Collaborative Leaders Network

Assisted Dialogue and Negotiation

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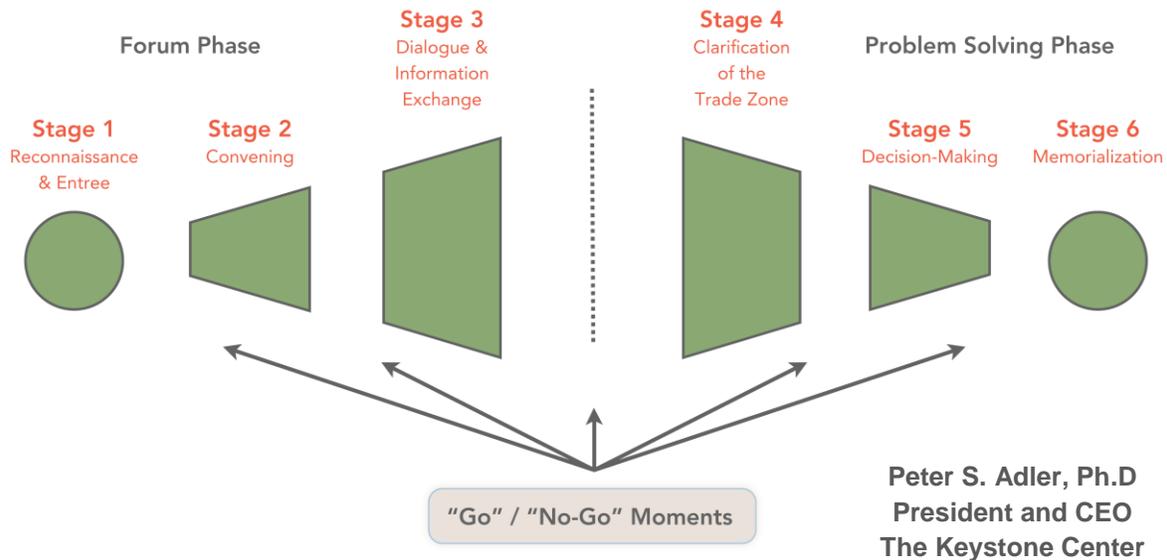
This strategy typically engages a broad range of participants who bring with them varied and potentially conflicting self interests.

Overview

> *"If you want to go fast, go alone. If you want to go far, go together."*
> - African proverb

The general arc of this strategy is comprised of two broad phases: a "Forum Phase" in which people are encouraged to effectively communicate with each other and a "Problem Solving Phase" in which they are encouraged to negotiate. As multiple issues are worked through, the sequence of the dialogue can and must stay flexible.

The work of the Forum Phase involves:

- Creating comfort with the process
- Enabling good communication
- Reducing emotional heat when it is an impediment to productive interchange
- Establishing a climate of trust and rapport
- Enhancing working relationships
- Deepening multilateral insights and understandings
- Allowing a full expression of the conflict, most especially the hopes and fears
- Creating a relevant and useful foundation of facts that can springboard into the Problem Solving Phase

The work of the Problem Solving Phase involves:

- Creating a "we against problem" (rather than an "us against them") focus
- Creating the momentum and political will to resolve matters
- Generating and analyzing options
- Narrowing differences
- Discovering possible trades
- Negotiating potentially optimum solutions
- Managing or saving face
- Choosing best options and an agreeable pathway forward
- Reaching trustable agreements

Depending on the kind of problem the collaborative process specifically seeks to address, there are six kinds of possible deliverables:

- A transactional agreement
- A guidance to other decision makers
- A joint fact finding
- A plan
- A record of discussions
- An explicit alliance or partnership

> *The highest goal is always to produce substantive, procedural, and relational results that are more valuable than would have otherwise been achieved in the minds of everyone involved.*

Notes On The Map And Process

Two main phases break down into six more specific stages:

The Forum Phase

Stage	Name	Purpose
1	Reconnaissance and Entrée	*Build the table and get organized.*
2	Convening	*Bring people together to formally start the effort.*
3	Dialogue and Information Exchange	*Lay the procedural, relational, and substantive foundations.*

The Problem Solving Phase

Stage	Name	Purpose
4	Clarify the Trade Zone	*Array the choices and evaluate the options.*
5	Decision Making	*Reach conclusions.*
6	Memorialization	*Capture decisions.*

Because collaborative processes do not proceed in a linear way, there is a lot of osmosis between phases and considerable tacking back and forth within stages.

Deliverables and Outputs

Every case and project is different. Still, there are six possible deliverables that can result from the process:

1. **Transactional Agreements**. These documents are usually signed by stakeholders who have the authority to enter into and implement agreements, either for themselves or for others they represent.
2. **Guidance Agreements**. These documents unite usually opposing parties to offer consensual advice to decision makers on a regulatory, law-making, rule-making, standard-setting, or policy-making issue.
3. **Joint Fact-Finding Statements**. These documents seek to narrow disagreements on a specific set of factual public policy matters.
4. **Plans**. These documents articulate the alignment of one or more groups on a vision, strategy, goal set, objective set, or future activity set.
5. **Records of Discussions**. These products capture the results of listening sessions which embody the opinions, suggestions, ideas, or agreements of diverse constituencies.
6. **Alliances or Partnerships**. These products memorialize part or all of an attempt to create new alliances, confederations, or mergers, sometimes between highly improbable partners.

Managing the problem, the people, and the process

To design a process that is appropriate to the people and the problem, the facilitator needs to take into account multiple dimensions:
- The "time" dimension has to do with deadlines and how the interval between start-up and completion will be planned and managed.
- The "space" dimension is about establishing what might be the right "unit of work," "unit of analysis," or "unit of potential action."
- The "energy" dimension is about assessing the group's level of tolerance for complexity and ambiguity, the emotional ranges, different styles, types of knowledge, and levels of commitment.

- The "form" dimension deals with the various kinds of forums, venues, and sequences that may be appropriate to the circumstance.

Part of the facilitator's assessment is to gauge the nature of the conflict and its possibilities for a cooperative process. Some of this is mechanical: who needs to be involved, whether they will come to the table, whether resources can be secured, and so on. There are also softer judgments that need to be calibrated. One of those has to do with the interplay of PESTLE issues (political, economic, social, technical, legal, and environmental). A softer (but nonetheless analytic) judgment deals with the degree to which a given issue is dominated by "technical" versus "value" themes and the current levels of agreement or disagreement about them.

Understanding that a lot of improvisation will be required, the choreography is designed to help set a positive mood and an entrée into the process that ultimately creates a "trustable" forum for dialogue and negotiation.

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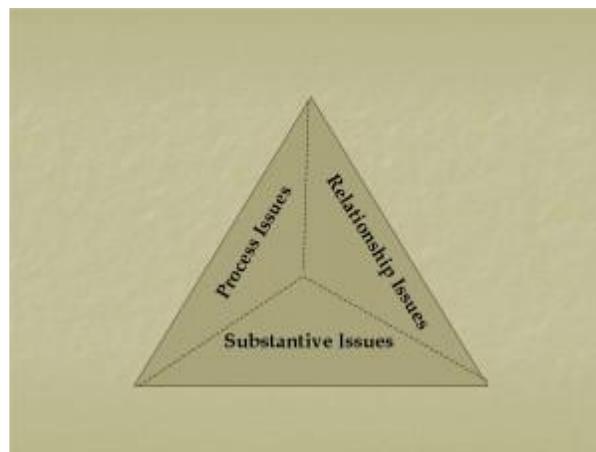
<u>Process</u> satisfactions and/or frustrations involve gaining and maintaining the participation of all affected stakeholders; establishing protocols that create trust and comfort; agreeing on the issues that are of concern to all stakeholders; agreeing on schedules and deadlines; having reliable leadership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

<u>Relationship</u> 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).

<u>Substantive</u> 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.

Critical Success Factors

- **An appraisal, assessment, or analysis** for the purpose of understanding the timeliness of the issue and the readiness of conveners, sponsors, and stakeholders to engage and work together, even through potentially difficult moments.
- **Understanding of the negotiation "terrain,"** i.e., the negotiation history of the parties; possible focal points or targets of negotiation; potential trade zones; the issues (single or multiple) and how they may link to each other; deadlines; individual stakeholder BATNAs ("best alternative to a negotiated agreement"); respective layers of decision making within stakeholder constituencies; preferred communication styles for conveying and receiving information; identification of potential "undercover mediators."
- **Rules of engagement** acceptable to all.
- **Private and confidential meetings** with everyone. (Sooner is usually better than later and more check-ins are better than only once.)
- **PESTLE information** (political, economic, social, technical, legal, and environmental) provides a factual foundation and context.
- **Facilitator's own independence.** (See, for example, "Keystone's Statement of Independence")
- Lots of **high quality communication**: questions, listening, continuous learning.
- **Willingness to confront the mess** by going steadily towards the tensions and core dilemmas that seem to be troubling people.
- Building a level of **interpersonal trust** in the room.

Dilemmas

Key stakeholders may have little or no interest in a stakeholder process.
Let everyone know who is or isn't on board. The decision about whether or not to go forward ultimately belongs to the other stakeholders.

The time and money needed for an authentically robust process are not available.
This is actually a fairly common problem. Some conveners or sponsors want a very complex process done in too short a time frame or on the cheap. Provide solid judgment on how long a process might take and how much it might cost.

The political timing of a process seems questionable.
Political or legal deadlines often turbo-charge a collaborative endeavor, but if some legal or political decision is impending, it might influence the nature of the issues. Consider advising prospective sponsors, funders, and stakeholders to wait.

There is fatigue with previous collaborative efforts, either on the particular subject or with other processes.
One way of overcoming this is by reinforcing the idea of "go and no-go" stages in which stakeholders can make collective and/or individual decisions as to whether enough progress is being made to warrant their continuing involvement.

Stage 1: Reconnaissance & Entrée

The primary goal of this stage is to build "the table" and get the process organized.

Overview

This stage tests the waters for a viable collaboration project and, if it appears viable, initiates critical start-up steps that lay the foundation for a potentially successful effort. The specific goals and outcomes are to:

- Understand the timeliness of a possible collaborative effort and the readiness and willingness of different potential conveners, sponsors, and stakeholders to enter into a good-faith process.
- Develop a working "hypothesis" about the substantive, procedural, and relational challenges that may lie ahead in a possible project.
- Develop a preliminary and still-tentative "choreography" and process design for the project, to be ratified later by the stakeholders.

In some cases, this may involve a full-blown formal stakeholder assessment; in other cases, it may be far less formal. Some portion of this choice is driven by complexity: the more issues, stakeholders, and urgencies, the more appropriate a formal assessment and analysis. It may be fitting to ask a few influential people to serve as a provisional steering committee or to ask two people who are on different sides of an issue to act as interim "co-chairs" of an effort to get a dialogue underway.

Depending on the project, the specific outputs or deliverables of this stage may be any, some, or all of the following:

- A formal concept paper
- Formal or informal stakeholder interviews
- An informal report back to actual or potential conveners and sponsors
- Creation of a steering committee or co-chairs
- A formal or informal report back to everyone interviewed
- A preliminary design for a process if the project seems viable, along with potential goals and timelines
- Formal letters that "kick-start" a process
- A time and cost proposal

In situations where there is a high level of mistrust or rancorous relationships, it may be necessary to check in with people repeatedly, both to offer assurance that a good-faith effort at dialogue and negotiation is being made, and to create psychological momentum for the project.

*Setting the stage involves positioning people to interact
with each other in the most constructive ways possible.*

Key Tasks

- **Early reconnaissance.**
  This involves discussions and interviews with possible sponsors, conveners, and stakeholders to see if initial reactions to a process are favorable. This work may also include discussions with outside influencers who could play an important role: legislators, regulators, executive officials, corporate and NGO leaders. This is usually done through a series of discrete phone calls and face-to-face meetings. In these discussions, the hope is to uncover and understand the challenges that may lie ahead and use the knowledge gleaned from these interviews to help design the flow and choreography of a given project. The process can be more idiosyncratic and random than linear.
- **Broader and deeper assessments.**
  Discussions and interviews with a wider circle of possible stakeholders, including external people in government and in other organizations, help to test the efficacy of a potential project. In some instances this may involve putting together a very simple diagram of a possible process and bullet-form talking points (stamped "draft"), and asking people for their reactions. These discussions can take the form of more formal "assessment" interviews (face-to-face or by phone), or less formal ones (an additional round of phone calls). (See, for example, "ESA Charts and Notes")
- **Preparation of an initial document.**
  This could take the form of a proposal or, more likely, a written draft of a charter or "terms of reference" (TOR) document that preliminarily states what a process might focus on, who might be needed at the table, what next steps might lie ahead for a possible collaboration project, and what kind of a meeting schedule might be appropriate.

**Stage 1: Tool
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 though. 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?

Stage 1: Dilemmas

Consider whether to exclude or include certain stakeholders.
Assuming there is a choice about which individuals to invite, to what degree should any avowed "absolutists" on either end of the continuum be included if they signal that the issues are non-negotiable? Think about the potential costs and risks of excluding them. Speak with the hard-liners and test to see if they are willing to participate in an explicit "give and take" process. If certain issues are non-negotiable, they may not get a seat at the table, but they may get invited to make presentations, to offer information and data, and to observe. The flip side of this challenge is to find people who hold and can convey similar views, but who actually want to engage in "give and take" discussions to forge solutions.

Consider whether to be more directive or more elicitive on content.
A process-only focus may be appropriate if the level of emotional drama is extremely high. More often, people are looking for a content-robust process and want to be sure that whoever is sponsoring or managing the collaboration has good knowledge of the subject but will not make substantive judgments or slide into anyone's pocket.

Sponsors, conveners, or funders are confused or unclear on the nature of a collaborative process.
Sometimes a potential sponsor, convener, or requester senses that some sort of collaborative process is needed, but their descriptions and intents are vague. In effect, they aren't sure what they want and may have outcomes in mind that are fuzzy. This usually involves several conversations and a discussion of possible deliverables.

Sponsor, conveners, or funders aren't aligned.
In some instances, several potential sponsors or conveners come together and indicate early interest in a collaborative process but aren't aligned in their thinking. Some want a short process, others a long one. Some want certain stakeholders to be involved, others disagree. This requires multiple meetings/conversations to facilitate and negotiate a specific project plan.

Sponsor, convener, or requester doesn't want to invest.
Sometimes a sponsor, convener, or requester wants an elaborate and complex process but wants to do it quickly and "on the cheap." Sponsors may want to get straight to the table and do not want to spend time and money on a preliminary assessment; they may also be hesitant to invest the human and intellectual resources that are needed for a robust process. If conveners or sponsors are completely willing to trade off quality for speed and cost, it's better to decline them.

Sponsor, convener, or requester wants a particular outcome.
Occasionally, a sponsor, convener, or requester wants a collaborative project but is wedded to a particular outcome. If expectations can't be loosened and the latitude to include stakeholder expectations is not granted, it may be better to decline. In many cases, sponsors and conveners can be educated to create a more open-ended approach.

The timing for a process seems wrong.
As a result of assessment interviews, the political timing may not seem right. Explain that future windows might emerge later and that the collaboration might be revisited at that time. Ultimately, it is the decision of the convener and stakeholders as to whether or not they want to move forward.

Major stakeholders won't participate.
The assessment interviews may reveal that some of the major potential players do not want to participate, or they may be willing to participate but are probably going to "game" the process, or have no resources to participate, or want to stretch the sponsor's sense of deadline. It's best to address each problem in individual meetings. In the end, and without embarrassing anyone, try to manage expectations and propose participation ground rules. The real question is whether others wish to continue.

The sponsor prefers not to have a written assessment report circulated.
A sponsor, convener, or requester has agreed in principle to circulate a report on the assessment interviews but then asks that it not be shared. If the sponsor cannot be persuaded to let others read the findings, report this back to the stakeholders and try to give them a verbal summary.

Stage 1: Tool

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?
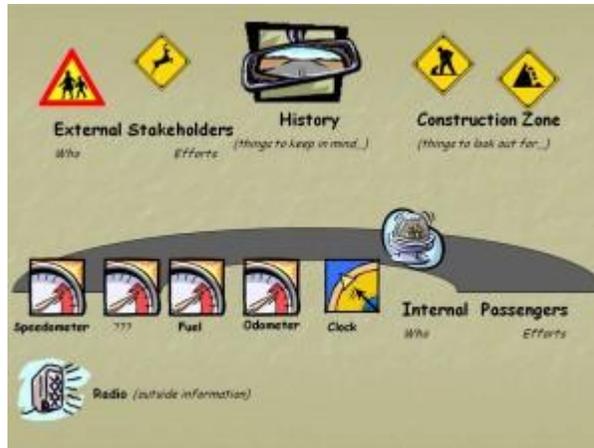
Stage 1: Vignettes

This project shows how a project began, how the assessment took place, and how the choreography worked.

In the mid-1990s a developer sought permits to build a resort on the Kona coast near Anaehoomalu. A group calling itself "Public Access Shoreline Hawaii" (PASH) formed in opposition to the project and brought a lawsuit seeking to enjoin the project from going forward. PASH was made up of both environmental advocates and Native Hawaiians. The group argued that any development would need to honor the "traditional and customary gathering rights" of Native Hawaiians and would need to assure public access. In 1995, the case made its way to the State Supreme Court where the justices found in favor of PASH.

The Court's decision created great joy among Native Hawaiians and great consternation in the business community. Developers took their case for greater legal clarity to the legislature. State senators and House legislators were wrestling with how to implement the court's decision in ways that would balance the interests of Hawaiians with land owners and developers. The decision was made to defer the bills and create a resolution asking to set up a carefully organized and facilitated process between legislative sessions. The resolution that emerged (HRD 197) requested the Office of State Planning (OSP) to implement just such a process and report the results at the next session. The initial challenge was to conceptualize a general process and explore the willingness of leaders from different interest groups to sit together and work on the problem.

As a working hypothesis, the facilitation team envisioned a flexible, three-phased project arc that would have the group deliberate, take the discussions public, and then complete the deliberations informed by the public's comments over the course of six to nine months. Preliminary discussions with thought leaders in both the Native Hawaiian and business communities helped to identify additional possible groups and individuals, create a proposed set of ground rules, and strongly confirm that such a process was needed and desired.
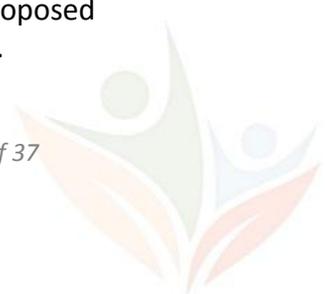
Stage 2: Convening

The overarching goal of this stage is to bring people together and formally start the process.

Overview

This stage brings people together and formally inaugurates the process. Specific goals are to:

- Create a "starting line" that launches the larger dialogue and negotiation process.
- Formally cement the participation contract that people have informally agreed to in advance. Most often this is in the form of a charter or Terms of Reference (TOR) document, but it can also be a set of verbal agreements.
- Begin the effort of creating mutual understandings about the definition of the problems and the specific issues to be taken up.

The larger purpose of this stage, and the next, is to seek understanding about the different meanings groups and individuals are holding in their minds about the conflict itself and about the prospects for cooperation. This is a time when people set the tone, establish their desired atmosphere, and telegraph signals to each other. The signals may say:

- We are eager (or reluctant) to explore solutions.
- We trust (or don't trust) you.
- Certain issues are important (or unimportant) to me.
- We like (or don't like) you.
- This is a good (or bad) moment to enter discussions.
- We really want to understand (or, conversely, we don't care very much about) your positions.

These signals are good opportunities for clarification and early collective insight. People need to tell their stories, explain what has brought them to the moment, state their grievances, and describe their highest hopes and worst fears. There can be no bargaining before there is a fully established context and reasonable working relationships.

Done well, beginnings influence endings. They set aspirations and ground rules,
frame substantive objectives, create relational expectations, shape procedure,
and establish the tone and atmospherics of an expected process.

Stage 2: Key Tasks

- Welcome everyone. Get people introduced. This often includes a powerful cultural component.
- Encourage everyone to talk story and offer background on how he or she (or his or her organization) is predisposed to arrive at the issues.
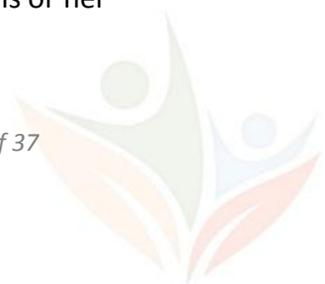
- Confirm, change, or further inform the "hypotheses" formulated by the facilitator in Stage 1 about the substantive, procedural, and relational challenges that lie ahead as the dialogue and negotiation proceeds.
- Confirm or re-set explicit agreements on the group's composition, mission, structure, and protocols.
- Begin substantive discussions. Undertake an initial pass at understanding the issues. Identify information or data that may be needed for future meetings.

Depending on the specific type of process, this stage may deliver any or all of the following:

- An acceptable, usually signed, charter or TOR. This indicates that the group understands and is in alignment around its mission, composition, structure, and protocols.
- A meeting record or other document that captures initial discussions which may include an aggregation of people's individual stories and a listing of concerns and issues.
- Identification of any missing stakeholder voices or viewpoints.
- Identification of relevant PESTLE information that may be needed for the next stage.

Stage 2: Dilemmas

In the face of skepticism, disbelief, or fatigue from previous efforts, it's a challenge to infuse reasonable optimism that a process is worth time, energy, and attention.
Instead of trying to talk people out of skepticism, disbelief, and fatigue, consider the Aikido approach, which is to hold onto and "lean" into their skepticism to put those feelings to work. Consider asking: "What specific milestones would give you more confidence that a set of meetings aren't a waste of your time or, conversely, confirm your worst fears?" Or, "What would the first meetings need to accomplish to be worthy of your time?" Or, "What specific things would you like to say to the others or hear from them?" Or, "What would you like to know from others that you don't know now?" Or, "What specific changes to the proposed charter would give you stronger confidence?"

Signals are often sent in the early convening that can influence the speeding up or slowing down of the anticipated process.
Ask participants to imagine all the possible potholes and bumps they are likely to encounter on the journey and propose schedules that balance the need for speed with the things they also think need to be accomplished. In the end, the facilitator may want to say to participants, "Bear with me as things get organized." If participants have reasonable confidence and trust in the manner in which the project is organized and is getting started, they will likely cooperate.

Some individuals believe they can accomplish more in the normal political and legal processes and are reluctant to participate.
There are a number of possible ways to deal with this. First, are the other stakeholders prepared to go forward without them? Second, can the issues be narrowed and focused so that impending political and legal matters are more expeditiously streamlined? Third, might a joint fact-finding effort be a useful process to help narrow factual disagreements?
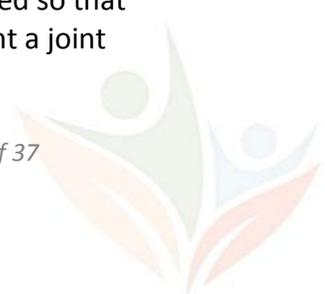
Some individuals insist that they have lawyers present. Others prefer not.
Everyone may agree to have lawyers present. Conversely, agreements may state "no agreements will be entered into with lawyer consultation." Agreements can also be crafted so that lawyers can participate in some sessions but not others.

Some individuals want to open the process to the press and outsiders, while others insist not.
The usual practice is to encourage private discussions with no statements made to the press except those jointly agreed to through a designated spokesperson and supplemented by opportunities for the media to take photos and pose questions. Alternatively, there may be some sessions that are open to media, while others are not.

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:
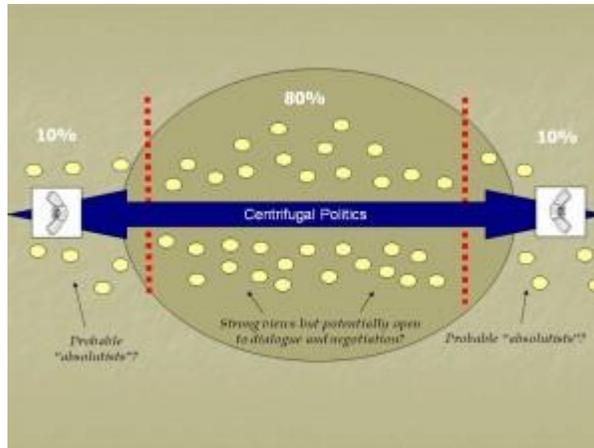
Stage 2: Tools
Charter or Terms of Reference

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")

Stage 2: Tools
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 2: Vignettes

This project illustrates one of the ways a collaborative project can get started, as well as the challenges of bringing a group together to engage in early discussions. The excerpt is from "The Pig Wars Revisited."

December, 1994. On a wet, cool night, 20 people are gathered around worn benches and rough plywood tables in the clubhouse of the Laupahoehoe and Hamakua Hawaiian Civic Club.

The group that has assembled is known as "The NAWG," Natural Areas Working Group. It includes representatives from three Big Island hunting groups, two local community associations, the Sierra Club Legal Defense Fund, the Audubon Society, the National Biological Survey, and the State of Hawaii's Department of Forestry and Wildlife. The co-mediators are charged with structuring a process of communication and negotiation and increasing the odds that new solutions to some vexing old problems can be invented. The racial mix in the group seems also to demand a racial mix on the mediation team.

Some members of the working group representing more strident environmental interests advocate putting up as many stretches of pig-proof fences as possible, removing the pigs inside, and, over time, expanding the Natural Area Reserve (NAR) system so that more forest is protected. Others, notably the more outspoken hunting groups, take a polar-opposite approach. They argue that pig populations and hunting opportunities must be expanded, that some of the NARs should be turned into Game Management Areas, and that all existing fences in and around the NARs need to be torn down because they interfere with pig breeding and migration and are dangerous to hikers, hunters, and dogs.

Luckily, the NAWG is composed of people who hold very strong opinions but who also genuinely want to solve problems and — in the finest tradition of *Hooponopono*, the ancient Hawaiian ritual of resolving family and clan disputes — seek to "make things right." There is the inevitable stereotyping, miscommunication, misinformation, and battles over process that attend any conflict. Most NAWG members, however, seem preliminarily interested in a search for understanding and agreement.

Stage 3: Dialogue & Information Exchange

Through discussion and deliberation, group members create a pertinent information base and sharpen their collective clarity on the problem to be solved.

Overview

The main goal of this stage is to lay down multiple foundational pieces in the service of future solution finding. Protocols are in place and the mission, goals, and objectives are acceptable to all (with the understanding that they may need to be revisited or changed along the way).

The three main tasks of this stage are to:

- **Identify issues.** Have every stakeholder understand every other stakeholder's aspirations, ideas, and underlying interests. This interpersonal foundation helps to create trust and confidence.
- **Identify options.** Arrive at the fullest and crispest possible clarity on the issues and have those issues well framed and well stated.
- **Build an information base.** Create a strong base of pertinent data and information on the table by populating buckets with facts from the PESTLE (political, economic, social, technical, legal, and environmental) arenas.

The added benefit of building an information base with the group is to create a mutual learning curve and avert the impulse by some participants to seek premature negotiations.

*This stage seeks to carefully and deliberately build interpersonal
and substantive understandings and enough trust and momentum
to attack the problems that have brought people together.*

Stage 3: Dilemmas

Some people want to go straight to solutions; other people are not ready.
The challenge is to create and manage at a pace that is satisfying to both those who might be impatient with a lot of discussion and, conversely, those who need to go through careful foundation building. The details of this are always negotiable in the moment and as they arise, provided the group has agreed in its charter or TOR how the schedule will proceed.

One party comes to the meetings and prematurely lays down a position statement or set of demands.
The challenge in this situation is preventing premature negotiating, i.e., offers and demands before some semblance of closure has been reached in the Forum Phase. When one party, usually someone very accustomed to more "positional" negotiation, lays down demands, the facilitator's work is to de-position that individual. One option is to directly ask him/her to

postpone. Or, if it is already out on the table, ask the group to defer discussion on this until later, when everyone is ready to bring their own demands and offers.

Some members of a group have little patience for complex deliberations and a hard-wired intolerance for "messiness."
Collaborative processes that bring together representation from the public, private, and civic sectors *are* messy. So are attempts at untangling them. Part of the goal, then, is to help groups grapple with the substantive, procedural, and relational messiness and go through their own "uncluttering." The facilitator will try to build in antidotes (preventions) to the messiness and safeguards (interventions) during the process when the messiness is getting acute.

Some members of the group think and operate inductively, from ground-level details up to a usable generalization. For others it is deductive, or "top-down;" they must begin with a theory, a principle, or a proposition.
People come to the table with different learning styles. It isn't an "either-or" choice. Both styles need to be accommodated to maintain the procedural side of the triangle of satisfactions.

Sometimes, scientists find local knowledge and local experts suspect, and visa versa. Occasionally, this results in escalated conflict and groups become vulnerable to an "expert war."
There are many ways to constructively engage this issue: technical work groups, well moderated expert panels, and mediated discussions on methods, data, and modes of analysis.

(See "Managing Scientific and Technical Information in Environmental Cases" and "Building Trust: Twenty Things You Can Do To Help Environmental Stakeholder Groups Talk More Effectively About Science, Culture, Professional Knowledge, and Community Wisdom.")

Some stakeholders are reluctant to put detailed information on the table for fear it will come back to haunt them in a later legal or political forum.
This challenging situation often happens when litigation is pending and discussions are more in the nature of settlement talks. Rule 408 of the Federal Rules of Evidence offers some guidance and protection*.*

Some stakeholders want to focus on quantitative and numerical analysis. Others prefer "talk story" and use a discursive and informal style.
This problem is common and is similar to managing inductive and deductive learning styles. To be viewed as credible, the process must be choreographed to accommodate both and not allow one style to be privileged over the other.

Some stakeholders are focused on cultural issues only. Others are focused on legal and economic matters.
Both perspectives are critical. Consider beginning with presentations and discussions on the culture issues, with assurances that the group will also be taking up the legal issues in short
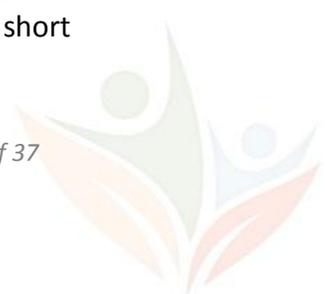
order. The PESTLE buckets may prove handy in framing questions and seeking compelling information.

Discussions on important civic and public interest matters in stakeholder groups can be defeated for the wrong reasons.
Some groups have difficulty getting organized. A few get hijacked by people who want to see decisions perpetually delayed for their own political purposes. Many discussions yield no shared and acceptable process for dialogue; this can happen because of a premature push for decisions and a voting of "us" versus "them." In some cases, communication breakdowns trigger escalating spirals of suspicion. In the most extreme situations, people of integrity and goodwill actively seek to defeat each other.

Stage 3: Tips

- At the start of this stage and at the start of all those that follow, spend a few minutes doing a thorough recap of what has brought the group to this particular moment. When "chanting the genealogy" of the group, the facilitator recaps the mission and objectives, the procedural agreements that are in place, and previous discussions of the substantive matters at hand. This helps everyone remember what they are doing and why they are doing it and it also brings any new people, (observers or new participants), up to speed.
- Out of the insights, explanations, and stories of group members, try to evolve a set of questions that are mutual to everyone. For example: "How can we protect the fish species in this bay *and* use the bay to help revitalize the local economy?" This involves taking "either/or" questions and converting them to "and/both" questions.
- In complex discussions that are science, culture, law, or technology intensive, urge groups to spend considerable time wrestling with factual issues and creating a solid collective foundation of agreed-upon information that will inform decisions later on. Facts are instrumental to face-saving and a graceful way to help people change their minds.

Stage 3: Tools

Stage 3 is rich with tools, techniques, and activities aimed at setting the stage for Stage 4. Some of these tools include:

Stories
Stories are the portal into ideas; ideas that are not grounded in stories are often abstract. Stories are "frames." Facts that don't fit frames tend not to be accepted as facts. Encourage first-person narratives by asking: "Tell us about a typical situation in which the issues we are taking up came into play?" Or, "Tell us how this issue affects you personally?" Or, "Give us some insight into why this problem is important to you and your organization?"

Field Trips
One of the more powerful, visceral, illuminating and sometimes unifying strategies is a well-

organized field trip. It's useful to get everyone out of enclosed meeting rooms, away from PowerPoint presentations and flip charts, and out to the actual sites that are at the center of discussions. Field trips by themselves are useful, but the real value emerges when the trips are carefully debriefed and followed by focused questions on what was observed, how the observations were interpreted, and what those mean for the issues under discussion.
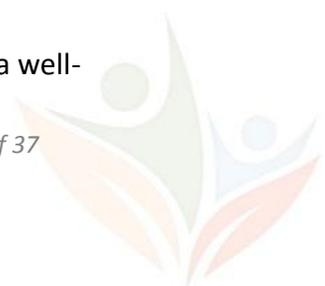
Friendly Questions
Assuming a working trust exists or has been established, encourage people to ask "friendly" questions of each other so they can gain a richer understanding of each others' views. Questions are asked not to embarrass or debate, but to elucidate and inform.

Detoxification Of Communication
It is always preferable that people talk with each other directly. When people are having a particularly hard time expressing their thoughts or hearing and understanding each other, the facilitator may serve as translator and bridge, managing and filtering interpersonal exchanges. When the problem is extreme, ask people to reverse roles and explain another person's views until it meets the other person's full satisfaction. This can be tedious, but it works.

Histories
In some groups, it may be useful to ask people to create an historic timeline that identifies key players, actions, events or epochs that have led to the present moment.

Shared Assumptions
Most groups are asked to brainstorm a list of possible shared assumptions. With the PESTLE framework, participants can be asked to generate, category by category, the political, economic, social, technical, legal, and environmental assumptions they are making about the next five to ten years. Group members are directed to use their analytic brains and state what they "think" will hold true rather than what they "hope" will. Once these lists are generated, the group participates in eliminating those assumptions that are not shared so that they end up with a list that is indeed shared. These shared views of the future often become serious drivers to option development and option selection.

Issue Arraying
In many instances, "fishbone" exercises to help identify and then cluster issues, causes, and effects. "Cause and Effect Diagrams," as they are sometimes known, are a way of exploring the contributing causes or reasons for a particular problem or issue. The diagram can also be used in reverse fashion to identify what contributes to a desired impact. The effect may be either problematic or desirable; when something desirable has happened it is useful to find out what caused it so it can be replicated.

Socratic Discussions
On occasion it is appropriate to organize "Socratic Dialogues" (some times called "Fred Friendly" meetings) in which people are given a hypothetical that mirrors the problem at hand; they are assigned roles (the mayor, an NGO, a corporation, etc.) and then gently interrogated
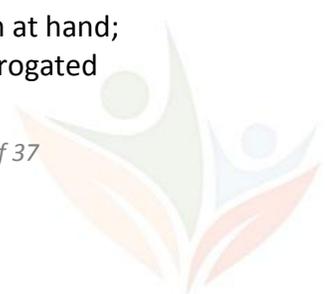
about how they would react to a shifting set of facts or to new wrinkles and "wildcards" that are introduced.

Visioning

In some groups, stakeholders are asked to create very specific photographic "tapestries" of a five- or ten-year future. They are asked to be specific in their descriptions and engage in a discussion that mines these photos for themes, strategies, and future activities. This quite easily turns into a plan.

Fact Building/Fact Finding

In all projects, the intention is to build a strong and mutual foundation of facts. For purposes of negotiation, assume that nothing is a "fact" until members agree it is a fact. Prior to that, it is an "opinion." Where there may be factual divides, it is useful to bring relevant PESTLE information to the table, in any one of a number of forms: expert presentations by stakeholders, outside experts on a panel, joint interpretation of specific studies, or various forms of discussions between lawyers, scientists, and culture experts. (Note that not every data "bucket" is relevant to every project.) This will lead groups to important discussions about what questions they want to answer and then, to what information will help inform the question.

Issue Confirmation

It is important to have an explicit list of agreed-upon issues enumerated and on the table. This may be an elaboration of what is already in the charter or TOR.

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.

Option Development

By the end of this phase, it is often natural to have an initial set of options charted out. This can be a discrete exercise or group discussion, or a "starter" list generated by the facilitator or members of the team. The trick is to manage group conversations in ways that avoid "group think," trivializing the discussion, "satisficing" (jumping on the first good alternative), or avoiding tough choices. This list of alternatives will get revisited, refined, and analyzed in the next stages.

Straw Polling

This straw polling tool gives a group a regular way of probing its own levels of consensus or "dissensus." The poll is based on the following:

1 = Love it
2 = Like it
3 = Like it, but have some reservations
4 = Don't like it, have reservations, but won't stand in the way of it going forward
5 = Strenuous objections and cannot support it

Using a straw polling scale like this allows for a finer gauging of agreement and also leads to further discussion by asking what 3, 4 or 5 improvements participants would make in the idea to raise their votes by one or more points.

Stage 3: Vignettes

This excerpt is from "The Ok Tedi Negotiations: Rebalancing a Chronic Sustainability Dilemma," a mine contamination and compensation case involving 60,000 indigenous people. The project illustrates the challenge of creating and sustaining a strong foundation of productive dialogue for the final negotiations. It also illustrates the value of going slowly at the start so that a project doesn't get bogged down at the back end.

The 50 members of the working group met six times in 14 months. Hundreds of regional and village meetings were held before or after each of the working group meetings. The design of the meetings and the choreography of the negotiations were intentionally aimed at creating as much trust building, information exchange, fact finding, deliberation, and interest-based bargaining as possible

At the start of the working group process, the remaining value of funds available from the original trusts (from 2007 to expected mine closure in mid-2013) was roughly K78.8 million. (Note a PNG Kina = U.S. .30). At the second working group meeting, OTML offered K118.2 million as a guaranteed floor plus more if copper and gold sales proved better than 2.5% of cash flow. At the third working group meeting, community delegates put forward an un-quantified interest-based proposal for new health, education, and job training services, new infrastructure, and unspecified new amounts of cash. At the fourth meeting, OTML, in combination with PNGSDP and national government's Minister of Mining, came forward with a combined proposal of K820.9 million. After further discussions between meetings and at the fifth working group, the parties agreed to a package valued at K1.100 billion (subject to ratification at the regional and village levels).

The negotiations sought to confront many important cross-currents and tensions. While all of the delegates collectively sought to "expand the pie" in their negotiations with OTML shareholders, the community delegates also had the task of "dividing the pie" between the nine river regions. Land owner and land user interests were at odds, as were the interests of those who had or had not supported earlier lawsuits. Many of the mechanical and administrative questions of how new financial arrangements would work were also in question as the process unfolded.

Stage 4: Clarification of the Trade Zone

The primary goal of this stage is to array and evaluate options and position the group for making choices.

Overview

At the start of this stage, issues are fully stated. Pertinent PESTLE information has been gathered, reviewed, and jointly analyzed for insights and conclusions. Options have been provisionally framed. By the end of this stage, potential trades, gives, quid pro quos, and possible bundles or packages of agreements are clear. The group knows and understands the choices and is positioned for bargaining and decision making.

Options can be organized and worked on in many ways—from a simple list of ideas, to a much larger set laid out spreadsheet style or bundled into different scenarios. The options may include ideas at various levels of scale (i.e., big ideas, small ideas, short-term ideas, long-term ideas, large landscape-level ideas, and site-specific ideas).

This is the time to shift the focus of stakeholders to the construction of "trustable" agreements rather than interpersonal trust. This may require building possible contingencies and caveats on to the proposed options, bundles, or packages that stakeholders can now take back to their constituencies for a final review before decisions are finalized.

With a fundamental shift from defining the problem and its various causes and effects to embracing the more action-oriented question of what can be done, this stage positions the whole process for a conclusion.

> *The big work of this stage is clarifying, arraying, and analyzing
> the options that will be essential to the development of a
> final agreement--both the letter of it and the spirit of it.*

Stage 4: Key Tasks

- Ensure that all options are on the table.
- Evaluate each option.
- Create possible bundles, scenarios, or packages that array options.
- Conduct a "straw" poll scoring of each option through a variety of tools and techniques.
- Compose a draft set of agreements for decision makers to consider.
- Create a draft meeting summary for those who were at a meeting or participated in a listening process to edit, supplement, or approve.

The outputs from this stage depend on the assignment:

- For a "Transactional Agreement," the objective is completing an in-depth discussion and evaluation of each and every item that might be part of a negotiated package and seeing what trades might be bundled together.
- For a "Guidance to Other Decision Makers," the objective is similar, but may require more explanation and room for dissenting views.
- For a "Joint Fact Finding," the objective is arraying a set of agreed-upon factual questions with answers, usually stated in ranges of numbers.
- For a "Plan," the objective is a clear articulation of the various ingredients of a vision statement, a strategic plan, a set of goals, and/or a set of timelines.
- For a "Record of Discussions," the objective is a draft meeting summary.
- For an "Explicit Alliance or Partnership," it may be a draft that orders critical elements of a partnership, alliance, confederation, or merger.

Stage 4: Dilemmas

There co-exists the need for transparency and the need for providing privacy and bargaining in the shadows.
Much of how this tension plays out depends on who might be involved as stakeholders and whether the process is connected to existing legislative or executive sunshine laws. In general, most stakeholder processes are not the same as public hearings held under the Federal Advisory Committee Act and are not required to be open. That said, privacy may be needed to negotiate specific exchanges, but the trade-offs need to be clearly understandable later on to people who were not part of the process. The best way to do this is to show all of the options that were considered.

There is a pull toward speed and a pull toward delay.
Because of political or legal deadlines, some stakeholders may seek delay and pressure the process to go slowly. Conversely, others seek conclusion. Delays may be a bargaining tactic or there may be genuine deadlines. When either dynamic occurs, the facilitator can speak with people privately and try to negotiate new timetables so that everyone is satisfied and saves face.

One stakeholder is violating ground rules and leaking confidential matters to the press or to key politicians.
The facilitator might confront the person privately and gently reminded him of the ground rules. It may also be appropriate to marshal group pressure from other stakeholders.

Sometimes in a larger multi-stakeholder process there is no real consensus or plurality that coalesces.
In situations like this, consider breaking out of the plenary format and starting an intensive round of shuttles and caucuses to try and effectuate a set of central agreements.

Agreements are watered down to a level that they are abstract "motherhood" statements.
If groups, especially those working on guidance documents, disagree on specifics and are not
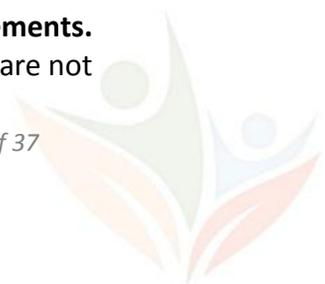
able to forge concrete agreements, the facilitator might ask them to offer up a set of "principles" that can be extended to specifics later on by policy makers, regulators, and standard setters. Alternatively, the facilitator might encourage a more extended break in the process to talk with constituencies or create some breathing room. At a minimum, when groups are working on thorny public issues, encourage them to leave behind a detailed report on their deliberations so that an intellectual trail is created for future groups.

There is continuing interpersonal conflict and the negotiations over options, bundles, and packages are punctuated by anger, feigned or real walkouts, and other "hardball" tactics. These are signals to get away from face-to-face group meetings and revert into shuttle diplomacy and more extended caucusing.

Stage 4: Tools

Tool:
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 4: Vignettes

This project explicitly sought to reduce some of the factual disagreements on America's long-running debate over the development of a new fleet of nuclear power plants. The following excerpt is from the final report of the "Keystone Nuclear Joint Fact Finding."

The participants developed the questions that they felt were the most important to answer, but did not intend to create a comprehensive treatise on nuclear power. Some of the questions/issues tackled were:

- What would be the likely cost of building advanced nuclear reactors in the next 10-15 years
- How much new nuclear power capacity might be needed worldwide to make a significant contribution to reducing GHG emissions
- Whether the operation of nuclear reactors is safer today than it was in the past
- Evaluation of available information on the security of the existing and future nuclear facilities against terrorist attacks
- Evaluation of the current and proposed options for waste management
- Evaluation of current reprocessing techniques
- Identification of the most urgent proliferation risks associated with current and expanded commercial nuclear facilities

The hope was that the research, expertise, and deliberations of this broad range of individuals would lend strong credibility to the findings. The findings in this report were designed to lay the foundation for continued discussions of the role of nuclear powering the U.S. and abroad. Ultimately, the decisions would rest on choices made by industry executives and boards, state and federal regulators, government policymakers, and the public.

Stage 5: Decision Making

The paramount goal of this stage is to reach an agreeable and acceptable conclusion.

Overview

The paramount goal of this stage is to reach an agreeable and acceptable conclusion that answers the questions developed in Stages 1 and 2. Although Stage 5 may need to loop back to previous stages, this is conclusion time, the final bargaining and problem solving that culminates the substantive, procedural, and relationship work that has taken place.

The highest possible agreement, accord, concurrence, and conclusion is one that satisfies the greatest number of substantive interests, that is in keeping with good process, that heals old hurts, that creates more certainty about the future than existed at the start, and that leaves relationships in the best possible shape. The most pragmatic goal is to achieve "consent," not "consensus."

This phase can be easy and frictionless, a simple "sliding" into a set of natural conclusions or agreements that follow comfortably and logically from the discussions that have come before. Alternatively, this stage can be a time of protracted and dramatic haggling, dickering, and political brinksmanship that require a final Herculean effort by the stakeholders, project sponsors and funders, and by the organizers. Managing the latter requires members to confront the possibility of deadlock and then work to either prevent or break impasse.

It's important to keep the broader group of stakeholders and their constituencies thoroughly informed to ensure there are no last moment "surprises," defections, or betrayals.

The best decisions come about when people have brought thoughtful information to the table, evaluated its worth together, and then made nuanced and justifiable value judgments.

Stage 5: Key Tasks

The outputs from this stage depend on the assignment:

- For a "Transactional Agreement," agreement on the final elements of an agreement.
- For a "Guidance to Other Decision Makers," a completed set of joint recommendations.
- For a "Joint Fact Finding," the conclusions to the questions that were raised and framed at the beginning and that were informed through negotiated fact gathering.
- For a "Plan," key negotiated ingredients and the wording for a vision statement, and/or a set of goals, strategies and objectives, and/or a possible set of action steps accompanied by a timeline.
- For a "Record of Discussions," final proposed edits to a record.
- For an "Explicit Alliance or Partnership," the terms of a new partnership, alliance, confederation, or merger.

Stage 5: Dilemmas

There is continuing tension between transparency and privacy.
Striving for the greatest possible transparency while honoring the need for privacy in bargaining may continue into this phase. It can be managed by ensuring both: Caucusing with some of the parties to help reduce disagreement *and* having report-backs to the whole group as well as to the press if they are following the course of the project.

One or two stakeholders hold everyone else hostage to their final demands.
This might be a slick negotiating tactic for those one or two stakeholders, but it tends to have a negative effect on others. In rare instances, the other parties may threaten (or actually) collapse the process around the outliers and forge an agreement without them. This may be less than fully satisfying to the facilitator, but is politically acceptable.

Agreements that are being forged have impacts on others not present.
This often raises ethical questions. Urge parties making agreements that affect others to engage in some form of notification and consultation. In the case of a guidance to decision makers, the door is fully open for those not present to submit their own comments, recommendations, or public testimonies. In the case of a transactional agreement, it is usually wise to talk with those affected but not present.

There is a protracted period of haggling over small issues.
If this goes on longer than expected, it can be a signal that some portions of Stages 3 and 4 need to be revisited. Recognizing that different organizations have different cultural styles of negotiation, long and laborious negotiations over small matters create a risk of major deal-breaking frustrations. If this happens, the facilitator can consider taking on the burden of drafting possible agreements. This may then slide into the final stage.

Stage 5: Tools

Tool:
Single Text Negotiating

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.

Tool:
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.

Tool:
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.

Stage 5: Vignettes

"The Keystone Center Working Group on Endangered Species Act Habitat" illustrates the effort that went into bargaining over specific language (because the words themselves would potentially have legislative implications). In the end, the Working Group achieved some 50 items of agreement, many of which landed in the Farm Bill.

Stage 6: Memorialization

In this stage, decisions are finalized and the collaboration is brought to a close.

Overview

The overriding goal of this stage is to finalize decisions. It is here that the entire arc of the collaboration project is brought to closure on all three levels. With the intellectual closure, substantive challenges have been met and are captured in some documentary form. With the psychological and relational closure, stakeholders acknowledge the ways they have come to understand each other and honor their similarities and differences. With the process closure, the multi-party stakeholder endeavor ends and there is often a celebration to honor everyone's hard work.

Agreements can be formulated into "deliverables" that can include: a list of solid implementation steps (who will do what, by when, and how); a list of default steps should agreements wobble and need more discussion; and clarity about the roll-out. If there are no agreements, the process needs to be concluded with the greatest possible dignity.

No matter how long the arc may be, there are beginnings, middles, and endings to most collaboration projects. End points often create new beginnings and are also a demarcation of work completed. Assisted dialogue and negotiation requires this kind of closure.

One of the complaints about collaborative processes is fatigue and uncertainty about payoff for the great investment of time. This makes this concluding stage critical.

Stage 6: Key Tasks

- Bring agreements together, usually in written form. Ensure that the agreements capture the substantive understandings that have been negotiated as well as anything else that the stakeholders want to see memorialized.
- Ensure that everyone is explicitly clear on next steps.
- Plan key messages, roll-out, and communication strategies.
- Create a celebration that brings positive closure.

Outputs

The outputs from this stage depend on the assignment:

- For "Transactional Agreements," a document, usually signed, by those who have the authority to enter into and implement agreements.
- For a "Guidance to Other Decision Makers," a document that unites usually opposing parties and offers consensual advice to decision makers on a regulatory, law-making, rule-making, or standard-setting policy issue.

- For a "Joint Fact Finding," a document that seeks to narrow disagreements on a specific set of factual public policy matters.
- For a "Plan," a document that articulates the alignment of the different groups or individuals involved in a vision, strategy, goal-set, objective-set or future-activity set.
- For a "Record of Discussions," a product that captures the results of listening sessions that may or may not embody opinions, suggestions, ideas, or agreements of diverse constituencies.
- For an explicit "Alliance or Partnership," a document that memorializes part or all of an attempt to create new partnerships, alliances, confederations, or mergers.

Stage 6: Dilemmas

An assessment of whether or not to prolong negotiation needs to be made.
When negotiation extends into the Memorialization Stage, there may be a question as to whether a deal is in fact possible. The facilitator can let the parties know that he will continue until some or all of them declare an impasse, or simply soldier on without such a pronouncement.

Memorialization becomes the final negotiation.
The concluding document is everyone's last chance to make edits and changes to the deal. In instances where deadlocks over a few issues continue, conflicts may play out in the context of trying to wordsmith the document. At this stage, words may matter far more than concepts, no matter how much goodwill has been developed. Sometimes, a new and better-expressed ambiguity will bridge chasms of tough sticking issues even though no higher level of certainty has actually been achieved.

**It may be necessary to manage a process where there is less than full agreement.**
Most stakeholders who have invested significant time and energy in a collaborative process want to see a strong conclusion. While most of the time it is fairly effortless, sometimes, there is no strong, concluding document. This may be a signal to either end the process (a decision best left to the stakeholders), or to call a "cooling off and reconsideration" time-out. When there really is no strong concluding document, the facilitator can to try to craft a well-written report that leaves a strong intellectual trail for future discussions.

A signed agreement puts one party in organizational jeopardy with their members.
It sometimes happens that one stakeholder group, often for internal reasons with its own members, doesn't want to be seen as agreeing; sometimes, they quietly agree not to oppose something going forward even though they cannot openly support it. It's reasonable to ask those stakeholders to let it be noted in the record of the meetings that they were present at the discussions even if they didn't officially concur.

A proper conclusion cannot go forward until an apology has taken place.
If it seems appropriate, the facilitator might offer to draft joint apologies for proud men and women where no one wanted to be the first to extend a hand. Sometimes, the facilitator might
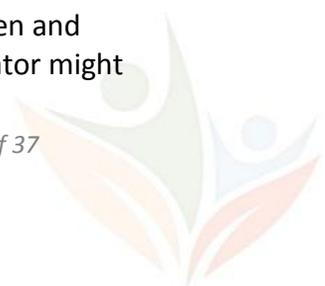
help to choreograph a sidebar so that apologies can take place and the failure of an apology doesn't stop the larger effort. Every once in a while, a major time-out needs to be called and discussions deferred to another day.