



**Collaborative
Leaders
Network**

Tools for
Assisted Dialogue and Negotiation

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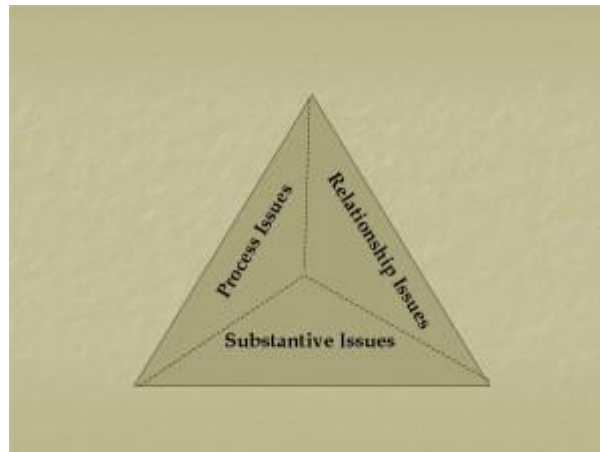
Assisted Dialogue and Negotiation

Strategy-Wide Tools

The Triangle of Satisfactions

Three critical threads—substance, process, and relationships—work their way through all of the stages and can be thought of as a “triangle of satisfactions and frustrations.” Satisfactions and frustrations are flip side reactions to the same phenomena, and can turn from one into the other.

The goal is to make sure all three sides of this triangle and their internal components are working for the greatest number of stakeholders and for the greatest good toward achieving a potential cooperative solution. Discussing potential substantive, procedural, and relational tensions at the beginning gives the facilitator license to engage in interventions later on when they are needed.



Process satisfactions and/or frustrations involve gaining and maintaining the participation of all affected stakeholders; establishing protocols that create trust and comfort; agreeing on the issues that are of concern to all stakeholders; agreeing on schedules and deadlines; having reliable leadership (both conveners and facilitators); and establishing a trustworthy location for meetings.

Relationship satisfactions and/or frustrations involve insulating a new process from the leftover baggage of previous disputes. The perennial challenge and satisfaction is to get everyone to walk in each others' slippers so they can see the issues from all points of view. Participants look to the facilitator for reasonable assurance that interpersonal conflicts will not unduly swell up and swamp the boat (which should be filled with more substantive issues).

Substantive satisfactions and/or frustrations involve ensuring that issues are inclusive, well framed, and focused enough for consensus-seeking. This means grappling with missing, incomplete, or contested information; confronting legal, technical, and political uncertainty; and discovering or creating the greatest joint gains possible so that informed choices can be made.

Stage 1 Tools

Assessment

By talking with widening circles of sponsors, funders and stakeholders, the facilitator can gauge the nature of the conflict and its possibilities for a cooperative process. Based on the assessment, a process design and choreography for the project can be discussed with individuals before the group meets, and then again brought to the table in more formal terms when the process convenes for its first meetings in Stage 2. These elements are part of an assessment:

1. **Representation.** Who will be the primary representative of a particular group and who will be the alternate? Is there anyone else who needs to attend meetings?
2. **Signing.** Who will have the authority to sign any agreement that emerges? Who needs to be consulted internally before that happens and who will make the ultimate decision?
3. **Clarity about the problem.** Imagine sitting next to someone on a long plane ride and being asked to explain why this set of issues is so vexing and why everyone is so worried or nervous. Explain the problem to a non-expert in lay terms.
4. **The goal of the dialogue.** Assume for the moment that the dialogue is fully successful and a solid set of agreements is reached. Describe the level of generality or specificity of those recommendations. Can they be captured in a 5, 10, or 20-page document? Do they present core principles or new laws, language for specific legislation, or something in between? Offer an example of what some of those recommendations might sound or look like.
5. **The issues.** There are quite a few different considerations to be thought through. What are some of the questions this dialogue should answer?
6. **Top priority.** Specifically, which issue is at the top of people's lists? What is most important to their constituents? What needs to be delivered to constituents even as the needs of others at the table want to be met?



7. **Easier issues.** Look around at the different groups that may be in the room. Which issues might be “low-hanging fruit?” (These are matters that, with a bit of focused discussion, can probably reach agreement.)
8. **Tougher issues.** What will be the toughest issue the group will have to address and reach agreement on? Why is that one so hard? What will a particular group’s views be on those issues and what might be a “showstopper?”
9. **Positions/proposals.** At the right moment, are there specific proposals that a participant is ready to float? Do the other associations represented already know that participant’s views and positions? What are they and how can the process ensure these ideas get thorough consideration? When is the appropriate time to roll out proposals?
10. **Friends and adversaries.** Who will likely be the chief allies or opponents on which issues?
11. **Nature of the differences.** What will likely prove to be most difficult in the forthcoming discussions: Philosophical differences? Technical disputes (conflicting data)? Old baggage from other fights? Personality differences? Money?
12. **Sequencing issues for discussion.** Assuming that everything is connected and contingent until the end when everyone can see all of the pieces of a whole package, how should issues for discussion be sequenced: take the harder ones first or try to pick off the easier ones?
13. **Working groups.** Assuming things get started on the right foot, are there logical smaller work teams that could be put in place?
14. **Deadlines.** What are the real deadlines and backstops for this dialogue and negotiation?
15. **Plenary sessions.** The first plenary meeting may need (an hour, a morning, a day, a day and a half) and after that (one hour, half-day, full day) sessions. Does this make sense? If not, what are other proposals?
16. **Steering committee.** Would a small steering committee or some co-chairs for the process be helpful?
17. **Ground rules.** Above and beyond the general rules of civility, how should each of the following work: confidentiality and contact with others not in the group; outside

- inquiries (especially from other groups not represented); inquiries to or from politicians.
18. **Decision making.** There are different ways to manage how to reach agreements or consensus. Often, a 1 to 5 consensus polling tool is used, with a goal of getting everyone to 3 and above and backstopped by a supermajority vote if required. What are some suggestions in terms of group decision making?
 19. **Consequences.** What will happen to individuals and their colleagues from other groups and agencies if no agreement is reached, or if there is a weak agreement on peripheral issues? What are the political, economic, and professional consequences of not succeeding fully in this effort?
 20. **Facilitator's role.** How can the facilitator(s) be most helpful? Is there anything more that would be helpful to know about the facilitator(s) individually or about the organization?
 21. **Communicating views.** If there is one thing participants absolutely want others in the room to know and remember about how their association sees things, what is it?
 22. **Process name.** What might be the right name for this process? Should it be called a "dialogue," a "work group," a "roundtable," or something else?
 23. **What else?** Is there something else participants should be asked or would like others to know?

Dashboard

A "Dashboard" takes stock of different factors that might influence the creation of a collaborative process. It's a visual and oral metaphor that can help start a group, calibrate progress, and track collective impacts.

For a group just coming together, a visual depiction of the Dashboard provides a means of grappling with the different organizing elements of a process:

- Clock: How much time is there to do the work?
- Fuel: Is there enough money and support?
- Speedometer: How fast should (or can) the process go?
- Internal passengers: Are the right people and groups at the table?
- External stakeholders: Are there others who need to be involved, kept informed, or found a role for?

- Concerns and construction zones: Are there big dangers out there that could trip up the process?



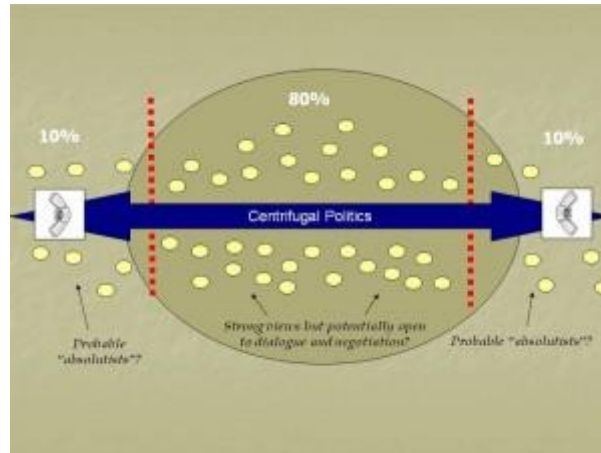
Stage 2 Tools

Rules of thumb for building the table

When assessing which individuals should participate in an assisted dialogue and negotiation, consider the following rules of thumb:

- Organize a constructive project composed of different voices and views.
- Look mainly to the “80%” (see below) to populate the project.
- Look for “thought leaders” and “thought influencers” who are passionate about the issue, disagree with each other, *and* are willing to engage in a constructive dialogue.
- Look for people of reasonable intelligence, reasonable openness, and reasonable self-discipline; those who are willing to enter into good-faith give-and-take solution-seeking discussions.
- Make sure the voices and views of the 20% absolutists on the fringe are heard. At a minimum, make sure they are invited as speakers or panelists so their views are in the mix.
- Reach out to some of that 20% to participate, but be very assertive and put explicit conditions on their involvement:
 - A good-faith, give-and-take, solution-oriented effort
 - Attendance at all meetings
 - A willingness to refrain from independent media comments

These difficult choices are illustrated in the following diagram:



Charter or Terms of Reference

A draft charter or Terms of Reference (TOR) can serve as a jumping off point for procedural discussions. Some project leaders and facilitators like to build these from the ground up with no advance preparation and with the full participation and presence of the group. Many groups do not have the patience for this and often get bogged down in it. They are inclined to trust the facilitator's judgment and ability not to preemptively assume agreement on a proposed charter.

Critical components of a charter or TOR are:

- The mission of the group
- A schedule of proposed meetings
- Rules of behavior
- Explicit ground rules about representation and how decision making will work

(See, for example, [Healthcare Reform Dialogue Charter](#))

Decision-making protocol

There are many options for how groups might want to function when it is time to make decisions. It is critical to have something in place before the group advances into substantive dialogue and negotiation. In choosing a decision-making protocol, the group will:

- Work towards the highest and fullest consensus possible
- Use a polling tool to calibrate consensus
- Not confuse the polling tool with decision making
- Use a fallback of super-majority voting (66%) if a full consensus is not possible

- Develop alternatives or modifications if necessary

(See, for example, [Ok Tedi Report](#))

Stage 3 Tools

Soft debates

Where working relationships are good and intellectual complexity is high, it may be useful to engage in “soft” debates. Many process leaders shy away from debate because it can be confrontational. However, debating can bring information to bear on the problem, clarify issues, and sharpen options. Two productive methods are “Point-Counterpoint” and “Intellectual Watchdog.” Both can sharpen the work of the group.

The “Point-Counterpoint Method” works like this:

1. Divide into two groups.
2. Group A develops a proposal, fleshing out the recommendation, key assumptions, and critical supporting data.
3. Group A presents the proposal to Group B in written and oral form.
4. Group B generates one or more alternative plans of action.
5. The groups come together to debate the proposals and seek agreement on a common set of assumptions.

The “Intellectual Watchdog Method” works like this:

1. Divide into two groups.
2. Group A develops a proposal, fleshing out the recommendation, key assumptions, and critical supporting data.
3. Group A presents the proposal to Group B in written and oral form.
4. Group B develops a detailed critique of these assumptions and recommendations. It presents this critique in written and oral forms. Group A revises its proposal based on this feedback.

Stage 4 Tools

Evaluate options

Take each option and evaluate it by having groups discuss its strengths, weaknesses, positive impacts, and possible downsides. When there is a very long list of options, it’s useful to clump or cluster similar ones together and/or to eliminate those that no one feels strongly about.

Another method is to examine each option from different cognitive frames. It might be appropriate to use an “N-over-3” straw polling system to surface those that have greater

prominence in the group. This can be done with dots or with written check marks. Assuming a list of roughly 21 items, participants can either spread or stack their votes, meaning they can vote for 7 different items off the list, or place all 7 of their votes on one item, or use a combination. The rule of dividing the total number by 3 is an approximation. That is why the total number could be 20 or 22 and the divisor of 3.

When the groundwork has been laid and the group is ready, a criteria/options matrix can be used. Fundamentally, this is a preferencing technique that can help groups evaluate and score different ideas against an agreed-upon set of criteria. This can be adapted for both individual and group scoring so a stakeholder body can see each individual's weightings as well as an aggregate weighting for the whole group. It can also be used to evaluate and compare the opinions of different individuals as well as quantify the strength of a whole group's opinion.

Stage 5 Tools

Single Text Negotiation

Single Text Negotiating (STN) is especially useful for more complex multi-stakeholder processes. In many negotiations, especially those in which the lead negotiators are agents for others, there is a tendency to exchange and mark up separate drafts. A STN document rests drafting responsibilities with a facilitator, mediator, or project leader who moves one draft around to all parties for successive revisions. This also helps avoid the "reactive devaluation" syndrome in which people discount the value of a proposition simply because it is coming from someone they don't trust.

Impasse breakers

The greatest threat and therefore the greatest challenge is seeing a long and important stakeholder process end in impasse for the "wrong reasons." Wrong reasons might include procedural breakdowns, miscommunications, or interpersonal quarrels.

Here are some things that can be done to prevent, manage, or resolve last moment deadlocks. This list was compiled jointly by Peter Adler and Louis Chang and is drawn from the work they did together over the course of numerous projects.

1. Throughout the previous stages and phases, the facilitator should keep careful notes and track the strengths and weaknesses of each stakeholder's situation: the potential net losses and net gains; the costs of protracted conflict (economic, political, social, personal); the costs of delays and lost opportunities; the future uncertainty of political or legal outcomes; the impact of bad publicity and future reputation. Use these as talking points in private meetings to help explore possible alternative positions.



2. Help each stakeholder understand his or her best and worst alternatives to a negotiated agreement (BATNA and WATNA). Do this in private.
3. Look for creative packaging by exploring linkages for trades that are high value for one and low for another; that are contingent (“If they would give B, would you consider giving A?”); that can be bundled as a set of gives and takes; or that can restructure future relations (“We will set up a joint monitoring committee”).
4. Invoke external standards. What specific regulations, statutes, codes, bluebooks or guidelines exist and are applicable?
5. By agreement of all, use a third party expert to pronounce on or “arbitrate” a single sticking point.
6. Establish “Agreements in Principle” (and then move to specifics).
7. Conversely, find a single issue and use that to build towards a larger package of “contingent” agreements.
8. Chart out all options visually. Use a criteria/options matrix to help rank and rate. Or use a final straw poll (distributed or weighted). Or use paired comparisons to evaluate each option against every other.
9. Change the process. Move from joint meetings to private meetings, or visa versa. Move to shuttle diplomacy. Hold a technical sidebar or separate working group on the hold-out issues. Go back and do classic brainstorming on the remaining stubborn issue.
10. “Cage the Gorilla” by enlisting the support of the group’s constituents to exercise control of an intransigent and high-intensity participant.
11. Hold a secret poll to see where the weight of the group’s thinking lies.
12. Bring in a “Gray Eminence,” a respected fourth party to help with the final negotiations.
13. Call a “Time Out” and assign homework: “Please prepare a statement of all variations and the (+) and (-) characteristics of each option.”
14. Provide confidential “coaching” to each side.
15. Take everyone to dinner. Keep it social. Don’t talk business but ask everyone to do some thinking overnight after dinner.

Tertium Quid

Tertium Quid is an old and somewhat archaic legal concept represents that new, vague, and possible thing that is related in some way to two known and definite old things that were in collision, but which is now distinct from both of them. It is a fresh reality that can stand.

