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# Collaborative Dispute Resolution

An effective out-of-court remedy in Syria

by Christopher W Moore, Ph.D., Hala Rizk, Anas Mansour and Lindsey Peterson

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# Collaborative Dispute Resolution

## An effective out-of-court remedy in Syria

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The team is grateful to the UNDP Regional Bureau for Arab States in Amman for their support in promoting our work in Collaborative Dispute Resolution and in reviewing this paper, with a special thanks to Armania Embaye, Rule of Law, Security and Human Rights, Regional Analyst; Fadi Abilmona, Joint UN Development Programme - UN Department of Political and Peacebuilding Affairs Programme for Building National Capacities for Conflict Prevention, Regional Programme Specialist Arab States; Rawhi Afaghani, Conflict Prevention and Peacebuilding, Regional Advisor. The team is also grateful to Aneesa Walji, Rule of Law, Security and Human Rights, Regional Specialist for her continued support to the office in promotion of CDR alongside all other UNDP Access to Justice initiatives in Syria.

# Contents

Abbreviations	4
Abstract	5
Introduction	6
1. Community-Based Dispute Resolution Development Process in Syria	8
1.1 Background	8
1.2 Barriers and Opportunities for a Community-Based Dispute Resolution Initiative	8
1.3 Dispute Resolution in Syria	10
1.3.1 Formal Channels for Dispute Resolution in Syria	10
1.3.2 Traditional / Customary Channels for Dispute Resolution in Syria	11
2. Design and Implementation of the New Dispute Resolution Initiative	14
2.1 Designing a tailored model	14
2.2 Defining the Types of Disputes to Be Accepted and Handled by the CDR Mechanism	15
2.3 Identifying Potential CDR Mechanism Sites	16
2.4 Designing the Model and Structure for the CDR Mechanism	16
2.5 Determining Collaborative Dispute Resolution Procedures to Be Used by the CDR Mechanism	16
2.6 Selection of Intermediaries	17
3. Parties, Disputes, Performance and Outcomes of the CDR Mechanism	18
3.1 Individuals Involved as Parties in CDR Mechanism Dispute Resolution Initiatives	18
3.2 Cases accepted by the CDR mechanism	18
3.3 Types of Disputes Handled	19
4. Analysis of the Results from the Initial CDR Phase in Syria	21
4.1 The CDR Mechanism's Performance, Outcomes and Impacts	21
4.2 CDR Mechanism Locations	23
4.3 Types of Disputes and Outcomes in Comparison to Those Achieved by Other Community Dispute Resolution Mechanisms	23
4.3.1 Types of Disputes Accepted by the CDR Mechanism	24
4.3.2 Greater options lead to higher settlement rates	24
4.3.3 Cultural relevance leads to higher acceptance	24
4.4 Parties' Satisfaction with Intermediaries, Procedures, Outcomes and Reconciliation	25
4.5 Evaluation of the CDR Mechanism's Compliance or Congruence with UN Guiding Principles	26
5. Benefits and Challenges in Applying the CDR Model	27
5.1 Institutional Barriers and Opportunities	27
5.2 Lessons Learned from Tested CDR Mechanism Structures	28
5.3 Intermediaries	29
5.4 Training and Implementation of Dispute Resolution Procedures	30
5.5 Encouraging the Use of the Dispute Resolution Mechanism	30
5.6 Dispute Outcomes, Implementation and Monitoring	31
5.7 Increasing Women's Access to Services	32
5.8 Sustainability and Scalability	33
5.9 Social Cohesion	33
6. Conclusion	35
References	36
Annexes	38
Annex 1: UN Guiding Principles and Effectiveness Criteria	38
Annex 2: Required Skills of Dispute Resolution Service Providers	39
Annex 3: Types of Disputes Projected to Be the Focus of the CDR Mechanism	40
Annex 4: Locations of the CDR Mechanism in Syria	42
Annex 5: Collaborative Dispute Resolution Procedures Utilized	43
Annex 6: Evaluation of the CDR Mechanism's Compliance or Congruence with UN Guiding Principles	45

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## Tables

Table I: Breakdown of Intermediaries by Location and Gender . . . . .	17
Table II: Individuals Involved as Parties/ Beneficiaries by CDR Site . . . . .	18
Table III: Overview of Disputes Accepted for Dispute Resolution Assistance . . . . .	19
Table IV: Types and Numbers of Disputes Handled by the CDR Mechanism. . . . .	20
Table V: The CDR Mechanism’s Performance, Outcomes and Impacts. . . . .	22
Table VI: Parties’ Satisfaction with Intermediaries, Procedures and Outcomes. . . . .	25
Table VII: Collaborative Dispute Resolution Procedures Utilized . . . . .	43

## Boxes

Box 1: UN Guiding Principles (UNGPs) and Effectiveness Criteria: <i>International Standards and Criteria for Dispute Resolution Mechanisms</i> . . . . .	38
Box 2: Required Skills of a Dispute Resolution Service Provider . . . . .	39
Box 3: Types of Disputes Projected to Be the Focus of the CDR Mechanism . . . . .	40
Box 4: Compliance or Congruence of the CDR Mechanism with the UNGPs. . . . .	45

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# Abbreviations

<b>ADR</b>	Alternative Dispute Resolution
<b>CDR</b>	Collaborative Dispute Resolution
<b>DSD</b>	Dispute System Design
<b>GoS</b>	Government of Syria
<b>HLP</b>	Housing, Land and Property
<b>IBN</b>	Interest-Based Negotiation
<b>IDP</b>	Internally Displaced Persons
<b>ILCA</b>	Information, Counselling and Legal Assistance
<b>NRC</b>	Norwegian Refugee Council
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNGP</b>	Guiding Principles for Business and Human Rights

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# Abstract

The crisis resulting from over a decade of violent conflict and ensuing economic crisis in Syria has resulted in over half of the population displaced, fragmentation of the country into various spheres of influence and the breakdown of many important social networks and institutions. Some affected or lost are those that help citizens resolve a range of disputes. Moreover, communities and families continue to suffer increasing interpersonal conflict related to housing, land and property (including inheritance), divorce and domestic challenges, and rights of women. Resolving such disputes is imperative to building resilience in households and the wider communities they are part of. Unaddressed disputes may lead to many types of challenges, increasing protection concerns of Syrians and preventing them from being able to rebuild their lives. On a larger scale, these disputes are destabilizing and may prevent Syria's overall recovery.

International experiences and best practices from similar crisis contexts have demonstrated that the introduction and institutionalization of traditional, alternative or collaborative dispute resolution mechanisms and procedures effectively resolve various types of disputes. They provide an efficient and cost-effective approach to enable disputing parties to access and exercise their rights while increasing trust and cohesion at the community level. These approaches are rooted in local customs, providing individuals with a familiar means for conflict resolution, particularly for vulnerable people who likely are unable to access Syria's limited court system. Prior to the onset of crisis in 2011, many disputes in Syria were settled by appeals to the judiciary, tribal or religious leaders, or community notables. However, Syria's continued destabilization has significantly reduced institutional service provision. These factors have contributed to the breakdown of Syria's social fabric and trust within many of its communities, decimating pre-existing community resolution mechanisms.

To respond to the current situation, the United Nations Development Programme (UNDP) initiated a project on social mediation to help Syrians living in vulnerable communities that lack these services. Research was conducted by UNDP to improve understanding of existing and accepted types of community mediation. UNDP developed and tested a model of collaborative dispute resolution (CDR) that can be expanded to provide dispute resolution services more broadly in Syria. The piloting of the CDR mechanism has proven the value of an out-of-court mechanism through which disputes may be resolved in an efficient manner. The CDR mechanism has contributed to the resolution of critical issues faced by households and their wider communities, creating a more stable environment at the local level. This has enabled many Syrians to embrace their rights and engage in peaceful resolutions, contributing to improved social cohesion and longer-term recovery for the community.

The CDR mechanism has provided many lessons learned that can be applied to other crisis contexts. It illustrates how building social cohesion through improved access to justice and community-based resolutions effectively contributes to overall peace and stability at the local level, thus strengthening long-term peacebuilding efforts at wider scales.

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# Introduction

In 2019, the Syria Country Office of the United Nations Development Programme (UNDP) initiated the development of a community-based collaborative dispute resolution (CDR) mechanism. CDR is a type of alternative dispute resolution that refers to a much broader range of local dispute resolution procedures that are not tied to a specific institution yet assist in addressing a number of different types of disputes.

This working paper explores the utility of the CDR mechanism in Syria. It contributes to the UNDP's Development Future Series, aiming to provide knowledge and experience based on data collected during the CDR's piloting in Syria that is applicable to other crisis contexts.

Syrians are significantly burdened by legal and protection needs after over a decade of violent conflict, economic crisis and basic services operating at a minimum. Displacement remains a core concern, with over half of the pre-conflict population displaced and living as internally displaced persons (IDPs) or refugees. An estimated 25% of Syria's infrastructure has been destroyed (including homes, businesses, hospitals, schools, and judicial buildings). Programmatic operations, targeted beneficiaries, partner selection and UN delivery modalities are constrained by Western-imposed economic sanctions as well as UN and donor rules of engagement.

The breakdown of social networks and institutions has left many Syrians without dispute resolution assistance, negatively impacting the social fabric and local-level recovery efforts. With conflicts left unaddressed, many challenges arise, from local protection concerns of citizens to wide-scale disputes that may prevent Syria's recovery.

International experiences and best practices from similar contexts demonstrate that alternative dispute resolution mechanisms are efficient and cost-effective in addressing various types of disputes. Using methods rooted in local customs, disputing parties can build trust and exercise their rights, contributing to cohesion at the community level. Drawing on this work, the UNDP Social Cohesion and Local Development Pillar initiated a project on social mediation for communities where pre-existing resolution mechanisms have eroded.

Based on preliminary research on modes of Syrian community mediation,<sup>2</sup> UNDP prototyped a model for CDR. The CDR mechanism is culturally and context-aware, enabling Syrians to resolve various types of disputes in a cooperative and amicable manner while upholding legal and human rights. It provides a scalable model for dispute resolution services that can be applied across Syria. The project's data collection and findings illustrate efficient use of local-level out-of-court resolutions, supporting a stable environment conducive to enabling human rights and longer-term recovery.

The paper will describe (1) the initial research conducted on existing local dispute mechanisms in Syria; (2) the process taken to develop and tailor a CDR mechanism applicable to Syria; (3) analysis of the results from the initial phase; and (4) discussion on the benefits and challenges of applying the CDR as a solution to current recovery and development contexts.

This paper aims to give the reader a comprehensive overview of the benefits of applying a CDR process to similar contexts.

- Section 1 provides information on the background and current context in Syria.

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<sup>2</sup> 'Mediation' refers to the attempt to settle a dispute through the active participation of a third party (mediator) who works to find points of agreement between disputing parties and assist in reaching an agreement between parties involved.



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- Section 2 provides several considerations in developing a community-based dispute resolution programme and outlines the steps taken in developing a contextualized model of collaborative dispute resolution to be applied in Syria.
  - Section 3 provides a breakdown of the results of various disputes accepted by the CDR mechanism.
  - Section 4 provides analysis and initial key findings of the cases and outcomes of the CDR mechanism applied to Syria.
  - Section 5 discusses the main trends, benefits and challenges in applying the CDR in Syria and key issues to consider in similar contexts.
  - Section 6 wraps up with a summary conclusion of the utility of the CDR mechanism.

# Community-Based Dispute Resolution Development Process in Syria



## 1.1 Background

Syria has been in conflict for over a decade. The decade of violence brought on by the armed conflict—with internal and external parties engaged in direct and proxy confrontations—has claimed the lives of hundreds of thousands, devastated the country's infrastructure, basic services and economy, displaced internally and externally nearly half the population and set the country back several decades in human development. And despite the relative decline in armed conflict over the last several years, other factors have contributed to the inability of the Syrian people to recover from years of war, including the impact of sanctions on the economy and the COVID-19 pandemic, as well as the ensuing economic crisis in Lebanon.

According to the Humanitarian Needs Overview (United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), 2021), 13.4 million Syrians are desperate for support, with 11.1 million at catastrophic levels. The crisis has resulted in 6.6 million IDPs and 6.7 million refugees worldwide. Of these refugees, 5.6 million are hosted mainly in Lebanon, Turkey and Jordan, and significant populations are hosted in Egypt and Iraq (UNHCR Syrian Emergency, 2022).

Continued insecurity has driven displacement, compounded by Syria's economic decline deterring both IDPs and refugees from returning. Poor and vulnerable people remain exposed to ongoing exploitation due to their limited livelihood opportunities, interrupted education, precarious living situations, depleted household savings and reduced resilience to deal with external shocks. This is compounded by a lack of Syrians' awareness of and access to their rights,<sup>3</sup> met by the government's lack of capacity to support their needs. As part of the widespread destruction of infrastructure (including homes, businesses, hospitals and schools), many judicial institutions are severely damaged or destroyed (United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), 2021). Various obstacles to accessing justice (e.g., difficulty in travelling a long distance to courts to resolve pending personal status issues) constrain justice seekers who are attempting to rebuild their lives.

Despite these limitations, national and international actors have provided peripheral services to those with legal needs.<sup>4</sup> This has included access to legal services, raising legal awareness/literacy and providing counselling to those most vulnerable, in addition to community-based mediation services. Although these initiatives provide valuable legal services, many legal cases stem from personal/civil status issues (birth, death, marriage registration and documentation, and inheritance) that cannot be resolved out of court or through the relevant administrative body due to shortages in resources and/or damages incurred.

## 1.2 Barriers and Opportunities for a Community-Based Dispute Resolution Initiative

In times of peace, various members of society (including husbands and wives, children, other family members, neighbours, lenders and borrowers, business associates and community groups) experience tension, disagreements, disputes and conflicts over a range of issues.

<sup>3</sup> Many Syrians lack general knowledge about their rights. In addition, there have been a number of changes to legislative frameworks to reflect the legal needs and circumstances of the post-conflict environment.

<sup>4</sup> More specifically, meaning actors who give support as legal aid and service providers and services (e.g., administrative and legal identity/civil status documentation, etc.).

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Disputants disagree on a range of matters, such as family relations, divorce, inheritance, landlord-tenant agreements, property boundaries, debt, commercial arrangements, repayment of debts and disputed claims over land and property. These seemingly ‘typical’ or ‘everyday’<sup>5</sup> disputes in communities are made more acute by a decade of conflict and uncertainty, constraining their resolution through barriers such as:

- Destruction of citizens’ communities of origin, local institutions and social networks, which in the past provided support to their members.
- Displacement and dispersion of known and trusted individuals, community leaders and groups, which under normal circumstances serve as intermediaries and provide dispute resolution assistance.
- Many individuals and families—as a result of fighting, political tensions or social or economic conditions—being forced to move to new locales and communities and become IDPs.
- IDPs moving into urban, peri-urban or informal settlements where other residents are not known, and individuals and social networks that might normally provide support or dispute resolution assistance are limited or non-existent.
- The nature of the protracted and prolonged conflict, which seriously affects the likelihood of IDPs and refugees returning as they become more and more disconnected from their existing social networks and supports.
- The collapse of the economy, which has made it difficult, if not impossible, for a significant proportion of the population to secure livelihoods, with resulting pressures on individuals, their families and communities.
- Displacement of IDPs, resulting in illegal housing occupation, often resulting in disputes between legal owners, secondary occupants, other IDPs and members of host communities.
- Tensions between returnees and communities who have stayed throughout the conflict.
- The destruction of state institutions and services—including loss of personnel, records, institutional memory and other capacities—whose absence constrains social and economic support to the population in general and specifically IDPs.
- A damaged and overwhelmed legal system—in terms of location of facilities, physical structures and personnel (judges and lawyers)—with limited capacity to help citizens resolve disputes in an efficient, timely and cost-effective manner.
- The high cost and time required to obtain a judicial decision on contested issues.
- Major constraints, both financial and in terms of personal safety, that can prevent disputing parties and potential intermediaries from travelling to venues to obtain or provide dispute resolution assistance.
- Gender concerns whereby women—even as they are disproportionately affected by the conflict and resulting displacement, for example, the increase in female-headed households—are hampered in their ability to access services or fully realize their rights due to traditional cultural norms and practices that still favor patriarchy.

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<sup>5</sup> The CDR approach is aligned with the *people-centered justice* approach. Under this approach, those regular occurring disputes are also called ‘everyday’ disputes.

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Despite these barriers, a number of factors enable the resolution of everyday disputes for Syrians (who are often unable to pay for legal services), such as:

- Traditional, culturally inspired conflict resolution avenues led by local insider mediators and elders/respected figures that facilitate voluntary and consensual resolution of differences, including serious disputes or conflicts.
- Lawyers who provide alternative ways to handle protracted settlement negotiations and other related cases outside of Syria's overwhelmed court system.
- Legal systems burdened by too many responsibilities and tasks that are open to off-loading the resolution of disputes to other institutions and intermediaries.
- The presence of UN and INGOs in the country and their access to international and national CDR expertise, human resources and finances through their ongoing commitment to developing and implementing models for dispute resolution.

International experience across countries that have gone through serious social and economic disruptions or violent conflict illustrates the benefits of introducing and institutionalizing CDR systems. CDR mechanisms and procedures at the community level can help disputing parties resolve a significant number and type of interpersonal and intergroup disputes while providing access to their human rights in a timely and cost-effective manner. CDR mechanisms instituted at the local level have generally been neither intended nor designed for resolving sources of major societal conflicts. They can, however, contribute to fostering peaceful intergroup relations at the community level, especially if components are designed and implemented with this as a goal (Valters, 2013; Moore, Kyu, & Lin, 2020).

The above opportunities help drive and enable UNDP's CDR Mechanism. UNDP has partnered with the Norwegian Refugee Council (NRC) Information, Counselling and Legal Assistance (ILCA) project to help design and implement this work on community dispute resolution and address the most pressing local conflicts facing Syrians.

### **1.3. Dispute Resolution in Syria**

#### **1.3.1. Formal Channels for Dispute Resolution in Syria**

As noted above, Syria has a long history, traditions and cultural practices that promote and facilitate the voluntary resolution of disputes. This has especially been the case in rural areas or locales where there are tribes, which often used customary procedures to resolve a variety of disputes.

While customary intermediaries, procedures, standards, and criteria that guide outcomes are not always congruent with international human rights standards and even the national laws in some cases, they are often widely accepted in many of the communities and by many of the people who use them. The crisis in Syria, however, has led to difficulties in the functioning of the country's customary dispute resolution mechanisms and procedures.

Prior to 2011, Syria had a relatively functional state-based judicial system with seven judicial bodies responsible for resolving a wide range of issues. They included, and still include, the Real-Estate Court, the Civil Court, the Religious Jurisprudential Court, the Criminal Court, the Appeals Court (both Civil and Criminal), the Court of Cassation, and the Administrative Court (the State Council). However, the judicial system was not always efficient at processing cases and rendering timely decisions. Using a judicial route to settle disputes often took a long time. It has been widely reported that property cases could sometimes take up to seven years to resolve.

Since the crisis, the legal system is overwhelmed by new cases and a growing backlog of case processing. Additionally, users have commonly viewed the judicial system, its institutions and its laws as highly

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complex, difficult to understand and hard to navigate on their own. To do so generally requires assistance from lawyers and payment of multiple judicial/administrative fees, as well as the potential for additional expenses, such as travel, meals and lodging, if a court is far from where parties reside or multiple hearings are required. These costs are often too expensive for Syrians to incur, particularly at this time, given the current economic state.<sup>6</sup>

Another issue related to the judicial system is women's access to justice. Article 25 of the constitution states that "citizens are equal before the law regarding their rights and obligations" (Initial Report of States Parties: Syria, 2005). Moreover, Article 45 states that women are guaranteed "all the opportunities that enable them to participate fully and effectively in political, social, cultural, and economic life" (NGOs Report on the Initial Report of the Syrian Arab Republic on the CEDAW, 2007).

Although the Syrian Constitution references that Syrian men and women are entitled to equal rights, there is no legislation that specifically prohibits gender-based discrimination. There are numerous instances where Syrian law—in practice—is discriminatory on a gender basis (e.g., those regarding marriage and nationality). Examples are the denial of citizenship status for the children of Syrian women—common in the region—and personal status and penal codes. Additionally, the evidentiary value and credibility of a woman's testimony in court depend on which court is hearing her case. "Women are treated as full persons before the civil and criminal courts, which are secular and come under the umbrella of the Ministry of Justice. Similarly, the civil and commercial codes grant women the same legal capacity as men. Where Shari'a is codified and applied in Syrian law, a woman's testimony is worth only half of the testimony of a man" (Report on Syria, citing Article 46 of the civil code, Article 15 of the Commercial Law (No. 149/1949), 2009).

The above examples of legal discrimination undercut and continue to undermine the status of women as active citizens in Syrian society and their ability to access justice within the state's justice system.

### **1.3.2. Traditional / Customary Channels for Dispute Resolution in Syria**

Many cultures have or continue to use non-state conflict management and dispute resolution mechanisms to resolve differences between or among their members, and on occasion with outsiders. Syria and other countries and cultures in the Middle East have their own customary mechanisms and procedures.

In the past, tribal structures often attempted to reach settlements over contested issues between disputants while supporting the overall interests of their community. Typically, tribal leaders and members have a range of effective mechanisms and procedures for mitigating conflict, as well as potential or actual harm. Their approaches often focus on managing how disputes are expressed as they attempt to resolve issues while transforming the relationships of disputants to reconcile differences and restore harmony across interpersonal and intergroup relations.

However, it is important to note that, despite the important role that tribes in Syria played in dispute resolution prior to the war, the armed conflict has negatively affected the social fabric in general and the trust and authority previously granted to tribal leaders, leaving communities without a social support structure.

The following provides some summarized information on customary approaches and methods used to address disputes in the Arab world and Syria (for more details, see Moore C., '*Desk Study & Literature Review to Support Development of a Model and Pilot by UNDP for a Collaborative Dispute Resolution System and Mechanism in Syria*', 2019):

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<sup>6</sup> Article 51 of the Syrian Constitution stipulates that citizens have the right to litigation, legal remedies, review and defense before the courts guaranteed by the law, and the state shall provide legal aid to those who cannot afford it, in accordance with the law. However, currently, the government's capacities and resources to provide such services are extremely limited. As for the Bar Association, its role is limited to organizing the work of the legal profession in Syria in general, and although there are legal provisions that allow the Bar Association to provide legal aid to the most vulnerable individuals, the practical reality proves that there is currently no such support for many reasons, including poor union financial funding.

<sup>7</sup> The '*Desk Study & Literature Review to Support Development of a Model and Pilot by UNDP for a Collaborative Dispute Resolution System and Mechanism in Syria*' (2019) is an internal document and may be available upon request by contacting the authors.

**a) *The Sulha dispute-handling mechanism and rituals ('settlement', 'peace' or 'reconciliation' in Arabic)***

Sulha is a dispute-handling mechanism that strives to prevent, mitigate, manage, resolve and transform serious conflicts.<sup>8</sup> It is an indigenous dispute-handling mechanism with deep roots in the Middle East, including in Syria, and predates the rise of Islam (Jabbour, 1993).<sup>9</sup> Sulha involves a neutral third-party mediator to address a social dispute between conflicting parties. One of the conflicting parties approaches the mediator to narrate his/her story. The selected mediator takes on primary responsibility for resolving the conflict and performs the Sulha by actively listening to the issue(s) at hand and providing guidance for resolution (Wi'am: The Palestinian Conflict Transformation Center, 2010).<sup>10</sup>

The social disputes Sulha was originally designed to address were serious conflicts between members of tribes. Typically, Sulha was performed when issues of honor and respect were at stake that involved the potential for violent bodily harm or murder between disputants. Moreover, Sulha developed as a collective response to violence and to restore relations and order between families, tribes or villages, in order to reduce repercussions to the respective community or set of communities entangled in the dispute (Jabbour, 1993). Sulha can also be used to address a range of other types of issues, including those over 'marriages, family, domestic violence, local feuds, brawls, land disputes, honor, neighbourhoods, workplace, youth conflicts and related community disputes' (Wi'am: The Palestinian Conflict Transformation Center, 2010).

The following provides a summary of the steps an intermediary or group of intermediaries uses when performing Sulha (Abu-Nimer, 2003; Pely, 2017; Pely, 2008; Dryer Saxon, 2018). The intermediary receives and accepts the request and forms a Jaha (a dispute resolution group of men). Thereafter, the Jaha obtains a commitment from the victim's family or associates to participate in the process. After a commitment is obtained, the Jaha negotiates a time-limited truce and ceasefire<sup>11</sup>. The Jaha assures that the commitments to proceed are respected by paying 'security money' or making a 'commitment statement' after information related to the case and circumstances is gathered. The Jaha formulates a potential 'verdict'/proposal as the basis for negotiations and engages the different parties in negotiations and mediation. If an agreement is not reached, the Jaha implements deadlock-breaking procedures or moves on to arbitration.

**b) *Reaching voluntary agreements by parties, acceptance of the Jaha's decision and the final Sulha ritual. Faith-based actors providing mediation or arbitration***

Syrian law has established specialized judicial systems and courts for the major religions in the country. They are specifically mandated to address issues related to personal status (Diab, 2009). The special courts include Islamic, doctrinal and spiritual courts<sup>12</sup>. These systems and courts strive to provide conflict management, resolution and transformation assistance.

**c) *Arbitration***

With a long history in the Middle East, arbitration—known as *tahkeem* or *تحكيم* in Arabic—involves a third-party dispute, grievance or conflict resolution process in which disputants voluntarily submit their issues to a mutually acceptable individual or group. Those selected are responsible for making a non-binding recommendation for a settlement or a binding decision. In pre-Islamic times, the functions of an arbitrator were taken on by elders and sheiks in tribal communities as well as in major cities to resolve commercial disputes (Al-Ramahi, 2008).

<sup>8</sup> Most of the literature on Sulha is based on research in Palestine and Lebanon. Few resources were found that described its use in Syria.

<sup>9</sup> Jabbour (1993) noted that there are references to Sulha in early Semitic writings and Christian scriptures dating from around the first century.

<sup>10</sup> Note: It has been difficult to find literature on the practice of Sulha in Syria, although it is commonly used in rural communities.

<sup>11</sup> As noted above, this step and the next one may be eliminated if the dispute does not involve potential future violence.

<sup>12</sup> Laws relevant to personal status are the Qunun al-Ahwal al Shakhshiyya, the Code of Personal Status Law (CPU) 59 of 1953, which came into force in 1953. Subsequently, the law was amended in 1975 by the Personal Status (Amendment) Law No 34. This law added new provisions and articles and provided for better legal rights for women.

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**d) Contemporary arbitration**

Syria enacted a new Arbitration Law on March 25, 2008; it came into force on May 1, 2008. The law replaced outdated articles (506-534) of the Code of Civil Procedure of September 28, 1953. The law draws on elements from the Egyptian Arbitration Law (1994) and the United Nations Commission on International Trade Law (UNCITRAL) Model Law. In some cases, provisions typically related to disputes brought before the Court of Appeal are derived from French law. No distinction is made between domestic and international arbitration (Comair-Obeid, 2014).

The Arbitration Law instigated the establishment of private arbitration centers in Syria. After the passage of the law, close to 54 centers sought licenses to operate. To date, however, none of them are functioning. Nonetheless, the Ministry of Justice and the Syrian Investment Agency are exploring the creation of international arbitration centers to consider the claims of Syrian investors based overseas (Comair-Obeid, 2014).

Despite progress made for the legal institutionalization of arbitration for commercial contracts (e.g., Law 4/2008), Syria has not developed a strong culture of arbitration. For instance, although there is limited data on the use of arbitration, it is understood by Syrian legal professionals that parties do not typically use the arbitration procedures that have been put into contracts. This is further constrained by the judiciary viewing arbitration as a competitor in the dispute resolution arena (Syrian Law Journal, 2017). Finally, Syria's ongoing crisis stifles foreign investment in commercial activities, particularly as contractual arbitration clauses are not upheld.



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# Design and Implementation of the New Dispute Resolution Initiative

# 2

## 2.1. Designing a tailored model

With the guidance and support of UNDP, the CDR model was designed and implemented to comply with the United Nations Guiding Principles for Business and Human Rights (UNGPs) and its Effectiveness Criteria<sup>13</sup> as well as the Parameters and Principles of UN Assistance in Syria. Moreover, the UNGPs provided international standards and factors to consider when supporting conflict resolution mechanisms, such as including legitimate stakeholder groups that can instil trust in CDR and ensuring transparent processes that build confidence among various stakeholders.

The effectiveness criteria were chosen as the guiding international standards (for details, see *Annex 1: UN Guiding Principles and Effectiveness Criteria*). Until recently, there have not been clear internationally recognized standards that define the responsibilities of state and non-state actors, institutions and mechanisms engaged in dispute and grievance resolution to ensure access to justice and protect the human rights of potentially affected parties. While various actors and researchers have developed a number of frameworks,<sup>14</sup> one, and associated standards, has become the most widely accepted—the UNGP.

UNGPs are now widely used as benchmarks to measure the performance, effectiveness and alignment of state and non-state dispute resolution institutions and mechanisms to promote access to justice and protect human rights. The UNGPs prescribe that such measures “should be implemented in a non-discriminatory manner, with particular attention to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized, and with due regard to the different risks that may be faced by women and men”.<sup>15</sup>

The UNGPs note that even where state or non-governmental institutions are operating optimally, problematic issues, disputes or grievances that require access to justice or to secure human rights may still arise. The UNGPs require that parties that have experienced in the past or are presently encountering actions that result in disputes, grievances or potential violations of human rights must have effective methods to seek redress. Having such dispute resolution systems and complaints-handling procedures in place can play an important role in satisfactorily addressing issues of concern.

The Guiding Principles and Effectiveness Criteria detailed in Box 1: UN Guiding Principles (UNGPs) and Effectiveness Criteria was used to both guide the design of the CDR pilot and assess its performance.

Based on this, UNDP began by recruiting an external consultant with international expertise in dispute systems design (DSD). To ensure the CDR mechanism was informed by Syria’s context, the consultant first conducted a situation assessment of the types of disputes occurring in a targeted area and identified the existing dispute resolution mechanisms and people available that could provide assistance.

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<sup>13</sup> Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework. New York and Geneva, United Nations, 2011. The UNGPs were proposed by John Ruggie, a UN special representative on business and human rights, and endorsed by the UN Human Rights Council in June 2011.

<sup>14</sup> One example of a framework presented in *Resolving Land Disputes Through Restitution Mechanisms: A Comparative Analysis of Country Case Studies*, 2017, uses the United Nations Principles on Housing and Restitution for Refugees and Displace Persons (the ‘Pinheiro Principles’). These global standards, approved by the UN Human Rights Subcommittee in 2005, articulate restitution rights for refugees and IDPs.

<sup>15</sup> Ibid.



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After analysing existing structures, gaps were identified regarding mechanisms and service providers, and a new mechanism and related procedures were prescribed. In order to ensure a participatory and informed approach to programme design, a ‘designshop’ was conducted through various sessions with key actors.

From this process emerged a contextualized CDR model that employs committees of individuals from the communities to assist with disputes. Three communities were chosen based on the following considerations: (a) community stability (i.e., free from ongoing fighting or significant internal community strife); (b) the ability to assure the safety of CDR staff and intermediaries; (c) supportive or at a minimum non-resistant community leaders or their institutions; (d) the interest and availability of prospective intermediaries; (e) proximity to Damascus and UN staff; (f) ease of travel for disputants; and (g) security of access to the location of dispute resolution services, etc. (see Section 4.1.1., CDR Mechanism Locations). Through UNDP’s direct implementation, significant efforts were invested to identify potential candidates to be intermediaries who were highly respected and trusted by members of their community with the standing to serve as third parties. Five CDR committees were established to include individuals who were nominated by local community networks (i.e., those who had supported the initial assessments, including community representatives, UN field support staff, justice professionals, etc.) based on their standing in the community as trusted, neutral and fair individuals who could address disputes in an unbiased manner. It is important to note that the role of the intermediaries is not based on any incentive but rather relies on the commitment of the nominated individuals based on their social standing within the communities, a factor that also increases the sustainability of the mechanism in the long term. These committees were each paired with a Syrian lawyer, who provides advice in each case in accordance with the national laws. The CDR lawyers were engaged by the UNDP Syria Country Office without any involvement from the bar association. Each position was advertised online, and short-listed candidates were interviewed by UNDP in accordance with the following criteria:

- The candidate must be qualified to practice law in Syria. By nature of their qualifications, Syrian lawyers are accredited by the bar association to provide legal advice.
- The candidate must have a professional experience in the field of legal community work.
- The candidate must have professional experience in the field of legal arbitration.

Subsequently, CDR training was conducted by UNDP in cooperation with NRC, targeting 50 individuals (including five women), including intermediaries and staffing for the CDR committees. Training for CDR mechanism intermediaries emphasized interest-based negotiation (IBN) and facilitative mediation. Both procedures are based on the theory that disputants can often develop mutually acceptable settlements of disputes themselves if they understand each other’s interests and have relationship and procedural assistance from a trusted and effective intermediary.

The dispute resolution service providers were equipped with a wide range of comprehensive skills that address various aspects of conflict mitigation and resolution. As *Annex 2: Required Skills of Dispute Resolution Service Providers* highlights, competent performance as a neutral dispute resolution service provider includes the ability to listen actively to various stakeholders, to use clear and harmonious language and to have the capability to distinguish facts from opinions, amongst numerous other skillsets.

## **2.2. Defining the Types of Disputes to Be Accepted and Handled by the CDR Mechanism**

Ultimately, the designshop participants decided the CDR mechanism should focus on a range of types of civil disputes. They also determined that those issues handled should be driven by the needs and desires of community members unless they are too sensitive or complex to address, such as those involving government entities, a large number of parties or potential for, or actual, risks of violence. *Annex 3: Types of Disputes Projected to be the Focus of the CDR Mechanism* identifies the types of disputes that were initially anticipated as the focus for the CDR mechanism.

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### 2.3. Identifying Potential CDR Mechanism Sites

The selection of sites for the CDR mechanism was an important early step in its implementation. A situation assessment of a number of types of communities that might be appropriate was conducted. They included urban and peri-urban areas, rural agricultural communities and areas with tribes. The assessment provided the information necessary to make a final decision on where to locate CDR mechanisms.

UNDP and NRC staff identified several potential communities where the CDR mechanism might be implemented. A situation assessment with field visits was conducted by UNDP staff to evaluate the communities and provide information needed to make final selections. These potential sites were narrowed down after further deliberation. Ultimately, after extensive discussion and application of the standards and criteria developed by the designshop participants, three sites were selected for initiating CDR mechanisms: Dara'a (a city in southwestern Syria and capital of the Dara'a Governorate; Douma (a city northeast of Damascus, centrally located in the Rif Dimashq Governorate); and Al-Tal (a city in southern Syria, which is part of the Rif Dimashq Governorate and capital of the al-Tall District). More information on these locations can be found in *Annex 4: Locations of the CDR Mechanism in Syria*.

### 2.4. Designing the Model and Structure for the CDR Mechanism

Designshop participants considered four possible models for the CDR mechanism. They included:

1. Training existing individual dispute resolution providers in the selected areas to provide services in the context of their present roles, functions and relationships with community members.
2. Creating a partnership and new dispute resolution service within an existing organization that either currently provides some dispute resolution assistance or is interested in expanding its personnel and services to do so.
3. Creating a network dispute resolution system that would involve convening and organizing a group of individuals and institutions that would coordinate and provide complementary services to support the resolution of disputes.
4. Establishing a new free-standing dispute resolution mechanism and/or institution.

Designshop participants ultimately decided to pursue a combination of options 1 and 4 for all CDR sites. These were selected over the others for several reasons. UNDP staff believed that they could find individuals with some dispute resolution experience in communities where implementation was planned. UNDP felt the individuals' effectiveness could be enhanced if they received professional dispute resolution training and formalization of ways they secured and handled cases.

The creation of a new free-standing dispute resolution mechanism was selected because of difficulties in identifying local partners in a non-national government-affiliated institution—either a local council or Syrian CSO.

### 2.5. Determining Collaborative Dispute Resolution Procedures to Be Used by the CDR Mechanism

CDR is a type of alternative dispute resolution (ADR) and encompasses procedures that facilitate the voluntary engagement of parties in a dispute, conflict or grievance who are willing to cooperate, discover or develop mutually acceptable outcomes that settle their differences.

A *dispute* is a significant disagreement or argument, frequently between private parties, over a narrow range of issues. A *grievance* is a complaint or claim initiated by an individual or group against a government, government institution or a private entity and/or its personnel over something or an action that is believed to be wrong or unfair. A *conflict* is a highly polarized dispute between two or more people, groups, or institutions—often over several serious and deep-rooted issues—which commonly involves actions that

result in serious psychological, physical or financial harm to persons and/or property (Moore, A Feasibility Assessment on the Introduction of Alternative Dispute Resolution (ADR)/Collaborative Dispute Resolution (CDR) to Resolve Land Disputes in Myanmar, 2019).

Because ADR procedures are often referred to and seen as alternatives to taking contested issues to court for a judicial decision and CDR refers to a much broader range of voluntary dispute resolution procedures that are not tied to a specific institution, CDR will be the term for dispute resolution procedures described in this evaluation.

CDR procedures are processes that enable a group of people to reach mutually acceptable outcomes, understandings, agreements or decisions without voting. They involve unassisted or assisted processes that promote productive communications, information exchange, dialogue and/or negotiations with the goal of empowering participants to reach a consensus on their desired outcomes.

CDR processes utilized by this initiative involved the use of intermediaries who provided a range of assistance to help disputing parties negotiate voluntary agreements or voluntarily accept a suggestion, proposal, or recommendation for settlement by the third party. Intermediaries participating in the initiative were not decision-makers and had no authority to make binding decisions for disputing parties (see *Annex 5: Collaborative Dispute Resolution Procedures Utilized*).

## 2.6. Selection of Intermediaries

Ultimately, 29 individuals were selected to serve as intermediaries. The table below provides a breakdown of intermediaries by location and gender. Trainees came from a range of backgrounds and included several mukhtars, sheikhs, engineers, lawyers and customary leaders. They were overwhelmingly men.

**Table I: Breakdown of Intermediaries by Location and Gender**

LOCATION	MALES	FEMALES	TOTAL INTERMEDIARIES
Dara'a	12	0	<b>12</b>
Douma	5	2	<b>7</b>
Al-Tal (Rural Damascus)	9	1	<b>10</b>
<b>Totals</b>	<b>26</b>	<b>3</b>	<b>29</b>

The three women candidates were other respected professionals or community leaders—a teacher, an engineer and a prominent community member. Securing the involvement of women in community dispute resolution is a common problem in many developing countries that have strong patriarchal social systems (Jayasundere & Valters, 2014).

There are several likely reasons why there were many fewer women than men selected to be candidates to serve as intermediaries. Some included difficulties for the UNDP staff in identifying women who were willing or able to participate, fewer women who took the initiative to put their names forward to be considered and conservative social norms, customs and practices that generally relegated the role of dispute resolvers to men. In Dara'a, for example, male candidates and other community leaders indicated that they doubted disputants would accept women as intermediaries. This issue is further discussed in section 5.

# Parties, Disputes, Performance and Outcomes of the CDR Mechanism

# 3

## 3.1. Individuals Involved as Parties in CDR Mechanism Dispute Resolution Initiatives

Table II provides a breakdown of the number of men and women involved as parties/beneficiaries in the CDR process and presents the distribution of disputants who participated in the initiative by location and gender.

Table II: Individuals Involved as Parties/ Beneficiaries by CDR Site

LOCATION OF CDR MECHANISM	MALES	FEMALES	TOTAL INDIVIDUALS IN PARTIES
Dara'a	72	25	97
Douma	53	27	80
Al-Tal (Rural Damascus)	84	44	128
Totals – All locations	209	96	305

While some disputes involved only men, in others, both men and women were found on both sides of the dispute. However, there remains a significant gap between women and men participants in such processes. Gender concerns are further discussed throughout the paper, and issues concerning increasing women's access to services are specifically discussed in section 5.2.). The level of participation by women as parties in the CDR mechanism indicates they had some access and level of trust in the mechanism, its intermediaries and procedures and were not denied participation by male disputants. Detailed data on the actual role of women as parties—as initiators or respondents or as lead negotiators, participants or observers—was not collected in the initial phase of the CDR mechanism. There were, however, a number of disputes over housing, land, property, dowries, family relations and spousal issues in which women were central parties and lead negotiators in disputes.

## 3.2. Cases accepted by the CDR mechanism

Between December 2020 and June 2021, the CDR mechanism received 115 requests from either initiating parties ('initiators') or both initiating and responding parties ('respondents') for assistance in resolving their disputes. Of these, 17 disputes were not accepted by the initiative because contested issues were outside of its scope, such as in the case of murder.

Out of 98 cases, two respondents refused to participate. One of the reasons for non-participation was a preference for using the judicial system to resolve differences. The other did not provide feedback.

Ultimately, 96 cases were referred by the CDR mechanism to intermediaries for assistance. An overview of disputes brought to the CDR mechanism and accepted for resolution is presented in the table below.

**Table III: Overview of Disputes Accepted for Dispute Resolution Assistance**

GENERAL INFORMATION ON DISPUTES	CDR MECHANISM LOCATION AND CASES			TOTAL	%
	Dara'a	Douma	Al-Tal		
Total disputes brought by one or more disputants to the CDR mechanism	47	37	31	115	NA
Disputes rejected by the CDR mechanism because issues were outside of its scope	10	6	1	17	15% of total disputes brought to CDR mechanism
Disputes brought to the CDR mechanism that were accepted because issues were within its scope	37	31	30	98	85% of total disputes brought to CDR mechanism
Disputes where one or more parties refused to engage in dispute resolution provided by the CDR mechanism, and intermediaries did not provide assistance	0	2	0	2	2% of total disputes accepted by the CDR mechanism
Disputes accepted by the CDR mechanism with all parties agreeing to proceed to dispute resolution provided by CDR mechanism intermediaries	37	29	30	96	83% of total disputes brought to CDR mechanism

### 3.3. Types of Disputes Handled

The disputes handled by the CDR mechanism were generally similar to those identified in the designshop as being appropriate for acceptance and assistance. Some additional types of cases, however, were also accepted in order to ensure the initiative was disputant-driven and that the disputants themselves had requested help to resolve such cases. Additional cases included marriage, family and divorce, a personal injury case and a missing persons case.

Types and numbers of each kind of dispute handled by the initiative are detailed below in Table IV: Types and Numbers of Disputes Handled by the CDR Mechanism. As can be seen, 31 disputes concerning housing, land and property (HLP) issues were the largest broad category of cases handled by the CDR mechanism. Fourteen disputes over land and property sale, conveyance and documentation made up the largest sub-category of HLP cases. These occurred in close to equal numbers in Douma and Al-Tal.

The second largest broad category of disputes concerned 21 inheritance cases. Nineteen of these cases involved issues over family housing or land.

The third largest broad category of disputes concerned 19 cases of relationships between husbands and wives and/or divorce.

However, all family disputes combined account for 51 cases in total—more than half of all cases handled by the CDR mechanism, including 13 cases involving issues among multiple family members (i.e., brothers, sisters, widows and other relatives); 19 cases concerning inheritance of family housing and land; and 19 cases concerning relationships between husbands and wives and/or divorce.

Table IV: Types and Numbers of Disputes Handled by the CDR Mechanism

TYPES OF DISPUTES	NUMBER OF DISPUTES
<b>Housing, Land, and Property (Total)</b>	<b>31</b>
1. Land and property: Sale, conveyance and/or documentation issues (unrelated parties)	14
2. Land and property: Contested land ownership and sale by secondary party to a third (unrelated parties)	3
3. Contested land occupancy (unrelated parties)	1
4. Property demolition: Destruction of property and contested right to land, property and construction materials	2
5. Landlord/tenant: Terms of occupancy, payment of rent, property damage, repairs and incurred costs, eviction, etc.	11
<b>Inheritance (Total)</b>	<b>21</b>
1. Family Land and Property: Division and allocation of land and immovable property	19
2. Division of movable or monetary assets	2
<b>Family Relationships: Disputes between or among family members (Total)</b>	<b>13</b>
1. Shared housing	5
2. Husband, wife, siblings and parents	8
<b>Family Relationships: Domestic relations between spouses /divorce (Total)</b>	<b>19</b>
1. Attitudes, behaviours, and interactions	12
2. Financial issues	5
3. Performance of domestic responsibilities and tasks	2
<b>Commercial: Involving individuals, businesses, partnerships, etc. (Total)</b>	<b>10</b>
1. Contract disputes	8
2. Debt: Between lenders and borrowers or between family members	2
<b>Personal Injury</b>	<b>1</b>
1. Traffic accident: Death of victim and compensation for loss	1
<b>Missing Persons</b>	<b>1</b>
1. Recognition of paternity and registration of a child	1
<b>Total cases</b>	<b>96</b>

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# Analysis of the Results from the Initial CDR Phase in Syria

# 4

## 4.1. The CDR Mechanism's Performance, Outcomes and Impacts

Between December 2020 and June 2021, across the three targeted communities, the CDR mechanism received 115 requests from disputing parties for resolution assistance. Support was provided in 96 cases involving 305 beneficiaries. The difference between the number of requests to the CDR mechanism and actual cases where assistance was provided is due to some cases being outside of the CDR mechanism's scope, as well as refusal to engage in its processes by respondents and connected disputing parties.

Fifty of the 96 cases accepted for assistance involved disputes over housing, land and property, specifically regarding sale, conveyance, documentation, landlord/tenant relations or inheritance.

Thirty-two of the 96 cases were over family problems between spouses, children or other family members. The remainder focused on matters such as debt, personal injury and missing persons.

In 91 of 96 disputes accepted for resolution assistance, intermediaries were able to resolve all contested issues. They did so through parties either reaching a collaboratively mediated agreement or voluntarily accepting a recommendation made by their intermediary/intermediaries. This represents a very high settlement rate in comparison to that achieved by other community dispute resolution programmes around the world (see below, section 4.1.1.). Possible explanations for these differences may include Syrian cultural norms and practices for disputing; a norm of respect between disputants and intermediaries; and the potential for more frequent provision of insights, suggestions and proposals for terms of settlement by Syrian third parties. More information on these potential factors is discussed later in this evaluation.

In five of the 96 cases accepted for assistance, disputants, with the assistance of intermediaries, were able to voluntarily resolve some but not all disputed issues.

Only four of the 96 cases accepted by the CDR mechanism for dispute resolution assistance did not achieve agreements. Three of these disputes involved issues between spouses and/or divorce. One concerned the division and allocation of family land and property.

In 85 of the 96 cases handled through the CDR mechanism, all terms of agreements and settlements were met in full by intermediaries and related parties. In six of the 91 cases, disputants partially implemented agreements or settlements. Some implementations of agreements likely occurred after the conclusion of the CDR mechanism, especially if their terms required execution over time.

In 65 disputes, parties engaged in some form of reconciliation. This commonly involved acknowledging roles they had played in the development of their disputes, issuing apologies, making statements of forgiveness or participating in formal reconciliation ceremonies.

The results of this assistance are presented in the following table.



**Table V: The CDR Mechanism’s Performance, Outcomes and Impacts**

DISPUTE OUTCOMES	CDR MECHANISM LOCATION AND CASES			TOTAL	% OF CASES
	Dara’a	Douma	Al-Tal		
Disputes where all contested issues were voluntarily settled (either by a mediated agreement or voluntary acceptance by parties of a recommendation by the intermediary/intermediaries)	37	28	26	91	94%
Disputes where some disputed issues but not all were voluntarily settled (either by a mediated agreement or voluntary acceptance by parties of a recommendation by the intermediary/intermediaries)	0	1	4	5	5%
Disputes where all agreements reached or recommendations for settlement were implemented	35	26	24	85	87%
Disputes where some but not all agreements reached or recommendations for settlement were implemented	1	0	5	6	6%
Disputes where no agreements were reached or no recommendations for settlement were implemented	1	3	1	5	5%
Disputes where parties explicitly reconciled and restored relationships or amicably agreed to disengage from one another	30	19	16	65	67%

In 91 of the 96 disputes accepted for resolution assistance, disputants, with the assistance of intermediaries, were able to resolve all contested issues either by reaching a mediated agreement or voluntarily accepting a recommendation for a settlement by their intermediary/intermediaries.

In 5 of the 96 cases accepted for assistance, disputants with the assistance of intermediaries were able to voluntarily resolve some but not all disputed issues by either reaching a mediated agreement or voluntarily accepting a recommendation by their intermediary/intermediaries.

No agreements were reached in only four of the 96 cases accepted by the CDR mechanism for dispute resolution assistance. Three of these disputes involved issues between spouses and/or divorce. One concerned the division and allocation of family land and property.

While mutually satisfactory agreements negotiated by disputants with an intermediary’s assistance—or parties’ voluntary acceptance of an intermediary’s suggestion, advice or recommendation—are significant measures of the success of a dispute resolution initiative, implementation of outcomes is even more important. Some agreements or voluntary acceptance of third-party recommendations were ‘self-executing’ in that they were implemented immediately at the conclusion of the dispute resolution process. Others were ‘non-self-executing’ and required some performance/action or exchanges by parties over time.

In 85 of the 96 cases handled by CDR mechanism’s intermediaries, parties had implemented, in full, all terms of a settlement. In six cases (6%), disputants partially implemented agreements or settlements.

Differences in the number of agreements and settlements versus the rates of implementation may be due to a number of factors. In some instances, parties may have decided they did not want to comply with all of the terms of their agreement or voluntary settlement, so only partial or no outcomes were implemented. This is not uncommon in some cultures that distinguish between reaching agreements and implementing them. Implementation is often seen as a separate negotiation or problem-solving process.

In others, implementation of agreements or settlements may have required performance by one or more parties over time and were still in the process of completion or implementation at the time the CDR mechanisms’ outcomes were evaluated. To date, no specific information has been collected by the CDR



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mechanism regarding why agreements or terms of settlements were not implemented, though follow-up will be carried out in 2022.

#### **4.2. CDR Mechanism Locations**

As noted earlier, a number of significant factors influenced the selection of target sites, including community stability (i.e., free from ongoing fighting or significant internal community strife); the ability to assure the safety of CDR staff and intermediaries; supportive, or at a minimum non-resistant community leaders or institutions; the interest and availability of prospective intermediaries; proximity to Damascus and UN staff; ease of travel for disputants; and security of access to the location of dispute resolution services, etc.

Given the above constraints and others, the selection of sites for the CDR mechanism was reasonable and appropriate. In the future, if and when other sites are selected, these same constraints should be considered when locating and implementing new dispute resolution services.

#### **4.3. Types of Disputes and Outcomes in Comparison to Those Achieved by Other Community Dispute Resolution Mechanisms**

Types of cases accepted by the initiative and their settlement rates were often fairly similar and generally quite high, especially in comparison to those achieved by other community dispute resolution systems and mechanisms around the world. The CDR mechanism had a 94% resolution rate for all issues accepted for assistance and an 88% rate of implementation of voluntary agreements or recommendations by intermediaries. Other community dispute resolution mechanisms, depending on the kinds of cases they accept and handle, commonly have settlement rates of between 40% and 85%. It is, however, difficult to make an accurate comparison between outcomes presented here and those of other programmes, as cases handled were not identical, intermediaries differed, and diverse dispute resolution procedures were used.

For example, the Mediation Boards Programme of the Sri Lankan Ministry of Justice (MOJ), a national community dispute resolution programme that utilizes a panel of three mediators to resolve disputes, reported that the “The annual success rate ... in recent years has been just under 60%. Among specific types of cases covered in the user survey, assault and loan matters were the categories of disputes which had the highest settlement rates (76% each). Over half of land disputes were settled (56%), while the figure was less than half for family and domestic violence disputes (44%). Land disputes (34%) and cases of assault (15%) were the categories of disputes which mediators found the most challenging to mediate. The challenges with these disputes were unwillingness to compromise and particularly in land disputes, and insufficient knowledge regarding the law’ in Cyrene Siriwardhana” (Evaluation of the Mediation Boards Program in Sri Lanka. Colombo, Sri Lanka, 2011).

In the Philippines, the Barangay Justice System—another national community dispute resolution programme that utilizes panels of mediators who conduct mediation, conciliation and arbitration procedures—received a total of 425,263 cases filed nationwide in 2013 in different lupons (geographic areas in which local dispute resolution committees have jurisdiction). Of these cases, 327,124, or 77%, were settled. The other 98,139, or 23%, were not. The majority of cases were settled using mediation (251,894), conciliation (63,651) and arbitration (11,579). Disputes handled included 161,562 criminal cases, 179,280 civil cases and 84,421 in a different category. Of 98,139 unsettled cases, 35,898 are still ongoing, 2,606 were repudiated (the outcome ultimately rejected by one or more parties), 4,924 withdrawn, 32,588 dismissed, 5,177 referred to concerned agencies, and 16,946 issued a certification to file action in court.

One potential explanation for the higher acceptance and settlement rate in Syria is that disputants in other countries might have more confidence in or believe they have more effective (binding, enforceable) procedural alternatives (e.g., through formal courts and procedures) than collaborating informally and reaching negotiated or mediated agreements (commonly referred to as their ‘Best Alternative(s) to Negotiated Agreement(s) (BATNA)’ (Fisher, 2011). Another potential explanation for the initiative’s settlement rate in comparison to that achieved by other community dispute resolution mechanisms is that the latter

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commonly use a more facilitative mediation approach in which intermediaries provide predominantly process assistance, are not as directive and offer little substantive advice regarding potential settlements. This approach to intermediary assistance could result in lower settlement rates.

#### **4.3.1. Types of Disputes Accepted by the CDR Mechanism**

The types of disputes identified and considered to be appropriate for the CDR mechanism were confirmed by the number and types of cases brought by disputants for assistance. As expected, the largest category of disputes brought to the CDR mechanism were HLP issues. Many of them involved differences between people who had some kind of relationship with each other—husbands and wives, siblings, extended family members, neighbours or business associates. Some HLP disputes handled by the initiative were a result of, or impacted by, an ongoing crisis. These, however, were not the majority of cases addressed. While some disputes involved contested ownership of HLP or secondary occupation by parties without legal documentation, both of these types of disputes were fewer than expected. There was also a lower number of landlord-tenant disputes than anticipated. However, if the initiative continues its activities and is able to increase public awareness of its services while locating new CDR sites in areas where there are a significant number of IDPs, these types of cases will likely increase. In this regard, the CDR mechanism could be integrated within NGOs/UN agencies focused on the rights of IDPs/refugees facing housing issues and provide opportunities for collaboration with other organizations focused on legal/institutional development.

The largest number of other types of disputes brought to the CDR mechanism involved family issues, particularly between spouses, siblings, parents, etc. Many of these involved inheritance of HLP or movable property.

Initially, the CDR mechanism did not include divorce among the types of issues accepted. The high volume of these cases received, however, indicated a significant need for assistance in handling these disputes and that they should be accepted by the CDR mechanism. The number of cases concerning divorce likely indicates a lack of relevant dispute resolution service providers to manage divorces or the prohibitive expense of going to court to resolve serious spousal disputes.

#### **4.3.2. Greater options lead to higher settlement rates.**

Dispute resolution mechanisms that provide multiple procedures and backup processes (e.g., evaluative mediation, advisory mediation, conciliation or arbitration) are likely to have a higher settlement rate because of greater procedural choices and processes to break deadlocks. Using these additional procedures, however, is dependent on a number of variables (see discussion below).

#### **4.3.3. Cultural relevance leads to higher acceptance.**

The first, and perhaps most important, is culture. If common and acceptable cultural norms for dispute resolution are to seek the assistance of respected and trusted intermediaries—and both disputants and third parties expect the latter to provide relationship-oriented or substantive insights, suggestions, advice, proposals, recommendations or non-binding advisory decisions—more directive and content-focused dispute resolution procedures are more likely to be used.

Syrian culture and the historical use of the Sulha process likely provide, both unconsciously and consciously, the foundation for the CDR mechanism's procedures and behaviours for both disputants and intermediaries. In the Sulha process, intermediaries are community members who are respected and trusted by disputants. The procedures used are voluntary and parties have some choice over whether they engage with intermediaries and the process. Intermediaries deliver process assistance but also, when needed, provide relationship and substantive input. Because of the reputation of intermediaries and the trust placed in them by disputants to be fair and objective, parties may be reluctant to disregard or reject their input or recommendations. The risk of doing so may offend the honor of their intermediary and lower the esteem in which they are held by other community members. On the other hand, where the above cultural norms and practices are not present or incorporated into the CDR mechanism, it is likely that its success rate would not be as high.

#### 4.4. Parties' Satisfaction with Intermediaries, Procedures, Outcomes and Reconciliation

Assessing parties' satisfaction with intermediaries and procedures used to resolve their differences and outcomes, especially a month after an agreement or settlement has been reached, is another relevant measure for assessing the success of the CDR mechanism. Data on parties' satisfaction rates, however, were limited as parties often did not return questionnaires or were not reachable by UNDP staff or monitoring and evaluation (M&E) specialists for follow-up interviews.

Data collected from 49 participants (including 16 in Dara'a, 17 in Douma and 16 in Al-Tal) indicated high rates of satisfaction (90%) by both dispute initiators and respondents with their intermediaries, procedures and outcomes of dispute resolution activities. Initiators were slightly more satisfied with their intermediaries, procedures used and outcomes than respondents (see Table VI: Parties' Satisfaction with Intermediaries, Procedures, and Outcomes).

The vast majority of both initiators and respondents were 'very satisfied' with the performance of their intermediaries and the services they provided. Only two were 'somewhat satisfied'.

Most disputants (including both initiators and respondents) were also very satisfied with procedures used to resolve their disputes. Only three were not satisfied.

Finally, a large majority of initiators and respondents were satisfied with the outcomes of their disputes, with three respondents being less or not satisfied.

**Table VI: Parties' Satisfaction with Intermediaries, Procedures and Outcomes**

	VERY SATISFIED	SOMEWHAT SATISFIED	NOT SATISFIED
<b>Satisfaction with Intermediaries</b>			
Satisfaction of initiators with CDR mechanism intermediaries' performance and assistance provided	26	1	0
Satisfaction of respondents with CDR mechanism intermediaries' performance and assistance provided	21	1	0
<b>Total of all initiators and respondents</b>	<b>47</b>	<b>2</b>	<b>0</b>
<b>Satisfaction with Dispute Resolution Procedures</b>			
Satisfaction of initiators with procedure(s) used to resolve their disputes	25	0	2
Satisfaction of respondents with procedure(s) used to resolve their disputes	20	1	1 <sup>16</sup>
<b>Total of all initiators and respondents</b>	<b>45</b>	<b>1</b>	<b>3</b>
<b>Satisfaction with Outcomes</b>			
Satisfaction of initiators with outcomes of disputes	26	1	0
Satisfaction of respondents with outcomes of disputes	19	2	1
<b>Total of all initiators and respondents</b>	<b>45</b>	<b>3</b>	<b>1</b>

In addition to providing procedures that assisted parties in reaching agreements that addressed and satisfied their substantive issues and interests, one of the goals of the CDR mechanism was to help parties with serious differences to psychologically reconcile and either establish new or restore former positive relationships, or amicably disengage from relating with each other in the future. This is often important for former disputants, their extended families, neighbours or their communities.

<sup>16</sup> Participants were not satisfied due to some logistical matters, particularly regarding the distance of the committee's location from the place of residence of one of the parties.

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In 65 of the 96 disputes, or 67% of the total cases accepted by the CDR mechanism for dispute resolution assistance, parties engaged in reconciliation. Often this involved acknowledging the roles they played in the development of their disputes, making apologies, providing statements of forgiveness, or participating in formal reconciliation ceremonies.

#### **4.5. Evaluation of the CDR Mechanism’s Compliance or Congruence with UN Guiding Principles**

A final component of the evaluation included analysis of the mechanism’s compliance or congruence with UN Guiding Principles (UNGPs) and Effectiveness Criteria for Business and Human Rights. To some extent, the CDR mechanism’s effectiveness is indicated by the number of disputes brought to it and settled through either a voluntary negotiated agreement with intermediary assistance or parties voluntarily accepting a suggestion or recommendation by the third party.

The initiative’s structure and procedures were important in its ability to comply or be congruent with UNGPs. *Annex 1: Evaluation of the CDR Mechanism’s Compliance or Congruence with UN Guiding Principles* describes how the CDR mechanism’s structure and procedures were, or were not, in compliance or congruent with them.

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# Benefits and Challenges in Applying the CDR Model

# 5

The evaluation of the CDR mechanism's outcomes and results found that it successfully implemented and demonstrated a community-level dispute resolution mechanism for various types of disputes. It provided an accessible, transparent, cost-effective and human rights-compatible resolution for disputants and connected parties. It has empowered Syrian intermediaries to provide CDR assistance that enables citizens to address and resolve a range of community-level disputes, many of which are the result of, or influenced by, the current crisis in the country. As per Annex 1, with few exceptions, the structure and procedures comply or are congruent with the UNGPs for the establishment of governmental and non-governmental mechanisms for resolving disputes. The section below provides more detailed discussion of the benefits and challenges of implementing a CDR model as they apply to Syria; it may inform the development of CDR models in new contexts and countries.

## 5.1. Institutional Barriers and Opportunities

**UN frameworks provide viable 'institutional homes' for the medium term.** Correspondingly, the UN Principles promulgated to guide the work of UN agencies also place limits on which agencies and how those agencies, such as UNDP, can work with Syrian counterparts. An example is the challenge UNDP faces in finding local partners and 'institutional homes' for the initiative and the provision of dispute resolution services.

By developing the initiative directly under UNDP auspices, UNDP and NRC were able to implement a project and comply with UNGPs and the UN Parameters and Principles for Assistance in Syria. However, such a commitment is also contingent on the longevity of the responsible agency in the country and available funding resources. In such situations, an agency's focus should be building sustainability and the long-term viability of the initiative. In the short term, the agency provides the framework for implementation and oversight while it negotiates open space to situate an 'institutional home' established under authorities or local institutions who take on the responsibility of implementation and the associated costs.

**CDR is complementary to the formal institutions.** In crisis and post-conflict environments, institutional capacities are often severely reduced while needs continue to increase exponentially. ADR and CDR can work in a complementary manner to the formal justice system by alleviating the caseload burden of (often severely weakened) formal institutions with out-of-court dispute resolutions that meet the specific needs of affected communities. This allows the formal justice institutions time to focus on rebuilding critical capacities and the space to address those cases that cannot be addressed through CDR. We have tried and tested the application of CDR and have learned that the mechanism provides a feasible out-of-court dispute resolution for a variety of cases. However, more follow-up monitoring and research are needed to better understand how the CDR mechanism can best complement the formal courts. In time, this relationship may be formalized through the development of policy and legislation that recognizes CDR and defines a referral mechanism between the two systems.

**Legal pluralism may hinder compliance with human rights standards.** Determining which laws or standards should apply in the resolution of disputes will continue to be a dilemma for UNDP, the CDR mechanisms it has established and any future dispute resolution initiatives because of Syria's legal pluralism. A major principle that governed the operation of the CDR mechanism was helping parties develop outcomes for their disputes that complied or were congruent with internationally recognized human rights standards. Achieving this goal was not always possible because of Syria's plural legal system. However, it is important to note that disputes are not limited to Sharia law since some disputes are sometimes between parties of different religious backgrounds and could be mediated by religious leaders from either or both religions (e.g., Muslim and Christian).

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Due to the above, depending on the dispute, parties, intermediaries or lawyers might apply similar or very different standards to determine what they believe to be a fair outcome or one that would comply with relevant laws. Potential standards included international human rights norms and agreements; Syrian national statutory laws; Sharia Islamic law or other religious values or ethics; or customary law and practices. While some of these legal requirements or guidelines may be congruent with international human rights standards, others prescribe very different criteria for fair outcomes.

In Syria, Sharia law is generally applied to resolve disputes involving personal status issues such as marriage, divorce, inheritance and child custody.<sup>17</sup> Sharia was used in multiple cases handled by the CDR mechanism as the standard for reaching agreements on many of the issues noted above.

In cases where Sharia was suggested as the standard by intermediaries, most parties agreed, even though women's rights were not recognized or protected as fully as they would have been if international human rights standards were applied. This is a dilemma for dispute resolution initiatives that want to apply international standards but are operating in cultures and countries that may not recognize them or where it is politically, religiously or personally unacceptable to apply them.

## 5.2. Lessons Learned from Tested CDR Mechanism Structures

**CDR provides a safe space to work out differences.** The CDR mechanism provided safe forums for disputing parties to come together, share their views and interests, engage in various forms of option generation, and reach voluntary agreements. For most cases, intermediaries were able to craft and propose mutually acceptable settlements.

**Use of committees rather than individuals increases flexibility, transparency and utility of the mechanism.** As a proven best practice, the use of dispute resolution committees to handle most cases, as opposed to assistance provided by only one intermediary, helped provide a range of intermediary backgrounds, experience and expertise for disputants. It also helped promote third-party impartiality, objectivity and fairness, as well as prevent undue influence on intermediaries by domineering parties or external actors. Finally, the use of committees helped to prevent corruption, as it is generally harder to adversely influence a group than one individual.

**Reliable staff in CDR support administration and coordination roles increase efficiency.** Having UNDP staff on the ground at the targeted sites as administrators and points of contact was critical for assuring coordination of its activities with parties, intermediaries, lawyers and volunteers. Without their effective involvement, the CDR mechanism would not have been a success or even possible. These roles, however, do have unavoidable associated salary costs that any CDR initiative must account for and build into the larger, long-term strategy for sustainability.

**Lawyers working on behalf of the CDR process (and not individual parties) increase transparency, quality assurance of processes and understanding and trust between disputants.** The involvement of independent and impartial lawyers as part of CDR staff was an innovative and important contribution to its success. The direct involvement of lawyers in community dispute resolution programmes and meetings, as opposed to lawyers playing an external role as advocates for individual parties and reviewers of settlements, is not common elsewhere in the world and should be considered a best practice.

The CDR mechanism, through its design and the work of its lawyers, enabled parties to secure written agreements and, when appropriate, to register them with government entities and obtain legal documentation. The CDR mechanism provides a unique arena for community dispute resolution for a variety of reasons, such as having lawyers attend all dispute resolution meetings; availability of lawyers to provide timely, independent and impartial legal information to disputants and intermediaries; their taking notes and helping

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<sup>17</sup> Article 3 of the 1973 [Syrian Constitution](#) declares Islamic jurisprudence one of Syria's main sources of legislation. The Personal Status Law 59 of 1953 (amended by Law 34 of 1975) is essentially codified Sharia. The Code of Personal Status is applied to Muslims by Sharia courts. In Sharia courts, a woman's testimony is worth only half of a man's.



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to draft agreements; and assistance provided to parties to formalize and register their agreements with appropriate government authorities and obtain legal documentation.

It should be noted that, as with CDR administrative staff, including lawyers as CDR staff and paying them no doubt increased the cost of implementing the initiative. In the future, if CDR mechanisms are transferred to other entities, such as local authorities, it may be cost-prohibitive to include lawyers in all the aspects of dispute resolution provided under the CDR mechanism. This area should be reviewed in the light of working towards sustainable ways to involve lawyers in such processes (e.g., working with local law schools and bar associations to reduce costs through CDR-based legal aid schemes).

### 5.3. Intermediaries

**Involving trusted intermediaries from the local communities increases trust in the CDR process.** UNDP made significant efforts to identify and recruit potential candidates to be intermediaries who were highly respected and trusted by members of their community, as well as having the standing to serve as third parties. The number of disputes brought to the CDR mechanism and these third parties is a tribute to both the success of recruitment and the trust disputants placed in the individuals who were selected.

**Recognition of CDR intermediaries to maintain morale.** Resolving disputes is frequently hard, time-consuming work that is emotionally draining for intermediaries. Expansion of CDR programming requires the care and nurturing of individuals and committees serving as intermediaries. This does not necessarily require significant monetary compensation but should include occasions for their public recognition and potential small sums of money to provide refreshments for disputants and intermediaries or to cover required travel expenses.

**Train existing intermediaries and new ones as they gain experience as CDR trainers.** If CDR programming is to be expanded to other areas in Syria, additional training will be needed to prepare new intermediaries. While NRC can provide such training, it may not be sustainable over time. A cadre of experienced and successful intermediaries working at existing CDR sites should be trained to be trainers. A good model for training-of-trainers is for an experienced mediation and training organization, such as NRC, to present the programme new trainers will conduct. Following that programme, a training-of-trainers seminar should be conducted to show new trainers how to teach concepts, procedures and skills. The final step of the process is for experienced and new trainers to co-present the programme to new intermediaries.

**Include training approaches and procedures for intermediaries to provide interest-based/rights-compatible suggestions, proposals or recommendations to disputants.** If future intermediaries are likely—due to their cultural orientation, experience, procedural preferences or expectations of disputants—to continue to provide suggestions, advice, proposals or recommendations to parties in dispute, they need to learn how to provide this information in a way that addresses all parties' interests and is congruent with international human rights standards.

Assurances must be made that future training for intermediaries allows more time for participants to apply their knowledge and practice new skills by engaging in multiple dispute resolution simulations. Learning by doing is the most effective way for new intermediaries to become proficient in providing dispute resolution assistance.

**Conduct regular meetings and knowledge exchanges of intermediaries to develop a network of CDR practitioners.** Intermediaries, after handling several disputes, have much to teach each other. Forums should be created at CDR sites, where intermediaries can share their experiences and strategies for handling disputes and provide suggestions to colleagues who are encountering difficult disputants, issues or impasses. A network could also increase a sense of agency and recognition of their important roles.

**Develop a code of conduct for intermediaries.** Although there was a module in the intermediary training programme on ethics and expected standards of behaviour for third parties, developing knowledge about

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important ethical issues should be developed, particularly regarding impartiality, neutrality, objectivity, prevention of bias, empowerment of disputants and equal treatment of women and when providing dispute resolution services.

**Develop a grievance mechanism as part of future programming to provide disputants with an avenue to raise concerns and complaints about the performance of intermediaries, staff and fairness of outcomes.** Such a mechanism, in line with best practices, will help promote accountability of the mechanism and of its intermediaries and staff.

#### **5.4. Training and Implementation of Dispute Resolution Procedures**

**An emphasis on interest-based negotiation (IBN) and facilitative mediation encourages mutually acceptable settlements developed by disputants.** Training for intermediaries emphasized IBN and facilitative mediation. Both procedures are based on the theory that disputants can often develop mutually acceptable settlements of disputes themselves if they understand each other's interests and have relationship and procedural assistance from a trusted and effective intermediary. The logic for this approach is that disputants are frequently more satisfied with agreements they have developed themselves. They are subsequently more willing to comply with agreements and implement them than solutions and settlements proposed or determined by a third party. IBN and facilitative mediation have been found to be highly successful and effective across many cultures. Unintentional premature substantive suggestions made by an intermediary can short-circuit parties' creativity in developing their own solutions that will better meet their interests, about which, of course, they are the experts.

Unfortunately, it does not appear that adequate time was allotted for training participants to fully understand and integrate IBN. Increased focus on mediation concepts and procedures, as well as providing trainees with opportunities to practice applying them, needs to be developed. As a result, after the training, many intermediaries—and especially at CDR sites in more conservative communities where the use of customary dispute resolution procedures was common, known and expected—leaned towards continued use of customary processes or engaged in advisory mediation or conciliation. All of these procedures involve a third party providing significant substantive assistance to disputants at some point in the process, whereby legal compliance was reinforced by the presence of a lawyer who was attached to each committee and would provide feedback on the specific case and decisions reached.

**Use of customary procedures, advisory mediation and conciliation may increase settlement rates.** It should be noted that intermediaries' use of customary procedures, advisory mediation and conciliation probably contributed to a higher settlement rate of disputes handled by the CDR mechanism than those addressed by community dispute resolution programmes in other cultures and countries where they were not used.

Substantive help commonly involves the intermediary providing suggestions, advice, one or more proposals or a recommendation. There was and is not a problem with intermediaries using any of the above substantively oriented dispute resolution procedures as long as third parties and disputants have a common understanding and agree on the processes that will be implemented.

#### **5.5. Encouraging the Use of the Dispute Resolution Mechanism**

**Public awareness campaigns are ideal for raising awareness of the CDR mechanism.** As noted earlier in this evaluation, UNDP encountered significant challenges in raising awareness on the part of potential users about the dispute resolution mechanism and services available. Having to rely exclusively on word of mouth among staff, intermediaries, lawyers and potential users no doubt limited the number of disputes brought forward for assistance. UNDP or other sponsoring entities should expand their approaches for increasing sources of referrals by increasing contact and collaboration with respected formal and informal community leaders, personnel of local social service agencies, school administrators and teachers, members of NGOs and CBOs and religious leaders.



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Practitioners in Syria and the GoS should further explore acceptable methods to publicize the availability of services provided by future programmes and educate the public in targeted communities. Public relations campaigns should emphasize that services are available to all, including women, free of charge, and that dispute resolution committees include notable people (both men and women) from local communities. Publicity should be used to sensitize potential users and legitimize women's involvement.

If political conditions change and the GoS is more open to UNDP being involved in local community dispute resolution work, it may be possible to use other means to raise public awareness of potential dispute resolution services, such as posters, flyers, social media, radio spots, etc.

## **5.6. Dispute Outcomes, Implementation and Monitoring**

**Adequate resources are needed to monitor full implementation of agreements.** As previously noted, the CDR mechanism was very successful in helping parties reach voluntary agreements or accept insights, suggestions, proposals or recommendations by intermediaries. It is clear that the procedures used have been effective in enabling parties to settle their differences.

Agreements reached or recommended settlements accepted, which settle all or most contested issues, still need to be implemented if a dispute is to be considered resolved and a case closed. A significant number of agreements or voluntary settlements were reached and implemented in full by the involved parties. Some of them were self-executing and implemented at the time an agreement was reached; others were non-self-executing and were implemented by parties over time.

While staff or lawyers were able to follow up on the implementation of some non-self-executing agreements and, in a number of instances, facilitate their implementation by preparing documents and accompanying disputants to appropriate government entities to register them, this was not possible for all cases. In some instances, disputants failed to complete and return forms that indicated the status of implementation. In other instances, staff resources were stretched too thin to handle current cases or to follow up on previously implemented ones.

**A robust case monitoring and reporting system is required to fully understand success rates.** In this initial phase, monitoring and evaluation staff, guided by a focused questionnaire, collected written comments and evaluations completed by disputants concerning their views on intermediaries, procedures used by the pilot programme, agreements or settlements reached and their implementation. M&E staff also contacted a small group of disputants to obtain more detailed information about their experiences. Additionally, many focus group discussions (FGDs) were conducted with the committee's members and lawyers and documented by UNDP staff.

The above information was reviewed for accuracy by UNDP's CDR project manager and its national consultant. Based on the results, UNDP's international consultant wrote the evaluation, identifying lessons learned, and made recommendations for future dispute resolution programming in Syria.

In the future, staff and lawyers should implement a more robust monitoring and reporting system to track the implementation of agreements and voluntary settlements post-CDR process. Disputants should be informed, at both the beginning and end of dispute resolution interventions, that UNDP will be tracking the progress of their case and implementation of any outcomes. Parties should understand that in exchange for free resolution assistance, they will be expected to fill out required forms related to their disputes and respond for a period of one year to requests by UNDP staff for interviews about their status. To accomplish the above, UNDP staff should be kept informed by former disputants of their whereabouts for this period so tracking and tracing can be carried out.

Future programming should include procedures to monitor outcomes of cases where disputants refused to participate in CDR activities, agreements were not reached or the dispute was taken to court for resolution. With all due deference to confidentiality and conflict sensitivity, findings could be made available to think

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tanks of universities that may have the interest in or capacity for embarking on longitudinal, multi-year studies that assess the sustainability of CDR processes well beyond the project duration.

**Continued support should be extended to parties of closed cases.** Parties who are beneficiaries of UNDP's dispute resolution assistance should be informed at both the beginning and end of the process that they are free to return to their intermediaries for further dispute resolution assistance if there are problems with implementing or complying with terms of agreements or settlements.

**There should be a grievance mechanism built into the structure for dissatisfied disputants.** Future programming should develop an easy-to-use grievance mechanism to address any concerns by disputants or intermediaries about the performance of staff or intermediaries or procedures used. If staff conducting case follow-ups discover that there has been dissatisfaction on the part of any disputing party with the performance of intermediaries or resolution procedures, they should encourage them to bring their concerns or complaints, as appropriate, to the grievance mechanism that can be overseen by project supervisors for investigation, response and/or resolution. This grievance process should also be monitored for what it tells us about the quality of justice services provided.

**Special measures should be included in CDR design to better understand the outcomes affecting women disputants.** Future activities should include procedures for contacting women who were former disputants during the life of the CDR mechanism to assess how they participated in its activities, their perceptions of the fairness of intermediaries and procedures and their satisfaction or dissatisfaction with outcomes. This information should be used to improve the structure of the mechanism, support for intermediaries and development of procedures of dispute resolution initiatives to enhance the engagement of women.

## 5.7. Increasing Women's Access to Services

**CDR is an enabler of dialogue and sensitization on women's rights.** Achieving gender equality remains a challenge in Syria, as in many other similar contexts. Although Syrian legal frameworks tend to favor men, they do also guarantee rights to women. However, women are often discouraged from exercising their rights, and they may relinquish their rights due to family and community pressures based on traditional practices. The CDR model provides a unique platform for reaching those influential persons at the community level and integrating dialogue around women's rights while encouraging positive outcomes for women involved in dispute resolution. In the next phase of implementation, issues of gender equality and women's rights can be brought into the training, dialogue and implementation phase and tested for increased equitable outcomes.

Given the pluralistic nature of Syrian law, a framework and guidance should be developed that helps practitioners use CDR in addressing women's rights in the most equitable manner that is congruent and compatible with international human rights standards. The framework and guidance should be developed with the participation of Syrian women who have expertise in relevant issues as well as women who have previously been parties in CDR mechanism dispute resolution activities.

**Recruit and include more women as intermediaries and CDR trainers.** Fewer women served as intermediaries on CDR committees than men. There are a number of potential factors that may have influenced this outcome—a patriarchal culture and history that commonly sees and places men, rather than women, in positions of authority; fewer women identified by CDR staff, recruited or who put themselves forward as potential intermediaries; and potential committees or communities that might be or were resistant to engaging women as third parties, etc. This is an issue that needs to be examined further and remedied to the greatest extent possible.

Increased efforts should be made to identify, recruit, train and support women serving as intermediaries. If necessary, groups of women could be trained separately and later integrated into regular committees or empowered to convene their own committees. This could be achieved by linking dispute resolution assistance with ongoing women's networks or providing referrals/linkages to women's access to justice.

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When more women are engaged in community dispute resolution, UNDP or other sponsoring entities should consider setting up support groups for female practitioners.

**Training and sensitization of men.** Additionally, training needs to be provided to sensitize male intermediaries about the importance of involvement and inclusion of women in dispute resolution processes and how they can be fully engaged as committee members.

## 5.8. Sustainability and Scalability

The results of the CDR model suggest CDR, although not free due to the costs of support roles (e.g., lawyers and administrative staff employed under this mechanism), is a sustainable mechanism to resolve disputes at the local level that is rooted in culture and traditional practices and therefore is replicable in new communities. Some of the key characteristics of the model that support sustainability and scalability are described below.

**The design and structure of the intervention matters.** By investing in initial research to analyse existing traditional mechanisms that support dispute resolution, practitioners can ensure a high level of cultural relevance and sensitivity in designing options for implementation. By ensuring a participatory approach in designing the intervention, such as implementing a design-shop approach, the intervention can be designed in a way that accounts for local experience and constraints. By achieving local interest and investment of time and resources into the CDR mechanism, the increased local buy-in and ownership of the intervention will help ensure its success and sustainability.

**Institutional homes support sustainability.** As noted earlier, constraints on UNDP working directly with the GoS or any of its agencies make finding institutional homes very difficult. Additionally, having UNDP as the institutional home is not a viable option over extended periods of time. Agency priorities and demands change, as do the interests and available resources of donors.

Finding institutional homes for future CDR mechanisms will continue to be a critical component for the sustainability of dispute resolution initiatives. Such initiatives need to have a stable base from which to operate and provide services. Depending on the circumstances, they can be based in multiple types of entities at national, governorate, district or local levels. As a last resort, the institutional home can be seated under the UN or an INGO that has a long-term commitment in the target location. Consideration should be given to understanding how lessons learned from the CDR mechanism can be integrated into UNDP's area-based approach.

**Creating the most cost-effective contextualized model increases sustainability without compromising effectiveness.** The use of local intermediaries who volunteer their services helps ensure that the mechanism is not contingent on UN funding and increases the model's sustainability and scalability. As a best practice, the CDR mechanism in Syria demonstrated that the support roles of CDR staff provide added value to the administration and coordination of the CDR mechanism. In addition, support lawyers attached to each locale advise on the process and facilitate settlements, providing much added value.

**Explore future funding by donors and use other mechanisms to make CDR programming sustainable.** Supporting and funding a CDR mechanism is different from assuring a secure financial base and income stream for an ongoing project or service. When setting up future programming, UNDP should work with donors and local sponsors to develop strategies to assure future financial stability and sustainability for at least five years. Without this kind of support, CDR mechanisms or successor organizations are likely to have limited stability.

## 5.9. Social Cohesion

**CDR is an effective tool that strengthens social cohesion.** By resolving differences at the community level, dispute resolution, by its nature, has a stabilizing effect. Creating a working mechanism at the community level, one that involves community members as intermediaries who are actively engaged in resolving community member disputes, helps strengthen the social fabric and reinforces roles in the society.

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In addition to providing procedures that helped parties reach agreements that addressed and satisfied their substantive issues and interests, one of the goals of the CDR mechanism was to help parties with serious differences to psychologically reconcile and either establish new or restore former positive relationships—or amicably disengage from relating with each other in the future. This is often important for former disputants, their extended families, neighbours or their communities.

**CDR has a restorative element that supports healing the social fabric at the community level.** In line with the above, additional reconciliation strengthens dispute resolution processes, is healing and strengthens the social fabric of the community at large. As noted in section 4, *Analysis of the Results from the Initial CDR Phase in Syria*, the CDR mechanism implemented in Syria has a restorative effect through which parties engaged in reconciliation (in 65 cases). This commonly involved acknowledging the roles they played in the development of their disputes, issuing apologies, making statements of forgiveness or participating in formal reconciliation ceremonies.

**CDR as a dispute-prevention measure.** As more information becomes available through the CDR mechanism about existing disputes and trends, this information may be used to inform dispute prevention at the local level.

**Localized problem-solving.** The experience and impact of the conflict and crisis greatly differ from one region or community to another across Syria. Therefore, there is no one-size-fits-all solution to resolving issues that can be applied throughout Syria. The CDR model resolves local problems by utilizing the knowledge and expertise of local community members and those who understand the issues and concerns on a more personal level and therefore can more quickly apply solutions.

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# Conclusion

# 6

The CDR model has empowered Syrian intermediaries to provide dispute resolution assistance that enables citizens to address and resolve a range of community-level disputes, many of which are the result of, or influenced by, the current crisis in the country. The number of disputes brought to the CDR mechanism and these third parties is a tribute to the level of trust disputants placed in the individuals who were selected. The CDR mechanism was very successful in helping parties reach voluntary agreements or accepting insights, suggestions, proposals or recommendations by intermediaries.

Unresolved, everyday grievances at the local level greatly increase instability that prevents recovery and development. The CDR model provides disputing parties with a peaceful and structured, yet culturally appropriate, means to address their issues, thereby reducing tensions at the local level while increasing trust and stability of the mechanism.

As reported in this paper, analysis also indicates that the procedures used have been culturally effective in enabling parties to settle their differences. From the results of the outcomes of cases brought to the CDR committees in this CDR mechanism, the UNDP team was able to learn what local communities find acceptable, as well as identify the potential scope for the mechanism's expansion in a new phase.

In similar contexts, disputes at the community level are a common reality. The CDR model allows flexibility and local understanding in addressing each conflict or dispute while applying a local solution, no matter the number of people involved. The model is adaptable and can be applied to different types of disputes. The innovative experience introduced by UNDP in the Syrian context, with its emerging findings, is generating knowledge that can help the replication of a similar approach to dispute resolution in other contexts.

As demonstrated above, the findings from the CDR mechanism provide many insights that such an initiative generates positive outcomes in support of local-level stability, recovery and development. This is a continuous learning process, however, and each new phase of implementation will require continued analysis to ensure that interventions are fair, effective, efficient and being carried out in accordance with international standards.

In the next phase, UNDP will support scaling up the CDR model in Syria into new locations while broadening the target location selection criteria to meet more needs at the local level. UNDP will utilize those engaged in phase one (as intermediaries, legal professional support or administrative support) to support trainings, knowledge exchanges and workshops for incoming personnel that will translate into improved programming moving forward. UNDP will also work towards nurturing new partnerships (e.g., with professional syndicates) to increase local buy-in and the sustainability of the initiative.

Resources will be invested in monitoring the full-scale implementation of agreements and the longer-term impact of the programme on the communities at large.

An emphasis will be placed on women's rights, which will be linked to broader initiatives and advocacy efforts on increasing women's access to justice.

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# Annexes

## Annex 1: UN Guiding Principles and Effectiveness Criteria

### Box 1: UN Guiding Principles (UNGPs) and Effectiveness Criteria: *International Standards and Criteria for Dispute Resolution Mechanisms*

State and non-state actors, institutions and mechanisms engaged in dispute and grievance resolution should be seen by the stakeholder groups for whose use they are intended as:

**Legitimate:** enabling trust from the stakeholder groups for whose use they are intended and being accountable for the fair conduct of grievance [or dispute/conflict resolution] processes.

**Accessible:** being known to all stakeholder groups for whose use they are intended and providing adequate assistance for those who may face particular barriers to access.

**Predictable:** providing a clear and known procedure with an indicative timeframe for each stage, along with clarity on the types of process and outcomes available and the means of monitoring and implementation.

**Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.

**Transparent:** keeping parties to a grievance [or dispute/conflict] informed about its progress and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake.

**Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights.

**A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harm.

On an operational level, mechanisms should also be:

**Based on engagement and dialogue:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harm.



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## Annex 2: Required Skills of Dispute Resolution Service Providers

### Box 2: Required Skills of a Dispute Resolution Service Provider

**Skills necessary for competent performance as a neutral dispute resolution service provider include:**

- (1) General:
  - (a) Ability to listen actively.
  - (b) Ability to analyse problems, identify and separate the issues involved and frame these issues for resolution or decision-making.
  - (c) Ability to use clear, neutral language in speaking and in writing (if written opinions are required).
  - (d) Sensitivity to strong feelings of disputants, including gender, ethnic and cultural differences.
  - (e) Ability to deal with complex factual materials.
  - (f) Presence and persistence, i.e., an overt commitment to honesty, dignified behaviour and respect for the parties and an ability to create and maintain control of a diverse group of disputants.
  - (g) Ability to identify and separate the neutral individual's personal values from issues under consideration.
  - (h) An ability to understand power imbalances.
- (2) For mediation:
  - (a) Ability to understand the negotiating process and the role of advocacy.
  - (b) Ability to earn trust and maintain acceptability.
  - (c) Ability to convert parties' positions into needs and interests.
  - (d) Ability to screen out issues that will not benefit from mediation.
  - (e) Ability to help parties invent creative options.
  - (f) Ability to help the parties identify principles and criteria that will guide their decision-making.
  - (g) Ability to help parties assess their non-settlement alternatives.
  - (h) Ability to help the parties make their own informed choices.
  - (i) Ability to help parties assess whether their agreement can be implemented.
- (3) For arbitration:
  - (a) Ability to make decisions.
  - (b) Ability to run a hearing.
  - (c) Ability to distinguish facts from opinions.
  - (d) Ability to write reasoned opinions.
- (4) Knowledge of the dispute resolution process being used includes:
  - (a) Familiarity with existing standards of practice covering the dispute resolution process.
  - (b) Familiarity with commonly encountered ethical dilemmas.
- (5) Knowledge of the range of available dispute resolution processes, so that, where appropriate, cases can be referred to a more suitable process.
- (6) Knowledge of the institutional context in which the dispute arose and will be settled.
- (7) In mediation, knowledge of the process that will be used to resolve the dispute if no agreement is reached, such as judicial or administrative adjudication or arbitration.
- (8) Where parties' legal rights and remedies are involved, awareness of the legal standards applicable if the case were taken to a court or other legal forum and adherence to ethical standards.

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## Annex 3: Types of Disputes Projected to Be the Focus of the CDR Mechanism

### Box 3: Types of Disputes Projected to Be the Focus of the CDR Mechanism

#### Types of disputes to be accepted and handled by the CDR mechanism

(Disputes marked with an asterisk (\*) are types of cases handled by the CDR mechanism)

- **Neighbour/neighbour issues**—such as behaviour and interactions, noise, disposal of trash, etc.\*
- **Boundary issues between neighbours**—such as location of boundaries, destruction of boundary markers or trees, etc.\*
- **Use of property**—agricultural, business, rental or personal purposes\*
- **Personal debt**—interpersonal agreements and especially those related to HLP\*
- **Contested property ownership**—situations where two or more claimants have some form of documentation\*
- **Secondary occupation**—disputes between a property owner and a second party, the latter of which may or may not have documents to prove valid\*
- **Property allocation**—generally between multiple claimants\*
- **Common ownership**—how resources are jointly owned, managed and/or disbursed\*
- **Rental issues**—amount of rent, failure to make payments, condition/damage of property and terms and timing for eviction\*
- **Payment/non-payment of utility or other bills**
- **Employment issues**—especially those related to HLP
- **Inheritance issues**—especially related to land, immovable and/or movable property\*
- **Women’s rights and HLP**—dowry, personal belongings in divorce, inheritance\*
- **Guardianship or guardianship documents**
- **Pre-judicial dispute resolution for cases in the process of going to court** (CDR mechanism staff, intermediaries or lawyers, however, will not go to court to testify or represent parties)
- **Issues between family members**—Behaviour, shared housing, interference by parents in their married children’s lives, etc. (this type of case was added later as a number brought to the CDR mechanism had this focus)

#### Types of disputes that generally will not be accepted or handled by the CDR mechanism

(Exceptions may be made for assistance for some of the types of disputes listed below if a significant number are brought for help and issues are not too sensitive.)

- **Cases in which UNDP or NRC staff or relatives are disputants**
- **Cases in which the government or state is a party**

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- **Disputes that involve local councils**
  - **Issues with a criminal component\***
  - **Missing persons**—especially related to paternity of children so they can obtain government documentation and services\*
  - **Cases that involve personal status law**
  - **Divorce\***
  - **Domestic dispute cases**—non-divorce issues between husbands and wives.\* (A significant number of domestic disputes over potential or actual issues were brought forward for assistance.)

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#### **Annex 4: Locations of the CDR Mechanism in Syria**

Dara'a (Arabic: دَرْعَا) is a city in southwestern Syria and the capital of Dara'a Governorate. A CDR mechanism Dispute Resolution Committee was established in Dara'a to aid in both government and non-government-controlled areas. Members of the Dispute Resolution Committee in Dara'a generally had an orientation towards using customary methods of resolving disputes and procedures similar to Sulha.

Douma (Arabic: دُومَا), a city northeast of Damascus, is in the center of the Rif Dimashq Governorate, which completely surrounds the Damascus Governorate. It is the administrative center of Douma District. Douma was selected as a CDR mechanism site because it is a highly urban area with an industrial base. There was also a lawyer there who had many cases, believed in the effectiveness of CDR and was expected to make referrals. Procedures for dispute resolution used by the local committee in Douma did not have a customary orientation towards dispute resolution. The committee at this site was open to, and willing to use, a range of CDR methods.

Al-Tal (Arabic: التل), a city in southern Syria, is administratively part of the Rif Dimashq Governorate and is the capital of the al-Tall District. While there is some agriculture in areas around Al-Tal, the economy is principally based on trade with both Jordan and the Gulf region. Here, as in Douma, one CDR mechanism Dispute Resolution Committee was established because of the presence of a young lawyer who was highly engaged in CDR and would help get cases.

## Annex 5: Collaborative Dispute Resolution Procedures Utilized

Table VII: Collaborative Dispute Resolution Procedures Utilized

PROCEDURE	DESCRIPTION
<b>Procedures to Prevent, Regulate and Increase Understanding of Conflicts</b>	
<b>Dispute prevention and regulation</b>	Procedures used by intermediaries, community leaders or parties' families to prevent escalation of disputes or to regulate parties to prevent physical harm. <i>In two disputes where physical harm between parties had occurred or was possible during the dispute resolution process, intermediaries specifically met with parties separately to explore options for settlement before bringing them together and secured assistance from community notables and/or disputants' family members to prevent hostile interactions. In one case, parties reached an agreement that one of them would relocate their place of work to limit potential future contact that could result in physical harm.</i>
<b>Situation assessment/ conflict analysis and strategy design procedures</b>	Processes used by intermediaries to enhance their or parties' understanding of issues and interests, conflict dynamics, procedures that could be used to manage and resolve differences, potential options for resolution and strategies to move towards agreement. <i>Almost all interventions conducted by CDR mechanism intermediaries involved some form of situation assessment/conflict analysis. Generally, information-gathering for situation assessments was initially conducted separately with involved parties. Intermediaries, however, differed in how much time and effort they put into separate meetings to find potential options for settlements rather than waiting for parties to meet for discussions and to jointly develop possible solutions.</i>
<b>Fact-finding</b>	A third-party process in which an independent, impartial and neutral individual or group investigates a dispute or conflict to determine facts related to it. Facts may include information or evidence provided by disputants or others with knowledge about contested issues, determination of the veracity of parties' claims or validity of documents, etc. Factfinders present their findings or conclusions to parties and potentially intermediaries to answer relevant questions about contested issues to promote future discussions or negotiations. <i>Intermediaries in the CDR mechanism often undertook this function and process or convened independent experts—engineers, contractors, plumbers, painters, etc.—to do so.</i>
<b>Appraisals</b>	Procedures conducted by an independent third party to identify a fair and impartial estimate or judgement regarding the value of something. <i>Intermediaries in several cases handled by the CDR mechanism utilized appraisals—conducted by the intermediary, multiple committee members or a trusted independent individual with the required expertise—to determine the value of land, houses, jewelry, etc., and determine the price or cost of potential exchanges by disputing parties.</i>
<b>Procedures to Bring Disputing Parties Together for Talks</b>	
<b>Convening</b>	A combination of procedures, including conducting a situation assessment/conflict analysis, making a 'go'/'no-go' decision on whether to proceed with a CDR process and bringing parties together for talks or negotiations to address a problem or resolve a dispute or conflict. <i>The CDR mechanism and its intermediaries served as conveners for all cases.</i>
<b>Process Assistance to Resolve Disputes or Conflicts</b>	
<b>Facilitative mediation</b>	A third-party dispute or conflict resolution process in which a mutually acceptable individual or group provides process assistance to help involved parties conduct productive negotiations and reach mutually acceptable voluntary agreements. Assistance may involve convening; improving communications and negotiation procedures; providing ways to obtain substantive information needed to resolve issues in dispute; establishing, building or improving relationships between disputants; identifying or building consensus agreements; and implementing activities to recognize the end of a dispute, implement agreements and promote compliance. <i>Training was provided for all CDR mechanism intermediaries in facilitative mediation and interest-based negotiation (IBN). Facilitative mediation was used by several CDR mechanism intermediaries to help disputants reach their own resolution of disputes without substantive assistance or advice.</i>

## Substantive Assistance to Resolve Disputes

<p><b>Evaluative mediation</b></p>	<p>A third-party dispute or conflict resolution process in which a mutually acceptable individual or group helps involved parties to conduct productive negotiations and reach mutually acceptable voluntary agreements by providing an evaluation of substantive issues, merits of parties' cases and potential outcomes that might result from the use of alternative methods of dispute resolution (commonly an arbitration or judicial decision). This information is used in mediation to help parties develop realistic proposals, exchanges and settlements.</p> <p><i>Information, as part of evaluative mediation, was provided by intermediaries or CDR mechanism lawyers in several cases where they had knowledge of past settlements of similar issues or how common practices, customary law, Sharia law or national law might be applied. Evaluative mediation was generally conducted earlier in parties' negotiations to help them realistically assess the strengths of their cases or arguments and their best alternative(s) to negotiated agreement(s) (BATNA(s) in terms of procedural options and potential substantive outcomes.</i></p>
<p><b>Conciliation and/or advisory mediation</b></p>	<p>Third-party dispute or conflict resolution processes in which a mutually acceptable individual or group helps people involved in a dispute or conflict to conduct productive negotiations and reach mutually acceptable voluntary agreements. This is done by giving assistance similar to that of a facilitative mediator <i>and</i> providing some form of relationship or substantive help or advice as a catalyst for ongoing talks or reaching agreements. Relationship advice or substantive suggestions, options, proposals or non-binding recommendations may be provided at various times in the dispute resolution process. In conciliation, substantive input is commonly provided throughout talks or negotiations. In advisory mediation, substantive input is provided at the end of the mediation process at either the suggestion of the intermediary or the concurrence and request of all parties.</p> <p><i>Conciliation or advisory mediation was used by CDR intermediaries in a significant number of cases, especially in locales where they were strongly influenced by Sulha or other customary processes in which intermediaries commonly provided substantive input. It should be noted that Sulha is a form of conciliation, in that an intermediary or Jaha develops and proposes one or more solutions to disputants towards the end of the process which they believe will help parties settle their differences. In both conciliation and advisory mediation, parties are free to accept the advice or recommendation of the intermediary, use it to continue negotiations or reject it. This is different from the Sulha process, in which parties agree before the procedure begins that they will accept the recommendation of the intermediary or Jaha if they cannot reach a voluntary agreement.</i></p>
<p><b>Procedures to Reconcile Parties, Restore or Establish New Positive Relationships</b></p>	
<p><b>Reconciliation</b></p>	<p>Procedures to help disputants understand each other's views; make different views, ideas or beliefs more compatible; facilitate acknowledgement of harm or apologies; establish, mend or restore relations between disputing parties; and/or facilitate acceptance of a situation or outcome. Reconciliation mechanisms may also include specific rituals, procedures to redress past harm and compensate injured parties.</p> <p><i>Many CDR mechanism intermediaries engaged in reconciliation connected with disputes involving husbands and wives, siblings, other family members, or neighbours, where a future relationship between or among parties was important, desired or likely.</i></p>
<p><b>Mechanisms and Procedures for Implementing, Monitoring and Enforcing Agreements</b></p>	
<p><b>Monitoring mechanisms and procedures</b></p>	<p>The monitoring mechanism and procedures include the responsibilities given to individuals or groups who are identified by parties or an intermediary to monitor the implementation of agreements or settlements and former disputants' compliance with their terms. Monitors may report conclusions to involved parties and/or intermediaries, the latter of which may reconvene concerned parties to address implementation issues and move parties towards compliance.</p> <p><i>The CDR mechanism and its intermediaries established procedures to follow up on the outcome of cases several weeks after agreements or voluntary settlements were reached. This occurred in some but not all cases because of the timeframe of the CDR mechanism and the difficulty experienced by staff in locating past disputants. The CDR mechanism did not have any direct method for enforcing agreements but did provide help and/or legal assistance in appropriate cases to help parties register with appropriate government agencies or courts.</i></p>

## Annex 6: Evaluation of the CDR Mechanism's Compliance or Congruence with UN Guiding Principles

A final component of the evaluation included analysis of the mechanism's compliance or congruence with UN Guiding Principles (UNGPs) and Effectiveness Criteria for Business and Human Rights. To some extent, the CDR mechanism's effectiveness is indicated by the number of disputes brought to it and settled through either a voluntary negotiated agreement with intermediary assistance or parties voluntarily accepting a suggestion or recommendation by the third party.

The initiative's structure and procedures were important in its ability to comply with or be congruent with UN Principles and Effectiveness Criteria. Below, Box 4: Compliance or Congruence of the CDR Mechanism with the UNGPs describes how the CDR mechanism's structure and procedures were or were not in compliance or congruent with them (see below comments in blue).

### Box 4: Compliance or Congruence of the CDR Mechanism with the UNGPs

#### Compliance or Congruence of CDR Mechanism with the UN Guiding Principles (UNGPs) and Effectiveness Criteria for Business and Human Rights

State and non-state actors, institutions and mechanisms engaged in dispute and grievance resolution should be seen by the stakeholder groups for whose use they are intended as:

- (a) Legitimate:** enabling trust from the stakeholder groups for whose use they are intended and being accountable for the fair conduct of grievance [or dispute/conflict resolution] processes:

*The significant number and types of cases disputants brought to the relatively unknown CDR mechanism between when it was first established in December of 2020 and the time its last case was received and settled, approximately six months later, is indicative of the legitimacy users conferred upon it and the trust they placed in the intermediaries who aided. Recruitment by UNDP of respected and trusted community leaders to serve as intermediaries significantly contributed to prospective and actual users' beliefs that the mechanism, people and processes involved in conducting dispute resolution would be objective and fair.*

- (b) Accessible:** being known to all stakeholder groups for whose use they are intended and providing adequate assistance for those who may face particular barriers to access:

*The primary way potential users learned about the CDR mechanism and its services was word of mouth. UNDP staff, intermediaries and lawyers providing services in communities where users lived talked informally with community leaders and potential users and provided information about the CDR mechanism. To a lesser extent, parties learned about the initiative from local councils or other community groups or organizations that were informed about its activities by UNDP staff or intermediaries.*

*Knowledge available to potential disputants about the CDR mechanism and its services was limited by UNDP having to operate with a low profile. The government restricted the involvement of independent and impartial entities that UNDP might want to work with and prohibited broader communications with the public. Additionally, UN principles prevented UNDP from working directly with GoS agencies. Accordingly, it was not possible to implement as robust a community awareness campaign and public roll-out of the new mechanism as would have been desirable.*

*Accessibility, in terms of assistance for those who might face particular barriers to access, was provided by UNDP staff who helped disputants, if needed, to fill out registration and follow-up forms. CDR lawyers gave independent and impartial legal information to help level the playing field between parties with more information or knowledge and those who needed help. Lawyers also engaged in drafting agreements.*



*CDR mechanisms and their services in all three communities were generally physically accessible to all stakeholder groups/disputants for whom they were intended. Case intake personnel and intermediaries were located in potential users' communities. Additionally, the mechanism and procedures were available for free to all parties who wanted to use them.*

*In some circumstances, however, accessibility was compromised. Factors that influenced this included potential or actual political instability in locales where some target sites were located; perceived safety, fears, and risks on the part of some disputants in accessing intermediaries and services; and constraints on travel (multiple security checkpoints, requirements to provide personal information, risks of arrest/detention, etc.) put in place by the GoS.*

- (c) Predictable:** providing a clear and known procedure with an indicative timeframe for each stage, clarity on the types of process and outcomes available and means for monitoring implementation.

*Several elements of the Guiding Principle and Effectiveness Criteria were not easy to define, make clear or make known. This was especially the case for 'a known procedure' and 'types of process and outcome'.*

*The CDR mechanism presented itself as providing 'social mediation'. As noted earlier, one reason this name was selected was because designshop participants thought that both potential intermediaries and disputants understood what 'mediation' was and what assistance 'mediators' might, could or should/should not provide. This, however, was not the case. There was a wide range of understanding on the part of both intermediaries and parties about the roles of mediators and what mediation involved.*

*Training of CDR mechanism intermediaries focused on preparing them to be independent, objective and impartial third parties who would provide primarily process assistance without bias towards any party, potential issues in dispute or outcomes. Ideally, they would refrain from providing substantive input ideas, suggestions, proposals or recommendations—unless absolutely necessary, and, if needed, finding ways substantive advice could be obtained from someone other than the intermediary.*

*The above understandings about the roles of the mediator and process, however, were not always understood, expected or congruent with some common and customary views of intermediaries and how they might or could provide assistance. While some intermediaries and parties understood and appreciated the value of an independent and impartial third party who provided primarily process assistance, others, because of their conceptions about the roles of customary dispute resolvers or their potential or actual relationships with them as fellow community members, expected third parties to be respected, trusted and authoritative advisors and recommenders of settlements.*

*Intermediary training for the CDR mechanism presented an interest-based negotiation (IBN) and mediation process in which disputants and intermediaries would engage in dialogue to discover and understand all parties' interests and then work together to identify or develop solutions that satisfied as many of them as possible. Trainees were strongly encouraged to help participants reach their own agreements and discouraged from providing significant substantive input or suggesting potential outcomes.*

*Once the CDR mechanism started to handle cases, it is not clear whether either intermediaries or disputants expected to fully engage in an interest-based negotiation or mediation process in which the third party refrained from providing ideas, advice, suggestions or recommendations for potential or actual agreements or settlements.*

*In practice, it appeared that many intermediaries did not follow a purely facilitative IBN or mediation approach. Many of them seem to have actively provided substantive input.*

*In a number of cases, third parties provided input, evaluated parties' views or the strengths of their arguments, made suggestions, provided advice, advanced one or more proposals for agreements or settlements or made specific recommendations for outcomes. These interventions appear to have been made at various times in the process—early, as in evaluative mediation; throughout the process, as in conciliation; or at its end, as in advisory mediation.*

*One can only speculate why intermediaries became more involved in providing substantive input on potential settlements. It is highly possible that intermediaries became more involved in substantive discussions because of their understanding of cultural norms and how these informed and shaped their views about their roles as dispute resolvers and the help they should provide. They might also have acceded to or accommodated parties' expectations or requests for substantive help.*

*Providing definitive timeframes for stages of dispute resolution activities that are totally voluntary was difficult as the schedule is mutually driven and determined by progress made by intermediaries and disputants. The CDR mechanism left the time and timing for various activities—conducting case intake, engaging in individual interviews, exploring interests, convening meetings, etc.—up to the intermediaries and parties involved in each case.*

*Clarity of procedures to be used by UNDP for monitoring the progress of dispute resolution and outcomes and methods for implementing and monitoring agreements or settlements were likely not totally understood by intermediaries, disputants, UNDP staff and its lawyers. Monitoring and implementation of outcomes, in some cases, was explained to parties by CDR staff at the time of intake and by intermediaries or the lawyers when agreements or settlements were reached.*

*Later reporting by former disputants on implementation of agreements or settlements, UNDP's timing for follow-up or parties' failure to implement outcomes because they were not self-executing was not as robust as desirable. To some extent, this was the result of former disputants not filling out requested forms, an overstretched UNDP staff and difficulty on the part of UNDP in finding and communicating with former disputants.*

*More explicit information on potential implementation and monitoring activities of the CDR mechanism should be shared with disputants both at the time of case intake and at the conclusion of the final dispute resolution meeting. They should know what their responsibilities are concerning implementation and reporting and that UNDP will be monitoring their progress. Participating in reporting should be seen by disputants as part of their obligation in exchange for receiving free dispute resolution assistance.*

- (d) Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.

*The CDR mechanism's use of independent lawyers who could provide disputants and intermediaries with impartial legal information and advice, but not advocacy assistance, was a unique element of UNDP's dispute resolution initiative. The fact that legal information was immediately available to all parties during dispute resolution meetings or prior to final agreements being reached, at no cost to either disputants or intermediaries, no doubt enabled those engaged to develop more informed and 'legal' agreements. These, in turn and when appropriate, were easier to be approved by a court of law or other government agencies.*

*Additionally, in some cases, intermediaries recruited and convened experts, either individuals or groups with information relevant to the dispute at hand. These experts gathered relevant data, conducted appraisals, assessed costs or damages and evaluated or validated parties' claims. They helped provide independent objective information to disputants that enabled them to make wiser and more informed decisions. When this information was provided to intermediaries, who were expected to make suggestions for settlements, third parties were able to make recommendations based on objective data beyond information provided solely by disputing parties.*

- (e) Transparent:** keeping parties to a grievance [or dispute/conflict] informed about its progress and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake.

*UNDP staff and intermediaries were responsible for informing disputants about the time required for determining eligibility of a dispute and acceptance or rejection, assignment of intermediaries, fact-finding, convening and when meetings would be scheduled. These variables varied according to the kind of case, its complexity and the time needed by intermediaries to gather data and schedule and hold meetings.*

*Transparency was also enhanced by intermediaries holding joint meetings with all disputants. These meetings enabled disputants to directly participate in dispute resolution procedures, hear each other's views and those of intermediaries and be involved in identifying or building mutually acceptable agreements or hearing and accepting a recommendation from their third party. There were no significant criticisms by parties about the transparency of the project.*

- (f) Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights.

*A major principle that governed the operation of the CDR mechanism was helping parties develop outcomes for their disputes that complied or were congruent with internationally recognized human rights standards. Achieving this goal was not always possible because of Syria's plural legal system.*

*Depending on the dispute, parties, intermediaries or lawyers might apply similar or very different standards to determine what they believe to be a fair outcome or one that would comply with relevant laws. Potential standards included international human rights norms and agreements; Syrian national statutory laws; Sharia Islamic law or other religious values or ethics; and customary law and practices. While some of these legal requirements or guidelines may be congruent with international human rights standards, others prescribe very different criteria for fair outcomes.*

*In Syria, Sharia law is generally applied to resolve disputes involving personal status issues such as marriage, divorce, inheritance and child custody.<sup>18</sup> Sharia was used in multiple cases handled by the CDR mechanism as the standard for reaching agreements on many of the issues noted above. In cases where Sharia was suggested as the standard by intermediaries, most parties agreed, even though women's rights were not recognized or protected as fully as they would be if international human rights standards were applied. This is a dilemma for dispute resolution initiatives that want to apply international standards but are operating in cultures and countries that may not recognize them or where it is politically, religiously or personally unacceptable to apply them.*

- (g) A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harm.

*Throughout the life of the CDR mechanism, and at its conclusion, feedback and identification of lessons learned were solicited by UNDP's staff and monitoring and evaluation (M&E) specialists from intermediaries, CDR mechanism staff and its lawyers. Information was gathered by observation of dispute resolution sessions and meetings with intermediaries and lawyers.*

*It was also solicited in feedback/evaluation forms filled out by disputants and intermediaries and in post-dispute resolution interviews with a small sample staff. Three focus group discussions (FGDs) were also conducted with staff, lawyers and intermediaries. Information collected was shared with staff, lawyers and intermediaries to increase their knowledge and skills and promote continuous learning.*

<sup>18</sup> Article 3 of the 1973 [Syrian Constitution](#) declares Islamic jurisprudence one of Syria's main sources of legislation. The Personal Status Law 59 of 1953 (amended by Law 34 of 1975) is essentially codified Sharia. The Code of Personal Status is applied to Muslims by Sharia courts. In Sharia courts, a woman's testimony is worth only half of a man's.

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On an operational level, mechanisms should also be:

**(h) Based on engagement and dialogue:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harm.

*The CDR mechanism and respective dispute resolution procedures created effective forums and processes for disputants to come together, engage in dialogue and be involved in a joint search for solutions to their disputes that would meet as many of their interests as possible. Parties' engagement and dialogue were facilitated by the involvement of trained intermediaries who helped promote productive communications and problem-solving.*

*During the initial phase, UNDP staff and its M&E specialists solicited ongoing feedback from parties, intermediaries and its lawyers on the effectiveness and functioning of its structure, types of cases handled, intermediaries and procedures. UNDP identified where its earlier decisions should be kept as is, modified, added to or dropped to make the initiative more effective and efficient.*

*Some changes were incorporated while the CDR mechanism was handling disputes, such as acceptance of cases concerning divorce, personal injury, missing persons and paternity of children. Other potential changes have been noted and will be presented in the next section as recommendations for the future to improve the CDR mechanism, make dispute resolution initiatives more effective and prevent disputes from arising in the first place.*

