Mediating land disputes in Liberia

Juliette Syn and the Norwegian Refugee Council Information, Counselling and Legal Assistance Team in Nimba County

In Liberia, land is not just earth: it is a symbol of identity, heritage and hope. Liberians who live in abject poverty declare themselves rich if they have “a small place to sit down”.

Liberia has experienced years of war, mass displacement and explosive population growth. Many who fled the war returned to find that their land had changed hands several times and was now occupied. Even if they could get their land back, there was no guarantee that someone else would not later claim it, continuing the cycle of displacement. As Liberians realised that there might not be an endless supply of land, ‘palavas’ (confusions) proliferated: different people claiming the same piece of land; arguments over boundaries that had never been identified; and different interpretations of what rights had been given.

Just a few generations ago, land in Liberia was plentiful. Today, the fight for land is desperate because many people have nothing else and nowhere else to go. Nimba, one of the country’s most volatile counties, has been acutely affected.

The establishment of the national Land Commission demonstrates the Liberian government’s desire to address land issues. The commission’s Land Dispute Resolution Taskforce has initiatives to analyse land disputes and coordinate the increasing number of actors in this sector, and it has endorsed the use of alternative dispute resolution, including local mediation.

NRC mediation

Today, multiple systems of land use and ownership exist side-by-side, complicating the resolution of land disputes. Against this backdrop, the Norwegian Refugee Council (NRC) opened its Information, Counselling and Legal Assistance (ICLA) project in Nimba County in 2007, using mediation and education to peacefully address emerging land disputes. It has since helped to resolve over 700 disputes.

The mediation process begins when a party reports their problem to an NRC mediator. Parties often come to NRC of their own accord, but they may also be referred, for example by local authorities. Once a case is reported, NRC will ask disputants if they are willing to participate in mediation. Not all parties to a dispute will agree; some prefer the formal justice system and others are not interested in discussing the case at all. In such instances, NRC cannot intervene.

NRC engages traditional and formal institutions to garner their support, but offers its mediation as an alternative to both. Many Liberians still distrust the formal system, seeing courts as ‘just eating money’, while women and young people are understandably dissatisfied with traditional forums where gender and age may count against them. However, NRC mediators ensure that parties know
what options are available to them, and will explain the advantages and disadvantages of both mediation and litigation. Parties will sometimes withdraw from mediation and open a court case, but it is not unusual for them to return, not least because of the cost of judicial proceedings.

If the parties agree to mediation, NRC registers the case and begins a fact-checking exercise. The mediator holds separate discussions with each side about their fears, goals and interests. Parties often refuse to speak to each other at first; a large part of the mediator’s work is helping parties prepare to listen. Depending on the level of emotion involved, this may be done in a single visit or it may take weeks. Whatever the situation, mediators try to keep communication lines open until the parties are willing to engage in discussion with each other.

Elders and other community members are included in the process to ensure factual accuracy and legitimacy. Most cases registered between individuals do not stay that way; land is rarely a private affair and many community members soon become involved. Community participation is also useful in enforcing agreements, which the NRC does not have the power to do itself.

The importance of social reinforcement is reflected in boundary disputes, one of the most commonly reported issues. Mediation in these cases typically helps parties move from absolute positions. Many disputants will later admit uncertainty over a boundary line and be open to a new move from absolute positions. Many disputants will later admit uncertainty over a boundary line and be open to a new move from absolute positions. Depending on the level of emotion involved, this may be done in a single visit or it may take weeks. Whatever the situation, mediators try to keep communication lines open until the parties are willing to engage in discussion with each other.

The role of the mediator is not to determine who is telling the truth, but to encourage the parties to be honest with each other. To maintain their credibility, mediators do not impose their personal opinions on the outcome. They try to bridge power imbalances by educating vulnerable parties and protecting against unfair tactics; but parties ultimately choose their own way forward. This neutrality can be frustrating, but without it many would refuse to participate. Ensuring that solutions come from the parties greatly increases the likelihood that they will abide by their agreement.

All NRC mediators are Liberian, which helps ensure that culturally appropriate agreements are reached. In many places in Liberia, if a piece of land has been sold to multiple parties the law would seek to determine one legitimate owner. A different notion of a fair procedure exists in Nimba, where in the same situation mediators would seek to help the buyers decide among themselves who will stay on that particular spot, and who will accept relocation to another area. This may include helping buyers understand each other’s needs and situations and bringing buyer and seller together, to understand how the dispute occurred and how to move forward.

The length of the process depends on the facts at hand. If two people bought the same piece of land but the seller has additional land, it is common for one buyer to relocate willingly and the matter can be resolved in a few months. If, however, a buyer is repeatedly relocated because each new plot turns out to be occupied, the increasing levels of frustration and anger involved require the mediator to try to prevent a complete breakdown of the parties’ relationship. Mediators will continue with a case as long as parties are willing to work toward a solution, as there is often no other viable option for them.

Tenure and tradition
Disputes over land tenure in Nimba are common and illustrate clashes between evolving notions of individual ownership and customary systems of collective use. In the past, when land belonged to a clan or family, there was a clearly identified elder who would speak for the collective regarding rights to use their land. Communal discussions were part of the process, so many people could attest to traditional boundaries. Today, the younger generation often sells land without consulting anyone, resulting in too many buyers for not enough land.

Knowledge imbalance between wealthy urban, and poorer rural Liberians is significant. According to NRC mediator Rebecca Secklo, “the secret of how to acquire land was hidden from the country people” who, without education, would forever be at a disadvantage. There are numerous cases in which deeds from the capital show individual ownership of lands that have been occupied by communities for decades. Mediators encourage parties to consider each other’s needs, which can often lead to shared use instead of eviction.

Land disputes can mask more sensitive social problems, relating to gender, ethnicity and tradition. NRC mediator Nathaniel Kiala explains that “the method we use is different from what [the people in Nimba] were doing. They were not going into the root cause”.

In an illustrative case, a woman reported that a man was trying to remove her from her late husband’s land, claiming to be his son. The man maintained that she had not legally married his father, so the land was his. Under Liberian law, litigation would have favoured whoever could prove either marriage or bloodline, and neither party had such evidence. But the mediator’s background investigation revealed that the two had lived together on the land for...
years, and had long recognised each other’s relationship to the deceased. In working with the two parties, the mediator learned that the rift occurred when one party’s attempts to start a romantic relationship were spurned. The parties eventually agreed to find a way to recognise their shared ownership.

**Legacy of violence**

Land issues are complicated by Liberia’s recent violent history. There is often a threat of bloodshed: many case histories feature burned houses and bridges, destroyed crops and threats to ‘chop’ anyone who enters a contested area. “Before the war, people didn’t think like that”, says NRC mediator Marcus Sougbay. He is particularly concerned about youth: “We know what war was like. It is our little brothers who are willing to fight”. Youths are often involved in land disputes as they fight for control of land to assert their identity and status. Mediation is an especially important recourse for this group, so the process involves youth leaders to help them feel included.

Ethnic tensions in Nimba that were fuelled and exploited during the wars remain and different groups have different perceptions of the past. In one version, innocent people of the Mano and Gio ethnic groups were killed by the Doe Government and its Mandingo supporters. In another, the Mano and Gio ran the Mandingo out of the country. There are still many disputes between Mano, Gio and Mandingo people over land ownership. Mechanisms to resolve these disputes non-violently are vital.

**Land and peace**

Mediation over land disputes can have significant long-term peacebuilding benefits. It can look beyond litigation, to enable disputants to deal with underlying – often war-related – grievances and arrive at an agreed and mutually-beneficial outcome. Local mediation helps to embed practices of dialogue and conciliation and can promote greater community cohesion.

NRC’s mediation programme in Nimba relies on local participation, government support, and good relationships with both customary and formal bodies. The effectiveness of the programme derives from the work of talented and dedicated local staff; from integrating culture and communities; and from patience and sensitivity in promoting principles like women’s rights in traditional settings. Specific policies such as using only Liberian mediators have also had significant positive impact, as this fosters a sense of unity regardless of ethnicity, and builds trust and understanding among Liberians themselves. Mediators’ neutral role and the focus on ownership of solutions of disputes by the parties themselves help to embed their sustainability.

Our experience suggests that local mediation can prevent and property disputes from becoming violent. While an effective, legitimate and accessible justice system is gradually being built, mediation can complement legal recourse, which is inaccessible in many rural areas and can sometimes aggravate discord. Mediation may sometimes be a slow and lengthy process, but for the parties involved the existence of an imperfect or long avenue to peace is often better than none at all.

Liberia’s government is working its way through myriad issues surrounding land use and ownership, including title and registration systems, the interplay of traditional systems and statutory laws, and growing pressure on land. Through methods that include workshops with customary leaders and developing an inventory of dispute resolution mechanisms, the Land Commission and its Land Dispute Resolution Taskforce actively seek to understand the problems facing rural Liberians as the interplay of formal and customary systems increases. Though it is not yet certain how the country will proceed, these actions are at least a sign to the people that their voices are important, and that their government wants to hear them – an important but often underestimated element of building peace.

In the meantime, NRC is working alongside the Land Commission in the hope that its experience and knowledge can contribute to national efforts in land dispute resolution, and will continue to use mediation to diffuse fear and anger in Nimba. Certainly, mediation alone cannot solve Liberia’s land problems, but if “this land business can never finish”, as most Liberians say, it can at least help ensure that it does not destroy the peace.

Juliette Syn is an American-trained lawyer with a background in international human rights law. Her work in Liberia has focused on land and natural resource-related issues, disputes and policies; displacement issues; and customary law and practice.