

Promoting Negotiations Between Advocacy Groups and Government Authorities

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This paper provides a brief overview of how the negotiation process can be used by NGO advocacy groups to promote and facilitate getting things accomplished with government. The conditions needed for commencing negotiations are described, as well as the stages and activities that define negotiation behavior. Ultimately, moving from confrontation to achieving results and desired reforms requires a “culture of negotiation” on the part of both advocacy groups and government agencies.

Achieving Advocacy Goals through Negotiation

The development of open democratic procedures in government naturally encourages the emergence and participation of many interest groups, both within and outside of government in public policy decision making. While on the one hand, the involvement of these interests can produce balanced solutions to policy questions that represent the perspectives of many stakeholders, they can also incite battles among interest groups that feel threatened and can engender conflicts between government agencies and ministries, the executive and legislative branches, government and the public, and government and external organizations, such as NGO advocacy groups. These conflicts can escalate if stakeholders perceive that their interests are at grave risk. In the worst of cases, stalemate on important policy issues can result.

Because of these tendencies, conflict resolution approaches have also become an integral element of democratic decision making procedures. The most frequently used of these conflict resolution mechanisms are negotiation practices. Formal or informal negotiation among stakeholders provides an outlet for conflicts of interest and opinion to be voiced, for these differences to be contrasted and debated, for common ground among the stakeholders to be sought, and for practical solutions to be found that accommodate the interests of all parties.

Negotiation is a mechanism that promotes the coordination of differing stakeholder interests in a constructive way; it is not a vehicle to force or coerce the capitulation of one side or the other. If practiced effectively, negotiation can help disputing parties find mutually acceptable agreements where the priority interests of each party are creatively cobbled together so that all perceive themselves as winners in the process. Well-crafted negotiated agreements offer face saving provisions for stakeholders who may have compromised on lesser issues to achieve goals that are higher on their agendas.

Ultimately, negotiation is a process of democratic decision making that facilitates the practical imperative of “getting things done.” If the stakeholders have the political willingness to seek a solution to their differences, the negotiation process provides a mechanism for coordinating interests, resolving conflicts, and averting deadlock, thereby promoting more inclusive policy formulation and more effective policy implementation.

US President John F. Kennedy, while still a Senator in the United States Senate, wrote about negotiation as the essence of democratic decision making in government.¹ Making public policy, he writes, requires compromise between the desires of all stakeholders. Government decision making is not a process that can tolerate rigid or inflexible positions; responsible legislators and government managers in a democratic system must practice flexibility, the willingness to adjust and modify positions to find mutual accommodation among stakeholders in a pluralistic society. This is not to say that government decision makers or NGO advocates must abandon their principles, values and beliefs. It is just that the “art” of getting things accomplished within democratic procedures requires that a way be found for multiple perspectives and interests to be represented and balanced, rather than having one interest overpower all alternative positions. Mutual concessions through the give-and-take of the negotiation process is the way this can be achieved.

Prerequisites for Negotiation

What does it take to get disputing parties to the negotiating table? Two factors are influential -the *willingness* of stakeholders to negotiate based on their perceptions that the issue is ripe for resolution and the *capacity* of the stakeholders to negotiate. Together, these factors combine to create a level of “negotiation readiness.” Negotiation readiness is defined as the motivation to resolve conflicts, as well as the ability to do so through negotiation processes. If any of the principal parties are not ready to negotiate, policy formulation or implementation may come to a halt and conflict may emerge.

Willingness *and* capacity are equally important in generating the decision to negotiate. Parties must believe that it is in their best interest to negotiate an agreement rather than to continue the conflict. If the disputing parties lack a sufficient level of capacity, they are *not* likely to decide to negotiate their differences, fearing a concessionary, or worse, an exploitative, interaction, even if they are motivated and the conflict seems ripe.

To be negotiation ready, the parties must view the policy issue as being ripe; this depends largely on the magnitude of the costs which will be imposed or the rewards that will be foregone if a negotiated agreement is not achieved. Proposals offered by NGO advocacy groups, for example, must be persuasive and demonstrate that government interests, as well as the public’s interests, will be well-served if they are accepted and implemented. Thus, the willingness to negotiate is influenced by this cost-benefit calculation. The willingness to negotiate is also determined by the relative power of the parties. Government authorities are usually viewed as possessing the power of the state, but they can be convinced to join in negotiations with NGO advocacy groups if these groups can demonstrate that they have broad and committed public support, public opinion is on their side, the law is on their side or their position is upheld by the facts.

In addition, the parties must have sufficient capacity to negotiate, which depends on their skills, experience, and resources to perform adequately in the negotiation process -- to be able to identify, defend and promote their own interests effectively. They must be able to plan, strategize, persuade, advocate and lobby on their own behalf.

¹ Kennedy, John F. (1956) *Profiles in Courage*. New York: Harper Perennial, pp. 5-7.

Perceptions that benefits do not currently outweigh the costs or sensing asymmetry in capacity among the disputing parties can dissuade them from coming to the table to negotiate. On the other hand, better information and more realistic cost-benefit assessments, along with capacity building activities to enhance the negotiating skills of stakeholder groups, will increase the readiness of parties for negotiation and encourage them to come to the table.

Negotiation Activities

Once parties decide to negotiate, the process moves forward through various activities. The prominent activities change over time across several stages - from the prenegotiation period, to the negotiations themselves, and finally to post-agreement negotiations.

In the *prenegotiation stage*, the parties prepare, plan and strategize for the upcoming talks.

Activities include the following:

- Conducting fact-finding
- Identifying their own interests
- Establishing goals
- Identifying acceptable fallback positions
- Assessing the interests and goals of the other parties
- Assessing the implications of differential power positions
- Developing strategies and tactics
- Testing alternative demands and proposals
- Preparing or influencing the structure and context of the upcoming talks
- Initiating confidence building measures with the other side
- Building coalitions.

In the *negotiation stage* itself, the parties seek accommodation on the issues that have kept them apart through direct interaction. Many of the prenegotiation activities to develop and evaluate the effectiveness of strategies, tactics, demands, and proposals still continue into the negotiation phase. New activities in the negotiation stage include:

- Presenting positions and interests to the other side
- Employing and modifying strategies and tactics to encourage the other parties to see benefit in your proposals
- Defending and promoting your interests
- Finding general principles of justice and fairness upon which all parties can agree (these are called “formulas”)
- Searching for acceptable provisions that add detail to the agreed principles
- Overcoming objections and impasses
- Conducting problem solving and finding creative approaches to find mutually acceptable solutions
- Working within coalitions to further your interests.

The *post-agreement negotiation stage* is important in solidifying the ongoing relationship between parties. No matter how detailed the negotiated agreement, its implementation will always require additional interpretation and give-and-take to resolve differences or make

adjustments. Post-agreement negotiations can be viewed as a process of sustaining relationships between advocacy groups and government authorities that need to work together but which may have conflicting interests. These negotiations provide a mechanism for them to resolve their differences through compromise and creative solutions. Activities at this stage include:

- Establishing and participating in an ongoing forum in which the parties to an agreement can continue to dialogue and negotiate details, adjustments and extensions
- Monitoring and evaluating compliance with negotiated provisions
- Finding ways to improve existing agreements
- Working with existing coalitions and developing new coalitions to implement agreements.

Across each of these stages, negotiation strategies and tactics are devised and employed by all parties. This bargaining behavior can be classified into a few basic categories, including: issuing threats and warnings, offering promises and predictions, making commitments, feigning incapacity, making concessions, and bluffing, among others. Closely related to these strategies and tactics is negotiation style -- whether the negotiator is tough (tendency to hold out for more) or soft (tendency to give in).

Developing a Negotiation Culture

What needs to be done to regularize negotiations between NGO advocates and government agencies? The readiness of the parties to negotiate must be developed and the institutional framework within which negotiation takes place must be established.

Building Negotiation Readiness. NGO advocacy groups and government agencies that need to work with one another must develop a perspective that the only way things can get accomplished and deadlock avoided is through continuing negotiation and compromise. There must be a mindset that greater benefits can accrue for the public good if advocates and government agencies work together to develop procedures to resolve their differences and get on with their work. The other part of the equation is to develop the abilities and skills at negotiation of their managers. This can be done through training, practice exercises, and observation.

Building Negotiation Institutions. Ongoing fora in which representatives of NGOs and government agencies can meet to negotiate their differences and find mutually acceptable solutions are essential. These can take the form of policy dialogue workshops or task forces. If these institutions have regularly scheduled meetings, negotiation norms and activities will likely become the favored approach over time to push progress on public policy issues.

Anticipated Outcomes

The anticipated benefits of promoting negotiation with government are threefold:

- Deadlocks in policy formulation or implementation can be averted.
- Better policy solutions can be designed by including the perspectives of all stakeholders.
- Policy formulation and implementation can be made more efficient through regularized processes of interaction between government agencies, the legislature, and the public.

Developing a culture of negotiation with government is an acquired skill, one that can be easily institutionalized where there is a desire to make government decision making the art of the possible. As policy issues increasingly require various government agencies, the legislature, and the public to interact and work in coordination with one another to get things done, each stakeholder must find a way to see beyond its own parochial organizational interests to avoid stalemate and find common ground that moves policy issues forward. Negotiation is the principal mechanism to resolve such conflicts of interest in an inclusive participatory fashion.