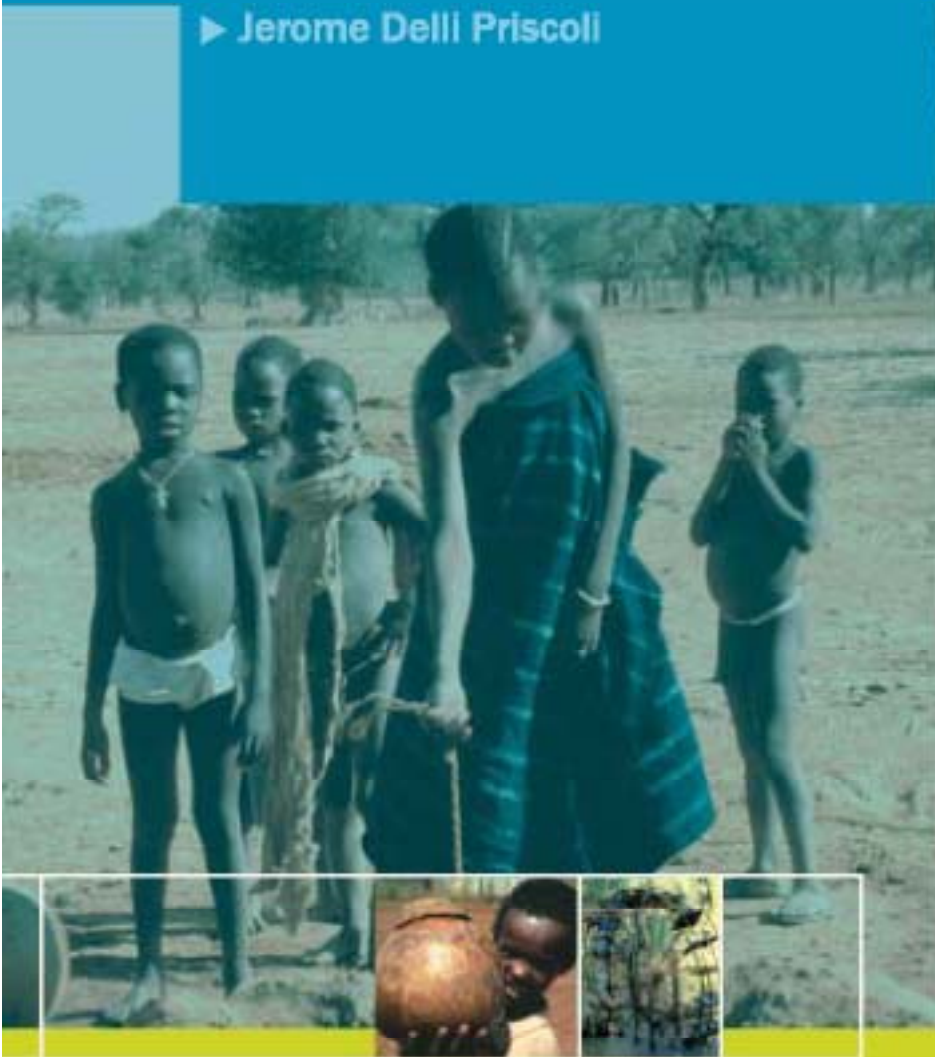


Participation, Consensus Building and Conflict Management Training Course

► Jerome Delli Priscoll



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31. Janos Bogardi and Saskia Castelein (eds.), *Selected papers of the International Conference From Conflict to Co-operation in International Water Resources Management: Challenges and Opportunities*, UNESCO-IHE Delft, The Netherlands, 20-22 November 2002, UNESCO-IHP, 600 p.



PARTICIPATION, CONSENSUS BUILDING, AND CONFLICT MANAGEMENT TRAINING COURSE (TOOLS FOR ACHIEVING PCCP)

Prepared by Jerome Delli Priscoli

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ACKNOWLEDGMENT

This workbook is a contribution from UNESCO's International Hydrological Programme to the World Water Assessment Programme. It was prepared within the framework of the joint UNESCO–Green Cross International project entitled "From Potential Conflict to Cooperation Potential (PCCP): Water for Peace," and was made possible by the generous financial assistance of the Japanese government.

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INTRODUCTION: WELCOME TO THE PARTICIPATION, CONSENSUS BUILDING AND CONFLICT MANAGEMENT TRAINING COURSE

(Tools for Achieving PCCP)

1. Training Context and Need

The world has changed for water resources managers, planners and decision makers. Today, especially in the context of new demands for integrated water resources management (IWRM), water managers and planners often work in teams involving multiple disciplines, not just engineering and associated technical fields. Increasingly they work in multi-agency teams, which involve a variety of public, NGO, and private sponsors. Today's water managers and decision makers must consult with a broader range of stakeholders, publics, and NGOs – locally, regionally, and often internationally. And, they must do all this while operating in a world of increasing demands on water.

Technical excellence remains necessary for creating sustainable water management decisions, perhaps even more so than ever. People all over the world need technical engineering competence more than ever before. However, it is not sufficient in itself. The ability to put that competence at the service of those who need it depends, in many cases, on changing the relationship between the experts and those whom they are serving. This course aims at helping to build, to modify, or to create such new functional relationships.

The new water resources decision-making environment requires at least two sets of skills. First, it requires excellent and broad technical skills that reach across disciplines to consider alternatives that in the past were often not evaluated. In addition, today's water decisions often rest on a scientific basis that is itself incomplete. This sometimes means that water decision makers must first get agreement on what studies need to be conducted and what data should be collected, to ensure that decisions are based on science, not rhetoric. As a result, water planners and managers need a breadth of technical knowledge that goes beyond the traditional excellence in engineering.

Second, water planners and managers need another set of skills: the skills of designing and conducting processes that draw together partners, stakeholders, and publics, resulting in decisions that enjoy broad cross-sectoral, and often transboundary, public support. The era where water planners and managers decide–announce–defend is rapidly disappearing. In this new era, water management is done with (as opposed to being done “for” or “to”) potentially affected agencies, public and private organizations, individuals, and others.

This course teaches this second set of skills. These are the skills that will help water resources decisions makers avert conflict, deal with conflict should it arise, and use water decisions as a venue for dialog when others are closed to parties locked in various types of non-water conflicts. In short these are tools to help water resources decision makers take the PCCP road.

2. Training Objectives

By the end of this course you will be able to:

- Identify the characteristics of effective participatory, consensus building, and conflict management processes.

- Design and facilitate multidisciplinary teams, as needed in IWRM, a variety of interactive workshops, and large and small meetings.
- Identify behaviors that escalate conflict during a dispute with other agencies, stakeholders, or the public – and identify behaviors that halt this escalation.
- Select appropriate techniques for a participatory process.
- Design basin-wide organizations and frameworks for action.

3. Training Methodology

This course is designed to teach *skills*, as well as concepts. When learning a skill, it is not enough just to “know about” it. Skills have to be practiced, preferably in conditions that replicate the circumstances under which they will be used. For this reason, the general sequence for each skill taught in this course is:

- brief presentation
- a class activity or team exercise in which you apply the skill
- a class discussion or debriefing to focus in on key issues or important things that were learned from the activity.

This means that the course is interactive, and your active participation is an essential part of your learning. Look upon each team exercise, for example, as another opportunity to learn more about working in teams. Also, remember that all skills require practice, and the more you practice them the better you will get. This course will give you the basics of each skill. But look on this training as simply getting launched and then reinforce the skills you learn with regular practice when you get back on the job.

4. Training Materials

The workbook consists of essays and exercises. The essays are written by practitioners: professionals who have used the tools for many years in water management situations throughout the world. In most cases, they are composites constructed from several essays on the topic by the author(s). The authors are trainers as well as practitioners. The course presentations follow the essays closely. The exercises, in some cases tested over many years, have been chosen and developed specifically for the skill or process that is being taught. Most are based on real cases. Attribution is provided for all materials where appropriate. The truth, however, is that the materials have evolved over years of training water managers and decision makers.

PARTICIPATION, CONSENSUS BUILDING, AND CONFLICT MANAGEMENT

Policy Makers Tools for Achieving PCCP

Agenda

DAY 1

8:30–9:00	Registration
9:00–9:30	Introduction and Needs Assessment (Using and Demonstrating Nominal Group and Prioritizing Techniques)
9:30–9:45	Review Agenda: Objectives and Process of Course
9:45–10:30	Group Exercise: Bargaining Game (Inter-Group Behavior)
10:30–11:00	Break
11:00–11:30	Presentation: Why Water Managers Need Process Tools Defining Concepts and Terms
11:30–11:45	Group Exercise: Values Line Up
11:45–12:30	Presentation: Values the Heart of Process Tools
12:30–2:00	Lunch (Suggest a Speaker from Middle East Water Negotiations)
2:00–2:45	Presentation: Participation Tools
2:45–3:30	Group Exercise: Basic Communication Skills Active Listening (Exercise) Congruent Sending (Communicating your Concerns)
3:30–4:00	Break
4:00–5:30	Presentation and Group Exercise: Working Effectively in Teams (Exercise: How Disputes Escalate)
5:30–5:45	Debrief the Day

DAY 2

8:30–8:45	Review the Day
8:45–9:15	Group Exercise: Negotiation Simulation (Business Eggs)
9:15–9:45	Presentation and Debrief of Exercise: Causes of Conflicts
9:45–10:30	Presentation: A Continuum of Conflict Management Tools
10:30–11:00	Break
11:00–11:30	Presentation: Negotiations
11:30–12:30	Group Exercise: Negotiations (Office Furniture)
12:30–2:00	Lunch (Free)
2:00–2:30	Presentation: Facilitation
2:30–3:30	Group Exercise: Facilitation (Fantasmia: A World Bank Participatory Assessment or North Caucasus Power)
3:30–4:00	Break
4:00–4:30	Presentation: Mediation and Arbitration
4:30–5:00	Group Exercise: Mediation and Arbitration (International Fisheries)
5:00–5:15	Debrief Day

DAY 3

8:30–8:45	Review of the Day
8:45–9:15	Presentation: Identification and Assessment of Stakeholders
9:15–10:30	Group Exercise: Identification and Assessment of Stakeholders (Jerome River)
10:30–11:00	Break
11:00–11:30	Presentation: Designing Workshops
11:30–12:30	Group Exercise: Designing Workshops (World Water Meeting)

12:30–2:00	Lunch (Suggest Speaker from South Asia Indus)
2:00–2:30	Presentation: Ends of Water Negotiations Basin Organizations and Action Frameworks: Incentives for Cooperation
2:30–3:30	Group Exercise: Designing River Basin Organizations and Action Frameworks
3:30–4:00	Break
4:00–4:30	Presentation and Discussion: Computer Based and Software Uses for Process Tools
4:30–5:15	Practicum: Q & A and Consultations on Specific Needs with the Instructors

1. OVERVIEW: WHY WATER MANAGERS NEED PROCESS TOOLS

1.1. Introduction: Why Use Stakeholder Participation, Consensus Building, and/or Dispute Management in Water Management?¹

Professionals in many countries have moved from public involvement that meant informing and educating the public to involvement that means receiving information from, and being educated by, the public. Today, the major concern is, how can interested parties agree? In short, we have moved from the idea of educating stakeholders and publics, to also being educated by them, to now mutually deciding with the publics and stakeholders.

Generally, the following six goals for participation, conflict management, and consensus building are the most common. While all are rarely achieved, mixes of these goals may be attained.

- To build credibility with those who will be affected, those who will pay, and those who will use the project. While the point does not need to be elaborated, many recognize that a credibility gap has existed between the policy makers and significant segments of the public.
- To identify public concerns and values. There are many techniques that do this in a form that is relatively open and straightforward.
- To develop consensus among the affected parties, users, and those who pay. In difficult controversies, consensus is rarely achieved, but it is satisfying when it is.
- To create the greatest number of "unsurprised apathetics." In many cases, not everybody needs or wants to be involved in every issue all of the time. Most people are partially involved, but these people should not be surprised. They should be kept informed, in other words, "unsurprised."
- To produce better decisions. Public involvement can often produce better "technical decisions" than a strictly technically oriented decision process.
- To enhance democratic practice.

Stakeholder participation, consensus building, conflict management, and dispute resolution mean many things to many people. Whether or not they are good often seems to be "in the eyes of the beholder." There are numerous arguments for stakeholder participation, consensus building, conflict management, and dispute resolution in water resources management. Here are eight of the more important areas of argument.

1. To help meet the ethical dimensions of water management.
2. To meet legal or formal policy requirements.
3. To link water management with the civic culture.
4. To help manage the tension between the technical and political.
5. To help reconcile the discontinuities between geographic and jurisdictional boundaries.
6. To find and build common ground and move from extremes.
7. To improve consensus building and conflict management.
8. To reach sustainable or durable agreements.

1.1.1. Ethical Dimensions of Water Management

Since there is no life without water, those to whom it is denied are denied life. Water for all and meeting minimum human needs are vitally tied to the principle of human dignity, shared by all contemporary religious faiths.

We can see profound ethical implications in all aspects of traditional water uses: flood control and management, drought contingency planning and management, irrigation, hydroelectric power and agriculture, water supply and sanitation, navigation, ecological maintenance and health, public health and disease control, and many others. Ethical considerations of these uses concern the distribution of benefits and costs of the services, who gets how much of the water and who pays, the distribution of risks, and who is vulnerable and to what degree. Today, this includes provision for nature and ecology as well as people.

Ethical implications are also clear in all aspects of water management decision making such as planning, regulating, operating, financing and investing, and designing and implementing. They concern:

- Who participates, and what are the decisions they participate in?
- Do they have input to the formulation of options, or only an opportunity to react to options already formulated?
- How and what type of opportunity costs are considered?
- The valuing, implicit or explicit, in trade-off decisions.
- The level and type of information open to the public.
- Disclosure and characterization of impacts.
- The way professionals interact with non-professionals and the use, as well as misuse, of technical and professional information.

In the face of such ethical responsibilities it is difficult to justify the familiar model: decide and inform the client community, and then justify the decision (that is, decide, announce, and defend). This old model must be – and is being – replaced by another approach in which the participants jointly share information, diagnose the problem, reach an agreement about a solution, and implement it. The “decide–inform–justify” approach usually builds on a paternalistic (albeit often nobly motivated) professional ethic. The professionals formulate alternatives or determine options. Then, for the good of society, they inform the public and thereby justify those decisions.

While often attached to the traditional engineer’s mentality, this old model is finding new life among many contemporary environmental regulators! However, the ethical basis of such professionalism is changing. For example, few of us go to the doctor and say, “heal me.” Instead, we participate in the diagnosis as well as in the healing process itself. This also happens when we turn to traditional, technical, and governmental agencies. We must find new ways to jointly diagnose problems, to decide on plans of actions, and to implement them. This notion of professionalism is driven by a new ethic of “informed consent” as opposed to paternalism.

It is not that engineers, scientists and technical professionals have become irrelevant. We need them more than ever. However, for their expertise to be put in service, new relationships must be built with those whom they serve. This new model of “informed consent” demands broader understanding by all stakeholders of the special ethical demands faced by decision makers.

Today we are coming to understand that there is not one but many possible ecological futures, that we must actually design and choose our future. This is the challenge of environmental design: the co-creation of our ecology. We already see this practically in new programs that actually engage in proactive ecological design such as environmental restoration and wetland construction. Some call this the adoption of a Promethean environmental archetype and the rejection of an Arcadian archetype to fuel our search for sustainability.

Ecology and water disputes must overcome the syndrome of advocacy science if we are to preserve the legitimacy of the scientific enterprise, which is so necessary for water management. We must ask: what are the ethics of using science to persuade

publics, especially under conditions where there is fundamental disagreement among scientists and where even the models and data themselves are weak?

Participatory processes force all of us to confront these questions.

1.1.2. To Meet Legal and Formal Requirements

Often managers use process tools, "because the law mandates public involvement." But what is behind the laws? To begin with, we are now in a new era of environmental concern. Values throughout industrial societies and elsewhere have been shifting. There is increasing concern for environmental quality and public health (Milbraith, 1984).

These concerns have manifested themselves as new demands on the technical decisions made in the water resource field. Environmental values must now be integrated into actual engineering design, not simply be added as afterthoughts for predetermined solutions. This has meant broadening the alternatives considered, from traditional structural measures to non-structural and behavioral measures.

Initially, participation processes were greeted with skepticism within technical agencies and a naive euphoria among environmental interest groups. With more experience, the subtleties of public and stakeholder involvement have become apparent. What happens after everybody has articulated his or her interests? What happens after we have listened to the different and competing views? These questions have been prominent for the last four or five years. Can public involvement created by raising and articulating interests lead to consensus or agreement sufficient for action?

Many in the environmental community have been surprised that participation processes do not always lead to ideal environmental solutions. Many professionals in technical agencies have seen them as producing more legal stalemate by providing access for new interest groups. Many have seen public involvement as a means to stop or stalemate decision processes. As such, public involvement has become another straw on the camel's back, burdening the legal court system. Indeed, in many Western countries, the courts have become the major instrument for resolving environmental disputes.

However, the court system in the United States has become overloaded. Litigation takes a long time and rarely produces solutions that are satisfying to any of the parties involved. Also, solutions are reached in a way that separates rather than brings together those with substantive technical environmental expertise. Even though the court system or adversarial process predominates in the US system, more than 80 percent of those cases that start in the adversarial process are settled out of court. So participation and conflict management have taken on new meaning, that is, to "off-load" the legal system.

Throughout the Western democracies, administrative processes, which some once thought to be purely technical, are more clearly recognized as having political dimensions. Many decisions thought to be purely technical are actually political, that is, they affect the distribution of values throughout society. Most managers in administrative agencies are actually managing the gray area between technical and political. While asked to be technically competent, they must be politically realistic. The process approaches have become a means for managing this gray area between the technical and the political.

1.1.3. Water Management, Civic Culture, and Decision-Making Efficiency

Participatory processes, specifically, and process tools generally, build on a classical notion in democratic theory: that those who are affected by decisions should have a say in them, because in doing so they will become better citizens. And it is often the physical and water infrastructure that citizens see directly affecting their lives.

Building that physical water infrastructure in a collaborative and participatory way is now an important means for building the civic infrastructure and the civil society, or what many call the governance environment. However, this is not new. Fountains of ancient Rome, like standpipes in small villages today or in medieval cities of Europe, have played roles in building civic culture as well as quenching thirst. They were occasions for civic dialog and meeting places central to creating a sense of civic belonging and responsibility. Indeed the fountain was truly a civic work. It was a gathering place of nations, believers, and unbelievers. We should not forget that civil society, civic culture, and civil engineering share common roots. Whether it be irrigation associations, community water and sewage, or even large-scale multipurpose river operations, water management forces us to connect and balance rights to water with responsibilities for managing water. Most democratic theorists see the experience of such balancing as central to development of civic society.

In short, participation forces us to be more than simply “water customers” or “water clients.” Rather, we become “water citizens.” Nevertheless, there is a tension between a technical subculture that looks to rationality and efficiency and sees participation as delay and even sub-optimality, or as producing decisions that cannot be implemented. Figure 1 portrays the underlying democratic faith of participation in the technical water management decisions.

Model I is the traditional model where the agency decides and then tries to sell its plans to the stakeholders (SHs). While it is possible to move from problem to decision quickly, this may not actually be as efficient as it seems. Implementation is likely, in the new environment of water, to take a long time. Decision makers in this model often fall into the trap of spending time and resources selling the decision, resources that could have been more effectively spent on creating options.

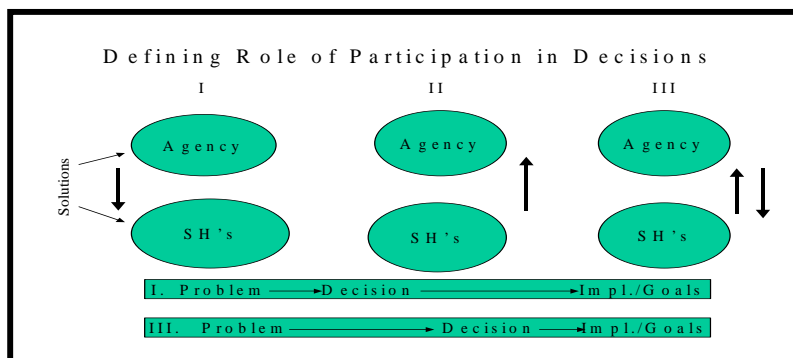


Figure 1. Defining the role of participation in decisions

Model II is equally flawed. The model says that whatever the SHs decide is what we do. This model is not participation. It is unrealistic. It ignores the need for technical support and a reality check. Consensus is critical but consensus alone, without technical competence, cannot manage basin or watershed.

In Model III, there is meaningful and mutual give and take among SHs and decision makers. This signifies the real influence of each on the other, and mutual learning. In this model, moving from problem to decision does take longer and may appear at first to be inefficient. However, once it is taken, implementation is rapid and more solid. Model III represents good participation in water resources management and river basin organizations (RBOs).

Today the use of process tools is doing more than making our democratic institutions perform better. The tools are becoming catalysts for new civic partnerships and even new governance structures that transcend the old.

1.1.4. Tensions Between the Political and Technical

Few issues intertwine the technical and political as does water management. Even a cursory look at history shows that the interaction between the political and the technical is complex.

Traditionally we seek to separate the technical and political. The political is usually seen as legislative voting, and the technical is usually seen as implementing the decisions of executive agencies. In complex water management decisions, this distinction breaks down. Often it is with the implementation or administration of general laws that the distribution of impacts becomes clear. Politics is "who gets what, when, and how." Often the "what" and the "where" only become apparent in implementation. Thus, administrators of technical agencies begin to appear as the bestowers or deniers of political benefits. And this is becoming more and more true as we become more complex.

To manage this gray area, scholars and commentators from Habermas to Robert Reich have been calling for a new paradigm of public dialog that leads to civic discovery. This call reflects the chief goals of participatory processes: to foster deliberation, to encourage social learning, to create new alternatives, and to build or enhance through empowering experiences the civic infrastructure.

Much of the water legislation of the 1970s and 1980s, in the United States and now in many lenders' and donors' policies, has included a litany of impact assessment requirements such as community impact, risk, and environmental assessments. Each is essentially the recognition that traditional decision-making processes somehow do not include significant and appropriate values.

Unfortunately, many have come to see even these assessment techniques in purely technical, rational, analytical, and value-free terms. The truth is that water decisions fall somewhat between the clearly technical and clearly political. Essentially we are seeking the reasonable, not just the rational. While the rational may be a necessity, it is not a sufficient condition.

A far more profound principle or norm for water managers lurks behind all this. We must seek to put that which we do (our technology) into the service of that which we believe (participatory democracy). Once again, water management is leading the way. Participatory processes, at their best, help us manage this gray area and to provide representative participation in technical/administrative decisions.

1.1.5. To Find Common Ground and Move from Extremes

Practically, participation processes and conflict management programs should visibly isolate extremes. This sounds manipulative and somehow distasteful. Let me explain. Programs should create incentives for participants to find and move to a middle ground. Public involvement programs should facilitate a shared ownership of solutions, alternatives, and recommendations such that alternatives may be implemented. This means creating an environment where compromise is acceptable. As we have learned, public awareness rapidly becomes more than public information. Public information and public relations are critical skills to be used but they are not sufficient in and of themselves.

While practical people understand that not all conflict will be solved short of court, war, or other adversarial methods, public involvement programs seek to solve as much conflict as possible without going the expensive route of litigation. Public involvement and conflict management programs attempt to create an environment where the alternative viewpoints are synergized into creative solutions that have not been previously conceived, rather than canceling out one another.

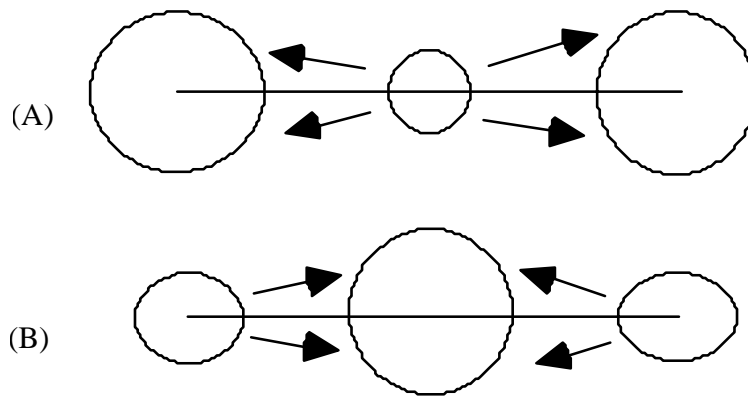


Figure 2. Visibly isolating extremes

Figure 2 graphically outlines this concept. In a traditional adversarial model, as shown in Figure 2(A), the only way to play is to be “for” or “against.” The pressures are to move to the extremes and out of the middle ground. Those in the middle will either drop out or gravitate to the extremes. We hire our lawyers to characterize and to do battle for us. There is little reward to be found in the center.

Successful resolution begins with finding shared middle ground and creating alternatives, as represented in Figure 2(B). To a great degree, excessive reliance on the adversarial paradigm excludes building the shared ground. Although useful and necessary, the adversarial model is not always effective. In planning water resources development, once we assume that we will resort to the adversarial model or to the courts, all of our planning documentation subtly transforms our professional problem analysis into building a “case” under the legal “rules-of-evidence.” In short, the means – litigation – has become the end. It has become the pervasive normative guide for data collection across disciplines. Polarization is thus assured. The system, whose conflict resolution ability we strongly believe in, begins to generate more intractable conflict than it solves.

So what do we do? First of all, extremes exist; we all know it and we should recognize them. Ignoring extremes does little good. Figure 2 aims to show that we should visibly isolate such extremes. That is, we should recognize and publicize them, so that those who participate at the extremes do so publicly. That is, the cost for participation at the extremes is to be identified with extreme positions. Providing “reasonable” alternatives to what appear to be “irrational” extremes makes it hard for extreme positions to maintain broadly based constituencies.

Many who are at the extremes are committed and have valid and important reasons for their stance. One of the more important reasons is that by so locating themselves, they help move society’s consciousness toward what they view as important and truthful values. For a public agency, however, the objective is usually to find sufficient ground on which to build enough will to act. This means ensuring that broadly based constituencies have alternatives. If there are broadly based constituencies supporting extreme positions, then, indeed, solutions will move in their direction. However, we have frequently found that reliance on adversarial models allows the claim for broadly based constituencies by extreme positions without clear and visible proof of such constituency support.

To many, this model appears counter-intuitive. After all, it requires a certain faith in the ultimate reasonableness of humans. However, such faith and reasonableness is, to a great degree, what our democratic systems are about. Indeed, much of our public involvement, conflict management activities, and administrative processes are about helping our democratic systems to adapt to changing conditions. This adaptation itself

is built on such faith in reasonableness. Many of the decisions that we seek in the environmental area are, in fact, a search for the "reasonable" as opposed to some view of the "rational" decision.

1.1.6. Consensus Building and Conflict Management

Figure 3 outlines a two party dispute. We frequently think of negotiating as moving along the line between point A, where wins, to point B where B wins or gives in. Consequently our image is that good negotiations should bring us to point B where we gain and lose equally.

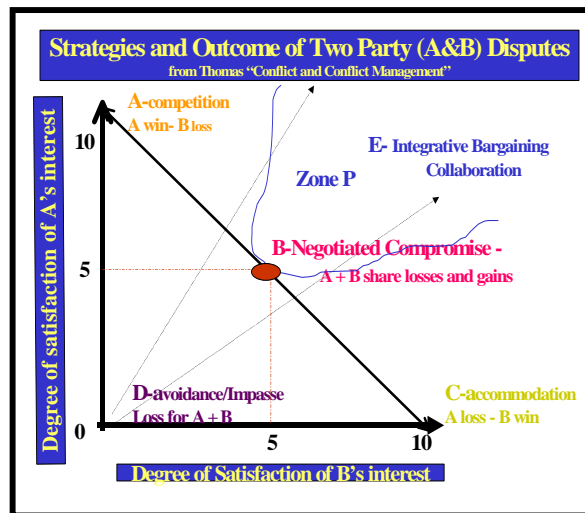


Figure 3. Strategies and outcome of two-party (A and B) disputes

However, this win-lose view rests on an assumption that water is a zero sum game. Indeed, if we think this way, we will create just that. The reality is different. There are many opportunities to move beyond the A-B line out to point E and zone P, an area negotiators call "integrative bargaining." That is, we can create options that expand the pie, often options that no one party thought of before they began. This is similar to the established notion of multi-objective water planning and operations.

However, the question is "how do we get into zone P?" More often than not we get there with the help of processes such as mediation or participation.

Herein lies one of the great values of participation: helping us move into this zone of integrative bargaining.

Doing so is not magic, and it is not idealistic. It depends on negotiating on interests, discovering shared interests, and building on them. Interests are not the usual positions we hear in negotiations. For example, the statements of "no more wetland fill," or "not one drop more of water for them," or "no more living on the flood plain" are positions. Interests are revealed when we ask why these statements are being made. For example, no more loss might be driven by the interest in maintaining a functioning ecosystem that stores floodwaters and nourishes a fisheries industry. Suddenly we see interest underlying position. Helping stakeholders to reveal their interests, jointly educate each other on them, and use them to build options is at the heart of participation and consensus building.

Interests are based on values or views of the way the world ought to be. For example, Figure 4 portrays a recent case where water resources planners needed a projection for electrical energy demand in the Pacific Northwest of the United States to the year 2010. Top professionals, using excellent models that were internally flawless, made each of the projections. Not surprisingly, the utility interests projected an increased need while the environmental interests projected a decreased need for electric energy. Projections made by a major university and a consulting firm fell in-

between. Although one cannot predict the absolute number, by simply knowing who made the projection, one can easily project the relative positions of the projections. Essentially these professional and technical projections are elegant statements of how these organizations feel the world "ought to be." That is, they contain political messages and are at root value statements.

Even if rarely acknowledged, it is no surprise that projections are value based and assumption driven. However, to engage in the crucial assumption game requires a working knowledge of modeling and technical proficiency. Consequently, those for whom these projections are made are frequently excluded from the game. Therefore it is little wonder that the people whom the projections serve feel no ownership in the projections and subsequently ignore or reject them.

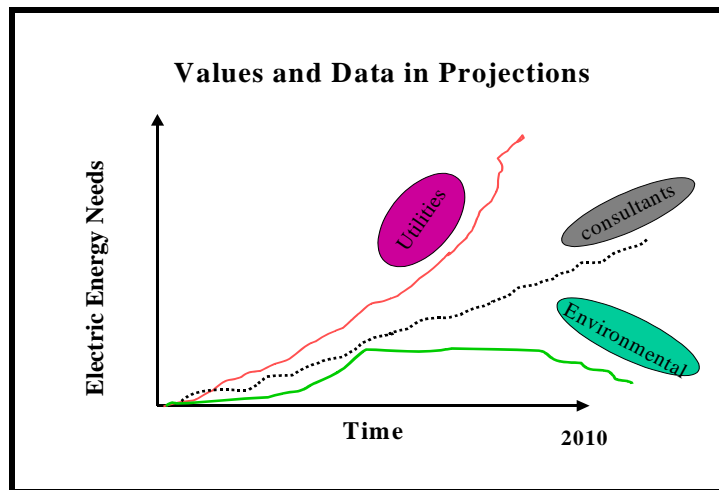


Figure 4. Values and data in projections

In short, the projections are neither purely technical nor political. They are a hybrid. The water resources professional must now be able both to draw the lines that are seen in Figure 4 and to encourage a broadly based value consensus around the assumptions underpinning these lines. The second point must be emphasized. The professional must understand values; alternatives must be designed which service this range of values – all as a precursor to building consensus on action. Engineering design must start with knowledge of values, and design to those values rather than start with engineering options and forcing stakeholder (SH) values to fit. Traditional technical alternatives frequently carry with them sets of values that represent a far more narrow set of values than is necessary to satisfy this requirement. In short, another technical model, which the engineers proposed to use here, is unlikely to solve the problem. Some other process tool, which gets at underlying values and interests, is needed. Participation of SHs is necessary for this.

There is some confusion over participatory processes and conflict management. Many participation successes were achieved during the 1970s and 1980s, but there were also many lingering problems and discontents. Chief among these was the notion: "Public participation got people talking and us listening to their needs, but we do not seem to come to closure and to reach agreement." In response to this sentiment and to the growing litigiousness in US society, the field of alternative dispute resolution (ADR) emerged in the early 1980s. ADR used much of the rhetoric and process skills found and developed in the participation experiences. For example, facilitation, mediation, neutral party assistance, and the early notions of interest-based negotiation, which is parallel to value-based alternatives, started to be used to solve disputes before going to court.

The participation experience was born of multi-party, multi-issue disputes, usually precipitated by new ecological value challenges. ADR began by focusing on mediation and various forms of non-binding arbitration born of the more traditional model of labor-management disputes involving limited numbers of parties and more discernible interests. Practitioners in both of these traditions have come together in a variety of professional forums and societies. The growth of environmental mediation is one major example.

But important differences between participation and ADR exist beyond these convergences. Participation has been driven primarily by values of empowerment, creativity, and open access to government. ADR, while not ignoring such values, has been sold more on the values of efficiency, timeliness, and the cost effectiveness of decision-making processes. These values of empowerment – open system access, efficiency, and timeliness – can and often do conflict. In the end, some people may just not agree among themselves, or with water managers, or other decisions, but we will all have to learn to live together while we disagree. In this sense, participation is far more than conflict resolution. Participation seeks to help us discern public interest and community will, and to articulate preferred futures. I think the political philosopher Ben Barber puts it best when he says, "Participation teaches us the arts of democracy."

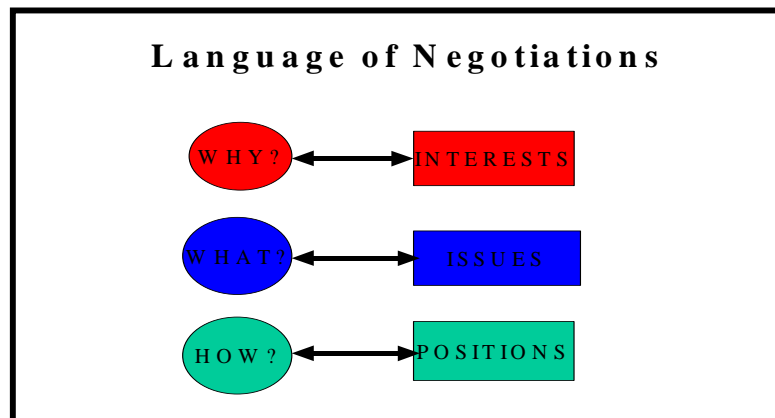


Figure 5. Language of negotiations

The demands for participation in water management and ecological decision making are both indicators and symptoms of problems in water management and democratic institutions. The values held by those whom administrators and executives serve are changing. Older administrative organizations and institutions, which themselves are the embodiment of values from previous times, have often lagged behind their publics. New publics bring new demands. At the same time, the complexity of decisions increasingly raises the question of how to achieve democratic accountability. Our water resources demands do not conform to traditional jurisdictional boundaries. The ethical basis of professionalism is now moving from paternalism to informed consent. Participation is a means to adapt and to make our democratic institutions work better in this context. But participation is also helping to reinvent our civic cultures.

Participation is a means to achieve important psychological transference within our publics: that is, from passive victims of, or reactors to, risk toward active choosers of levels of risk. Figure 5 outlines the new language of negotiations that captures these ideas.

At its best, participation can connect us and perhaps break down stereotypes. It can help us walk in the other person's shoes. It can be a symbolic act of reconciliation

and a vehicle for forgiveness and healing, which are prerequisites for management of ethnic and distributive conflicts.

1.1.7. Discontinuities Between Geography and Jurisdictions

Our water problems are integrated around watersheds and river basins. However, our administrative units to deal with them are fragmented. Participatory processes are essentially tools to help us bridge the discontinuity between geographical and jurisdictional boundaries found in water resources management.

Neither effluent from waste facilities nor polluted groundwater can be contained within traditional jurisdictional entities, nor can the problems they create be solved by members of one jurisdiction; throughout the world, such resources issues will increasingly drive political and international decisions. But these resources are spread across state, local, provincial, federal, and international boundaries. Organizations and institutions built on traditional jurisdictional boundaries seem deadlocked by the NIMBY ("not in my backyard") syndrome.

Ultimately, participation is a bottom-up phenomenon. Participation becomes a driving force for the vertical (state, local, and regional) as well as the horizontal (across agency) negotiations vital to decisions, which rarely fit traditional jurisdictional boundaries.

This is most clear in river basin management. Throughout history, the river basin has played a major role in unifying communities and stimulating trade and the emergence of large political-economic organizational units. Historical examples illustrate that communities were integrated through the management of water and land resources for agriculture, river navigation, and settlement networks based on agrarian productivity and transport modes. River navigation also facilitated the integration of raw materials and manufactured goods from different parts of the basin and among basins, and spawned NGO advocacy groups such as boatsman associations along the Rhine and Danube during the time of the Roman Empire.

Today, internationally, new publics are demanding new institutions and forums for negotiations, which often cross traditional jurisdictional and/or national boundaries. The issues themselves are also spawning new affinity groups or NGOs such as environmental groups, which operate across those boundaries. The influence of such cross-jurisdictional groups could become important in certain regions. At the bottom line, IWRM, the centerpiece of world debate on water policy, cannot be achieved without participatory processes.

1.1.8. To Achieve Sustainable and Durable Agreements and Settlements

To achieve a durable settlement, there are at least three types of interests that generally must be met (Lincoln, 1986). These are:

- *Substantive interests*: that is, content needs, money, time, goods, or resources.
- *Procedural interests*: that is, the needs for specific types of behavior or the "way that something is done."
- *Relationship or psychological interests*: that is, the needs that refer to how one feels, how one is treated, or conditions for ongoing relationships.

These interests can be seen in Figure 6, often called the "satisfaction triangle." The above interests are represented on three sides of the triangle. Ideally, any public involvement and conflict management process would be designed to seek point A. This point, in some sense, represents an optimal satisfaction of the procedural, psychological, and substantive interests of each of the parties. Frequently, technical professionals, in designing conflict management and public involvement processes, implicitly or subconsciously behave as if they are reaching for point B.

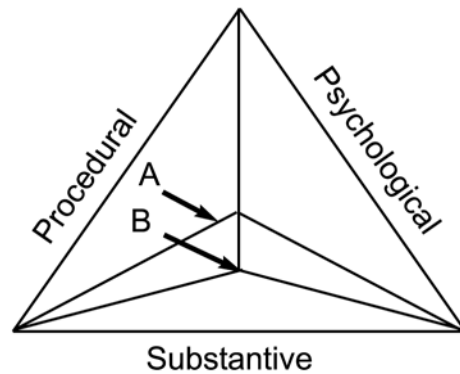


Figure 6. Satisfaction triangle

This point represents a situation that is high on the substantive or content aspects of the situation but relatively low on the psychological and procedural aspects. The point of this triangle is that public involvement and public awareness require an explicit design that seeks to maximize procedural and psychological as well as substantive concerns. This is often uncomfortable and, in fact, often beyond the skill of many water resources professionals.

We know we have achieved procedural satisfaction when the parties to the process say they would use the process again. We will speak in a moment of different process techniques that have been developed over the last ten or twelve years. Substantive satisfaction is familiar to us. It is the water resources context with which we spend our lives. We know when we have achieved it.

How they felt when they . . .

<i>(Won) (1)</i>	<i>(Lost) (2)</i>
Great	Taken advantage of
Victorious	Demoralized
Wonderful	Helpless
Superior	Inferior
Strong	Weak

Figure 7. Defining psychological satisfaction

Psychological satisfaction is a little more difficult to conceive. Figure 7 outlines one way to understand psychological satisfaction. The figure contains two columns: "Won" and "Lost." The words under each column indicate how people may feel when they perceive they have either won or lost in a dispute (Lincoln, 1986). As you read down each column, you can probably think of other words that express your own feelings when you have either won or lost in a dispute. Now, the following questions can be posed. What possibility exists for a durable settlement if one party feels the way that is described by the words in column (1) and the other party feels the way described by the words in column (2)? Can a durable settlement exist when both parties feel as described by the words expressed in column (2)? The answer in both cases is that there is little or no possibility! Parties must come close to feeling as described by the words in column (1) for durable settlements to exist. The point for us, as technical professionals in water resources, is that we must explicitly design processes that will result in such feelings.

1.2. Policy Context of Process Tools and Water Management

Figure 8 outlines the policy world of the water manager. As we can see, the policymakers are not one entity. They include elected and administrative officials of various types. We all know that elected officials can have tremendous disagreements among themselves. This is also true of administrative officials and professional civil servants who frequently represent agencies with different missions. Indeed, scientists themselves often disagree. It doesn't take experience with too many controversies for one to recognize a variant of Newton's Second Law, "For every Ph.D., you can find an opposite and equal Ph.D."

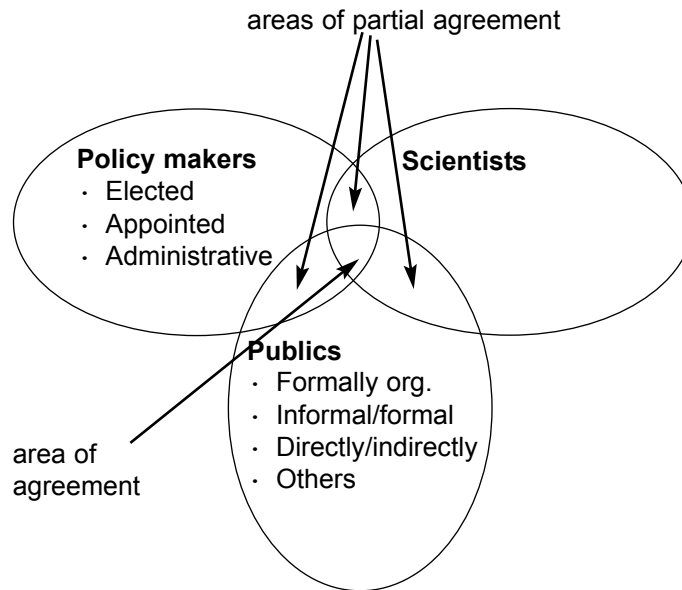


Figure 8. Policy world

There are many ways of looking at the public and stakeholders. Indeed, there is no single public but rather, many publics. For a controversy, we might find publics that are formally or informally organized. We may find publics who are directly affected and those who are indirectly affected. I am sure we can draw clearer distinctions; however, the point is that we are seeking to understand how public awareness helps us reach some agreement among the three elements in Figure 8, no matter how we subdivide them. The overlapping area in the middle of these circles represents this agreement. However, agreement itself should be explored further.

Figure 9 explores the nature of agreement in a simple two-by-two table (Vlachos, 1988). This table outlines agreement or disagreement among these three distinct groups over either the goals or the nature of a problem. Depending on the nature of agreement, different analytical activities on policy processes are called for. As the table demonstrates, Cell 1 is called "objective analysis." Such analysis is appropriate here because agreement on the goals and the nature of the problem exists. Cell 4 indicates disagreement on the goals and disagreement on the nature of the problem. Such a situation requires some type of inspiration or other charisma. While we frequently act as if we are in Cell 1, the normal condition for water resource situations is Cell 4. While frequently not conscious of our behavior, we usually seek to move immediately from Cell 4 into Cell 1; however, this does not work and usually we are frustrated.

Cell 2 represents a disagreement over goals but a general agreement on the nature of the problem. In this cell, we use analysis or other forms of negotiations. In Cell 3, we find disagreement on the nature of the problem and some general

agreement over the goals. In this case we look at joint problem solving, negotiations or other collaborative approaches.

The point is that to get to Cell 1 – that place where most technical people are most comfortable – we must usually move through either Cell 3 or Cell 2. This is true because much of the environmental conflict we encounter is not based primarily on “facts” but values. Resolution depends on dealing with the interest and values or other causes at stake in a controversy. These causes usually are beyond facts.

Actually we usually spend much time moving between Cell 2 and 3, that is, discussing goals, coming to agreement on the goals and then redefining the nature of the problem and then going back to goals. This iterative process is the crux of planning. It is not possible to state how much iteration is necessary between 2 and 3. It is only important to know that we must move through analytical activities implied by Cells 2 and 3 before we move to what is identified as Objective Analysis in Cell 1. In other words, we must understand the sources of conflict and design processes to deal with them, and that is what is implied by moving between Cell 2 and Cell 3.

		Goals	
		Agree	Disagree
Nature of problem	Agree	1. Objective analysis	2. Conjoint analysis Negotiation
	Disagree	3. Problem solving Negotiation	4. Inspirational Charisma

Figure 9. Nature of agreement in policy world

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2. TECHNIQUES

2.1. A Continuum of Conflict Management and Dispute Resolution Tools and How to Choose Them: Overview of Alternative Dispute Resolution (ADR)²

(adapted from James L. Creighton and Jerome Delli Priscoli, *Second Ten Year Reader*, IWR, USACE 2001 and *Overview of alternative Dispute Resolution* ADR-96-5.)

Conflict and disputes are a fact of life for water professionals.³ The question is how you manage them. You can avoid a dispute, but that has a way of coming back to haunt you. You can engage in confrontation, but sometimes that leads to bitter battles that are not only costly but may damage important working relationships. You can get a decision from a higher authority, whether a boss or a judge, but there are always costs and risks associated with that as well.

The best solution is an agreement among the parties to the dispute. But how can you get such an agreement? That is what conflict management, dispute resolution, and consensus building are all about: they are tools to reach mutual agreements. These tools can be used to get agreements within your own organization, reducing the amount of energy lost to unproductive conflict or personal animosity. They are also helpful in getting agreements among agencies, getting a commitment to a common goal, reducing the costs and delays associated with litigation, avoiding violence, and even building cooperative relationships.

2.1.1. What is a Dispute?

Different people have different goals and interests. That is so obvious it is almost a cliché. But it is also why we have conflict. Most of the time, we simply pursue our different interests, but occasionally, as people pursue those goals and interests, they clash. When they reach a point of incompatibility or non-reconciliation, we describe it as a dispute or conflict. There is always the potential for conflict, but it takes something more to create the spark that brings about a dispute.

Sometimes that spark is provided by competition or by change. The situation itself may force a clash. Some typical situations that can lead to disputes include:

- interdependence of people and tasks
- jurisdictional ambiguities
- functional overlap (turf)
- competition for scarce resources
- differences in organizational status and influence
- incompatible objectives and/or methods
- differences in behavioral style
- differences in information
- distortions in communication
- unmet expectations
- unmet needs or interests
- unequal power or authority
- misperceptions
- historical animosities
- ethnic stereotyping.

Disputes always involve at least two parties, each of whom is trying to do a good job of meeting his or her own objectives. By the nature of the situation or circumstances,

they come to see each other as obstacles to meeting their objectives. Now we have a dispute.

Unless there is some sort of intervention, this dispute may grow to the point that the parties come to see each other as adversaries, even as "the enemy." Communication becomes distorted. People view each other as stereotypes, not as human beings. Each new escalation in aggressive behavior is justified as a counter-response to the other person's perceived aggression. When this kind of polarization occurs, most of us assume that we are now in a struggle to "win," even if it means that the other person will lose. We have a "win-lose" battle. Or, it is sometimes called a "zero-sum game," meaning that everything you gain – dollars, status, power, authority – must be at someone else's expense (or vice versa).

When this kind of dispute occurs, it is usually dysfunctional, whether within or between organizations or among nations and across water sectors. It can prevent people from working together even when they share common goals. It can cause such anger and stress that the relationship is destroyed, even though it has been and could continue to be of benefit to the parties. Disputes chew up time and resources needed for more productive projects.

While conflict is inevitable, it does not have to end in polarized disputes. In fact, if handled well, conflict can even be healthy. Among the positive things conflicts can bring about are:

1. Conflicts identify problems that need to be solved.
2. Conflicts bring about change, permitting adjustments to be made without threatening the stability of the relationship.
3. Conflicts can change the way we think about things, preventing "group-think."
4. Conflicts help to clarify our purpose: what is important to the organization or us.

The difference is how the conflict is managed. This is a key concept. One of the key jobs of a manager is to manage conflict so that it does not become dysfunctional. Just turning it over to the attorneys or generals is not a solution. Dispute resolution *is* management.

2.1.2. What is Dispute Resolution and Conflict Management? What is Alternative Dispute Resolution (ADR)?

ADR is an alternative to adversarial processes such as litigation or administrative processes that result in "win-lose" outcomes. It involves structuring the process to minimize the destructive elements and promote productive uses of conflict. It involves the application of theories, procedures, and skills designed to achieve an agreement that is satisfying and acceptable to all parties.

Conflict management attempts to achieve a "win-win" solution through what is called interest-based bargaining, as distinct from positional bargaining, the form of bargaining with which most people are familiar. Here is a comparison of these two approaches: (note also 3.2.2.).

Interest-Based Bargaining

Interest-based bargaining involves parties in a collaborative effort to jointly meet each other's needs and satisfy mutual interests.⁴ Rather than moving from positions to counter-positions to a compromise settlement, negotiators pursue a joint problem-solving approach, identifying interests prior to examining specific solutions. After the interests are identified, the negotiators jointly search for a variety of alternatives that might satisfy all interests, rather than arguing for any single position. The parties select a solution from among these mutually generated options. In this approach, the emphasis is on cooperation, meeting mutual needs, and the efforts of the parties to

expand the bargaining options so that a wiser decision, with more benefits to all, can be achieved.

Positional Bargaining

Positional bargaining is a negotiation strategy in which a series of positions (alternative solutions that meet particular interests or needs) are presented to other parties in an effort to reach agreement. The first or opening position represents the maximum gains hoped for or expected in the negotiations. Each subsequent position demands less of an opponent and results in fewer benefits for the person advocating it. Agreement is reached when the negotiators’ positions converge and they reach an acceptable settlement range.

The difference between interest-based bargaining and positional bargaining is not just procedural. Rather, they reflect fundamentally different attitudes about how to handle disputes, as shown in Figure 10 below:⁵

<i>Attitudes of interest-based bargainers</i>	<i>Attitudes of positional bargainers</i>
Resources are not limited.	Resources are limited.
All negotiators’ interests must be addressed for agreement to be reached.	The other negotiator is an opponent; be hard on him/her.
Focus on interests not positions.	A win for one means a loss for the other.
Parties look for objective or fair standards that all can agree to.	The goal is to win as much as possible.
Negotiators believe there are multiple satisfactory solutions.	Concessions are a sign of weakness.
Negotiators are cooperative problem solvers rather than opponents.	There is a right solution – mine.
People and issues are separate; respect people, bearing hard on interests.	Be on the offensive at all times.
Search for win-win solutions.	

Figure 10. Different attitudes to disputes

But why should water managers worry about reaching mutually acceptable agreements? The reason is that people act differently when they have participated in a decision and feel they have control over the outcome. For example:

- When people feel that their participation can make a difference in the outcome of a decision-making process, they are more likely to participate seriously and cooperatively.
- When people feel they have some control over the process that generates solutions, they are more likely to be willing to consider and evaluate the alternatives in a serious and responsible manner.
- When people believe that their participation has been genuine, that the process for reaching a decision has been fair, and that all sides had a chance to influence the outcome, they are far more committed to implementing the solutions that have been developed.⁶

- When disputes remain unresolved for prolonged periods of time there is damage to important relationships.

There are internal costs, as well, when disputes remain unresolved. Studies in the United States have shown that 30 percent of first-line supervisors' time and 25 percent of all management time is spent on resolving disputes. More than 85 percent of those leaving jobs do so because of some perceived conflict. Almost 75 percent of job stress is created by disputes.

2.1.3. Benefits of Conflict and Dispute Management: Benefits of Using ADR

Some of the benefits of conflict and dispute management tools ADR include:⁷

- *Voluntary nature of the process:* Parties choose to use procedures because they believe that they hold the potential for better settlements than those obtained through litigation or other procedures involving third-party decision makers. No one is coerced into using these procedures.
- *Expedited procedures:* Because procedures are less formal, the parties are able to negotiate how they will be used. This prevents unnecessary delays and expedites the resolution process.
- *Non-judicial decisions:* Decision making is retained by the parties rather than delegated to a third-party decision maker. This means that the parties have more control over the outcome and there is greater predictability.
- *Control by managers:* Procedures place decisions in the hands of the people who are in the best position to assess the short and long-term goals of their organization and the potential positive or negative impacts of any particular settlement option; this means decisions are made by those who best know the needs of their organizations. Third-party decision making often asks a judge, jury, or arbitrator to make a binding decision regarding an issue about which he or she may not be an expert.
- *Confidential procedure:* Procedures can provide for the same level of confidentiality as is commonly found in settlement conferences. Parties can participate in ADR procedures, explore potential settlement options, and still protect their right to present their best case in court at a later date without fear that data divulged in the procedure will be used against them.
- *Greater flexibility in the terms of settlement:* Procedures provide an opportunity for the key decision makers from each party to craft customized settlements that can better meet their combined interests than would a settlement imposed by a third party. Conflict management enables parties to avoid the trap of deciding who is right or who is wrong, and to focus the key decision makers on the development of workable and acceptable solutions. Procedures also provide greater flexibility in the parameters of the issues under discussion and the scope of possible settlements. Participants can "expand the pie" by developing settlements that address the underlying causes of the dispute, rather than be constrained by a judicial procedure that is limited to making judgments based on narrow points of law.
- *Savings in time:* In many cases where time is money and where delayed settlements are extremely costly, a resolution developed through the use of an ADR procedure may be the best alternative for a timely resolution.
- *Cost savings:* Procedures are generally less expensive than litigation and certainly less than overt violence. The cost of neutrals is typically less than that of attorneys. Limiting the costs of discovery and speeding up the time between filing and settlement can reduce expenses and avoid delay costs. These front-end expenses are often the most costly components of legal costs.

2.1.4. Dispute and Conflict Management Using ADR

There are certain general principles that underlie the use of conflict management and dispute management tools. These include the following elements.⁸

Define the Problem, Rather Than Propose Solutions or Take Positions.

This step is rooted in three observations about human behavior:

- *Everybody starts out with a different definition of the problem.* Because of differences in roles, organizational responsibilities, personal values, different information bases, and so on, people have very different perceptions of what the problem is. An environmental specialist may view a tree alongside the road as a "visual resource." A timber expert might view the same tree as a "renewable resource," while a traffic safety expert sees it as "a fixed hazardous object." All of these perspectives are accurate, but limited by the confines of that individual's role. Whenever you start to address an issue, you must spend time understanding what the problem is as others see it.
- *People will not accept there is a need for a solution until they accept there is a problem.* No one wants to accept an onerous solution until he or she is first convinced there is a compelling problem that needs to be solved. The expert who sees the tree as a visual resource doesn't have a problem (assuming the tree is healthy) until the other two experts propose to cut it down; one because it is dangerous to drivers, and the other because of its economic value. Since the visual expert does not have a problem, he or she is very unlikely to accept the need to cut the tree down. Until people buy into a common definition of a problem, they are not willing to talk about solutions that impact them.
- *The solution first proposed becomes the definition of the problem.* Both the safety expert and the timber expert might propose that the tree be cut down. But in so doing they have not only set off a controversy: they have limited the range of possible solutions. They have defined the problem as "whether or not to cut down the tree." In doing so, they cut out many possible solutions. If, instead, the problem were defined as "how to provide safety to motorists," then the alternatives to cutting down the tree might include safety barriers or a minor relocation of the road. If the problem is "providing sufficient harvestable timber," then there may be solutions that are less visually sensitive than cutting down a tree located right next to the road.

The central theme that emerges from these observations is the need to define the problem properly and get commitment to that problem definition before even beginning to consider solutions. Otherwise, people begin reacting to each other's proposed solutions (positions), and the problem is defined in ways that are not acceptable to all parties and that limit the potential for a mutually acceptable solution.

View the Situation as an Opportunity for Collaboration, Not Competition

Look for "win-win" solutions rather than "win-lose" or "winner-takes-all" outcomes. Since disputes often come up in competitive situations, where there are perceived or actual incompatible goals or scarce resources, it is easy for the emphasis to be placed on competition, rather than on the shared goals and mutually beneficial aspects of the relationship. In fact, competition can easily turn into an adversarial relationship, which at the extreme may involve extremely distorted communication, behavior designed to "get even" with the other side, or even abusive behavior.

By shifting the emphasis to the fact that there are shared goals, it is possible to collaborate, even if some interests are not compatible or are in competition. At their core, all conflict management techniques assume a willingness to collaborate,

although most techniques assume that the willingness to collaborate will grow as people build increased trust and confidence in each other. But to even initiate procedures, the parties must believe that some collaboration is at least possible, and worth the risk of trying.

Negotiate Over Interests, Not Positions

While people's interests must be met for them to be satisfied, this does not mean that the final solution must correspond with their initial position: this is one way in which conflict management and dispute resolution tools differ from traditional negotiation approaches. The traditional form of negotiation – positional bargaining – starts out with both sides taking fixed positions, often accompanied by accusations about how the behavior of one side has done the other side damage. Then the parties make a series of reciprocal concessions until they are able to achieve an agreement. Because they start from positions, and then make concessions from them, the best that can occur in positional bargaining is a compromise. That is, the agreement inevitably does not meet some of the parties' needs, but meets just enough that the agreement is still tolerable.

But people's positions are not necessarily the same as their interests. Interests are the fundamental desires and needs that people are trying to meet through negotiation. They are the reasons behind the positions people take. If a union takes the position that a pay rise must be at least 8 percent, it is doing so on behalf of such interests as the economic well-being of the workers and the need of the union to be perceived as effective on behalf of the workers. There might be other ways to meet those interests, but the union has chosen the position that an 8 percent pay rise is the way to do so.

That's the point: if you concentrate on interests, there are many ways those interests can be met. If you concentrate on positions, then any concession is perceived as a loss. In addition, the position you pick may be unacceptable to the other party, whereas some other way of meeting your interests completely might be entirely acceptable.

In interest-based negotiation the parties go through the following steps:

- Educate each other about fundamental interests.
- Jointly identify options that could be mutually beneficial.
- Agree on criteria about how to determine when an acceptable solution has been identified.
- Jointly create a solution that meets the needs of all parties.

With interest-based negotiation, the possibility exists that all parties may be able to meet all their needs in the situation – something considerably better than a compromise – although these needs may not be met in the ways people expected when they started the process.

Employ Effective Communication Skills

To create the circumstances for collaboration, participants need to employ communication skills that encourage collaboration rather than make others feel defensive or adversarial. In tense situations, most of us resort to accusation, negative characterizations of the positions of others, or even personal attacks, in an effort to get our way. The result, of course, is that people dig in more and defend themselves. Also, many people listen just enough to get their own argument ready.

People who are skilled at conflict management often receive specific training both in listening skills and in communicating feelings and concerns in a way that does not increase defensiveness. Sometimes these skills are brought into the situation by a third party who helps people communicate more effectively. If people cannot listen

effectively, the third party helps them to understand each other's position, and restates accusations in such ways that feelings are communicated without putting the other person down or making the situation more adversarial.

Design the Process to Address the Type and Sources of Conflict

There are very different types of conflict, and it is important to recognize these different types because very different dispute resolution strategies are needed depending on which type of conflict is involved in your situation. Many conflicts involve more than one of these sources of conflict, so it may be necessary to employ several different strategies, or approach the different types of conflict sequentially.

The five basic sources of conflict are:

RELATIONSHIP CONFLICT

This is conflict rooted in poor communication, misperceptions, dueling egos, personality differences, and stereotypes. This kind of conflict produces strong emotions and often must be addressed before people are able to resolve other forms of conflict. Sometimes this kind of conflict is resolved by increased communication or by getting to know each other better. But in polarized situations, increased communication may actually reinforce misperceptions and stereotypes. In such situations, the intervention of a third party is often needed to create an appropriate climate for better communication.

DATA CONFLICT

This conflict results from a lack of important information, contradictory information, or misinformation. It may also involve different views as to which information is important or relevant, different interpretations of the data, or different assessment procedures. In a conflict situation, conflicts over data are sometimes hidden because people may break off communication. They do not even know that they are arguing from a different set of facts. These conflicts are often resolved quickly once communication is re-established and there is an open exchange of perceptions and information. In other situations the information needed may not exist, or the procedures used by the parties to collect or assess information are not compatible. In this situation, resolution may require that the parties agree on a strategy to get the information they need to resolve the issue.

There is a tendency among water professional to define most water conflicts or potential conflicts as data problems. The unspoken assumption is often "if they only had better information they would understand and agree." However, perfect information could result in understanding the conflict perfectly and no resolution.

VALUES CONFLICT

Values conflicts occur when people disagree about what is good or bad, right or wrong, just or unjust. While people can live with quite different values systems, values disputes occur when people attempt to force one set of values on others or lay claims to exclusive values systems that do not allow for divergent beliefs. Resolution of values disputes sometimes occur, at least over time, as people educate each other about the basis for their beliefs. Beliefs about environmental values, for example, have changed considerably over the past two decades, at least in part because of this education process. Values conflicts can also be resolved when people build upon their many shared values, rather than concentrate on their differences. Or values conflicts may be resolved when the situation is structured so it is not necessary to resolve the differences.

STRUCTURAL CONFLICT

Structural conflict means that the situation is set up in such a way that conflict is built in. The "structure" that causes the conflict may be the way that roles and relationships have been defined, unreasonable time constraints, unequal power or authority, unequal control of resources, or geographical or physical constraints. For example, disputes over contracts often occur when organizations define the relationship as a competitive situation in which each side tries to get the best of the deal. If everybody does the best possible job of trying to "protect" their organization they may create a situation where all the organizations suffer, yet individuals continue to be rewarded for their efforts to protect. Structural conflicts can be resolved by redefining roles or responsibilities, realigning rewards and punishments, or adjusting the distribution of power or control over resources.

INTEREST CONFLICT⁹

Interest-based conflicts occur over substantive issues (money, physical resources, time), procedural issues (the way the dispute is to be resolved), or psychological issues (perceptions of trust, fairness, desire for participation, respect). For an interest-based dispute to be resolved, all parties must have a significant number of their interests addressed and/or met by the proposed resolution in each of these three areas. Often it is necessary to address data conflict or relationship conflict before addressing interest conflict. But if there are conflicts over interests, the dispute will not be addressed to people's satisfaction, until their interests have been addressed.

"Satisfaction" Means Meeting a Mix of People's Substantive, Procedural, and Psychological Interests

Being "satisfied" by a proposed solution means that you are comfortable with the combination of substantive, procedural, or psychological needs that has been met. Substantive interests are your content needs: money, time, goods, or resources. Procedural interests have to do with your needs for specific types of behavior or the "way that something is done." Relationship or psychological interests refer to how one feels, how one is treated or conditions for an ongoing relationship. These interests are shown in Figure 11, the "satisfaction triangle."¹⁰

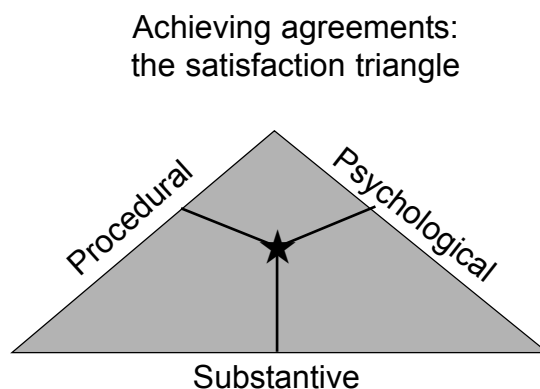


Figure 11. Achieving agreements: the satisfaction triangle

The message of the satisfaction triangle is that the three interests are interdependent. All three must be met – to a greater or lesser degree – for there to be "satisfaction." This is why people sometimes refuse solutions that appear to meet their substantive needs if the solution requires them to lose face, or if they have not been treated fairly. Or people may say that while they do not disagree with an action, they believe that the decision-making process was not good because certain expected procedures were not followed.

Because these three sets of needs are interdependent, there can be “trade-offs” made between them. For example, if someone has been excluded from decision making in the past, he/she may be satisfied at being included in future decision making (a procedural gain), even though that person will just be one of the parties at the table making decisions about the substantive outcome.

The bottom line is that unless people are satisfied that their needs have been met, the problem does not go away. Efforts to impose an outcome that does not meet these needs are usually unproductive or unstable. People just keep raising the dispute in different forms until their needs get addressed. Force or coercion must be used to impose resolution. This often breeds the use of counter-force or behaviors that undermine or subvert trust and cooperation.

If you walk away from a dispute with any person feeling he or she has “lost,” you probably do not have a resolution that will last. Either the relationship will be destroyed, or there will continue to be dysfunctional behavior. Thus the goal of conflict management and dispute management is to find solutions that address all parties’ needs. When all parties walk away satisfied with the outcome, they all have a stake in making the resolution work and last.

Consider a Wide Range of Alternatives

One of the crucial preconditions to finding a “win-win” solution is to jointly develop a wide range of alternatives. Otherwise, the first solutions people propose are likely to be thinly disguised positions. By getting all the parties to identify multiple alternatives, they are less likely to stake out and defend any particular solution.

Agree on Principles or Criteria by Which to Evaluate Alternatives

Once alternatives have been generated, getting agreement on a single solution often degenerates into a contest of wills. The insurance adjuster may offer you \$8,000 to replace your car (destroyed in an accident) and announce, “This is as high as we can go.” But there is no principle or criterion involved here, just a contest of your will versus that of the insurance company. It may or may not be a fair offer. Examples of possible principles or criteria include: the average price of cars of the same age and with the same equipment advertised in the newspaper, or the average of three estimates from used car dealers, or a retail secondhand car price guide. Each of these gives an objective basis against which both parties can evaluate the alternatives and decide whether a proposed agreement is “fair.” If both accept the same principle or criterion as fair, then both can see that the answer resulting from that principle is also fair.

Document the Agreement, to Reduce the Risk of Subsequent Misunderstanding

Verbal agreements run the risk of misinterpretation and there can be honest differences in how an agreement is remembered. However, the documentation should be tailored to the complexity of the situation. If you are resolving a contract dispute, the resolution and its justification need to be documented as carefully. If you are in a less formal situation, documentation might consist of recording all the key points on a flipchart, getting the flipchart sheets typed up, and distributing it for everybody’s review. If there’s a good level of trust between the parties, one person might agree to write up a summary of the agreement and distribute it for review. But when there is still mistrust, it is better to get agreement on the language while everyone is present. Otherwise, there is a danger that a legitimate misunderstanding may be interpreted as an effort to manipulate the process.

Agree on the Process by Which Agreements Can Be Revised

In some cases the resolution is a single, one-off action (for example, a payment is made to settle a contractual dispute over costs). However, conflict management is also used to create agreements that may guide actions for a period of years. If an agreement governs an ongoing relationship, it is important that one party does not unilaterally void an agreement, because when this occurs there are now two problems: the original problem, plus the mistrust and suspicion created when the agreement is broken.

Yet conditions may change in ways that require organizations to seek adjustments in agreements. Rather than create a situation where people feel the only way out of an agreement is to break it, it is better to include a mechanism for modifying the agreement within the agreement itself. This way, changes in the agreement do not threaten the ongoing relationship. Also, putting mechanisms for change in an agreement often makes it easier to reach the agreement in the first place. Parties who might be afraid of an agreement that locks them in permanently may accept an agreement that includes provisions for modification.

2.1.5. A Continuum of Conflict and Dispute Management Techniques: ADR Techniques

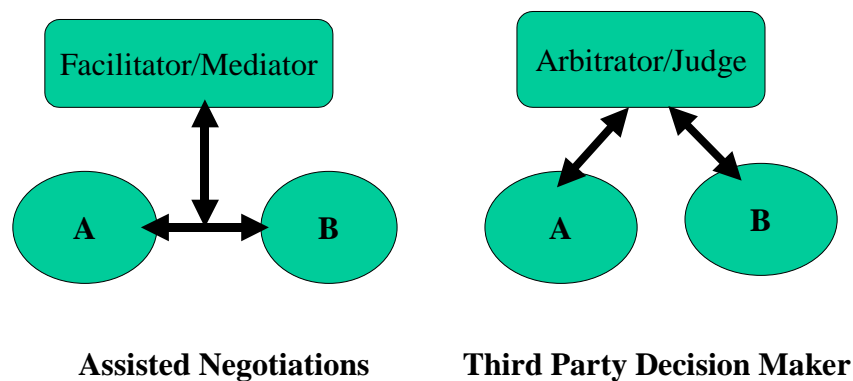


Figure 12. Contrast between types of interventions

Conflict management and dispute management (as well as other terms such as ADR) are umbrella terms that encompass a wide spectrum of techniques. The techniques vary amongst themselves based on the degree of structure/formality, the kind of involvement of interveners (such as facilitators or mediators), and the degree of direct involvement of the parties.

Figure 13 shows the range of dispute resolution techniques on a continuum from the "hot tub" to war. The point of the continuum is to display a number of possible techniques. From left to right the continuum covers unassisted to assisted to third-party techniques. Point C on the continuum is the point at which parties to a dispute turn over authority for making a decision to an outside party, like a judge or other such authority. The assisted techniques to the left of C use an outside party to help the parties themselves craft agreements through joint diagnosis, joint creation of options and joint implementation. Experience shows that often the reason parties move to the left of point C is that they feel little satisfaction or real fulfillment of needs in using techniques to the right of C (often even when called "winners" by the courts). It is often clear that parties can have control over outcomes but the price they must pay is to work with other interested stakeholders. Frequently this requires the help of outside parties. Figure 12 captures this crucial distinction. In assisted

negotiations the outside party works to establish a communication pattern or relationship where the parties are working with each other. In the third-party negotiations, the parties talk to the outside party but they may not talk with each other.

Looking at Figure 13, disputes may be resolved directly between the parties, without any outside assistance, through informed discussions or negotiation. These are the “unassisted procedures” on the continuum.

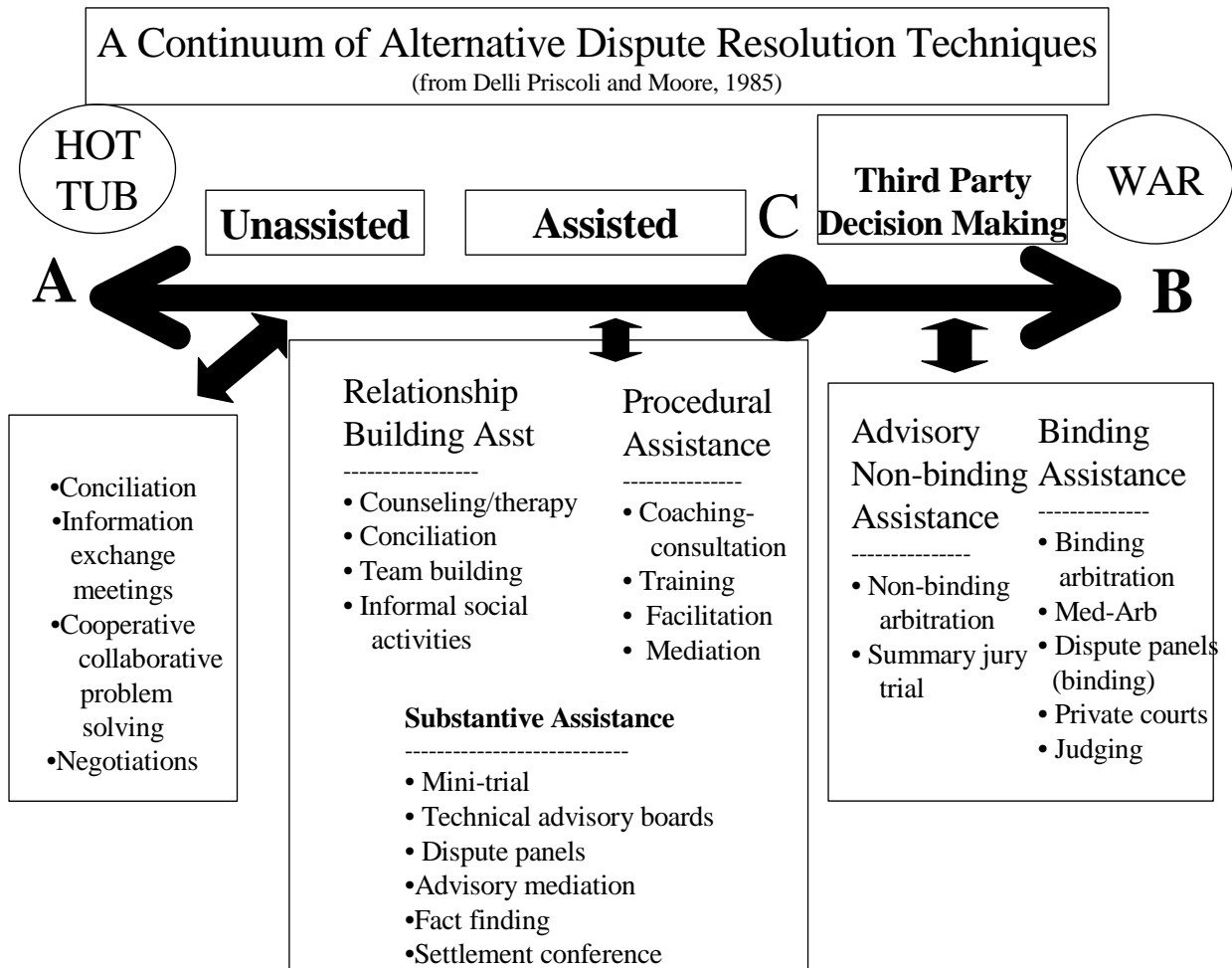


Figure 13. Dispute resolution techniques

When unassisted approaches no longer prove effective, then a third party may be called in to assist the parties in reaching agreement, that is, “third-party assisted” techniques. Some of these techniques involve assistance with the “process” – helping people communicate better, setting up a structure the parties perceive as fair, and suggesting procedures that might lead to resolution. Other techniques involve assistance in determining what would be an equitable settlement. All “third-party assisted” techniques leave the decision-making authority in the hands of the parties. Settlement is reached by mutual agreement. When settlement cannot be reached in this manner, then resolution can only occur through “third-party decision making,” for instance, in an administrative hearing or courtroom. Finally, some ADR techniques are designed to be “preventative,” by improving communication and providing mechanisms for discussing disagreements before they turn into full-blown disputes.

Except for binding arbitration, all the ADR processes utilize interest-based bargaining. This approach encourages parties to look for mutual gain whenever possible, and follows principles and procedures designed to achieve mutual agreements.

A more detailed discussion of individual ADR techniques is provided below.

Unassisted Procedures

In the vast majority of disputes, people work out a resolution without assistance. At the simplest level, two people get together, discuss the issue, and work out the problem.

But that does not always work. In fact, sometimes such discussions end up with both people polarized and convinced that the other person is unfair and unreasonable. At this point, something more structured may be needed. The two techniques used more frequently by water managers are "information exchange meetings" and "interest-based negotiation."

Information Exchange Meetings

Information exchange meetings are meetings in which parties share data and check out perceptions of each other's issues, interests, positions, and motivations in an effort to minimize unnecessary conflicts over the facts of the case. Typically these meetings are set up with the understanding that no formal effort will be made to reach an agreement during the meeting. This takes the pressure off people so they feel more open and comfortable. Information exchange meetings are often the first step toward productive problem solving or negotiations.

Interest-Based Negotiation

Although the principles of interest-based negotiation underlie all ADR techniques, interest-based negotiation is also a set of procedures that can be followed by parties to reach a mutual agreement. Although the procedures may be different from traditional positional bargaining, this is still a formal negotiation process between participants who have the authority to make commitments on behalf of their organizations.

Third-Party Assistance

Most conflict management techniques involve the assistance of a neutral third party, usually someone who is skilled in encouraging resolution of disputes. The third party might not be a technical expert in the subject matter of the dispute, but someone skilled in creating a process that contributes to resolution. Instead of influencing what the resolution will be, the third party concentrates on structuring how the parties work together, knowing that how people work together can significantly affect whether or not they reach an agreement. Other processes use third parties as technical experts, calling on them to provide neutral counsel to all parties on substantive issues. In other words, techniques range from those that provide process assistance to those that provide counsel on what constitutes an equitable substantive outcome. The major third-party assistance techniques are shown below, beginning with those that concentrate on process, then moving to those with increasing involvement of the third party in the substance of the decision.

Facilitation

Facilitation involves assistance in the design and conduct of problem-solving meetings by an individual who is impartial towards the issues or topics under discussion. A facilitated meeting has the feel and structure of a business meeting, working on an agenda that has been jointly created by the parties. A facilitator will make sure that all parties feel listened to, ensure that the meeting stays on track, and may suggest procedures that are helpful in arriving at a solution. Typically the facilitator is granted

considerable influence over how the meeting is run, but is not permitted to influence the substance of the decisions reached.

Mediation

Mediation can be described as an interest-based negotiation under the guidance of a third party. The parties choose an intervener to “guide” them in designing a process and reaching agreement on a mutually acceptable solution. Although the mediator makes recommendations about the process, the parties themselves make the important decisions about the problem-solving process and the outcome. The presence of the mediator creates a “safe” environment for the parties to share information, address underlying problems, and vent emotions. A successful mediation can give the parties the confidence in themselves, each other, and consensual processes, to negotiate without a third party in the future.

Fact-Finding

Fact-finding can be used in scientific, technical, or business disputes in which knowledge is highly specialized. A third-party expert in the relevant field is chosen by the parties to act as a fact-finder or independent investigator. The expert then submits a report or presents the findings at a mini-trial, arbitration proceeding, or whatever process has been designated. The emphasis is on determining the facts or legal issues pertinent to the dispute and is most often used in the early stages of a conflict. Fact-finding can, however, be implemented in a process whenever facts or points of law cannot be agreed upon. After the report or testimony, parties may negotiate, use further proceedings, or conduct more research.

Mini-Trial

The mini-trial is not really a trial. In fact, the mini-trial is a structured form of negotiated settlement. But a key element of the mini-trial, which is called the “mini-trial conference,” looks much like an abbreviated trial. Attorneys or other representatives for the two parties each have a specified period of time, ranging from a few hours to a day, to present their “case” in front of representatives of senior management CEOs or key decision makers from the parties to the dispute. Once the cases are presented, however, the management representatives, instead of trying to reach a judicial decision, negotiate a mutual agreement. The management representatives are assisted in their negotiating efforts by a “neutral advisor.” The parties’ representatives determine the exact role of the neutral advisor. The neutral advisor might simply act like a facilitator or might be a technical expert who can provide objective analysis of the technical or legal merits of the cases presented.

Disputes Review Board

This technique is particularly suitable for resolution of disputes in large construction projects. One of the barriers to resolving disputes is that the parties lose their objectivity about the merits of their position. The idea of a disputes review board is to provide the parties with an objective evaluation of the dispute by fully qualified technical experts. A disputes review board is established at the beginning of the contract. The parties and the contractor both appoint a qualified technical expert to sit on the board, and these two technical experts in turn select a third member of the board, acceptable to both parties. As disputes arise, they are presented to the board. The opinion of the board is advisory, with the parties negotiating a final resolution. Normally opinions of the disputes review board are extremely influential and helpful in resolving the dispute in a timely manner. There is some evidence that the mere forming of such boards or panels actually has the effect of encouraging more dialogs among partners and of reducing the likelihood that parties will actually conflict.

Non-Binding Arbitration

Here the parties present their sides of the dispute to a neutral arbitrator who recommends a basis for settlement. The parties are then free to accept or reject that recommendation. The arbitrator is often an attorney, a judge, or a technical expert in the subject matter of the dispute, selected by agreement of the parties because he/she is believed to be impartial, objective, or knowledgeable. Arbitration hearings differ in their degree of formality. Some are relatively informal, permitting interaction between the parties. Other hearings are quasi-judicial, with opportunities for cross-examination and closing statements. The arbitrator may also conduct additional research to validate the claims made.

In non-binding arbitration the arbitrator issues an opinion on the merits and appropriate forms of resolution, but this opinion is advisory. It is still up to the parties to negotiate an agreement. However, because the arbitrator is both neutral and qualified to review the technical merits of the case, the arbitrator's opinion is often extremely influential and can push the parties closer to an agreement.

Third-Party Decision Making

Conflict management techniques are primarily an alternative to third-party decision making. Of the three third-party decision-making processes shown in Figure 13 – binding arbitration, administrative hearings, and litigation – binding arbitration is the closest to the collaborative processes described above. By pre-agreement of all parties, the arbitrator renders a binding decision.

Dispute Prevention

Disputes are a bit like a grass fire: relatively easy to take care of while they are still small, very hard to put out when they have grown. As a result, the best approach is often prevention, rather than trying to achieve resolution once there is a full-blown dispute. Typically, dispute prevention involves improving communication, building stronger personal relationships with people with whom disputes could occur, and establishing procedures for addressing issues before they become disputes. Partnering in various forms has become a frequently used dispute prevention technique, especially in the construction industry.

Partnering

Partnering is a dispute prevention technique that has been used primarily during contract performance and often among agencies. Its primary goal is to change the traditional adversarial relationship to a more cooperative, team-based approach. The contract is awarded on the usual competitive basis, but after the contract is awarded the contractor is invited to participate in partnering. Once an agreement is reached, representatives of all the key parties to the contract go through a joint process to help define common goals, improve communication, and foster a problem-solving attitude among the people who must work together on the contract. Participants come to understand and appreciate the roles and responsibilities each will have in carrying out the project. Often the teams identify cost or quality goals and work together to achieve them, sharing in the benefits when they are accomplished. There may also be agreement on conflict management processes to be used when first-level managers cannot resolve issues.

Partnering usually involves a series of meetings, beginning with a session that lasts several days to a week, with regular quarterly "tune-up" meetings among the parties. It also normally involves the use of a facilitator or facilitator team.

A further comparison of the different processes and their potential applications is provided below.

Arbitration

Definition

Third-party neutral or panel with expertise makes decision after hearing arguments and reviewing evidence.

Characteristics

Can be binding or non-binding. Highly structured, but less formal than adjudication. Counsel for each party presents proofs and arguments. Parties select third parties and set rules. Parties can select norms to apply, that is, a particular body of law or regulation. For a small number of parties.

Application

When prompt decision needed, can be used at various stages. Good for mixed questions of law and fact when decision based on a general standard is needed. Used when there is a high level of conflict and, often, when no future close relationship is foreseen.

Disputes review board (DRB)

Definition

Establishes forum that fosters cooperation between owner and contractor. Neutral experts offer informed findings for decision by the parties. Set in place at beginning of project before disputes arise.

Characteristics

Neutrals form panel of three technical experts. Disputes, delays and resolution costs are minimized. Disputes addressed as they arise. Ongoing during life of project.

Application

Good when there can be substantial money claims and for complex, ongoing projects. For disputes over technical data.

Facilitation

Definition

Information exchange and generation of options with assistance of a third party skilled in meeting leadership. Low level to medium level of conflict.

Characteristics

For three or more parties, who follow an agenda. Has the feel and structure of business meeting. Can be conducted by or without a neutral. Facilitator may not influence decision, but can have influence over how session is conducted.

Application

For definition of problems and goals, and to identify personal and institutional support can be preliminary step to identify a dispute resolution process.

Fact-finding

Definition

Third-party subject matter expert selected by parties to act as fact finder and independent investigator.

Characteristics

Can identify areas for agreement or disagreement. After report, parties may negotiate, use further proceedings, or conduct more research. Expert submits report and can offer evaluation, if requested.

Application

Can be used during dispute resolution process whenever necessary, although often in initial stage. For disputes where there is seemingly contradictory data or not enough data. For technical or factual disputes

Mediation	Mini-trial
<p><i>Definition</i> Parties select third-party neutral to help them design and to guide them through a process to reach a mutually acceptable solution.</p> <p><i>Characteristics</i> Parties make decision. Parties share information and address underlying problems in presence of mediator. Allows parties to vent emotions. Can be basis for parties to negotiate in the future without a third party.</p> <p><i>Application</i> Especially good when parties will have ongoing relationship. Useful when negotiations have reached an impasse and one party feels injured or ignored.</p>	<p><i>Definition</i> Structured settlement process during which authorized representatives hear case and negotiate an agreement.</p> <p><i>Characteristics</i> Parties select neutral and make rules for procedure. Parties can present summary proofs and arguments. Neutral can advise, mediate or make advisory opinion. Party representatives (with authority to settle) negotiate after hearing the presentations. Can be used in various stages of dispute.</p> <p><i>Application</i> For use in disputes over technical data or for questions with a mixture of law and fact. For a small number of parties when prompt decision is needed.</p>
Negotiation	Partnering
<p><i>Definition</i> Parties attempt to resolve differences by compromise or using interest-based principles without a third party.</p> <p><i>Characteristics</i> Unstructured process without formal rules or agenda. For low-level conflict, more casual and informal than other processes. Can be in the home or office of one of parties.</p> <p><i>Application</i> Often the first step toward resolving a conflict. When issues are clearly defined and there are enough issues for give-and-take. For non-technical disputes when no question of law. When history of relationship among parties has been good or when a relationship is being created.</p>	<p><i>Definition</i> Two or more parties, engaged in enterprise requiring interdependence, work to create a working relationship conducive to trust, mutual understanding and the pursuit of mutually acceptable goals. Parties make agreement that in principle commits each to sharing risks involved in completing projects and promoting cooperation.</p> <p><i>Characteristics</i> Takes place before start of project. Voluntary, relationship-building experience focuses on interests. Seeks to address problems before they become disputes. Partnering agreement can stipulate an ADR process, often a DRB.</p> <p><i>Application</i> Initially used on heavy construction projects. Good for preventing conflicts. Good when there will be future relationship or for long, ongoing projects</p>

2.1.6. Choosing a Conflict Management and Dispute Management Technique

Deciding to use a technique is a two-step process. The first step is to decide if your situation is appropriate for alternative dispute resolution. The second step is to decide which process is most appropriate.

Is the Situation Appropriate? Is ADR a Good Choice?

Below are some questions designed to help you take into account the crucial factors in deciding if any of these processes are suitable for a particular dispute.

The weight given to each of the following questions will depend on the individual dispute and the decision makers. However, a negative response to the first five questions is critical because it indicates there could be a problem with enforcing an agreement worked out as the result of using a conflict management procedure.

- *Are there persons with authority available to represent your party?* There needs to be a person available with knowledge of the issues and with authority to effect a decision. It is sometimes difficult, especially in a public policy dispute, to identify the authoritative person. You may want to hold off on going ahead with a process until that person has been identified and available. The agreement will be ineffective if a person without authority signs an agreement. Or a potential resolution can fall apart if at the moment of agreement someone says, "I have to check with headquarters first."
- *Can this issue be resolved without involving other overarching disputes that could develop in the foreseeable future, nullifying any decision on this one?* Resolving a small issue that is dependent upon the outcome of an overarching one is no resolution at all. You must get to the root of the dispute or your efforts may have been in vain. For instance, a decision among the water agencies, local authorities, and state/province officials might be meaningless if there is a larger dispute between agencies that would not permit that decision to be implemented.
- *Can you resolve this dispute without the need to set a precedent, or do you want an "all or nothing" decision?* Sometimes, there are disputes where the agency would like to see a legal precedent established. If so, you need to have the decision made by a judge or other formal legal authority. In other cases, the law is well defined, and the dispute turns on questions of fact and interpretation. These are more appropriate for conflict and dispute management techniques.
- *Do you believe it will be possible to "enforce" the contract; that is, are the mechanisms in place to ensure that all parties will abide by the terms of the agreement?* A process that results in an unenforceable decision wastes time and money. A decision may be unenforceable because of legal considerations, financial considerations, or lack of real commitment.
- *Can the dispute be resolved without endangering the parties' need for confidentiality?* Since these processes are voluntary, there is no guarantee they will resolve the issue. People may be concerned that by engaging in conflict management they are making information available that could be used against them if the issue ultimately comes before a judge. Normally the participants in conflict management processes make an agreement to protect confidentiality in the event the process does not result in resolution.

While the five questions above raise issues that could prove to be "fatal flaws," there are other issues that are important to the success of conflict management and dispute management processes including:

- *Is there an imbalance of power? Can you overcome it?* Voluntary agreements are more likely to be reached when the power of the parties is approximately equal. Otherwise people fear they may be negotiating at a disadvantage, or will be unable to get the other party to comply with the terms of any agreement.

Sometimes the power of the parties is dissimilar but there is some external force – such as a judge, a powerful political figure, a coalition of interested parties, or even a circumstance – that serves to equalize the balance.

Power is relative, and there are many types of power. These include legal power, personal or party credibility, political power, resources, sanctions, nuisance power, or procedural power.¹¹ Can you balance the power of the other party? Be realistic, but don't let the obvious power of the other party intimidate you. Look carefully for hidden assets.
- *Do you need to maintain a long-term relationship with the other party or parties?* Judges often make decisions that resolve the issues but destroy the relationship between the parties. Because conflict management and dispute management result in agreements acceptable to both parties, they can contribute to maintaining an ongoing relationship with the other parties. If you do not care about any future relationship (and there are no other reasons for using these procedures) conflict management may not be applicable. However, in the water resources business, we are generally likely to be dealing tomorrow with those we are in dispute with today.
- *Are the other parties committed to using a consensual process?* Lack of firm commitment by one of the parties can keep an otherwise effective ADR process from working. People sense the lack of commitment, and this lowers trust and delays progress. Hardened positions can be a sign of resistance to a consensual process.
- *Is there a high level of trust and respect among the parties?* Mutual trust and respect among the parties enhances the chances of resolving the dispute using an ADR forum. If people trust each other, communication is more open and the chances of resolution are higher. Also, if there is trust, there is less need to find guarantees to ensure that the other person will keep the agreement.
- *Can you identify the major issues?* A dispute – particularly a public policy dispute – may not have matured or developed to the point where the issues are well defined. If this is true, the parties may not be ready to negotiate, or unrecognized issues can surface later, disrupting the process.
- *Is it important to act quickly to prevent escalation?* Sometimes, the longer an issue goes on, the more polarized it gets. It may be wise to intervene with a conflict management process as soon as possible. An adjudicative process usually takes longer to complete and can fuel the tension and lead to hardening of positions.
- *Are the issues politically sensitive or controversial?* Issues that are likely to be high profile or political hot potatoes need to be examined closely to determine whether conflict management is suitable for ADR. In such cases the “public’s right to know” may be the strongest value. But this may be at odds with the privacy that is an important element in conflict management proceedings. For the public to be satisfied that no “secret deals” were cut, an adjudicative process may be necessary.
- *Will a consensual process have a positive effect on staff morale?* Sometimes staff feel that these processes result in a sell-out. For example, it is bad enough if a judge rules against them, but if the management voluntarily agrees that the other parties had some legitimacy to their complaints, it may be seen as undercutting staff. On the other hand, of course, the water agency’s management has a responsibility to do what is good for the organization as a whole, even if some staff are offended. Balancing potential morale problems with the risks of

proceeding with litigation or being stuck in an impasse is always an individual decision, dependent on the circumstances of a particular dispute. Experience shows that education about conflict management and involving staff in the decision whether to use conflict management may be reassuring and result in staff support for a conflict management processes.

- *Is conflict management likely to be cost effective?* It is unlikely that you would use a conflict management technique if you were not satisfied that it was cheaper, or at least as cheap as, litigation or whatever other mechanisms exist for resolving the dispute. With litigation, for example, there are costs associated with lawyers, time delays, and so on. But there are still costs associated with these conflict management techniques (in both time and money), with some techniques being more expensive than others. So it is important to assess the relative costs of the conflict management techniques, and how these compare with your other options. Keep in mind, however, that even if the costs are nearly equal, conflict management processes may still do a better job of maintaining the relationship with the other party than “winner-takes-all” decisions. While it may not be possible to put a price on that relationship, it is still an important value to consider.
- *Are you willing to accept the level of liability or risk associated with litigation?* Unless you have an airtight case, litigation can be a high-stakes gamble when the level of liability is very great. An assessment has to be made whether the chance of winning 100 percent is worth the chance of losing 100 percent. There may be conditions under which this is the case. But often the outcome is not obvious or is problematic. In these cases, conflict management – because the issue is resolved only when the parties reach an agreement – gives you greater control over the outcome, and puts limits on the level of liability.
- *Is there organizational pressure to reach a settlement?* On some occasions there may be organizational pressure to resolve the dispute more rapidly than would be possible through litigation. Ordinarily, for conflict management to work, all parties must feel some urgency or desire to reach a timely settlement. Once the desire to reach a settlement is present, conflict management techniques permit you to establish a mutually acceptable timetable for settlement.

Which Technique Should I Use?

Selecting the right technique is hardly a science. In fact, you are encouraged to produce hybrids or variations on techniques if you are convinced they will do a better job of solving your problem. However, there are some basic considerations that help discriminate between techniques:

- *Are you trying to prevent disputes, or resolve a dispute that already exists?* If you are designing a preventative approach, you would want to consider facilitation or partnering or a disputes review panel. Partnering, described above, includes the use of a facilitator. A disputes review panel, also described above, involves the use of neutral subject matter experts.
- *Are key parties willing to meet?* If the key parties are willing to meet, you may be able to proceed with direct negotiations. If not, or if things are highly polarized, you probably need some form of third-party assistance.
- *Are the technical and legal resources of the parties balanced?* Negotiation works best when the technical and legal resources of the parties are balanced. If they are not balanced, you may need third-party assistance. A facilitator or mediator may create greater balance or a more level playing field between the parties, or know how to use the resources of the parties so they serve the whole process, not just the interests of one party.

- *Are there few or many parties or issues?* If there are a number of parties, or a number of issues, it gets harder to use either a mini-trial or non-binding arbitration. These processes can become cumbersome and time-consuming unless they are focused on a few issues. When there are numerous issues, or a lot of people involved with the issues, either facilitation or mediation may be helpful.
- *Are the key parties antagonistic?* If the key parties are antagonistic, then third-party assistance is virtually essential. If things are badly polarized, you may need a mediator to work with the parties individually before they ever come together.
- *Which is more important: timeliness and minimal cost, or control over the procedures and outcome?* If your priority is to get quick resolution at lowest cost, then either a mini-trial or non-binding arbitration may be your approach. With a mini-trial you still maintain control over the outcome and process, but there is certainly pressure to settle. In non-binding arbitration you are not required to accept the proposed settlement, but a climate may exist where it is hard for you to reject it.

Both facilitation and mediation are potentially more time consuming, but nobody feels that the process was imposed on them, or that they were pressured to reach a particular outcome.

- *Is the outcome of the dispute of great concern to senior managers/leaders?* Some techniques, such as a mini-trial, involve a considerable commitment of time from senior management. As a result, they are possible only if senior management is willing to commit the time to participate due to the salience of issues involved. The same point applies if you are going to involve senior managers in direct negotiation.

2.1.7. Conclusion

The conflict management and disputes management field is rapidly changing. It holds considerable promise for water managers and policy makers because it puts control of the process and timing of dispute resolution back in the hands of line managers, who possess greater flexibility in resolving disputes than exists in litigation. New techniques continue to be developed, and many variations in format are being tried for existing techniques.

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2.2. NEGOTIATION¹²

(Adapted from Christopher W. Moore, CDR Associates, Boulder, Colo., in: *Executive Seminar on Alternative Dispute Resolution (ADR)*, USACE, IWR, 1990)

2.2.1. Definition of Negotiation

Negotiation is one of the most common approaches used to make decisions and manage disputes. It is also the major building block for many other alternative dispute resolution procedures.

Negotiation occurs between spouses, parents and children, managers and staff, employers and employees, professionals and clients, within and between organizations, and between agencies and the public. Negotiation is a problem-solving process in which two or more people voluntarily discuss their differences and attempt to reach a joint decision on their common concerns. Negotiation requires participants to identify issues about which they differ, educate each other about their needs and interests, generate possible settlement options, and bargain over the terms of the final agreement. Successful negotiations generally result in some kind of exchange or promise being made by the negotiators to each other. The exchange may be tangible (such as money, a commitment of time, or a particular behavior) or intangible (such as an agreement to change an attitude or expectation, or make an apology).

Negotiation is the principal way that people redefine an old relationship that is not working to their satisfaction or establish a new relationship where none existed before. Because negotiation is such a common problem-solving process, it is in everyone's interest to become familiar with negotiating dynamics and skills. This section is designed to introduce basic concepts of negotiation and to present procedures and strategies that generally produce more efficient and productive problem solving.

2.2.2. Conditions for Negotiation

A variety of conditions can affect the success or failure of negotiations. The following conditions make success in negotiations more likely.

- *Identifiable parties who are willing to participate*: The people or groups who have a stake in the outcome must be identifiable and willing to sit down at the bargaining table if productive negotiations are to occur. If a critical party is either absent or is not willing to commit to good faith bargaining, the potential for agreement will decline.
- *Interdependence*: For productive negotiations to occur, the participants must be dependent upon each other to have their respective needs met or interests satisfied. The participants need either each other's assistance or restraint from negative action for their interests to be satisfied. If one party can get his/her needs met without the cooperation of the other, there will be little impetus to negotiate.
- *Readiness to negotiate*: People must be ready to negotiate for dialog to begin. When participants are not psychologically prepared to talk with the other parties, when adequate information is not available, or when a negotiation strategy has not been prepared, people may be reluctant to begin the process.
- *Means of influence or leverage*: For people to reach an agreement over issues about which they disagree, they must have some means to influence the attitudes and/or behavior of other negotiators. Often influence is seen as the power to threaten or inflict pain or undesirable costs, but this is only one way to encourage another to change. Asking thought-provoking questions, providing needed information, seeking the advice of experts, appealing to influential

associates of a party, exercising legitimate authority, or providing rewards are all means of exerting influence in negotiations.

- *Agreement on some issues and interests*: People must be able to agree upon some common issues and interests for progress to be made in negotiations. Generally, participants will have some issues and interests in common and others that are of concern to only one party. The number and importance of the common issues and interests influence whether negotiations occur and whether they terminate in agreement. Parties must have enough issues and interests in common to commit themselves to a joint decision-making process.
- *Will to settle*: For negotiations to succeed, participants have to want to settle. If continuing a conflict is more important than settlement, then negotiations are doomed to failure. Often parties want to keep conflicts going to preserve a relationship (a negative one may be better than no relationship at all), to mobilize public opinion or support in their favor, or because the conflict relationship gives meaning to their life. These factors promote continued division and work against settlement. The negative consequences of not settling must be more significant and greater than those of settling for an agreement to be reached.
- *Unpredictability of outcome*: People negotiate because they need something from another person. They also negotiate because the outcome of not negotiating is unpredictable. For example, if a person has a fifty-fifty chance of winning by going to court, s/he may decide to negotiate rather than take the risk of losing as a result of a judicial decision. Negotiation is more predictable than court action because if negotiation is successful, the party will at least win something. Chances for a decisive and one-sided victory need to be unpredictable for parties to enter into negotiations.
- *A sense of urgency and deadline*: Negotiations generally occur when there is pressure or it is urgent to reach a decision. Urgency may be imposed by either external or internal time constraints or by potential negative or positive consequences to a negotiation outcome. External constraints include: court dates, imminent executive or administrative decisions, or predictable changes in the environment. Internal constraints may be artificial deadlines selected by a negotiator to enhance the motivation of another to settle. For negotiations to be successful, the participants must jointly feel a sense of urgency and be aware that they are vulnerable to adverse action or loss of benefits if a timely decision is not reached. If procrastination is advantageous to one side, negotiations are less likely to occur, and, if they do, there is less impetus to settle.
- *No major psychological barriers to settlement*: Strong expressed or unexpressed feelings about another party can sharply affect the psychological readiness of a person to bargain. Psychological barriers to settlement must be lowered if successful negotiations are to occur.
- *Issues must be negotiable*: For successful negotiation to occur, negotiators must believe that there are acceptable settlement options that are possible as a result of participation in the process. If it appears that negotiations will have only "win-lose" settlement possibilities and that a party's needs will not be met as a result of participation, parties will be reluctant to enter into dialog.
- *The people must have the authority to decide*: For a successful outcome, participants must have the authority to make a decision. If they do not have a legitimate and recognized right to decide, or if a clear ratification process has not been established, negotiations will be limited to an information exchange between the parties. Not all negotiations require compromise. On occasion, an agreement can be reached that meets all the participants' needs and does not require a sacrifice on any party's part. However, in other disputes, compromise – willingness to have less than 100 percent of needs or interests satisfied – may be

necessary for the parties to reach a satisfactory conclusion. Where the physical division of assets, strong values, or principles preclude compromise, negotiations are not possible.

- *The agreement must be reasonable and capable of implementation:* Some settlements may be substantively acceptable but may be impossible to implement. Participants in negotiations must be able to establish a realistic and workable plan to carry out their agreement if the final settlement is to be acceptable and hold over time.
- *External factors favorable to settlement:* Often factors external to negotiations inhibit or encourage settlement. Views of associates or friends, the political climate of public opinion, or economic conditions may foster agreement or continued turmoil. Some external conditions can be managed by negotiators while others cannot. Favorable external conditions for settlement should be developed whenever possible.
- *Resources to negotiate:* Participants in negotiations must have the interpersonal skills necessary for bargaining and, where appropriate, the money and time to engage fully in dialog procedures. Inadequate or unequal resources may block the initiation of negotiations or hinder settlement.

2.2.3. Why Parties Choose to Negotiate

The list of reasons for choosing to negotiate is long. Some of the most common reasons are to:

- gain recognition of either issues or parties
- test the strength of other parties
- obtain information about issues, interests, and positions of other parties
- educate all sides about a particular view of an issue or concern
- ventilate emotions about issues or people
- change perceptions
- mobilize public support
- buy time
- bring about a desired change in a relationship
- develop new procedures for handling problems
- make substantive gains
- solve a problem.

2.2.4. Why Parties Refuse to Negotiate

Even when many of the preconditions for negotiation are present, parties often choose not to negotiate. Their reasons may include:

- Negotiating confers sense and legitimacy to an adversary, their goals and needs.
- Parties are fearful of being perceived as weak by a constituency, by their adversary, or by the public.
- Discussions are premature. There may be other alternatives available: informal communications, small private meetings, policy revision, decree, and elections.
- Meeting could provide false hope to an adversary or to one's own constituency.
- Meeting could increase the visibility of the dispute.
- Negotiating could intensify the dispute.
- Parties lack confidence in the process.
- There is a lack of jurisdictional authority.
- Authoritative powers are unavailable or reluctant to meet.
- Meeting is too time-consuming.
- Parties need additional time to prepare.

- Parties want to avoid locking themselves into a position; there is still time to escalate demands and to intensify conflict to their advantage.

2.2.5. Definitions

For negotiations to result in positive benefits for all sides, the negotiator must define what the problem is and what each party wants. In defining the goals of negotiation, it is important to distinguish between issues, positions, interests, and settlement options.

- An *issue* is a matter or question parties disagree about. Issues can usually be stated as problems. For example, "How can wetlands be preserved while allowing some industrial or residential development near a stream or marsh?" Issues may be substantive (related to money, time or compensation), procedural (concerning the way a dispute is handled), or psychological (related to the effect of a proposed action).
- *Positions* are statements by a party about how an issue can or should be handled or resolved, or a proposal for a particular solution. A disputant selects a position because it satisfies a particular interest or meets a set of needs.
- *Interests* are specific needs, conditions or gains that a party must have met in an agreement for it to be considered satisfactory. Interests may refer to content, to specific procedural considerations, or to psychological needs.
- *Settlement options* are possible solutions that address one or more party's interests. The presence of options implies there is more than one way to satisfy interests.

2.2.6. Selecting a General Negotiation Approach

The negotiator will need to select a general negotiation approach. There are many techniques, but the two most common approaches to negotiation are positional bargaining and interest-based bargaining.

2.2.7. Positional Bargaining

Positional bargaining is a negotiation strategy in which a series of positions – alternative solutions that meet particular interests or needs – are selected by a negotiator, ordered sequentially according to preferred outcomes, and presented to another party in an effort to reach agreement. The first or opening position represents that maximum gain hoped for or expected in the negotiations. Each subsequent position demands less of an opponent and results in fewer benefits for the person advocating it. Agreement is reached when the negotiators' positions converge and they reach an acceptable settlement range.

When is Positional Bargaining Often Used?

- When the resource being negotiated is limited (time, money, psychological benefits, and so on).
- When a party wants to maximize his/her share in a fixed sum pay off.
- When the interests of the parties are not interdependent, are contradictory, or are mutually exclusive.
- When current or future relationships have a lower priority than immediate substantive gains.

Attitudes of Positional Bargainers

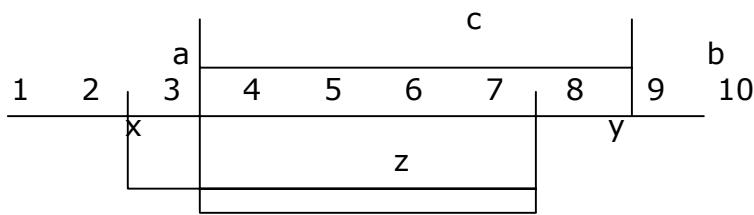
- Resource is limited.
- The other negotiator is an opponent; be hard on him/her.

- Win for one means a loss for the other.
- Goal is to win as much as possible.
- Concessions are a sign of weakness.
- There is a right solution – mine.
- Be on the offensive at all times.

How is Positional Bargaining Conducted?

1. *Set your target point:* solution that would meet all your interests and result in complete success for you. To set the target point, consider:
 - your highest estimate of what is needed (What are your interests?)
 - your most optimistic assumption of what is possible
 - your most favorable assessment of your bargaining skill.
2. *Make target point into opening position.*
3. *Set your bottom line or resistance point:* the solution that is the least you are willing to accept and still reach agreement. To identify your bottom line, consider:
 - your lowest estimate of what is needed and would still be acceptable to you
 - your least optimistic assumption of what is possible
 - your least favorable assessment of your bargaining skill relative to other negotiators
 - your *Best Alternative To a Negotiated Agreement (BATNA)*.
4. *Consider possible targets and bottom lines of other negotiators.*
 - Why do they set their targets and bottom lines at these points? What interests or needs do these positions satisfy?
 - Are your needs or interests and those of the other party mutually exclusive?
 - Will gains and losses have to be shared to reach agreement or can you settle with both receiving significant gains?
5. *Consider a range of positions* between your target point and bottom line.
 - Each subsequent position after the target point offers more concessions to the other negotiator(s), but is still satisfactory to you.
 - Consider having the following positions for each issue in dispute:
 - opening position.
 - secondary position
 - subsequent position
 - fallback position (yellow light that indicates you are close to bottom line; parties who want to mediate should stop here so that the intermediary has something to work with)
 - bottom line.
6. *Decide if any of your positions meets the interests or needs of the other negotiators.* How should your position be modified to do so?
7. *Decide when you will move from one position to another.*
8. *Order the issues to be negotiated* into a logical (and beneficial) sequence.
9. *Open with an easy issue.*
10. *Open with a position close to your target point.*
 - educate the other negotiator(s) why you need your solution and why your expectations are high
 - educate them as to why they must raise or lower their expectations.
11. *Allow other side to explain* their opening position.
12. *If appropriate, move to other positions* that offer other negotiator(s) more benefits.
13. *Look for a settlement or bargaining range:* spectrum of possible settlement alternatives any one of which is preferable to impasse or no settlement (Figure 14).
14. *Compromise* on benefits and losses where appropriate.

15. Look for how positions can be modified to meet all negotiators' interests.
16. Formalize agreements in writing.



Settlement range

- a = Party A's resistance point
- b = Party A's target
- c = Acceptable options for Party A
- x = Party B's target
- y = Party B's resistance point
- z = Acceptable options for Party B

Figure 14. Settlement range

Characteristic Behaviors of Positional Bargainers

- *Initial large demand*: High or large opening position used to educate other parties about what is desired or to identify how far they will have to move to reach an acceptable settlement range.
- *Low level of disclosure*: Secretive and non-trusting behavior to hide what the settlement range and bottom line are. Goal is to increase benefits at expense of other.
- *Bluffing*: Strategy used to make negotiator grant concessions based on misinformation about the desires, strengths, or costs of another.
- *Threats*: strategy used to increase costs to another if agreement is not reached.
- *Incremental concessions*: Small benefits awarded so as to gradually cause convergence between negotiators' positions.
- *Hard on people and problem*: Often other negotiator is degraded in the process of hard bargaining over substance. This is a common behavior that is not necessarily a quality of or desirable behavior in positional bargaining.

Costs and Benefits of Positional Bargaining

COSTS

- Often damages relationships; inherently polarizing (my way, your way).
- Cuts off option exploration. Often prevents tailor-made solutions.
- Promotes rigid adherence to positions.
- Obscures a focus on interests by premature commitment to specific solutions.
- Produces compromise when better solutions may be available.

BENEFITS

- May prevent premature concessions.
- Is useful in dividing or compromising on the distribution of fixed-sum resources.
- Does not require trust to work.
- Does not require full disclosure of privileged information.

2.2.8. Interest-Based Bargaining

Interest-based bargaining involves parties in a collaborative effort to jointly meet each other's needs and satisfy mutual interests. Rather than moving from positions to counter-positions to a compromise settlement, negotiators pursuing an interest-based

bargaining approach attempt to identify their interests or needs and those of other parties prior to developing specific solutions. After the interests are identified, the negotiators jointly search for a variety of settlement options that might satisfy all interests, rather than argue for any single position. The parties select a solution from these jointly generated options. This approach to negotiation is frequently called "integrated bargaining" because of its emphasis on cooperation, meeting mutual needs, and the efforts by the parties to expand the bargaining options so that a wiser decision, with more benefits to all, can be achieved.

When is Interest-Based Bargaining Used?

- When the interests of the negotiators are interdependent.
- When it is not clear whether the issue being negotiated is fixed-sum (even if the outcome is fixed-sum, the process can be used).
- When future relationships are a high priority.
- When negotiators want to establish cooperative problem solving rather than competitive procedures to resolve their differences.
- When negotiators want to tailor a solution to specific needs or interests.
- When a compromise of principles is unacceptable.

Attitudes of Interest-Based Bargainers

- Resource is seen as not limited.
- All negotiators interests must be addressed for an agreement to be reached.
- Focus on interests not positions.
- Parties look for objective or fair standards that all can agree to.
- Belief that there are probably multiple satisfactory solutions.
- Negotiators are cooperative problem solvers rather than opponents.
- People and issues are separate. Respect people, bargain hard on interests.
- Search for win-win solutions.

2.2.9. How to Do Interest-Based Bargaining

Interests are needs that a negotiator wants satisfied or met. There are three types of interests:

- *Substantive interests*: Content needs (money, time, goods, or resources, etc.)
 - *Procedural interests*: Needs for specific types of behavior or the "way that something is done."
 - *Relationship or psychological interests*: Needs that refer to how one feels, how one is treated, or conditions for ongoing relationship.
1. *Identify the substantive, procedural and relationship interest/needs that you expect to be satisfied as a result of negotiations. Be clear on:*
 - why the needs are important to you
 - how important the needs are to you.
 2. *Speculate on the substantive, procedural and relationship interests that might be important to the other negotiators. Assess:*
 - why the needs are important to them
 - how important the needs are to them.
 3. *Begin negotiations by educating each other about your respective interests.*
 - Be specific as to why interests are important.
 - If other negotiators present positions, translate them into terms of interest. Do not allow other negotiators to commit to a particular solution or position.

- Make sure all interests are understood.
4. *Frame the problem in a way that it is solvable by a win-win solution.*
 - Remove egocentricity by framing problem in a manner that all can accept.
 - Include basic interests of all parties.
 - Make the framing congruent with the size of the problem to be addressed.
 5. *Identify general criteria that must be present in an acceptable settlement.*
 - Look for general agreements in principle.
 - Identify acceptable objective criteria that will be used to reach more specific agreements.
 6. *Generate multiple options for settlement.*
 - Present multiple proposals.
 - Make frequent proposals.
 - Vary the content.
 - Make package proposals that link solutions to satisfy interests.
 - Make sure that more than two options are on the table at any given time.
 7. *Utilize integrative option generating techniques:*
 - Expand the pie: ways that more resources or options can be brought to bear on the problem.
 - Alternating satisfaction: each negotiator gets 100 percent of what s/he wants, but at different times.
 - Trade-offs: exchanges of concessions on issues of differing importance to the negotiators.
 - Consider two or more agenda items simultaneously.
 - Negotiators trade concessions on issues of higher or lower importance to each. Each negotiator gets his/her way on one issue.
 - Integrative solutions: look for solutions that involve maximum gains and few or no losses for both parties.
 - Set your sights high on finding a win-win solution.
 8. *Separate the option generation process from the evaluation process.*
 9. *Work toward agreement.*
 - Use the "agreement in principle" process (general level of agreements moving toward more specific agreements).
 - Fractionate (break into small pieces) the problem and use a "building-block" process (agreements on smaller issues that, when combined, form a general agreement). Reduce the threat level.
 - Educate and be educated about interests of all parties.
 - Assure that all interests will be respected and viewed as legitimate.
 - Show an interest in their needs.
 - Do not exploit another negotiator's weakness; demonstrate trust.
 - Put yourself in a "one down position" to other on issues where you risk a small, but symbolic loss.
 - Start with a problem-solving rather than competitive approach.
 - Provide benefits above and beyond the call of duty.
 - Listen and convey to other negotiators that they have been heard and understood.
 - Listen and restate content to demonstrate understanding.
 - Listen and restate feelings to demonstrate acceptance (not necessarily agreement) and understanding of intensity.

10. *Identify areas of agreement, restate them, and write them down.*

Costs and Benefits of Interest-Based Bargaining

COSTS

- requires some trust
- requires negotiators to disclose information and interests
- may uncover extremely divergent values or interests.

BENEFITS

- produces solutions that meet specific interests
- builds relationships
- promotes trust
- models cooperative behavior that may be valuable in future.

2.2.10. An Integrated Approach

Naturally, all negotiations involve some positional bargaining and some interest-based bargaining, but each session may be characterized by a predominance of one approach or the other. Negotiators who take a positional bargaining approach will generally use interest-based bargaining only during the final stages of negotiations. When interest-based bargaining is used throughout negotiations it often produces wiser decisions in a shorter amount of time with less incidence of adversarial behavior.

2.2.11. Dynamics of Negotiation

Examining the approaches to negotiation only gives us a static view of what is normally a dynamic process of change. Let us now look at the stages of negotiation most bargaining sessions follow.

Negotiators have developed many schemes to describe the sequential development of negotiations. Some of them are descriptive – detailing the progress made in each stage – while others are prescriptive – suggesting what a negotiator should do. We prefer a twelve-stage process that combines the two approaches.

Stages of Negotiation

STAGE 1: EVALUATE AND SELECT A STRATEGY TO GUIDE PROBLEM SOLVING

- Assess various approaches or procedures – negotiation, facilitation, mediation, arbitration, court, and so on – available for problem solving.
- Select an approach.

STAGE 2: MAKE CONTACT WITH OTHER PARTY OR PARTIES

- Make initial contact(s) in person, by telephone, or by mail.
- Explain your desire to negotiate and coordinate approaches.
- Build rapport and expand relationship.
- Build personal credibility or organization's credibility.
- Promote commitment to the procedure.
- Educate and obtain input from the parties about the process that is to be used.

STAGE 3: COLLECT AND ANALYZE BACKGROUND INFORMATION

- Collect and analyze relevant data about the people, dynamics, and substance involved in the problem.
- Verify accuracy of data.
- Minimize the impact of inaccurate or unavailable data.
- Identify all parties' substantive, procedural and psychological interests.

STAGE 4: DESIGN A DETAILED PLAN FOR NEGOTIATION

- Identify strategies and tactics that will enable the parties to move toward agreement.
- Identify tactics to respond to situations peculiar to the specific issues to be negotiated.

STAGE 5: BUILD TRUST AND COOPERATION

- Prepare psychologically to participate in negotiations on substantive issues. Develop a strategy to handle strong emotions.
- Check perceptions and minimize effects of stereotypes.
- Build recognition of the legitimacy of the parties and issues.
- Build trust.
- Clarify communications.

STAGE 6: BEGINNING THE NEGOTIATION SESSION

- Introduce all parties.
- Exchange statements which demonstrate willingness to listen, share ideas, show openness to reason, and demonstrate desire to bargain in good faith.
- Establish guidelines for behavior.
- State mutual expectations for the negotiations.
- Describe history of problem and explain why there is a need for change or agreement.
- Identify interests and/or positions.

STAGE 7: DEFINE ISSUES AND SET AN AGENDA

- Together, identify broad topic areas of concern to people.
- Identify specific issues to be discussed.
- Frame issues in a non-judgmental neutral manner.
- Obtain an agreement on issues to be discussed.
- Determine the sequence to discuss issues.
- Start with an issue in which there is high investment on the part of all participants, where there is no serious disagreement, and where there is a strong likelihood of agreement.
- Take turns describing how you see the situation. Participants should be encouraged to tell their story in enough detail that all people understand the viewpoint presented.
- Use active listening, open-ended questions, and focusing questions to gain additional information.

STAGE 8: UNCOVER HIDDEN INTERESTS

- Probe each issue either one at a time or together to identify interests, needs, and concerns of the principal participants in the dispute.
- Define and elaborate interests so that all participants understand the needs of others as well as their own.

STAGE 9: GENERATE OPTIONS FOR SETTLEMENT

- Develop awareness about the need for options from which to select or create the final settlement.
- Review needs of parties that relate to the issue.
- Generate criteria or objective standards that can guide settlement discussions.
- Look for agreements in principle.
- Consider breaking issue into smaller, more manageable issues and generating solutions for sub-issues.
- Generate options either individually or through joint discussions.

- Use one or more of the following procedures:
 - expand the pie so that benefits are increased for all parties
 - alternate satisfaction so that each party has his/her interests satisfied but at different times
 - trade items that are valued differently by parties
 - look for integrative or win-win options
 - brainstorm
 - use trial and error generation of multiple solutions
 - try silent generation in which each individual develops privately a list of options and then presents his/her ideas to other negotiators
 - use a caucus to develop options
 - conduct position/counter position option generation
 - separate generation of possible solutions from evaluation.

STAGE 10: ASSESS OPTIONS FOR SETTLEMENT

- Review the interests of the parties.
- Assess how interests can be met by available options.
- Assess the costs and benefits of selecting options.

STAGE 11: FINAL BARGAINING

Final problem solving occurs when:

- One of the alternatives is selected.
- Incremental concessions are made and parties move closer together.
- Alternatives are combined or tailored into a superior solution.
- Package settlements are developed.
- Parties establish a procedural means to reach a substantive agreement.

STAGE 12: ACHIEVING FORMAL SETTLEMENT

- Agreement may be a written memorandum of understanding or a legal contract. Detail how settlement is to be implemented – who, what, where, when, how – and write it into the agreement.
- Identify “what ifs” and conduct problem solving to overcome blocks.
- Establish an evaluation and monitoring procedure.
- Formalize the settlement and create enforcement and commitment mechanisms:
 - legal contract
 - performance bond
 - judicial review
 - administrative/executive approval.

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2.3. FACILITATION¹³

(Adapted from James L. Creighton, in: Delli Priscoli and Creighton, *Second Ten Year Reader*, Institute for Water Resources, USAEC, 2001.)

Whenever people work together, they communicate on at least two levels:

- *Content*: People communicate about the subject matter, the facts of the case, the information.
- *Relationship*: People also communicate how much they accept each other, care about each other's needs and problems, and how concerned they are about preserving the relationship.

In meetings, "relationship" is often not communicated directly, but is communicated indirectly by who gets to speak and for how long, whose needs take precedence, who gets to establish the agenda, who gets cut off or put down, and so on. In other words, how a meeting is run – the "process" – tells the participants how important they are, whether their opinions matter, and what their relative relationship is to each other.

2.3.1. The Need for Procedural Assistance

When there is a dispute, people often fight over the meeting format or procedures as a way of defining their relationship or gaining an advantage. The most famous such example was the fight over the shape of the table at the Vietnam Peace Talks. In that case, the debate dragged on for months, while people continued to be killed and maimed. Of course the shape of the table wasn't really what the dispute was about. The first issue was whether the sides really wanted to resolve things through negotiation. The second issue – which found expression in discussions about the shape of the table – was what the relationships would be between the parties.

Even when the dispute is less dramatic, people often fight for leadership of the meeting, disagree over how the meeting is to be run, fight over what should be included on the agenda, and strive for dominance during the meeting. All of which usually just makes things worse. The sides become more polarized. All their worse fears are confirmed.

The idea of "procedural assistance" is to remove process issues – such as how meetings are run – as a source of dispute by delegating them to a third party who is impartial about the substantive outcome and who will act on behalf of all the participants. This person is frequently called a "facilitator."

2.3.2. What is a Facilitator?

A facilitator is a trained specialist who helps people design effective meetings and problem-solving sessions, and then acts as the meeting leader on behalf of the group. A facilitator does not have the authority to make substantive decisions for the group, but will make some decisions about how the meeting is run, and will consult with the group about major process decisions, such as a significant change in agenda or meeting procedures. In those cases where the facilitator consults with the group, his or her job is to identify why a decision is needed, identify options for participants to consider, and, if appropriate, make a recommendation. But the ultimate decision-making authority, even for process issues, lies with the participants. It is just more efficient to leave all but the big process decisions in the hands of the facilitator.

2.3.3. When Would a Facilitator be Useful?

Here are a few circumstances where a facilitator might be useful:

- conducting public meetings, workshops, or hearings
- conducting an information-exchange meeting between parties to a dispute
- conducting a collaborative problem-solving session to resolve an issue or dispute
- conducting a team building or partnering session
- conducting inter-agency or multiple-party meetings where there is sensitivity about any one participant have more power than the others.

2.3.4. What Does a Facilitator Do?

Typically a facilitator uses a style of meeting leadership that is less directive than the kind of meeting leadership associated with “chairing” a meeting. Some people when chairing a meeting make rulings, determine procedures, rule people out of order, and so on. A facilitator proposes, suggests, invites and then consults with the participants to generate a consensus.

This is not because a facilitator is a “weak” leader. Facilitation often takes far more skill than being a traditional chair of a meeting, and a facilitator may exercise considerable influence over the meeting. The key point is that the facilitator is concerned that everybody feels included and accepted. If the meeting leadership is too heavy-handed or authoritarian, participants may become upset or resentful, or may conclude that the facilitator is biased against them. This will make it that much more difficult to achieve mutual agreement. The facilitator has the job of helping to create the climate of mutual respect and psychological safety that makes it possible for people to consider creative new solutions and move from preconceived positions.

Here are some of the things a facilitator does to help bring about an atmosphere conducive to collaborative problem solving:

- *Assist with designing the meeting:* Facilitators are often able to suggest meeting formats that avoid pitfalls or that have proven effective in addressing issues. For example, a facilitator may recognize when a meeting format is likely to push everybody into taking adversarial positions or start proposing solutions before there is agreement on the definition of the problem. The facilitator may then suggest an alternative format that addresses the same issues, but does so in a way that is less likely to be adversarial. Or he/she may suggest a meeting activity that is particularly efficient at identifying or evaluating options. The facilitator can also assist with deciding whom to involve in the meeting, what technical or backup information is needed to make the meeting effective, and defining the purpose of the meeting.
- *Help keep the meeting on track, focused on the topic:* Facilitators are skilled at pointing out when the discussion has drifted, or at restating the purpose of an activity. Facilitators also play the “traffic cop” role of regulating how long people speak, or putting limits on behavior such as accusations or emotional tirades. This is often achieved by working with the participants to establish ground rules that everybody feels are fair. That way, when a facilitator intervenes, everybody understands that the intervention is on behalf of an effective meeting, not because of prejudice or bias.
- *Clarify and accept communication:* It is one of the fundamentals of human nature that until we feel our concerns have been understood and accepted, even if people do not agree with them, we will keep saying them over and over again in new and different ways, often with an accelerating intensity that produces a counter-reaction. For this reason, one of a facilitator’s primary tasks is to be sure that everybody feels listened to and understood. The facilitator may do this by providing a verbal summary of what was said, by relating one participant’s ideas to another, by inviting expansion of a comment, or by asking clarifying questions. Sometimes a facilitator will write a summary of comments on a flipchart, or will be assisted by another staff person called a “recorder,” who will

keep a summary of comments on the flipchart. A facilitator might also point out when a participant's contribution was cut off and invite him or her to complete the idea.

- *Accept and acknowledge feelings:* During disputes, people are often upset or angry. Telling them not to feel that way simply makes those feelings stronger. In some disputes it's necessary to let everybody ventilate their feelings before it's possible to begin talking about solutions. The facilitator will structure a situation in which it is safe to express feelings, without those feelings causing a permanent breach in communication between the parties. Even in normal problem solving, strong feelings may emerge. The facilitator will make sure these feelings are acknowledged so that they do not continue to build in intensity.
- *State a problem in a constructive way:* Often problems are stated in such a way that they seem like efforts to fix blame or accuse the other parties of unacceptable, dishonest, or even illegal actions. This simply causes the other parties to counter with blame and accusation of their own, making the conflict escalate. A facilitator can help by restating comments so they do not blame any party, or so they define the problem without implying there is only one possible solution.
- *Suggest a procedure or problem-solving approach:* During a meeting a facilitator may suggest a procedure, such as brainstorming or a structured sequence of problem-solving steps, to help the group work more effectively. Or a facilitator may help break an impasse by suggesting alternative ways of addressing the issue, or even suggesting a break.
- *Summarize and clarify direction:* One of the functions of a facilitator is to help a group keep track of where it is in a sequence of steps, on the agenda, and so on. Often participants are so involved with the subject being discussed that they lose track of the overall picture. So a facilitator may restate the purpose of the meeting, or clarify its direction (for instance, "we've completed the first two issues, now we're ready to start talking about alternatives for . . .").
- *Consensus-testing:* One of the important responsibilities of a facilitator is to sense when participants are coming to agreement and verify that agreement has been reached by stating the potential basis for agreement and checking to see whether it has support from the participants. Since the facilitator does not make decisions for the group this takes the form of: "It sounds like you are in agreement that . . . Is that acceptable?" Such agreements are usually written on the flipchart by either the facilitator or recorder.

Because the facilitator needs to remain neutral on the outcome of the meeting, and wants to create a climate for collaborative problem solving, there are also certain behaviors a facilitator should avoid. These include:

- judging or criticizing the ideas of participants
- using the role of facilitator to push his or her own ideas
- making significant procedural decisions without consulting the participants
- taking up the group's time with lengthy comments.

2.3.5. Advantages of Facilitation

Facilitation can provide a range of advantages in a dispute situation:

- Decision makers can participate in the substance without having to worry about the process.
- There is increased confidence that meetings are being run for everybody's benefit.
- Process issues are removed as a likely source of disagreement.

- The facilitator will help create the climate for a collaborative problem-solving process, and will help frame the problem so it is solvable.
- The facilitator will suggest format or procedural options to help the group work more effectively.

There is also one unexpected side-benefit to facilitation: as participants watch a facilitator work they often become more observant about process issues, even to the point of letting the facilitator know when he or she has missed something or stepped out of role. Some work groups have improved their effectiveness by providing facilitation training for all group members, then rotating meeting leadership so that everybody keeps their skills honed. Because so much work in a large organization takes place in teams involving many parts of the organization, facilitation is a very useful skill internally, even when no external facilitator is retained.

2.3.6. Concerns and Problems with Facilitation

Some managers have concerns about using facilitation. Many of these concerns have proven to be more a result of anxiety and unfamiliarity with the process, rather than based in fact. Here are some of the concerns managers have expressed, and some of the actual experiences managers have had that address those concerns:

Will Using a Facilitator Mean a Loss of Control?

It is true that you will not be directly controlling the meeting. But in a dispute, where there are two or more parties, efforts by one party to control the meeting will usually be met by reciprocal efforts of the other party to control the meeting, and the situation will deteriorate. The situation itself demands joint control, so instead of fighting over it, you jointly delegate it to someone who is skilled at acting on behalf of the interests of all the parties.

In the final analysis, you do retain control. The facilitator does not make significant decisions, even procedural decisions, for the group, but consults with you on these decisions. You – and the other parties – retain ultimate control over decision making. The facilitator is a servant – a highly skilled and knowledgeable servant – of the participants.

Many managers who have used facilitation have found that being free of the obligation to lead the meeting actually frees them up to discuss matters of substance. Where before they had to be careful not to take sides too soon, or express their own feelings too strongly, as participants they can be strong actors in bringing about a solution to the problem or dispute. In return for giving up some direct control over meeting leadership, you may actually gain control over the substantive outcome.

Remember also that you – and the leaders from the other parties – have the right and the obligation to instruct the facilitator on your needs, and work with the facilitator to be satisfied that the meeting design will meet those needs. A good facilitator will let you know if he or she believes those instructions are not conducive to an atmosphere of collaborative problem solving, and you may then need to do some joint problem solving with the facilitator. But you cannot be forced to concur with anything that is unacceptable to you.

Will Using a Facilitator Undermine My Authority?

Typically a facilitator is used in a situation where you need or want a mutually acceptable decision. If there is a dispute, it will not be resolved by one person making a unilateral decision. If there is a problem involving several parts of the organization, you may get more commitment to implementation by jointly agreeing on a plan than by issuing an order, particularly if you do not have line command over all those different parts of the organization. If there are other agencies involved who get upset

if one major organization plays a leadership role, you may have more productive meetings if you are not fighting over how the meeting is run. Even if you will be making the final choice between alternatives, you may decide that you want participation from others in evaluating the situation, and identifying or evaluating the alternatives.

In these situations you are not abandoning your leadership functions by using a collaborative process, or using a facilitator. You are simply utilizing the most appropriate leadership approach to achieve your goals and fulfill your responsibilities. You (and other parties to the issue or dispute) make the decision to use a collaborative approach. You make the decision to use a facilitator. You work with the facilitator to define his or her role and the expectations for the meeting or process. Any decision made during the meeting or process needs your concurrence.

In addition to these “perceptual” concerns, there are some concrete issues that need to be addressed if you are going to use a facilitator.

Knowledge about the Subject Matter

It is helpful – but not mandatory – that the facilitator knows about the organizations involved, and about the subjects of discussion. As a minimum, the facilitator needs to know enough to be able to follow the discussion. Since agencies often use numerous acronyms and technical jargon, this can be an important issue. On the other hand, if the facilitator is too directly involved in the subject matter, he or she may have opinions about the issue that make it hard to remain neutral, or he or she may be seen by one of the parties as biased or partial towards a particular point of view or organization.

On some issues, it may be possible to use an internal facilitator. The two issues that have to be considered are the acceptability of the facilitator to all parties, and the skill level required for this particular meeting. An outside facilitator may be more acceptable in a dispute. Outside facilitators, because they spend their entire professional life doing facilitation, may – but do not always – have a higher skill level or base of experience.

2.3.7. The Role of the Recorder

In a small group the facilitator often keeps a summary or record of the group’s discussions on a flipchart. Included in this summary would be major points that were made, alternatives considered, and any agreements reached by the group.

In large groups or meetings a separate person – a recorder – who keeps a running summary on the flipchart usually plays this role. Typically the flipchart sheets are posted on the wall where everybody can see them. In small meetings the record can be referred to as a kind of “group memory.” In larger meetings people may be too far away from the wall to read all the material. In this case people are encouraged to check the flipchart sheets at an appropriate break, and may make corrections of summaries of their comments that may not be correct.

As a servant of the group it is the responsibility of the recorder to keep as accurate and unbiased a summary as possible. The recorder should not use “the power of the pen” to screen out ideas or comments with which he or she disagrees.

2.3.8. The Difference Between a Facilitator and a Mediator

If you were to observe a facilitator in action, and then a mediator, you might not be able to tell the difference. Or the differences you observe may have more to do with the personal styles of the facilitator or mediator than their roles. It is true that the roles overlap, and use many of the same skills, but there are some distinctions.

First, the venue is different. The facilitator is typically the leader of a meeting, workshop or collaborative problem-solving session. The mediator is the leader during

the negotiations. However, many of the best approaches to mediation are a form of collaborative problem solving.

A facilitator might come from one of the participating organizations, so long as everybody was comfortable that he or she was neutral on the issue. A mediator rarely has an ongoing relationship with any of the parties.

Facilitation is useful even if the parties are not well defined. In a public meeting, for example, people decide for themselves whether to attend. In mediation there are designated representatives of the various parties.

In facilitation the issues may also be less well defined. The outcome of a facilitated session may simply include sharing of feelings, team building, identifying options, or reaching agreement. The outcome of mediation is a decision by the parties.

The other place where there are differences is in what happens between meetings. Between meetings a facilitator would typically only meet with the parties to plan the next meeting. While a mediator might participate in a planning meeting, he or she might also meet with the parties individually to help them shape proposals that might be acceptable, or help them assess their position and interests. A mediator may also assume control over the schedule of meetings, timing them so they will be most productive and avoiding them when they could polarize the situation further. At some point in the process, a mediator might even develop a proposal, on behalf of the group, that might embody a number of reciprocal concessions that the groups are considering in private, but feel they cannot put forward themselves.

Both facilitation and mediation are valuable forms of assistance. They simply represent different levels of formality and structure in the kind of assistance that is given.

2.4. A CATALOG OF PARTICIPATION TECHNIQUES¹⁴

Public and stakeholder participation involves getting information out to the stakeholders, and getting back the stakeholders' ideas, issues, and concerns. It is two-way communication. This section presents information techniques (getting information TO the public) and participation techniques (getting information FROM the public). The section ends with a discussion of the advantages and disadvantages of each technique.

2.4.1. Matching Techniques to the Level of Influence or Power

Each of the techniques differs in the amount of influence (power) it provides the participant over the decisions to be made. It is important to understand this relationship, as it is crucial for managing the expectations of all those involved in participatory processes. Frequently, the water professional will say, " We had a public hearing and had our stakeholder involvement, why are they still upset about not being heard?" The problem is that stakeholders expected to have some influence on the decision and the technique, a hearing, is not useful for achieving this. The levels of expectation were not met. The point is not that all techniques should provide full influence and power over decisions. That cannot and will not happen in most cases. The point is that some device is necessary to clarify this relationship and work with participants if there is to be any chance of success in participatory processes. Figure 15 can help you think through this process of aligning level of influence to technique. Doing so is an essential step in the planning and designing of any process.

2.4.2. Information Techniques

Every effective participation program includes a good public information program. The public needs to know what an issue is about if they are to decide whether they want to participate. People need information about the alternatives before they can make

choices. The public needs to know the facts about a proposed decision before they can decide whether they support it. Here – in alphabetical order – are some of the major techniques that can be used for communicating to the public:

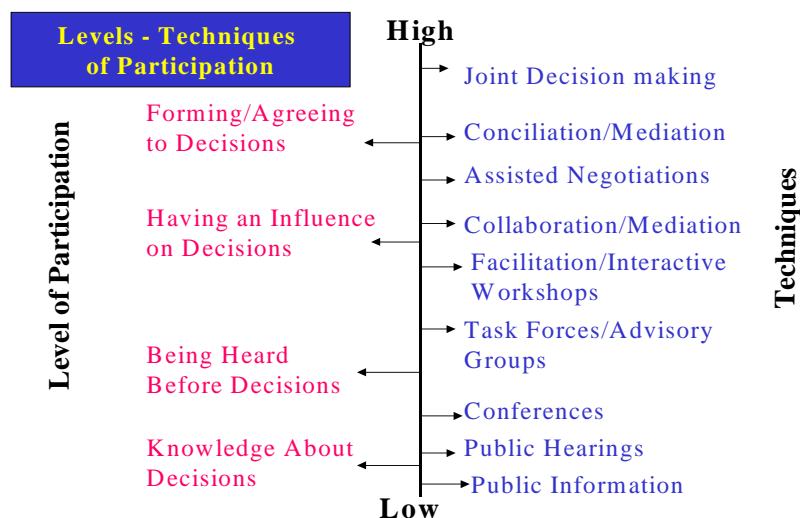


Figure 15. Levels and techniques of participation

Briefings

Briefings are a way of keeping key elected officials, agencies, or key interest groups informed of your progress. Briefings simply consist of a personal visit or even a phone call to inform these people before an action is taken. Briefings often lead to two-way communication, as you may receive valuable information in response to your announcement. It is particularly important to provide briefings if your actions could result in political controversy that could affect elected officials or agency officials. If you are taking an action that could affect an elected or other senior official, never let that person find out about it by reading the paper, or worse yet, by having a constituent phone the official and ask what he/she is going to do about it.

Exhibits/Displays

One way to inform the public and to stimulate people to participate in your public participation program is to set up exhibits or displays in public places that attract lots of foot traffic. Possibilities include a large shopping mall or major community events such as county fairs, street fairs, or even sporting events. Although preparing an exhibit or display can be costly, it can often be designed so that it can be used again at other events or locations. An exhibit is always more effective if it is also staffed by a knowledgeable person who can answer questions.

Feature Stories

A feature story is a full-blown news story, written by a reporter, rather than just an announcement based on your news release. Sending a press release to a newspaper or station is one way to interest the media in doing a story. But often you are more likely to attract a response if you make a personal contact with an editor or reporter who has an interest in the topic. Of course, if your project becomes controversial, the problem is not in getting the news media interested, but being sure that you provide the all-too-interested media with information that is timely, factual, and objective.

Mailing Out Key Technical Reports or Environmental Documents

Simply making technical reports or environmental documents available at libraries or other repositories is not enough to gain credibility. Instead, key documents need to be mailed directly to leaders of organized groups and interests, including business, environmental, or neighborhood groups. When you construct your mailing list, code the names so that you can pull up a list of those to whom complete copies of key reports will be sent. You might want to send a two or three-page summary of reports to your larger mailing list, advising that you will supply full copies upon request. If you send out a regular newsletter, you could describe the study results in a news item and provide a clipout request form for those who would like copies of the study.

Media Kits

It is always an advantage if journalists/reporters understand the background of an issue and the process you are following. One way to help the journalists is to prepare a media kit that provides a summary of the key information they might need throughout the decision-making process. Often a journalist, under pressure to meet a deadline, will find it difficult to contact you by phone but will turn to the media kit as an authoritative source of information.

Typically a media kit consists of a folder with pockets containing short summaries of the requirement for the project, the decision-making process, summaries of key technical studies or environmental documents, and so on. Keep in mind that journalists work under extreme time pressures, so information must be in summary form if it is to be used. If you publish a regular newsletter, include past copies in the media kit, as they often present the important background information at about the level of information a journalist needs to prepare a story. Once you have prepared a media kit, identify those journalists or editors you believe will be interested in the story. Arrange to drop by, deliver the press kit, and answer any questions on the spot.

News Conferences

A news conference is another way to stimulate the media's interest in doing news stories. The particular value of a news conference is that your spokesperson often has the opportunity to speak directly to the public, particularly on radio or television, either of which may carry short sections of the press conference as part of normal news coverage. However, the topic of the news conference, or the person conducting a press conference, must be newsworthy, or no one will show up. As a result, news conferences are usually reserved for major announcements or for a time when a well-known spokesperson is available.

Newsletters

Newsletters are a means of sustaining interest throughout a decision-making process that may last for months. Typically, newsletters are targeted at those individuals who are most interested in the issue. Sometimes, on very controversial issues, mailing lists can grow to as many as 5,000 people. Newsletters provide those people with far more information than can be communicated through the news media.

The value of a newsletter depends in part on how well it is produced. A visually attractive newsletter, with plenty of graphics, and written in simple, everyday language, will usually be widely read. There are definite costs associated with writing and illustrating an attractive newsletter, as well as printing and mailing costs. However, newsletters are an effective way of keeping those who are interested informed of what is going on, at a level of detail you could never expect to achieve through the media. Newsletters employed as part of participation programs must be written in a very objective manner. They should not be a "promotion piece" for a pre-determined position. If they are, they will lose all credibility. To ensure objectivity,

and to protect credibility, you might consult with a citizen advisory group to review the wording of the newsletter, since such groups are usually sensitive to political nuances.

Newspaper Inserts

One way to reach an entire community is to communicate information in the form of a newspaper insert. So long as the insert is prepared to the newspaper's specifications, the paper can deliver an insert for a moderate cost. This is one way to reach beyond the most actively involved citizens and be sure that the general public is informed. An insert can also generate a great deal of interest in a hurry. Be sure that it presents information in an objective and balanced manner. The more attractive the insert and the easier it is to read, the more impact it will have on the community.

News Releases

News releases are designed to interest the media in doing a news story. Occasionally a press release is printed exactly the way you wrote it. But more often a news release is used to convince an editor to do a feature, and the reporter assigned to the story will contact you for additional information. Follow your initial mailing with a phone call to the editor. If you are in a smaller community, your story is likely to receive attention in the local paper. If you are in a larger community, you are competing with many other news stories for the attention of the media. In order to stand out from the crowd, news releases are often written with a "hook," some kind of slant or human-interest angle that immediately convinces editors that their readers or viewers will be interested. Always be sure to include the name and number of somebody in your organization that the media should contact if they need more information.

Paid Advertisements

Paid advertisements are a sure way to make announcement or present information to the public through the media. One major consideration in paying for advertising is how the public will react to the expenditure of funds for this purpose. Stakeholders are often quite appreciative of paid advertisements announcing public meetings, particularly if they are visually attractive. Occasionally, though, there is criticism of large ads, even if they are providing information. For example, it is particularly likely that any "advocacy" advertisement paid for with ratepayer funds would attract criticism.

Presentations to Civic and Technical Groups

One effective way to communicate with influential people in the community is to arrange presentations to meetings of civic groups, business associations, environmental groups, neighborhood groups, or homeowner associations. If you will be making a number of presentations, it is often advisable to prepare a slide show or other visual aides. A visual presentation is not only more interesting to the audience but also you can communicate more information in a shorter period of time. You may be able to prepare your slide show in modules, so that you can customize it to match the interest level of your audience.

One way to build credibility for technical studies is to make presentations to professional societies of engineers, planners, or other professional groups. You need to tailor the presentation to the technical level of your audience, but such presentations do help to create a general perception in the technical community that you are doing a professionally competent study.

2.4.3. Participation Techniques

Once the public has been informed, the next step is to provide forums or mechanisms by which citizens can express feelings, thoughts, or concerns. Again, a number of techniques are available:

Advisory Groups/Task Forces

Next to public meetings, stakeholder advisory groups are most often used by water agencies. Advisory groups can serve a number of purposes. They can:

- help you anticipate public/stakeholder reaction to proposed decisions
- provide communication to key constituencies
- educate you to the continuing concerns of interest groups and inform them about the issues and the consequences of alternative actions
- provide continuity so that you receive the advice of interested parties who understand the technical aspects of the decision
- provide a forum for building a consensus.

The key advantage of an advisory group is that its members become more aware of the arguments, so their recommendations often are more informed than are general comments from the public. An advisory group may not be able to come to consensus agreements on every issue, but often a number of issues can be resolved by an advisory group, and thereby reduce the number of controversies that must be addressed by company policy makers.

There are, however, many organizational issues to face in setting up advisory groups. First of all, they must be perceived as truly representative. This may require that you consult with all key interests before establishing the group to ensure credibility. Second, it is essential to define the limits of the group's authority. The scale ranges from "purely advisory" at one end, to "decision making" at the other. The advisory group's authority has to be understood in advance, preferably as part of a written mandate. Third, establishing and maintaining an advisory group requires a significant commitment of time and staff resources, and should not be undertaken if you are not able or willing to commit the resources to make it work right.

Computer Bulletin Boards

Computer bulletin boards are increasingly becoming a useful tool for both informing and involving the public. The present constraint is that participants must own a computer and modem, something that limits participation. But within the next decade, the number of people who will be connected to some kind of on-line system will grow dramatically. The next generation of on-line systems will include voice, not just keyboard communication, and will work via television sets rather than (or in addition to) computers.

Focus Groups

Focus groups were developed by the advertising industry as an alternative to expensive market research (which relies heavily on polling). Focus groups are small discussion groups selected either randomly or to approximate the demographics of the community. A trained moderator, who draws out the participants' emotional reactions to a product, idea, and so on, conducts the focus group. Normally, several focus groups are held, until the researchers are confident they have valid information.

Focus groups have been used by several utilities to design a bill format that was easy to understand. Some companies have convened focus groups to review proposed publications to be sure the information is presented in a manner that is understandable or acceptable to the public. Focus groups are not helpful in assessing

the number of people taking particular positions – they lack statistical validity. In the context of a participation process, the possibility exists that conducting focus groups may be seen as an effort to manipulate rather than learn from the public and stakeholders. Managers should not see focus groups as a substitute for other forms of direct participation.

Hotlines

Have you ever tried to phone a large organization and reach the single individual in that organization who knows about a given issue? You are often transferred back and forth between five or six people before you find the right person. Many callers give up long before that. Rather than expect stakeholders to go through this kind of process, you may want to set up a hotline. A “hotline” is a widely advertised phone number that directs callers right to the person who can answer their questions. The number is announced in newsletters, news releases, meeting announcements, or any place where people are encouraged to ask questions or comment on an issue. Hotlines can be a form of two-way communication as well, particularly now that callers can select from a menu using their touch-tone phone. Callers can access pre-recorded tapes, leave comments on selected topics, or talk directly to a human being, based on their interest and need.

The key to an effective hotline is to have the right person at the receiving end of the line. Callers must have the feeling that the person taking their calls is really interested in what they have to say, and is both knowledgeable and responsive. If the person answering a call does not have all the information, he or she must take responsibility to search it out and get back to the caller.

Interviews

People will often provide much more information in a one-on-one interview or discussion than they will in a public forum. Although interviewing everyone in a community is not possible, two or three days may allow enough time to talk with those representing all the key groups and neighborhoods. Though interviewing does not provide scientific sampling, it does offer important qualitative information at a level of detail that is impossible to obtain any other way. Also, by the time you have interviewed fifteen to twenty community leaders, you probably know enough about the situation to understand each person’s role in the controversy.

In a decision-making process that lasts several years, you might want to conduct a round of interviews near the beginning of the process to get information about the issues to anticipate, and one or two other rounds at key junctures in the process to determine “how we are doing” and to identify ways that issues could be resolved.

Meetings, Hearings, and Workshops

Meetings of some kind, whether town meetings, public hearings, workshops, or any of many other kinds of gatherings, are by far the most widely used public participation techniques. There are a number of different kinds of meetings.

PUBLIC HEARINGS

Probably the most widely used technique is the public hearing: a rather formal meeting at which people present official statements of position and assertions of fact. Regrettably, public hearings are not a particularly effective device for public participation. They do a good job of meeting legal requirements in that a formal record is prepared, but they do a particularly poor job of bringing people together to resolve problems. In fact, public hearings tend to exaggerate differences, because leaders of constituencies have to be seen defending their constituencies’ interests. As a result, positions taken by speakers during hearings are often more rigid and

extreme than those expressed in less formal settings. It may be necessary, legally, to hold a public hearing at the end of the decision-making process, but the genuine public participation had better be completed prior to the hearing.

TOWN MEETINGS

In the New England region of the United States, the town meeting has an honored tradition. Originally it was a decision-making body. Instead of having decisions made by elected representatives, everybody in town showed up and spoke their piece, and a vote was taken that had the force of law. Town meetings, as used in public participation, capture some of the spirit of the New England gatherings, with everyone coming together as equals trying to solve problems and make good decisions. But the decisions have no legal binding power. A town meeting is simply a large public meeting at which everyone has a chance to speak his or her mind. The town meeting is less formal than a hearing, but it still has some of the disadvantages: It serves as a marvelous forum for advocates of special interests.

LARGE GROUP/SMALL GROUP FORMAT

One way to accommodate a large group but avoid some of the problems with hearings and town meetings is to use a large group/small group format. Following an opening presentation, the audience is broken into small discussion groups, often assigned a specific task. Afterwards, spokespersons from each of the small groups make a short presentation to the full audience, summarizing the discussion that took place in their small groups. This summation may be followed by an open comment period.

COFFEE KLATSCHES

A number of small coffee klatsches – informal meetings with a small group of people in a private home – are sometimes better for achieving genuine involvement than a single large meeting. The fact that the coffee klatsch is held in a home changes the dynamic considerably, with participants usually on their best behavior.

WORKSHOPS

One form of meeting that has proven particularly effective in resolving issues is the workshop. It differs from other formats primarily in that it has a stated purpose of completing a specific assignment. For example, a workshop might be designed to achieve agreement on the criteria that will be used to evaluate alternative sites for a major facility. A workshop might also be used to eliminate sites that do not meet the siting criteria, or to obtain agreement on the actions that need to be taken to mitigate any negative effects of a facility. Because workshops are highly interactive, they do not work as well with large groups. When the number of participants exceeds twenty to twenty-five people, it is difficult to achieve the kind of interaction needed, although it is possible using some form of large group/small group format. As a result, workshops are often targeted at leaders of organized groups or vocal interests, not so much at "the person on the street." To reduce the danger that the group is not representative, the participants in workshops must – even if they are a leadership group – represent the full spectrum of opinion in the community.

The first step in trying to decide on a format is to clarify the purpose of your meeting. A format that might be effective for communicating information to the public may be ineffective at resolving issues or getting information back from the public. The format you select should reflect the purpose of the meeting and the audience expected to participate (size, level of information, hostile/apathetic, and so on).

Participatory Television/Cable Television

An increasing number of communities broadcast important meetings, such as city council meetings, over local television channels. The possibility also exists for using

television in a more interactive way. Citizens can call in with comments or questions, which can be broadcast directly to the audience. The advent of cable television holds promise of other forms of participatory television as well, since sending signals back over cable is possible. Viewers may soon be able to react to questions by pushing a button on their remote channel control, sending a signal that could be tallied at the station. The advent of truly participatory television is still a few years off, but a number of companies are developing the technology and software that will make participatory television a very real option in a short time.

Plebiscite

The ultimate test of whether a community supports a decision would be a direct vote on the issue. Some argue strongly on behalf of this form of direct democracy. Others support a plebiscite in situations that involve perception of risk, because such perceptions drop dramatically when the choice is voluntary. Others argue just as vehemently that such an approach undermines the fundamentals of our representative form of government. If a plebiscite is used, it should still be preceded by active public participation, so that the proposal put before the voters takes into account the concerns of the interests within the community and has the credibility of open, visible participation during its development.

Polls

Most participatory techniques cannot determine the proportion of views in the community at large. Is the group you are hearing from a small, vocal minority, or do they speak on behalf of the majority? Polls permit a quantitative assessment of viewpoints in the community. Polls, particularly telephone polling, have become considerably less expensive in recent years, and some utilities are using them as an adjunct to their public participation program.

As experience with election polls show, however, polls do not always predict the outcome. The first problem is that they provide a snapshot of one moment in time. If people are still learning about an issue, a poll will tell you how they feel given their present level of knowledge but may not reflect how they will react once they learn more. Second, if the decision is going to be made by an elected body rather than by an election, then a poll may not reflect reality. A poll treats each person as essentially equal, even though one person may not care much about the issue while another will lie down in front of a bulldozer. Ultimately, people who care deeply enough to devote time and energy will always have more political influence than those who do not care.

Retreats

The idea behind a retreat is to get away from the normal work environment for a concentrated period of time in a setting that encourages social interaction as well as political discussion. There is a much higher chance of building consensus when people can really talk the issue through in a concentrated, yet informal setting. A retreat might be very useful, for example, when an advisory committee is getting close to a key decision point. If you do schedule a retreat, you might want to retain a professional facilitator to assist with designing and conducting it. Also, be aware that if the retreat is held in a physically attractive setting, such as the beach or mountains, there is the potential for criticism about expenditure of ratepayer funds for such a purpose.

Task Forces

A task force is a specific kind of advisory group. Task forces usually complete a specific task, and then disband. A task force might, for example, recommend a preferred route. A technically oriented task force might assess the health risks of

various cleanup strategies. Or a task force might recommend alternative rate structures. Once the task force makes its recommendations, it ceases to exist.

2.4.4. Advantages and Disadvantages of Various Techniques

Information techniques		
	<i>Advantages</i>	<i>Limitations</i>
Briefings	<ul style="list-style-type: none"> • Allow you to take your message directly to key officials. • Build personal relationships with key officials. 	<ul style="list-style-type: none"> • Can be time-consuming. • May require involvement of senior company officials.
Exhibits/ displays	<ul style="list-style-type: none"> • May stimulate public interest in the issue. • Provide direct communication to the public. • Can be made interactive. • After initial cost, little new cost in using. 	<ul style="list-style-type: none"> • May not reach the actively involved public. • If inexpensive, may be static and boring. If interactive, may be expensive and will also require continued staff maintenance. • Involve little or no personal interaction.
Feature stories	<ul style="list-style-type: none"> • Large quantities of information can be communicated directly to public at virtually no cost to company. • Public will accept information from media it will not accept from the company. 	<ul style="list-style-type: none"> • Company has no control over how the story is written — media may print misinformation or put an unfavorable slant on the story.
Mailing out reports	<ul style="list-style-type: none"> • Interested parties receive full and complete information. • Company can communicate all the background information for decisions. • Creates visibility for the entire process. 	<ul style="list-style-type: none"> • Lengthy reports are difficult for the public to read and understand. • Reports can be expensive to reproduce in large numbers.
Media kits	<ul style="list-style-type: none"> • Ensure that reporters have access to the best information the company can provide. • May stimulate interest in the topic, resulting in feature stories. • Provide reporters a reference to consult when questions come up. 	<ul style="list-style-type: none"> • Require careful preparation to ensure kits provide the information in a manner useful to the reporter.
News conferences	<ul style="list-style-type: none"> • Permit the company to carry its message directly to the media, and through the media to the public. • Demonstrate the priority the company puts on the issue. 	<ul style="list-style-type: none"> • Reporters will attend only if the topic is newsworthy or the person presenting the conference is very high status, for instance, CEO. • Require company executives to be skilled in dealing with the media.

Newsletters	<ul style="list-style-type: none"> • The company can communicate directly with those who are interested in the issue. • Help maintain visibility during periods when the company is conducting technical studies. 	<ul style="list-style-type: none"> • Can be time-consuming and expensive to do them right. • The value of the newsletters is largely dependent on how attractive and readable they are. • Obtaining internal approvals of stories for the newsletter can be time-consuming and frustrating.
Newspaper inserts	<ul style="list-style-type: none"> • Provide substantial information to a large number of people at a reasonable cost. • Helpful in identifying additional people interested in the topic. • Can include a clip-out response form for people to communicate with the company. 	<ul style="list-style-type: none"> • Although the cost per person is low, the total cost could be high because of the number of copies distributed. • If too "slick," or not objective, company may be criticized for the expenditure.
News releases	<ul style="list-style-type: none"> • May stimulate interest on the part of reporters. • Provide useful information that reporters will often use in stories. 	<ul style="list-style-type: none"> • Reporters may ignore the news release if they do not believe the story is newsworthy. • Reporters may put their own slant on the story, changing the message.
Paid advertisements	<ul style="list-style-type: none"> • Permit the company to take its message directly to the public. • Particularly useful for announcing public meetings or other opportunities to participate. • May reach people who would otherwise not be reached. 	<ul style="list-style-type: none"> • If not seen as objective, may be dismissed as "propaganda." • Company may be criticized for the expenditure (although this is unlikely if the ad announces a public meeting).
Presentations to groups	<ul style="list-style-type: none"> • Opportunity to reach influential people with background on the issue. • May stimulate participation from groups and individuals. 	<ul style="list-style-type: none"> • Can be time-consuming. • Speaker must be interesting and entertaining – or be equipped with slide or video show. • Topic must be of interest to groups.

Participation techniques

	<i>Advantages</i>	<i>Limitations</i>
Advisory groups	<ul style="list-style-type: none"> • Provide a mechanism for interaction between the company and representatives of the full spectrum of opinion in the community. • Create a forum for interaction between the groups themselves. • Good forum for creating consensus. • Advisory group members become well informed, so their recommendations are more likely to be based on a full understanding of the technical information. 	<ul style="list-style-type: none"> • Selection process must be credible to the public. • Must be linked to real decisions – cannot just be “window-dressing.” • Take lots of staff time for support. • Public does not automatically accept the recommendations of an advisory group as representative of the public at large. • Disputes can develop over the group’s mandate.
Computer bulletin boards	<ul style="list-style-type: none"> • People can access information whenever they want it. • People can participate without leaving their homes. • Opportunity for immediate feedback and interaction. 	<ul style="list-style-type: none"> • In the past, the technology has been awkward – but this is changing rapidly. • Many people remain intimidated by computers. • Only those who can afford to be on-line can participate, or company has to pay for modems and monthly service bills.
Focus groups	<ul style="list-style-type: none"> • Good for assessing qualitative and/or emotional factors. • Cheaper and greater depth than survey research. 	<ul style="list-style-type: none"> • No claims can be made of statistical accuracy. • Focus groups are sometimes perceived as a way to get information that can be used to manipulate the public. • Cannot be a substitute for other more visible forms of participation, such as public meetings.
Hotlines	<ul style="list-style-type: none"> • Effective way to ensure that callers reach the right person and get good information. • With menu-driven phone systems, hotlines can be used for coordination purposes, and callers can select the information they need from an extended list of topics. 	<ul style="list-style-type: none"> • The hotline is only as good as the people answering the line – defensive or insensitive comments may produce a negative reaction. • Staff must be prepared to provide information promptly, which requires quick turn-around and adequate staffing.

Interviews	<ul style="list-style-type: none"> • Can provide more in-depth information than any other technique. • People will provide more information about their fundamental concerns and interests in private than they will in public forums. 	<ul style="list-style-type: none"> • Time-consuming. • Because of the time involved, can only interview a limited number of people. • Interviewers need to be trained/skilled. • Does not create visibility – you know what people said but others do not know what they said.
Public hearings	<ul style="list-style-type: none"> • Fulfill legal requirements. • Provide visibility –everybody knows what everybody else said. 	<ul style="list-style-type: none"> • May encourage people to take exaggerated or fixed positions. • Do not provide opportunity for interaction. • Usually come too late in the process for problem-solving approach.
Town meetings	<ul style="list-style-type: none"> • Somewhat greater informality and interaction than the public hearing. • Provide interaction. 	<ul style="list-style-type: none"> • May still contribute to exaggerated or fixed positions. • People are still making speeches, not problem solving.
Large group/ small group format	<ul style="list-style-type: none"> • Provides high levels of interaction despite a large audience. • Participants can engage in problem solving or work together to complete a task. 	<ul style="list-style-type: none"> • If audience is opposed to the proposed action, it may resist breaking into small group. • With very large groups, the logistics of providing breakout space, recording comments, and getting reports from small groups can be cumbersome.
Coffee klatsches	<ul style="list-style-type: none"> • Provide an opportunity for interaction and extended discussions. • May be useful in reducing polarization. • Good for building relationships with/ among participants. 	<ul style="list-style-type: none"> • Upper limit of about twenty-five participants per session – may require multiple sessions. • Multiple sessions can be time-consuming.
Workshops	<ul style="list-style-type: none"> • Effective for problem solving or working together to complete a task. • Give participants a sense of genuine involvement. • Reduce speech making. 	<ul style="list-style-type: none"> • Limits on number of participants, although using large group/small group format can expand the numbers. • Workshop format may be resented by people who want to make speeches in front of the media – so make sure when they are invited that everybody knows it is a workshop.
Participatory television/ cable television	<ul style="list-style-type: none"> • Potential to reach a much broader audience than those who will attend public meetings. • People do not have to leave their home to participate. • People can participate at their own level of interest. 	<ul style="list-style-type: none"> • The technology for genuine participatory television is still several years away – but stay tuned, this could be a biggy! • Many communities do not yet have the appropriate infrastructure for participatory television.

Plebiscite	<ul style="list-style-type: none"> • Everybody accepts voting as the most legitimate expression of public sentiment. • When people have a choice, their perception of risk goes down. • Provides a mechanism by which everybody who has to pay for the action can be included in the decision. 	<ul style="list-style-type: none"> • Voting creates the impression of being binding, even though the law gives public utilities commissions the actual authority. • Voters may be swayed by emotional appeals.
Polls	<ul style="list-style-type: none"> • Provide a way to assess the opinions of all the public, not just the active participants. • Results can be stated in a quantitative manner. 	<ul style="list-style-type: none"> • Must be conducted by people who are trained and experienced in polling. • If not done well, the apparent "factual" nature of the results can be very misleading. • Only provide a snapshot at one point in time – opinions can change significantly with new information. • Potentially high cost, although in recent years costs have come down.
Retreats	<ul style="list-style-type: none"> • Useful to build relationships between individuals. • Could help break impasse. • Effective for consensus building. 	<ul style="list-style-type: none"> • Expense of holding an off-site meeting. • Participants have to be willing to commit the time. • Need to avoid criticisms of staying at a "fancy" place.
Task forces	<ul style="list-style-type: none"> • Effective for developing consensus recommendations on a specific task or decision. • Easier to keep up energy and enthusiasm because there is a target date for completion. 	<ul style="list-style-type: none"> • Selection must be credible. • Company must address recommendations very seriously. • Significant commitment of staff resources.

3. ENDS OF NEGOTIATIONS AND DIALOGS IN WATER MANAGEMENT: BUILDING RIVER BASIN ORGANIZATIONS AND FRAMEWORKS FOR ACTION PROCESSES¹⁵

(Jerome Delli Priscoli, in: *Participation, Floods, and River Basin Organizations*, Bangkok, ESCAP (to be published 2003))

3.1. Building River Basin Organizations and Frameworks for Action

3.1.1. Theory and Concepts

Today, major causes of conflict in water resources management are found in changing value priorities of traditional water uses, new values challenging older values underlying traditional water institutions, perceptions of scarcity, and changing demographics. Institution building requires more than reorganization, it requires negotiation over values supporting these institutions. Integrated water resources management (IWRM) and River Basin Organizations (RBO) are appropriate frameworks to help negotiate new alignments of values and to anticipate and avoid unnecessary conflict. They can offer good institutional incentives to collaborate, anticipate and avoid wasteful conflict, but also identify and clarify major conflict. Here are five conceptual framing concepts for building river basin organizations.

1. *Institutions are not simply organizations: they are routinized patterns of behavior supported by values. Thus, reorganization may be a necessary but not sufficient condition to reduce fragmentation.*

While often used synonymously, institutions differ from organizations. Institutions are routinized and stable patterns of behavior over time. They are formed and driven by values that, over time, often become implicit and unexamined assumptions embodied in a variety of organizations. Changing values held by clients of these traditional institutions and by influential external institutions are challenging values underlying traditional water institutions. The litany of impact assessment "add-ons" to traditional water management policy, such as EIS, SIA, and Risk Assessment (RA), are testimony to the growing concern that traditional water institutions are somehow not including a complete enough picture of values at stake. The broadened array of approaches to flood management reflects this trend.

Indeed, the various options not only address flooding but also have different values embedded in them. For example, channel right, channel left, and channel center are not three alternatives, they are variations on a theme: structural and control approach. On the other hand, moving people from the flood way, providing insurance after modifications to structures and so on, bring in different interests and values to the mix, such as influencing human behavior versus river behavior. Thus, reorganization alone is insufficient to deal with fragmentation in water resources. Not only the positions advocated, but also the data used by new and old institutions are driven by values (or assumptions about the way the world ought to be). New values come complete with new groups and people seeking access to forming and implementing, and these new stakeholders also bring news and broader range of interests, based on these values, into the decision mix.

In many areas, the water business is not simply reorganizing but transforming. The notion that perfect coordination among organizations will solve fragmentation is like the assumption that perfect information will resolve water disputes. Even if attained, either could simply lead to describing the conflict perfectly without solving it.

The key to IWRM and RBO institution building is to facilitate dialog and bargaining on the interests driven by values, which underlie organizational positions. The value changes driving this transformation touch both the substance and the process by which we do our business. Some, but not all, of the important value shifts are:

- Growing internalization of environmental quality, increasingly expressed as securing public health and safety as well as protecting “nature.”
 - Growing perception of resources, generally, and water, specifically, more as an end-state quality rather than as a means to getting to that state.
 - Growing clarification of how humid versus arid experience bestows differing values on water.
 - Perceptions of scarcity and movement from distributive developmental to redistributive managerial concerns.
 - Growing clarification of how culture/religion and beliefs foster different relationships to water, endowing waters with different values.
 - Growing pressure to manage rather than develop water is pushing the professional water community into managing people rather than the traditional notion of managing “things.”
 - Changing demographics and land use push for reallocations of water uses; growing belief that interdependency is the route to security.
 - Changing nature of professionalism from “paternalistic” to an “informal consent” ethical basis; increased value for participation, individual freedom and autonomy, which can conflict with collective needs for public safety and environmental quality.
2. *Water resources institutions are more than reflections of a social–political system; they often form a system’s values. Water resources institutions are a primary mediator of discontinuities among values of social and ecological systems.*

Increasingly, archaeological and social science literature find that the way societies organize to meet water needs has formed broader social–political systems. The values underlying water institutions are thus crucial. Wittfogel and more recently Riesner show how organizing to meet water needs historically pushed some societies into increasingly centralized and then autocratic institutions. Gurr and others review how relative and/or ideological resource scarcity can lead to redistribution of wealth and autocratic political institutions. Social systems, like ecological systems, are not infinitely elastic. Water institutions are the prime mediators among values of social systems and ecosystems. In this role, sustainable water institutions will be those that can identify discontinuity between social and ecological system values and turn those discontinuities into complementarities. If such organizational mediation is absent social system values could increase dissonance to the point of inelasticity and drive its own and perhaps even ecosystem deterioration.

3. *Water resources institutions should be designed with the notion that they are balancers and mediators between competing values.*

As examples, water resources institutions are balancers between:

- The spirit of democratic/individual freedom and the collective/centralized spirit of holistic system planning. In the past these were driven by utopian views of the end state of society; today they are often driven by a sense of ecological imperative.
- The need for upward grassroot energy and downward hierarchical control.

- The need for structured organizational rules and flexibility to respond to specific conditions such as drought and floods.
- Geographic imperative and jurisdictional reality.
- The need for reductionism expertise and integrated synergy.
- The requirements of external behavior and internal organizational culture.
- Seeing water as an end and as a means.

4. *Water resource management needs both structural/organizational and process/attitudinal approaches.*

Some within the conflict management community emphasize structure/organization as a route to conflict management while others emphasize process and people regardless of structure. Water institutions need both to manage value change. Institutional economics, regime formation theory in political science, and public choice policy organizational theory have something to say about structure. Organizational development and negotiations theory have something to say about process. The various means of water allocation have different capacities to manage conflict at different levels of water management.

5. *RBOs and IWRM is needed to deal with value-driven changes in the water business. IWRM requires multiple levels of planning, implementation, and operation, and can be designed as a process of institutionalized bargaining.*

Comprehensive water resources management does not mean centralized control. It must institutionalize "bottom-up" and "top-down" flows of information. It must encourage iterative planning. It must help negotiate new alignment of uses and conflict as well as anticipate and avoid unnecessary conflict. Comprehensive water management is a form of institutional bargaining, dispute management, and collaboration. As such, institutions for comprehensive water management should be based on sound principles of negotiation. It seeks to integrate multipurpose and multiple means into planning, implementing, and operating water management schemes.

Building river basin organizations for cooperation and security can be seen at three levels: the macro and cross-sectoral, the cross-sectoral and multipurpose, and the implementing level. At the macro-level we are concerned with establishing basic allocation principles. Usually this entails a broad public sector lead. At this level, broad macro-economic goals and social goals are set. The second level is what we most frequently think of as the river basin or watershed level. Here we are integrating water uses into a holistic water system. The third, implementing, level is project focused. It includes a variety of public and private partnerships. The non-public roles are much greater at this level than the others.

At a second level, cross-sectoral and cross-purpose objectives need to be integrated into holistic water systems such as river basins and watersheds. These can be international or sub-national. The goal at this level is to integrate the uses and purposes through multi-objective analyses.

At a third implementation and operational level, more limited purpose management goals, such as manpower base, local capacity, monitoring, and construction practices dominate. At this level, focus is project and sectoral. A variety of public and private utility organizational arrangements are available.

Mostert et al. go further to construct four levels of performance for any type of RBO: operational, planning, institutional structure, and analytical support. The operational level can include: new infrastructure (the dominant approach in the hydrologic model that falls within Federal water ministries); pollution control (which itself has many approaches from regulation to market incentive, standards and water

quality); voluntary agreements; market mechanisms; pricing and cost recovery; and water rights reform.

Organizations include operational rules, collective choice rules, and constitutional rules. These translate into three broad organizational models for RBOs. The hydrological model has an organizational structure for water management based on the hydrological boundaries. It tends to see putting all management in the hands of one body: the river basin authority or commission. The administrative model, which is at the other end of the spectrum, sees management of water as the responsibility of provinces, municipalities, and other bodies not based on hydrologic boundaries. The coordinated model falls somewhere in between. Here there are river basin commissions and other consultative bodies working in concert with administrative bodies. Here traditional infrastructure approaches are being challenged by: the need to differentiate between regulating and building functions; the empowerment of new groups; decentralization and increased private sector involvement; and increased local involvement.

Planning offers frameworks for action taken by many parties. The planning process spans identification of problems, assessment of alternatives, evaluating, and implementing. Planning can be seen at the strategic, policy, and geographic levels and can be short, medium, or long term. However, in RBMs we see that planning is a process, not a piece of paper. It is a process that is iterative and it is in many ways the engine of social learning among various stakeholders. In short, planning attempts to move from a deterministic and strict prediction model to one of interacting with rather than predicting our futures or destinies.

Analytical support includes all the technical expertise, tools, and data needed. Today, technical tools are becoming seamless with participatory processes. GIS systems, interactive modeling done jointly by stakeholders, and access to information all promote empowerment and technical competence together.

Numerous authors, such as Vlachos, have reviewed RBOs over the last few decades. While useful, they have yet to produce a unified paradigm for comparative analysis or normative proscription. They often include similar elements. However, the functions of RBOs, to say nothing of the historical and cultural experiences in which they are embedded, all differ. Thus a unified paradigm is hard to achieve. Most recently, Lord, Alearts, Shamir, and Savinje have begun to contrast RBOs according to various aspects of this theory. The processes outlined here take elements from all of these efforts.

3.1.2. Responding to the Problem: A Continuum of River Basin Organization Options

In designing transboundary water cooperation, organizations, and management, three characteristics should be highlighted. First, water does not hold still for labeling, fencing, or jurisdictional boundaries. This makes it difficult for water resources to be subjected to property rights, and only the somewhat limited usufructuary right is normally possible. Second, water is highly variable in time and space. Variability compounds the challenges of building cooperative regional management institutions since water flows are uncertain. Third, forming water institutions is almost always done in a broader social context and in light of previous allocation agreements.

The debate over building water organizations and RBOs can be characterized as a dialectic between two philosophical norms; first, the rational analytic model, often called the "planning norm" and second, the utilitarian or free market model, often couched in terms of privatization. Each of these caricatured norms implies different visions of how water institutions should change.

The rational analytic view will begin with some explicit holistic notion of the resource and criteria for its use, which should then guide subsequent action. This norm can be driven by grand engineering design, holistic ecological systems theory, or

other regional designs, many of which conflict. The norm usually leads to a high degree of explicit or conscious design.

The market norm sees institutional arrangements emerging from spontaneous interactions of self-interested parties that reasonably conform in some way to Pareto optimality. This norm usually leads to less-conscious design and a more hands-off approach. The rational analytic emphasizes concepts of water scarcity and public participation in technical decision-making processes. The market will emphasize individual freedom and public participation through buying and selling in markets.

Forming cooperative transboundary organizations and water institutions is almost always done in a broader social context and in the light of previous allocation agreements. Processes used to solve redistributive issues rarely fit with rational analytic and rational choice models. Water planning is as much flexibility and managing uncertainty as discerning deterministic trends. Therefore, our experience lies between these extremes.

Figure 16 describes a variety of institutional mechanisms and a simple continuum of options ranging from low allocative power/authority to high allocative power/authority. To the left of the continuum is represented allocative action based solely on individual national autonomy. To the right, the continuum represents regional, comprehensive authority for decisions in the water resources field. Moving from individual autonomy towards regional authority, a variety of approaches are noted: individual studies, regional study centers, treaties, conventions, and river basin authorities, up to comprehensive regional authority.

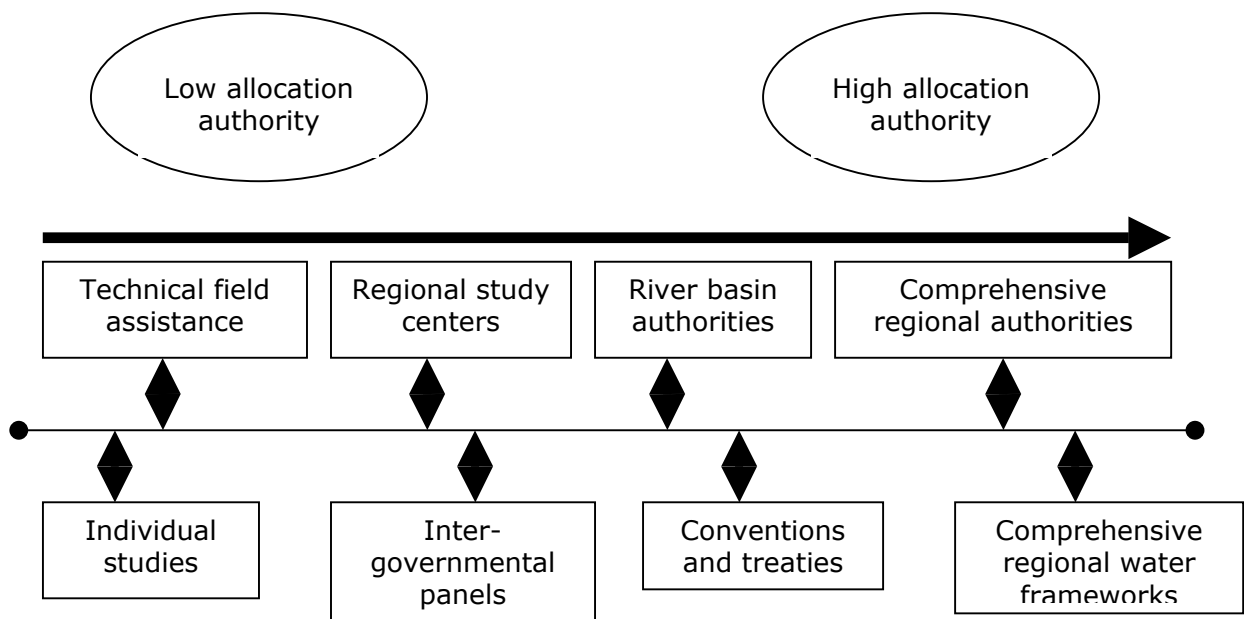


Figure 16. Power and authority of different institutional mechanisms

The allocative power/authority of water resources agencies can also be thought of as moving from low levels of planning to higher levels of allocation, operations, and revenue generation. Regional and comprehensive water basin authorities, while they exist, tend to be for planning, rather than for operations, construction, or legal oversight. Those empowered with higher levels of allocative power/authority tend to focus on single purposes such as navigation. Few comprehensive authorities crossing jurisdictional boundaries exist for allocating and operating.

Few comprehensive regional authorities have come into existence. The Tennessee Valley Authority is one outstanding example. On the other hand, a variety

of river basin authorities have existed, and do exist, along with treaties and numerous regional centers. The influence on allocative power/authority of water resource agencies can also be thought of as moving from low levels of planning to higher levels of allocation operation and revenue generation. Regional and comprehensive international transboundary water basin authorities, while they exist, tend to be primarily concerned with planning. Those empowered with higher levels of allocative power/authority tend to focus on single purposes such as navigation. Few comprehensive authorities that cross jurisdictional boundaries exist for allocation and operating, generally.

McCaffrey suggests a similar continuum, which uses the notion of regular meetings at the left end to high level of integration of water management functions at the right end. In this sense, organizations such as the Permanent Indus Commission and the Permanent Water Commission for Namibia and South Africa would be considered to be on the left on the continuum. They have low allocative power and basically run regular consultative meetings.

In the middle areas of the continuum one could place the International Joint Commission between Canada and the United States (IJC) and the International Boundary and Water Commission between the United States and Mexico (IBWC). Both have dedicated but separate staffs, and while their powers differ both have important powers that influence individual and joint decisions in the countries concerned. The IJC would probably be considered to left of the middle and the IBWC to the right of the middle of the continuum.

Further to the right of the middle one could place organizations such as the Senegal River Organization (OMVS), the Mekong River Commission, the Commission for the Protection of the Rhine against Pollution, and the Elbe Commission. In the end however, it is the degree of joint functions such as joint diagnosis, joint planning, joint operations, and joint monitoring that really determines the level of integration.

Actually, even river basin authorities and organizations, based on the authority or degree of joint functions they possess, would fall all along such a continuum. For example, OMVS, IBWC, the Niger Basin Authority and Kagera Basin Organization have some authority to plan development and some degree of authority to execute the plans. They would fall to the right of the middle but far short of a TVA type of regional organization.

Others like Lake Chad Basin Commission which are limited to technical committees that gather data and information and make but do not implement plans, would usually fall in the center or to the left of center. Other organizations such as IJC, the Intergovernmental Coordinating Committee of the River Plate Basin and the Elbe commission, which gather technical data and have limited authority to make plans and recommendations, would be to the right of center.¹⁶ But even an organization limited to gathering data and information can achieve a great deal of authority and influence over decisions to allocate and implement such as on the Potomac River as described below.

There are many other international examples of regional institutions that cross the continuum. In Asia, the Indus River and its permanent commission has already been mentioned, and after 1977, a Joint River Committee was established for the Ganges. Among other mandates it seeks to resolve disputes, and its main emphasis is to use Joint Expert Committees. These committees have equal numbers of Indians and Bangladeshis. Unlike other expert commissions, these committees do not include a neutral party from outside the region.

To many water professionals the realities of water flows in the light of increasing economic development, interdependence, sustainability, and population growth, seem to push us from the left to the right of this continuum. On the other hand, legitimate and important political realities generally resist such regional water management notions.

As we begin to reach the limits of use, the flexibility of our organizations to respond to water flow fluctuation and to accommodate future uses becomes crucial. Indeed, flexibility has been central to recent successful negotiations of international environmental regimes

3.1.3. Conditions for Successful RBOs

Millington, Mostert et. al., Savinije, Klot et al., and Kenney and Lord have identified several conditions for successful RBO design. These include:

- high ministerial (political) commitment
- meaningful community input
- high knowledge levels
- clear accountability among participants
- flexibility and creativity in the organization
- design structures based on the functions or missions needed
- fostering and/or using existing perceptions of the basin as a whole and as a shared resource among many users
- using process orientations
- recognizing and establishing mechanisms for conflict management and resolution
- separating the administrative and the larger policy issues
- separating regulations and construction functions.

3.1.4. Some Principles for Building RBOs

The following are offered as general principles that should drive the design process of RBOs.

1. Move beyond impact fixation to incorporating environmental and other values into creating alternatives, formulating options, evaluating options, and impact mitigation.
2. Bring implementation and operational interests into the formulation process.
3. Give preference to operating at the lowest level possible and creating self-sustaining organizations.
4. Explicitly manage the "gray" area between technical and political.
5. Facilitate explicit negotiations among long-term visions and short-term efficiencies.
6. Help place water as driver, or first constraint, in cross-sectoral strategies and negotiations.
7. Have open and transparent rules of behavior.
8. Promote participation of those likely to be impacted as well as disbursed beneficiaries.
9. Foster norms of collaborative behavior and move beyond reductionist expertise.
10. Better align internal cultural values of water organizations to those external values of collaboration and participation.
11. Facilitate the integration of upstream–downstream and ground and surface uses.
12. Consider political viability – the possible and transformative.
13. Let function dictate structure.
14. Create mechanisms that create, disseminate, and foster regional visions or watershed or basin level visions.
15. Utilize process orientation.
16. Establish mechanisms for management and resolving disputes.
17. Separate administrative functions and fundamental policy issues and design mechanisms for accountability.
18. Promote flexibility and creativity.

3.1.5. A Design Process for Building RBOs

Successful RBOs help us work toward better integration of demand and supply, encourage effective participatory processes, and help create incentives for cooperation by helping people to see interdependencies. They are a means for water managers and stakeholders to address basin efficiencies versus individual system efficiencies. For example, individual use of irrigation may be inefficient with high waste but the return flow helps those downstream and the groundwater – and therefore enhances overall system efficiency. In addition, more efficient use is compatible with ecological imperatives and they can help better align demand with supply.

We should advocate participatory processes, which can help level the playing field and incorporate a larger range of values into management decisions. They can facilitate new partnerships among stakeholders. They encourage public access to data and information. In all of this they affect the civic culture or governance culture. They help stakeholders understand how the water is a shared resource and help understand effects that flow up and downstream.

Experience and studies are beginning to show that the most important dimensions to consider in designing transboundary water institutions are: functions and responsibilities; membership and participation; operating rules, authorities, legal basis and structures; financing methods; and consideration of a broad range of issues.

1. *Functions* can be thought of as soft or hard. The soft would include responsibilities such as research, monitoring, advising, advocacy, and regional focused data and information generation. Harder functions include items such as assuming and overseeing other functions and directing other functions, power to modify and integrate policies of others, the power to allocate waters, and authority and procedures to mediate conflicts. Most transboundary organizations start with softer functions and some expand into harder ones.
2. *Membership* must consider what jurisdiction, agencies, and interests must be represented. Realistic power sharing and relative balance of agencies and jurisdiction must be achieved. Also the type of leaders, technical versus political versus administrative, must be decided. What will be the roles of NGOs and interest groups? Will there be a technical staff and what will they do?
3. The *operating rules* must first confront the issue of whether the decision rule is unanimity–consensus versus majority rule or other. Consensus relies on negotiations while majority rule supports coalition building. How will the decision rule affect political aspects of creating the organization? What are the required authorities and resources to assure the rules are not bypassed. Parties must be assured equal access to information. Most importantly, what will they be deciding about: actual allocations, advising, or other matters?
4. Regarding *authorities*, what authority is needed to accomplish functions? Existing jurisdictions are reluctant to delegate authority to new organizations. Lack of formal authority means organizations will perform only soft functions. They need to generally avoid negative powers such as taxing or regulating. They should try to appeal to positive powers such as creating new markets, resolving disputes, implementing agreements, responding to emergencies, and – streamlining permitting – other opportunities. How much delegation of power is to be done in a political environment?
5. The *legal basis* can range from informal to the formal. It can be based on agreements, treaties, compacts, or other forms. What does authority and membership demand?
6. Probably the most important dimension to longevity is *financing*. This depends on situations. It can be done through direct appropriations. However, reliance on one or a few outside sources can make it vulnerable. Voluntary or mandated personal and agency contributions can also be sought. These help build a sense

of accountability but are really ancillary. The most fruitful avenue is self-supporting through methods such as abstraction fees, fines, user fees, bonds, and taxes on users. This is the most stable but politically the most difficult. It also tends to bias the organization functions toward vendible services such as hydropower and way from integration. It is necessary to assess how much is needed. How will funding sources relate to how the money is spent?

The social realities of fragmentation must be considered. Is there solid support within society for the organization and where is it? What is the status of the system of rights? Another critical element across the successful cases is the emergence of competent and trusted technical staff. Overall, does the design allow for evolution and change?

7. The *range of issues* under the purview of the RBO is important. Can the RBO deal with the cross-cutting issues of water uses? Can it be a place where flood control issues and hydropower interests meet?

3.2. INCENTIVES FOR COOPERATION¹⁷

(Jerome Delli Priscoli, Institute for Water Resources, USACE, 2002.)

Many current trends, along with traditional multipurpose water planning, offer considerable evidence and support to cooperative incentives in water management. Indeed, the history of civilizations and their water is far more one of humankind learning how to build communities rather than water being (as is often speculated) the cause of war.

3.2.1. Trends Pushing Toward Water Cooperation: An Optimistic Perspective

While the gloomy arithmetic is there, it is possible to see cause for optimism in some major trends in the field of water. Here are some trends that I am optimistic are pushing in the direction of cooperation rather than fragmentation.

1. Technical information has a crucial role in water resources decision making. While often dividing us, the need to gather and use information bonds water professionals across jurisdictions. Also new technology in attaining and manipulating data is now enabling people of technical and non-technical backgrounds to participate together.
2. There is a growing realization that the price for having some control over agreements is sharing ownership and cooperating in both the process and outcomes of those agreements
3. As constraints on the resource grow, especially in the era of fiscal austerity, the opportunity costs of not cooperating are becoming clearer. Indeed, negotiations can be seen as a social learning process. And the need for cooperation is one its lessons.
4. The movement for environmental justice will bring new environmental value claims directly to social claims and link them to per capita measurements.
5. Influential new actors, representing new claims on water resources that cross-jurisdictional boundaries, are emerging.
6. The politics of water is moving from that of distributing benefits of an expanding pie to the perception of redistribution a decreasing pie now and in the future.
7. The transaction costs in time, money, resources, lost revenues, and even violence, are escalating beyond the capacity of traditional management methods to keep up with them.
8. Available money relative to identified needs is contracting; therefore more must be done with less. A qualitative multiplier is needed for our management procedures. Cooperation built on a new ethic of informed consent rather than an

old ethic of paternalism can provide such a multiplier, especially in terms of increased program effectiveness and enhanced implementation.

9. There is a growing moral imperative for more accountability, responsiveness, and intergenerational equity in water resources decisions.
10. There is a shift from deterministic prediction of the future to the notion of jointly creating the future.
11. Everywhere, traditional legal systems are seen as being unable to cope with change. The reliance on precedent is insufficient if the problem is that current legal obligation is locked into an allocation formula that diverges dangerously from the current demographic realities.
12. International lenders and donors are beginning to perceive their role as facilitator to agreements rather than as expert dictator of agreements. These actors have resources that can be incentives for cooperation even in a world with weak legal systems and sanctions.
13. New treaties and agreements, which are multipurpose, are growing. Old single purpose treaties and agreements are under pressure to expand.
14. There is a renewed interest in functional diplomacy and what is called "second track diplomacy."
15. Technologies that are accessible to ordinary people help rather than hinder dialog. Alternative generation and trade off are rapidly growing.
16. There is a growing and changing public awareness of water resources.
17. There is evidence from divergent fields of science that cooperation is and has been the key to growth and evolution of humans.¹⁸
18. There is remarkable convergence of sound principles of water management. And there are numerous movements for better coordination, such as the GWP and WWC.

3.2.2. Incentives and Shared Interests

Indeed, several observers have noted that incentives for cooperation do exist. In Figure 17, Rogers outlines the classic technical argument for incentives in multipurpose upstream and downstream cooperation. The "back to the future" figure outlines how river basins are integrated. It links the effects of upstream and downstream activities.

As Rogers notes, there is a pervasive unidirectional flow of effects, upstream or downstream, of water use in river basins. For example, upstream hydropower dams affect downstream flows. This can be positive by helping to regulate river flow or negative by increasing peaks in flow and changing sedimentation. Similarly, upstream storage of water can help protect downstream lands and activities from flooding. However, it is possible that some effects may flow in the opposite direction, such as those stemming from water use, which affects price levels or the availability of other resources. These effects can be positive or negative. Rogers notes that since water is the universal solvent and the major geomorphological transport mechanism, the effects are caused not only by water use but also other natural and anthropogenic activities occurring in the upstream reaches.

McCaffrey notes that many incentives for cooperation are evident in the history of transboundary waters. Some involve reciprocal advantages such as flooding an upstream state in return for sharing hydroelectric power or provision of water to one state in return for electricity from another. There have also been political and economic benefits from water agreements, some of which may be indirect to the agreement. Reciprocal disadvantages have also provided incentives for cooperation. For example, a dam in a downstream state could cut off navigation or fish migration to an upstream state.

Pressure from the international community or outside parties can also be an incentive. For example, mediators with resources, as discussed below, have played

roles in the Indus and other water disputes. In today's world, the need for private and public capital for construction and management can force riparians to look beyond pure allocation of water to the creation of benefits or revenue streams as a means to get needed resources. Indeed, this ability to transform pure allocation concerns into creating benefits is often a key to conflict management on transboundary rivers. For years, water professionals have recognized that basin-wide development of international waters can produce the most optimal solutions to water needs. This can also be an incentive if the riparians are aware of it and if the technical and political forces are able to work together. Some of these areas noted by scholars are:

- sharing of data and information
- transboundary environmental and impact studies
- prior notification and consultation about allocation of freshwater resources
- pollution of freshwater resources
- fishing dispute settlement
- joint institutions.

Recent trends in water agreements have begun to characterize the waters as being "shared" resources of "common" interest. McCaffrey noted that these ideas are prominent in the protocol on Shared Watercourse Systems in the Southern African Development Community (SADC) Region of August 28 1995. They are prominent in the Agreement between Namibia and South Africa on the Establishment of a Permanent Water Commission on September 14 1992.

<i>Water use</i>	<i>Downstream effects</i>
Hydropower	Helps regulate river (+)
Base load	Creates additional peaks (-)
Peak load	Downstream flood protection (+)
Irrigation diversion	Removes water from system (-)
Flood storage	Adds pollution to river (-)
M&I diversions	Keeps water in river (+)
Wastewater treatment	Keeps water out of system (-)
Navigation	Keeps low flows in river (+)
Recreational storage	Reduces available groundwater (-)
Ecological maintenance	
Ground water development	
<i>Indirect use</i>	
Agriculture	Sediment and air chemical (-)
Forestry	Sediment and chemical runoff (-)
Animal husbandry	Adds sediment and nutrients (-)
Filling wetlands	Reduces ecological carrying
Urban development	capacity/increases floods (-)
Mineral deposits	Induces flooding/adds pollutants (-)
	Chemicals to surface and groundwater (-)

Figure 17. Downstream effects of upstream water use

Current experience on the Nile and other basins is once again demonstrating another powerful reality about water. Looking beyond allocating flows toward generating benefits beyond the river remains one of the strongest generators of incentive to cooperate. This is not new. It was the basis of much regional development in North America in the twentieth century. The TVA is perhaps the most

dramatic example. Once parties begin to see and actually believe that a far larger pie is possible than the one produced by individual actions of claiming rights, cooperation emerges. Today this is happening on the Nile. This concept of creating benefits beyond the river is the heart of the old multipurpose water management idea. The concept closely parallels conflict management practices. For example, expanding the pie has always been a major approach to managing conflict. The concept fits well with new notions of interest-based negotiation that emphasizes creating value rather than the traditional positional or win-lose approach that focuses primarily on claiming value.

4. BASICS

4.1. LISTENING TO AND COMMUNICATING WITH STAKEHOLDERS AND PUBLICS¹⁹

(Adapted from James Creighton, *Public Involvement and Teaming Reader*, Institute for Water resources, USACE, May 2002)

4.1.1. Listening

Resistance Breeds Resistance

Imagine for a moment that you wrote your opinion on a blackboard, and the next person erased it and wrote his or her opinion instead. Not only do you have the impulse to erase that message, you will write your message again, bigger, bolder, more strongly stated. If that is erased, you might be tempted to get out your pocketknife and carve your message in the board.

This is essentially what happens when opposing sides speak during a meeting. Every time somebody contradicts another person, that person feels like their message has been erased, and that it needs to be said again, louder and more colorfully. This can quickly escalate into name-calling, shouting, and even into fights.

What you perceive as simply "clarifying the facts," citizens may perceive as telling them they are "wrong." Nobody likes to feel "made wrong," particularly in front an audience, so they will restate their position, with increasing resentment towards agency staff. Not only that, others in the audience are likely to shift into opposition to the agency, feeling sympathy for those who have been "put down" by its staff.

One of the first rules of working with stakeholders, whether in meetings, task forces, or just one-on-one, is: do not set up a situation where you are resisting or appearing to contradict everything they say. Skills to help avoid this situation are provided below.

The Need for Acknowledgment

If you have worked up courage to speak in public, maybe even labored for hours to prepare your presentation, and all that happens is that you are told "thank you" and things move on to the next speaker, it is very anticlimactic and unfulfilling. The transaction doesn't feel completed. It is like walking down a staircase and finding the last step is not there.

So another rule of working with stakeholders and publics is to be sure that you acknowledge people's concerns, so that they know they have been listened to. There is, of course, quite a difference between acknowledging a comment and agreeing with it.

This difference is illustrated below.

STATEMENT

Citizen/stakeholder: "I'm just fed up with the traffic. We didn't use to have this traffic before redevelopment. We've just got to put some limits on growth. It's getting completely out of hand."

RESPONSE

Acceptance

"You're really fed up with traffic, and believe the best solution is to put some limits on development."

Agreement

"You're absolutely right. Traffic has gotten absolutely outrageous, and we do need to put limits on development."

Acknowledgment simply means you demonstrate an understanding of the other person's position. Agreeing means you commit yourself – and your organization – to a position. Particularly when you are leading public meetings or workshops, if you agree with one person, you will antagonize another. But you can acknowledge both people's comments.

Guidelines for Becoming an Effective Listener

One of the most effective ways of acknowledging feelings without agreeing or disagreeing is to summarize your understanding of what the other person is feeling. This is not put in the form of a question, but is just a summary with a little voice inflection at the end that says, "Did I get you right?" This skill of summarizing is known as "active listening." Here are some guidelines for being an effective Active Listener:

SUMMARIZE, DO NOT JUDGE

Remember that the main message you want to communicate is acceptance. Focus your attention on summarizing rather than judging what the speaker says. When you respond, choose your words carefully to ensure that what you say is non-judgmental.

For example, if a citizen or stakeholder is complaining about "undesirables" hanging out at a neighborhood park, you might respond with: "You're worried that some of the people at the park might be a threat," rather than: "Well, we've got all kinds of people living in this town, we just have to learn how to get along." The first summary acknowledges the underlying concern, but the second begins to judge the speaker, and he or she will get the message that you are unsympathetic.

SUMMARIZE BOTH FEELINGS AND IDEAS

Don't just acknowledge people's ideas also acknowledge their feelings. For example, a person might say: "This new fire code is way too strict. It's totally unreasonable. Why it's adding hundreds of dollars to this project!"

If you summarized just the content you might say: "You think the fire code is too strict." If you did, the person might well respond: "That's what I just said!"

But if you summarize feelings, you might say: "You're really upset about the fire code, because it's adding to your cost." If you say that, the person is likely to say: "I really am upset. I didn't plan for all these things, and this project is beginning to go way over budget." In other words, when people's feelings are accepted, they begin to open up and talk about the real problems.

But either way, don't you just end up having to enforce the fire code? Yes, the facts of the case remain the same, but the relationship you have developed with the person to whom you are listening is not the same. If you disagree or argue, people feel the need to escalate the volume and intensity. If you just acknowledge the content, people feel they are talking to an automaton, another functionary in a faceless bureaucracy. If you acknowledge feelings, they feel understood, and this can significantly change how people relate to you, even if the facts do not change. Often it is as important to the publics and stakeholders to feel understood as it is to have the immediate problem solved. People know you cannot just waive the fire codes for them, but it sure helps if they know that at least you understand how they feel.

Active listening is particularly effective when people's feelings are strong. But it isn't limited to these circumstances. Active listening can be used to summarize and emphasize agreements, or to clarify a particularly lengthy or confusing statement, or

to get closure to a lengthy discussion so that people feel free to move on to another topic.

AVOID LEAD-IN PHRASES

Some training courses in active listening teach people to start each feedback response with lead-in phrases such as, "What I hear you saying (or feeling) is . . ." or, "If I understand you correctly, you're feeling . . ." This is done to remind the trainees that even their active listening responses can be colored by their own interpretations rather than being objective summaries of the other person's feelings. However, these lead-in phrases often have the effect of distancing the listener from the speaker. From the listener's point of view, it starts to feel very mechanical. In fact, it often has the effect of focusing the conversation more on the listener ("Watch me do my listening thing") than on the person who has the feelings.

Sometimes, people use lead-in phrases to buy time while they think up an appropriate response. But buying time can be accomplished with silence. Many people rush to respond as if the world would come to an end if they do not have an instant answer. A pause of a second can seem like an eternity. But the truth is that such a pause can also communicate that you are being attentive and thoughtful.

CHOOSE WORDS THAT MATCH THE INTENSITY OF THE FEELING

"Feeling" words contain careful gradations of intensity. Words such as "irritated" or "annoyed" are used when the feeling is moderate; "upset" or "angry" as feelings become stronger; and, finally, "furious" or "outraged" when feelings are intense.

In active listening, choose emotional words that match the intensity being expressed. If someone is absolutely furious and you come back with an active listening response such as, "You're annoyed that . . ." their response is likely to be, "You dumb so-and-so, I'm not annoyed; I'm ready to strangle someone." In other words, "You didn't get my message."

If you choose cautious words to summarize powerful feelings, people may feel that you are being patronizing or that you are trying to calm them down rather than accept their feelings. All too often there is more than a little truth in this. On the other hand, if the words are too intense, people may think you are trying to make a mountain out of a molehill.

Many people err on the side of understating the intensity of feelings as opposed to exaggerating them, in the hope that this will make the person feel better or different. But people often perceive this as an effort to minimize their feelings, and they are likely to escalate their expression so that you know how strongly they feel.

A crucial element in the success of active listening is to have a genuine interest in what the other person feels. Some people seem very facile at active listening but are ineffective as listeners because it always seems as if they are performing a stage trick rather than taking a genuine interest in the other person.

People who are bumbling and halting may still be effective listeners, if people experience a genuine effort to understand them. The skill works only if it reflects a true spirit of listening and a desire to be helpful.

THE NEED FOR PRACTICE

Above all, active listening is a skill that increases in value the more you practice and use it. "Knowing" about it has very little value; it is something that has to be done, just as knowing about how to play tennis is not the same as playing it. Like any new skill it is awkward at first. You may feel strained and ill at ease using the skill. You may not be sure you are using it at the right time, or appropriately. These are all issues that are resolved with practice. As you use the skill it becomes a natural part of your own personal repertoire, along with the other communication skills you have used over the years. It is at this point, when it is a natural skill, that it reaches its

greatest effectiveness. So “hang in” during the awkward period, until you have practiced the skill enough that it becomes natural.

Other Techniques for Communicating Acceptance

Although active listening is one of the most useful skills for acknowledging public and stakeholder comments, there are other ways to communicate acceptance:

- During meetings, keep a running summary of comment on a flipchart. Post the flipchart sheets on the wall during the meeting. Invite participants to check the flipchart sheets to confirm that their comments were actively summarized. Let them know that if they want the summary changed, they are the “experts” on what they said and it will be changed to their satisfaction.
- Whether or not a summary is kept on flipcharts, prepare a summary of what was said at public meetings, and send a copy to everyone who attended the meeting, asking for any corrections. This is a way of closing the feedback loop, letting the public know what you heard. By permitting corrections, you make it clear that meeting summaries are on behalf of all participants, not slanted towards a particular position.
- If you are publishing a newsletter, include either a summary of comment received since the last newsletter, or actual copies of letters received. Be sure that any reporting of public comment is balanced and objective.
- When you discuss decisions made during the course of a decision-making process, always discuss how public comment influenced the decision, and where the decision did not respond to strongly stated views. Provide a simple straightforward statement of why the decision was as it was. Even if people do not like the decision, you need to demonstrate that you have been listening.

4.1.2. Sending

The Need for Congruent Sending

Imagine yourself leading a meeting. It is a small informal meeting, with opportunities for give and take. But one participant (John) is so anxious to defend his point of view that he keeps breaking in before others have had a chance to complete their comments. It is clear that people are beginning to get very annoyed and antagonistic, and are looking to you – as the meeting leader – to deal with the situation. Part of your dilemma is that you think John does not mean to be discourteous, but simply feels so strongly about his point of view that he has trouble listening to anyone else. What can you do?

This is a situation where the skill of “congruent sending” would be helpful in reducing the risks associated with other ways of handling the situation. But first, let us review the normal ways the situation might be handled.

HIGH-RISK METHODS

The most typical method might be to send a “solution”: “John, please don’t speak until I’ve recognized you.” The risk associated with this is that John may react to you as an authoritarian figure that has just given him an order. Whatever ways he has learned to deal with power figures – confrontation, subversion, withdrawal – may snap into action.

Another method is to judge or evaluate his behavior: “John, it’s very inconsiderate to be constantly interrupting people.” If he reacted to the order, he’ll really react to the evaluation. He may go into an extended defense of his behavior, challenge the meeting format, or refuse to participate further. You have made an enemy.

The other typical method is to be indirect: "It would sure be nice if people would be more courteous." The first problem is that he may not get the message. He may not see his behavior as discourteous, and not even know what you're talking about. Second, it is so indirect that others in the audience may even think it was aimed at them. You may have antagonized more people than John.

THE IMPACT OF THE POWER ROLE

All of these high-risk forms of communication take place in everyday communication. But the risks become even higher when you are a meeting leader. As the meeting leader you are a "power figure." By virtue of your role you are endowed with a stature and psychological size or power that far exceeds the impact you normally have just as an individual. You not only have the prestige of being the "leader," you also carry the aura of power and authority of the "electric company."

People react to power figures with a variety of "equalizing" behaviors such as challenging the leader, trying to cut the leader down to size, organizing the opposition, and withdrawing. As a general rule, in fact, it is best to minimize the symbols of power, as they tend to antagonize rather than give you more control.

Any risk that a participant may feel put down, belittled, or embarrassed is greatly exaggerated by virtue of your leadership role. The impact of whatever you do is often far greater than you anticipated.

One of the additional problems is that many people have a rebellious streak that can be triggered by seeing an authority figure do anything they think belittles someone not in authority. Not only may John be reactive to your authority, but also he may win the support of a sizable percentage of the audience who see him as "done in" or treated unfairly by you.

CONGRUENT SENDING

There is really no "risk-free" way of handling the problem of John. But experience indicates that congruent sending can reduce the risks.

The term "congruent" simply means that the words you use coincide or fit with what is really going on inside. In this case what is probably going on is that you are feeling in a bind, worried that people are becoming frustrated or annoyed when they are interrupted.

There are four basic rules to follow in congruent sending.

1. *Send the problem, not the solution:* "The problem" is both a feeling problem and a content problem. At a feeling level the problem is that you are experiencing the feeling of being in a bind, on the spot, frustrated, or concerned. At a content level the problem is that people are being interrupted. But often people send a "solution," such as: "I'd appreciate it if everybody would please raise their hand and be recognized before speaking," rather than sending the problem. It is a "solution" in the sense that if John raises his hand and waits to be recognized, the problem goes away, but you may just have created a new problem. Now you are going to spend your time reminding everyone to raise his or her hands. They may also not understand why you imposed this new rule, and react to it as unnecessary or arbitrary. And John, being the impulsive individual he is, probably still will not raise his hand before he speaks, and you are back to square one.
2. *Share the feeling:* Whenever you have a feeling about a situation, part of solving the problem is to communicate that feeling. If you are feeling frustrated and uptight in front of a group, the group gets the message, but they may not know its cause. Sharing the feeling is one way of discharging the emotional load, and it also makes clear to the audience what is going on inside you. Over time this actually helps build rapport and trust with the audience.

3. "*Own*" your feelings: As discussed in the section on "active listening," each of us has a separate emotional reality. You bring your own interpretation to each situation, so your feelings are always a product of both the situation and the meanings you add to the situation. So you cannot really say that someone else "caused" your feelings, as in "you made me feel . . ." But you certainly can say "I felt . . . when you . . ." Acknowledging that you create your own feeling reactions is what is referred to as "ownership." When you tell someone they made you feel a certain way, you are, in effect, blaming them or making them responsible for your feeling. When you say "I felt this way when you did what you did," there is less blame or accusation attached.
4. *Describe the behavior instead of evaluating it*: In the example above, considerable care went into describing the behavior that was causing the problem, without evaluating or judging it. Instead you describe how the problem impacts on you. There was no indication that it was bad, inconsiderate, and so on, only that it was causing you a problem. Judgments that an action is bad, or inconsiderate are avoided. If you send the problem, but include an evaluation in that definition of the problem, the person receiving the message is likely to hear only the evaluation.

A Model for Congruent Sending

One simple way to remember all the rules of congruent sending is to remember the model:

I feel + feeling word + behavioral description

This model is constructed so that you accept ownership for your own feelings ("I feel"), are reminded to send the feeling problem not a solution, and are reminded to describe the behavior of the other person, rather than a judgment or an evaluation.

Using this formula an effective way to handle John would be to say:

John, I'm frustrated because I would like to have a lot of interaction and give and take, but I'm also concerned that everyone have a chance to complete their comments without interruption.

This is an example of a congruent message.

As facilitator, it is often appropriate to add suggestions after your congruent message. For example, if a number of people are speaking at once you might say:

I'm really getting confused with so many people speaking at once. I'd like to get back to Pete's concerns.

or:

I'm really getting confused with so many people speaking at once. Perhaps it would help if people raise their hands and I'll recognize the next speaker.

The congruent message identifies the problem, and then when the facilitator adds a suggestion, the audience can assess the appropriateness of that suggestion with a full understanding of why that suggestion is being made.

4.2. HOW DISPUTES ESCALATE AND HOW TO AVOID ESCALATION²⁰

Adapted from J. Delli Priscoli and J. Creighton, *Public Involvement and Dispute Resolution*, Volume 2, A Reader of Twenty Years Experience at the Institute for Water Resources, September, 1998, IWR Report 98-r-5.

4.2.3. The Value of Conflict

As painful as disputes may be, there are at least five positive contributions from conflict:

1. *Conflict identifies problems that need to be solved.* The first and most obvious value of conflict is that it identifies the source of dissatisfaction, irritation or anger for one or both parties.
2. *Conflict is a way of creating evolutionary change, thereby reducing the need for violent upheaval.* Change is an integral part of everyone's life: ideas change, and what we want from our relationships changes. The demands placed upon us by society, our jobs, families, friends, and spouse change around us, and the relationships must somehow accommodate change. When the necessary adjustments can be made in small steps, then a relationship can sustain considerable modification without threatening its stability. But if one or both parties deny or resist conflict, then the relationship becomes static, or like the dry limbs of a dying tree that are unable to bend in the wind. Without the ability to respond, recognize the conflict, and find solutions, the only alternative is either ending the relationship or confrontational demands to alter the relationship or institution, which can end in pain, even violence. Recognizing conflict and responding to it in a positive way can prevent stagnation, allowing one or both parties involved to adjust the balance of power, and revitalize the basic values upon which the relationship is built.
3. *Conflict helps us define who we are.* The successful transition from adolescence to adulthood is a process of discovering the boundaries between parents and children. Adolescent rebellion is really a process of determining where "I" stop and "you" begin. Most adolescents solve this problem by testing their parents. Their parents' reactions, even their negative reactions, actually help adolescents establish their own sense of individuality, answering the question "How are we different (or the same)?"

Similar issues exist in most close relationships. We seek out closeness because on a deep emotional level we experience completeness, a sense of being more fully ourselves when communication is open and intimate. But this very sense of connectedness can be a threat to our sense of individual identity. We may feel unbearably dependent on the people we care about and come to resent that dependency. When this occurs, we may find our separate identity by rebelling against the other person, which helps us get a sense of our distinct individuality. This process of "finding our outer edges," our boundaries, is particularly important in extremely intimate relationships such as those between parent and child or husband and wife. One or both parties may initiate conflict because they feel threatened by the closeness, and thus fear losing their individual identity.

Much the same thing occurs between groups. Research has shown that groups need to "differentiate," to make their differences clear, before they are willing to focus on their common interests. Establishing ego boundaries, or group boundaries, appears to be essential to the health of both individuals and groups. However, the process should not stop with just establishing a boundary. A "mature" relationship acknowledges both differences and shared interests.

4. *Conflict is a way of discharging some of the animosity or resentment that is generated by the limiting aspects of a relationship, or of sharing resources.* Even the best and healthiest relationships place some restrictions on the individuals involved. When we are in a relationship, we cannot ignore the other person's (or group's) needs and ways of doing things. We put limits on our behavior in order not to hurt other people, and hope they do the same. Although accommodation

to another person's needs can become excessive and unhealthy, some amount of accommodation is inherent in every healthy relationship. And even though we do not always want to admit it, this creates frustration and resentment.

The frustration or resentment may become even stronger if we have to share resources or limit our behavior because of individuals or groups we see as different from us. When others are of different ethnic background, religion, or beliefs, it is far easier to express the resentment, without the constraints of a caring relationship.

Conflict provides a safety valve for expressing some of the inherent tension that results from these restrictions. When we have no way to express these feelings, we become increasingly aware of our frustration and resentment, and less aware of how much we care for the other person. By discharging the inherent tension, we become aware once again of shared interests and the desire for continuing relationships.

5. *Conflict can be stimulating and challenging.* When conflicts are expressed at levels that do not pose a threat, they can be exciting, stimulating, and even fun. In fact, there are certain people who become "conflict-junkies," never feeling quite as alive, quite as fully functioning or involved as when they are in a good fight and the adrenaline is flowing.

4.2.4. What Makes Conflict Destructive?

Conflicts can be expressed in many ways, from calm, rational problem-solving discussions to major, go-for-broke wars, a contest to see who could inflict and endure the greatest pain. There are definite clues that tell us when a conflict is escalating. The sequence of escalation behaviors is as follows:

- *Triggering comment or action:* One or both people (or groups) make a comment or take an action that provokes the other person's defensiveness or fear.
- *Proliferation of issues:* After a short period of discussion, one or both people start bringing up new issues, or expanding the basis for the argument.
- *Formation of adversarial alliances:* One or both people begin pulling in other people for support, thus forming alliances. Often this involves lining up alliances within a family or group, or with other groups. Individual or groups take "sides."
- *Distortion of communication:* Both sides begin to communicate through exaggeration, making broad, sweeping generalizations, through character attacks, and through prolonged and hostile periods of silence.
- *Rigid and extreme positions:* The harder people fight, the more entrenched they become. One or both sides become rigid and extreme in their positions, through depersonalizing others, taking the position that "I'll never give an inch," and the like.
- *Focus on hurting each other:* Although the conflict may have begun with the goal of solving a problem, as both sides become increasingly defensive the goal shifts to hurting or attacking the other side's position as having no validity.

Researcher Helen Weingarten and conflict resolution consultant Speed Leas have identified five levels of conflict, a ladder of escalation. Each rung takes you to a higher level, where the hurt inflicted becomes increasingly destructive. Each step has its own clues to clearly indicate when escalation is occurring (Figure 18).

Trying to determine the exact point at which a disagreement turns into a contest, or an argument turns into a fight, or a fight turns into a war is usually an exercise in futility. Identifying where the escalation started is important only to someone trying to attach blame.

Although it may not be important to determine who “struck the first blow,” it can be helpful to identify changes in our own feelings or behaviors that indicate that we are escalating. There are signals that alert us to these changes, described in the following sections.

<i>Level</i>	<i>Major objective</i>	<i>Key assumption</i>	<i>Emotional climate</i>	<i>Communication style</i>
1: Problem solving	Solve the problem	We can work it out	Hope	Open, direct, clear and non-distorted; common interests recognized
2: Disagreement	Self-protection	Compromise is necessary	Uncertainty	Cautious sharing; vague and general language; “calculated” thinking begins
3: Contest	Winning	Not enough resources to go around	Frustration and resentment	Strategic manipulation; distorted communication; personal attacks begin; no one wants to be first to change
4: Fight	Hurting the other	Partner cannot or will not change; No change necessary in self	Antagonism and alienation	Verbal/nonverbal incongruity; blame; perceptual distortions; refusal to take responsibility
5: War	Eliminating the other	Costs of withdrawal greater than costs of staying	Hopelessness and revenge	Emotional volatility; no clear understanding of issues; self-righteousness; compulsiveness; inability to disengage

Figure 18. Five levels of conflict

Seeing the Other Person or Group as an Opponent or Adversary

As long as we are engaged in problem solving, we perceive the other person or group as an ally, jointly contributing to our search for a solution. But as we move away from this cooperative effort, we begin to feel competitive. At first the competitive feelings just make us edgy, uncomfortable, and perhaps even confused. Then our behavior becomes adversarial and the prevailing experience is that the other people are not "on our side." Quite the opposite! We feel that they are clearly standing in our way or taking a position against us. As the fight turns into a war, we may feel not only that our ideas are being attacked but also that "our survival is under attack." We may even begin perceiving our "opponent" as having nothing but ill will for us, and we for them. We are usually completely immersed in our own emotions at this point. In the heat of battle, we depersonalize the other person and in our minds we see them as simply "the enemy."

Lost Awareness of Caring for the Other Person

As the other person or group becomes an opponent, adversary, or enemy in our mind, we momentarily lose touch with our relationship with them. For the moment, the part of ourselves that cares about them, and how they feel about us, is hidden. It burrows deep, out of harm's way. Without thinking, we concentrate solely on aspects of that person or groups character that disturb us. Eventually we end up totally out of touch with how we generally feel about them and we may engage in behavior that is totally inappropriate. Having buried our tender and caring feelings we completely lose sight of the fact that this is a person or group we respect and need.

Denial of Responsibility

The further up the ladder of escalation we go, the more we tend to justify our own behavior as a reaction to what the other person or group is doing. We have the feeling that since they hurt us we have the right to hurt them. We find ourselves engaging in a kind of "tit-for-tat," "eye for an eye, tooth for a tooth" behavior, with each successive round becoming more accusatory and more adversarial.

Reduced Self-Disclosure

At the bottom of the escalation ladder, when we're feeling good about each other, we are willing to share our deepest feelings, such as fears, weaknesses, and vulnerabilities associated with the conflict. Self-disclosure or expressing our deepest vulnerabilities seems increasingly dangerous as we move to the higher rungs of the escalation ladder. We fear that we are in the hands of other people and must not give them information that could be used against us. Information is tightly controlled, for fear it will give others some competitive advantage.

Reduced Willingness to Change

As we see other people or groups more and more as adversaries, we become less and less willing to change. It is as though a little voice is warning us, "Whatever you do, don't cooperate with the enemy." We may even get to the point that we will not consider doing anything to respond to the problems or needs of other people.

Communication is Restricted

All communication, even about factual information, becomes increasingly restricted as we move up the ladder. We begin using all information as a way of shoring up our own position, of proving that "I'm right and you're wrong." On the highest rungs of the escalation ladder, one or both people may cut off all direct communication. At its

worst, anyone who does communicate with the other side is seen as untrustworthy or even as a traitor.

Perceptual Distortion

When we are feeling cooperative, during problem solving, we see other people fairly clearly and stay in touch with our concern for their well-being. As we move up the escalation ladder, our perceptions of the other person or group actually changes; in our minds, this person takes on the proportions of an ogre. At the very least they become adversaries, and finally enemies. Although their behavior may have become less than exemplary, the other person or group has not really changed that much. What has changed is our own perception of them. At the highest levels of escalation it becomes very difficult, if not impossible, to find anything even remotely good about them. Their every action seems only further proof of their evil intent.

Given a little emotional distance from the battle, it may be easy to identify one or more of these seven signals of escalation. But when we are fully engaged in an escalating conflict, and every action seems necessary and justified by the other person's behavior, the perspective shifts. Our reaction triggers his or her reaction, and soon we are engaged in mortal combat, pitted against someone we may care about.

4.2.5. Choosing Not to Escalate

The key principle for breaking the spiral of escalation is: *Take responsibility for your own thoughts and feelings.* You do not have to let the behavior of the other person or group dictate your thoughts and feelings. You do have a choice and can make a commitment to behave within your own ethical or moral limits, regardless of what others do.

Obviously it works best if both parties make the same commitment. You may even agree to signal each other when you sense that escalation is occurring: "Oops, I think we just expanded the issue," or simply, "We're escalating." You can also talk together, after a dispute, about what happened and how to prevent future escalation. If the dispute occurs in a business setting, you may need to discuss how communications between departments or organizations can be structured to avoid similar disputes in the future.

A word of caution: When discussing escalation, don't slip into blaming and accusing ("You escalated this conflict when you . . ."). To break the escalation cycle you have got to concentrate on your own behavior: "I know I made things worse by dragging in that problem you had last year." It is usually easier to talk about how things escalated after you have both calmed down, so that this discussion is not just another way of getting at each other. Then you can talk about how you are going to cope with escalation in the future.

If only one person is making the choice to be responsible, it is more difficult to curb the escalation cycle. But it can still be done. The first step is to be aware of what is happening so that you can make a conscious choice. The next step is to break out of "tit-for-tat" patterns of thinking. Just because the other person attempts to hurt you does not mean you have to respond in kind. The other person may test your resolve to keep the issues focused, but if you hold firm, the fight is much less likely to escalate.

There are seven other important behaviors for breaking the spiral of escalation.

- share your feelings without blaming or accusing
- do not expand the issue
- do not use other people or authorities as ammunition
- avoid "you always" or "you never"

- stay with behaviors, not labels
- break the pattern of resistance
- do not insist on solutions while you are still upset.

Share Your Feelings Without Blaming or Accusing

Avoid blaming and accusing communication by sharing feelings rather than judgments: "I felt hurt . . ." rather than "you were inconsiderate." If you have slipped into being blaming and accusing, it is still possible to say: "I'm sorry, I've started blaming and accusing." Follow up with a statement about how you are feeling: "What's really going on is that I'm feeling deeply threatened (or hurt, or whatever) . . ." This kind of communication invites – but does not always "guarantee" – the same kind of non-accusatory communication from the other person. You have to make this move entirely for yourself, however. The other person may not automatically reciprocate. If you believe they "owe" you because you made yourself vulnerable, their failure to respond in kind will fuel the bad feelings you are harboring, and you are likely to use their failure to reciprocate as new ammunition.

Do Not Expand the Issue

Conflicts usually start with a discussion about a single issue. However, as escalation occurs the discussion moves into more generalized statements about the other person. For example, a question over who should stay a few minutes late to clean up some paperwork expands into a fight about who does the most work.

To break the pattern, all those involved must make a commitment to restrain themselves whenever they feel an urge to respond to one issue by bringing up a larger one. Sometimes this can be accomplished by simply telling yourself, "No, I won't do it! I am going to stay focused on the specific issue that triggered this discussion." Be very clear in your own mind: this does not mean you are to stop the discussion. Instead, you will limit the dispute to the problem that was first presented.

Do Not Use Other People or Authorities as Ammunition

In the heat of the moment we often say, in effect, "I'm not the only one who thinks this about you," and then proceed to drag in one or more people who agree with you. With so many allies, we momentarily create a sense of greater power. However, the other person literally feels that we are ganging-up on them. It is indeed a threatening position to adopt, even though the "allies" are mostly imaginary.

This is the bottom line: if you are going to drag others into the dispute recognize that doing so is highly provocative. Nine times out of ten it will not help you get your point across and it will escalate the conflict enormously in virtually all cases. In addition, pulling others into your fight, by quoting them or just attributing an opinion to them, can destroy the relationship between the person you are fighting with and the person you're quoting.

Avoid "You Always" or "You Never"

Nobody *always* does anything. Blanket statements such as "you're always irresponsible" or "you never carry your share of the load" are patently untrue. The other person may occasionally act irresponsibly. They may even do it frequently. But what is even more important in our discussion here is that such statements are provocative, and they almost guarantee escalation. In addition to being exaggerations, they are blaming, and accusing, and judgmental. The only value such blanket statements have is to signal to yourself that you are feeling threatened or fearful and you need to take responsibility for your feelings as well as your behavior.

Stay with Behaviors, Not Labels

Another signal that you're feeling threatened and are escalating the fight is when you start labeling. When you find yourself saying "You're irresponsible," "You're a sexist," "You are power hungry," " You are a woman-hater," " You are castrating," "You are off the wall," it is time to pull back. Stop labeling and start focusing on specific behaviors. Say, "I'm really upset that you didn't tell me you'd be late," rather than "You're just a completely thoughtless person."

Break the Pattern of Resistance

When we feel resistance to our feelings, we express ourselves more intensely. It is a little like knocking on a door. If you know someone is home but refusing to answer, you knock a little harder.

In most disputes, each person is feeling the other's resistance. Both feel blocked and thwarted, and the frustration just continues to build. The larger the frustration, the greater the temptation to haul out the big guns and blast away at the door of resistance.

To avoid resistance, try "active listening," in which you summarize your understanding of what the other person is saying, or use the "five-minute rule" – each person gets five minutes to say whatever he or she wants without any interruption, in return for listening during the other person's five minutes – for those times when you are too emotionally involved to listen with an attitude of acceptance. These two techniques let you express your feelings without the frustration that comes from constant resistance through interruption and contradiction.

If there is so much resistance that the best thing to do is to break off discussions, do so until both people have settled down. Instead of the five-minute rule, you might take a five-minute break. If you do break off the discussion, agree to resume at a particular date or time. Without setting up a specific time to resume, withdrawing can feel like just another form of resistance. You run the danger of leaving unresolved issues festering just beneath the surface. There is often value in breaking off intense discussions, but this should not be used as a way of avoiding the issues.

Do Not Insist on a Solution While People are Still Upset

When we are upset, we want resolution. We want the whole thing settled right now. In an emotionally tense situation this urgency can contribute to escalation, and since urgency is often interpreted as an effort to control, it can make other people feel even more defensive. Unless it is a crisis situation, where something dire is about to happen, it may be advisable to make a later date to work on solutions. Just because disputes bring issues to the surface, does not mean the problem-solving session needs to be immediate.

4.3. DESIGNING AND CONDUCTING WORKSHOPS AND PUBLIC MEETINGS²¹

(Adapted from J. Delli Priscoli and J. Creighton, *Public Involvement and Dispute Resolution, Volumes 1 & 2, A Reader of Twenty Years Experience at the Institute for Water Resources*, May 1983 and September 1998, IWR Report 98-R-5)

Whenever people work together there will be meetings. Knowing how to design effective meetings that are appropriate to the situation is an essential skill in conducting participation programs and, indeed, almost any water project in today's world. During the course of a participation program you may design several very different kinds of meetings. You might have a planning meeting with internal staff. You might have a meeting with a task force. You might meet with a homeowner's

association or community or village group, or you might conduct a highly interactive workshop. You might even lead a large community meeting in which several thousand people participate. There may also be a formal public hearing. Each of these kinds of meetings has strengths, weaknesses, and challenges.

Despite the fact that public meetings are the most frequently used participation technique, they also have their downside. Some of the problems include:

- Many people are afraid to speak in front of large groups. They may have important and positive things to say but will not say them at a meeting.
- A mistake or false impression created during a meeting may not be changed easily, and can be made worse by a few angry people.
- Public meetings can be taken over by interest groups or individuals who want to air a favorite theme at length.
- Regardless of why the meeting was called, people may use it to talk about other things, which are beyond your scope. It is hard to put aside issues if people are concerned about them.
- It is hard to know how many people will come, and therefore hard to plan for the facilities and services required.

All these problems can be lessened with careful preparation beforehand.

4.3.1. Selecting a Meeting Format

There are numerous alternative formats for public meetings. Appropriate format depends on:

- the purpose of the meeting
- the size of the audience expected
- the level of interaction needed between participants
- familiarity with meeting formats
- the credibility of your organization on this issue.

The Purpose of the Meeting

Selection of a format will depend upon what is to be accomplished during the meeting. Some of the reasons for public meetings are:

- to provide information to the public and stakeholders
- to seek views, preferences, or ideas from the public and stakeholders
- to encourage interaction between groups
- to obtain agreement on ways of dealing with issues.

If the purpose of a meeting is to inform the public, then a large general meeting may be entirely appropriate. But if the purpose is to try to get agreement, a large public meeting is probably ineffective. A workshop, or some other form of meeting providing for substantial interaction, is much more likely to result in an agreement. The point is, the format of the meeting should reflect the purpose of the meeting.

The Size of the Audience

Another major factor in selecting a meeting format is the size of the audience. If an audience is very large, it becomes cumbersome to use small group processes. If the audience is broken up into small groups, for example, the logistics of providing flipcharts, meeting rooms, and so on for all the small groups becomes very complex.

Level of Interaction Needed

The level of interaction required depends both on the purpose of the meeting and the level of interest of the participants. Some tasks require discussion between people and groups, for example, to get agreements. Meetings designed for these purposes always require a high level of interaction. People who are very interested in a topic will probably be willing to use a structured process or other meeting format that encourages participation. If people are only moderately interested in the topic, a more passive format may be appropriate.

Familiarity with Meeting Formats

If people have participated previously in meetings where small group processes were used successfully, they will be more comfortable in using this kind of format again. Otherwise there may be discomfort with unorthodox meeting formats.

Credibility

Whenever a meeting format is used that is new or different, the willingness to accept that format may depend on the motives the public attributes to the staff for selecting it. If people are suspicious that a new format is being proposed to "control" them or "divide and conquer," they will resist it.

4.3.2. Alternative Public Meeting Formats

Among the most common meeting formats are:

Public Hearing

A public hearing is a large group meeting during which people make prepared statements. Normally there is little interaction among speakers, or between speakers and the people conducting the meeting. Often there is a legal reporter or some other formal system of recording comments. Extensive experience with hearings shows they are not a particularly effective form of public participation, so they should be used primarily when necessary to meet legal requirements, or for summing up following other forms of participation.

Public Meeting

The term "public meeting" is often used for large meetings in which the procedures are more informal than in a public hearing, permitting somewhat more interaction. The term is also used as an umbrella for all types of meetings.

A variant of the public meeting is the "town meeting." Originally the term was used for an annual decision-making meeting, with issues resolved by majority vote. In current practice, the term is used for a large meeting for discussion of any topic of concern – not just a single pre-announced topic – but without the voting.

Briefing/Question and Answer

A briefing/question-and-answer meeting is primarily designed to get information out to the public, rather than listen to public comment. The meeting usually starts with a quick "briefing," a presentation by staff or experts, followed by questions from the audience. This could be followed by public comment, if desired.

Panel/Roundtable

One way of promoting interaction, while basically using a large group format, is to select a panel of individuals representing differing points of view to discuss an issue.

This could be followed by questions or comments from the audience, or small group discussions.

Large Group/Small Group

Even if the number of participants is large, it is still possible to break the meeting down into small discussion or work groups to increase interaction. Often each group is given an assignment or task to complete, and then reports are given to the large group by spokespersons selected in the small groups.

Samoan Circle

The Samoan Circle is one form of large group/small group meeting. It is designed to permit the kind of interaction that only occurs in small groups, but witnessed by a larger group. The meeting room is set up with an inner circle of five to six chairs. The rest of the chairs are set up in surrounding outer circles (Figure 19). Initially everybody is seated in the outer circle. Anybody who wants to speak must move to the inner circle. Once people have had their say, they return to their original seat. If all the seats in the inner circle are full, people who want to speak stand behind the chairs in the inner circle and wait for a chair to empty.

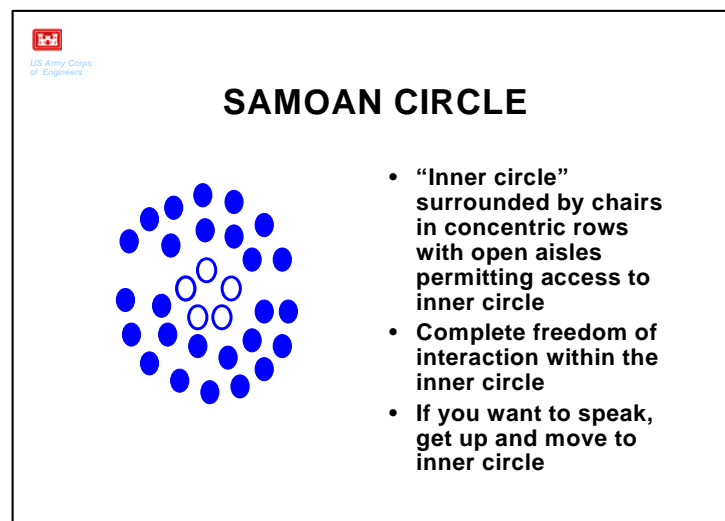


Figure 19. Samoan circle

Workshops

Workshops are highly interactive meetings, usually designed for a group of twenty-five people or less. Frequently, workshops involve a specific task, such as developing or ranking alternatives. More information on workshop design is provided later in the chapter, as it is a particularly effective participation technique.

Open Houses

Open houses are held in a facility that can accommodate displays or models, as well as a large crowd of people. Participants are invited to come at any time during a set period. Participants can examine the displays or models, chat with staff, form discussion groups, or just interact informally. People come and go at will. A more formal public meeting could also follow the open house. Additional guidelines for conducting open houses are provided later in this chapter.

Coffee Klatsch

A coffee klatsch is a small meeting in a private home, usually with coffee and cookies served. Because these meetings are informal and in a private home, participants are likely to discuss issues in a personal manner, rather than as official representatives of interests.

4.3.3. Seating Arrangements

Seating arrangements are a direct reflection of the type of meeting to be held and the relationship among participants. Seating agency staff at the front of the room, with the audience in rows, establishes a relationship in which all participants talk to the meeting facilitators at the front of the room, rather than to each other. This is appropriate for information giving, but not for interaction among participants. The potential for interaction is increased somewhat if the seating is semicircular, rather than in rows. The semicircular arrangement allows some eye contact with others in the audience, which encourages interaction.

The ideal arrangement for interaction or consensus forming/negotiation is a circle. Not only does a circular arrangement establish eye contact among all participants, but it also removes any "head of the table," so everyone is equal in status. One large-group approximation of a circular arrangement is the "hollow square of tables": three rows of chairs around a 15-foot square will accommodate one hundred people; sit four team members one to a side with citizens beside them to create an immediate conversational environment.

A typical banquet seating arrangement is a natural arrangement for a large group/small group meeting. People can turn to hear the opening presentation, then turn back to the people at their tables as the group with whom they will communicate. This means that the assignment to tables must create a random mix of people at each table, so that groups have a mix of opinions.

If the meeting is held in a cafeteria, gymnasium or other large multipurpose room, it is possible to have two meeting set-ups: half the room is devoted to chairs in rows for the large group portion of the meeting, and the other half of the room is set around small tables for the small group discussion.

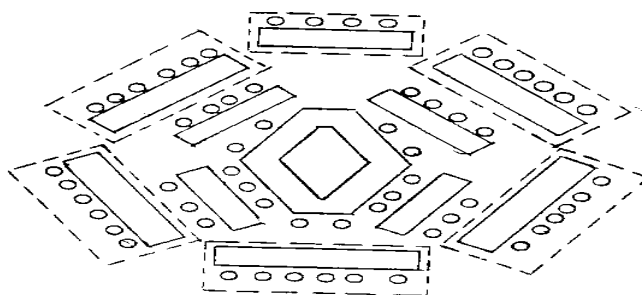


Figure F

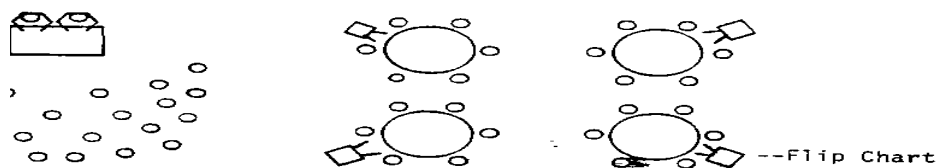


Figure G

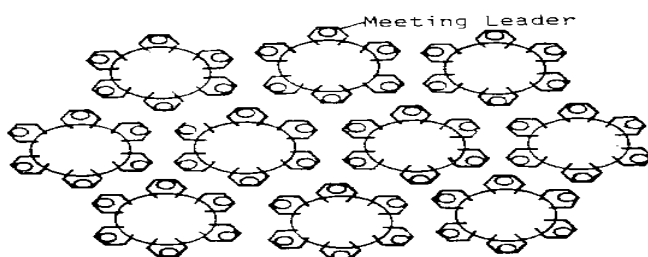


Figure 20. Seating arrangements

4.3.4. Time and Place of Meetings

Meetings should be held at a time and place convenient to the public, with the convenience of staff a secondary consideration. Usually this means that meetings will be held in the evenings, although meetings to be attended primarily by representatives of governmental entities or organized groups may be more convenient during the day.

One of the first considerations in selecting a meeting place is whether the facility can accommodate the desired meeting format and seating arrangement.

Depending on the circumstance there may be times when it is more appropriate to meet away from agency facilities, on "neutral" ground.

Other factors to consider in selecting a meeting place include: location of the facility (central or outlying), transportation access, and safety of the area.

Preparation Checklist

Here are some key tasks to accomplish in setting up a meeting:

- Define the purpose of the meeting: what needs to be communicated to the public and stakeholders, what information is needed from them.
- Talk with leaders of the key interests and other potential participants to get a good understanding of the level of interest in the issue, and the attitude towards the meeting.
- Prepare the meeting format and agenda, and if controversial, review it with leaders of the different interests.
- Select location, time, and date.
- Publicize the meeting (invitations, press releases, newspaper notices, advertising, feature stories in the press).
- Prepare a background statement for the media so they have accurate information prior to the meeting.
- Advertise the meeting at least two to three weeks before, on the day before, and on the day of the meeting.
- Ensure proper arrangements for seating, public address system, refreshments, access to the hall, projection screens, table for slide projector, displays, wall maps and charts, and the printing of agendas and other handouts.

If using visual aids, ensure they are big enough and clear enough for the room size. Remember, simplicity is the key in any graphics. You can always talk around anything related to the graphics; however, it is easy to turn off an audience totally if they cannot see or understand your graphic presentation.

4.3.5. Guidelines for Designing and Conducting Large Meetings

Normally – except where legally required – the formalistic procedures of a public hearing should be avoided. The more formalistic the procedures are, the more people

either feel intimidated by the procedures and will not speak, or feel resentful at having to “play the game by the government’s rules.”

Just because a meeting begins with a large audience does not mean that it has to stay that way. Depending on the purpose of the meeting, it may be possible to break a large audience down into small work groups, which either present brief verbal summaries at the end of the meeting, or hand in written reports. This approach can be effective if the purpose of the meeting is to collect information from the public, such as problem identification. If the topic of the meeting is very controversial though, people may resist being broken up into small groups, claiming this is an effort to “divide and conquer.” Under these circumstances, people may want to hear how everybody feels, and efforts to use sophisticated meeting designs may be seen as an effort to manipulate the public.

If working groups are used, these general rules apply:

- The sub-group should have a prepared agenda or assigned task.
- The sub-group should have a facilitator and recorder who know the task of the group, even if the facilitator and recorder are people chosen from within the group.
- The sub-groups should report their results to the main meeting, so the underlying principle of openness is not violated.

If a meeting is extremely controversial, it may be appropriate to meet with leaders of the various interests several weeks in advance to discuss the meeting format. If the key actors have been consulted, it is harder for groups to claim later that they have been abused.

When going into a large meeting where strong antagonism is anticipated, there will be a need to set ground rules for participation. Examples are: time limits on speakers, the order in which speakers will be taken, and limits on the topics to be discussed. In a large meeting, a ground rule such as a five-minute time limit may be necessary to guarantee everybody a chance to speak; but it may be challenged by an organized group in an effort to win advantage for their position. The chair of the meeting should explain the ground rules to the meeting participants and then give the reasons for using them.

One of the disadvantages of large public meetings is that only a limited number of the people actually speak. The result is that the feelings of a number of attendees are never known. This problem can be minimized by providing a response form or hand-in workbook to everyone attending a meeting, and inviting his or her written comments. While not everybody will hand in a written comment, a significant percentage will, increasing your sense of confidence that the feelings and concerns of the total audience have been identified.

If the audience size is not too large, consider keeping a summary of comments on flipchart paper, posted on the wall. Even if the audience is too big for them to see the comments as they are written, they can review them on the wall afterwards. The value of recording on flipcharts is that people can see that their comment was received. Also, it is easy to have the flipchart sheets typed up as a record of the meeting.

4.3.6. Guidelines for Conducting Workshops

Workshops are usually small meetings, which are designed so that participants actually perform assigned tasks, generating a group “product.”

Some uses of the workshop format could include:

- Selecting a public participation program from among various options.
- Reviewing a plan, or developing a single mutually acceptable plan.

- Defining issues or problems, possibly in rank order.
- Developing alternative solutions to a specific problem.
- Reviewing the operational results of a plan that has been implemented.
- Presenting a technical study and reviewing its implications.
- Identifying the scope of a study.
- Developing a list of the critical impacts that must be considered in evaluating alternatives.

Workshops are particularly useful when dealing with complex topics because they provide time for detailed consideration and a high level of interaction.

Some general guidelines for designing and conducting workshops are given in the following sections.

4.3.7. Number of Participants

The number of participants in a workshop depends on your situation. As a general rule – and this does not apply only to workshops – five to seven people is the optimum number of participants for an effective meeting. However, the need to have all interests represented usually means that most workshops will have as many as twenty to twenty-five participants. Even with larger numbers, however, some people may feel excluded. Some of the methods that can be used to prevent this problem include:

- *Repeat meetings:* A workshop format can be developed which can be repeated as often as necessary, allowing opportunities for everyone who wishes to participate to go through the same experience.
- *Daytime meeting/evening meeting:* One approach to the problem of people feeling excluded is to conduct the workshop during the day, followed by an evening meeting at which everybody gets a chance to review the product generated during the day.

4.3.8. Designing a Workshop

The following steps are useful in designing a workshop or other interactive meeting:

1. *Identify the desired product:* Identify precisely what the product is that should result from the meeting, such as a set of alternatives, a list of impacts to be evaluated, and so forth.
2. *Identify the resource information the public will need:* Identify information the participants will need in order to complete the desired product. This information should be written in simple, understandable language and presented in a format which makes it easy to find and grasp, so that the least amount of meeting time is spent locating needed information. This material might be incorporated in a small workbook, which contains group or team assignments, exercise instructions, resource materials, and any hand-in response forms.
3. *Select or design a series of activities that will result in the desired product:* In some cases, there may be previously used meeting formats, which will result in the desired product. If not, design a set of activities that will produce the needed materials. The usual technique is to write simple, clear instructions for group activities and give the groups substantial responsibility both in how the activity is completed and the product that is produced. The series of activities could incorporate small group processes such as “brainstorming,” or “nominal group process” (discussed below).
4. *Design a simple mechanism for evaluating the product:* Once participants have worked together, they still need to evaluate what they have accomplished or to place some priority on what they think is most significant. Without an

opportunity to evaluate, participants may feel restricted by the meeting format or be concerned about all points covered during the meeting receiving equal weight. This evaluation mechanism could be a hand-in response form, or a straw vote, or weighted vote to establish priorities.

4.3.9. Using Structured Small Group Processes

There are a number of small group processes that can improve group effectiveness in one way or another. Two of the most frequently used small group techniques are:

Brainstorming

Brainstorming is a technique for increasing the number and creativity of ideas expressed in a group. In brainstorming, everyone in the group is encouraged to come up with as many ideas as possible, including "way-out" ones. Usually these ideas are recorded on a flipchart or blackboard. No evaluation is permitted until everybody is completely out of ideas. Brainstorming provides a "psychologically safe" climate in which people feel free to participate without fear of being judged, and this helps groups "break out" of the obvious solutions and push for more creative ones. It also greatly increases the number of solutions generated. While brainstorming may effectively generate a large number of ideas or alternatives in a hurry, other techniques must be used for evaluation.

There are also more "advanced" versions of brainstorming in which additional techniques are employed, using different types of analogies to increase group creativity.

Nominal Group Process

The nominal group process is a technique to help groups generate and prioritize a large number of ideas. It has also been successfully used for consensus formation. The process is based on research suggesting that people generate more ideas working by themselves, but in the presence of others.

The procedure for nominal group process is as follows:

1. *Opening presentation:* After an initial presentation describing the nominal group process, the audience is broken into small groups of six to nine participants.
2. *Discussion leader and recorder:* Each group is assigned a discussion leader and a recorder. Prior to the meeting, these staff people will have put up a minimum of four sheets of newsprint, and also have ready a supply of felt-tip pens, scratch pads, pencils, and index cards.
3. *Introductions:* The discussion leader will introduce himself/herself, and invite everyone in the group to do the same.
4. *Posing the question:* The discussion leader will then present the question to be answered. It will be carefully worded in order to draw out the specific information desired. The question will be written at the top of one of the flipchart sheets.
5. *Generating ideas:* Participants are provided with paper and asked to write down all the answers they can think of to the questions posed. These notes are for their own use only and will not be collected.
6. *Recording ideas:* Each person is then asked in turn for one idea. The recorder will summarize the idea on the newsprint, as accurately as possible. No discussion is permitted, except that people may suggest alternative wording to the recorder. The discussion leader will keep going around the room, one idea per person, until the group is out of ideas. Anyone can say, "pass" without giving up his or her turn on the next round. The process continues until everyone is "passing." Participants are not limited to the ideas they have written down but can share

new ideas that have been triggered by the ideas of others. Alphabetize the items on the list: A-Z, AA-ZZ, and so on.

7. *Discussion*: Time is then allowed for discussion of each item, beginning at the top of the list. The discussion should be aimed towards understanding each idea, its importance, and its weaknesses. While people may criticize an idea, it is important that they simply make their points and not get into an extended argument. Move rapidly through the list, as there is always a tendency to take too long on the first half of the list, not leaving enough time to do justice to the second half. This activity usually takes a minimum of about forty minutes, and can be permitted to take considerably more time if desired.
8. *Selecting favored ideas*: Each person then picks the ideas that he or she thinks are best. Instructions should be given to select a specific number, such as the best five, or the best eight. These ideas should be written on index cards, one idea per card. Participants may prefer just to write the letter of the item on the list (A, F, BB, and so on) or a brief summary, so that they do not have to write out the entire idea.
9. *Ranking favored ideas*: Participants then arrange their cards in preferential order, with the ones they like the most at the top. If they have been asked to select eight ideas, then they put an "eight" on the most favored idea, and number on down to a "one" for their least favored idea among the eight selected.
10. *Scoring*: A score sheet should then be posted which contains a list of all the alphabet letters used on the lists of ideas. Then the participants call off the items they selected, and the points assigned to each, for example, "G – eight points, L – seven points, A – six points." When all the scores have been shared, tally the score for each letter of the alphabet. The highest scoring item receives the number one ranking, and so forth. Post the rankings for the top five to ten ideas, depending on where a natural break occurs between high scores and low scores.
11. *Discussion of results*: The participants may then want to discuss the results. Depending on the time remaining in the meeting, this discussion may be brief or lengthy.
12. *Reminder of subsequent analysis*: Participants should be reminded that staff would conduct a detailed analysis of all items, not just the ones receiving high ranking. Depending on the decision-making process, they should also be reminded that this analysis could result in a considerable change in the ranking of items.

4.3.10. Hybrids: Combining Large and Small Group Meeting Processes

Everyone knows that people work best in small groups. However, as more people are interested in water and as more water management moves toward IWR and watershed levels, small meetings are unrealistic. People come to meetings desiring to be seen and heard. Large groups, however, make it difficult for everyone to talk.

Here is one way to overcome this and to reconcile the seemingly irreconcilable desires for a small group experience but large group participation. The meeting room is arranged with circular tables with seven to nine chairs at a table. This is similar to the way you may arrange a banquet. One facilitator can then actually employ the small groups and NGT techniques to the whole room. He or she can ask people to first work at tables and then go around the room and receive comments from each table. These comments can then be posted on charts. If the room is large then comments can be recorded on computer and projected real time on a screen so all can see. This method also lends itself to recording the comments in multiple languages simultaneously, using one computer and screen per language.

The obvious disadvantage of this is that the screen can only handle a limited number of comments. However, the screen can be scrolled up and down and worked with in ways similar to using comments on a flipchart. In addition, the list of

comments can rapidly be printed and copied since it is in electronic format. This allows large number of participants to then work in some detail with their collective outputs.

One of the important things that happen in this process is that large groups rapidly see that they have similar views and this decreases the need to repeat ideas and enables the group to get on with its debates and to focus where the main differences are. Depending on the purpose of the meeting these differences can be pursued in various ways.

This format allows everyone to be seen while also providing small interactive discussions and interaction among all participants. It also eliminates the problem of moving people around in rooms, which is a major time consumer. In addition it allows the facilitator to change topics or agenda items rapidly with little confusion. In other words it dramatically enhances the flexibility of the process (see Figure 21).

4.4. WORKING EFFECTIVELY IN TEAMS²²

(Adapted from J. Creighton, *Pubic Involvement and Teaming in Planning*, IWR, May 2002)

Increasingly, water managers and planners work in teams. Even work with stakeholders and the professional managers is coming to be seen more as teamwork rather than them and us. One major conclusion from studies of water managers working in teams is that sustaining the team requires considerable effort and regular maintenance. There are significant differences in performance between those teams who work hard at sustaining the team, and those who think team spirit will just take care of itself.


This is entirely consistent with the books and guides written by people experienced at working with teams. Virtually all guides stress the need for "team hygiene," that is, the regular maintenance of team agreements, norms, and relationships. One team of management consultants says there are "creating" and "sustaining" stages of team performance, as shown below:²³

Creating Stages

- Stage 1: Orientation: Why a team?
- Stage 2: Trust-building: Who are you?
- Stage 3: Goal/role clarification: What we must do
- Stage 4: Commitment: How to proceed

Sustaining Stages

- Stage 5: Implementation: Who does what, when
- Stage 6: High performance: Ahas!!
- Stage 7: Renewal: Why continue?

 **OPEN SPACE**

- Plenary session during which any participant can announce a topic
- Room assigned to each topic
- Wall charts for sign-ups
- Person who announced the topic serves as the meeting convener
- Participants move around from group to group as they wish
- Plenary report-back
- Convener prepares summary of his\her group

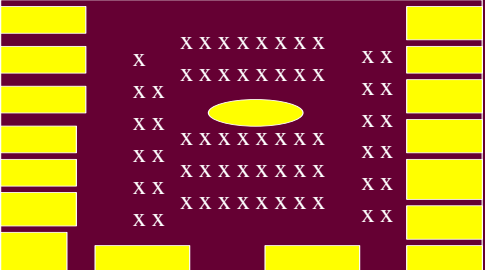


Figure 21. Hybrids: open space

If all goes very well, the work leading up to the partnering workshop, and the workshop itself, will carry a team through the four “creating” stages. But all the “sustaining” stages occur after the partnering workshop. These stages include developing a detailed team implementation plan, carrying out that plan in such a way that the team impresses even itself with what it can accomplish, and then from time to time, recommitting to the team and the goals of the team.

4.4.1. When is a Team Not a Team?

As the rhetoric of team building becomes more established, one of the considerable dangers is that people will talk a great deal about partnering and teamwork, but not really do the homework necessary to create a “real” team. In particular, the term “teamwork” is often used for any cooperative behavior in working together, whether or not it describes the behavior of real teams. This can create cynicism if people hear all the rhetoric but don’t see any real differences in behavior.

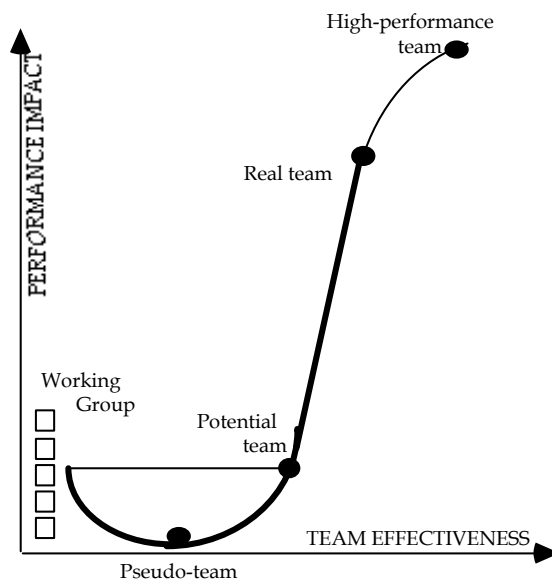


Figure 22. Different types of teams

A team is not just any group working together. Management consultants Jon R. Katzenbach and Douglas K. Smith have described different types of teams, as shown in Figure 22.²⁴

Katzenbach and Smith argue that many groups that are called “teams” are, in fact, working groups. Using their terminology, in a working group the participants share information and perspectives and make decisions necessary for individuals to do their jobs better, but the emphasis remains on individual performance and accountability. The distinguishing characteristic of a real team is that the members are *equally committed* to a common purpose, goals, and working approach for which they hold themselves *mutually accountable*.

This does not mean a team is inherently better. It takes a lot of work and a significant commitment of time to build a real team. If a working group can meet the performance challenge, then it may be quite satisfactory. Working groups are preferable when the work to be performed does not require collective work products or real-time integration of multiple-person skills, and when the sum of the individual results is all you need.

One of the downsides of claiming to be a team, without putting in the effort necessary to be a real team, is that you may create a “pseudo-team.” A pseudo-team is a group that recognizes the value of being a team, may even use the rhetoric of acting as a team, but takes no collective responsibility for performance and does not share an equal commitment to accomplishing the purposes of the team.

The problem with a pseudo-team is that all the talk of acting as a team may disrupt the effectiveness of the individuals involved. Prior to talking about being a team, individuals were getting things done although perhaps not as effectively as a team could do them. The claim that people are a team may remove the freedom that individuals have to act, without substituting effective collective performance. So a working group may be a more effective way of getting the job done, unless the members of the group make the commitment needed to move all the way to being a real team.

Katzenbach and Smith believe that the distinguishing characteristic of teams that perform exceptionally – “high-performance teams” – is that in addition to all the attributes of a real team, all team members are deeply committed to each other’s personal growth and success.

4.4.2. The Performance Ethic

It is the chance to perform important, meaningful tasks – to do something outside the ordinary – that energizes teams, not just the opportunity to be a team. Groups organized for the purpose of being a team, rather than to perform a challenging task, rarely become real teams. Over time, teams need to feel they really produce. It is not just a matter of feeling good about each other. It is a matter of feeling good about what the team has accomplished. The members of teams that do not produce ultimately do not end up feeling good about each other. The failure to produce typically leads to bad feelings between team members, and ultimately, to charges of bad faith between the partnering organizations.

4.4.3. Back to Basics

The coach of a losing football team is often quoted as saying, “we didn’t execute” or “we’ve got to get back to basics.” Many problems with partnering occur the same way: people forget or don’t take the time to take care of basics. The following sections give a review of some of the basics of building an effective team.

Team Size

Research indicates that teams are more effective when the number of team members is less than ten. Recent research at DuPont shows that group performance begins to drop off significantly when team size exceeds twelve to fourteen members.

The size of a work group can be somewhat larger, since the purpose of group meetings is more to inform each other than to actually perform work. The key limiting factors on the size of a team is the ability to actually perform joint work, plus the need to communicate with all members freely and easily.

On occasion, it takes more than ten members to accomplish your goals. When this is the case, it may be possible to gain the advantages of team performance by going to sub-teams.

Skills

Many management theorists stress the importance of having the full mix of skills within the team from the beginning. Others say they have never seen a team that had all the skills it needed from the beginning, and point out that highly motivated teams are very good at acquiring the skills they need to succeed.

It is clear that one of the strengths of an effective team is that team members have complementary skills. Teams are less effective when all team members have about the same mix of skills. Teams need at least three kinds of skills:

- *Technical or functional expertise:* Teams may need engineering or environmental expertise. They may also need knowledge and background about laws and the permit process. They may need expertise on procurement and contracting. The mix of expertise required depends on the nature of the project.
- *Problem-solving and decision-making skills:* Teams need skills on how approach problems and generate solutions, how to organize for implementation, how to seek out and use needed information, and how to generate creative solutions within the team. Typically, teams need strong project management skills, since partnering requires a style of leadership where normal functional controls are not particularly useful in guiding performance.
- *Interpersonal skills:* Team members need basic skills of listening, communicating feelings, performing as team members, and group facilitation.

Common Purpose

Ultimately, the real adhesive that binds a partnering team together is a sense of common purpose. Team members need to believe the task they are working on really matters to their organizations, or to society at large.

This common purpose is particularly powerful if team members see their goal as more than just a short-term organization need. The common purpose needs to be a goal about which team members feel excited. Team members may be motivated by the environmental cleanup they will accomplish, by the chance to prove they can do things cheaper or better, by the chance to work on something that is cutting-edge or innovative. The incentive could also be political, such as a policy or program question where the political visibility is so high that if it doesn't work, very powerful people will be very unhappy, with consequences for the entire organization, or where success can mean a significant boost to the organization.

When team members are excited you'll hear phrases like:

- "We're going to be the first team ever to solve this problem."
- "No one else has ever used this particular technology to solve this kind of problem."
- "If we can figure this out, it will be a model for . . ."

- “This is a real make or break issue for the organization . . .”
- “It’s nice to feel that we’re making a contribution beyond just doing our immediate jobs.”

One indicator that team members are really committed to the common purpose is whether they describe the team and its purpose enthusiastically to friends and family or other co-workers outside the team, and defend them vigorously to anyone who questions them. Teams work best when there is “a little fire in the belly.”

4.4.4. Clear Management Direction and Flexibility on Approach

When terms such as “empowerment” are used, there is a tendency to view this as the removal of constraints or controls. That may be helpful, but it is rarely enough. When you are working for a highly directive boss, it is often easy to see the problem as getting free from all the rigid controls. But if you have ever worked for a truly *laissez-faire* boss, you will have found that it usually meant you were free from controls, but powerless to act.

Psychologist Erich Fromm talked about two kinds of freedom: “freedom from” and “freedom to.” When he spoke of the “freedom from” he was talking about whether individuals, once constraints are removed, feel strong and secure enough to use that freedom to take action. This is a very real issue in teams. If everybody in the team has worked for years in a management culture that emphasizes control, then even when management removes those controls the team still may not feel free to act. The limitation may be fear, a lack of confidence, and little practice at taking risks.

But in organizations, it is not enough that teams feel they have “permission” to act; they also need support and the authority to deal with very tangible problems. Teams may need budgets to pursue their program. They may need others in the organization to know they have the right to ask for services, information, and support. They need, what in diplomatic terms, is referred to as “a portfolio” that gives them the right to challenge, raise questions, and cast doubts on the way things are done. They may need assistance in getting other parts of the organization to change rules or procedures that block the team’s ability to get the job done.

High-performance teams often look more like troublemakers to people in procurement, finance, the general counsel’s office, and so on – all people who have been given roles that require them to maintain the “systems” of the organization. People who want to disrupt those systems are rarely appreciated, and are sometimes seen as a threat to the organization, rather than its salvation. This is particularly true with partnering teams, because many of the members of the team come from “alien” organizations. As a result, there may be pushback from system-maintaining organizations. Effective partnering teams learn how to draw others from their own organizations into the spirit of partnering. But occasionally, the team needs help before it can both remove impediments to performance, and have the resources and role that allow it to act. Often this must come from management.

This means that it’s not an “either/or” proposition with the team either given the freedom to act, or not. A more useful concept is to talk about “the solution space” that management provides.²⁵ Management must define the boundaries and scope of authority clearly enough to indicate direction. Teams need to know where their organizations are going, and why, and what performance is required of them.

But there needs to be plenty of room for the team to generate specific goals, timing, and approach. The reason is that real team commitment to performance is developed by participation in creating the approach. If management is too involved in “how” the program is implemented, not “what” the program is about, management will have a high level of commitment to the approach, but the team will not. More than that, the team will not have the freedom it needs to find an implementation approach that makes sense in terms of the different organizational cultures that must

be satisfied. The challenge is that if the “solution space” is too large, the team just wanders around feeling lost. If the solution space is too small, the team feels no commitment and no enthusiasm.

Management consultants Katzenbach and Smith suggest that the categories in Figure 23 are the primary areas in which management needs to set limits. Within these limits, the team should be expected to generate the plan for how the task is to be accomplished.

Management will normally benefit from consulting with the team on many of these issues. But however it happens, management must ensure that definition occurs on these issues.

Shared Sense of Responsibility for the Success of the Project, Program, or Policy

Winston Churchill once said: “The one sure way to failure is for everyone in a bureaucracy to do their job perfectly.” While the comment was made with tongue in cheek, it captured an awful truth, which is that bureaucracy permits people to avoid feeling responsible for their ultimate product or accomplishment.

The same problem holds true between organizations: it is all too easy to protect the interests of your own organization, even if it means that the problem goes unsolved. When this occurs, a regulator may feel justified because it looked tough, even though the project cost the taxpayer twice as much as it needed to. A DoD agency can feel satisfied it met the letter of the law, even though the overall situation may be getting worse.

<i>Limits set by management</i>	<i>Examples (cleaning up storage tank pollution)</i>
Mission	Clean-up storage tanks and polluted soil in Area XYZ
Why is this mission a priority?	<ul style="list-style-type: none"> • Cleanup must occur before leaking liquids reach groundwater • Delays and cost overruns on prior projects have undermined leadership confidence
What’s driving the schedule?	<ul style="list-style-type: none"> • Cleanup before material reaches groundwater • Regulations require cleanup by a date
Standards:	<ul style="list-style-type: none"> • Public regulations • Budget constraints
Key challenges:	<ul style="list-style-type: none"> • Uncertainty regarding contents of tanks • Incineration currently unacceptable to local community
Members of team/ skills Mix	Names of team members or skills required within the team

Figure 23. Areas in which management guidance may be needed

In a real team, that sense of shared responsibility comes out not only in fulfilling your commitments to the team, but in trying to ensure the success of all members of the team. If someone needs help, other team members dig in and help. If someone consistently fails to perform or doesn’t keep the norms that have been established by the team, you confront this openly and directly, without waiting for management to intervene. It is this shared responsibility that is one of the defining characteristics of a real team.

Of course shared responsibility works only if all team members are clear what their individual and joint responsibilities are. In a functional organization, assignments are often automatic, because everybody knows what their function is. In partnering, it

is not always obvious who should be doing the work, so there is greater danger that "things can fall through the cracks." This means that partnering teams must exert extra effort to clarify work responsibilities.

This includes clarifying performance standards. Functional organizations have numerous mechanisms for ensuring quality control. But these standards may be different from organization to organization. A team member may perform work to a standard that is acceptable in his/her own organization, only to find that others in the team feel the product is not acceptable. So when giving assignments, the team not only needs to discuss who will do the work, but also the standards to which it will be done.

Clearly Defined Performance Goals

When management sets performance goals, they are sometimes "demotivating," that is, the team may feel resentful or cynical rather than inspired. But in a team, setting performance goals is actually a primary way to enhance team commitment. People in the team make a commitment to each other that often significantly exceeds the commitment made to organizational goals. It is very human not to want to let down other people you care about, and to whom you have made a personal commitment.

Everybody knows horror stories about workers setting unofficial quotas and attacking any other worker who exceeds those quotas. This is most likely to occur when there is an adversarial relationship between workers and management. The secret of success of any team is that this same potent peer pressure can be used to drive the team to excel. Nobody wants to let the others down. Performance goals, set by the team itself, are a way of mobilizing the team to exceed even its own expectations. Working together and achieving real results build trust.

There are several criteria for success in setting performance goals:

- *Does the team "own" the goals?* "Ownership" requires emotional commitment, not just acquiescence. If members of the team have just gone along with performance goals suggested by others in the team, there will be uneven commitment to the goals, and a high likelihood that performance itself will be equally uneven. This could be caused by dominant personalities, failure to listen to doubts or questions raised by team members, or a team environment in which it is risky to disagree with prevailing opinion. If you support a goal, you do it no service by simply overriding objections. You may get assent to the goal, but never reach it because other team members are not really committed. Similarly, you owe it to the team to speak up if you are not committed.
- *Does the team agree on the importance or priority of the goals?* As discussed earlier, teams need to feel that the task they are performing really means something to their organizations, to society, to some larger purpose. The goals that really matter are the goals that energize this sense of purpose and challenge. If a team is facing a significant challenge, it will not inspire the team if the goal that is set is one they do not believe will make a difference. The team has to believe the goal matters, and will make a difference.
- *Can the achievement of the goals be determined?* If the goal is vague and amorphous, a "do better" goal, the team will not develop the same sense of commitment, nor get the sense of satisfaction that comes from meeting a goal. "Improve customer satisfaction," for example, is a worthy goal. But how can you tell when you've done that? This is why it is important for the team to agree on ways to assess whether the goal has been met.

More intangible qualities such as customer satisfaction might be assessed by sending out a regular customer questionnaire, by conducting interviews with customers, by counting complaints (although that's at best only a partial

measure), or a number of other techniques. The results do not have to be numerical, but they do have to be sufficiently objective that the team can agree on whether they did, or did not, meet the goal.

- *Are the goals realistic yet ambitious?* Teams can defeat themselves by setting goals that are grossly unrealistic. On the other hand, meeting goals that required little effort is not going to energize the team. Goals should be a "stretch," meaning that they require performance beyond that which the team has achieved in the past, yet be sufficiently attainable that the team does not give up hope. This is why it matters that the team believes the goals are very important and a real priority. People will not commit to a "stretch" unless the goal itself justifies the risk and extra effort required.
- *Have you provided for small steps along the way?* If performance goals are significant enough that they require a stretch, they can also be overwhelming. One way to reduce this anxiety is to define smaller steps along the way that give the team a sense of satisfaction when those intermediate goals are met, and encourage the belief that the larger goal can be reached.

Clear and Well-Understood Approach

Once performance goals are defined, the team needs to lay out an approach for how to reach those goals. This approach needs to be concrete, clear, and understood by everybody in the team. It should also focus on joint products, rather than jobs. If people define their work in terms of completing a job, they may complete that job even at the expense of the mission. Jobs provide a focus on the individual, while mission or product-orientation focuses on the team performance.

Research also suggests that the approach should require that all members contribute a roughly equivalent amount of work. For some people in a team to work hard, while others who do not put in the same effort enjoy all the same rights of team membership does not work. It quickly breeds resentment. It is not important that everybody's work match hour for hour. It *is* important that everybody makes a significant contribution, as viewed by the team, and that status or rank do not give permission to avoid work.

Finally, no approach ever anticipates all contingencies. The best way to ensure that the approach adapts to actual conditions is to create a team culture that allows for open interaction, fact-based problem solving, and results-based evaluation.

Getting back to basics

Here is a quick summary of some of the things teams need to do to get back to basics:

- Check to be sure the team is not too large (above ten to twelve people). If a larger team is needed, consider the use of sub-teams.
- Periodically assess the skills within the team – technical/functional, problem solving/decision making, and interpersonal – and develop a team plan for how to improve the mix of skills in the team.
- Create a sense of urgency and larger purpose that reinforces the common purpose of the team.
- Work with management to define a "solution space" that provides the team a sense of direction, but leaves the team free to decide how to get there.
- Set performance goals that are both realistic and "stretch" the team's expectations about what it can accomplish.
- Set up ways to measure success, so the team can tell when it achieves it. The emphasis should be on team, not individual, performance.

- Check to be sure that the approach is concrete, clear, and understood by everyone in the team.

4.4.5. Building Team Performance

Here are some suggestions for how to build and sustain a team:

Substitute Agreed-Upon Norms for Unconscious Expectations

Marshall McLuhan once said, "Culture is like a glass dome; as long as you are inside you don't know you are enclosed." Organizational culture is much the same. The norms and behaviors of an organization are usually learned by a kind of osmosis. People just assume that is the way "normal" people act. Because these expectations are unconscious, people are not even aware they exist. These expectations are like the "default settings" on your computer; they kick in automatically unless you make a conscious choice to change them.

Everybody in the partnering team brings unconscious expectations to the partnering, based on the assumptions of his/her organization about what constitutes normal behavior, and interprets other team members behavior in the light of those expectations. This can lead to substantial misunderstandings and misinterpretations.

The only way to minimize these risks is to substitute conscious expectations for unconscious ones. This is why it is important for the partnering team to talk about group norms, critique how it communicates, and agree on how it will handle disputes. Each of the new agreements replaces unconscious attitudes that can harm the effectiveness of the team.

The partnering workshop begins the process of establishing team agreements, but it is normally not possible to cover all the areas that require agreements. Furthermore, these agreements need regular maintenance. Some agreements may have to be modified or amplified. Agreements may need to be hammered out in entirely new areas.

Many of the key areas for group agreements are identified in the main text of this guide. They include:

Group norms, such as:

- openness
- disclosure
- listening
- mutual respect
- communication problems.

Decision-making processes, such as:

- decisions made by mutual agreement
- which decisions must be made by the team
- which decisions can be made by individuals or single organizations
- emergency decisions.

Dispute resolution processes, such as:

- how disagreements are flagged as "disputes"
- time limits on resolution of disputes
- process for consultation within agencies
- which dispute resolution mechanisms will be used.

Other areas where team agreements are needed include meeting procedures, meeting facilitation, and problem-solving processes. They are discussed further in the following pages.

Spend Lots of Time Together

While a partnering workshop can “jump-start” the process of building trust, in the long run nothing completely substitutes for spending a lot of time together. Research shows that most of the best teams “work hard, play hard,” but do both together. Obviously this is not always possible. But make choices to increase the amount of interaction whenever possible.

Schedule Periodic Refresher Sessions

Teams that will be working together over a number of months should schedule periodic refresher sessions. Very few teams succeed at partnering unless they do something periodically to reaffirm the partnering relationship. The key characteristic of these refresher sessions is that they include a discussion – without the usual time pressures – of how the partnering relationship itself is doing, as distinct from whether tasks are being performed.

Often these sessions are one-day in length, preferably off-site. They may include joint training for the group, a presentation on a stimulating topic, and social activities.

Challenge the Group Regularly with Fresh Facts and Information

One way to keep the team energized is to keep the group stimulated with new ideas and information. This might be information about new technologies, new approaches to permitting, and techniques for working together effectively. Even if the team does not use the information on a particular project, it is important to create an atmosphere where new ideas are valued and sought out.

Agree on Meeting Procedures and Critique How Well You are Doing

Working as a team means that you are likely to spend a lot of time in meetings. If the team is going to be effective, it needs to know how to use meetings effectively.

Team members should not just “assume” that partnering team meetings will look exactly like normal meetings back in their own organization. First of all, each organization has a different interpretation of what constitutes “normal.” More important, many organizations use meeting styles that are appropriate for centralized decision-making, but not appropriate for developing mutual agreements. So teams need to identify and adopt procedures that will do the best job for a genuine team, as distinct from a functional organization.

Just as important as agreeing on meeting procedures is to develop a process for critiquing how well you are doing at working together. This should be an item for periodic follow-up workshops. In addition, some teams find it very helpful to spend five to ten minutes at the end of each meeting to talk about what they did well, and what they need to improve. One suggestion: when you are giving feedback to other team members, it is often more effective to comment on how much you like the demeanor of team members engaging in useful team member behaviors than it is to focus critique on team members who need to sharpen their skills.

Some teams find it very helpful to have a facilitator for team meetings, but most teams use an outside consultant only occasionally. A team member can serve as facilitator, so long as the issue under discussion does not involve him or her so closely that it is impossible to stay neutral.

Some teams rotate facilitation responsibility, with every team member serving as facilitator periodically. There are many advantages to this. It shows that meeting leadership is not a matter of rank or status, but an important function required by the

team. It sharpens the facilitation skills of team members (which can be very useful both in project management and in dealing with the public on controversial issues). Finally, serving as facilitator often sharpens awareness of the behaviors that individual team members need to engage in for the team to be effective.

The most important behaviors of a facilitator are:

- *Assist with designing the meeting:* Helping to define the purpose of the meeting, setting up a proposed agenda, suggesting appropriate meeting formats or group process techniques to use to accomplish tasks.
- *Help keep the meeting on track, focused on the topic:* Pointing out when the discussion has drifted, restating the purpose of an activity, putting limits on behavior such as accusations or emotional tirades.
- *Clarify and accept communication:* Providing a verbal summary of what was said, relating one participant's ideas to another, inviting expansion of a comment, asking clarifying questions, writing a summary of comments on a flipchart.
- *Accept and acknowledge feelings:* Structuring a situation in which it is safe to express feelings, acknowledging feelings so that they do not continue to build in intensity.
- *State a problem in a constructive way:* Restating comments so they do not blame any party, defining the problem without implying there is only one possible solution.
- *Suggest a procedure or problem-solving approach:* Suggesting a procedure such as brainstorming or a structured sequence of problem-solving steps to help the group work more effectively, suggesting alternative ways of addressing the issue, suggesting a break.
- *Summarize and clarify direction:* Restating the purpose of the meeting, clarifying its direction (for example, "We've completed the first two issues, now we're ready to start talking about alternatives for . . .").
- *Consensus-testing:* Sensing when participants are coming to agreement and verifying that agreement has been reached by stating the potential basis for agreement and checking to see whether it has support from the participants.

Because the facilitator needs to remain neutral on the outcome of the meeting, and wants to create a climate for collaborative problem solving, there are also certain behaviors a facilitator should avoid. Facilitators should avoid:

- judging or criticizing the ideas of participants
- using the role of facilitator to push their own ideas
- making significant procedural decisions without consulting the participants
- taking up the group's time with lengthy comments.

There are a number of manuals or guides available on facilitation.

In a normal bureaucratic organization, the meeting leader feels responsible for the success of the meeting, but the participants often do not. In team meetings, everybody is responsible for successful meetings, not just the facilitator. There are "team member behaviors" that need to be learned and practiced. These include:²⁶

Task-oriented (content) functions

- *Initiating-innovating:* Suggesting a new idea, a new way of looking at a problem, or a new activity.
- *Seeking information or facts:* Requesting facts, asking about feelings, asking for ideas or values.
- *Giving useful information or facts:* Offering facts, stating a belief, making suggestions.

- *Clarifying and summarizing*: Probing for meaning, defining terms, enlarging or restating issues, bringing related ideas together, restating suggestions of others.
- *Consensus testing*: Checking to see if the group is ready to decide, sending up trial balloons, verifying group consensus.

Process-Oriented functions

- *Harmonizing*: Attempting to reconcile disagreements, mediating differences, initiating a compromise.
- *Gatekeeping or expediting*: Inviting others to talk, suggesting time limits or other procedures to permit wide participation, keeping talk flowing.
- *Encouraging*: Indicating acceptance and understanding of other points of view, being friendly and responsive to others.
- *Following*: When appropriate, accepting the direction of the group, indicating understanding without intruding.
- *Standard setting*: Expressing standards for the group to achieve, testing group attitudes towards procedures, reminding the team of underlying values.

As can be seen, many useful team member behaviors overlap with the behaviors of a facilitator. This is why serving as a facilitator is also a way to sharpen skills as a team member.

Use Visual Recording

Research on effective teams show that they work together more effectively when important comments or conclusions are recorded – on flipchart pads, butcher paper, or “post-its” or electrostatic cling sheets – and posted on the wall where everyone can see them. Sometimes the facilitator plays this recording role. This is often effective in small teams. In large teams it is often helpful to have a second person, the “recorder,” who keeps a visible summary and posts it up on the walls, while the facilitator stays focused on the team. The recorder can be a team member. Again, it is more difficult to be a recorder if the subject being discussed is one in which the recorder is very involved.

There are professional recorders, trained in the arts or graphic design, who will record meetings in such a way that similar ideas are grouped together, or visual connections are made between ideas. Some even combine graphic elements or simple cartoon figures.

Agree on Problem-Solving Process

When team members participate in problem solving, they often use very different styles and approaches. Each organization has different expectations for how problems are addressed. As a result, it is very useful to agree on a series of steps – a template – for how the team will approach problem solving.

There are a number of problem-solving approaches described in the management literature. Most are some variation on the steps show below:

1. Define the problem.
2. Agree on the criteria for a satisfactory solution.
3. Generate alternative solutions.
4. Evaluate alternative solutions.
5. Choose among the alternatives.

Agree on an Implementation Plan

There is a considerable rationale for each step in this process, and the sequence of the steps. Teams may want to read materials describing the rationale for various

problem-solving processes, or go through joint training. If there is a room in which the team meets regularly, the problem-solving steps should be posted on the wall, so that they can be used as a reference point during team meetings.

Use Exercises to Stimulate Creativity

There are numerous books or guides describing exercises or other techniques that can be used to stimulate creativity during problem solving. Some of the most useful of these techniques include:

BRAINSTORMING

In brainstorming, everyone in the group is encouraged to come up with as many ideas as possible, including "way-out" ones. Usually these ideas are recorded on a flipchart or blackboard. No evaluation is permitted until everybody is completely out of ideas. Brainstorming provides a "psychologically safe" climate in which people feel free to participate without fear of being judged, and this helps groups "break out" of the obvious solutions and push for more creative ones.

SNOWBALL

Another variation of brainstorming is to have everybody write their ideas on "post-it" notes or small cards that can be put on the wall. The same "no evaluation" rule applies. Then similar ideas can be grouped together on the wall, for further group discussion.

CREATIVE ANALOGIES

Using analogies to force different ways of thinking about a problem can generate additional options. For example, if a problem is being thought about in hierarchical terms, try thinking about it using organic or physiological analogies. Or, ask people to create visions of how they would solve the problem "if there were no limits" or "if I were president." Once again, "way out" ideas may lead back to more creative solutions that are capable of implementation.

NOMINAL GROUP PROCESS

The nominal group process is a technique based on research suggesting that people generate more ideas working by themselves, but in the presence of others. Participants generate ideas during a silent period, and then share their ideas going around the room, one idea per person each time. These "rounds" continue until everybody is out of ideas. Then the group discusses the ideas to be sure they are clear, but does not debate them. The participants select their top five ideas (or three, or seven), giving five points to their first choice, four to their second, and so on. Then the group develops a composite score sheet, showing the points from everyone in the team. Techniques such as these can be very helpful in getting teams to think about problems in new ways, encouraging innovation.

Celebrate Successes

Teams need a sense of accomplishment. They need to believe they are doing something that matters, and when they succeed, that success needs to be celebrated. Hold victory parties. Make announcements over loudspeakers. Put up celebratory banners. Buy each other little trophies or mementos (keeping in mind appropriate ethics requirements). Do almost anything to reinforce the performance success of the team.

Develop a Team-Training Plan (Including Joint Training)

In most organizations, training is focused on individuals. When building a team, the crucial consideration is whether there are skills needed in the team. Individual members might acquire some of these skills. Other skills may be needed by all team members.

Developing a team-training plan accomplishes several things:

- It says that the team thinks skills-training is important.
- It establishes a priority for team members to get the training they need.
- It provides the support of the team in getting funding for training from the various partnering organizations.

For those skills needed by all team members, some form of joint training is particularly effective. Everybody gets the training at the same time, and the team as a whole builds commitment to using the skills. If you do schedule joint training, be sure to allow time in the schedule for open discussion of how the skills will be used in the team.

Consider Having a Team Room

Depending on the project, it may be appropriate for a partnering team to have a room dedicated to its activities. Having a team room strongly reinforces the team identity.

This room may simply be a meeting room where the team is able to leave up all its charts and flipchart sheets. A more ideal arrangement is a large enough space so there can be workstations clustered around an open meeting space that can be reconfigured, as needed, for different kinds of meetings. A dedicated workspace would probably be appropriate only if team members are going to work together frequently, or are housed at a project site.

Hook Up Electronically

Teams find it very helpful to be connected electronically. As a minimum, being connected by e-mail is a very useful way of exchanging information in a timely manner. One of the advantages of e-mail is that people can pick up and respond to the information when it is convenient for them. Many people find they get much faster responses to e-mail than to phone messages. Also, most e-mail software lets you "copy" the message to a whole group of people, so you only have to send it once and the whole team gets the same message.

If the team has access to a computer network, it can also use groupware that allows the team to work together on tasks, sharing computer files. For example, a team can work together on a report, even though physically distant. Desktop teleconferencing (teleconferencing using small cameras mounted on PCs, rather than a centralized teleconferencing facility) is now possible, and soon will be able to accommodate full teams.

Teams that are hooked together electronically have discovered that, while electronic communication is very useful for exchanging information, it does not by itself build trust. Trust building is something that needs to take place in person. It is still necessary to hold a partnering workshop, and have periodic refresher sessions, on a face-to-face basis. Once the relationship is built, then electronic communication is a distinct benefit.

In evaluating groupware, be cautious about software that is designed so that you have to use a decision-making approach dictated by the software. That approach may not be suitable; some software, for example, is far more suitable for centralized decision making than working in teams. Also, do not oversell yourself on the benefits

of electronic communication. It is a valuable tool, but it does not solve all the problems.

Plan for how to Incorporate New Members in the Team

Even though it is highly advantageous to have continuity of membership in the team, in partnering it is virtually inevitable that there will be turnover. According to team research, adding new members to a fully functioning team is a very significant issue. If the team has previously "bonded," the new team member may feel somewhat excluded, a bit like a second-class citizen. The team will have developed a number of agreements. Even if the individual is fully informed of them, he/she is unlikely to have the same commitment to the agreements, not having been a participant in the discussions.

The team as a whole should plan for how to incorporate the new team member. The addition of one or more new members might be a good time for a refresher workshop. The team-training plan might be altered to include training for the new member. Some teams have even developed a brief ceremony to acknowledge the change, a bit of ritual to acknowledge the significance of the change being made.

When Teams Get Stale

Every now and then every team needs to be reinvigorated. Here are a few suggestions for how to accomplish this:

- Revisit the basics.
- Go for small wins – something that creates a sense of success.
- Inject new information and approaches.
- Use third-party facilitators or go through joint training.
- Change the membership of the team.

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5. OVERVIEW: PUTTING IT ALL TOGETHER

This chapter uses the micro frameworks and practical tools presented in this workbook to analyze several macro transboundary, regional and other river basin organizations and conflicts over the last 100 years. As such it attempts to show how the logic and concepts of conflict management, participation, and consensus building might be applied in an analytical way to describe the process of dispute resolution in some of the major water bodies in the World.

It is suggested that you read this at the beginning of the training and then review it at the end of the training session.

5.1. Water Security, Interdependency, Dependence, and Vulnerability²⁷

(This is a composite of several articles written by Jerome Delli Priscoli, Institute for Water Resources, US Corps of Engineers, Ft. Belvoir, Va. 2002)

5.1.1. Introduction

What does “water and security” mean? And where does it come from? Most immediately, it has arisen as a by-product of the growing interest in environment and security. The concern has been led by the environmental community (broadly defined) and the security and intelligence communities, with the development community following. The water communities have only begun joining the conversations.

In the United States, at least, this interest began with proponents arguing for a more “holistic” conception of security. One that goes beyond protecting the state from external aggression to addressing environmental problems threatening the health and well-being of individuals or economic security of countries.²⁸ As the traditional security apparatus began adopting this, echoes of late nineteenth-century geopolitical arguments of expansion imperatives to fulfill resources needs and scarcity causing violence have become louder. Indeed, many now feel uncomfortable with what appears to be a growing securitization of the environment as our massive security and intelligence industry turns attentions to resource issues. Others have become skeptical of latent neo-Malthusian assumptions, often unexamined, that lie behind dire predictions. One writer notes that the developed countries are more likely to think of environment and security in terms of global environmental changes, and developing countries more with the human security implications of local and regional problems.²⁹

Until recently, the water communities have been absent from this debate. As water enters the conversation people have begun to see that, while intimately linked, environment and water are not the same. Freshwater politics is regional and local and it is hard to speak of it globally other than in terms of general principles. More important, water management includes humanity’s longest and richest history and records of the great drama that is the interplay of human jurisdictions and exigencies of nature. This drama, so central to the lurking shadows behind environment and security debates, has been encoded throughout human history, in the rise and fall of civilizations, in our religious liturgies, our art, our poetry, our literature, our technology, and some would even say in collective subconscious archetypes.

Our dictionaries define security as freedom from danger, from fear or anxiety, from want or deprivation. Indeed, this is what the history of humanity’s management of water is all about – trying to be sure we have good water, in the right quantity, at the proper time and place. Thus, we continue to predict floods, reserve sources for droughts, and use water to help us generate wealth and avoid deprivation. In the past, humans have asked their priests and seers to intervene so as to manage the uncertainty of all this. More recently we call on the incantations of synthetic hydrology, engineers, scientists, and other tools, but all to the same end – our security: a primary component of which is to have good quality water when and where

needed. As the Global Water Partnership's *Framework for Action Report* states: "water security is a common good." I need not tell this readership that definitions of what is the right amount or need or demand have and continue to change. However, I think the point about security remains.

I think that this search (which I have called, elsewhere, "balancing the sacred and utilitarian in water") is really a search for integration, of uses, interests, values, perspectives, and needs. Despite the perturbations, the history of organizing around water is the history of building community far more than it is the history of warfare. So, I think that water brings a new dimension to the environment and security debate. With its quiet, soft but relentless persistence and power, water pushes us towards, reminds us of, and becomes a vehicle for, preventive diplomacy and peace building.

At the practical level, to discern what we do about water and our security, I think we need to "go back to the future" and reapply some old and basic concepts in water management such as: water and regional development, water and multipurpose management and planning, and water infrastructure and its relation to the civic infrastructure of governance.

My thesis in this chapter is far from being derivative of the environment and security debate; water issues and its history should increasingly inform and form that debate. I say this for these reasons:

1. The water crisis is mainly one of distribution of water, knowledge and resources not one of absolute scarcity. However, much of the water and security debate is driven by notions of scarcity.
2. Water is rarely the cause of war and large-scale social violence. However, such potential violence (which is possible) dominates the focus of the security and water debates.
3. The most salient aspects of water are passed over in the debate. They are water's powerful role in: building social community; generating wealth through provision of preconditions of economic activities; convening adversaries and providing common language for joint and creative dialog; and integrating, in a practical way, diverse interests and values.

In short, water stands out as one of our principle tools for preventive diplomacy and for building cultures of cooperation, if not peace.

In Section 5.1.2, I discuss some conceptual and theoretical aspects of water and security from this perspective. In Section 5.1.3, I move to the more practical ends and means of water negotiations. I see these ends as transboundary water institution building and maintenance.

5.1.2. Conceptual and Theoretical Perspectives on Water and Security

Redefining Water and Security

Water is forcing us to rethink the notions of security, dependency, and interdependency. Increased interdependence through water sharing plans and infrastructure networks is often viewed as increasing vulnerability and dependence and reducing security. However, there is an alternative way to look at interdependence. It can be seen as a set of networks, which will increase our flexibility and capacity to respond to exigencies of nature and reduce our vulnerability to events such as droughts and floods, and thereby increase security. Indeed, this perspective has been central to the evolution of civilization. It may strike deeper primordial fears and instincts than we might imagine. It also plays into fundamental beliefs found in most major religions – namely that in sharing our vulnerabilities we find strength.

This flexibility addresses the basic, almost primordial, fear and insecurity that has driven humans to become tool-makers and engineers. That is, reducing the uncertainty and building predictability and safety into what was often experienced as a harsh environment. While often challenging the engineering mentality, this same fear, that we might kill life, inspires environmental concerns. Both relate to the fear of death we all carry. Both carry the instinct to life even though they produce conflicting views of what we should do. Somehow water forces us to go deeper than familiar adversarial positions and confront what we really share – this instinct for life.

Water carries a symbolic and subconscious power, which is coupled to this fear and instinct. Water as a carrier of memory, as poets and scientists attest, may ultimately be telling us: stop, you don't just kill the other, but all, when you use water to make war. This stop sign, although unseen and rarely acknowledged, overcomes the instinct to fight and to destroy. It carries the symbol of a higher order, or superordinate value, that drives deeply into our identity as humans. Water in effect, constantly calls us, kicking and screaming, to higher notions of social integration and connection.

Following this psychological interpretation, conflict among water uses becomes highly functional to humans. Conflict becomes the opportunity to bring to light unexamined fears: of change, of the future, or even of death. Indeed Jung viewed water in dreams as a symbol of the unconscious. In so doing water forces us to reflect on our behavior and ourselves and to internalize these reflections – this is the definition of growth and learning. And thus, it forces us into more integration.

I would go further and say that the continued search for integrated and multipurpose river basin and watershed management, itself, is an outward social manifestation of the lifelong growth process of searching for integration. After all, we were all nurtured in water – the womb – and once outside its safety face the constant challenge of overcoming a sense of being alone and being cut off – our encounters with water are both symbol of this and powerful facilitator of our growth.

Many years ago Lao Tze wrote:

The sage's transformation of the World arises from solving the problem of water. If water is united, the human heart will be corrected. If water is pure and clean, the heart of the people will readily be unified and desirous of cleanliness. Even when the citizenry's heart is changed, their conduct will not be depraved. So the sage's government does not consist of talking to people and persuading them, family by family. The pivot (of work) is water.³⁰

The symbolic content of water as cleansing, healing, rebirth, and reconciliation can provide a powerful tool for cooperation and symbolic acts of reconciliation so necessary to conflict resolution in other areas of society. In a sense, negotiations over water use could be seen as a secular and ecumenical ritual of reconciliation and creativity.

Re-Examining the Water and Conflict Debate

It is easy to focus on conflicts around water or on the use of water as a weapon. Indeed, the root of the word "rival" is the Latin *rivalis*, meaning: using the same stream or *rivus*.³¹ The struggle over access to scarce water whether within, or among, countries can and has caused violence. There are historical examples of how irrigation civilizations were vulnerable to invading armies and to more powerful members of cooperative irrigation arrangements.

The Book of Genesis describes struggles over water wells in the Negev with the Philistines. Herodotus describes how Persian towns were subdued by filling their wells

and water supply tunnels. Saladin was able to defeat the Crusaders at the Horns of Hattin in 1187 by denying them access to water. More recently we have seen irrigation systems and hydroelectric facilities bombed in modern warfare. During the Gulf war desalinization plants and water distribution systems were targeted.³²

On the other hand, water irrigation helped build early communities and bring those communities together in larger functional arrangements. Such community networking was a primary impetus to the growth of civilization. Indeed, water may actually be one of humanity's great learning grounds for building community. Hillel quotes an Arabic aphorism, "One whose hand is in the water is not like one whose hand is in fire." To him this suggests that those engaged in water management are not likely to engage in war and that the thirst for water may be more persuasive than the impulse toward conflict.³³

The FAO has identified more than 3,600 treaties related to non-navigational water use between 805 and 1984. Since 1945, approximately 300 treaties dealing with water management or allocations in international basins have been negotiated. None of the various and extensive databases on causes of war can turn up water as a *causus belli*. Even in the highly charged Middle East, perhaps the World's most prominent meeting place for high politics and high water tension, arguably only one incident can be pointed to where water was the cause of conflict. The first paper signed by three major parties in the current multilateral peace negotiations concerned water. During the years of conflict the parties never stopped talking about water.³⁴ Water has been a facilitator of dialog. Indeed, water agreements have actually prevented major conflicts such as on the subcontinent between Pakistan and India.

While water may not be the cause of war, its distribution can and has been used in violent ways that can convert disaster into humanitarian emergencies.³⁵

Water as Social Integration: River Basin and Watershed Institution Building

Environmental deficiencies, not abundances, explain the development of irrigation technology. And irrigation permitted the emergence of urban civilization. One anthropologist states, "the remarkable fact about the origins of advanced agricultural economy and urban civilization in the ancient world was its location in regions of limited in water supply."³⁶ Researchers have noted that the quantity of available water may be paramount in determining socio-political structures. For example, the temperate and humid climate along European rivers did not force population nucleation and thus urban civilization appeared later.³⁷ Others suggest that the constant shifting of centers of power in Mesopotamian history were associated with the degradation of irrigation systems as well as military and economic situations.³⁸

The river basin and watershed are among the most persistent examples of how the functional and spatial necessities of water can form civilization. Historically, the river basin concept never seems to die but rather to continually reemerge.

The spatial and functional characteristics of the river basin influenced human settlement and interaction long before the idea of the river basin started to be formalized into legal and administrative terms. The direction of flow of rivers influenced the movement of civilization. Rivers have been crucial to means of communication, leading to the formation of political units. This has been especially true in desert basins of fluvial civilizations and in densely forested regions. Once irrigation canals were adapted to navigation, such canals were built for the specific purpose of navigation. In fact the influence of the physical unity of the basin has proved stronger than various political divisions.

Evidence of functional cooperation or unification of states around a river basin can be found in the Hammurabi code on the operations of irrigation trenches, the Chinese *Book of the Tang* on the operation of water wheels and private reservoirs, and even Herodotus' stories of apportionment of waters in a river basin in Persia. Teclaff notes that the river basin had the most influence on administration where

waterways were the best means of communication. Navigation laid the groundwork for a legal or administrative unity of the river where waterways were the best means of communication. Navigation laid the groundwork for a legal or administrative unity of the river basin in a situation of politically divided basins. This sense of unity was built upon as the non-navigation demands and the technological means to meet those demands grew.

Rarely have political jurisdictions stopped navigation completely. For example there was considerable freedom of trade and navigation throughout most of ancient Mesopotamia, and also on the Nile.³⁹ In some cases, water has encouraged the opposite – the creation of political entities. For example, facilitating river navigation was a primary motivation for holding the early conventions that led to the constitutional convention and eventually the US federal system in late nineteenth-century North America.

During the Roman administration in Europe, navigation was open to the public. Tolls were collected for operations and maintenance. Boatman's associations exercised considerable influence and should be seen as basin-wide attempts at organizing waterborne navigation. Indeed special offices for the arbitration of disputes were created along the Rhone. Basin-wide use of the rivers persisted even during the Barbarian invasions in Gaul.⁴⁰

The river basin has clearly played a major role in unifying communities and stimulating trade and the emergence of large political-economic organizational units. Historical examples illustrate that communities were integrated through the management of water and land resources for agriculture, riverain navigation, and settlement networks based on agrarian productivity and transport nodes. River navigation also facilitated the integration of raw materials and manufactured goods from different parts of the basin and among basins.

The use of the rivers as waterways in effect has helped form river basins into commercial entities, despite political divisions. This can be traced in the Vistula, Great Lakes, St. Lawrence, Mississippi, and other basins.⁴¹ This commercial unity can be seen in early Supreme Court cases establishing Federal power in the young United States such as in *Gibbons v. Ogden*.

The strong sense of commercial entity, tied to the increasing non-navigational uses at the end of the nineteenth century, set the stage for a further evolution of the river basin idea into multipurpose and basin-wide development. As competing uses vied for claims on the water, many began to see the logic of a systems-wide integration of the uses in order to preserve and maximize them. In other words the functional and spatial exigencies of the river basin now began manifesting themselves in higher order schemes of social organization and administration organized around the river or water.

At the turn of century, Sir William Willcocks proposed multipurpose plans for the Nile and the Tigris–Euphrates. Theodore Roosevelt, in the United States, stated: "Each river system, from its headwaters in the forest to its mouth on the coast, is a single unit and should be treated as such."

His national Waterways commission confirmed the need for basin-wide planning. In England, the movement toward basin-wide planning began with a 1921 report of the Board of Trade Water Power Resources Committee. Perhaps the best-known examples in Europe were the Ruhr basin associations and the Compagnie Nationale du Rhone. These influenced the subsequent development of the French river basin committees established in the early 1960s. These French basin authorities are now influencing countries in central and eastern Europe as well as in Africa and Asia.

During the 1940s and 1950s, basin authorities emerged throughout the world, in India, Sri Lanka, Brazil, Colombia, Ghana, Australia, and other countries. These took a variety of forms; some only coordinated planning while others included a broader range of allocation power.

In the mid-1950s the UN Secretary General stated: "River basin development is now recognized as an essential feature of economic development."

In 1925, congress authorized the US Corps of Engineers to complete comprehensive river basin studies, called 308 Reports, throughout the United States. These activities lead to a series of commissions in the 1940s, 1950s, and 1960s. They culminated in a Water Resources Council and a series of river basin commissions added to several existing interstate compacts, the TVA, and a few other river basin commissions.

In a sense, the river basin commissions and organizations can be seen as a logical progression of that deeper quest for integration. If increased integration is the next threshold of civilization, then the experiments with river basin organization in the twentieth century are central.

Indeed, I think that the building of river basin and watershed organizations is a major part of what the practical work of water and security is all about.

5.1.3. Ends and Means of Water Negotiations

Trends Pushing Toward Water Cooperation: An Optimistic Perspective

As discussed in Section 3.2., there are grounds for optimism about the future of water management. There are strong trends towards cooperation rather than conflict, as Rogers, McCaffrey and other scholars have argued. International institutions are helping in this, and recent agreements treat waters as "shared" resources of "common interest."

HOW SHOULD WE BUILD TRANSBOUNDARY WATER INSTITUTIONS?

Interjurisdictional and intersectoral. As we seek to create new transboundary cooperation, we need to create institutions and organizations that help us to anticipate and manage conflicts and to collaborate across jurisdictions and sectors. Much of the history of water resources management has been a struggle to build institutions that are interjurisdictional (without too much impact on sovereignty) and intersectoral (without too much shock to the real politics of specialized knowledge and interests). This struggle has produced a variety of organizations which have varying success in fostering collaboration and in allocating water but are rich with lessons for both the water and negotiations fields. We need to start mining this experience for its process and institutional lessons.

Conceptual Model (J. Delli Priscoli, IWR, 1993)

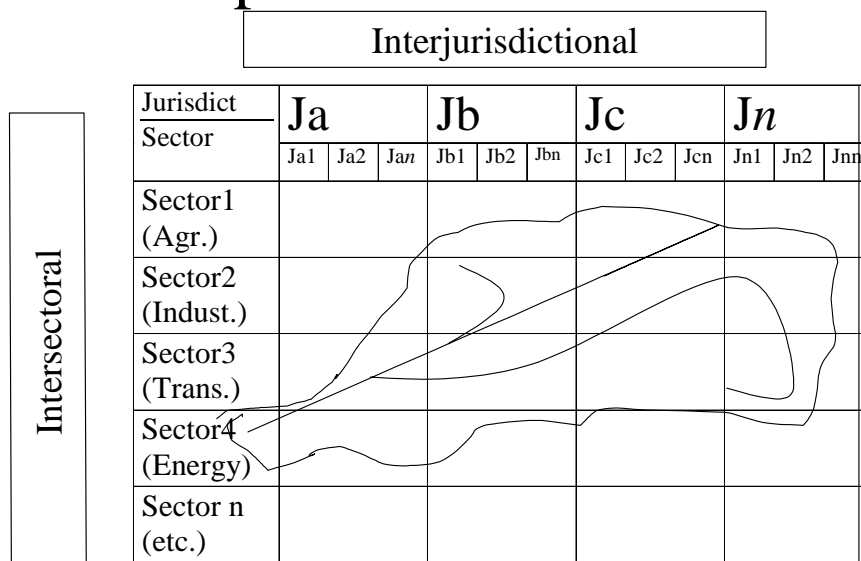


Figure 24. Conceptual model

Figure 24 is a conceptual map to help make sense of this search. The horizontal axis represents various jurisdictions. This includes primary jurisdictions and sub-jurisdictions. The vertical axis represents sectors such as agriculture, transportation, and industry. Our water experience has sought to build institutions that fall across the matrix as they seek to allocate and value water along with establishing and maintaining rights. These institutions are private as well as public and are testimony to great variance in our understanding of what subsidiary means in water resources.

Much of the professional water resources literature has really examined one sector within a jurisdiction or the vertical space across sectors but within principle and subsidiary jurisdictions. This can be seen in the evolution of water management from single purpose to multipurpose procedures. California's water banking and the call by the World Bank for cross-sectoral stakeholder participation in developing water strategies are two recent examples of efforts in this vertical space. To varying degrees, this space is characterized by laws, sanctions, and compliance.

In looking horizontally across sectors we are often faced with weak laws and little enforcement. Early interjurisdictional water institutions grew out of specific sectoral needs, for example in transportation. Many such institutions have gradually expanded their authorities to other sectors. However, we have tended to fund both international and domestic water resources sectorally, thus pitting sectors (technically deformed interests) against jurisdictional logic, which manifests itself in arguments over what is political and technical. In this search, water has been treated as an end and as a means. In truth it is both. When water appears plentiful it is easier to think of it as a means. In arid areas this is less likely and water is more likely to become an organizing principle for society. Indeed, there are those who argue that the rise and fall of many civilizations can be traced to their social organization and management of water.

If thought of as a means, it is easy to see water as a factor of production and in utilitarian terms. But as an end water often takes on a sanctity and value beyond utilitarian exchange. Indeed, the three main religions of the West – Christianity, Judaism, and Islam – were born in the arid Middle East environment and water is central to the liturgy of each.

Clearly there is a balance. But the point of balance will differ throughout the world. If left unexamined, value assumptions embedded in models of water institutions of humid areas can be disruptive for arid areas.

Techniques and institutions will vary for different sections of the figure. For example, water markets have long existed in sub-jurisdictions within one sector but they are modified as they move out to multi-sector use. Our current search for water institutions is being carried out in the context of increased demands for water even in humid areas.

Transboundary versus international. Seeking interjurisdictional and intersectoral water institutions inevitably lead us to transboundary and international institutions. Transboundary refers to water institutions that cross jurisdictional boundaries, whether inside a country or among countries. In this sense international becomes a theoretical subset of transboundary – albeit, potentially the most significant. Much of the water and security focus is on the international and the potential for large-scale violence. However, if we look only to the international transboundary experience for institutional models we cut ourselves off from some rich historical experiences.

Transboundary institutions seek to deal with the same theoretical problem, integrating uses by the natural route of a river that crosses human jurisdictional boundaries. Looking in this area opens a rich history (database) of organizational relationships and means and ends to cooperation. It expands creative models and

possibilities for negotiations and also provides insight into the procedures that have worked and places them in a historical context. This focus also shows the historic role of water in building community as opposed to causing war. But most important of all, looking at possibilities reflected in transboundary institutions could help us think beyond the moment and incremental reactions to the immediate crisis to some future possibilities that parties can see as a goal or something to move toward.

Transboundary institutions can tangibly demonstrate the confluence of the goals of IWRM and those of water conflict management and security. They help us look to multiple objective planning, optimization, increasing the bargaining arena, and trade-off and options. They also provide keys as to how the broad epistemic water community can be useful. Most importantly they can show how to motivate parties to focus on generating benefits rather than only on allocating flows. Transboundary institutional models relate directly to the goals of institutional reform and better capture how the complex web of internal and external interests functions.

Means of Negotiating Security through Transboundary Institutions: Going Beyond Helsinki

The means for negotiating water agreements and security is more than the law. The modern era of international water law began after the First World War. Since then, a variety of fora of legal experts have developed numerous principles and guidelines. The most important of these have been the Helsinki Rules of 1966. Indeed, the International Law Commission (ILC) processes of drafting laws (over a period of twenty-five years) produced results similar in many respects to the Helsinki principles. The Helsinki principles themselves have been used once, in the Mekong Commission, to draft transboundary water agreements. Just as within nations, the major objections to these principles usually revolve around the river basin idea, which impinges on sovereign rights.

All of these principles deal primarily with the rights and responsibilities of states, and rights-based approaches are inherently conservative. They are not well suited to deal with one of the overriding sources of current water conflict in developed countries – the fact that demographic changes have changed current uses and demands in ways not encoded in laws establishing operating rules and projects. Thus reapportionment of existing systems of allocations and projects become stalemated in a morass of legal rights issues, forcing even domestic courts to direct parties to negotiate rather than litigate.

Nevertheless, the long International Law Commission deliberations, the Helsinki rules, the International Law Association's deliberations, the recent convention (based on the ILC deliberations) passed by the UN General Assembly and now undergoing the processes of ratification have produced some sound principles for non-navigational uses of international watercourses.

In summary they call for:

- equitable and reasonable use
- obligation not to cause appreciable harm
- general obligation to cooperate
- regular exchange of data and information
- looking at relations among users.

These are commonly acceptable (interactive) principles. Indeed, lenders and donors are using them more frequently, especially the obligation to inform. However, they present operational problems. For example, which prevails when "equitable use" conflicts with the obligation not to cause "appreciable harm"? Upstream states will usually emphasize "equitable use" since this gives great weight to current needs. Downstream states will emphasize appreciable harm (termed in the past "significant

harm”) because this gives great weight to historical or pre-existing conditions. What is appreciable harm? In short, one could argue that the principles simply encode rather than unlock the upstream–downstream conflicts. In addition, what are the standards of responsibility for a breach of principles? What should we do when there is no internationally recognized legislation and no compulsory enforcement or jurisdiction?

The cynical view is that the principles do not carry sanctions or means of enforcement so they really are irrelevant. Indeed, the behavior of the World Court supports this to a degree. The court has only ruled on one case dealing with freshwater management: the Gabcakova dam on the Danube. Essentially, the court told the Hungarians and the Slovaks that they were both in the wrong and should go back and negotiate. A more realistic view is that these principles provide a non-native framework for negotiating and building cooperative transboundary treaties and institutional arrangements. In this sense the legal principles can serve to focus debate and provide a baseline for discussions.

Whether or not one feels these principles are necessary, they are not sufficient to manage transboundary waters. Preventing disputes and creating incentives to cooperate are the keys, especially in a world without sanctions. In addition to the legal fields, we should look to and employ concepts from fields of water resources management and institution building, international relations, and the theory and process of conflict management, resolution, and collaboration.

For example, the field of “alternative dispute resolution” (ADR) has brought new insights to negotiation and bargaining. The field has added much to the theory and practice of assisted negotiations, facilitation, and mediation. It has added practical tools to diagnose the causes of conflict and relate diagnosis to ADR techniques. The ADR field has created a new language of interest-based bargaining, and many of these insights have arisen from environmental and natural resources cases. But while the field speaks of anticipating and avoiding conflict, it has much less to say about long-term institution building and structural change based on fundamental value change driving the behavior of water resources managers. The point is that much can be gained by mixing the lessons from these fields.

Social scientists say that institutions are routinized patterns of behavior creating stable expectations over time. These patterns are driven by values that are often latent and unexamined. Water resources institutions are being transformed by a profound change in values. Bringing new values and their attendant claims to bear on water institutions means a long-term shift in patterns of behavior of water resources managers. Water resource institutions also go to the heart of our changing notions of subsidiarity. Subsidiarity is defined as: “the principle that none of the polity’s tasks should be assigned to a body larger than the smallest that can satisfactorily perform it.”

Building water resources institutions for collaboration depends on how we see the principle of subsidiarity at work in water resources management. Building water resources institutions is also directly related to capacity building and governance. The most important factors in building cross-jurisdictional and sectoral institutions are creating the will and incentives to cooperate.

Procedures for collaboration and dispute management can be placed on a continuum of gradually more directive initiatives by the parties toward increased involvement and interventions by third parties that provide various types of resolution assistance. In Figure 25, point A represents what some affectionately call the “hot tub” approach. That is, we all jump into the hot tub and somehow agree. Point B represents the opposite extreme; that is, we go to war or use a highly adversarial approach. There are numerous possibilities between these points. The left of the continuum covers unassisted procedures, the middle covers assisted procedures, and the right, third-party decision making procedures. Most of the procedures have some elements of relationship building, procedural assistance, substantive assistance, or

advice-giving as a means of facilitating resolution, but they differ significantly in degree and emphasis.

As we move from point A to point B, we gradually give over the power and authority to settle to outside parties. A dividing line, point C, roughly two-thirds from A to B, shows that point at which power to resolve disputes moves out of the hands of the disputants and into the hands of an outside party.

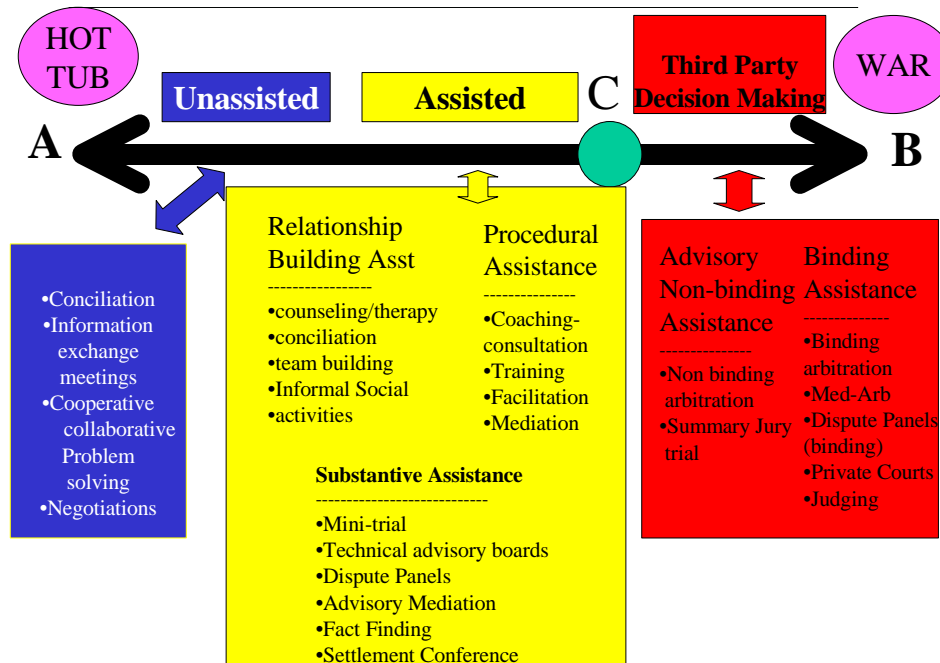


Figure 25. A continuum of alternative dispute resolution techniques

This is a critical distinction. Fundamentally different relationships and communication patterns are established by procedures to the right as compared with those to the left of point C. With third-party decision making or judging, the primary communication pattern is between parties and the arbiter, panel, or judge. Each party presents a case to the arbiter, who decides. This pattern holds whether the procedure is binding or not. With assisted procedures, the facilitator and/or mediator seek to encourage a primary and direct communication pattern between the parties. In this way, the parties can jointly diagnose problems, create alternatives, and own agreements.

Though individuals can undertake integrative bargaining unassisted, as the number of stakeholders in water resources grows, the issues become more complex, resources dwindle, and third-party or neutral party assistance is often needed. Few evaluations exist of interest-based negotiations used in water resources. They show how shared interests (which seem obvious after agreement) are hard for parties to discover during negotiations without process assistance. For example, developers, oil companies, and environmentalists discovered that they shared interests of time and money in wetland use conflicts in the southern United States. Developers whose positions were to build unconstrained condominiums or to do offshore drilling saw that stabilizing building permits over five-year periods could mean assured profit; so too with exploratory oil drilling in the Gulf Coast. Uncertainty of project stoppage was reduced. Environmentalists, whose position was that not another inch of wetland would be used or another estuary endangered, saw that a stabilized permit situation would free their scarce resources, time, and money, which could be thrown into other priority fights. Though at first skeptical, parties used assisted integrative bargaining to jointly understand their shared interests and reach agreements that allowed them to preserve their values and integrity.

The major premise of these procedures is that by separating the process and the content of dialog we can better manage the discussions and promote agreement. This separation of process and content is what leads to the use of third parties, sometimes called "interveners." These third-party facilitators or mediators become caretakers of the process of dialog in the disputes. It should be noted that some authors have questioned such assumptions because they reflect an "underlying Western bias."

Much of the dispute management literature encourages the use of procedures to the left of point C. These procedures, whether done as planning or regulating, emphasize the anticipation and prevention of high-conflict situations. In the United States, growing experiences of litigation, threat of litigation, and processes to the right of point C are themselves becoming incentives to move to the techniques on the left. Reviews of hundreds of international mediations describe similar experience. Bercovitch finds that mediations of high-intensity international conflicts are more effective when they follow, rather than precede, tests of strength and that the best time to enter is at points of stalemate and/or exhaustion. Indeed, the willingness to move to the left of Point C is an indicator of social learning spawned by experience of conflict management.

Procedures to the left ultimately allow parties more control over the outcome. These procedures enhance the probability that parties will be able to break through positions and negotiate around interests. The price for these possibilities, direct dialog, is more frequently being assessed as less painful than the expected cost of highly adversarial battles.

Mediation developed from areas where the numbers of parties and issues are limited, such as in labor management negotiations and some international disputes. Facilitation developed from multi-issue/multiparty situations such as resource controversies; however, with the growing practice of environmental mediation the terms and practice overlap. Facilitators are caretakers to the process. While they do not have to be outsiders, they must remain impartial to the substance of the discussion. They suggest ways to structure dialog, help stakeholders listen to each other, and encourage creative thinking.

Mediators are generally outsiders to the stakeholders. Like a facilitator, a mediator primarily makes procedural suggestions but occasionally, through caucuses or other means, may suggest substantive options. Some mediators are more "orchestrators" and set the stage for bargaining. Others are more "deal-makers" and are more involved in forging the details of a settlement. Studies of mediations in highly violent international conflicts find that the mediators' active participation in substance and procedure is "useful." Mediation can be used in more polarized situations than can facilitation to break impasse and to initiate dialog. A study by Bercovitch shows that from 1816 to 1960, mediations were attempted, on average, every four and a half months in highly polarized international situations. Indeed, recent reviews of hundreds of international mediations describe a high frequency and high effectiveness of the procedure. Interestingly, mediation has been more successful in security disputes than in primarily ideological and independence disputes, and thus will probably become even more important as we seek water security.

Once parties begin to prepare and posture as if they move to point B, they begin an inertia that could create the reality – adversarial battle – they otherwise seek to avoid. Legal rules of evidence and disclosure separate rather than integrate information sharing. Substantive and technical experts, on all sides of the problem, move to the background and are further separated. Fortunes are spent on information gathering to get to a point – litigation – where lawyers spend their time keeping other lawyers from learning what they know.

Similar scenarios occur internationally. Analysts have documented a spiraling of conflict that occurs as parties posture and caricature. Often substantive experts are

separated and move to the background behind the political and legal. In tracing the Del Plata Basin negotiations among Argentina, Brazil, Paraguay, Bolivia, and Uruguay, Cano describes how negotiation based too much on politics can drive the technical into the background and reduce the chance for success. In the end, the senior technical professionals negotiated most signed agreements. United Nations reviews of managing international water resources echo the same point and emphasize the collaboration of experts.

It could be argued that the failure of the recent Salmon Summit in the United States Pacific Northwest was caused, in part, by its being convened and driven too clearly by the political. Experts in environmental mediation were used for procedural assistance to bring together representation of a variety of interests. The operating agencies, especially the Corps, became of the focus of controversy. Had the operating agencies convened (with political participation) the sessions and offered the commitment to operate according to a negotiated agreement if one emerged, the results might have been different. Such an approach was recently used successfully to mediate operations of the Truman Dam on the Missouri River.⁴³

Procedures to the left of point C have evolved in multi-party and multi-issue situations. While procedures to the right work better for ripened and polarized disputes, they have limited capacity to deal with multi-party and multi-issue disputes and to encourage the generation of creative options. This is important to the water field, where the need is clearly for multi-objective and multi-party agreements. For example, it is also important to the policy of international organizations such as the World Bank, which, through OD 7.50 tends to emphasize variations of procedures to the right of the continuum, such as expert boards.

Expert panels or commissions have been common in the water resources field. For example there are technical committees for the Nile, the Euphrates, the Indus, and other rivers. Technical committees have been central to the working of the International Joint Commission and the International Boundary Waters Commission and a variety of river basin commissions in the United States and Canada.

Staying on the left of the continuum, water banking (as done in California and now in Texas) can be seen as institutional mediation or facilitation combined with market approaches. A mediating state institution buys water from agriculture at a set price and sells it to other users who put a higher value on the water. As a mediating institution the Bank can anticipate and manage third-party impacts and transaction cost while still relying on the market.

New software technologies are creating interesting combinations of technical fact-finding and facilitation. Software that allows technical and non-technical personnel to jointly build models, in real time, is now being used in the United States for drought contingency planning. These simulations are inexpensive and avoid the often unnecessary expenses of creating huge models that only one or two people can manipulate, and which often contribute only marginally to decision making. They create a sense of ownership in the algorithm, which is used to generate and test sensitivity of alternatives.

Looking to the right of point C, the United States has experience beyond court and judicial decisions. For example, state water masters and water engineers can exercise considerable power over allocating water in zones of the United States

Since the 1970s, the UN and other international organizations have recognized the need for looking to the left of point C, while the trend is still to emphasize techniques to the right. The UN *Review of International Institutions for Managing International Water Resources* called for use of conciliation, mediation, and procedures left of point C. However, the documentation of the same study reveals that "many basin organizations and treaties have a variety of provisions for techniques to the right of point C, such as expert technical panels and forms of arbitration and little elaboration of those to the left." A recent Norwegian analysis of

international environment conflict resolution finds “most legal instruments relating to environment lack formal compulsory dispute resolution settlement mechanisms.”

However, this may be changing. Article 33 of the recent draft of the International Law Association (ILA), which deals with dispute resolution, encourages fact-finding commissions composed of one member from each affected state and one member from outside affected states. This is similar to the successful model of disputes review boards used on construction projects throughout the United States. It also suggests a process of disputes management: start with fact-finding, then move to conciliation, then mediation, and finally to arbitration and judicial settlement.

The search for cooperation over water in the Middle East has included approaches across the continuum. The current peace process includes traditional bilateral negotiations and multilateral negotiations on technical areas, of which water is one. The purpose of the multilaterals is to help professionals explore ideas and to support the bilaterals.

The early Johnston negotiations can be seen as a mediation effort by a third party with technical competence and resources. Even throughout acrimonious periods, informal “picnic table” talks proceeded. The current multilaterals have used a variety of relationship-building and procedural assistance measures. Study tours, joint information seminars, and other research by a variety of donors and lenders have dramatically enhanced the dialog. Both these tracks have been surrounded by numerous other second-track dialogs and academic related fora. All of these are activities that fall to the left of point C on the continuum. They are providing an arena for expanded negotiation and even an outlet to keep the peace process moving.

But in the end, incentives become critical. In the Indus the possibility of war (point B on the continuum) in the subcontinent was real enough to motivate use of mediation. While some argue the Middle East is another case, not all cases are so dramatic. However, the awareness of development benefits forgone and damage sustained (such as environmental) because of lack of agreements may become an incentive. This is clearly reflected in growing attempts at multipurpose water agreements.

As the Oslo report notes, development banks and financial institutions will play increasingly important roles in prevention of conflict, “Access to capital will require review by international financial organizations, which will generate critical information about transboundary environmental and operational effects of projects.” This is particularly true regarding rivers and water resources. The early participation of stakeholders, both intra- and international, will become a necessity for presenting workable plans. Thus, the leverage of financial institutions can become an incentive for parties to use procedures on the left of the continuum.

The intersectoral dialog and three-way agreement process in California is one of the more dramatic illustrations of attempts to participate, collaborate, and prevent further highly adversarial battles over water allocation. Ultimately the stakes are the reapportionment of water use amongst environmental, agricultural, and urban interests.

Even with a sophisticated system of water rights, laws, technical expertise, and articulate public interest groups, California water development has been at an impasse. Going to war, going to court, and all-out positional bargaining have not worked. The recent drought, coupled with the impasse, raised the stakes of failing to agree. The three-way dialog was developed to look at alternative water futures and to develop a consensus-based framework for future development. It explicitly encourages interest-based negotiation leading to joint solutions.

Similar patterns are developing on the Missouri River and even in humid areas of the United States, for example between Georgia, Florida, and Alabama. Recently, formal mediation was used to reach agreement on the operations of the Truman Dam on the Missouri. The Truman Dam had generated controversy since it went on-line in

1981. Hydropower interests sought increased power generation and were being thwarted by environmental interests seeking fish and wildlife protection, and by landowners seeking to reduce downstream effects of pool fluctuation. The Corps members authorized to operate the project were challenged no matter what approach they took. Therefore, they convened a mediation process that involved representations of all the stakeholders, including senior political officials. Once again, part of the incentive was impasse. Another part was the possibility of designing an agreement. The mediator designed an interest-based negotiation, which produced an agreement that no one party had thought of prior to the process. It included new hydropower units and preservations of in-stream values.

Donors and lenders have adopted procedures both to the right and left of point C as the continuum of procedures. For example, in the early 1990s, the World Bank formed its first expert board under OD 7.50 to examine the international aspect of a dam project involving Somalia and Ethiopia. Neither country expressed much procedural or psychological satisfaction with the process, which is often the case with procedures to the right of the continuum. However, on the Komati, between Swaziland and RSA, and on the Orange, between Lesotho and RSA, the Bank adopted a more advisory role, similar to conciliation and team-building procedures on the left of continuum. Using UNDP financing, the Bank assisted Swaziland in preparation of its plans. The process has resulted in two draft treaties now undergoing ratification. One would set up a technical advisory board, and the other, cost-sharing arrangements for two projects. On the Lesotho Highlands Water Treaty, an agreement was reached between RSA and Lesotho to create two national authorities and a permanent Joint Technical Commission to build and operate a multipurpose water project. While they agreed on how to define benefits, the lack of hydrological data made it difficult to agree on annual yields of the project, and so a contingent agreement was used. The parties agreed on the data that would be collected, who would collect it, how to resolve disputes about the data, and how the benefit of the project would be calculated.

Substantive assistance and third-party judging techniques are probably closest to the traditional role and self-image of many donors and lenders. After all, as lenders they must evaluate according to some criteria. Also, institutions such as the Bank are centers of expertise. However, as the Orange and Komati basins show, more than these techniques are likely to be needed. Water resources allocation is likely to demand the use of facilitation and mediation techniques, and the questions will be how and who.

Do the substantive expert roles (and images) conflict with potential process roles for donors and lenders? The multi-party/multi-issue facilitating approach says that reaching agreement to a point becomes more important than the substantive terms of agreement. It is not necessary to abandon all notions of objectivity to play the role. However, in such roles lenders and donors must become less deterministic. They will need to accept the process and the possibility of agreements that they would not choose by traditional methods as long as the agreement is within some broadly defined professional bounds. The question is, what rationality will determine what bounds? Typically, professional engineers, lawyers, economists, and others begin with narrow notions of bounds, but given the inherent uncertainties of water management, will ultimately admit that the bounds are usually far wider and less clearly determined than originally thought. The water resources field has traditionally resisted placing bounds of probability on BCR ratios and on the projected accruing of those benefits

The willingness to be flexible and accept agreements crafted by the parties can be enough to legitimize a procedural assistance role. It may even encourage subsequent substantive assistance in response to the needs of parties.

Even if donors and lenders adopted the flexibility described above where situations called for it, do their development objectives (or interests) conflict with the

capacity to either catalyze or perform facilitation and mediation? Process theory is not built on the idea of value-free objectivity, but rather on the social/psychological notion of role clarification and the process and content distinction.

The reason process assistance can work is that it liberates parties to engage in content without simultaneous procedural posturing. The process assistance has a value bias – trying to help the parties reach agreements. There is a value that agreement would be good to achieve. Where donors and lenders are advocates for a particular substantive agreement or alternative project configurations, it is hard to effectively play a procedural assistance role.

To the degree that they feel agreements are needed but are open to a variety of alternative approaches, including the “without project” option, they can play an assistance role. Indeed, in the Indus, once the Bank moved away from its preferred option to facilitating joint options among the parties, its assistance role became more effective.

We usually think of moving from the left to the right of continuum. But the Indus experience can be seen as a movement from right to left. The first intervention for arbitration was rejected. Then the Bank intervened and offered its preferred solution. This was both a procedural and a substantive role, but also had strong elements of a third-party expert-judging role – to the right of point C. After parties rejected this initial solution, the Bank adopted clearer procedural and substantive assistance roles – to the left of point C. India and Pakistan became more engaged in the creation of options. Once an agreed solution was produced, the Bank expanded its procedural assistance role and worked with other funding sources to facilitate the implementation of the agreements.

The fact that the Bank had financial resources and the capacity to generate resources was crucial to the intervention. In studying violent international conflict, Zartman and others make the same point: effective mediation in international relations is greatly dependent on the ability to command resources. Other international water resources cases confirm this experience. For example, UNEP funds were used as incentives for reluctant countries to participate in developing the Mediterranean Action Plan 2 and to help establish a working group of experts to develop the Zambezi Action Plan (ZACPLAN). The Vatican used resources of moral authority and confidentiality to promote agreement on the Beagle Channel. The Italians, through ITALCONSULT, brought resources to study dangers of unconditional national projects (or BATNAS) for riparians in the Niger Basin, which provided a common reference and substantive basis for subsequent agreements. On the Nam Ngum project, the United Nations and other donor financing provided a feasibility study and mobilized construction grants among adversarial riparians for mutually beneficial endeavors.⁴⁴

Ends: Transboundary Institution Building

A CONTINUUM OF OPTIONS

Figure 26 describes a variety of institutional mechanisms and a continuum of options ranging from low allocative power/authority to high allocative power/authority. To the left of the continuum is represented allocative action based solely on individual national autonomy. To the right, the continuum represents regional, comprehensive authority for decisions in the water resources field. Moving from individual autonomy towards regional authority, a variety of approaches are noted: individual studies, regional study centers, treaties, conventions and river basin authorities up to comprehensive regional authority.

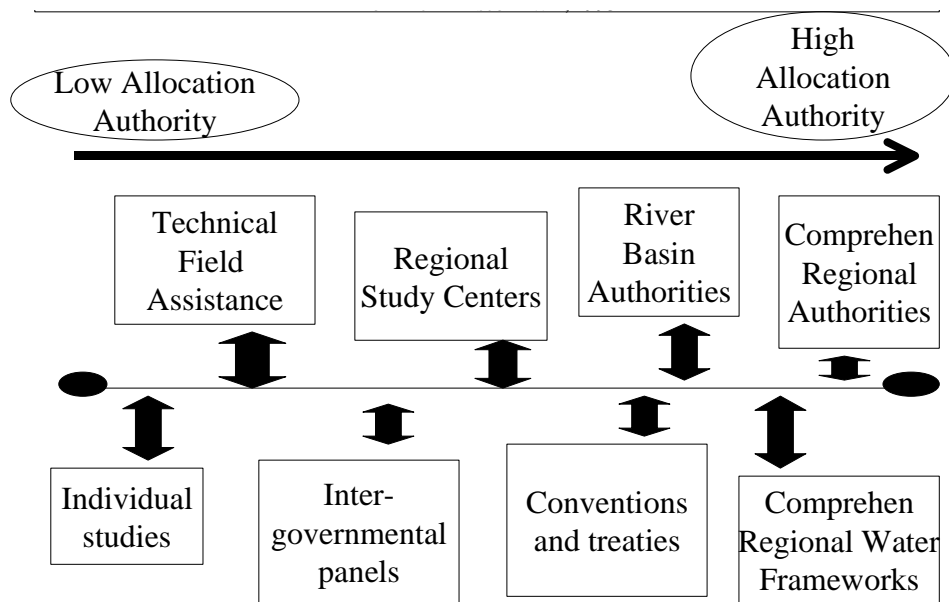


Figure 26. Power and authority of different institutional mechanisms

Few comprehensive regional authorities have come into existence. The Tennessee Valley Authority is one outstanding example. On the other hand, a variety of river basin authorities have existed, and do exist, along with treaties and numerous regional centers. The allocative power/authority of water resource agencies can also be thought of as moving from low levels of planning to higher levels of allocation, operation, and revenue generation. Regional and comprehensive international transboundary water basin authorities, while they exist, tend to be primarily concerned with planning. Those empowered with higher levels of allocative power/authority tend to focus on single purposes such as navigation. Few comprehensive authorities that cross jurisdictional boundaries exist for allocation and operating, generally.

McCaffrey suggests a similar continuum, which uses the notion of regular meetings at the left end to high level of integration of water management functions at the right end. In this sense, organizations such as the Permanent Indus Commission and the Permanent Water Commission for Namibia and South Africa would be considered to the left on the continuum. They have low allocative power and basically run regular consultative meetings. In the middle areas of the continuums one could place the International Joint Commission between Canada and the United States (IJC) and the International Boundary and Water Commission between the United States and Mexico (IBWC). Both have dedicated but separate staffs. And while their powers differ both have important powers that influence individual and joint decisions in the United States and Canada. The UC would probably be considered to left of the middle and the IBWC to the right of the middle of the continuum. Further to the right of the middle one could place organizations such as the Senegal River Organization (OMVS), the Mekong River Commission, the Commission for the Protection of the Rhine against Pollution, and the Elbe Commission. In the end however, it is the degree of joint functions such as joint diagnosis, joint planning, joint operations, and joint monitoring which really determines the level of integration.

Actually, even river basin authorities and organizations, based on the authority or degree of joint functions they possess, would fall all along such a continuum. For example, OMVS, IBWC, the Niger Basin Authority, and Kagera Basin Organization have some authority to plan development and some degree of authority to execute the plans. They would fall to the right of the middle but far short of a Tennessee Valley Authority type of regional organization. Others like the Lake Chad Basin

Commission, which are limited to technical committees which gather data and information and make but do not implement plans, would usually fall in the center or to the left of center. Other organizations such as IJC, the Intergovernmental Co-ordinating Committee of River Plate Basin, and the Elbe commission, which gather technical data and have limited authority to make plans and recommendations, would be to the right of center.⁴⁵ But even an organization limited to gathering data and information can achieve a great deal of authority and influence over decisions to allocate and implement, as on the Potomac River (described below).

As water professionals have begun to understand water flows in the light of increasing economic development, interdependence, sustainability, and population growth, the realities of the water resource push us from the left to the right of this continuum. On the other hand, legitimate and important political realities generally resist such regional notions driven by natural resource conditions.

There is great difficulty in achieving greater integration and powerful inertia toward what Waterbury calls unilateralism in transboundary waters. Nevertheless, our knowledge of water resources, and our sense of increasing demands on water, continue pushing us towards a vision of developing ways and means for comprehensive analysis and operation in order to better integrate among uses and across jurisdictions. As we begin to reach the limits of use, the flexibility of our organizations to respond to water flow fluctuations becomes crucial. This flexibility is most needed to provide new forums for dealing with political trade-offs that cross both time and space. Nitze also notes that flexibility has been central to negotiating international environmental regimes.

To many water professional the realities of water flows in the light of increasing economic development, interdependence, sustainability, and population growth, seem to push us from the left to the right of this continuum. On the other hand, legitimate and important political realities generally resist such regional water management notions.

As we begin to reach the limits of use, the flexibility of our organizations to respond to water flow fluctuation and to accommodate future uses becomes crucial. Indeed, flexibility has been central to recent successful negotiations of international environmental regimes.

CRITERIA FOR DESIGNING TRANSBOUNDARY INSTITUTIONS

Framework: Transboundary organization for cooperation and security can be seen at three levels: the macro and cross-sectoral; the cross-sectoral and multipurpose; and the implementing level. At the macro level we are concerned with establishing basic allocation principles. Usually this entails a broad public sector lead. At this level broad macro economic goals and social goals are set. The second level is what we most frequently think of as the river basin or watershed level. Here we are integrating water uses into a holistic water system. The third implementing level is project focused and includes a variety of public and private partnerships. The non-public roles are much greater at this level than the others.

Some principles for design: Among design principles are the following.

1. Move beyond impact fixation to incorporating environmental and other values into creating alternatives, formulating options, and evaluating options and impact mitigation.
2. Bring implementation and operational interests into the formulation process.
3. Give preference to operating at the lowest level possible and creating self-sustaining organizations.
4. Explicitly manage the "gray" area between technical and political.

5. Facilitate explicit negotiations among long-term visions and short-term efficiencies.
6. Help place water as driver, or first constraint, in cross-sectoral strategies and negotiations.
7. Open and transparent rules of behavior.
8. Promote participation of those likely to be impacted as well as disbursed beneficiaries.
9. Foster norms of collaborative behavior and move beyond reductionist expertise.
10. Better align internal cultural values of water organizations to those external values of collaboration and participation.
11. Facilitate the integration of upstream–downstream and ground and surface uses.
12. Consider political viability – the possible and transformative.
13. Let function dictate structure.
14. Create mechanisms that create, disseminate, and foster regional visions or watershed or basin level visions.
15. Utilize process orientation.
16. Establish mechanisms for management and resolving disputes.
17. Separate administrative functions and fundamental policy issues and design mechanisms for accountability.
18. Promote flexibility and creativity.

Design criteria: Experience and studies are beginning to show that the most important dimensions to consider in designing transboundary water institutions are functions and responsibilities; membership and participation; operating rules; authorities; legal basis and structures; and financing methods.

1. *Functions* can be thought of as soft or hard. The soft would include responsibilities such as research, monitoring, advising, advocacy, and regional focused data and information generation. Harder functions include items such as assuming and overseeing other functions and directing other functions, power to modify and integrate policies of others, the power to allocate waters, and authority and procedures to mediate conflicts. Most transboundary organizations start with softer functions and some expand into harder functions.
2. *Membership* must consider what jurisdiction, agencies, and interests must be represented. Realistic power sharing and relative balance of agencies and jurisdiction must be achieved. Also the type of leaders, technical versus political versus administrative, must be decided. What will be the roles of NGOs and interest groups? Will there be a technical staff and what will they do?
3. The *operating rules* must first confront the issue of whether the decision rule is unanimity–consensus versus majority rule or other. Consensus relies on negotiations while majority rule supports coalition building. How will decision rule affect political aspects of creating the organization? What are the required authorities and resources to assure the rules are not bypassed. Parties must be assured equal access to information. Most importantly, what will they be deciding about, actual allocations, advising, or other matters?
4. Regarding *authorities*, what authority is needed to accomplish functions? Existing jurisdictions are reluctant to delegate authority to new organizations. Lack of formal authority means organizations will perform only soft functions. They need to generally avoid negative powers such as taxing or regulating. They should try and appeal to positive powers such as creating new markets, resolving disputes, implementing agreements, responding to emergencies, and, streamlining permitting, other opportunities. How much delegation of power is to be done in a political environment?

5. The *legal* basis can range from informal to the formal. It can be based on agreements, treaties, compacts, or others. What does authority and membership demand?
6. Probably the most important dimension to longevity is *financing*. This depends on situations. It can be direct appropriations. However, reliance on one or a few outside sources can make it vulnerable. Voluntary or mandated personal and agency contributions can also be sought. These help build a sense of accountability but are really ancillary. The most fruitful avenue is self-supporting through methods such as abstraction fees, fines, user fees, bonds, and taxes on users. This is the most stable but politically the most difficult. It also tends to bias the organization functions toward vendible services such as hydropower and away from integration. It is also necessary to assess how much is needed. How will funding sources relate to how the money is spent.

The social realities of fragmentation must be considered. Is there solid support within society for the organization and where is it? What is the status of the system of rights? Another critical element across the successful cases is the emergence of competent and trusted technical staff. Overall, does the design allow for evolution and change?

5.1.4. Summary

Lessons in Building Transboundary Institutions

There are many models for transboundary institutions, and design ultimately depends on conditions. There is the critical role of precipitating events or recurrent conditions – usually floods and droughts. However, even in systems with established rights and strong regulatory and legal framework, it takes time.

Incentives are the key. An intervener with power and resources is often the best incentive to build toward cooperation, but incentives work better than the threat of force.

Support needs to come from the bottom and be *sui generis*. There needs to be real participation of stakeholders. Top-down does not work.

The stability of funding is crucial, especially in the early stages of building such transboundary organizations. There needs to be some independence.

Stable access to rights is critical. The technical staff needs to evolve a growing trust relationship based on performance. Along with this the development of shared information and databases are important.

Most of all, transboundary organizations evolve. They usually do not emerge on the scene in full-blown packages. Thus they should be seen as a secure forum for dialog and growth. They are really the beginning of a new relationship more than a solidified final relationship. The recent case of the Israeli–Jordanian dispute over water quality after the signed treaty is a good example. It is easy to say many of the contingencies such as water quality should have been explicit in the treaty. However, the important point is that there was a treaty and the parties had a secure framework within which to talk.

Success can depend on the degree to which negotiations revolve around benefits versus allocation of flows. Joint diagnosis, joint creation of options, and joint implementation is critical. We must recognize the social reality of fragmentation and work with it.

Suggested Actions

If transboundary water institutions are critical to water security then the world water community needs to take action in that direction. Such as:

- Develop funding and supporting regional transboundary institutions for water.
- Build on indigenous traditions of collaboration and dispute management.
- Lenders and donors encourage assessments of cost to parties of no water agreements.
- Support early participation of stakeholders in intersectoral water strategies and assessments.
- Lenders and donors need to go beyond the emphasis on expert panels and interventions and encourage more early use of facilitation and mediation.
- Support the development of technology and interactive support tools.
- Support public access databases in countries seeking loans or aid.
- Encourage donors and lenders to do quantified vulnerability analysis of present and expected water-related investment performance in situations of potential scarcity and conflict.
- Encourage lenders and donors to become facilitators with design solutions, rather than simply evaluators of design solutions.
- Support water sector reforms within countries.
- Support stakeholder participation within all affected countries on proposed transboundary projects.
- Support early funding of upfront costs for shared visions and strategic views of rivers.

5.1.5. Conclusions

Increased interdependency around river basins and watersheds is the key to humanity's water security. It decreases real vulnerabilities to exigencies of nature and deals directly with the primordial fears and anxieties that push us to seek the security in the first instance and enhances economic development.

Building transboundary institutions is the key work of achieving this view of security. It is really a work of integration on a social level akin to our personal lifelong work or psychological search for integration and security.

This institutional activity, like all searches for integration – personal as well as social – is primarily a creative process of design, of discovery of purpose, and of work toward joint or shared ends/purposes. It is not found in preservation, or maintaining the *status quo* – that is a recipe for stunting growth and cutting us off from integration and reflective learning. In short, our task is really one of co-design of our ecology, of choosing what it should be, and of being flexible enough to accept feedback and change as we not only adapt but (as Jacob Bronowski has observed) also make our home.

6. EXERCISES

6.1. EXERCISE: VALUES LINE UP

(from Creighton and Delli Priscolli, PITIP course, IWR, Fr Belvior, Va. 2003)

Instructions

- Ask participants to get up and actually form a line, which will serve as a continuum.
- Once the participants are up, ask the question “where do you stand?” and ask them to go that point of the line that they feel fits them best.
- After they get to their various points on the line, ask them to check with those around them by asking “why” they are at that point. In this way they can be sure that they are in the right place.
- Then ask participants to reflect on the line.
- Ask participants from either end to state why they are there and move to other spots on the line. It is usually only necessary to ask a few participants from various points on the line.
- The underlying values begin to become clear along with the trade-offs among them.
- Frequently participants at different points on the line will appeal to the same values – such as safety. This is also worth discussing.

Question (others could be used)

- It is 2005, and there is now scientific consensus that secondary smoking is a significant cause of cancer.
- You are all the staff of a regulatory agency that has to act once it is known that a substance causes cancer.
- Where do you stand? Please line up at the most appropriate place on the line.

Where do you stand?

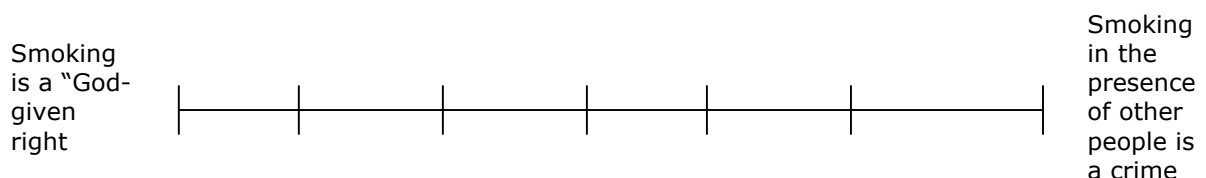


Figure 27. Where do you stand?

Debriefing the Exercise

- The instructions made clear that the science was conclusive: secondary smoking causes cancer.
- There was not a disagreement on a technical basis, the disagreement was about values.

Consider Figures 28 and 29 on the next page.

TWO VALUES CONTINUA

PERSONAL
FREEDOM

PUBLIC
WELFARE

GOVERNMENT
IS BEST THAT
GOVERNS
LEAST

GOVERNMENT IS
THE
PROTECTOR OF
PUBLIC HEALTH
& SAFETY

Figure 28. Two values continua

Policies are balance points along
a continuum between two
“goods.”

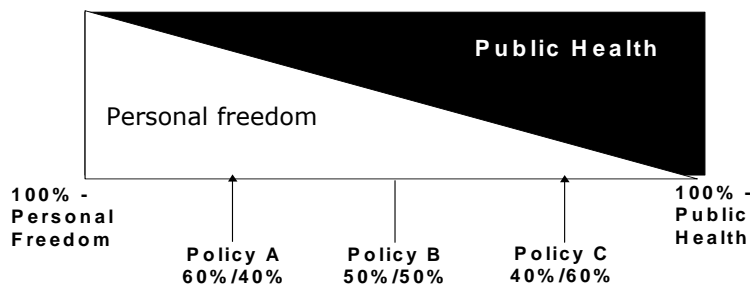


Figure 29. Policies are balance points along a continuum between two goods

6.2. EXERCISE: ACTIVE LISTENING

(from Creighton and Delli Priscolli, PITIP course, IWR, Fr Belvior, Va. 2003)

Instructions

1. The instructor will divide the class into groups of three.
2. Take turns being Sender, Listener, or Coach. Each "turn" should last five to seven minutes.

Sender

Discuss something you have strong feelings about, maybe even mixed emotions, for example, a problem at work, trouble with a teenager, a decision about career direction.

Listener

Listen carefully to the sender. Whenever there is a natural pause, summarize using an active listening response. Do not discuss your reactions, judgments, suggestions, etc. Use only active listening.

Coach

Your job is to watch the Listener, and if the Listener stops using active listening, stop him/her and get him/her back to active listening. If he/she is trying to come up with an active listening response, but having trouble, you can offer a possible active listening response.

3. After each "turn," discuss ("critique") how the Listener did, and what impacts resulted from the use of active listening.

6.3. COMMUNICATION EXERCISE: COMMUNICATING YOUR CONCERNS AS A MEETING LEADER

(from Creighton and Delli Priscolli, PITIP course, IWR, Fr Belvior, Va. 2003)

Purpose

To practice handling meeting situations where the facilitator must communicate his/her concerns or ideas.

Instructions

1. You will be paired with another participant.
2. On the following grid, write what you would say if you were the facilitator – using the model below – to handle the seven circumstances that are listed on the grid.

I feel (ownership) + feeling word + behavioral description

3. Then compare notes with your partner, discussing how best to send your concerns without creating defensiveness, putting anybody down, or seeming unduly controlling.

<i>Situation</i>	<i>Your message</i>
Group has drifted off the agreed-upon topic	
People are not able to complete their comments because of interruptions	
Too many people talking at once	
Comments are exceeding agreed-upon time limits	
Participant's comments are insulting to other participants –	

Situation

Your message

"name-calling"

Group needs to
be reminded of
agenda time
limits

You want to
propose the use
of a technique,
for example,
brainstorming

Notes on Discussion

6.4. EXERCISE: HOW DISPUTES ESCALATE

(from Creighton and Delli Priscolli, PITIP course, IWR, Fr Belvior, Va. 2003)

Purpose

The purpose of this exercise is to identify (1) behaviors that start disputes, and (2) the "lifecycle" of an uninterrupted dispute. To do this, it helps to be able to see the dispute as if one were an observer.

Instructions

You will be assigned to be a member of a team. The assignment for each team is to prepare and present a "skit," lasting five to ten minutes, which shows the beginning and evolution of a dispute. A skit is an often humorous short drama where the roles ("parts") and major events in it are agreed upon by the actors in advance, but the actual words are improvised.

As a team agree upon:

- the subject about which there is a dispute
- the major roles, and who in the team will play them
- the major events that will take place
- how the skit should end.

Be ready to present your skit at _____ a.m.

6.5. NEGOTIATIONS EXERCISE: BUSINESS EGGS

(Source: use with permission of Lorenz Aggens and Associates, Wilmette, Illinois and CDR Associates, Boulder Colorado)

Hand Out the Roles

Ask people to read the role silently and when ready to find another person with a different role (It helps to have the role in different colors).

Give them about fifteen to twenty minutes to negotiate. The instructions are self-explanatory

Instruct them to raise their hand if they have done this before. If "yes," then ask the person to observe but not to participate in one of the negotiations.

Debrief

There are many ways to debrief.

The main illustration is to see if participants got to the interests underlying all the positions and understand that one party needs the shells and the other the yokes.

For those that did, ask how that happened? Who asked the question "Why?"

It is also useful to demonstrate the differences in seeing negotiations as creating value versus claiming value.

One of the best ways to debrief is to ask how participants dealt with the various causes of conflicts, data, values, relationships, and so on.

Dr John W. Brown: Business Eggs Case

You are a Chief Pharmacologist for the ABC Drug Company, an international firm that specializes in drugs to cure rare diseases. Recently there has been a worldwide outbreak of X-Fluoxide. This disease is a communicable illness that carries a high risk of causing fetal abnormalities, both physical and mental.

A worldwide emergency exists. Unless X-Fluoxide is brought under control quickly, there is a high chance that an unacceptably high percentage of an entire generation will be dependent upon their families and society for decades. Economists are predicting that costs would wipe out millions of families and trigger widespread business collapse and unemployment in thousands of consumer industries. Psychologists anticipate that the emotional impact will touch almost every family, with terrible consequences.

Your company has been conducting research on X-Fluoxide and has identified a serum, Agent UO, which will prevent the disease. This serum is produced from the yolk of the eggs of the rare Spotted Ostrich. This bird is found in small numbers in Ontarawan. They lay their eggs once every year and their laying period is this month. The eggs for each year are carefully stored and then sold to gourmet restaurants as thickeners for special soups. The egg supply last year sold at an average price of \$15 per egg.

The only owner of domesticated Spotted Ostriches, and consequently the major supplier, lives in a remote part of Ontarawan. There are rumors that he is a member of the international underworld and involved in narcotics, assassination, and terrorism. You do not think that he knows about this new use for his produce.

The ABC Drug Company will need all 10,000 of this year's production of the Spotted Ostrich eggs in order to meet the projected serum needs worldwide. Half of the serum will be needed in the western hemisphere; one-fifth will be needed for the United States. Your assignment: get as many spotted ostrich eggs as you

can. Your company has authorized you to spend as much as \$505,000 to get this year's crop.

There appears to be competition for the use of spotted ostrich eggs – a chemical manufacturer – called the XYZ Company. (Your company has had past dealings with this firm, and currently has a lawsuit against XYZ for patent infringements.) You have been authorized to compete with the XYZ Company for the produce, and will match their bidding dollar for dollar up to your limit so that you can get 100 percent of the produce.

You are flying to Ontarawan to try to buy the eggs. It makes you angry that one of the real beneficiaries of this conflict will be the underworld. Now, you have discovered that the person in the seat next to you is the agent for the XYZ Company.

You are going to try to convince this person that your need for the produce is so great that your company should get this years crop. If you can protect the interests of the ABC Company you will certainly be named the next President of the company – a job that will pay you five times your present salary.

(Source: Used with permission from Lorenz Aggens and CDR Associates)

Dr Paul E. Smith: Business Eggs Case

You are a the Chief Chemist for the XYZ Chemical Company, a international firm specializing in making pesticides that eliminate insects that are dangerous to agricultural crops. Recently, your representatives from around the world have reported a new outbreak of the Cottermus Moth. This moth can be extremely destructive to all kinds of trees and if left unchecked, can defoliate and kill whole forests within a matter of days. Once thought to be under control and nearing extinction, the Cottermus Moth has suddenly reappeared in large numbers on all forested continents. In two months the larvae will hatch and massive forest destruction will result.

If the forests are defoliated, secondary impacts will be unprecedented soil erosion and the destabilization and loss of water resources. The moth could also move into agricultural lands and cause serious destruction to crops. Corn appears to be especially vulnerable to attacks by the moths.

The only way to stop the moth is to spray infected forests with a special pesticide, Compound UO, which has not been manufactured for several years. Unlike most other pesticides, which are synthetic compounds, the Compound UO is made from the eggshell of the rare Spotted Ostrich, which is found in Ontarawan. These birds are very few in number and lay their eggs only once each year. Their laying period is this month. The eggs for each year are usually stored and then sold to gourmet restaurants as thickeners for special soups. Last year the eggs sold at an average price of \$15 per egg.

The only owner of domesticated Spotted Ostriches lives in a remote part of Ontarawan. There are rumors that he is a member of the international underworld and involved in narcotics, assassination, and terrorism. You do not think that he knows that there will be a new and increased demand for his eggs this year.

As thousands of eggs will be needed to manufacture the pesticide, your company has determined that you will need all 10,000 of this years production. Half of the insecticide will be needed in the western hemisphere; one-fifth will be needed for the United States. Your assignment: get as many of the spotted

ostrich eggs as possible. Your company has authorized you to spend up to \$500,000 to purchase the required eggs. Along with the gourmet restaurants, there appears to be other competition for the eggs. There is a rumor that the ABC Drug Company also wants them. (Your company has had past dealings with this firm and currently has a lawsuit against ABC for patent infringement.) You are concerned that ABC and perhaps other companies might try to outbid you.

You are flying to Ontarawan to try and buy the eggs. It makes you angry that the underworld may be the beneficiary of society's plight. Now you have discovered that the person in the airplane seat next to you is the agent of the ABC Drug Company. You are going to convince this person that your need for the eggs is so great you should get this years crop. If you protect the interest of XYZ, you will surely be named the next President of the company, a job that will pay you five times your present salary.

(Source: Used with permission from Lorenz Aggens and CDR Associates)

6.6. FANTASMIA: PREPARING A PARTICIPATORY STRATEGY FOR A WORLD BANK WATER SECTOR STUDY OF FANTASMIA

(Source: used with permission of Jerome Delli Priscoli, Arlington, priscoli@erosl.com)

Purpose

To practice facilitation skills.

Instructions

You will be assigned to a working group. Select one of the roles on the following pages and play that role in your group. Feel free to draw on your own experience in the exercise.

The group is meeting to design a strategy to do a World Bank Sector Study on water in the country of Fantasmia. In doing this you are being asked to address questions 1–3 below.

The World Bank Task Manager (TM) will introduce the meeting. He or she will briefly state the major concerns in one or two sentences and then explain that a facilitator has been hired to help the group find some kind of an agreed-upon strategy that is participatory, for doing the water sector study for Fantasmia. He or she explains that the facilitator will be neutral and take no positions and that the facilitator's job will be getting the group to work together on some common approach. The hope is that the facilitator will proceed using some of what has been heard so far on the course.

After twenty minutes the instructor will ask you to stop to discuss what has happened. You will be given a form to evaluate the facilitation.

After this discussion, another person will adopt the facilitator role. The old facilitator will adopt the previous role of the new facilitator. The process will continue.

Time permitting, a third round will be done.

Task-Specific Questions

To develop a strategy, which is participatory, you and the group will need to consider the following questions (for this exercise please do questions 1–3):

1. Who are the key stakeholders in the study?
2. What mechanisms do you propose to encourage the active participation of the key stakeholders, other likely beneficiaries of the study, and other indirect beneficiaries?
3. What do you predict will be the main problems, risks, and opportunities to implementing the above mechanisms?
4. How do you propose to evaluate whether the stakeholder groups participated in the ways intended on completion of the study? What indicators will you use to measure this?
5. What if any additional information is needed as you start this study?

The Learning Process Setting for the Task

As the bank begins a water sector study for Fantasmia, it wants to do it in the "participatory stance." A sum of \$500,000 has been allocated to the study, which should take one year and include the following schedule of tasks:

- Months 1–3: defining the issues and questions for analysis.
- Months 2–5: gathering data and doing the analysis.
- Months 6–8: reviewing results.
- Months 8–12: deciding on strategy and priorities for the sector.

With the help of Fantasmia's Water Ministry, a Bank mission has convened a meeting of representatives of several stakeholders' organizations and communities. They have been convened as an advisory group, selected on the basis of their technical expertise, institutional responsibilities, and experience with and interest in the water sector of Fantasmia. One member of the Bank mission will meet with this advisory group in a one-day workshop to help develop a participation strategy for the water sector study.

The Bank hopes that a consensus or at least a strongly supported strategy will emerge from this discussion. It sees the meeting with the advisory group as a first step in a participatory strategy. The Bank hopes that these discussions will begin fostering a sense of ownership in the study and of any projects that may be called for by the study.

The purpose of this meeting is to identify stakeholders in the study and to prepare a short description of a strategy that will involve all interested and affected parties in the steps of the water sector study.

The Bank's Task Manager has stated, "The participation strategy devised by the group will be adhered to, wherever possible and appropriate. The Bank hopes to get practical ideas on the following questions as he/she has been instructed to outline the strategy in the Bank's IM."

Developing a Participatory Strategy for a Water Sector Study in Fantasmia

Water Sector Study Objectives

Based on current water use patterns and population growth, many experts feel that Fantasmia faces a water deficit by the year 2005. The purpose of this water sector study is to:

- Explore all options to meet the projected deficit, including demand as well as supply driven options.
- Suggest ways to better integrate urban and agricultural sector uses of water.
- Assist government in balancing the respective roles of the public sector, the village and urban communities, and possibly NGOs as promoters and providers of services.
- Explore the involvement of the private sector in construction and maintenance of water facilities.

Profile of Current Water Sector Situation

Of Fantasmia's water, 40 percent comes from groundwater and 60 percent comes from surface water. Most who have studied it feel that Fantasmia is at its limit of groundwater use. Some NGOs have stated that overpumping is already occurring. Eighty percent of available water is currently used for agriculture, producing export crops for valuable foreign currency. Government is the major wholesaler and retailer of water with an emergent private sector retailing about 20 percent of the water – mostly in the rural small towns. The national government wholesales all agricultural water and retails most of it. There has been some tension between private and public water sectors. However, there are several new and outstanding examples of farmer irrigation associations that were funded, in part, by USAID and CIDA as a result of an earlier PRA.

Communication among the Water Ministry divisions is poor, especially between its agricultural and municipal water supply and sanitation divisions. Communication with other ministries such as public health and environment is poor. Communication with the water authorities in the cities is somewhat better. Most of the staff are reluctant to go out into the rural and poor areas for consultation and meetings. Lower level and younger staff seem more willing to do so.

The rapidly growing cities are experiencing water shortages. Capitol City has had to ration water on several occasions. The city governments control 95 percent of the water supply and sanitation infrastructure. Per capita consumption is about 250 MCM/yr. Street vendors supply much of the water for the squatter settlements and the poorest parts of the major cities. The amounts provided are unclear but the street tariffs are quite high.

The official estimate of unaccounted for water is almost 30 percent in the cities. However, this has been challenged by some environmental NGOs who say it is double that figure. Bank staff estimates that tariffs are recovered at a rate of 40 percent. Colonial Reservoir, the reservoir for Capitol City, was built during the colonial period and silting has reduced its capacity.

The most productive agricultural areas are subject to frequent flooding. However, they are the one rural sector in the country that is seeing an increase in settlements, despite exposure to the risk of flooding, because there are jobs. Two years ago there was a fifty-year flood event that displaced around 30,000 people and caused a typhoid epidemic.

Relatively few families and businesses control most of the agricultural land. Tenant farmers undertake most of the farming on the land. Land reform remains an important and potentially explosive issue.

The inland rain feeds agriculture. Grazing lands are worked by tribal farmers, many of who distrust government, and government officials have little contact with them. People upriver and in the tribal range are increasingly hostile to government officials who, as it is widely believed, are corrupt.

The estuary has been silting, and a slow but discernable decrease in important species of fish and waterfowl has been recorded by some international environmental NGOs. These NGOs have been talking about establishing a wildlife refuge in the estuary area and are concerned about any upstream activity that might exacerbate the problem.

Fantasmia's Plans for the Water Sector

The Fantasmia Water Ministry is known to wish to build a dam (on West Branch) to increase its future water supply. The water ministry would like to use this increased supply both to meet a projected water supply deficit and to create some new irrigated agricultural land. The dam would also provide some peak power for Capitol City and some flood control.

Capitol City and Port City each have plans for upgrading their water supply and sanitation infrastructure. Some of these projects are already well developed by expatriate engineering consultants. The cities seem to have attracted the interest of European and Japanese lenders and donors. Fantasmia also is hoping to gain the help of GTZ and SIDA for a capacity-building program for its new Environmental Ministry because of emerging statistics on deteriorating water quality, reduced life expectancy, and poor air quality – especially around Capitol City and Port City.

In the past, the Bank has made water sector loans to Fantasmia. The loans have been primarily for irrigation trunk lines and feeder systems. There is support within the Bank to help fund a dam. Many feel that revenues from electricity will ensure a favorable cost-benefit ratio.

Background and Rationale for the Study

The Bank is skeptical about the sustainability of the current water management organization and policies within Fantasmia. It wants to be sure that all options for meeting a projected deficit be explored. These should include options such as:

- conservation

- shifts in water use patterns within and between sectors
- institutional (such as farmer associations, cost sharing, and so on) and technological methods to increase efficiency of current urban and irrigation systems
- pricing strategies
- contracting of utility services
- privatization.

There is reason to be cautious about the data being used to describe the need for this project. For example:

- Local community water use practices in rural villages and poorer urban areas are not well understood.
- Prices for agricultural water are heavily subsidized.
- There is only sporadic metering in the cities.
- There is emerging evidence of a significantly higher willingness and ability to pay for water among the urban poor than appears in current estimates.
- As the urban municipal and industrial demand for water grows there is evidence that the cities are ready to buy agricultural water at ten to twenty times the subsidized prices.
- Some experts feel that Fantasmia has overestimated the efficiencies of its irrigation and urban delivery systems – according to one local NGO by 30 percent.
- Many (even lower level) water ministry staff feel that data on unaccounted for water is poor and that leakage is perhaps double the official estimates.
- Fantasmia currently has a surplus of electric power and the projected prices for electricity generated by the dam seem high.
- Resettlement issues have been stated as minor and the number of people and villages to resettle is unknown.

Profile of Fantasmia

Twenty-five years after emerging from colonial control, Fantasmia has moved toward its first democratic government. While elections have been held, the heavy authoritarian hand of a few prominent families still can be felt in the decision-making processes of the country. Patronage exists but is dying in many ministries and a civil service tradition is growing.

Fantasmia has a sizeable educated and skilled technical class, but many of these people are without jobs. There is strong support for participation among citizens, NGOs, and local communities. Local governments and communities are close to, and knowledgeable of, beneficiaries but they have meager resources. There is also a significant amount of strongly voiced skepticism among national and city government officials and technicians about plans that would offer participation to the people of Fantasmia.

Several western countries are quite interested in seeing that Fantasmia succeeds because it is strategically located among countries experiencing much social unrest, and because it is the one country in the region to peacefully take the first steps in the transition to a democratic form of government. Several donors and lenders are interested in the country and its resource issues because the resolution of these issues could ensure major revenue and sustainability for Fantasmia. However, Fantasmia is still in a transition period in which democratic processes – like participatory planning and decision making – have yet to be tested.

Financial Profile

Fantasmia's currency, the Excalibur, was devalued one year ago. This has increased the debt load for projects built under previous loans. There is strong and dependable demand for Fantasmia's light manufacturing and agricultural produce.

Exports account for 40 percent of GDP. Experts estimate that, with stability, Fantasmia could grow at about 3 percent per year for the next five years. But the country does not meet standards for IDP funds. Most local banking is in disarray. Social funds have been used for projects in the country.

Social Profile

Traditionally, income has been sharply skewed. But in the last ten years, there have been signs of a growing middle class based on expanding technical training across the population. There is a steadily growing private sector.

Over the last twenty-five years, Fantasmia has grown from 30 to 45 million people. The population is growing at about 3.5 percent per year. Increasingly people are moving to the cities, which are growing more rapidly than the rural sector. Five million people are estimated to live in Capitol City, one million in Port City, and two million in Sekund City.

Compulsory education exists through middle-school level. The literacy rate is estimated to be 70 percent for men and 50 percent for women. Literacy is higher in the cities than in the rural areas.

Major TV, radio, and print media are government-owned. However, there are new TV and print media developing as a result of private sector action in Fantasmia's communications. This private media is giving considerable visibility to environmental issues. The principle source of news for most people is radio. About 30 percent of the population have telephones, but a much larger number have access to them.

Squatter settlements, mostly without water and sanitation, contain about 20 percent of each city's population. Most of these settlements are located in the fifty-year flood plain around Sekund City and Capitol City. Major health problems from waterborne diseases exist around these settlements. However, a new ODA-funded community-based immunization program is showing signs of success. This has led to greater organization of squatters and the emergence of experienced leaders among them. It has also resulted in legal status for many community organizations in the flood plain areas. The squatter settlements are growing. Some families have lived in them for more than a generation.

The role of women is growing; but controversial. Two previous PRAs, a GSA study, and other studies show that women are critical to the functioning of local communities, but they are reluctant to participate in public meetings. Locally based women's groups are emerging throughout the country but they remain scattered and not well connected. There is talk of a GTZ-funded women's network building project. The women's groups seem to be strongest in the rural areas.

Political Profile

Fantasmia still maintains strong links to its former colonial rulers. Many people mistrust government and, increasingly, they look toward NGOs for leadership. There is also some mistrust of the Bank by people who are not in the government structure.

NGOs, especially environmental ones, are active at the national level. Local and regional NGOs are active but not well coordinated. International environmental NGOs are interested in Fantasmia. Many of these NGOs have views that do not really match those of local communities and local community organizations. The international NGOs put pressure on the Bank in Washington to try to accomplish their goals.

In addition to environmental NGOs, a new legal service NGO has been organized to help poor people understand and exercise their rights under the new Constitution of

Fantasmia. A number of professional associations, especially in the traditional engineering areas, have operated throughout the country for many years. These have strong links to the water ministry staff. A new organization, funded by UNDP, has recently started a clearing house to help coordinate NGO efforts.

Fantasmia's legal system is in transition. There are private property rights, and the right to protect property. Rights to groundwater are tied to land ownership. Rights to surface water are based on principles of prior appropriation and grants from government. Fantasmia's new constitution provides for freedom of the press. Recently, laws have been passed that call for open meetings, rights of assembly, and participation in planning and operations.

Profile of the Situation Within the Bank

The Task Manager's Section Chief is ambivalent on the participatory stance but always closely adheres to Bank policy about participation. She has told the TM, "You have \$500,000 to do this project; do it any way you see fit."

The TM's Director is a vocal supporter of the participatory stance in spite of years steeped in the traditional expert stance. He has good relations with his Section Chief and with his VP. The Director is unlikely to become a VP. He has several longstanding relations with key people in Fantasmia. Representatives of international environmental NGOs who voiced some concern over potential development plans in Fantasmia – especially around the estuary – have visited him on several occasions.

While social funds have been used in Fantasmia, the TM seems to be having problems finding money for starting a participatory project. It appears that the Bank's board does not understand all that is required in a participatory stance, even though they publicly endorse it. They look at the bottom line. However, they have been talking about finding ways to improve program and project implementation in Fantasmia. You have heard, through the grapevine, that major Western countries have told board members that Fantasmia must be successful.

There are few nationals from Fantasmia working in the Bank.

(Map of Fantasmia handed out).

Facilitator: A Lawyer from Fantasmia

You have a one-person legal practice in contracting and taxation. Your clients include many business and industrial organizations in Port City, Capitol City, and Sekund City. You are also a volunteer Legal Services Aide for the NGO called People's Rights.

You have been trained as a meeting facilitator and, because of your skill – and your acceptance by the people who hold many different (and often clashing) interests – you have been asked by the World Bank to serve as facilitator of this meeting.

Before you accepted this assignment, you contracted a number of people to find out if they would agree to your serving as facilitator (and if doing so would damage your reputation among business and industry clients, and with NGO leaders).

Everyone was enthusiastic about having a facilitator who was from Fantasmia, and who did not work for the government or an ESA. Therefore, you accepted the assignment – but with the provision that you would not be paid for this work.

Your goals and interests for this meeting are as follows:

1. Help participants to coalesce and cooperate in the development of a participation plan for the water sector study.
2. Keep participants focused on the development of the participation plan – not on the resolution of water sector issues, such as prioritization of projects.
3. Help participants work through the participation questions as they develop their first draft of the participation plan.
4. Keep local and national government, and local NGO representatives from feeling top-down pressure from the Bank or international NGOs and ESAs.
5. Keep international NGOs and ESAs from feeling discounted by the bottom-up efforts of the Bank and local representatives to engage in participatory planning.
6. Show the Bank to be supportive of participatory planning and development, but still requiring defensible assessments, appraisals, and evaluations of projects.

Bank Task Manager

This meeting is a new experience. You have seen many projects fall short of expectations because no ownership developed among stakeholders early in the process. So you welcome the effort but are somewhat nervous about it.

You are worried about getting funds for participation activities and explaining to the Bank why you may fall short of schedule.

You are interested in any joint interests that may emerge. You hope that the meeting will provide a strategy that leads to something.

You are also worried about how to communicate back to the Bank the spirit and feeling of cooperation already begun. You do not know how to translate it into Bank jargon.

Representative of the National Legal Services NGO

You are pleased that the Bank is beginning a participation process; it's about time! You are actively educating people in Fantasmia about their individual rights and encouraging participation of all types.

However, you are troubled that this well-meaning process is beginning to look like the old way of doing business in a new coat. Where are the voiceless and the poor? What about those who will be relocated? Where are the social workers that can help communities organize to create different approaches and prepare to capture benefits of the projects? The dialog must be expanded.

While you recognize the possibility of a crisis and the importance of agriculture, you are not supportive of another project paid for by the people for the primary benefit of a few wealthy landowners. You are not a water expert but feel that there must be another way.

You are also interested in what, if anything, this expansion might mean to the emerging notions of water rights. You are concerned that community based solutions, such as farmer associations and community water systems, will not be given full consideration.

You also have heard from friends that a water deficit is a real possibility if things do not change.

Representative of Colonial Engineering

Your company has gathered the data and put together the major portion of the reports supporting past Bank projects. To you it is clear that Fantasmia needs to do something to avoid a water deficit.

While you are sensitive to the environmental concerns, you think that it is better to build a new project now when it can be designed in an environmentally sound way than to wait and have to rush and build it in a manner that might not be so environmentally sound. And that is what will happen if the project is not built now.

Agriculture is a great investment for Fantasmia. It brings in foreign currency and provides jobs.

While you are for the environment, you are also for people choosing what they want to do in their own backyards. You think that there is too much influence of international NGOs, if not directly then indirectly, through funding support of local NGOs in Fantasmia.

The new Environment Ministry is okay but it is staffed with bright and well-meaning people with little practical experience and fresh degrees from western universities.

Actually more privatization along with better pricing is the answer. You also think that contracting out management of utilities is the fastest and cheapest way of increasing efficiency.

You are a little perplexed by the Bank's participation approach and are trying to figure out the real motive of the Bank.

Representative of the Joint UNDP–UNEP mission

You recognize the emerging problem of water deficits.

Representative of the Water Ministry

You are a senior civil servant and advisor to the Minister. You have spent your professional career in the Ministry, mostly in the agricultural division. You have a reputation as a brilliant and dedicated irrigation engineer. You are proud of your role in building the agricultural sector of Fantasmia. It has been a major cause of development. You feel that you have created the “best irrigation system in the region.”

The internal politics of the Ministry is getting to you, especially balancing the growing demands of the municipal and industrial sectors and the agricultural sectors. You are looking forward to retirement soon. Deep down you know that it isn’t working right and that something must be done to avoid what could be a major water deficit.

Unless supply is increased, you see an increasingly zero-sum game evolving among the sectors competing for water. Therefore you see this loan from the Bank as just the right thing at the right time as Fantasmia continues to grow.

You have spent a lifetime in service of Fantasmia and you see little point in exposing yourself to hostile peasants or the criticisms of brilliant young professionals with little practical experience.

However, you are willing to search hard for some way to get the study and to find a balanced approach to water in the sector.

Stakeholders that may be Identified

National government
Water Ministry
Environment Ministry
Port Authority
city government, Capitol, Sekund and Port Cities
local business and industry
shipping and transportation
timber
agriculture
land owners
international trade
expatriate consultants and experts
local engineers, technicians, scientists
external support agencies - lenders
World Bank, headquarters
urban populations
urban poor and squatters
rural populations
rural poor
indigenous populations
women
religious communities
ethnic communities
tenant farmers
labor unions
international environmental NGOs
wildlife organizations
local health and sanitation
United Nations agencies
World Bank resident representative

Some Key Relationships Among Stakeholders

Agriculture support of dams: acceptance of flood risk because of jobs
City government vs. private sector
Street vendors vs. city governments and squatters
Tribal vs. government
Port Authority and agriculture support for dams
Port Authority ignores the Environment Ministry
Environment Ministry link to SIDA and CIDA
Civil service vs. expatriate firms (potential conflict)
Legal services NGO and poor
International NGOs vs. Water Ministry staff
City Water Authorities vs. National Water Ministry (especially WSS and Agriculture)
Women's roles and potential conflicts with traditions
Government media vs. private media
Private media tie to the environmental issues and environmental community
Squatters vs. Capitol and Sekund cities government: problem of support
UNDP and NGO coordinating organization: possible conflict with government
Split among international and local environmental NGOs
Differences between traditional engineering NGOs and environmental NGOs
Potential differences among the various Bank people: TM-Division Chief-Board

6.7. EXERCISE: NORTH CAUCASUS POWER

(Source: to be used with permission of James Creighton, Creighton and Creighton, Palo Alto, California)

Purpose

To practice facilitation skills.

Instructions

You will be assigned to a working group. Select one of the roles on the following pages and play that role in your group. Feel free to draw on your own experience in this exercise.

The group is meeting to come to some agreement on how to approach the problem of energy supply in North Caucasus.

The Chief of Energy and Energy Supply will open the meeting. He or she will *briefly* state the major concerns in one or two sentences and then explain that a facilitator has been hired to help the group find some approach to building a consensus on this problem. He or she explains that the facilitator will be neutral and take no positions and that the facilitator's job will be to get the group to work together on some common approach. The hope is that the facilitator will proceed using some of what has been heard so far in the course.

After twenty minutes the instructor will ask you to stop and discuss what has happened. You will be given a form to evaluate the facilitation.

After this discussion, another person will adopt the facilitator role. The old facilitator will adopt the previous role of the new facilitator. The process will continue.

Time permitting; a third round will be done.

The Situation

Three local utilities, KubanEnergo, RostovEnergo, and StavropolEnergo, deliver 80 percent of the electric power in North Caucasus. These utilities are no longer able to meet all the power demands in their service area, since power supplies from the Ukraine have been cut off. The shortfall is almost 30 percent. KubanEnergo, in particular, has a serious deficit. RostovEnergo has a new nuclear power plant that is about 90 percent complete, but was halted because of political protests. StavropolEnergo has a slight surplus, but is deeply in debt. The three utilities are tied together in the North Caucasus electric grid, which is operated by YuzhEnergo. YuzhEnergo and the three local utilities have all had to interrupt power supplies at times, particularly to industry.

Power rates have been rising sharply with inflation. In addition, people simply are not used to paying for their power, and non-payment runs as high as 48 percent. The three local utilities are coping by not paying their gas bill, but that situation cannot last indefinitely.

Relationships with authorities are very murky. Large generating plants are assigned to the national wholesaler and transmission agency, RAO. Local utilities maintain smaller projects.

The utilities have a desperate need to find new ways to meet demand and become economically solvent.

The Chief of the Department of Energy and Energy Supply for the Ministry of Economy called this problem-solving session. It will include managers from the three local utilities, YuzhEnergo, representatives of local agencies representing social service agencies concerned about the possibility that people may have their power turned off for non-payment, and the leader of the environmental NGOs whose protests blocked completion of KubanEnergo's nuclear power plant.

Roles

Manager: YuzhEnergo

You support a new concept called Integrated Resource Planning (IRP). The concept is to take a total look at the system and consider not only new generation but also improved energy efficiency. You believe that if the utilities plan together, instead of separately, they will solve their problems more quickly. You were very disappointed when RostovEnergo did not complete its power plant, and believe that part of the problem is that the Department of Energy and Energy Supply did not have enough courage to stand up to the environmental NGOs.

Manager: RostovEnergo

You were the manager of the nuclear energy power plant project, and now that the project is halted, you have been put in charge of planning. In the past, all kinds of planning were done by the central government, not by the local utility.

You are very resentful of the way you were treated by the environmental NGOs, and are upset they are even being included in this discussion.

Manager: KubanEnergo

Your utility is desperate for new power, and will do almost anything to increase supplies.

Manager: StavrapoEnergo

Your utility has a small surplus of power. However, you are deeply in debt, so any sale of power needs to be for hard cash, not future promises. At the same time, your service area is better off economically than are some of the other utilities, so your long-term prognosis is good.

Chief: Department of Energy and Energy Supply

You believe that utilities may be able to solve their problems if: first, they work together; second, they stop depending on central authority to solve their problems; and third, they really address the issue of unpaid power bills. You believe that the nuclear power plant was stopped basically because there has been so much environmental degradation in the area that the people had to express their anger some way, and the power plant was just the convenient target. You also believe the utilities were arrogant and arbitrary in how they dealt with the NGOs, and that just led to resentment. You have invited representatives of the NGOs and social service agencies, because you do not think there will be any long-term solution unless the utilities begin to deal with these groups.

Leader: Environmental NGO

You are the leader of the group that generated enough political opposition to ensure that the nuclear power plant was halted. The North Caucasus includes some of the most polluted territory in the world, especially around Rostov-on-Don. Coal, residual oil, and gas-fired plants are among the major polluters, along with highly inefficient industries and ill-maintained district heating systems. You believe there are ample opportunities to use energy more efficiently and improve performance of existing plants, and believe this should be done before considering new power sources.

You like the basic concepts of "integrated resource planning," but you are fearful that it is just being used as a guise to get the nuclear power plant back in construction. You think the study will just conclude that completing the plant will be the cheapest solution, and no serious consideration of energy efficiency and other solutions will take place.

Head: Social Service Agency

Your concern is with the possibility that utilities will start turning people's power off if they do not pay their bills. In your heart, you believe that electric power is a basic right, and should be provided to everyone in society, not just those who can afford it. You believe that the utilities could do a much better job of public education, so that people who can afford electricity will pay for it. But you do not think there is any long-term solution unless there is some way to provide power for poor people.

6.8. EXERCISE: OFFICE FURNITURE

(To be used with permission of CDR Associates, Boulder, Colorado)

Earnest Deal, Seller

You are the owner of Top Line Design, a retailer of moderate and inexpensive office furniture in the town of Stoneleigh. The town is not large and you have few competitors nearby. The one other store in town sells a lower quality line of furniture than you do and has often been known to undercut your prices and "steal" customers from you. It is near the end of the month and you would really like to make a big sale, both to move some of your inventory and to keep your sales up (It has been a slow month).

It is now 1700 hours and a customer has just entered your store. You close at 1730 hours and it is absolutely essential that you be able to leave by that time so that you can meet close friends who are in town just for the evening. You plan to go to dinner and then to a special performance that you have been planning for months. The performance starts at 1930 hours.

The customer is wandering around the store looking at various pieces of furniture but does not seem to be interested in anything you have on the floor. You ask this person if you can help. Because the customer does not seem to see the right thing, you suggest that s/he look in your warehouse, which is connected to the store. After a few minutes of looking, the customer sees something that s/he is interested in, a desk of fairly good quality. The customer asks the price. The items in the warehouse do not have prices marked on them; it is up to you to establish the price.

The desk that the customer is interested in costs you \$325 because you buy them in large quantities. You have eight in stock right now and could get more within two weeks. You would like to sell them for \$425 or more but this month you have only sold two at that price. At this rate you may have some inventory left over at the end of the year; this is a situation that you would like to avoid.

You will try to reach the best deal that you can on the furniture.

Your purchase price	\$325
Your preferred sale price	\$425

Red E. Cash, Buyer

Your organization of ten people is setting up a new office in Stoneleigh, a town sixty miles from your old location. Because of the end of the lease of your current space and the availability of the new office, you are scheduled to move in less than a week. During the time you must pack up your own office, make moving arrangements, have telephones disconnected and installed, and still provide service to your "customers."

You have been charged with finding furniture for the new office. The old desks are worn out. They have damaged drawers, chipped paint, and peeling tops. A lot of the other furniture – chairs, tables, file cabinets, and so on – are not in much better shape. You are looking for new desks for up to ten of the employees – if the price is right.

You have driven from your old office to Stoneleigh to look for new furniture. You arrived at Top Line Design at 1700 hours (their signs says they close at 1730 hours). Walking through the store, you do not see exactly what you want. You mention that you are interested in desks and the clerk or storeowner suggests you look in the warehouse. There you find suitable desks. The preferred item is unmarked as to price, but you have seen a similar product in a store near your old office for \$390 per desk. However, you would prefer to buy them close to Stoneleigh because the delivery costs from your old location would probably make the purchase price prohibitive. The organization has authorized you to spend up to \$3,750 (or \$375 per desk) on office furniture. However, you want to get a better deal on the furniture so that you can demonstrate to your colleagues and superiors your management and business skills. You believe that you should be able to get a better price, say \$300 per desk, because you are buying in quantity. You will try to get the best deal possible.

You want to make a deal today because you do not want to drive to Stoneleigh again this week and you do not have a lot of time to look at additional stores. You do know there is one other office furniture store in Stoneleigh but know nothing about its quality, prices, or hours.

You are concerned about immediate availability of the desks and the cost (if any) of delivery.

Your preferred price	\$300
Your top price	\$375
The price of desks at old location	\$390

6.9. EXERCISE: INTERGROUP BEHAVIOR IN RESPONSE TO PRESSURE AND REWARDS

Purpose

To identify group responses to pressure and rewards.

Instructions

1. The goal of this exercise is to obtain the highest possible score.
2. The instructor will assign you to a team.
3. Your team will be asked to engage in a series of transactions. Think of these transactions as simulations of transactions that might go on between government agencies.
4. You will be designated as either the RED GROUP or the BLUE GROUP, and you will be engaging in a series of eight transactions with the other group. The results of these transactions will be shown in a score that will depend upon what each group decides to do in a transaction.
5. In each of the eight transactions, each group will decide on a message to send to the other group – the message to consist of one of these three sets of letters:
 - XX
 - XY
 - YY

In formulating a message, neither of the groups will know what the other decided to send. Three minutes will be allowed between transactions for each group to decide upon each subsequent message.

6. A neutral messenger, who is not a member of either group, will carry the messages between the groups, and report back the outcome to the two groups.
7. The two sets of two symbols will be combined to form a four-letter transaction, which determines the value of each group's contribution to the transaction, as follows:

If the combined transaction is:	then your group's result is:
4 X	-10 for each X in your group's message
3 Xs and 1 Y message	+10 for each X in your group's message and -30 for each Y in your group's message
2 Xs and 2 Ys message	+20 for each X in your group's message and -20 for each Y in your group's message
1 X and 3 Ys	+30 for each X in your group's message and -10 for each Y in your group's message
4 Ys	+10 for each Y in your group's message

Calculate the value of the transaction for your group from the two letters in the message that your group sent to the other group.

An Example:

The RED GROUP sent the message XX. The BLUE GROUP sent XY. The combined transaction is XXXY. As a result, each group gets a +10 for each X in its two-letter message, and -30 for each Y in its two-letter message.

The RED GROUP, having sent XX as its message, receives a value of +20 (2 x +10) in this transaction.

The BLUE GROUP, having sent XY as its message, receives a value of -20 (+10 and -30) in this transaction.

8. Communication will be permitted prior to the exchange of messages in the fifth and seventh rounds. A single representative of each group will be allowed to discuss whatever group members have instructed these representatives to talk about. The meeting of these representatives will be at some place out of sight of the *red group* and the *blue group*. A group may choose not to send a representative.
9. After the meeting between the representatives, the scores for those rounds will be made more important. Whatever score you get in the fifth round (using the formula above) will be multiplied by five, and the seventh round will be multiplied by ten.
10. You have five minutes to review these instructions and agree upon your first message.
11. After you have been given your final total score, read and discuss the debriefing questions on the next page. DO NOT READ THESE QUESTIONS UNTIL YOU HAVE YOUR FINAL SCORE.
12. Select someone from your team to give a 3-4 minute report on your team's experiences.

Scoring Sheet

Transaction #	RED GROUP MESSAGE	BLUE GROUP MESSAGE	RED GROUP RESULTS		BLUE GROUP RESULTS	
			This Round	Cumulative (RED)	This Round	Cumulative (BLUE)
#1						
#2						
#3						
#4						
#5			X5		X5	
#6						
#7			X10		X10	

DO NOT READ THIS PAGE UNTIL AFTER COMPLETION OF ALL THE TRANSACTIONS

Debriefing Questions

1. Did your group view this exercise as a competitive or a cooperative exercise? Why?
2. What elements in the situation made you view the situation as either competitive or cooperative?
3. What events or behaviors changed how the team viewed the exercise?
4. Did your group keep track of the other team's score? If so, what did this tell you?
5. Was there anyone in the group who worked to change the group's perception that this was a competitive or a cooperative situation? How were they treated?
6. Did anyone suggest that the best result might be the best combined score of the two groups? How was that suggestion treated?
7. How did the direct communications with the other group change your perceptions or behavior?
8. Did the group give its negotiator power to adapt or come up with a new direction without consulting the group?

6.10. EXERCISE: IDENTIFYING STAKEHOLDERS

(from Creighton and Delli Priscolli, PITIP course, IWR, Fr Belvior, Va. 2003)

Purpose

To learn to identify stakeholders in a planning study.

Instructions

1. The instructor will assign you to a team and will designate you as Team A, Team B, Team C.
2. Review the Urban Floodway Case that follows these instructions.
3. Identify the probable major stakeholders for the case using any of the methods that have been described. Record the stakeholders in the first column on the score sheet.
4. For each stakeholder, determine – as shown below – whether this stakeholder would support, oppose, or be neutral towards the proposal contained in your team’s instructions.

Proposal position
-3 -2 -1 0 +1 +2 +3

5. For each stakeholder, agree on what each stakeholder’s power would be, as shown below:

Power
0 1 2 3

Here are some suggestions for assessing power:

- Does this stakeholder have the resources to block a decision or to make one occur?
 - Is legal authority an issue, and does this stakeholder possess it?
 - If wealth is an issue, how much wealth does the stakeholder have in affecting the decision?
 - Even if the stakeholder is generally powerful, is this stakeholder powerful on this particular issue?
 - Does this stakeholder have powerful allies or enemies?
6. For each stakeholder, agree on how important this issue will be to this stakeholder (the “salience”) for the proposal contained in your team’s instructions.

Salience
0 1 2 3

To assess salience, consider:

- What are the social, political, and economic interests of the stakeholder?
- How (how much) are these interests affected by this issue?
- How important is this issue compared with other issues this stakeholder is currently addressing?

7. Calculate the scores for each stakeholder by multiplying across. The maximum score for any one stakeholder is either +27 or -27. Any score of "0" means that the score for that stakeholder is "0."
8. Total the scores for all stakeholders, showing positive scores, zero scores, and negative scores.
9. Create a ratio by dividing total positive scores by total negative scores.
10. As a team, agree on whether or not it is likely that the proposed action your group evaluated could be implemented.

THE URBAN FLOODWAY CASE

Urbanity is a city of about 250,000 people. The Jerome River flows through the heart of the old downtown. This is a navigable river, and Urbanity was once a regional transportation center, with agricultural products brought to the city for shipping downriver. However, siltation prevents modern vessels from reaching Urbanity, and over time most transportation occurs by rail or trucking.

Most of the old downtown area of Urbanity is in the 100-year floodplain. There have been two major floods in recent history: one in 2000, and one in 1987. Much of the downtown area was inundated.

The area north of the downtown is suburban in character. There are homes along the river, most of them oriented towards the view of the river. Some of these areas retain riparian vegetation, although quite a bit of this vegetation has been replaced with lawns and other garden-like planting.

The area south of the downtown was formerly warehouses, small factories, and other industrial buildings. This area has fallen on hard times, and many of the buildings are abandoned or have fallen into disuse. There are a few pockets of riparian habitat that have been reappearing since that land has been unused.

The downtown area itself is pretty run down. One of the barriers to re-development is the periodic flooding. Many buildings have remained vacant since the 2000 flood. No one wants to invest in new businesses that could be wiped out by the next flood. The local Congressman is from Urbanity, and holds a key position in the House Budget Committee. He has sponsored the authorization of a Corps flood control study to be conducted by the Corps.

City officials have informed you that their primary interest in a project is economic development of the old downtown, as well as anything that can be done to clean up the area south of downtown. They want to do something that draws people from the suburbs into the downtown, to restore economic vitality in the downtown area.

A number of citizens are opposed, in principle, to any kind of channelization. They would like the river in the downtown area to be a visually attractive amenity that draws people into the downtown. They support increased economic development in the downtown, but think that visual attractiveness is the key to creating a downtown that can compete with the suburban malls that ring the city. They note that many of the old historic buildings in the downtown could be very attractive if fixed up, but no one is willing to make the investment if they can be inundated at any time.

The Urbanity River was once a major fishery for the Skwamish Puff Fish, which is listed as a threatened species. As a result, the US Fish and Wildlife Service are playing an active role in your planning study. They believe that only by restoring native vegetation that produces large woody debris can they replicate the breeding conditions that made the fishery viable. They have told you upfront that under no circumstances do they want "a concrete river." They believe that protection of vegetation and habitat should be the key value. They believe the fundamental problem is one of land controls. Buildings should not have been put in the flood plain in the first place, and the solution is to remove uses that are incompatible with occasional flooding.

Team A

Proposal: Your team is evaluating stakeholders' reactions to *concrete channelization of the river through the entire downtown*. Your analysis shows this will be effective in preventing flooding and will be the cheapest of the three plans.

Stakeholders	Issue			=	Positive Scores	Zero Scores	Negative Scores
	Position	Power	Saliency				
1. _____	x _____	x _____	x _____	=	_____	_____	_____
2. _____	x _____	x _____	x _____	=	_____	_____	_____
3. _____	x _____	x _____	x _____	=	_____	_____	_____
4. _____	x _____	x _____	x _____	=	_____	_____	_____
5. _____	x _____	x _____	x _____	=	_____	_____	_____
6. _____	x _____	x _____	x _____	=	_____	_____	_____
7. _____	x _____	x _____	x _____	=	_____	_____	_____
8. _____	x _____	x _____	x _____	=	_____	_____	_____
9. _____	x _____	x _____	x _____	=	_____	_____	_____
10. _____	x _____	x _____	x _____	=	_____	_____	_____
11. _____	x _____	x _____	x _____	=	_____	_____	_____
12. _____	x _____	x _____	x _____	=	_____	_____	_____
13. _____	x _____	x _____	x _____	=	_____	_____	_____
14. _____	x _____	x _____	x _____	=	_____	_____	_____
15. _____	x _____	x _____	x _____	=	_____	_____	_____
16. _____	x _____	x _____	x _____	=	_____	_____	_____
17. _____	x _____	x _____	x _____	=	_____	_____	_____
18. _____	x _____	x _____	x _____	=	_____	_____	_____
19. _____	x _____	x _____	x _____	=	_____	_____	_____
20. _____	x _____	x _____	x _____	=	_____	_____	_____
					Total positive scores		Total negative scores

Ratio: _____

Team B

Proposal: Your team is evaluating a plan to *buy out much of the downtown area, relocating it on the bluffs out of the flood plain*. The existing buildings would be torn down, and the entire downtown area would be turned into a park and recreation area. Some commercial activities could be located in the park/recreation area, but only in temporary buildings that could be removed whenever there is a chance of flooding. This is the most expensive of the three plans being considered.

Stakeholders	Issue Position	Power	Saliency	Positive = Scores	Zero Scores	Negative Scores
1. _____	x _____	x _____	x _____	= _____	_____	_____
2. _____	x _____	x _____	x _____	= _____	_____	_____
3. _____	x _____	x _____	x _____	= _____	_____	_____
4. _____	x _____	x _____	x _____	= _____	_____	_____
5. _____	x _____	x _____	x _____	= _____	_____	_____
6. _____	x _____	x _____	x _____	= _____	_____	_____
7. _____	x _____	x _____	x _____	= _____	_____	_____
8. _____	x _____	x _____	x _____	= _____	_____	_____
9. _____	x _____	x _____	x _____	= _____	_____	_____
10. _____	x _____	x _____	x _____	= _____	_____	_____
11. _____	x _____	x _____	x _____	= _____	_____	_____
12. _____	x _____	x _____	x _____	= _____	_____	_____
13. _____	x _____	x _____	x _____	= _____	_____	_____
14. _____	x _____	x _____	x _____	= _____	_____	_____
15. _____	x _____	x _____	x _____	= _____	_____	_____
16. _____	x _____	x _____	x _____	= _____	_____	_____
17. _____	x _____	x _____	x _____	= _____	_____	_____
18. _____	x _____	x _____	x _____	= _____	_____	_____
19. _____	x _____	x _____	x _____	= _____	_____	_____
20. _____	x _____	x _____	x _____	= _____	_____	_____
				Total positive scores		Total negative scores

Ratio: _____

Team C

Your team is evaluating a plan that would *install dirt berms throughout much of the downtown area, with vegetation on the berms to make a green open space and provide a visually attractive area for recreation*. There is one two-block area in the downtown where buildings are located so close to the river that it is impossible to use berms. In this area, you would use concrete, but it would be designed architecturally so that greenery could be planted throughout to make the area visually attractive. This alternative ranks second in terms of cost.

Stakeholders	Issue			Positive = Scores	Zero Scores	Negative Scores
	Position	Power	Saliency			
1. _____	x _____	x _____	x _____	= _____	_____	_____
2. _____	x _____	x _____	x _____	= _____	_____	_____
3. _____	x _____	x _____	x _____	= _____	_____	_____
4. _____	x _____	x _____	x _____	= _____	_____	_____
5. _____	x _____	x _____	x _____	= _____	_____	_____
6. _____	x _____	x _____	x _____	= _____	_____	_____
7. _____	x _____	x _____	x _____	= _____	_____	_____
8. _____	x _____	x _____	x _____	= _____	_____	_____
9. _____	x _____	x _____	x _____	= _____	_____	_____
10. _____	x _____	x _____	x _____	= _____	_____	_____
11. _____	x _____	x _____	x _____	= _____	_____	_____
12. _____	x _____	x _____	x _____	= _____	_____	_____
13. _____	x _____	x _____	x _____	= _____	_____	_____
14. _____	x _____	x _____	x _____	= _____	_____	_____
15. _____	x _____	x _____	x _____	= _____	_____	_____
16. _____	x _____	x _____	x _____	= _____	_____	_____
17. _____	x _____	x _____	x _____	= _____	_____	_____
18. _____	x _____	x _____	x _____	= _____	_____	_____
19. _____	x _____	x _____	x _____	= _____	_____	_____
20. _____	x _____	x _____	x _____	= _____	_____	_____
				Total positive scores		Total negative scores

Ratio: _____

6.11. EXERCISE: DESIGNING MEETINGS

(To be used with Permission of Jerome Delli Priscoli, Institute for Water Resources, USACE, Alexandria, Virginia)

Purpose

To practice applying concepts and principles of meeting and workshop design.

Instructions

1. Please read the fact pattern below.
2. Individually, without consultation, take ten minutes to outline an approach to designing this meeting. Also outline your reasons why.
3. Meet with your group to discuss and debate an approach. Try to arrive at a consensus approach. Be prepared to report your results to others in thirty minutes.

CASE: THE WORLD WATER MEETING

You have arrived in Geneva to participate in a meeting of over 250 leaders and professionals from the water resources community throughout the world. They include officials from the major international environmental NGOs, professional engineering and water associations, government, all the UN agencies, regional organizations, the ESAs active in the water resources field, local and world press, and others.

The purpose of the meeting is to develop a consensus statement on water resources principles and actions which will then be presented to the first global conference on the Environment, Energy, and Natural Resources sponsored by all the UN nations. While there are many perspectives and differences within the water community, the concern is that their views will not be heard and integrated into the global conference. The statement will probably be two pages and contain three to five principles.

You arrive one day before the meeting is to start. You have been asked by one of the UN hosts to facilitate the key session on developing a statement of principles. A written draft of ideas has been circulated. Upon arrival you discover a deep undercurrent of dissatisfaction among participants. There is a feeling that certain UN agencies are trying to push their own agenda and simply are looking for perfunctory ratification of what turns out to be their statement. Many are saying that this meeting is a rare opportunity and they do not want to lose it.

As you survey the facilities, you can see that they are quite spacious and that there are competent setup staff who are quite willing to work. You discover that the room you will be working in has been set up in classroom style. Four translation booths are set in the rear with six available translators, all of who can work easily among English, French, and Spanish. You have been assured that any documents produced can be "turned around" in four languages, copied, and made available within a few hours. There are plenty of flipcharts, easels, markers and pens available.

You further learn that your session has been allocated two and a half hours on day one, and one and a half hours on day two. A writing team of three people has been chosen to work at night. You are not sure by whom.

The session is to be chaired by a government official who has little experience with facilitated meetings. You have already seen many participants marking up the draft principles statements. A World Bank official who is familiar with facilitation warns, "If you break up into groups with the French-speaking delegation together they will revolt." You also learn that with one exception all the French-speaking delegates speak English.

The senior UN official who has asked you to help has arranged a meeting with him, the chairman of the session, and the rapporteur, who has difficulty with English. You also learn that there are a few participants who have had some experience with facilitated meetings and participatory approaches: one is British, one is Dutch, one is Danish, one is Swedish, and one is Indian.

How Will You Proceed?

Consider:

- Building trust
- Broadening involvement
- Feedback
- Sharing ownership
- Overcoming adversarial environment
- Meeting-room setup.

NOTES

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2. The paper is adapted from James L. Creighton and Jerome Delli Priscoli, *Second Ten Year Reader*, IWR, USACE 2001 and *Overview of alternative Dispute Resolution* ADR-96-5.
3. This paper uses the terms "dispute" and "conflict" as if they are interchangeable. In the academic literature, some scholars do define a difference.
4. The paragraph on interest-based bargaining and the section on positional bargaining are taken from Christopher W. Moore, *Decision-Making and Conflict Management*, Boulder, Colo., CDR Associates, 1986, (Copyright, 1986, CDR Associates. All rights reserved. Used with permission).
5. See Christopher W. Moore, *Decision-Making and Conflict Management*. See also Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*. New York, Penguin Books, 1981.
6. *From Collaborative Problem Solving for Installation Planning and Decision-Making*, by C. Mark Dunning, IWR Report 86-R-6, pp. 11-12.
7. Taken from *The Executive Seminar on Alternative Dispute Resolution (ADR) Procedures*, by Christopher Moore Ph.D., of CDR Associates and Jerome Delli Priscoli Ph.D., of the Institute for Water Resources. This is a two-day course for senior level management given by the Huntsville Division.
8. Many of the principles in this section are taken from *Managing Conflict in Public Involvement Settings*, prepared for the Bonneville Power Administration by James L. Creighton, Ph.D., Creighton and Creighton, Inc.
- 9/10. Christopher W. Moore, *Decision-Making and Conflict Management*, Boulder, Colo., CDR Associates, 1986 (Copyright, 1986, CDR Associates. All rights reserved. Used with permission).
11. Christopher W. Moore and J. Delli Priscoli, Executive Seminar, pp. 92-3.
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16. Delli Priscoli in IWR Paper.
17. Jerome Delli Priscoli, Institute for Water Resources, USACE, 2002.
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19. Adapted from James Creighton, *Public Involvement and Teaming Reader*, Institute for Water resources, USACE, May 2002.
20. Adapted from J. Delli Priscoli and J. Creighton, *Public Involvement and Dispute Resolution, Volume 2, A Reader of Twenty Years Experience at the Institute for Water Resources*, September, 1998, IWR Report 98-r-5.
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Cover: Maro Haas - Le Pré St. Gervais - France

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Printed by: UNESCO - Paris - France

Constitution of UNESCO (excerpt)

London, 16 November 1945

The Governments of the States Parties to this Constitution on behalf of their peoples declare:

That since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed;

That ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war;

That the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races;

That the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern;

That a peace based exclusively upon the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting and sincere support of the peoples of the world, and that the peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind...

