LAND JUSTICE GUIDELINE

OGUN STATE, NIGERIA

Preface

The Land Justice Guideline provides actionable ways for users and professionals to reach solutions to resolving land problems. Research shows that these problems have increasingly become a key concern, especially for poor and marginalized persons. In many instances, Family disputes are often at the centre of these problems leading to occasions of violence, assaults and murder. This interplay has a direct impact on the livelihood of those affected.

The Office of the Attorney General of Ogun state selected the justice leaders who formed the expert group with Hon Justice Ogunfowora as the chairman and who in collaboration with the Hague Institute for Innovation of Law (HiiL) developed guidelines for practitioners in the justice sector such as ***lawyers, mediators, paralegals*** and ***traditional and religious leaders***. Justice guidelines are meant to support justice practitioners in their daily work. These practitioners could be lawyers, paralegals, judges, mediators, police and other professionals who directly engage with people.

Guidelines are inspired by the medical sector and consist of clear and actionable best practices, on how to deal with justice issues. They help practitioners with communication techniques, tools for de-escalation, mediation methods and other useful soft skills that are essential in dispute resolution.

Guidelines combine practice-based evidence (experiences from practitioners across Nigeria) and evidence-based practice (recommended interventions from internationally conducted studies). Guidelines are living documents. That means with new information, responses from practitioners and users should continually improve.

The guideline will be continually updated with recommendations for improved diagnosis and management of land justice problems. Such a living guidelines model will enable both service providers and users to make informed decisions.

Gratitude must go to all of the individuals and organizations who have given their time and expertise in developing this guideline. We also call upon the Government, the people of Nigeria, and justice practitioners to support the implementation of these guidelines so as to shape clearer paths to land justice in Nigeria.

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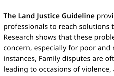

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Instructions on how to use this guideline

This catalogue provides a foundation for evidence-based care for people dealing with land-related conflicts. ***The Land Disputes Guideline*** contains 21 recommendations, 76 best practices and 36 suggested practices that support practitioners in their efforts to help people. The catalogue follows the process from problem to solution and suggests ways for families to reach agreements.

As a local leader, lawyer, paralegal, mediator or any other practitioner, you are required to follow the law. You should always rely on your own expertise and experience and act according to the circumstances of each individual case.

All recommendations in the catalogue are generalized and do not take into account specific situations that require exceptions. Therefore, your professional assessment on a case-by-case basis is essential in order to make the best decisions possible.

The recommendations listed in the Land Disputes Guideline are established according to a method that is widely applied in medical practice (PICO/GRADE). It combines local practice from both formal and informal systems and research on 'what works'. This distinguishes the catalogue from existing legal guidelines.

Recommendations are categorized into four groups

Strongly Recommended ★ ★ ★	The intervention is desirable and the quality of evidence is high ***Apply recommendation and advise parties accordingly***
Recommended ★ ★	The intervention is desirable and the quality of evidence is moderate or low ***Apply recommendation and advise parties accordingly***
Content specific Recommendation ★ ★ ★	The intervention is desirable in a specific context and the quality of evidence is high, moderate or low ***Apply recommendation only in the right circumstances and advise parties accordingly***
Beware: ⚠ ***Not Recommended***	The intervention is not desirable and the quality of evidence is high ***Beware of non-recommended practice***

INTRODUCTION TO LAND CONFLICTS IN OGUN STATE

A mix of social, economic, and administrative factors lead to land disputes in Ogun State. Responsible factors include:

(1) Pressure on available land, due to increase in population,

(2) Rise in the economic value of land, and

(3) Inadequate registration and/or documentation of land rights

These root causes manifest in encroachment, boundary disputes, inheritance disputes and communal disputes. Land disputes sometimes get violent, leading to loss of lives. Land management issues, especially statutory acquisition of land by the government mainly for economic reasons also lead to disputes between the state and non-state actors.

Major acts leading to conflicts are boundary disputes. Communities sometimes extend boundaries to neighbouring towns or sell land belonging to other communities. This creates friction between communities that long existed in peace. Because of efforts to assert landholding rights (which could be through litigation) people sometimes resort to violence.

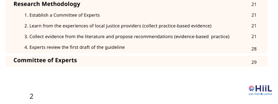
In symmetric relationships such as between family members or between families within the community, land disputes occur mainly in the form of boundary disputes, encroachment, and exploitation of natural resources. Cases being encountered include disputes between members of the family over land earlier partitioned by ancestors.

1 CONFLICT PREVENTION, REGISTRATION AND DOCUMENTATION OF LAND

Introduction

1.1. Norms are rules of behavior that are recognized and respected by the community. They can be created and enforced by justice system actors as well as authority figures in schools, workplaces, or religious and other communities.

1.2. Honoring one another's rights and agreements is necessary for preventing and resolving conflict. Parties, mediators, and adjudicators all know how difficult this can be when there is no record of those rights and agreements. If rights are not documented and made known to the community in a language that everyone understands, how can we be sure that they will be respected? Documenting shared social commitments through contracts, registrations, and other records is important and should be accessible physically or online.



Recommendations

In this section you can find the recommended interventions, which the practitioner can apply. Any judge, arbitrator, cultural leader, religious leader, lawyer, paralegal, mediator, therapist, advisor and other relevant professional is encouraged to apply the following recommendations. More background information about these interventions can be found online:
https://dashboard.hiil.org/problems/land-justice/background-research/.

A. Apply fit-for-purpose land mapping for assessing boundaries

For parties looking to document their ownership or use of land rights, fit-for-purpose land mapping is a flexible, transparent, and inclusive approach. The FFP approach has three fundamental characteristics. Firstly, there is a focus on the purpose and then how to design the means for achieving it as well as possible; secondly, it requires flexibility in designing the means to meet the current constraints; and, thirdly, it emphasizes the perspective of incremental improvement to provide continuity. Each of these components includes the relevant flexibility to meet the actual needs of today and can be incrementally improved over time in response to societal needs and available financial resources. The FFP approach recommends the use of 'visual boundaries' to identify the delineation of land rights. Flexibility is key.

★ ★ ★ ***Strongly recommended***

B. Accept and formally document agreements by memorandum of understanding

One way for parties to an ownership and use of land dispute to accept and formally document their boundary agreements is to sign a written agreement, sometimes known as a "memorandum of understanding". On top of that, parties to an ownership or use of land dispute can honour their agreement by physically demarcating the land.

★ ★ ***Recommended***

C. Use a Participatory Geographic Information System to record land rights

PGIS works for boundary disputes between individuals and groups. Mediation often involves the use of professionals other than lawyers and judicial workers. This include the use of survey experts and traditional rulers. These professionals often have both technical and historical knowledge of the areas in dispute. They can use PGIS mainly because of its participatory nature. We note that not all land disputes subjected to Alternative Dispute Resolution (ADR) in Ogun State end successfully. But we also find that interveners compile reports which are often used in litigation.

This knowledge plays an important role in helping to convince parties to a dispute to take ADR seriously. Both sides should be informed well in advance of this recording obligation and the possibility of the record being turned over to the courts.

Parties should be encouraged to include all features that they consider important. Interveners, where the dispute is a communal boundary, should make sure to invite community leaders to identify boundaries together. The information is then converted to a document which can then be interpreted by professionals involved to define the extent of rights of parties. Interveners, where the dispute is a communal boundary, should make sure to invite community leaders to identify boundaries together.

★ ★ ***Recommended***

D. Apply Smart Skema in land administration

Land mapping exercises have been enhanced by technological advancements, which has largely replaced existing human expertise in many aspects of this exercise. It interprets complex information in a summarized form that humans can act on. One such technological innovation that plays an important role in documenting land rights and resolving boundary disputes is Smart Skema. It is a portable cross platform tool that enables people to document their land tenure rights using a hand drawn sketch and tracing which are already familiar concepts. A sketch is made and then digitized and geo-referenced using numeral or logical approximations. Social customary tenure information is then attached to the digitized and geo-referenced sketch.

The social customary tenure information is a land tenure concept already in use by the communities where the documentation is being carried out. It is a combination of spatial mapping and tenure systems that provide information about customary tenure systems and eases the process of documenting land rights.

It is designed on the 7 principles of fit for purpose land administration, namely:

1. Flexibility: able to capture different uses and occupation of the land
2. Inclusiveness: covers all types of tenure systems
3. Participatory: land holders are involved in supplying the necessary information and the manner in which it is captured
4. Affordable to use for society and government
5. Reliable
6. Attainable: within a short time frame and
7. Upgradable to meet emerging social, legal and economic needs.

The 7 principles of fit for purpose land administration

★ ★ ***Recommended***

2 ALLOCATION OF LAND OWNERSHIP, INCLUDING INHERITANCE AND WILLS

Introduction

2.1. Documenting is important for ensuring that the rights and agreements of individuals are respected and if necessary, enforced. Oral understandings rely heavily on social trust and the good will of those involved. This can make them more difficult to enforce when one or more parties does not comply with what was agreed upon. Documenting is important for making rights known to others outside of a particular agreement. Without acknowledgement, understanding and buy-in from the surrounding community, individual rights will not be respected or protected. For this reason, it is critical that registrations, contracts, and legal rights be made public.

2.2. Compliance with norms results from (formal or informal) monitoring and enforcement. Once established, norms can help to facilitate decision-making and avoid the tensions and stress of personal responsibility.

Recommendations

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A. Apply the constructive dialogue technique in land dispute resolution

Constructive dialogue is useful for land use, resource use/ sharing, and inheritance disputes. In those cases, interveners who facilitate a resolutions (say paralegals or local leaders) allow parties to own the process. While parties discuss the issues, the interveners take note of the main causes of disputes and then guide parties towards addressing them. They are careful not to allow parties to feel that they show bias towards either side. For example, facilitators may allow groups with the same interest on the conflict table to meet and agree on positions that they find comfortable and areas they can cede as concessions. Each side is then recalled to state his need and position which facilitators then use as guiding notes to steer the negotiation. This can be iterated as many times as needed.

★ ★ ★ ***Strongly recommended***

B. Use customary titling

Customary titling is useful if the dispute involves communities and groups. Boundary disputes, land use and resource use disputes, which we found to be present between traditional rulers in Ijebu axis of Ogun and between communities in Odeda Local Government, can be prevented or resolved through customary titling. In practice, facilitators (such as paralegals) can work with community members to identify the extent of rights they own over specified areas, these rights can then be formally documented and presented for registration. Such registration will include the making and lodging of survey plans that embody each member's rights and the drawing up of a formal document on terms mutually agreed upon by parties to preserve agreed outcomes from the exercise for posterity.

★ ★ ***Recommended***

C. Apply collaborative decision making where decisions are made on land disputes

Collaborative decision making focuses on the parties and their interest. Interveners need to understand the real needs of the parties from the start. These needs change in the course of the resolution process. For example, an inheritance dispute is often the result of feeling marginalized once these real needs are identified. The role of the intervener is to help parties identify and then focus on the real needs without intrusion. He or she needs to remain as neutral as possible while suggesting pathways to jointly agreeing on outcomes. Each side to the dispute should also be free and not feel pressured to accept a suggestion.

★ ★ ★ ***Strongly recommended***

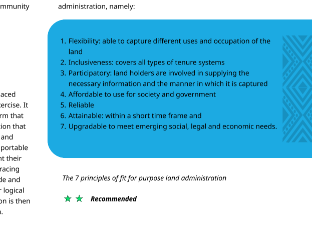
3 AGREEMENTS ON LAND BENEFITS AND EXPLOITATION

Introduction

3.1. In order to engage in respectful dialogue, parties to a land dispute must work through negative perceptions of each other and take one another seriously as human beings. In order to build understanding and move towards resolution, parties to a land dispute must uncover and recognize the emotions, needs and interests of all those involved.

3.2. To be successful, a dispute resolution process must lead to an agreement that is considered legitimate by all parties. Once such an agreement around land use and ownership has been made, it is important for the parties involved to demonstrate their commitment to and ownership of the outcome.

3.3. Have the parties achieved the outcomes they needed? Conflicts often need to be resolved iteratively. This means revisiting and improving agreements that no longer work for the parties involved due to changing circumstances or an improved understanding of what the parties need.



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A. Apply principled bargaining or negotiation

In order to reach a sustainable resolution for their land problem, parties must negotiate to distribute land and land rights in a fair way. Principled bargaining or negotiation is an effective way for parties to share rights and resources in a fair way.

Principled bargaining/negotiation is based on interests and needs. Interests are often less clearly articulated (what people really need). Interests are more long-term and reflect the broader hopes of a person or group, such as the desire to live peacefully, to have stable access to livelihood resources, or to have his/her identity recognized. Interests can focus on factual issues (e.g. distribution of resources) and on relationship issues (trust and confidence).

★ ★ ★ ***Strongly recommended***

B. Apply court administered ADR to help parties reach understandings

When a consent decree is court administered, the judge endeavors to make parties settle their disputes without 'descending into the arena of conflict'. Judges let parties understand that the strict application of adversarial procedures can do little to satisfy parties in certain situations, in addition to the cost involved for either side. Judges do well to keep within the bounds of law so as not to be accused of bias.

★ ★ ★ ***Content specific Recommendation***

C. Enhance community land trust

Community leaders should enhance community land trusts. Documentation of land use processes and the creation of a seamless process where each member in the community can identify the extent of his land, should be documented in a central document or database. Each party then follows the uses and extent of rights granted and reference is made to the database in the event of disputes of any kind.

★ ★ ***Recommended***

D. Perform a ceremony to conclude the agreement

Once the parties to an ownership or use of land dispute have accepted their agreement and demonstrated their commitment to its terms, an additional step is needed to ensure their compliance with the agreement and achieve closure. A common feature of all rural land dispute settlements is a reconciliation ceremony that signifies and seals the end of the dispute. In this phase of the ownership or use of land dispute resolution process, communities follow national legal procedures to formally document and register their lands and receive state documentation of their rights.

★ ★ ***Recommended***

4 RESOLUTION OF ISSUES AROUND BOUNDARIES, THE USE OF LAND AND PROFITS

Introduction

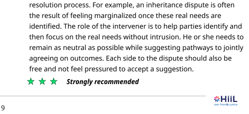
4.1. Identifying what actually happened between parties to a land dispute by establishing and mapping facts is an important step in any resolution process.

4.2. Opening a channel for communication is another essential element of conflict resolution because it allows parties to interact and share information in a collaborative way. This channel may be a meeting place or an online platform. What is important is that there is a safe container where both parties are present and willing to engage with one another. Without communication and collaboration, basic human needs to discuss and process what happened, find solutions, and prevent it from happening again cannot be met.

4.3. Building understanding by establishing the needs and goals of the parties involved in a conflict or dispute is essential groundwork for reaching a mutually satisfying solution. The best solution is the one that meets the needs and interests of the parties involved.

4.4. In most conflicts and disputes, money, land or other limited resources have to be distributed or shared. Ideally, this distribution is done in a way that is fair, transparent, and informed by the needs and capacities of the parties involved. Objective criteria (formulas, market prices, and sharing rules developed through social norms or case law) relevant to the particular legal problem at stake can help to guide distribution decisions.

4.5. In order for parties to a conflict to achieve lasting peace and closure, the decisions made on the path to resolution must be implemented and complied with. Stabilising requires restoring a sense of safety and trust between parties to conflict so that they comply with what they agreed and are able to move on with their lives. Achieving compliance and stability can be challenging, however, as parties are not always equally satisfied with the outcome of the resolution process and issues may resurface.



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https://dashboard.hiil.org/problems/land-justice/background-research/.

A. Apply the Transformative Communication Model to communicate between parties in land disputes

The Transformative Communication Model is concerned with respecting gender rights and preserving the right of everyone to express themselves in conflicting situations. The focus of the intervener is to recognize that beyond the fact that marginalized and vulnerable groups are given a seat at the table, they are actually heard. This means that the intervener ensures that the meeting setting is designed to allow marginalized groups express themselves at such meetings. Where necessary, these groups, after being identified in the conflict situation, can be brought together separately and allowed to speak, apart from the main group. In that mini-meeting, they are allowed to freely express themselves. At main meetings too, the intervener ensures that they are given the chance to speak. As a result of custom, some groups may by nature refuse to take the chance even when offered as the interventions show. In these instances, they may be caucused and spoken with in private rather than in the group settings.

★ ★ ★ ***Strongly recommended***

B. Apply the conflict onion model to identify the interests behind a position and eventually even the underlying needs, fears and desires

The conflict onion model is a useful visual tool for parties to understand and distinguish between the needs, interests, and positions of those involved. The conflict onion model is a dispute resolution tool based on an analogy of an onion with many layers. The outer layer of the onion represents the positions we allow everyone to see and hear (what we say we want). Underlying these are our interests (what we [really] want), which represent what we wish to achieve in a conflict situation. At the core of the onion are our needs (what we must have), which must be fulfilled for the conflict parties to be truly satisfied with the outcome. Only focusing on the parties' positions will rarely solve a (land) conflict. When explaining the causes of land conflicts, the positions are often the same: 'I want the land. The land is mine! Give me the land.' The position only shows what one conflict party wants from the other party.

★ ★ ★ ***Strongly recommended***

C. Use the conflict-tree to enhance respect and understanding

To properly understand the dispute between parties, the intervener uses the conflict tree to separate the main issues from the irrelevant ones. He also uses the method to identify any unsaid words that point to the underlying cause of the problem.

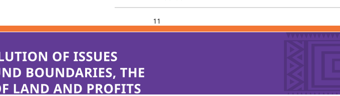
He draws the tree with the main issue being the trunk to underlying cause of the problem. The underlying issues being the root and the manifestation of the problems being the leaves and branches. The conflict could be symmetric or asymmetric. It could be between individuals or groups. Whatever the case, the conflict tree helps to sift unrelated issues from the main causes of conflict. The intervener then presents this to parties for validation after which dispute resolution methods that are appropriate to the conflict are then implemented.

★ ★ ★ ***Strongly recommended***

D. Apply role playing to open up discussions

Roleplaying (socio-drama) can be an effective way for parties to build mutual respect. Roleplaying is recommended in closed conflict cultures, where parties may be less comfortable discussing underlying or taboo topics openly.

★ ★ ★ ***Content specific Recommendation***



E. Apply participatory communication in arbitration processes

Participatory Communication is recommended for use in customary arbitration, mediation of facilitated meetings between disputing parties.

The role of the mediator, arbitrator or facilitator is simply to create an environment for the parties to talk openly. They are made to own the process. Parties are allowed to jointly identify the areas of dispute both underlying and manifestations of the disputes. They are also allowed to jointly propose solutions to the identified problem and an implementation course that suits their joint interests. Interveners only weigh in when parties are distracted by issues not directly relevant to the dispute or that are regarded as deal breakers by both parties.

★ ★ ★ ***Strongly recommended***

F. Apply joint fact-finding

Joint fact-finding by a neutral third party helps parties to get a shared and accurate understanding of what happened. It also tends to improve their relationship and increase the chances of reaching a resolution. We find variants of joint fact finding already in use in customary arbitration.

For more formal methods like mediation, parties value that they are carried along through every stage of the dispute resolution process. Efforts will require that parties are made to jointly bear any burden associated with fact finding (could be financial or logistic needs). Where groups are large, they can nominate representatives that they trust. The rules should be clearly defined and done in a transparent manner so as to build confidence.

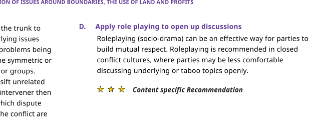
★ ★ ★ ***Strongly recommended***

5 COMPENSATION FOR DAMAGES

Introduction

5.1. Once parties to a conflict have communicated and understood each other's interests and needs, they can work together to brainstorm solutions that will meet them. Win-win solutions – which meet both parties' needs for information, for recognition, for reparation, or for the prevention of certain behavior – can often be found for little cost. Other interests may be more difficult to meet.

5.2. Parties to a land dispute who cannot make a decision themselves need a neutral third party to adjudicate for them. The authority of the selected adjudicator will influence the extent to which the resolution is observed and respected by the parties as well as the broader community.



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A. Tribunals in the community should make third-party decisions where needed

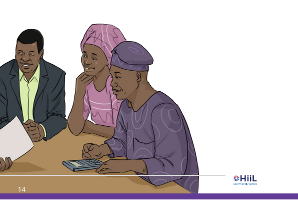
Parties to a land dispute who cannot make a decision themselves need a neutral third party to adjudicate for them. The authority of the selected adjudicator will influence the extent to which the resolution is observed and respected by the parties as well as the broader community. Tribunals in the community are generally the best forum for parties to an ownership or use of land dispute to get a quick, accessible, and culturally appropriate third party decision.

★ ★ ★ ***Content specific Recommendation***

B. Implement monitoring mechanisms

A final and optional stage of a land dispute resolution process involves disputants completing procedural closure by designing and implementing monitoring mechanisms. This can improve agreements made over time. Seeing land dispute resolution as a continued process in which successes can be monitored throughout requires developing arrangements and mechanisms to monitor compliance and accommodate changing circumstances. In addition to identifying general and specific steps required to implement the decision, parties must agree upon a number of issues in order to make these monitoring arrangements successful.

★ ★ ★ ***Strongly recommended***



BEST PRACTICES

The following best-practices are identified by 92 experienced practitioners in Ogun State. These practitioners include judges, policy makers, lawyers, paralegals, cultural and religious leaders, and others. These best practices are their experiences. All best-practices are compared to the recommended interventions, where we assessed whether they are in line with literature. Those best practices that are not in line with the literature need further research.

ON PROCEDURE

Practitioners adopt customary conflict resolution methods, assisted mediation, and techniques for resolving these disputes. Customary arbitration is the most widely used means of conflict resolution. An overview of suggested practices on procedure:

- Attempts to resolve land disputes start with the families. When families are unable to resolve them, they are then referred to the community heads. Complaints can also be laid directly to local chiefs, by aggrieved community members.
  - ***In line with literature research***
- Once complaints are received, parties are invited sometimes in writing) and each side is allowed to state his case. Mediators also conduct independent fact finding and sometimes visit the lands to ascertain facts.
  - ***Other Practice***
- Once facts are established, parties are informed of the decision of the traditional rulers. Decisions include pronouncing on ownership rights, distribution of resources or management arrangements. Aggrieved parties however take the case further by seeking judicial institution from the courts.
  - ***Other practice***
- Ogun State has multi-door courthouses in five locations. The procedure in each location is the same. Cases are entertained through walk-ins and court referrals. The multi door court proceedings are guided by rules of procedure but we learned in at least one case that officials are informal in the application of the rules and adopt measures that fit the circumstance of each case.
  - ***In line with literature research***
- Fact finding is similar to the procedure adopted in customary arbitration. Thus parties are allowed to state their respective cases.
  - ***In line with literature research***

- The mediator caucuses with parties where necessary and where the dispute is a boundary issue. Mediators are selected from a pool of available lists. While parties are generally free to select mediators, in practice however, the choice is usually made for them by the officials. Mediators help parties to reach agreements by sometimes appealing to family, cultural and religious values that parties hold dear.
  - ***In line with literature research***
- Parties are free to participate or reject mediation attempts except in court referred cases. Mediator's report indicates the unwillingness of parties to participate. While we did not get any information as to whether the reports influence adjudication outcomes, we learned that officials are invited to give evidence in court. They give evidence of their foreknowledge of the parties case and attitude and we can conclude that it does affect the outcomes in such cases.
  - ***Other practice***
- Surveyors from the lands department in the state are limited to conduct survey and prepare reports. The reports guide and help parties reach agreement.
  - ***In line with literature research***
- Parties who reject customary arbitration or mediation take their dispute to court. Proceedings in the court are governed formally. Three levels of court entertain land disputes in Ogun State to wit: the Customary Court, the Customary Court of Appeal and the State High Court. Save for the Customary Court where proceedings are structured in line with customary arbitration procedures, with the exception that proceedings are formally recorded and decisions are enforceable and appealable, proceedings in the other courts are the same. Parties are represented by attorneys and decisions involve declaring the right of parties.
  - ***Other practice***

ON OUTCOMES

Many practitioners are focused on actively improving outcomes for people who are dealing with land disputes. They innovate within current procedures and apply working methods from other sectors. An overview of suggested practices on outcomes:

- The majority of the respondents agree that ADR is more effective at resolving land disputes. Generally, it is conceded that ADR which includes customary arbitration and mediation are faster. Cases take as little as 2-3 hours to resolve in many instances, and sometimes less. All the respondents interviewed state that ADR lasted between 2-3 months and produced results. There is also a general consensus that agreements are quicker to reach with ADR. In the cases we analysed, mediators/arbitrators focus on helping parties reach amicable agreements which include equitable distribution of land and land resources, compensation for loss and joint management of family property.
  - ***In line with literature research***
- Attempts to help parties reach negotiated agreements include addressing the underlying cause of the disputes. We found for example, that inheritance disputes are mostly a fall out of feelings of exclusion. Mediators attempt to address this root cause by helping parties to achieve closure in such cases before they agree to make concessions. The same method is adopted in resolving disputes arising from encroachment and boundary claims. The results are often effective as parties are satisfied with the outcome.
  - ***In line with literature research***
- ADR methods identified above focused on preserving peaceful relationships between disputing parties and peaceful co-existence in the community. In a number of cases, community leaders dissuade parties from resorting to litigation by indicating a desire to testify on behalf of parties who succeeded in customary arbitration. Whether this practice suppresses legitimate attempts to seek redress needs to be researched further.
  - ***Other practice***
- It is not a common practice to adopt alternative dispute resolution in the courts, judges adopt it in cases that they consider as deserving. Judges adopt ADR where the dispute is between family members or between individuals. Suggestions they make include payment of compensation, partitioning family land and recommendations that family leaders facilitate resolutions.
  - ***In line with literature research***

RESEARCH METHODOLOGY

1. ESTABLISH A COMMITTEE OF EXPERTS

The guideline development process starts by gathering a diverse group of local practitioners and justice experts. This group is referred to as the guideline's Committee of Experts (CoE). The Committee of Experts co-creates the guideline, performs quality control, and helps to establish local ownership.

2. LEARN FROM THE EXPERIENCES OF LOCAL JUSTICE PROVIDERS (COLLECT PRACTICE-BASED EVIDENCE)

An important element of the methodology is to identify what the local justice providers from the informal and formal sectors consider best practices for resolving their most pressing justice problems. We organize workshops and invite government, local, civil society leaders and practitioners to share their experiences on what works. The workshops are conducted in mixed groups of around 15 participants of justice providers from the formal and informal sectors from a specific area. It is recommended that at least 3 separate workshops take place in 3 different locations, collecting information from around 50 practitioners. Each workshop is facilitated as half-day workshops and ample time is given to not only collect suggested best practices on specific interventions, but also how they relate to each other. In order to ensure that workshops are representative of the national population, HiiL conducts several workshops throughout the country the guideline is being developed for. Geographical coverage depends on the resources available, and is determined in partnership with the Committee of Experts.

3. COLLECT EVIDENCE FROM THE LITERATURE AND PROPOSE RECOMMENDATIONS (EVIDENCE-BASED PRACTICE)

There are many different steps in the path to resolving a justice problem. Each problem is broken down into a broad range of topics (such as mediation, adjudication, arrangements for raising children etc.) For each of these topics a number of possible interventions can be identified to help prevent or resolve the problem. Internationally available literature contains evidence which supports or invalidates interventions to justice issues. We test these interventions, rate the quality of evidence that underlies them, and define actionable recommendations.

The following steps explain this process.

i. First Literature Search: Identifying The Most Common Interventions

HiiL conducts a first literature search to identify all possible interventions for each topic. This is done in accordance with the search strategy (explained in step three). For each topic, the team selects the two or three most effective interventions. Two interventions are then compared with each other in PICO format and - if applicable - similarly compared to a third intervention.

ii. Defining The PICO Question[1]

In order to assess the effectiveness of interventions, HiiL compares selected interventions using PICO questions. The PICO-approach is used in the medical sector to help define the effectiveness of an intervention. PICO stands for:

- Population
- Intervention
- Comparison
- Outcome

These four elements should always be present in the PICO questions. The standard structure of a PICO question is: For [population/person], is [intervention 1] more effective than [compared with intervention 2] for [outcome/goal]?

iii. Search strategy [2] and literature selection [3]

After identifying the PICO question, HiiL reviews and selects the literature. HiiL first defines which keywords are used for the literature search.

The literature search is conducted in a hierarchical manner. HiiL starts with looking into existing evidence-based guidelines, systematic reviews and meta-analyses. In case this results in insufficient evidence, the search extends to randomized controlled trials. If this is not available, the team searches for observational studies and empirical research. Lastly, if needed, HiiL gathers relevant opinions by international experts.

Steps taken in the process of selecting literature are (in this order):

1. ***Screening of titles and abstracts***: A first selection is made where non-relevant titles are excluded.
2. ***Selection on methodology, based on titles and abstracts***: The researcher selects sources according to their methodology.

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[1] How to phrase a PICO question is explained in: Schunemann, Brozek, Guyatt and Oxman, GRADE Handbook, Chapter 2, accessible via: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp

[2] The search strategy is similar to the strategy used in developing guidelines for family doctors in The Netherlands, accessible via: https://www.nhg.org/sites/default/files/content/nhg_org/uploads/handleiding_ontwikkelen_nhg-behandelrichtlijnen_0.pdf

[3] The literature selection-process is similar to the selection-process used in developing guidelines for family doctors in The Netherlands, accessible via: https://www.nhg.org/sites/default/files/content/nhg_org/uploads/handleiding_ontwikkelen_nhg-behandelrichtlijnen_0.pdf

3. ***Selection on substance***: A substantive and definitive selection based on the title, abstract and the substance.
4. ***Rating of selected literature:*** The quality and quantity of the literature are assessed. If not sufficient, the search strategy and criteria are altered.

HiiL consults several (legal and psychology-related) databases, which are accessible through Google Scholar. The most relevant databases are defined on a topic by topic basis.

iv. Assessing and Grading the Evidence [4]

The literature contains evidence. Following the selection of literature, the quality of the evidence is evaluated. HiiL grades the quality of evidence for each PICO question, based on the GRADE (Grading of Recommendations Assessment, Development and Evaluation) system. The GRADE-manual (accessible on www.guidelinedevelopment.org/handbook) provides an elaborate description of this method.

GRADE is used extensively by the medical sector for developing guidelines. The GRADE system provides a definition of the quality of evidence.

The quality of evidence reflects the level of confidence in the effect of the intervention on people's well-being. The evidence is graded according to a three-step process

a. Rate the entire study design

Rating the quality of evidence starts with the study design. The evidence is categorized by the type of study, using the four GRADE classifications:

High	Existing evidence-based guidelines, meta-analyses, systematic reviews
Moderate	Random Controlled Trials (RCTs), medium-sized/ large empirical research (including observational studies and experimental studies)
Low	Small empirical studies (including observational studies and experimental studies)
Very low	Opinions of international experts

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[4] The assessment and grading of evidence in the medical sector is explained in: Schunemann, Brozek, Guyatt and Oxman, GRADE Handbook, Chapter 5, accessible via: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp

b. Take into account factors for downgrading and upgrading

Next, HiiL looks for factors that reduce the quality of evidence. These being:

Risk of bias of the publication, such as: • Use of evidence by the author to support one favoured intervention (for example: the author is clearly in favour of mediation or supporting completely equal roles of men and women in family life as a matter of principle) • Reporting of outcomes is selective • Samples used in the study to back up arguments are not representative	1 or 2 levels down
Risk of true effects reported being different in other culture/location, • For example: the Nigeria city population may not experience the same effects of an intervention as the Texas rural sample in the study	1 level down
Inconsistent results from different studies, such as those based on: • Geographical area (different studies report different outcomes for different geographical areas) • Interventions (different studies report different interpretations of the same intervention) • Outcomes (different studies report different effects of the same intervention)	1 or 2 levels down
Studies only present indirect evidence, such as: • Different results in different geographical areas in one study • A difference in how the intervention is applied in one study • A difference in the effects of the intervention in one study	1 or 2 levels down

HiiL also looks at factors that increase the quality of evidence:

Imprecision • Uncertainty about the study results	1 or 2 levels up
A large magnitude of the effect of the intervention: • The effects are consistent across different samples • Consistency in the studies on the magnitude of the effect	1 or 2 levels up
Unanimous endorsement of the Committee of Experts	0 or 1 level up
All suggested best practices are in line with the recommendation	0 or 1 level up

Studies may report different outcomes. All outcomes of the studies that are essential to a recommendation are graded separately.

Until now, the upgrading and downgrading process has not been evaluated individually. In future iterations of the guideline, HiiL will provide reasons for upgrading or downgrading a recommendation and explain the reasons.

c. Rate the quality of evidence of the entire recommendation based on step A and B

After taking into account the rating of the study design and the factors for down or upgrading the quality of evidence, HiiL determines the overall quality of evidence. HiiL provides a single grade of quality of evidence for every recommendation. The quality of evidence can be classified into the following four categories of the GRADE model:

High	There is much confidence that the true effects of the tested intervention are close to the estimations of the effects
Moderate	The true effects of the intervention are likely to be close to the estimates of the effect. There is a possibility that they are different
Low	The confidence in the estimates of the effects is limited. The true effects can be substantially different from the estimates
Very low	There is very little confidence in the estimates of the effects

Because the GRADE approach rates the quality of evidence separately for each important outcome of the studies, quality might differ across outcomes. When determining the overall quality of evidence across outcomes, only the outcomes that are assessed as being most important are considered. These critical outcomes have been identified for each recommendation in the guideline. If the quality of evidence is the same for all critical outcomes, then this becomes the overall quality of the evidence supporting the answer to the question. If the quality of evidence differs across critical outcomes, then the overall confidence in effect estimates cannot be higher than the lowest confidence in effect estimates for any outcome that is critical for a decision. Therefore, the lowest quality of evidence for any of the critical outcomes determines the overall quality of evidence.

d. Define the research gap

After grading the evidence it is important to clarify where more research is necessary, in order to improve the quality of the recommendation. There might be a lack of good quality study designs, or there might be insufficient research on certain interventions available. This way, the research gap can support universities and research institutions in identifying impactful fields of research for in the future.

v. Propose Recommendations [5]

The recommendations can be established following the answer to the PICO question and assessment of the quality of evidence by applying GRADE.

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[5] How to go from evidence to recommendations in medical guidelines is explained in: Schunemann, Brozek, Guyatt and Oxman, GRADE Handbook, Chapter 6, accessible via: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp

The strength of the recommendation depends on whether the desirable effects of an intervention outweigh the undesirable effects, and on the strength of the evidence.

Recommendations are categorized into four groups:

Strongly recommended	Clear balance towards desirable outcomes of the intervention and a high/moderate quality of evidence **Apply recommendation and advise parties accordingly**
Recommended	Clear balance towards desirable outcomes of the intervention and a low/very low quality of evidence **Apply recommendation and advise parties accordingly**
Context-specific recommendation	Unclear balance towards desirable outcomes of the intervention (where desirable effects do not apply to all situations) and a high/moderate level of evidence **Apply recommendation only in the right circumstances and advise parties accordingly**
Not recommended	Clear balance towards undesirable outcomes of the intervention and a high/moderate level of evidence **Beware of non-recommended practice**

Key factors that influence the direction and strength of a recommendation are:

Domain	Comment
The balance between desirable and undesirable outcomes (trade-offs) taking into account: • Best estimates of the magnitude of effects on desirable and undesirable outcomes • Importance of outcomes (estimated typical values and preferences)	The larger the differences between the desirable and undesirable consequences, the more likely a strong recommendation is warranted. The smaller the net benefit and the lower the certainty for that benefit, the more likely a weak recommendation is warranted
Confidence in the magnitude of estimates of the effect of the interventions on important outcomes (overall quality of evidence for outcomes)	The higher the quality of evidence, the more likely a strong recommendation is warranted
Confidence in values and preferences and their variability	The greater the variability in values and preferences, or uncertainty about typical values and preferences, the more likely a weak recommendation is warranted
Resource use	The higher the costs of an intervention (the more resources consumed), the less likely a strong recommendation is warranted

4. EXPERTS REVIEW THE FIRST DRAFT OF THE GUIDELINE [6]

HiiL submits the guideline to the Committee of Experts for review. The Committee decides whether the recommendations are acceptable within the local/national context. They report their findings within three months of submission. If the Committee of Experts determines that a recommendation is incompatible with local practice, the Committee and HiiL collectively review the recommendation and determine whether it should remain the same, be modified, or be removed from the guideline entirely.

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[6] See: Schunemann, Brozek, Guyatt and Oxman, GRADE Handbook, Chapter 6, table 6.2, accessible via: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp

COMMITTEE OF EXPERTS

The Committee of Experts have played a fundamental role in the development of this guideline. They have supported in gathering and evaluating the best practices and evidence on which this guideline is founded. In addition they have been instrumental in ensuring the local context is taken into account for all the recommendations and best practices. Without these individuals, this would not have been possible:

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