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Managing Disputes and Building Consensus: A Guide to Applying Conflict Resolution Mechanisms When Implementing Policy Change

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Introduction

There are many opportunities for disagreements and disputes to arise among stakeholders when a country's policies are being changed or reforms are being implemented. Attempts to reform laws, regulations, procedures or institutions may impact a variety of interested parties on all sides of the issue. It is easy to imagine how disputes can emerge if resources are redistributed; certain groups are empowered at the expense of others; latent political, economic, social and cultural problems rise to the surface; new grievances are aired; and strict regulation and enforcement are imposed.

While there is the potential for conflict in the midst of change, there is often also the opportunity for greater coordination. Stakeholders often see the benefits of pulling together in the face of change. In effect, change can produce a problem situation that stakeholders can manage effectively only if they find a way to cooperate and act interdependently, despite their differences. Thus, the implementation of change provides a simultaneous, and sometimes contradictory, stimulus to seek a resolution to conflict *and* the building of a new consensus. Happily, most techniques that are labeled as "conflict resolution mechanisms" are equally useful in helping parties recognize their commonly shared problems and find mutually acceptable ways to cooperate. When groups or individuals are confronted with conflicts that divide them *or* mutual problems that demand their cooperation and interdependence, the methods discussed in this Technical Note can help them find common ground, agree, cooperate and move forward. Understanding and activating the ***agreement motive*** in policy implementation situations can be a powerful tool for consultants and managers to remove barriers to implementation and stimulate effective policy execution.

A companion Working Paper (Spector, forthcoming) provides a conceptual framework for understanding the role of conflict resolution approaches in the policy implementation process through the lens of strategic management (Crosby, 1991). Conflict resolution techniques stimulate stakeholder participation, encourage host ownership and build institutional capacity. Typically, they are implemented via group facilitation approaches. They are designed to be sensitive to their context and, thus, are adaptable to changes in the situation. Ultimately, these techniques are forward looking mechanisms, seeking to bolster a transformation of the situation from the negative to the positive. This Technical Note extends the conceptual framework into the practical realm by offering ideas to process consultants and host country managers on the application of conflict resolution methods in the context of policy change to manage conflicts and build consensus. An understanding of how and when to use these techniques can help stem dysfunctional behavior that often threatens to disrupt progress in implementing reforms.

Conflict in the context of international development programs encompasses a very broad set of situations. This Technical Note begins by presenting some illustrative conflict situations matched with conflict resolution approaches that may be appropriate. Several prominent mechanisms of conflict resolution are presented that typically are useful in containing existing disputes and in preventing them. Finally, several sets of practical questions are posed for process consultants and host country managers to consider that can help them diagnose the situation, examine the options available to deal with the situation, select appropriate mechanisms, exercise these mechanisms effectively and prolong their effects, very much in a strategic management framework.

While this Note does *not* offer a cookbook to resolving conflicts (each conflict must be assessed individually and dealt with based on its own characteristics), it does provide informed guidance to the practitioner, drawing upon research and practice. Using this Note, readers will gain insight into the conflict or potential conflict factors that can impede policy change or impact movement toward interdependence. These insights should suggest positive actions that can be taken to facilitate the policy implementation process.

Conflict in the International Development Context

Societies experiencing post-conflict transition, economies and democracies in transition, and states undergoing extensive policy reform often encounter conflict among stakeholders. Recognition and successful diagnosis requires an understanding and awareness of the different situations that are prone to conflict. The following illustrations identify some of the conditions that can trigger conflict along with some possible conflict resolution responses:

Conflict situation	**Possible conflict resolution response**
Post-conflict transitions involving refugee repatriation and resettlement, the continuation of religious and ethnic cleavages, and necessitating the rebuilding of the economy, extensive land reform, and reconstruction of housing and infrastructure	Joint interactive problem-solving workshops and third party mediation
Resource maldistribution	Traditional host country conflict resolution mechanisms, such as forms of arbitration or mediation
Demobilizing and disarming combatant units	Unilateral confidence building measures
Long-standing grievances	Dispute management systems, such as grievance commissions
Complex emergencies involving natural and manmade disasters, terrorist/insurgency attacks, collapsed state institutions and authority, and the distribution of humanitarian assistance	Facilitation workshops, negotiation, joint collaborative projects
Conflicts of interest that arise between state-owned enterprises and private businesses that compete with each other in the same industry	Arbitration and mediation
Tensions among entrepreneurs and government officials concerning corrupt practices and organized crime	Problem-solving workshops
Environmental degradation and shared resources	Mediation and negotiation

Conflict situation	Possible conflict resolution response
Governance transitions: Conflicts between political parties over key policy issues, institutional turf conflicts among different branches or agencies of government, and conflicts between national and local levels as governmental authority is decentralized	Negotiation
Noncompliance with government regulation	Confidence-building workshops
Privatization of state-owned enterprises	Problem-solving workshops and dispute management systems

Diagnosis: Knowing If and When to Apply Conflict Resolution Approaches

What are the key factors that practitioners and consultants need to be aware of prior to and during policy implementation that can alert them to the potential for disruptive conflicts? What are the conditions that should prompt practitioners and consultants to decide to employ conflict resolution techniques? The problem is to anticipate conflict or cooperation needs and then do something about it, thereby preventing or averting possible negative effects on the main task of implementing policy change.[1]

Put simply, practitioners and consultants need to maintain a constant vigil, with the help of host country nationals and organizations, of the potential for conflict or the need for cooperation affecting the policy issues under discussion or being implemented. Operationally, this entails *continuous fact-finding and diagnostic* activities. Information must be gathered from all perspectives on the problem, emerging threats, warnings, differences of opinion, and outright disputes. To do this, there must be ongoing monitoring of the particular situation and its broader context. Thus, maintaining a constant informal dialogue with the various stakeholders and observers of the situation is essential.

Table 1 provides specific guidance on the information needed to make assessments. Rapid diagnoses must be conducted to assess the presence of cooperation needs and future conflicts. This information can be categorized into several *early warning indicators.* Practitioners and consultants need to answer these questions about the issues, actors, processes, strategies, and situation on a continual basis since the situation is ever changing. If the answers to any of these questions suggest potential conflict, dissension, or the need for interdependent action, they should be viewed as early warnings of possible disruption to the policy implementation process and responses should be taken to institute conflict resolution approaches.

What to Do: Identifying Appropriate Conflict Resolution Techniques

Four basic conflict resolution mechanisms are available. There are an infinite number of variations of these mechanisms that can be designed and tailored to each particular circumstance.

- **Confidence-Building.** This method is used to develop trust and confidence among parties that may be in conflict or that need to enhance their cooperative bonds. Confidence-building is usually a step-by-step process in which graduated unilateral concessions are made by one party and in-kind reciprocation is sought from the other parties. By indicating good will and an honest desire to cooperate, confidence-building mechanisms often lay the foundation for additional conflict resolution methods.

[1] The fields of conflict prevention and preventive diplomacy contribute to our understanding of what can be done on a practical level to anticipate disputes. For more, see Boudreau (1991), Evans (1993), Spector (1994) and the United Nations (1992).

Table 1. Diagnostic Questions Regarding Conflict and the Need for Cooperation in Policy Implementation

Categories	Conflict Questions	Cooperation Questions
About Issues	• What are the contentious issues? • Do these issues deal with basic needs or concrete interests? • What priority do these issues have with the parties? • What is the extent of differences between stakeholders on these issues? • For how long have these issues been in contention?	• What factors keep the parties apart? • Are there issues on which stakeholders must cooperate to achieve their goals? What are they? • How much and what type of cooperation is needed?
About Actors	• Do the major stakeholders perceive that they are participating effectively in policy implementation activities? • Do these stakeholders hold extreme goals or positions on the major issues? • How flexible are the positions of these stakeholders? Are they intent on "winning" or open to compromise? • Do these stakeholders have historical enmities for each other? • Are there major differences in power or resources available to the stakeholders? • Have there been changes in the leadership among any of the stakeholders that may produce a change in position or flexibility?	• Do the stakeholders perceive a common issue/problem on which they must jointly cooperate in order to achieve their objectives? • Do the stakeholders appear willing to cooperate?
About Process	• Are the policy formulation and implementation processes under way perceived as fair and just by all participants? • Are the dialogue and debate among stakeholders carried out in a open and free manner? Are all parties given equal access to the debate?	• Is there a ready forum to commence dialogue on an interdependence agreement?
About Strategies	• Are the strategies and tactics being used by any of the stakeholders overly aggressive, threatening or provocative? • Are any of the stakeholders being evasive, deceptive or failing to participate openly in the policy implementation process?	• Are there alternatives to interdependence among the stakeholders to handle the problem/issue? • What are the costs and benefits of cooperation?
About Situation	• Are external parties or events influencing the situation or any of the stakeholders in a way that might destabilize the implementation process? • Is there heightened public awareness of the issues that could influence or clash with any of the stakeholder's positions?	• Are there existing institutions or procedures that can facilitate cooperation? • Are there factors that could prevent or hinder the development of cooperation? • How does public opinion view the need for cooperation? • Are there external parties (for example, donors) that are interested in establishing cooperation on the issue?

- **Joint Problem-Solving.** Problem-solving involves the joint search for ways to deal with a dispute that divides the parties or a problem that they both need to resolve to mutual satisfaction. Interactive joint problem-solving is usually conducted in workshops that are facilitated by third parties who set the terms of reference and agenda for the sessions. In these workshops, the parties can share differing perspectives, think and problem solve together, find opportunities for creative idea generation, and overcome deeply rooted conflicts through dialogue. Success in problem solving often leads to the commencement of negotiations.

- **Mediation.** Mediation involves the participation of third parties who facilitate a process of dialogue between the principal protagonists. Mediation is a viable alternative if the parties have the willingness to find a solution but require the services of a third party to help them get there. Third parties can be governmental officials who carry the weight, power and influence of their governments into a mediation effort, or they can be nongovernmental, unofficial mediators practicing what has become known as "track two diplomacy." Mediation can e a catalyst to begin negotiations or can be used to overcome an impasse within a negotiation.

- **Negotiation.** Negotiation is a process of joint decision-making in which the principal parties seek together to accommodate their conflicts of interest and develop a mutually acceptable solution. Negotiation typically seeks to achieve *integrative* solutions, in which an outcome is found that satisfies and reconciles the conflicting interests of all sides and where neither side views itself or the other as a clear winner or loser. All parties usually benefit in such integrative agreements.

Strategic management of the policy implementation process extends over a sequence of stages (Crosby, 1991), each facing the potential for emergent conflict and changing needs for cooperation. Disputes over policy change can develop at any time and the appropriate response may differ at each stage. Therefore, the questions in Table 2 can act as a guide for practitioners and consultants in evaluating and selecting among alternative conflict resolution approaches. The table presents conflict resolution techniques that are generally appropriate and likely to be beneficial. Certainly, specific situations must be diagnosed and evaluated to decide on the particular approach to be applied.

In the early strategic management stages of policy change (Steps 1-3), the use of *confidence-building, joint problem solving and mediation techniques* are generally beneficial to develop a sense of trust among the stakeholders, ensure a shared perception of the problem, and envision a common outcome and solution in principle, if not in detail. In the middle stages (Steps 4-7), *mediation and negotiation* tend to be useful to search for common ground on the conflict issues, as compromises, tradeoffs or innovative integrative solutions are often required to bridge the gap between parties. In the latter stages (Steps 8 and 9), *joint problem solving techniques* again become appropriate to resolve differences that arise in the actual management of implementing change. In these stages, problem solving should prove sufficient to iron out the details of already mediated or negotiated agreements.

Making an Impact: Applying Conflict Resolution Techniques Effectively

What can consultants and practitioners do to improve the likelihood that the techniques they use will promote effective conflict resolution and consensus? Research shows that the presence of certain situational factors are likely to advance the resolution process while others are likely to throw up roadblocks. The questions presented in Table 3 are based on research findings and can provide users with insight into possible opportunities and barriers that they may face in applying conflict resolution approaches effectively.

While consultants and practitioners are often thrust into conflict situations, they can sometimes find ways to "engineer" them, thus improving the chances of the conflict resolution process. Answers to the following questions can provide useful guidance for this situational engineering. For example, prior to negotiations, consultants can encourage opposing stakeholders to study the issues jointly rather than apart, thereby enhancing the success of the process. Many informal meetings can be conducted to seek enhanced cooperation among the conflicting parties. As well, establishing deadlines can tend to produce concessions by all parties just before the scheduled conclusion of negotiations. Suggested adjustments to -- or engineering of -- situational factors such as these, with the advice and consent of the stakeholders, can

make the difference between success and failure of conflict resolution efforts.

Table 2. Conflict Resolution Approaches in the Strategic Management Process of Implementing Policy Change

Strategic Management Steps	Sources of Potential Dispute or the Need for Cooperative Action	Prominent Conflict Resolution Mechanisms
Step 1. Agreement on the process	• Are any major stakeholders being excluded from the strategic management process? • Have there been delays in initiating the process or has it been accelerated too quickly? • Is there recognition, acceptance and agreement on the joint problems facing the stakeholders? • Is there mutual trust or distrust of other stakeholders?	• Confidence building • Joint problem solving • Mediation
Step 2. Identification and clarification of the organization's mission, objectives and current strategies	• Does the organization have conflicting objectives? Does achievement of particular objectives negate the seeking of others? Does that put certain subgroups within the organization at a disadvantage? • Do the objectives of the organization clash with the needs of clients, stakeholders and constituents? • Does the organization employ strategies to achieve its objectives that may produce conflict internally or with its clients? • Is the problem facing the stakeholders high on their agendas? • Are their interests in the problem closely aligned? Are there clear formulas by which the problems can be solved to the satisfaction of all?	
Step 3. Identification of the organization's internal strengths and weaknesses	• Are the organization's resources distributed inequitably? • Does the organization fail in performing any of its major functions? • Are there major cleavages among the organization's clients, stakeholders or constituents? • Are the organization and its members adaptable and prepared for change or rigid and inflexible? • Does the organization have available procedures and/or institutions to deal with solving problems jointly with other organizations?	
Step 4. Assessment of threats and opportunities in the external environment	• Are there political, economic, social or technological changes that will influence or cause disruption in the direction or shape of the organization's policies and objectives?	• Mediation • Negotiation
Step 5. Identification of key stakeholders and their expectations and resources	• Do the key stakeholders have conflicting goals or use conflicting means to achieve their goals? • Are the interests of various stakeholder groups shifting?	
Step 6. Identification of key strategic issues	• Do stakeholders define key issues differently? • Do stakeholders have differing visions of how problems can be solved? • Do these issues already generate conflict among the organization's members?	

Strategic Management Steps	Sources of Potential Dispute or the Need for Cooperative Action	Prominent Conflict Resolution Mechanisms
Step 7. Design of an implementation strategy	• Is the strategy controversial among the stakeholders? • Are there likely to be negative side-effects from certain strategies, making particular stakeholders into losers and others into winners? • Will exercise of the strategy strain the resources of the organization? • Is the strategy incompatible with the organization's objectives and the legal/bureaucratic environment?	
Step 8. Implementation of the strategy	• Are the stakeholders willing to accept the changes involved in implementing the strategy?	• Joint problem solving
Step 9. Monitoring and review of performance	• Are the stakeholders willing to adapt the strategy over time as demanded by changes in the environment?	

Table 3. Situational Factors Impacting Conflict Resolution Success

Category	Situational Questions	Effects on Conflict Resolution Process
Issues	Are stakeholder positions based on narrow interests or broad ideology?	The more explicit the link between positions and ideologies, the less likely parties will be willing to compromise.
	Do the stakeholders' goals seek comprehensive or partial agreements?	Fractionating the size of the issues or disaggregating packages of issues facilitates achieving agreements.
	Are there any salient solutions to the conflict that are perceived by the stakeholders or observers?	Salient outcomes are coordination points which facilitate compromising.
Background Factors	Do the stakeholders prepare for conflict resolution separately or jointly?	Unilateral strategy formation reduces flexibility. Joint study of the issues increases flexibility.
	Are the stakeholders familiar with their opponents and their positions?	Familiarity increases the willingness to debate, to reverse roles, and to appreciate the complexity of issues and positions.
	Do any of the stakeholders have a better alternative than reaching a peaceful resolution to the dispute?	Attractive alternatives to a peaceful resolution reduce the willingness to concede, to rush to agreement or be flexible.
Context	Do the stakeholders have a friendly or antagonistic relationship?	Amiable relationships enhance cooperation and facilitate resolving of large issues.

Category	Situational Questions	Effects on Conflict Resolution Process
	Is there a choice over where the conflict resolution activities will take place	Conflict resolution activities conducted in peripheral locations (for example, in the countryside rather than in the capital) reduce public commitments to rigid positions and enhance cooperation.
	Is it possible to influence the extent of publicity or media coverage that the conflict resolution activity will have?	Public or well-covered conflict resolution activities tend to harden positions and increase the importance of saving face.
Structure	Are the stakeholder representatives that are participating in the conflict resolution activity serving as primary decision-makers or delegates?	If the representatives have the sole responsibility for the outcome, they are less likely to be willing to compromise. Delegates, on the other hand, are more willing to find accommodations.
	Do some stakeholders appear to have a power advantage over others?	Stakeholders with a power advantage are likely to be less flexible and less prone to compromise.
	Are meetings between stakeholders frequent and informal?	Many and informal meetings enhance cooperation.
Immediate Situation	Have any of the disputing parties made large or frequent concessions?	Increases in concession rates by one party tends to stimulate reciprocation from the other side.
	Is stakeholder leadership seen as creative or innovative?	Creative leadership is likely to result in the discovery of formulas or principles around which agreements can be formed.
	Are there natural or imposed deadlines for resolving the dispute?	The existence of a deadline often results in large concessions as an "end effect."
	Is there a trusted and active third party mediator involved in the dispute?	Active third parties can increase the flexibility of stakeholders to reach agreement by introducing new ideas and helping them save face.

Source: Adapted from Druckman (1993)

Institutionalizing Conflict Resolution: Dispute Management Systems

Dispute management systems (DMS) are *long-term, pre-arranged and institutionalized dispute resolution mechanisms* that espouse either *preventive or containment goals*, *foster constructive social relationships* over time among potential disputants, and provide opportunities to *build local capacity and ownership* over the process of dispute resolution. Examples include an *ombudsperson's office* or *grievance commission* where conflicting parties can voice their differences and seek an impartial hearing, *negotiation sessions* that are triggered automatically when opposing stakeholder groups seek to express their opinions about newly proposed administrative regulations, *mediation mechanisms* that offer disputants the support of neutral third parties who can search for common ground when the parties refuse to speak to one another directly, and *cooling-off periods* to enable disputing parties to regain their composure and reevaluate their positions and interests.

DMSs are usually created *before* there is any conflict, in anticipation that implementation situations may

engender disputes in the future (Ury, Brett and Goldberg, 1991). While the stakes are still low, a DMS mechanism can be designed that is perceived as fair and acceptable to all possible stakeholders and spells out an orderly and rational process by which future disputes can be recognized, dealt with, and managed.

An example from West Africa's central corridor can illustrate the nature and operations of a dispute management system in a relatively stable and nonviolent situation (Brinkerhoff, 1996; Kulibaba, 1995). In the early 1990s, National Coordinating Committees (NCC) were established in Mali, Burkina Faso and the Ivory Coast as part of the Nouakchott Plan to promote cooperation among these countries in the area of cross-border livestock trade. Membership in the committees included the major stakeholder groups -- governmental ministries and agencies, livestock producers and traders, butcher syndicates, private transporters, professional organizations, and consumers -- each with its own interests to maximize. Through the dispute resolution mechanisms of the NCCs, these groups have been able to negotiate with one another and build consensus on national positions on such contentious issues as taxes, fees, services and corruption. For example, the NCCs have stood ready to manage potential disputes and rivalries between the transporters and brokers over new fees for customs services and the excesses of uniformed security services. They have also lobbied and negotiated successfully with their respective governments over the threatened imposition of higher taxes and fees for customs clearances. By providing fora for continuing public policy dialogue on livestock trade issues *and* the mechanisms for resolving disputes before they escalate into hardened positions, deadlock and even violence, the NCCs have proved to be important dispute management systems that help to prevent conflicts from expanding both within and across these three countries in this particular issue area.

Because they exist over time, dispute management systems usually become institutionalized capacities, providing the skills, resources, procedures and, sometimes, the concrete organizational entities, to manage conflict situations. Their capacities become everyday procedures and functions of an organization or society in which they are embedded. DMSs can take many forms. Table 4 presents different categories of dispute management systems; the particulars of any system usually are determined by the circumstances, the norms of the society and the creativity of the designer

A unique aspect of DMSs is that they are pre-established. They are developed in the belief that it is easier to deal with future conflicts and crises in a particular issue area if an agreed upon procedure is in place. It will then be known how future dispute will be handled if one should arise. Thus, in many international agreements and treaties, a special dispute settlement clause is now included when the accord is first negotiated spelling out the manner in which the parties agree to manage future controversy and disagreement related to the accord. DMSs can also be anticipated in policy legislation and directives to deal with potential disruptions to the domestic implementation of policy. Foresight in establishing DMSs early in the strategic management process can facilitate effective implementation later on; in fact, DMSs can be conceived of as integral elements of the strategic management process -- ensuring local capacity to sustain implementation.Table 4. Basic Types of Dispute Management Systems.

Conclusion

Consultants and managers need to ask the right questions to cut through to the essential issues and provide meaningful advice or guidance to their clients. The questions offered in this paper can focus their inquiries and information gathering activities specifically on the important factors that need to be diagnosed to yield insight into effective conflict resolution applications. As with all strategic management tools, the value of these questions depends upon the skill and sensitivity with which they are used, the meaningfulness of assessments made, and the perceptiveness of implications drawn from the information gathered.

Table 4. Basic Types of Dispute Management Systems

Type	Description
Preventive DMS	
• Early warning network	Continuous information gathering and diagnosis from all stakeholder groups
• Notification and consultation	Procedures to offer prior announcement and conduct discussion among stakeholders before an action is taken
• Post-dispute analysis and feedback	Procedures to evaluate and learn from previous disputes
• Establishing a forum	Regular meetings among stakeholders to discuss issues that may eventually cause disputes
• Ombudsperson	Impartial trusted person is available to hear grievances and intervene before dispute emerges
Containment DMS	
• Information Base/Analytical Model	Establishment of an information bank or analytical model that all sides can use, test their assumptions, and design new proposals
• Joint Problem-Solving	Established procedures that call on disputants to conduct joint problem solving with the support of third party facilitators
• Negotiation • Early handling • Multi-step/multi-entry • Mandatory	Early handling of disputes through pre-established negotiation procedures Negotiations can occur through different points of entry and automatically progresses to higher levels until resolved Mandatory requirement for negotiations to occur under certain circumstances
• Mediation • Peer mediation • Expert mediation	Third party intervention by peers of the disputants Third party intervention by experts from the outside
• Cooling Off Period	Agreed on separation of the parties allowing them to reconsider the situation and identify new proposals
• Arbitration	Entrust neutral third party with authority to hear all sides to a dispute and adjudicate a binding decision

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