

THE ROLE OF FACILITATORS, MEDIATORS, AND OTHER CONSENSUS BUILDING PRACTITIONERS

■ *Michael L. Poirier Elliott*

Conflicts grow out of diverse values, perceptions, and interests that exist within a community or organization. Examples abound. In Chelsea, Massachusetts, a long-submerged conflict over corrupt local politics erupted when the city government was put into receivership. In Atlanta, Georgia, historic preservationists repeatedly battled developers, disrupting redevelopment but failing to preserve historic properties. On the Haida Gwaii islands in British Columbia, a native people struggled with the provincial government over the future of their community. And in Hartford, Connecticut, affordable housing advocates clashed with local communities over the distribution and availability of lower-cost housing throughout the region.

In each of these communities, existing institutions were incapable of resolving the conflicts. Also, the disputants lacked the productive working relationships necessary for constructive decision making and problem solving. Impasse resulted. Despite this impasse, however, all four communities successfully resolved their disputes. Moreover, the residents of Chelsea and Haida

Gwaii forged substantially stronger communities out of their efforts to build consensus.

The communities and the disputes in these cases differ a great deal; each story is unique. Yet the cases share two important elements. In each, the disputants chose (sometimes after much coaxing) to seek consensus solutions. Equally important, all four communities sought help from mediators.

Practitioners skilled in mediation and consensus building are frequently found at the center of visioning, decision making, and dispute resolution processes within communities and within organizations. Resolving conflict requires skill, communication, and trust. Experienced practitioners help stakeholders to build consensus by identifying existing barriers to effective negotiation and communication, assessing the structure and extent of a dispute, designing and implementing dispute resolution processes, and helping parties to develop options and reach consensus. In addition, practitioners help to build working relationships among diverse stakeholders, thereby encouraging communication across lines that traditionally divide disputants.

Consensus building requires its practitioners to promote dialogue under conditions of conflict, where communication and trust are weak. Consensus processes are therefore usually designed and implemented by trained individuals who bring experience and ability to the task at hand and seek to protect the impartiality and credibility of the process in the eyes of all parties. As can be seen in Chelsea, Atlanta, and Hartford, these individuals are most frequently professional mediators, facilitators, or dispute systems designers, affiliated with organizations that have no direct stake in the conflict or its resolution.

Yet, given the variety of conflict, occasions exist when an involved party, even one with a vested interest in the outcome, may serve effectively as a mediator. In Haida Gwaii, the consensus process was promoted and implicitly mediated by a planning consultant hired by federal and provincial agencies to act as their community liaison. The agencies, as the legitimate authorities designated to implement the program under dispute, designed a traditional planning process. They were to hand down decisions after receiving community input. These agencies did not envision convening a consensus building process when they appointed the community liaison, although he was a trained mediator. The liaison, therefore, was doubly suspect. To the local communities,

he represented the interests of the “outside” agencies. To the agencies, he was potentially undermining their planning authority by promoting consensus building. Nonetheless, he worked effectively to bring parties to agreement and, in the process, transformed their views of each other.

In this chapter, we explore the use of facilitation, mediation, and dispute systems design in building consensual agreements. We focus on the involvement of experienced practitioners in this process, examining the core activities conducted by these practitioners, the conditions under which professional practitioners are needed, and how best to select such individuals when the need exists. Three of the four cases we use to illustrate these points—Chelsea, Hartford, and Haida Gwaii—are more fully described in Cases 3, 4, and 10, respectively. The Atlanta case is described in detail in an article in the *Journal of Architectural and Planning Research* (Elliott, 1999). Because these cases all involve the use of consensus building practitioners in public settings, the chapter necessarily focuses more on public sector than private sector conflicts. The wisdom and guidance it contains, however, are certainly applicable to the use of practitioners in intraorganizational and other private settings. (The use of dispute resolution practitioners in intraorganizational settings is also discussed in Chapter 16.)

■ *Use of Convening, Facilitation,
Mediation, and Dispute Systems
Design in Consensus Building*

This section explores the functions that convening, facilitation, mediation, and dispute systems design play in a consensus building process. It begins with a discussion of how consensus building efforts typically get started and the barriers to reaching agreement that can arise in the process. Next, the section describes in general terms the activities involved in convening, facilitation, mediation, and dispute systems design, and how these activities help disputing parties overcome the barriers to reaching agreement. Finally, the section sets forth a model of consensus building that is used in the following section to help us understand the specific tasks of consensus building practitioners.

Entry into Consensus Processes

In consensus building processes, participants seek to reach decisions through discussion and negotiation for the purpose of arriving at a mutually acceptable agreement. Consensus processes gain legitimacy by involving those directly affected by a decision in the process of developing the decision, by conducting their dialogues in an open and inclusive manner, and by searching for agreements that speak to all the interests involved. In most cases, the negotiations are conducted face-to-face, in groups that represent the range of interests involved.

While some communities and organizations incorporate consensus building into their everyday decision making, most do not. Rather, they enter into consensus processes—and seek the help of consensus building practitioners—when current conditions become unacceptable or when members develop a greater desire for participatory control over decision making. Motivations to enter into a consensus process and seek trained assistance vary, as can be seen by our four examples.

Chelsea. With its corrupt local government in state receivership, Chelsea residents were cynical, apathetic, and deeply frustrated with the status quo. Citizens distrusted existing government institutions (local and state) and had little experience in working with each other. The issues were complex and difficult to discuss. The consensus process, initiated from outside the community, offered a seed of hope that was nurtured and grew.

Atlanta. In Atlanta, historic preservation disputes were longstanding and recurring. Disputes about both preservation policy and the fate of specific buildings repeatedly escalated. Conflicts pitted the Urban Design Commission, the city council, and the mayor's office against each other. A particularly difficult dead-lock involving preservationists, developers, and political leaders led disputants to seek an alternative. The consensus building process was initiated through direct negotiations between developers, historic preservationists, and city administrators.

Haida Gwaii. On Haida Gwaii, 150 years of antagonism between the native Haida people and the descendants of European

settlers kept these communities apart. Despite a common island home, the communities were sharply divided and knew little about each other's culture. When faced with a federal and provincial initiative to invest \$38 million Canadian in local economic development, however, the shared interests of these residents evolved into a mediated dialogue. The process leading up to the dialogue required considerable trust building among the various communities, and between the communities and the federal and provincial agencies.

Hartford. Local governments throughout the Hartford metropolis grappled with a lack of affordable housing. State legislation enabled regional compacts, through which communities would commit to supply a specified number of affordable housing units over a five-year period, but only if all communities within the region consented to the agreement. With each local government retaining autonomy over the issue, a regional compact could only emerge from a consensus process. With state support, the communities hired a team of mediators to manage the process.

What do these stories tell us? Communities often enter into consensus processes indirectly, only after trying more conventional approaches to resolving conflicts. Stakeholders may be skeptical that consensus is even possible, because relationships among them are often strained and the issues are typically complex. Yet frustration with the status quo, combined with the costs of ongoing conflict, provide powerful incentives to participate in consensus processes. For stakeholders who are actively involved in a dispute, consensus processes offer a particularly useful forum for focusing on and resolving the issues. In some communities, a tradition of collaborative decision making and a desire to promote civic engagement further motivate disputants to seek consensus.

Barriers to Consensus Building

These stories also suggest reasons why consensus building may prove difficult. In each case, barriers to consensus building exist. We can summarize these barriers as follows.

- *Institutions.* Existing institutions are unable to resolve the conflict, either because the institution is itself a participant in the dispute (in Chelsea it was the source of the dispute) or because traditional institutions do not provide a forum for the resolution of nontraditional conflicts.
- *Deadlock.* The positions of disputants have become inflexible, and disputants have little experience working with each other and lack the trust needed to proceed.
- *Escalation and positional bargaining.* Hostility, distrust, bias, concealment, or unwillingness to communicate preclude negotiations or dialogues. Also, behaviors that contribute to positional bargaining, threats, accusations, or unreal expectations sidetrack dialogues after they are initiated.
- *Communication.* The lack of clear communication channels among conflicting stakeholders contributes to misperception and divergence.
- *Complexity.* The number of issues or parties to a dispute prevents participants from effectively addressing their concerns. Also, the dialogue process may become inefficient or inequitable, leading to frustration and disengagement.
- *Ambiguity.* The rights and responsibilities of the various participants remain undefined or disputed, contributing to confusion over how best to proceed with consensus building.

Thus, consensus building requires that participants overcome a number of barriers. To work together effectively, the parties must organize their efforts and repair their relationships. They must at least *convene* a process of participation and *facilitate* meetings. In almost all cases of community consensus building, *mediation* between the parties over goal setting, fact-finding, options, communications, and relationships must also take place. If the conflict is structural and recurring, parties may also become involved in *dispute systems design*.

Consensus Building Activities

“Consensus building practitioners typically fulfill four fundamental functions: convening, facilitation, mediation, and dispute systems design.”

Consensus building practitioners, then, typically fulfill four fundamental functions in a collaborative process: convening, facilitation, mediation, and dispute systems design. These activities may be conducted by a single person or team, so that the person who performs the convening tasks also facilitates the meetings, mediates the disputes, and, if needed, designs systems for resolving future disputes. Or different individuals may perform each function.

It should be noted that professionals in the consensus building field hold differing opinions and preferences about what the practitioners who perform these various functions should be called. People who have expertise in both facilitation and mediation, for example, may refer to themselves as either facilitators or mediators or both. Also, as discussed in Chapter 4, the term *convenor* is typically used to describe the organization or person who initiates a consensus building process—often a government agency or another stakeholder. But the tasks involved in convening are often carried out by a dispute resolution practitioner, who may thus also be referred to as a convenor. To minimize that confusion, we avoid using the word *convenor* to mean a consensus building practitioner in this chapter. We do use the terms *mediator*, *facilitator*, and *dispute systems designer* when speaking of someone with the specific expertise or performing the specific functions suggested by those terms. And we use the term *practitioner* generically, to mean someone with any or all of these skills who performs any or all of these roles.

Convening

Convening is the initiation and design of an appropriate consensus building process in a particular context. During the convening phase, practitioners typically help disputants assess the sources and characteristics of the conflict, the relationship between the parties, the barriers to resolution, and the issues that need to be resolved. (See Chapter 2 for more on these conflict assessment activities.) They may also work with disputants to identify parties with a stake, design an appropriate decision-

making process (including ground rules of conduct, a timetable, and an overall agenda), ensure appropriate representation of the stakeholders, build the capacity of parties to engage in meaningful negotiations, facilitate more effective communication, and initiate the process. Through these activities, the practitioner helps build the capacity of the participants to solve problems and resolve differences effectively.

The convening phase, while generally essential to a well-functioning consensus process, varies in its implementation. It often takes considerably more work than disputants first envision. In Atlanta and Hartford, the disputants sought to implement a consensus process, were willing to work with other parties, and organized themselves sufficiently to hire mediators to assist them in their efforts. In convening the process, the mediators interviewed a wide spectrum of stakeholders and designed a consensus process that was intended to comprehensively describe the activities and ground rules to which the participants were committing themselves. The mediators worked with disputants to select participants, set ground rules, and establish a work plan. The mediators put considerable emphasis on working with participants both to ensure participant commitment to the process and build patterns of cooperation before bringing the parties together for face-to-face dialogue and negotiations. Hence, even though conditions were already ripe for initiating a consensus process, the convenings each took about two months and constituted about 20 percent of the total work conducted by the mediation teams.

In many ways, Haida Gwaii represents an extreme example of convening. The community liaison spent eight months brokering the start of an unofficial negotiation between the Haida people and the local townships. The federal and provincial agencies knew little of these exchanges and initially did not support a consensus-based process. The community liaison worked within a mediation model, but without ever being hired to mediate the dispute. Convening consisted of a series of relationship-building activities, including sharing personal stories and hopes for the future. Each activity was designed to increase the understanding of parties separated by a wide cultural divide. Over time, a level of trust grew out of these discussions, paving the way for more focused dialogue over the management of the economic development funds.

Faced with widespread skepticism, the Chelsea mediation team also engaged in an elaborate convening process. Like Haida Gwaii, the mediators designed the convening to build community support for consensus building. In this case, issues of cross-cultural understanding were less important than building the capacity for civic engagement. Forty-five community meetings, newsletters, a survey questionnaire, a telephone hot line, and television programming were all tools for increasing community awareness of and interest in the process. The mediators even developed a process for selecting the 18 participants in the Charter Preparation Team that was specifically designed to support the legitimacy of the team members selected.

Facilitation

Facilitation is the impartial management of meetings designed to enable participants to focus on substantive issues and goals. Facilitators develop an agenda for each meeting, enforce ground rules of conduct, promote interaction and communication during meetings, and bring issues to closure. A facilitator remains neutral concerning the content of the group's work and typically has no decision-making authority within the group (Doyle & Straus, 1982; Schwarz, 1994).

Consider a group of individuals who must work collaboratively together, either for a single meeting or over a period of time. What conditions tend to increase the effectiveness of such a group? Successful teams typically have the following characteristics.

- Members are committed to a clear goal.
- The team is organized to achieve specific results, within a collaborative climate.
- Team members are technically competent, capable of collaborating effectively, and motivated to contribute.
- Members of the group take on leadership responsibilities that are consistent with the objectives of the group and the desires of group members.
- The group receives external support and recognition from the organizations and communities within which they function. (Larson & LaFasto, 1989)

Examining the four cases for conformance to these elements, not a single one of the negotiating groups can be characterized as “likely to succeed” at the start of their consensus processes. Chelsea was perhaps furthest from the ideal. The community lacked the capacity to self-organize. Its leadership was dysfunctional, and its participants were disempowered. The mediator developed specific strategies to promote the capacity of the community to govern itself, to engage its citizenry in productive team settings. The mediator trained local residents to facilitate public forums. These residents would not have known how to convene a process and would have been lost in efforts to mediate a dispute. Nor could they have facilitated complex meetings, such as those held by the Charter Preparation Team (the core consensus building group). But they successfully ran the 45 community meetings and in the process gained skills that would help them participate effectively in the overall process.

At the same time, in each of the four cases cited, the negotiating groups substantially improved in their functioning over time. They improved in part because effective facilitation tends to breed effective teams. Participants who feel empowered to contribute ideas and influence the outcome of a process, and who perceive a facilitator to be evenhanded and neutral, generally become more committed to the collaborative effort, developing leadership within the group and a respect for their fellow negotiators.

Mediation

Mediation is the intervention by an impartial party into a negotiation or dispute. It is designed to help the disputing parties resolve their differences in a voluntary and mutually acceptable manner. Mediations are structured negotiations, in which a mediator assists participants in negotiating more effectively. Mediators use various forms of interaction—including plenary sessions of all participants, caucuses, work groups, and one-on-one discussions—to clarify interests, improve communication and cooperation, strengthen relationships, and help parties generate options and reach consensus.

Like a facilitator, a mediator must remain neutral concerning the content of a group’s work and has little or no decision-making

authority within a group (Carpenter & Kennedy, 1988; Gray, 1989; Moore, 1996). However, because mediation seeks to enhance negotiations, a mediator works explicitly to manage not just the interactions that occur within meetings but also the dynamics that occur outside meetings. As a consequence of this deeper involvement in negotiations among disputing parties, the effectiveness of a mediator depends even more on legitimacy and trust than does the effectiveness of a facilitator. A mediator works across conflicting perspectives and interests and shapes both process and group identity. As a consequence, mediator selection is itself often conflictual.

All four case studies involve mediation. Yet they focus on different activities because the needs of the communities differed. In Hartford and Atlanta, mediation supported explicitly interest-based bargaining. The techniques and tools used by the mediators were primarily designed to explore interests systematically and in depth, encourage joint fact-finding, generate and explore options, and bring closure to the negotiations. In both cases, because the issues were particularly complex, mediators used a single negotiating text to help focus the discussions. The text documented all agreements and disagreements and was repeatedly revised to reflect new thinking. Technical experts perceived by both sides to be neutral helped the parties develop common understandings and conduct analyses.

In Haida Gwaii, mediation supported an explicit relationship-building process, in which interest-based bargaining was secondary. The techniques and tools used by the mediators in this case were designed to explore cultures and stories, share identities, and construct a forum for interaction and community building. The motivation behind this process grew from an interest in the \$38 million development fund, but for the Haida at least, an interest-based process would have led nowhere under the conditions of mistrust and alienation that characterized the relationships at the start of the process.

Dispute Systems Design

Dispute systems design is a process for devising institutions, organizations, and dispute management procedures that promote consensus building across a wide range of recurring issues. Prac-

titioners adept at dispute systems design diagnose systems to determine causes of recurring conflict, design systematic interventions to promote conflict prevention or dispute management, implement and test these interventions, and make readjustments based on feedback from implemented programs.

Dispute systems designers carefully examine the effectiveness by which an entire class of conflicts is managed and work to improve the effectiveness of the dispute resolution systems at resolving differences. Dispute systems design views the management of conflict as a core function of any organization or social system. Typical responses to conflict—that of fight or flight—tend to accentuate problems over time and reduce the capacity of social systems to resolve differences productively. Dispute systems designers seek to reconfigure the set of procedures, incentives, resources, and skills available within the social system, such that particular classes of disputes will be more effectively resolved. The design can focus on improving dispute management within a single organization (such as the procedures used by a university system to resolve disputes within each of its colleges) or across a range of institutions working to resolve a specific class of disputes (such as efforts to improve management of land tenure disputes in Nicaragua) (Costantino & Merchant, 1996; Ury, Brett, & Goldberg, 1993).

Consider two examples of dispute systems design.¹ In 1996, the Board of Regents of the University System of Georgia passed a dispute resolution initiative. The board had become increasingly concerned about the escalation of conflicts between faculty, staff, administrators, and students in the 34 colleges and universities under its management. It was particularly disturbed that such conflicts were not being resolved within the units, but rather were being appealed for review to the board or to the courts. As a result, the board required all units to review and revise their dispute management procedures and made changes at the system-wide level to support more effective dispute management.

In Nicaragua, the dispute system that needed to be revised was not based within a single organization, but rather in a series of interconnected policies, laws, and institutions. Multiple owners claimed 20 percent of all land in the country, each with a legal basis to the claims. The problem emerged both in the Somozan regime, during which ownership of land was concentrated into the hands of the ruling elite, and during the 1980s, when the

Sandanistas sought through land reform to reallocate land among the poor. Because of the way the various laws were written, legal claims to much of the land could be made by both the original owners and the new owners. Given the scale of the problem, litigation to clarify landownership claims would have absorbed Nicaragua's entire court system for 10 years. Moreover, until land title was clarified, banks would not lend money for development, thereby blocking economic activity in a significant portion of the country. The work of the dispute systems designer, then, was to identify disputes that were amenable to more streamlined resolution and to develop procedures for resolving these disputes more efficiently. The dispute system that was developed is now in the process of being implemented.

Dispute systems designers seek to alter existing procedures and patterns of relationships, such that these procedures and relationships

- promote the legitimate interests of disputants,
- maximize the potential joint gains between disputants while protecting the public or communal interests,
- resolve conflicting interests fairly by including the full range of legitimate interest groups and informing and empowering those groups to make wise decisions,
- produce agreements that protect outside interests and set good precedent for future decision making,
- function effectively within the context of existing legislative or administrative authority and responsibility,
- generate agreements that are durable and implementable,
- reach agreements efficiently when agreement is possible, and
- stabilize or improve relationships between the parties to the dispute.

The dispute systems designer works with specific clients but in ways that intricately involve multiple parties. The implementability of a resulting design will greatly depend on its acceptability to the various parties. As such, the designer combines the skills of a mediator with that of an organizational development specialist and systems analyst.

*Substance, Relationships, Processes: A Model
for Understanding the Role of Practitioners*

As we have seen, dispute resolution practitioners can play a variety of roles in the construction of consensus. The complexity of the issues, the diversity of participants, and the duration of the process all influence which roles are important in a particular consensus building effort. Yet all of these roles involve managing three core elements that underpin all consensus building efforts: concerns about substance (*what* underlies the conflict?) and relationships (*who* is in conflict?) in the context of a dispute resolution process (*how* will stakeholders work out their differences?).

“The use of consensus building practitioners is inextricably linked to the choice of the dispute resolution process.”

This section provides an overview of the interactions between the substance of a dispute, the relationships between disputants, and the process choices available. The use of consensus building practitioners is, after all, inextricably linked to the choice of the dispute resolution process. By gaining a better grasp of these three core elements of consensus building, we can better understand the specific tasks practitioners must undertake.

Substance

Substantive issues are the core of almost all complex, multi-party conflicts. Stakeholders are typically concerned with the outcomes of a decision-making process, and how those outcomes will affect either the stakeholders themselves or some other group of concern. What historic structures will be protected in Atlanta? How will affordable housing be provided across the Hartford region? What form of government will Chelsea adopt?

In any particular context, each stakeholder “frames” the dispute by developing a working theory about the substantive issues of importance and their value. The stakeholders are engaged in a process of sense-making whereby they each seek to order a potentially confusing array of characteristics, perceptions, interests, and values. Each participant then uses this frame to interpret the events and characteristics of the dispute (*interpretive frames*) and to value potential outcomes (*goal frames*).

The frames used by disputants can differ overtly. Compare the Haida conception of the living environment, for example,

with the European conception of utilitarian property. In Chelsea, “good government” was an oxymoron to many disillusioned residents. Actions taken by the state to promote good government were first interpreted by residents as efforts to undermine local autonomy and oppress the less powerful.

In other cases, these frames differ subtly. All participants in the Atlanta process declared themselves in favor of protecting historically significant properties, but they differed in their conception of “historically significant.” Likewise, all participants shared a belief that historic buildings must provide a “reasonable rate of return” to their owners, but differed in what this meant and in their sense of how often developers faced a problem in this regard. In a development dispute, one disputant may focus on community and change, another on environmental integrity and aesthetics, and yet a third on private property rights and the value of growth. The consensus building practitioner does not seek to change the values and interests held by the participants, but rather to clarify them and to assist participants in reexamining how their values and interests might be best met.

The give-and-take of consensus building is built on the capacity of the participants to work together to design a jointly created agreement in the face of perceived or actual competition over the content of the dispute, complicating perceptions about that content, and distinct interests and values. Progress is usually not built on efforts to conform all participants to a single, shared sense of the nature of the dispute and its characteristics, but rather by building options that meet each participant’s interests and values. While stakeholders will differ in their interpretation of substantive issues, and on the value afforded them, an effective resolution depends in part on the capacity of stakeholders to work within a compatible, general framework of understanding. By focusing on interests and the development of integrative options based on objective criteria, a practitioner helps parties to identify the characteristics of importance and the range of possible solutions. While perceptual differences may not be easily resolvable, they can be understood and communicated as a basis for consensus building. To reveal core perceptions, practitioners use techniques such as joint fact-finding, structured data queries that help expose differences in assumptions and perceptions, and storytelling.

Relationship

Relationships and social dynamics are central to consensus building (Kramer & Messick, 1995). Consensus building can help members of a community, group, or team construct a better sense of how they can best resolve differences, make decisions, and work together to enhance their basic interests and values. When most successful, consensus building promotes social learning, whereby a community not only resolves an immediate conflict but also learns how to better manage disputes in the future.

Problems associated with relationships can be divided into two types: interpersonal and structural. *Interpersonal problems* emerge from distorted communications, stereotyping, strong emotions, and destructive behaviors. These patterns may be unintentional or they may be the result of strategic choices. In either case, they distort the ability of stakeholders to understand each other and to act with a clear understanding of the values, interests, or perceptions held by other disputants.

Consensus building is fundamentally a communicative act, and consensus is frequently built on efforts to improve communications. Mediation and facilitation practitioners work with participants to establish ground rules that promote constructive dialogue. In Chelsea, mediators and participants agreed to assign three individuals the responsibility of acting as spokespersons for the process. Such a ground rule, developed jointly by participants within the process, helped to foreclose negotiating through the media in favor of direct negotiations. Facilitators also structure communication within a meeting, by encouraging brainstorming when ideas need to be generated but not when negotiating the final details of an agreement. Practitioners can also use caucuses and interviews to create safe havens for exploring issues.

Structural problems emerge from the social configuration of power, rights, and identity. Power, built on unequal control over resources, authority, expertise, or position, can fundamentally alter the capacity of disputants to work together. Power-based disputes involve the use of force, explicit or implied, to gain acquiescence by opposing groups, against the will of those groups (Kritek, 1994). Until the state took the city of Chelsea into receivership, disputes were based on power.

Rights involve the use of independent standards to resolve differences. These standards may be legal or contractual, or they

may emerge from accepted norms of behavior. Conceptions of justice may go beyond socially defined rights. Conceptions of justice may involve claims to rights that are not widely accepted. Rights-based disputes involve an appeal to higher authority, and frequently inhibit communication because they are often associated with highly emotional differences over principles and values. In Hartford, initial opposition to an affordable housing accord was linked to the right to self-autonomy shared by all jurisdictions in the region.

Identity (Rothman, 1997) involves the interpretive dynamics of culture, history, values, and beliefs. These dynamics are fundamentally psychological and social, growing from our sense of who we are, who constitutes our communities, and what this implies concerning our relationship to people both within our communities and outside. Identity-based disputes involve our construction of community, our fundamental conceptions of relationships. In Haida Gwaii, identity formed the core barrier to consensus building between the Haida and local communities, and between all residents of Haida Gwaii and the federal and provincial officials with authority over the development fund.

Structural impediments to communication are more difficult for practitioners to help groups overcome than interpersonal impediments, largely because consensus building rarely seeks to explicitly alter the structural configuration of power, rights, and identity. The status quo almost invariably works to the advantage of some groups over others, and in the absence of a painful stalemate, the dominant groups have little incentive to promote fundamental change. Yet in our cases, we also see examples in which mediators help parties to overcome structural impediments. In Chelsea and Haida Gwaii, in fact, the consensus building process transformed the relationships themselves, promoting not just satisfaction and settlement but also empowerment and recognition (see Bush & Folger, 1994).

Process

Issues of substance and relationships are brought together within the context of a specific consensus building process. Practitioners may design and manage a participatory or conflict resolution process in very different ways, depending on the foci

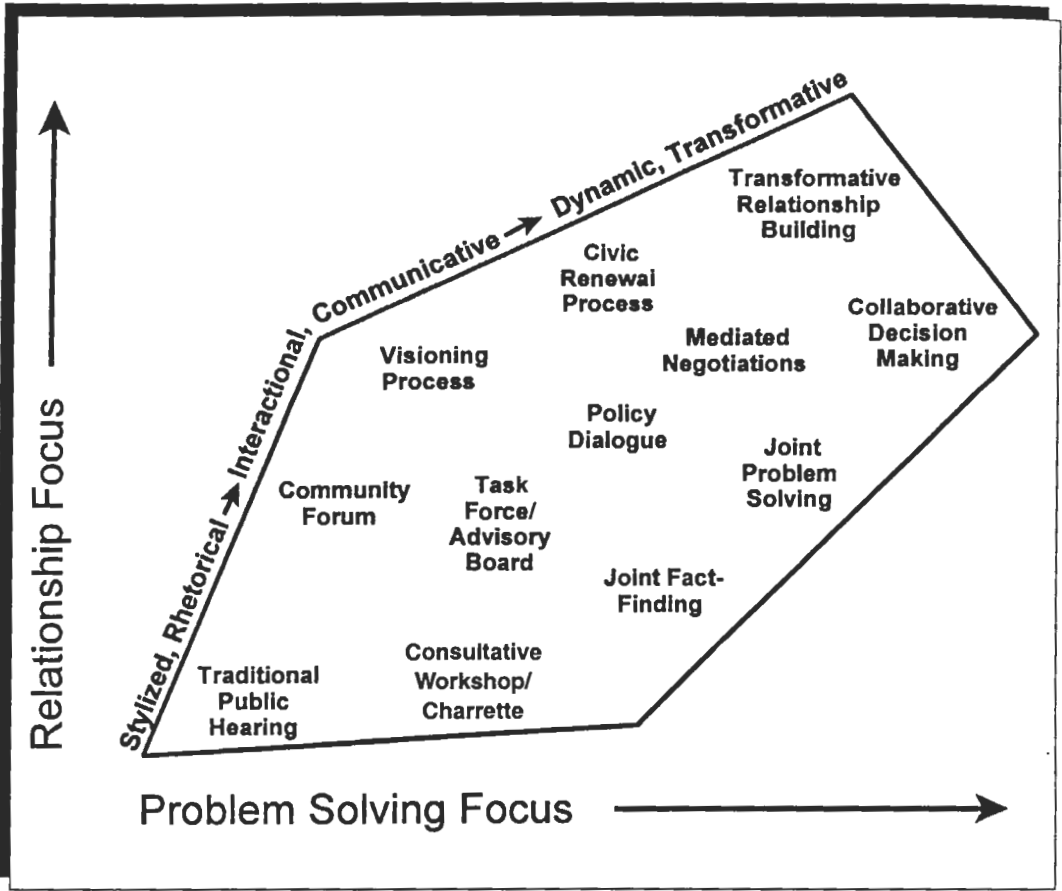


Figure 5.1. The Variety of Participatory and Consensus Building Processes in Public Policy

NOTE: A *charrette* is a short and intensive visioning process. Stakeholders convene in a series of meetings (lasting from one day to several weeks) to develop a plan for a major facet of community life, such as the downtown, recreation, or transportation.

of the process. Processes can adopt a problem-solving focus, a relationship-building focus, both, or neither. As shown in Figure 5.1, process design varies considerably by objectives. These objectives can include information sharing, knowledge acquisition, problem solving, visioning, agreement seeking, and community building. More broadly, these objectives lead to processes that are stylized and rhetorical, interactional and communicative, or dynamic and transformative.

Stylized, rhetorical. Many forms of public participation are not designed to build consensus. In a traditional public hearing, for

example, the objective is information sharing. Communication is one-way: first as public officials present findings (one way from officials to the audience), and second as attendees present their comments (one way from participants to either the officials or, more likely, to the media). In many ways, these interactions are highly scripted, meaning that they are patterned forms of interaction, in which little effort is made to enter into meaningful dialogue. As such, the communication is stylized and rhetorical. In Haida Gwaii, the federal and provincial officials originally designed a public participation process that was top-down, with little opportunity for dialogue.

Interactional, communicative. Teams, organizations, and communities frequently seek to develop processes that allow not only for the sharing of knowledge and experience but also for the social creation of new ideas and understandings. In processes such as these, participants focus on acquiring knowledge, solving problems, making decisions, or visioning a desired future. At their most interactional, these processes develop consensus around the resolution of particular issues or the management of particular relationships. The process of interaction between the participants is thus more complex than in a stylized process as described above. Participants in interactional, communicative processes enter into a dialogue over concerns, interests, and options, seeking to improve both problem solving and relationship building. These processes require considerably more management than do simpler processes. The Atlanta and Hartford cases are examples of higher-order interactional, communicative processes, because while the processes resolved particular substantive problems through consensus, they did not seek to fundamentally alter the manner in which power, rights, or identity affected community relationships or problem solving in the future.

Dynamic, transformative. Groups may also come together not only to seek agreement on an immediate problem but also to build community out of conflictual relationships and solve the underlying causes of conflict. These groups are involved in the fundamental work of relationship building and community problem solving. Processes such as these require clear articulation and communication, and even more effective listening. Processes must be structured to overcome deep-rooted barriers that grow

out of power, rights, and identity or that are embedded in the characteristics of the dispute itself. These processes almost always require systematic analysis of the causes of the dispute and barriers to effective resolution of the dispute. The issues are complex, and they require time and multiple meetings to create an environment in which dynamic exchange is possible. At their best, such processes transform the relationships and problem-solving abilities of the participants, such that they are better able to resolve future differences in a productive manner. The Chelsea and Haida Gwaii cases are examples of dynamic, transformative processes.

■ *Core Tasks of Consensus Building Practitioners*

What are we to make of this plethora of possible participatory and consensus building processes? First, whatever the scale of intervention, consensus building activities are built around the triple demands of substance, relationship, and process. Second, consensus building practitioners must carry out a number of specific tasks relating to each of these three demands if consensus building processes are to be successful. This section discusses some of the core tasks in detail.

“Two key principles underlie all these tasks: neutrality and accountability.”

It is important to note first, however, two key principles that underlie all these tasks: neutrality and accountability. Only a practitioner who is perceived as neutral will be able to gain the trust and confidence of all participants. Trust and confidence are essential, because effective intervention frequently requires the confidential exchange of information and ideas, and because a practitioner must often probe, test, and challenge parties in their efforts to make sense of a conflict and its resolution. A participant who believes that a practitioner is seeking to promote a certain viewpoint will be less forthcoming than one who perceives him or her as substantively neutral. Similarly, practitioners must be accountable to stakeholders, convenors, and resource providers. Accountability implies standards of professional practice, standards that the parties accept and to which the practitioner is willing to commit.

Yet pure neutrality is in fact difficult to achieve and impossible to verify. Practitioners may, rather, promote the legitimacy of a

process (Society of Professionals in Dispute Resolution [SPIDR], 1997) by taking specific steps to

- ensure the representation and effective participation of key stakeholders,
- refrain from advocating for any particular perspective on substantive issues,
- protect the confidentiality of all private communications with participants,
- develop and enforce ground rules that are acceptable to the participants,
- clarify how decisions will be made and by whom within the process, and
- structure and implement a process that is accountable and fair.

So what are the specific tasks mediators and facilitators need to undertake to promote the legitimacy of a process in this way and help a group reach consensus? How can practitioners help “create the organization” by linking disparate stakeholders into a functioning consensus building team? We will now examine in more detail the work conducted by consensus building practitioners to address issues of substance, relationship, and process (Susskind & Cruikshank, 1987).

Substance

Map Stakeholder Interests

To be effective, a practitioner must understand the concerns and interests of stakeholders. The design of a consensus-based process therefore begins with an assessment of the nature of the conflict. Practitioners conduct conflict assessments by interviewing key stakeholders and collecting other forms of data. The interviews should identify stakeholder groups, possible representatives who may take part in a process, and the relationships that exist between the parties. With this knowledge, a practitioner can determine how best to promote negotiations and collaborative problem solving, as well as identify strategies for helping

stakeholders explore their own interests, understandings, and perspectives.

Establish a Work Plan or Agenda

Consensus building, whether developed within a single meeting or in a complex, collaborative problem-solving process, requires a significant commitment on the part of participants. In addition, the issues associated with a complex dispute may not be clearly demarcated. Practitioners develop work plans (or agendas, in a single-meeting situation) to delineate the length of time a process or meeting will take, the level of commitment required of participants, the issues that are open for negotiation, and the activities needed to resolve the dispute. A practitioner must ensure that the issues presented for discussion deal effectively with the interests and goals of the participants. Early in a process, participants must discuss and come to agreement on the issues that will be up for negotiation.

In formulating a work plan, a facilitator or mediator often must prioritize the activities that are needed to resolve the dispute. If the future impacts of options being considered are highly uncertain, then joint fact-finding may be necessary. If different stakeholders have radically differing concerns, then detailed exploration of interests becomes essential. At the same time, a practitioner should ensure that a work plan can be altered as new information, issues, or tasks are identified.

Create a Climate for Joint Fact-Finding

Any consensus building process, short or long, involves a process of opening up issues, exploring them, and then resolving them. These phases are not distinct, but they are sequential. Issues cannot be resolved until they are clearly delineated. While the natural inclination of most participants is to spend little time on problem definition, it is absolutely essential that they clearly understand the dimensions, characteristics, and perspectives that give shape to a problem before seeking to develop solutions.

Facilitators and mediators typically devote initial meetings in a consensus process to identifying and creating a common under-

standing of the issues and reviewing the context of the dispute. Practitioners use these meetings to open up direct communications among the participants and to probe deeply into both individual and group interests. Facilitators lead discussions that help participants clarify areas of agreement and sources of disagreement, with the ultimate purpose of empowering them to seek creative solutions to the problems they share. These activities build cohesiveness among negotiators and point the way toward possible agreements.

Problem definition is particularly difficult in complex disputes. Frequently, the issues under dispute are technically complex, the impact of options is highly uncertain, and participants frame the issues in significantly different ways. Interpretation of data can also be strategic, with disputants seeking to interpret the information in ways that support their positions. In these cases, a facilitator or mediator will work to manage the conflicts over data. They may coordinate the joint development and sharing of information, for example. They may also promote more extensive efforts to conduct joint research studies, based on agreements among participants on the types of data to collect, the assumptions underlying a study, the experts who will conduct the study, and the criteria for assessing data. (See Chapter 9 for more on joint fact-finding.)

Create a Climate for Problem Solving

Many conflicts bind stakeholders in a cycle of escalation that inhibits creativity in seeking new solutions. Participants become wedded to their positions. A participant may support an idea simply because he or she has invested time and energy into promoting it. Before progress can be made, therefore, new potential solutions will need to be generated. Facilitators and mediators should design processes for generating options, and separate these processes from the task of evaluating the resulting alternatives. Brainstorming, in which ideas are generated in rapid succession but not immediately evaluated, provides a useful way to develop new options. Participants can then assess the strengths and weaknesses of each option. If participants generate separate options for each major aspect of the issues under discussion, mediators can then help participants experimentally combine these options into packages.

Before evaluating alternative packages, a mediator helps participants develop criteria for evaluation. Criteria that link jointly shared goals (such as fair-share distribution of affordable housing in Hartford) with objective standards (such as the increase in affordable housing as a percentage of households created within a community) work most effectively. Criteria promote openness by making options more concrete. Specific criteria help participants identify packages that best meet the underlying interests of the various stakeholders, and to openly discuss trade-offs among the options.

Jointly Assess the Impacts of Alternatives

Once participants eliminate clearly unacceptable options, they can further analyze the most promising options. In this stage, mediators help to organize task groups or identify independent experts to assist the participants in evaluating the likely consequences of proposed alternatives. This evaluation is iterative. A mediator uses the results of these assessments to challenge participants to redesign proposed options or to design entirely new options to better meet their collective needs. New designs, in turn, may need to be assessed for their potential impacts. A mediator must manage this process closely, ensuring that experts present their findings to participants in a timely and easy-to-understand manner. To do this, a mediator needs sufficient understanding of the issues under dispute to reasonably assess the analyses.

Reach Agreements in Principle

As participants refine their assessments of how proposed options affect their own interests, mediators and facilitators must help them to alter the options. Participants thereby seek to increase benefits to multiple stakeholders by identifying opportunities for joint gain, or seek to redistribute the costs and benefits among the stakeholders. Because issues within a dispute are often highly interconnected, the negotiators must merge specific alternatives into a comprehensive package. A mediator may then help participants organize this package by creating a *single negotiating text*: a document that describes the key issues and associated

vided. A mediator should help participants identify these actions and develop ways of ensuring that they are carried out.

Participants must also identify the individuals who will carry out the implementation tasks. A mediator can help a group to develop a time line charting when certain tasks must be accomplished and by whom. If implementation will require significant coordination of tasks and individuals, a mediator will help participants establish an organizational structure for overseeing implementation. A small *implementation advisory group*, with representatives from each of the major interest groups, can be an effective way of ensuring that the tasks are accomplished. A mediator may be retained to help this group resolve future difficulties, though often this is not necessary.

Participants also need mechanisms for monitoring progress during implementation. These mechanisms should identify deadlines that are missed or slippage that occurs in an implementation schedule before it is too late to rectify the situation. An advisory group can use this information to help its members shepherd the implementation of an agreement through to completion. A comprehensive implementation plan will also specify criteria for measuring compliance with the terms of the agreement. These criteria, when coupled with a monitoring plan and procedures for resolving unexpected problems with or violations of the settlement agreement, greatly enhance the likelihood of successful implementation.

Evaluate Outcomes

Ideally, an implementation plan will also identify a method for evaluating the outcomes of an implemented agreement. An evaluation will help to determine if the intent and objectives of the original agreement were met. If an agreement was provisional or contained contingencies, an evaluation may alter the policies to be implemented. An evaluation may also prompt a renegotiation of specific provisions in the agreement.

Relationship

Facilitate Effective Communication

From the outset of a consensus building process, a practitioner will seek to promote more effective communication among

disputants. Parties to disputes, particularly those involving complex issues and multiple parties, typically engage in strategic or emotional discourse. This discourse is rarely intended to provide a meaningful exchange of information about perspectives, goals, and interests. Rather, it is intended to shape perceptions and alter power. The presence of an intractable dispute, however, indicates that such discourse has not achieved its purpose and that participants need to communicate more openly and directly.

The transition to a more open pattern of communication is frequently difficult. Patterns of concealment breed distrust, which in turn build expectations of further concealment and deception. Yet, if a conflict is to be resolved in a manner satisfactory to all parties, a more thorough understanding of facts, analyses, perspectives, and interests is essential.

A mediator promotes improved communication during the convening phase both through personal conversations and the management of relationships between stakeholders. A mediator builds a personal rapport with participants during convening interviews. These interviews, which are designed to assess the conflict and existing relationships, provide a vehicle for opening dialogue between the mediator and each party.

During a negotiation, issues of personality, precedent, positions, power, and pride can have profound effects. A mediator who understands these potential interrelationships will be better prepared to design processes that compensate for these difficulties and to respond more proactively to the dynamics of a negotiation process.

Ensure Appropriate Representation of Stakeholders

The power of negotiation to fashion wise and sustainable solutions grows out of its ability to bring divergent interests and perspectives into commonality. One of the first tasks of a process convenor is therefore to identify the individuals and groups whose interests are at stake or whose agreement may be necessary to resolve the dispute.

Practitioners conducting convening tasks must identify and interview major stakeholders to assess the structure of a conflict. Stakeholders include groups and individuals who may be affected by the outcome of the process, who can scuttle an agreement whether or not they participate, or who can block implementa-

tion of an agreement. Interviews with stakeholders allow a practitioner, in conjunction with the interested parties, to more thoroughly determine who should be represented at the table.

The task of selecting representatives to engage in direct negotiations is difficult but extremely important. For meetings involving more than 20 people, facilitators must use structured procedures for maintaining order. These procedures may significantly inhibit communication, flexibility, and creativity. Facilitators often, therefore, try to limit direct negotiations to 20 or fewer individuals. Thus, many more individual stakeholders exist than can effectively participate around the negotiating table.

To cope with this problem, facilitators and mediators often establish negotiation teams—groups with shared interests—and help them to jointly select representatives. The practitioner may also design a process to include broader participation, in which individuals not actively engaged in negotiations may nonetheless participate in a process. This can be accomplished by incorporating workshops, resource groups, and education programs into consensus processes. Practitioners also work to ensure that representatives are open to scrutiny by those individuals and groups that they represent and are capable of obtaining the assent of those groups if necessary.

In selecting participants for a public process, a practitioner should give special care to creating opportunities for the involvement of elected and appointed officials and members of community groups. Officials (e.g., mayors, city council members, and legislators) have a dual role in public dispute resolution processes. On the one hand, they are stakeholders, with clear interests in the negotiation. On the other hand, they represent the citizenry and cannot abdicate their legislative or executive responsibilities. Ultimately, most public policy decisions that emerge from a dispute resolution process will require their approval. Practitioners must therefore help government representatives examine and clarify their roles before engaging in a collaborative decision-making process.

Selection of community group representatives may also be problematic. Community groups (including public interest groups, neighborhood associations, and nonprofit business associations) are usually self-organized and represent a particular perspective within the community. As voluntary organizations, however, they typically have no mechanism for holding their

members accountable. Moreover, they may claim to speak for a wider group of residents or interests than they in fact do. During development-related disputes, in particular, it is not uncommon for splinter groups to form out of previously cohesive community groups. Practitioners therefore seek to identify the full range of interests and viewpoints that exist in a community or organization and ensure that appropriate groups represent those interests.

Manage Face-to-Face Negotiations

While the convening phase includes many aspects of negotiation, these discussions generally occur one-on-one with a practitioner or in small groups. By bringing together all representatives for face-to-face discussions, mediators and facilitators formalize a process and obtain participants' commitment to negotiate.

In a first meeting, a mediator or facilitator typically introduces participants to each other, provides an overview of their interests, reviews what has already been accomplished, and finalizes both the work plan (or agenda) and the details of the negotiation process. A practitioner also uses the first meeting to formalize the ground rules of a process. While the mediator frequently proposes a set of ground rules, these rules will effectively guide a group's conduct only if members of the group find them acceptable. All participants must therefore review the ground rules, to ensure that they enter into negotiations with shared expectations concerning the "rules of the game" and the process of negotiations.

Typically, ground rules cover three facets of the negotiation: the *process* (e.g., decision-making procedures, communication with the press, attendance at meetings), the *agenda* (e.g., range of issues to be addressed, the introduction and use of data, the time line), and *behavior* (e.g., prohibition on personal attacks, rules for governing information exchange). In particular, ground rules will likely clarify the following.

The roles of and relationships among participants. Many complex negotiations involve a core group of decision makers (often called a steering committee) as well as other groups of interested parties who may play subsidiary roles (such as technical work groups or citizens advisory groups). A support staff, either vol-

untary or paid, might also be available. Community and interest groups not directly involved in the negotiations may also have some role to play. The relationships among all of these types of stakeholders must be clearly understood and set forth in the ground rules.

The latitude and authority afforded to a mediator or facilitator. Typically, facilitators and mediators help groups of participants make substantive decisions and do not actively engage in these decisions. On issues of process, however, a neutral party's role may vary widely. While some processes provide a mediator with considerable discretion (such as control of a fact-finding budget), other processes restrict the mediator in terms of budget, staff, and involvement. The mediator's or facilitator's roles and responsibilities should be set forth in the ground rules.

The openness of the process to outside scrutiny. In public processes, a coherent policy for communicating with the press is necessary. Furthermore, sunshine laws in many states specify the degree to which policy negotiations must be open to the public. When participants are negotiating issues of public policy or community interest, the process must be accountable and open to scrutiny. An excessively "public" negotiation, however, can reduce creativity by increasing the reticence of participants to present new ideas and openly discuss alternatives. Hence, such openness tends to promote positional bargaining at the expense of joint problem solving. Sometimes, this tension can be managed by holding both public forums and private meetings. Ground rules should include guidance regarding participants' dealings with the public and the press. (See Chapter 11 for more on dealing with the media.)

Options for enhancing meetings and communications. Steering committee meetings, while essential, are often not sufficient for resolving disputes. Typically, groups of stakeholders with similar interests (e.g., the neighborhood conservation interests or the development interests) may wish to meet to discuss joint concerns. Work groups may need to be established to examine particularly difficult issues. The mediator may promote *shuttle diplomacy*, in which he or she transmits information between groups. A single negotiating text may be used to focus debate.

Discussion of these and other options, while they need not be developed before the negotiations begin, will nonetheless provide participants with a fuller sense of how negotiations might proceed.

The existence of reasonable deadlines. Deadlines create an incentive to negotiate seriously and efficiently. If no fixed deadline exists, deadlines can usually be created based on the legislative agenda or other circumstances. Deadlines that do not provide for sufficient time are to be avoided, however, since they reduce both the legitimacy of the process and the creativity used in problem solving. The ground rules should specify the expected length of time of a process and note any fixed deadlines.

*Build the Capacity of the Parties to
Engage in Meaningful Negotiation*

In complex, multiparty disputes, in particular, participants may have little negotiating experience, few resources to engage in technical analysis, or little power to bind other individuals whom they represent in an agreement. If the negotiations are to be meaningful, a mediator may need to build parties' capacity to negotiate. In particular, technical assistance is frequently provided to encourage more realistic expectations and to set the framework for negotiations. A mediator may also help parties to engage in *vertical team bargaining*, in which stakeholders with similar interests (and their representatives) negotiate among themselves to develop a clearer vision about the options that are acceptable and why.

Process

The process emerges from the context. Practitioners focus on concerns of substance and relationship to help define how a process should be structured, what issues should be dealt with and when, and what interventions are likely to be of greatest import. In working with participants, practitioners seek to model behaviors that will be useful once a consensus building process is initiated. Disputants can often develop agreements on process before they are able to make progress on substance or relation-

ships. In addition, practitioners seek to build shared commitment to the process, to prepare the participants for the cycle of opening up, dealing with, and resolving their differences. Finally, a practitioner seeks to match resources (time, money, and political will) to the design of a process. (See Chapters 1-4 for more information on various aspects of process design.)

■ *Selecting a Consensus Building Practitioner*

Consensus building and conflict resolution are normal social activities. In the process of social discourse and interaction, disputants regularly employ the skills and behaviors necessary to manage conflict. Under some circumstances, however, this normal process of social decision making breaks down. We are neither able to make a decision on our own nor able to effectively reach a joint decision with others whose support or acquiescence we need. Under these conditions, we may seek help from someone with consensus building expertise.

Consensus building practitioners are not licensed or certified. Hence, anyone can offer his or her services as a facilitator, mediator, or dispute systems designer. For those seeking consensus building assistance, this section provides guidance regarding the places such expertise can be found and the skills and experience that are desirable.

Internal versus External Assistance

Stakeholders involved in a dispute may look for assistance either within one of their own organizations or from an outside organization. For example, if officials at the U.S. Environmental Protection Agency (EPA) were involved in a dispute with other parties, they could seek mediation expertise from trained mediators either within the EPA itself, within an allied organization or institution (e.g., the Department of Interior or the Council on Environmental Quality), or from an independent organization (e.g., a nonprofit or for-profit dispute resolution organization).

In any particular situation, then, where is the best place to look for a consensus building practitioner? Let us look at the advantages and disadvantages of selecting consensus builders

from each of these three sources (internal to a stakeholder organization, from an allied organization, from an independent organization). For facilitators and process designers, there are three major characteristics along which we can examine these relative advantages: ability to understand the context, ability to design and manage the process, and impartiality. For mediators and those involved in convening, we can add a fourth: ability to handle sensitive information. Table 5.1 presents these observations.

What can we conclude from this table? In general, an organization seeking to resolve a dispute through consensus building must make a trade-off between expense and ease of access, on the one hand, and impartiality, capacity to deal with sensitive information, and possibly skills and objectivity, on the other. As issues of confidentiality and impartiality increase, the need to go outside a stakeholding organization also increases.

“In most situations, mediators should come from outside a stakeholding organization.”

In most situations, then, mediators and those assisting with convening tasks should come from outside a stakeholding organization. Facilitators may more often be drawn from within an organization. This is particularly true when disputes spring from within a single organization, the issues are relatively clear and demarcated, the facilitator has no interest in the outcome of a decision, and the roles and responsibilities of the facilitator are clear and well understood by participants (Schwarz, 1994, p. 238).

Practitioners who come from outside a stakeholding organization can be either community based or professionally based. Community-based practitioners build on a social network that lends legitimacy to a mediation effort. Such consensus builders can emerge from ongoing relationships (a neighborhood elder), local leadership positions (a local political leader or planner), or structured institutions (a neighborhood dispute resolution center). Often, they work as volunteers or are paid to conduct work other than mediation.

Professional neutrals, on the other hand, build on expertise and adherence to a professional code of practice. They serve at the pleasure of the parties, place a high value on both neutrality and impartiality, and work to help parties fashion a consensus solution to their own problem. They are almost always paid to work in this role.

TABLE 5.1 Advantages and Disadvantages of Neutrals Selected from Varying Organizations

Criteria	<i>Consensus Building Practitioner Selected From</i>		
	<i>Inside the Organization</i>	<i>An Allied Organization</i>	<i>An Independent Organization</i>
Ability to understand the context	High accessibility to organization's values, history, and dynamics; insider's perspective; potential biases from internal perspective	Presumed shared values; general understanding of history and dynamics; potential unwillingness to test assumptions	Greater likelihood to test assumptions held by people from within organizations; more objective perspective; outsider's perspective; can work more effectively across organizations
Ability to design and manage the process	Least expensive; potential acceptance by stakeholders from within the organization; access to groups early in the process; larger group demands on consensus builder; greater likelihood of rejection by stakeholders from outside the organization	Less expensive; ease of initiating; reasonable distance from group; competing demands on consensus builder's time for other projects; possibility of distrust growing out of organizational competition	Most expensive; usually initiated after problem becomes more serious; clearest delineation of the role of the consensus builder; possibly more fully developed consensus building skills
Impartiality	Potentially high within the organization, presuming consensus builder has no substantive interest in the outcome; potentially subject to authority within the organization; likely to be perceived as partial by stakeholders outside the organization	Mixed, depending on how participant organizations perceive the hosting organization	Highest, particularly if consensus builder is selected by participants in the process
Ability to handle sensitive information	Potentially the least likely to reveal information to parties outside the organization, but most likely to reveal information to others within the organization	Potential organizational pressure to use sensitive information strategically to the advantage of the host organization	Highest incentive to maintain confidentiality, and least organizational pressure to reveal information

In community- or ethnically based conflicts, in particular, a trusted local elder or leader may be the best choice. But this model is inherently limited to communities that share common leaders who are widely trusted. Institutionally based voluntary mediators and facilitators may be able to work across community lines, but time, experience, and other resources often limit their applicability.

The greater the complexity of substantive issues, relationships, or process, the more pronounced the need for an independent, professional facilitator, mediator, or process designer. In any given situation, the complexity of the substantive issues increases as the number of issues, the technical complexity of issues, and the number of diverging perspectives and interests increases. The complexity of relationships is affected by the number of parties, the history of antagonistic relationships, and weak patterns of communication. The complexity of a process is increased by the need to protect confidentiality, neutrality, legitimacy, trust, and accountability; by the need for a long-term process with multiple meetings; and by the degree of integration between negotiating issues and the larger policy-making processes.

These conditions, in and of themselves, may not require an independent, professional practitioner. However, they frequently lead to conditions in which parties have difficulty communicating and negotiations either cannot commence or become deadlocked. Particularly in complex organizational or public policy issues, professional facilitators and mediators are often able to identify existing barriers to negotiation and effective communication and to develop processes that enable a dispute to be resolved.

During a process, a practitioner frequently intervenes to keep discussions on track. These interventions, while decisive to the resolution of conflicts, can be seen by parties as potentially serving the strategic interests of other parties. Participants' trust in a mediator therefore will likely be tested during a process. To maintain legitimacy, mediators must work to keep a process (and what they are doing in the process) transparent and accessible to participants. Equally important, practitioners are usually selected or approved by the participants in the mediation process and serve at the pleasure of the parties as a group.

How to Find Qualified, Professional Practitioners

When a professional neutral is needed, then, how can one best be selected? The most common system for identifying professional practitioners for consideration is the use of rosters run by various state offices of dispute resolution, or by other state or federal agencies. These offices and agencies rarely certify the qualifications of the mediators on the roster. Rather, they serve as information services, promoting more informed choice among disputants. Rosters thus work best when supported by an informed staff capable of helping disputants understand their core needs, develop criteria for selecting a good neutral, and identify individuals on the roster who meet those criteria.

While drawing from a roster creates the opportunity for parties to a dispute to mutually select a mediator, the process poses several challenges. In real-life conflicts, disputants are frequently pressured by time, budget, and resource constraints. The selection of a practitioner from a roster may itself require building consensus among disputants, which can be time-consuming and contentious. It may require considerable guidance by a convenor.

Practitioners may also be identified and secured via special contracts at federal or state agencies. Under “sole source, indefinite deliverable contracts,” as they are called, an agency makes an agreement with a prime contractor who develops and manages a long list of qualified subcontractors. Such contracts help to ensure that mediation and facilitation services can be obtained quickly and reliably. The prime contractor frequently works with the agency on each project to clarify process goals and identify an appropriate neutral. While this facilitates the process of neutral selection, it usually does not extensively involve all stakeholders in the selection process. Moreover, the practitioner is often paid exclusively by the lead agency, thereby potentially confusing the relationship between the practitioner and the convenor and raising questions of neutrality with other stakeholders.

Professional practitioners can also be identified through a request for proposals (RFP). RFPs can provide selection teams with a great deal of flexibility in their search. Traditional RFPs, however, which request a proposal for a process design and an estimate of total costs and then award the contract to the lowest qualified bidder, are inappropriate. A dispute resolution process must be designed based on the context of the dispute, which can

be determined only through extensive discussions with stakeholders and cannot be adequately discerned from a description of a conflict in an RFP. Likewise, total cost estimates for a process are impossible to determine before conducting a conflict assessment and process design. A practitioner's rate structure will provide a more meaningful indicator of potential cost. Generally, an RFP should request information on the experience, knowledge, and style of intervention typically used by the practitioner, as well as references from parties involved in previous interventions.

Other resources for finding mediation and facilitation candidates include professional organizations, the Internet, and publications. SPIDR and the International Association of Public Participation (IAP2) are two particularly active organizations, with SPIDR focusing on convening, mediation, and dispute systems design services and IAP2 focusing on convening and facilitation services. Membership in both organizations is subdivided by area of practice specialization. On the Internet, the Mediation Information and Resource Center (at <http://mediate.com>) provides extensive information on mediation and lists mediators who pay to register with the center. The newsletter *Consensus*, published by the MIT-Harvard Public Disputes Project, not only provides extensive information on consensus building and conflict management practice but also contains practitioners' advertisements, listed by geographic region.

Specific Characteristics to Look for in Selecting a Facilitator or Mediator

Someone seeking the services of a professional consensus building practitioner should look for a person with the following characteristics.

Experience in managing complex organizational or public policy issues is the best predictor of a practitioner's skill. Look at a practitioner's history as a professional neutral and his or her experience working on similar issues. Ask for, and call, references. Ask a practitioner to explain his or her general experience, as well as experience with situations similar to yours. Have the practitioner describe his or her involvement in these processes, how the process was managed, and the outcomes.

Look for evidence of the process skills needed to manage complex organizational or public policy consensus building. Key skills include interviewing, process design and management, meeting management, handling confidential information, and bringing processes to a close. In an interview, ask practitioners to describe the processes they usually use in situations similar to yours, why they use those approaches, and what they would recommend in your situation. Ask them to share advice on how best to proceed in your situation. Look to see whether they ask good questions and grasp the situation quickly.

A capacity to understand and communicate clearly on the substantive issues in dispute will assist a practitioner in resolving that dispute. What is needed is the capacity to analyze complex problems, a general understanding of the issues under dispute and the language used to describe those issues, and (if applicable) the ability to deal with complex facts and technical analysis. Ask practitioners to describe their substantive background and their experience with the issues under dispute. If the practitioner lacks the knowledge needed to understand the dispute, ask the practitioner to describe how he or she intends to gain this knowledge.

The capacity to work with a broad array of stakeholder groups is extremely important, but difficult to evaluate. Look for the use of neutral and impartial language, sensitivity to participants' values, and effective listening skills. Ask practitioners to relate stories about working with participants from other processes. If cultural differences will be important, ask for experience in cross-cultural dialogues. Look for practitioners who appear to be patient and flexible. Look for dispute management styles that are consistent with the expectations of the participants.

Training in dispute resolution techniques is useful, but is no substitute for experience. Increasingly, young mediators and other practitioners receive graduate education in dispute resolution. Look for programs that effectively incorporate internships and other forms of practice-based experience.

The acceptability of a practitioner to all stakeholders is an important determinant of success. Look at practitioners' previous work experience and institutional affiliations. Are there any conflicts of interest? Will they be perceived as favoring one set of interests over another? Ask them to describe any code of ethics or conduct to which they subscribe.

Finally, consider the cost of services, the availability of practitioners within the time frame needed, and the capacity of practitioners to manage the logistics of a process. Ask practitioners how they charge for services, and what you can do to reduce costs. Have them describe the logistical arrangements that they think are important in your situation, and how they will manage those arrangements.

Organizing the Selection Process

Ideally, the participants in a process will select their own mediator. Such a selection process is rare, however, because participants are typically chosen only after a practitioner conducts a conflict assessment, and in most cases the practitioner is hired to both convene and mediate or facilitate the process. While some convenors hire a practitioner to initiate the process and then select a separate mediator to conduct the process, this arrangement has drawbacks. The practitioner who carries out the conflict assessment builds a rapport with participants and becomes well educated on the issues in dispute and the interests of the various stakeholders. A mediator brought on only to mediate the process will have to quickly get up to speed on these important items.

Sometimes, a small but diverse cross section of stakeholders will jointly design a selection process. While not all participants are involved in the selection, representatives of their interests are. This process has clear advantages. The practitioner is subject to the direct scrutiny of key parties, thereby enhancing his or her legitimacy in the eyes of other stakeholders. Practitioners can be interviewed by a group, which provides a more realistic setting within which to evaluate their skills and sensitivities. The committee generally selects the practitioner based on a consensus decision of the group, thereby building up a pattern of agreement between the disputing parties.

In many situations, a practitioner is selected by one of the parties involved in the dispute. Typically, this is the convenor or the public agency responsible for making the decision. While this offers considerable flexibility and efficiency in initiating a process, it has inherent drawbacks. Participants may question the legitimacy and neutrality of the practitioner. Following the con-

vening process, then, participants should be afforded an opportunity to raise questions and concerns they may have about the practitioner, and to change practitioners if appropriate.

■ *Conclusion*

Techniques used by consensus building practitioners allow for an understanding of the issues at conflict, a clear identification of the underlying interests, improved communication, and an accommodation of the public good. Yet the use and availability of facilitators, mediators, process designers, and other practitioners remains context specific. By describing conditions that affect the use and appropriateness of various types of consensus building neutrals, this chapter seeks to equip organizational and community leaders with the skills necessary to initiate these nonadversarial approaches to decision making. While there are no guarantees of success, organizational and public policy disputes are increasingly resolved through mediation and consensus building. As the trend toward participatory management and policy development continues to grow, these techniques are likely to become even more integral to decision making.

■ *Note*

1. The author was involved in both of these cases as a dispute systems designer or evaluator.

■ *References*

- Bush, R. A. B., & Folger, J. P. (1994). *The promise of mediation*. San Francisco: Jossey-Bass.
- Carpenter, S. L., & Kennedy, W. J. D. (1988). *Managing public disputes*. San Francisco: Jossey-Bass.
- Costantino, C. A., & Merchant, C. S. (1996). *Designing conflict management systems*. San Francisco: Jossey-Bass.
- Doyle, M., & Straus, D. (1982). *How to make meetings work*. New York: Jove.
- Elliott, M. (1999). Reconceiving historic preservation in the modern city: Conflict and consensus building in Atlanta. *Journal of Architectural and Planning Research*, 16(2), 149.

- Gray, B. (1989). *Collaborating: Finding common ground for multiparty problems*. San Francisco: Jossey-Bass.
- Kramer, R. M., & Messick, D. M. (Eds.). (1995). *Negotiation as a social process*. Thousand Oaks, CA: Sage.
- Kritek, P. B. (1994). *Negotiating at an uneven table*. San Francisco: Jossey-Bass.
- Larson, C., & LaFasto, F. (1989). *Teamwork: What must go right, what can go wrong*. Newbury Park, CA: Sage.
- Moore, C. W. (1996). *The mediation process: Practical strategies for resolving conflict* (2nd ed.). San Francisco: Jossey-Bass.
- Rothman, J. (1997). *Resolving identity-based conflict*. San Francisco: Jossey-Bass.
- Schwarz, R. M. (1994). *The skilled facilitator*. San Francisco: Jossey-Bass.
- SPIDR Environment/Public Disputes Sector Critical Issues Committee. (1997, January). *Best practices for government agencies: Guidelines for using collaborative agreement-seeking processes*. Symposium conducted at the meeting of the Board of the Society for Professionals in Dispute Resolution, Washington, DC.
- Susskind, L. E., & Cruikshank, J. (1987). *Breaking the impasse: Consensual approaches to resolving public disputes*. New York: Basic Books.
- Ury, W. L., Brett, J. M., & Goldberg, S. B. (1993). *Getting disputes resolved: Designing systems to cut the cost of conflict*. Cambridge, MA: Program on Negotiation Books.