



## The role of effective mediation in achieving sustainable development

*Parallel session*

*29 November*

*08:15-09:45*

*Organized by the Compliance Advisor Ombudsman (CAO) of the World Bank*

**Background:** The session will feature a short film which vividly portrays how an effective mediation process is allowing 2,000 sugar cane workers in Nicaragua address a mysterious chronic kidney disease threatening their communities. The mediation process and its impact is analyzed through the eyes of the key stakeholders, including representatives from the cane cutters, sugar company, Nicaraguan government, health experts, international CSOs, and the CAO.

At the World Bank Spring Meetings in 2017 CAO facilitated a panel discussion on the use of mediation in development conflicts. At the World Bank Annual Meetings in 2017, CAO continued this theme with a panel discussion regarding the use of mediation and challenges in ensuring adequate remedy. Both these panels were well received by civil society and the private sector grappling with ongoing challenges in ensuring sustainable development. And as the World Bank focuses its financial lending on the private sector, we are aware that an ability to ensure effective community engagement and the deployment of functional mechanisms to address harms and assess impacts is becoming more pressing. It is critical that we come together to assess tools available to ensure access to justice for communities harmed by social and/or environmental impacts, particularly in the realm of non-judicial recourse. This is even more important regarding the use of mediation, the process of which is not governed by one international standard and where rights compatible approaches need to be explored to ensure best practice develops that enshrines principles of fair process.

### **Session objectives:**

- Disseminate a short and compelling film on a company-community mediation process in Nicaragua;

- Share experiences, methodologies, and lessons on how to build a foundation for dialogue, seek agreement, and implement sustainable local development solutions through enhanced community-company engagement;
- Promote an informed discussion between key stakeholders – representatives from companies, civil society, IFC, mediation professionals, and CAO – which will lead to identifying common positions and areas in need of further discussion.

**Session format and content:** The session will be structured to promote as much discussion by panelist and audience members as possible. The session will be facilitated by Gina Barbieri (Principal Ombudsman, CAO), and unlike a traditional panel format she will moderate the discussion by first asking for audience reactions to the film and then questions which the panelists will reflect on.

**Speakers:**

- **Gina Barbieri** , Principal Ombudsman, CAO (Moderator)
- **Nicholas Cotts**, Vice President for Sustainability and External Relations, Newmont Mining Corporation
- **Kristen Genovese**, Senior researcher, SOMO
- **Michael Brown**, Director of the Consensus Building Institute’s Canada Practice
- **Nokukhanya Ntuli**, Specialist in Dispute Resolution, Compliance Advisor Ombudsman (CAO)

**Links to background:**

- CAO: <http://www.cao-ombudsman.org/>;
- Film on Nicaragua Case: <https://www.youtube.com/watch?v=f1wACAzTtTM&feature=youtu.be>; Nicaragua Sugar Estates Limited (NSEL) Case Webpage: [http://www.cao-ombudsman.org/cases/case\\_detail.aspx?id=82](http://www.cao-ombudsman.org/cases/case_detail.aspx?id=82); New Forests Company (NFC) Case Webpage: [http://www.cao-ombudsman.org/cases/case\\_detail.aspx?id=181](http://www.cao-ombudsman.org/cases/case_detail.aspx?id=181)

## ANNEX –SHORT BIO



**Gina Barbieri, Principal Ombudsman**

Gina Barbieri manages CAO's dispute resolution function and is a South African human rights lawyer and dispute resolution professional. Before joining the CAO, she ran a legal practice specializing in mediation and other forms of alternative dispute resolution (ADR). She has mediated numerous disputes in the employment, commercial and community arena and is the author of two books on labor practice

in the public and private sector. She is a co-founder of the African Institute for Mediation, served as the Deputy Head of the Africa Center for Dispute Settlement, Stellenbosch University Business School, and sat on the steering committee for the establishment of the African Mediation Association. She obtained her LLB from the University of KwaZulu-Natal and is a CEDR (UK) and IMI accredited international mediator.



**Nicholas Cotts, Vice President for Sustainability and External Relations, Newmont Mining Corporation**

Nick Cotts was elected Vice President, External Relations and Social Responsibility in February 2016. Nick began his career at Newmont as Manager of Environmental Affairs in Newmont's South America region in 1994. Over the span of his over 20-year career with Newmont, Nick has worked with numerous Newmont operations across the globe around such issues as biodiversity, community development, indigenous peoples, human rights, and artisanal small-scale mining. His country experience includes over 17 years working at Newmont's Peru and Ghana operations. He holds a Bachelor of Science degree in Agronomy and a Master of Science degree in Range Science and Restoration Ecology, both from Colorado State University.



**Kristen Genovese, Senior Researcher, The Centre for Research on Multinational Corporations (SOMO)**

Kris specializes in supporting communities and workers who are seeking remedy for corporate-related human rights abuses through non-judicial grievance mechanisms. Kris has worked with sugarcane workers in Nicaragua affected by chronic kidney disease, and mining-affected communities in Colombia, Guatemala and Bolivia. Prior to joining SOMO in 2014, Kris was the director of the People, Land, and Resources Program at the Center for International Environmental Law (CIEL), and was international counsel at Defenders of Wildlife where she led a campaign to improve environmental protections in the US-Peru Free Trade Agreement.



**Michael Brown, Director of the Consensus Building Institute's Canada Practice**

Michael is Professor of Practice in Natural Resource Conflict Mediation at McGill University, and former Senior Mediation Expert in Natural Resource and Land Conflicts for the United Nations Standby Mediation Team. For more than 25 years, he has worked on conflict prevention, mediation, and stakeholder engagement related to natural resources, land, environmental issues, and matters involving local or indigenous communities. He works on projects and disputes, institutional capacity, systems design, and policy. He has lived and worked internationally for many years, and held numerous leadership and senior advisory positions with the United Nations and other international organizations.



**Nox Ntuli, Specialist, Dispute Resolution Specialist**

Nokukhanya (Nox) Ntuli is a South African lawyer, mediator, trainer, and process facilitator. Prior to joining CAO, she worked as a Constitutionalism and Rule of Law Expert in the Department of Political Affairs at the African Union Commission in Addis Ababa. She has extensive experience in mediation and has mediated commercial, employment, land, community, and electoral disputes. She holds a Post Graduate Fellowship on Peace and Security from Kings College London and the African Leadership Centre, an LLM in Corporate Law from Nottingham Trent University, an LLB Honors from the University of Wolverhampton, and a Certificate in Transitional Justice and Peace-building from the United Nations Institute for Training and Research. She is an ADR Group (UK) Accredited Mediator, has served on the boards of several non-governmental organizations.