring and verification of remediation and rehabilitation targets at each site. UNEP and the World Bank are also developing an online platform called MAP-X to support stakeholders in the extractives sector to document and monitor various financial, social and environmental performance measures, including the clean-up of contaminated sites.

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