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POLICY IMPLEMENTATION, CONFLICT, AND DISPUTE RESOLUTION

By Bertram I. Spector

Conflict almost always accompanies the implementation of policy change. Paradoxically, the implementation of policy change cannot proceed efficiently in an atmosphere marked by excessive or disruptive conflict. Thus, a necessary condition of implementing policy change effectively must be the design, development and institutionalization of processes and structures that are capable of managing, if not resolving, disputes that threaten policy reform. Generating culturally-appropriate ways to overcome or, at a minimum, stabilize the effects of social conflict are important, as well, in building indigenous capacity to apply, transfer and sustain conflict resolution and management processes and skills.¹

This paper presents a framework for understanding the impact of conflict on implementing policy change and various practical approaches to managing or resolving conflict, with special attention to how these might be introduced in developing countries. Conflict resolution activities are described in the context of strategic management processes that support policy implementation

functions. Several examples of the successful application of conflict resolution methods to accomplish technical assistance assignments in the Implementing Policy Change (IPC) Project are offered to demonstrate the feasibility and practical utility of these approaches.

Policy Implementation and the Emergence of Conflict

There are many opportunities for conflict to emerge in the process of implementing policy change. Disputes can arise among stakeholders if they perceive the stakes to be high and their goals are incompatible or their interests clash. These disputes can concern either conflicts over policy objectives or disagreements over the means to carry out the policy (Matland, 1995). In extreme situations, aggrieved stakeholders may withhold their resources or actions that are required to implement policy or actively sabotage attempts to reform policy, engendering disruptive power struggles.

¹ Throughout this paper, the terms "dispute resolution" and "conflict resolution" are used interchangeably.

The very tasks that comprise policy implementation are fraught with potential conflict, both within and among stakeholder groups (Crosby, 1996). Table 1 examines the breadth of implementation tasks and the types of disputes that might be generated in accomplishing them. A common theme across all of

these tasks is the uncertainty caused by implementing policy change and the potential for loss of status and resources. These negatively viewed circumstances elevate the probability for conflict among the possible winners and losers.

Table 1. Policy Implementation Tasks and Potential Disputes

Policy Implementation Tasks	Potential Disputes
1. Policy Legitimation. The proposed policy initiative must acquire legitimacy in the eyes of those who will implement it.	<ul style="list-style-type: none"> • Various stakeholder groups can be antagonized by attempts to legitimize a new policy that they oppose. • Attempts to legitimize a proposed policy are likely to upset the status quo, yielding conflicts between potential winners and losers.
2. Constituency Building. The policy must be marketed and promoted to build an identifiable coalition of beneficiaries.	<ul style="list-style-type: none"> • Those likely to lose from implementation of a new policy may form a counterforce to the likely beneficiaries.
3. Resource Accumulation. Resources supporting the capacity to implement the policy must be obtained or reallocated.	<ul style="list-style-type: none"> • Reallocation of limited resources usually results in curtailing of old policies.
4. Organizational Design and Modification. Existing institutions must be reengineered or new institutions developed that are appropriate to the new policy.	<ul style="list-style-type: none"> • Existing organizations usually need to be reoriented, displacing groups and individuals associated with the old policy.
5. Resource Mobilization. Resources must be redirected and mobilized to provide the capacity to conduct action plans.	<ul style="list-style-type: none"> • The redirection of resources can cause resistance from those who lose capacity. • Without compelling reasons and incentives, mandated changes to the status quo may be resisted.

In pluralistic societies, both the formulation and implementation of policy change almost always evoke debate among governmental and nongovernmental groups that have conflicting interests concerning the issues at hand. However, implementation managers who remain alert to the context of policy reform -- both the goals of reform and the levels of potential stakeholder conflict -- will be better equipped to preempt or react quickly to the impediments to change that emerge with appropriate dispute resolution remedies (Matland, 1995). (See Table 2.) Certainly, when there is a general consensus favoring the implementation of certain policies, such as a health program to eradicate

smallpox, there may be only minimal disputes. Implementation in these cases can be relatively straightforward technical activities, possibly hampered by resource availability or bureaucratic skill and motivation, but not by substantive disputes over the policy itself (Cell 1). Some view implementation under these conditions as an *administrative* function of putting regulations and legislation into effect. However, even in a case of administrative implementation, conflicts may arise regarding resource distribution and differences in implementation approach across the technocratic groups that are entrusted with executing the policy. These conflicts may be resolvable by building

confidence levels among stakeholders or by

accommodating resource allocation needs.

Table 2. Goal Ambiguity-Conflict Matrix: Policy Implementation Processes

	<i>Conflict</i>	
<i>Ambiguity</i>	Low Conflict	High Conflict
Low Goal Ambiguity	1. Administrative Implementation	2. Political Implementation
High Goal Ambiguity	3. Experimental Implementation	4. Value-laden Implementation

(Adapted from Matland, 1995)

Clear goals (low ambiguity) and high conflict among stakeholders usually yield a highly *political implementation* situation (Cell 2). In such cases, actor goals or methods are incompatible with the proposed policy and political power must be wielded to resolve the impasse. This can result in the coercive use of power to impose a solution or in persuasive interactions among stakeholders involving negotiation or joint problem-solving. Examples of political implementation might include controversies over the demobilization and relocation of guerrillas or the opening or closing of military bases.

The conditions defined in Cell 3, high goal ambiguity and low conflict, define an implementation scenario in which those who perceive a high personal stake in the issue and who get involved actively will play a dominant role in executing the policy. An example is the implementation of forestry policies or clean air or water regulations. The outcome depends heavily on the resources committed and the stakeholders that decide to participate. As a result, implementation is likely to vary from site to site and can be viewed as *experimental*, producing lessons learned at each site that can enhance future implementation activities.

Finally, the situation in Cell 4 -- high ambiguity and high conflict -- is typical of the implementation of issues dealing with *highly salient symbols*, those that deal with the essential values, principles and goals that stakeholders espouse. Conflict may arise over the "correct" vision of policy orientation on these issues, resulting in significant competition among groups and possible disruption of efficient implementation processes. An example of this type of implementation, especially among environmental stakeholders, is the siting of hazardous waste treatment plants. When the clash of strongly held beliefs dominates policy implementation, the dispute

resolution techniques that are mobilized must be sensitive to the needs and values of the stakeholders, not only to their interests.

Several conditions or sources of conflict can generate resistance from expected implementers as well as from beneficiaries:

1. Absence of Consensus. If the policies to be implemented are based on issues where there is limited consensus in society, conflict may emerge. Interested parties in government agencies, industry and society who are charged with responsibility for implementation or who must be relied upon to comply with a new policy may not agree with the substance of the policy or the means employed to implement it. In fact, the policy change may pit government authorities against other governmental and nongovernmental organizations who have conflicting interests on the issues. When policies remain contentious after their formulation due to remaining legal, political, social or economic questions, compliance with new policy may suffer and, worse yet, the implementers may try to obstruct it.

2. Challenge to the Status Quo. Stakeholders may find a new policy a direct challenge to their interests. They may fear that they will lose status, influence or assets as a result of a reformed policy, and so, may resist change by withholding their resources and failing to comply with the policy's requirements. A change in the status quo implies upsetting the existing power balance, arrangement of coalitions or distribution of assets and resources. Policy change is likely to introduce new issues, new actors, and new regulations and standards, producing a sense of uncertainty and risk in an established situation by redefining who are winners and who are losers. If stakeholders weigh their options and determine that

they are better off *without* the policy -- to stay with the status quo -- they are likely to oppose or resist the change. This cost-benefit assessment may be more intuitive than quantitative.

3. Adversarial History. If the policy making and implementing communities are historical adversaries, the implementation period may be characterized by conflict. Any proposed change in policy, regardless of its technical merit, may be seen as an offensive gesture, dredging up old enmities and wounds between historical adversaries. Regardless of the interests of the parties in the policy issues at hand, implementation may be viewed as just another opportunity to confront the other side.

4. Exclusion. When policy makers have shut out parties with potentially competing viewpoints from participating in the policy formulation phase, the implementation phase is a likely moment for their frustrations to be released. Such constituencies may have weak allegiances to the new policy. The imposition of new regulations or directives on parties that have been denied access during the initiation of policy dialogue is likely to be viewed negatively and responded to by questioning, delay, outright hostility or stalemate.

When disputes manifest themselves publicly, there are several possible consequences. Public resistance can emerge, resources can be withheld, implementing activities can be delayed, or the process can become hopelessly deadlocked. Worse yet, social and political unrest concerning one policy issue can spiral and trigger other conflicts, producing increasingly unstable situations.

Conflict Resolution and Policy Implementation

The management of policy implementation disputes requires special care. The goal is to achieve an implementable, sustainable and enforceable agreement. The management or resolution of these disputes can take many forms: collaborative dispute resolution, legislative and judicial activities, imposition of policy, and coercive action. It can range from pluralistic involvement of stakeholders to reach a mutually acceptable consensus, on one end, to oppressive, forceful or violent unilateral action taken by authorities to impose their preferences, on the other.

Government authorities typically have a threefold choice in response to public policy conflict (see Table 3):


1. Retreat. At one end of the spectrum, the government can quietly abandon its attempt to implement the policy. At best, this results in maintenance of the status quo and, at worst, in a weakening of the authority and legitimacy of the government.

2. Coercion. At the other end of the spectrum, the government can employ the coercive resources at its disposal to *impose* the policy on society. This can mean the use of force to suppress possible resistance. Such a decision usually connotes the absence, abandonment or disintegration of pluralistic and participative involvement in public decisions.

3. Conciliation. Conciliation is an activist choice in the middle and can take two paths. First, the government can employ the *legal, judicial and legislative systems* to seek a solution with the aggrieved parties. However, if the legal or legislative structures are not sufficiently open and participative, government action can be viewed as an attempt to impose government's authority, not as a bid to assuage the opposition. Moreover, solutions sought through legal or judicial channels can evolve into adversarial, rather than conciliatory, interactions. Second, the government can seek to resolve or at least manage the conflict situation by employing the techniques of *collaborative dispute resolution*. This decision may strengthen stakeholder ownership and commitment to the policy in the long term and build a useful participative alternative to conflict when future policy changes are required on other issues. However, these approaches may be difficult to apply if the society is not accustomed to settling public disputes in this fashion. As well, governments may hesitate to use these approaches because they acknowledge a certain weakness -- the need to compromise with certain interest groups -- and may require a partial retreat from the proposed policy or an offer of incentives to stakeholders to achieve resolution of the conflict.

Of these three choices, conciliation, and, in particular, collaborative dispute resolution, is the only one in which the public is effectively drawn into the policy debate. These approaches depend on the full participation of interested stakeholders. Collaborative dispute resolution approaches, in particular, require, at a minimum, a tolerance of pluralism, open and available communication

Table 3. Government's Threefold Choice in Response to Policy Implementation Conflict

Choices	Behavior	Implications
Retreat	Failure to implement policy change	Maintenance of status quo
Conciliation	Use of judicial, legislative or collaborative dispute resolution mechanisms	
Coercion	Policy imposition or use of force	Abandonment of democratic principles

channels, and informed stakeholders. If the settlement is to be acceptable, implementable and long-lasting, it must be engineered to sufficiently satisfy many of the interests of *all* major parties. All parties cannot expect to achieve all of their interests; tradeoffs to varying degrees are required of each party. Neither is it efficacious to totally ignore the interests of any critical party; aggrieved parties that possess resources can serve to block or sabotage implementation. The goal of collaborative dispute resolution is to seek the appropriate level of mutual satisfaction that will reduce, manage or resolve the issues that separate the parties.

Collaborative dispute resolution is a set of activities encompassing a wide range of procedures, mechanisms and structures that all seek to anticipate, avert, manage, mediate and/or resolve conflicts through voluntary, participative and nonviolent means. Dispute resolution techniques endeavor to achieve a consensus across the disputing parties by influencing opposing preferences on contentious issues and developing a convergence of differing interests.

Collaborative dispute resolution of policy implementation conflicts often entails heightened attention to certain activities. These include:

- *Achieving a common perception and understanding of the problem.* Problem redefinition and reframing is often an important prerequisite for effective dispute resolution.
- *Overcoming symbolic or identity aspects.* Many policy implementation disputes concern issues that are symbolic to the stakeholders, issues that

are somehow tied to their very identity or beliefs. Policy conflicts over land or water use, for instance, may embody essential religious or nationalistic meanings for certain stakeholder groups that they may find difficult to compromise on.

- *Building mutual confidence.* If the problem centers on issues that relate to deeply-rooted national or group symbols, the conflict may generate extensive mistrust and misperception of the opponent. The use of confidence-building measures (CBMs) will be extremely important in creating the willingness to even begin a conflict resolution process.
- *Finding formulas.* Finding solutions to public policy disputes usually begins with the parties agreeing to a set of mutually acceptable principles of justice and fairness (Zartman, 1993). Such solutions almost always involve multi-issue packages that reflect tradeoffs among the parties. These solutions suggest that broad "formulas" must be found by the parties *before* details can be dealt with effectively and that successful dispute resolution approaches are not likely to resemble offer-counteroffer concessional bargaining.
- *Employing creative reasoning to generate options and overcome impasses.* To find acceptable formulas and solutions to deeply-dividing conflict situations -- and to overcome likely stalemates and impasses -- parties must often go beyond traditional approaches and employ creative reasoning. It is often useful and necessary, for instance, to employ special

creative problem-solving approaches that call for parties to brainstorm or bring to bear analogies from other situations to redefine the problem and expand the pie of possible solutions (Spector, 1995).

parties or in amending procedures as the situation

- Resolvable conflicts are *mixed motive conflicts*. While parties may have conflicts of interest over substantive or procedural issues, they must also acknowledge their needs for cooperation and interdependence, and their willingness to achieve a mutual accommodation of their conflicting interests. Parties to a dispute that hold purely conflictual motives are likely to be intransigent and nonreceptive to any dispute resolution strategy. They are likely to promote only aggressive and even violent behaviors to achieve their goals and impose their will over other parties.

Assuming that the parties have mixed motives and are amenable to a resolution of their dispute, there are several basic collaborative dispute resolution mechanisms that are available. Each has certain characteristics that make it more or less appropriate to combating particular types of conflicts. Some mechanisms, for example, are extremely helpful in reopening discussions that have been cut off between

Box 1. Confidence-Building in Guinea-Bissau

Confidence-building techniques were used in Guinea-Bissau to enhance and strengthen consensus among public and private stakeholders for policy reforms in three different issue areas: creating an independent judiciary, reforming commercial activity rules and regulations, and redefining the role of government in agricultural and rural development. Each of these cases was selected, in part, because they were noncontroversial and there was minimal opposition to them. However, what was absent in all of these cases was solid motivation on the part of public and private stakeholders to act and invest significant resources due to their limited confidence in the capacity of the bureaucracy to institute the needed reforms. The goal of IPC support in these cases was to build and strengthen the consensus necessary to put these issues on the active public agenda. Situational analyses indicated that this goal required extensive confidence-building measures among public and private interest groups to enhance their trust and reliance in the capacity of public institutions.

The IPC approach for the three issue areas was similar. Working groups representing different perspectives and interests were created. Confidence- and consensus-building workshops were conducted that involved the participation of all stakeholders. Through these public meetings, extensive media coverage and the use of creative problem solving activities, general awareness about the problems was elevated on the public agenda and alternative proposals for implementing the policy were developed. Low conflict levels made confidence-building efforts more feasible. Stakeholders in government and in society were willing to discuss "how to get it done," because they did not feel threatened. They needed to feel confident that if they threw their support and resources behind a reform policy that the implementing agencies could reasonably execute that policy. The dialogue and activities of the working groups served the purpose of building this confidence among the stakeholders and developing a willingness to act. Action plans specified more clearly how resources would be used and capacity mustered to implement policies. The stakeholder dialogues yielded new coalitions among the parties, and created a sense of ownership by these groups to "get it done." Moreover, seemingly minor, but concrete, achievements -- for example, after long last, repair of the Supreme Court's leaking roof -- were instrumental in raising public confidence in government efficacy.

changes. Other methods are more appropriate to complex multi-issue conflicts where a basic reframing of the problem needs to be accomplished to satisfy all the parties. Each method represents a category of processes that can be used to resolve or manage disputes and that needs to be tailored to the particulars of the implementation situation.

- *Confidence-Building Mechanisms (CBMs).* Developing trust and confidence is a key ingredient in managing conflict. In fact, confidence in the good will and honorable intentions of the other party is often the major prerequisite for implementing any dispute resolution approach. Confidence that any agreement which is achieved will be implemented reliably and enforced is another prerequisite for entering into talks initially. (See Box 1 for an illustrative example of the use of CBMs in Guinea-Bissau.) A program of CBMs usually involves an orchestrated series of graduated unilateral concessions that seek reciprocation from the other side to indicate good will and an honest desire to cooperate (Osgood, 1962). On an international level, Sadat's historic visit to Jerusalem was a preeminent example of a CBM.

- Joint Problem-Solving.* This method pits the principal parties in the dispute against the problem as opposed to each other. It can be visualized as two disputants sitting on one side of the table confronting the problem which sits on the other side. Problem-solving involves a joint search for ways to deal with the problem that divides the parties. (See Box 2 for an example of how problem-solving techniques were applied in Honduras.) Interactive joint problem-solving is conducted in workshops that are facilitated by third parties who set the terms of reference and agenda for the sessions (Pruitt, Rubin and Kim, 1994; Rouhana and Kelman, 1994; Kelman, 1996). These workshops enable a sharing of differing perspectives, joint thinking and problem solving, opportunities for creative idea generation, and ways of overcoming deeply rooted conflicts. If successful, these workshops can lead directly to negotiations.

Box 2. Problem Solving Workshops in Honduras

The Policy Analysis and Implementation Unit (UDAPE) of the Economic Cabinet in Honduras is conducting problem-solving policy dialogues with private sector stakeholders in 12 economic areas. The purpose is to elicit the needs, perceptions, priorities, policy goals and gripes of these stakeholders and to include this information in the policy formulation and implementation processes to deregulate the economy. The facilitation techniques typically used in problem solving workshops are being applied to search for commonly held perspectives and acceptable solutions across stakeholder groups. By focusing on particular issues that are perceived as common problems, stakeholders are united in their efforts to uncover the root causes, understand other party interests, and generate workable solutions that all are willing to implement. The joint problem-solving approach produces an attack on the problem rather than on each other and yields participant ownership of the process

- Mediation.* Mediation encompasses a wide variety of activities conducted through the intervention of trusted and often neutral third parties who facilitate a process by which the principal protagonists find a way to resolve their differences. (See Box 3 for a case in which mediation was used by the IPC team in West Africa.) Third parties can be extremely useful as stimulants of the dispute resolution process, especially when the parties are not willing to

deal with each other directly to consider their differences (Bercovitch, 1984). The third parties can be government 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
² Mediation can be used as a catalyst to begin negotiations, to overcome an impasse within a negotiation, or as an activity on its own.

Box 3. Mediation Support in West Africa

IPC support was provided to help Mali, Burkina Faso and the Ivory Coast implement the Action Plan for Regional Integration of the Livestock Trade in the Central Corridor. The disputes among these national parties, as well as their domestic stakeholders, dealt with the suppression of increasing taxation related to livestock trade, deregulation of international trucking, alignment of transport tariffs, and corruption among the uniformed security services at the borders. As a neutral outsider with no stake in the outcome, the IPC team played the role of a *mediator*, facilitating dialogue in pre-reform deliberations, helping each party explore how it could implement the Action Plan, and monitoring and evaluating the reform outcomes. Specifically, the IPC mediation team worked with the National Coordinating Committees in each country to prepare for negotiations that would yield workable compromises with domestic stakeholders, including livestock traders, brokers, butchers, transporters, producers, and government agencies. IPC mediation provided help in developing compromise options and fallback positions, dealing in particular with the acrimony between transporters and brokers and among rival transport syndicates.

The National Committees provided a unique institutional base for negotiations among these stakeholders who played critical roles in implementing policy change. Not only did these committees offer a framework for negotiating the details of implementation, they constituted a *sustained dispute management system*

² Track two diplomacy relates to the nongovernmental conflict resolution mechanisms that may operate separately or in unison with formal governmental “track one” efforts to resolve a dispute.

- *Negotiation.* Negotiation is a process of joint decision-making in which parties seek to accommodate their conflicts of interest and develop a mutually acceptable solution. (See Box 4 for an example of how negotiations and pre-negotiations were supported in Southern Africa.) Negotiation and mediation are different, though often mutually reinforcing, mechanisms. Negotiations are directed by the principal disputants who seek to resolve their conflict themselves and have the authority to make decisions in that regard. Mediation involves the intervention of a third party to help the principal disputants. Thus mediation can operate within a negotiation setting to support the parties in their joint decision-making

Box 4. Joint Problem Solving and Negotiation Support in Southern Africa

The IPC Project helped the Southern Africa Transport and Communications Commission (SATCC) in the pre-negotiation and negotiation of 11-country regional protocol agreements through *joint problem-solving workshops and negotiation support*. While there was a recognized need to develop common regional technical standards across the transport and communications sectors to facilitate the development of open regional economic markets, there was a countervailing desire to protect national markets. The goal of the protocols was to overcome national sovereignty concerns and develop meaningful and implementable agreements that would encourage regional economic integration.

In particular, IPC helped governmental and nongovernmental stakeholders prioritize the issues in each sub-sector, identify where there were common and conflicting interests, determine areas of contention requiring further negotiation, and brainstorm and problem-solve to design alternative solutions that would produce the framework for regional cooperation in transport and communications. Support was also provided to draft the legal protocol documents that resulted from the consultations. These facilitative activities all aimed at developing protocol documents that have the consensual support of the key stakeholders.

activities.

Negotiation is often considered to be synonymous with *bargaining* -- with the demands, offers, counteroffers, tradeoffs and concessions that harken to the haggling of the bazaar. The outcomes of such

bargaining situations are usually *distributive* in nature, that is, the costs and benefits are allocated among the parties; some may win and some may lose. However, *negotiation* can also yield *integrative* solutions, in which an outcome is found that somehow satisfies and reconciles the conflicting interests of all sides. All parties usually benefit in these integrative win-win situations. Integrative solutions are often developed more through creative negotiation search processes than through structured offer-counteroffer bargaining (Zartman and Berman, 1982). Problem solving is often the search engine in negotiation by which the principal parties seek to find a mutually acceptable accommodation.

Conflict Resolution and Strategic Management Processes

Conflict resolution approaches are integral mechanisms of the strategic management process for policy implementation. This multi-step process, at the heart of the IPC Project methodology, provides a framework for organizing and managing the implementation of policy change (Crosby, 1991; White, 1990). By embedding conflict resolution techniques as appropriate within the strategic management process, policy managers are given the means of overcoming or managing disputes that threaten to delay, disrupt or reverse policy reforms, at the same time as generating the active support and participation of the very stakeholder groups that might initiate resistance.

Just as the strategic management approach is a framework for thinking about and acting upon the formulation and implementation of policy, so too, the dispute resolution approach is a way of reasoning, planning and acting to manage joint problems collaboratively so that the affected parties achieve a sense of mutual satisfaction with the solution. Dispute resolution mechanisms can be drawn upon at most stages in the strategic management process to facilitate participation, preclude the emergence of conflicts, or manage and reduce the impact of conflicts if they have materialized. In Table 4, dispute resolution activities that correspond to each of the nine steps of the strategic management approach are presented.

Disputes concerning policy change can emerge at any stage of the strategic management process. The nature and source of conflict at each stage can be different and the response in terms of appropriate

dispute management techniques can vary as well. Use of an integrated dispute resolution approach

provides policy managers with the tools to anticipate the emergence of such conflict, deal with it early, and

Table 4. Dispute Resolution Activities in the Strategic Management Process

Strategic Management Steps	Related Dispute Resolution Activities
Step 1. Agreement on the process	Develop awareness of existing or potential disputes and the political will to act
Step 2. Identification and clarification of the organization's mission, objectives and current strategies	Assess disputants' objectives and broad principles of justice and fairness that will provide the framework for any ultimate solution
Step 3. Identification of the organization's internal strengths and weaknesses	Assess disputants' resources, power bases, and political will to promote or mitigate the conflict
Step 4. Assessment of threats and opportunities in the external environment	Assess other influential actors (allies, enemies and third parties) and conduct a situational analysis of other issues, structures and institutions that may influence the conflict and opportunities to resolve it
Step 5. Identification of key stakeholders and their expectations and resources	Compare and assess disputant interests, bottom lines and desired goals
Step 6. Identification of key strategic issues	Assess issues under dispute, visions of possible solutions, possible tradeoffs, and ways of including other issues to develop useful formulas
Step 7. Design of an implementation strategy	Devise a formula for agreement and work out the details among the disputants using the wide array of dispute resolution techniques (for example, negotiation, mediation, problem-solving, and confidence building)
Step 8. Implementation of the strategy	Implement the agreement
Step 9. Monitoring and review of performance	Continue to monitor and evaluate the success of the agreement and renegotiate provisions, as needed, in the post-agreement context

manage it effectively. The development of effective *dispute management systems* that institutionalize the application of these techniques is useful in building indigenous capacity and socializing a collaborative dispute resolution mentality. The process of designing and implementing such systems is described below.

Developing Effective Dispute Management Systems

Governmental authorities can respond to policy implementation disputes in two ways, through *prevention* and/or *containment*. The preventive path

anticipates potential conflict and applies conflict resolution techniques early to preclude future problems. One obvious way to do this is to *embed conflict resolution approaches into the policy formulation process*, primarily through ensuring the increased participation of stakeholders. For example, forums could be held to air stakeholder perspectives publicly and task forces could be developed that include both government and NGO representatives.

Another approach to prevent the emergence of conflict is to *incorporate dispute management systems and structures into new policy* so that if and when differences arise in the future there are

established and accepted means of managing them efficiently. For example, an appeals mechanism could be developed to provide hearings for special cases, a joint advisory board could be set up that includes membership of the various interest groups concerned with the policy action, or arbitration procedures could be established to deal with differences that cannot be resolved by the parties directly.

The containment path seeks to manage conflicts that have already broken out into the open. A difficult problem that containment strategies must cope with is the fact that hostile positions have been taken publicly. Such positions are often difficult to back away from without losing face and, as a result, tend to yield inflexible behaviors on the part of the protagonists. Containment strategies search for ways of getting the conflicting parties together to work out

When these dispute resolution methods are applied, it is often through some structural vehicle, for example, workshops, formal negotiating sessions, and large conferences (Bryson and Crosby, 1992). These are the types of channels through which dispute resolution processes can be practiced and involve the participation of the disputants. The development of appropriate organizational structures for dispute resolution and the learning of dispute resolution norms, rules, procedures and principles in a society can result in institutionalizing and sustaining the application of these methods into *dispute management systems* (Ury, Brett and Goldberg, 1988).

The implementation of agreements usually extends over a period of time, requires the development of relationships among stakeholders that can endure, and necessitates the appropriate mechanisms to

Box 5. Dispute Management Systems in Uganda

In 1989, the IPC Project began working with both public and private sector groups in Uganda to develop an atmosphere for stimulating private investment, expanding exports, strengthening the financial sector and creating an equitable tax regime. One important and concrete result of that work -- and an illustrative example of *dispute management systems* -- was the establishment of the National Forum on Strategic Management for Private Investment and Export Growth in 1992. The Forum was conceived as a sustainable body for dialogue and problem-solving among various governmental and industry stakeholders to develop consensus toward specific action plans that promote investment. It draws its legitimacy from the support it receives from the President of Uganda and from the Uganda Manufacturers Association. Four working groups that meet continuously on specific issues strengthen the links among stakeholders and serve as a ready outlet for anticipating, managing and resolving disputes among them. Several broad issues have been addressed by these working groups that carry the seeds of dissensus, including shifting control over the economy away from government to the private sector, privatizing public enterprises and increasing competition, restructuring several government agencies, dealing with corruption, and developing a plan for land reform. Each of these issues threatens to change the status quo, redistribute resources and restructure who in society exercises economic power, all sensitive issues that can easily divide stakeholders and yield disputes. Not only do these working groups support consensus-building internally among stakeholders, but they help to forge unity among them by serving as externally-focused pressure groups on government, offering policy recommendations to government agencies and following through on implementation monitoring to ensure that reforms get made.

their differences. Depending on the degree of conflict, different approaches might be used. At low conflict levels, parties might be willing to sit together to work out their differences in a *joint problem-solving* setting. At moderate conflict levels, *negotiation* among the parties might be possible. At higher levels of conflict, *mediation* by a trusted third party might be required first, before the principals are willing to talk to one another directly at the negotiating table.

manage new conflicts that may arise. Under these circumstances, dispute management systems can enhance the stable governance of policy implementation processes and sustain the capacity of all stakeholders. (See Box 5 for an example from the IPC Project of an effective dispute management system in Uganda.)

When new dispute management systems must be generated, several criteria need to be assessed. Only after evaluating these criteria is it possible to determine the most appropriate and workable

structural form to accommodate the dispute situation. Table 5 presents the diagnostic questions that must be asked.

Based on an analysis of these factors, appropriate dispute systems can be determined. For example, informal problem-solving workshops with minimal linkage to governmental institutions and situated away from publicity and media coverage would probably be most suitable when issue conflict is low, the issues are highly political, and free and open communication among the parties is needed. A more

and have the capacity and resources to prepare for joint discussions.

Cultural Influences on Policy Implementation Disputes and Their Resolution

Dispute resolution is primarily a Western, and in particular, an American field of study and practice. It is framed in terms that are familiar to Westerners, but perhaps not so familiar to others who have been

Table 5. Diagnostic Questions for Designing Dispute Management Systems

Issues. What are the principal issues at stake? What are the issues that are contentious? What is the level of conflict among the stakeholders concerning these issues? Might resolution of these contentious issues have an impact on other issues?

Participation. Who are the key stakeholders whose perspectives must be sought and who must feel that they have ownership over the solution? How many participants are there?

Process. Which dispute resolution processes are likely to be most appropriate to deal with issues and stakeholders? Do these processes demand particular structural approaches? Are these processes acceptable within the given culture or society?

Auspices. Under whose auspices should a new structure be formed so as to establish a "level playing field" for all participants?

Authority. What type of authority should be granted to the new structure in terms of implementing its decisions? Will it have the final say or will it provide recommendations and advice for others to consider?

Formality. How formal should the new structure be? Is participant flexibility to overcome impasses more likely to be obtained in an informal or a formal structure?

Duration. What is the anticipated lifespan of the new structure enabling it to accomplish its mission?

Location. Where is the best venue for the new structure -- centralized or decentralized, in the capital city or in the provinces, in an urban area or in the countryside?

Publicity. Would publicity and media attention assist or hinder the process?

Third Party Involvement. Should the structure incorporate the involvement of a third party? How should this be done? Are there third parties that can facilitate the process of communication among the principals? Are there third parties that can provide critical information or possible solution options?

formal structural option, such as a formal negotiation, might be selected if the parties have acknowledged their conflicts and are willing to talk to one another, seek a common understanding of the problem and a common vision of a future solution,

socialized in different traditions, cultures, and political systems. For example, various Western values lie at the foundations of dispute resolution activities: the utility of public participation in public policy issues, democracy and the expression of pluralistic interests, free and open communication of

interests and beliefs, fairness, and the value of reducing or eliminating conflict altogether.

In non-Western societies, and especially in developing countries where political systems just recently may be emerging as democracies, public participation in the political process, expression of interests, and open communication may be new and largely untested phenomena. Fairness may not be conceived of always in the same way; for instance, fairness may be viewed as equality, proportionality, based on need, or based on compensation. Conflict, in fact, may be seen as sometimes beneficial, especially in light of struggles required to attain a better society or to emerge from authoritarian regimes. As a result, collaborative problem solving and dispute resolution capacity depends upon the ability to synthesize Western-based dispute resolution concepts and practices creatively with host country political, social and cultural traditions and approaches, so as not to diminish either.

Traditional indigenous approaches to conflict and its resolution and acceptance of new alternate systems depend on several culturally-determined factors (Moore, 1993; Hofstede, 1989). An understanding of these factors will help in developing culturally-appropriate dispute resolution approaches that are likely not to be rejected. They include: (a) the directness of communication and transactions between people in the society (acceptability of face-to-face dealings versus reliance on intermediaries), (b) orientations toward cooperation, competition and conflict (acceptability of outward expressions of emotion versus avoidance), (c) the nature of relationships among disputants (ongoing relationships versus single-shot encounters), (d) the nature of social authority and status (egalitarian versus highly stratified societies), (e) the nature of information common in a society (explicit and task-oriented communication versus implicit communications that lay out general guidelines and principles), (f) the understanding and management of time, (g) attitudes toward third parties (general acceptance versus suspicion), and (h) orientations toward enemies, victims and victimization.

Sensitivity to socio-cultural traditions in the host country is paramount for successful introduction of dispute resolution methodologies. To facilitate acceptance, several practical procedures need to be adopted (Institute for Environmental Negotiation, 1992):

- Purely Western approaches should be modified based on an understanding of the host culture and its orientation to conflict resolution, taking into account the eight cultural factors listed above.
- An important goal of development assistance should be to develop the conflict resolution expertise of host country professionals. In the interim, multicultural mediation teams should be used. Host country nationals should work together with expatriate experts.
- Early situational analyses should seek to highlight special socio-cultural components in the dispute. Advice from host country sources should be sought prior to commencing dispute resolution activities.
- The dispute resolution team should be sensitive to the dynamics of the host country disputants. They need to be responsive to possible criticism that the team is being paternalistic and seek out local approaches to conflict resolution.

Building Host Country Capacity in Dispute Resolution

Two different audiences can benefit from an understanding of how dispute resolution approaches can be applied to alleviate or manage conflicts in policy implementation. The first, *process consultants*, such as those involved in the IPC Project, support those that make change happen (Spector and Cooley, 1997). Their objective is to energize and stimulate policy makers and policy implementers and, as part of that goal, they need to consider how to help decision makers manage or minimize conflict in the policy implementation phase.

Rather than being prescriptive or didactic in their approach, process consultants seek to facilitate the mechanisms by which decision makers make their own choices and gain ownership over not only the decision itself, but the manner in which the decision is made. The dispute resolution approaches presented in this paper can serve as a guiding framework for consultants who seek to facilitate confidence, consensus and cooperation in the face of implementation conflict.

The second audience, *government and nongovernment managers in the host country*, constitutes the potential stakeholders involved in policy disputes. It is important for these parties to become familiar with dispute resolution approaches and mindsets. The process consultant can serve as a facilitator, mediator and trainer of dispute resolution methodology. But ultimately, it is the principal parties themselves who must internalize the process and make joint decisions. Thus, the design of a culturally-adapted approach to dispute resolution and the building of indigenous capacity to practice and train such techniques is critical for all possible stakeholders.

Capacity building for governmental and nongovernmental managers can be encouraged through several mechanisms:

- Use of *external process consultation* to initiate dispute management efforts in particular cases, provide support on how to proceed, and offer lessons to be learned by example and participation.
- *Practical training* of indigenous dispute resolution facilitators and trainers, including internships or apprenticeships for the trainees that will offer them hands-on experience.
- Institutionalization of appropriate *dispute management systems* to deal with certain situations, relationships and issues that are likely to require sustained dialogue and problem solving support over time.

Conclusion

The ultimate goal of formulating new policies is to have them implemented and to do that effectively and efficiently, free of unintended consequences. In pluralistic societies, the participation of interested groups is essential to this reform implementation process, but this leaves these societies vulnerable to conflicts that can impede policy implementation. Our conclusion is that policy managers must remain alert to the situation -- to understand the nature and stages of implementation, the issues that policy reform unleashes, and the possible conflicts that may emerge. Frequent diagnoses of the implementation context will help to manage conflicts before they become intractable by suggesting appropriate dispute resolution mechanisms. Their effectiveness will be strongly influenced by cultural factors. Ultimately, developing and strengthening an awareness and the practice of conflict resolution by host country institutions and policy managers will help to ensure the efficient implementation of policy reforms.

BIBLIOGRAPHY

- Bercovitch, Jacob (1984) *Social Conflict and Third Parties*. Boulder: Westview Press.
- Bryson, John M. and Barbara C. Crosby (1992) *Leadership for the Common Good: Tackling Public Problems in a Shared-Power World*. San Francisco: Jossey-Bass Publishers.
- Crosby, Benjamin (1991) "Strategic Planning and Strategic Management: What are they and how are they different?" IPC Technical Note No. 1. Washington, DC: Management Systems International Inc. (October).
- Crosby, Benjamin (1996) "Policy Analysis Units: Useful Mechanisms for Implementing Policy Reform." IPC Working Paper No. 10. Washington, DC: Management Systems International Inc. (October).
- Hofstede, G. (1989) "Cultural Predictors of National Negotiation Styles," in F. Mautner-Markhof, ed., *The Processes of International Negotiation*. Boulder: Westview.
- Institute for Environmental Negotiation (1992) *The Cutting Edge: Environmental Dispute Resolution for the Nineties, Symposium Summary*. Washington, DC: Resolve.
- Kelman, Herbert (1996) "Negotiation as Interactive Problem Solving," *International Negotiation* 1, 1: 99-123 (March).
- Matland, Richard (1995) "Synthesizing the Implementation Literature: The Ambiguity-Conflict Model of Policy Implementation," *Journal of Public Administration Research and Theory* 5, 2: 145-174.
- Moore, Christopher (1993) "Have Process, Will Travel: Reflections on Democratic Decision Making and Conflict Management Practice Abroad," *Forum of the National Institute for Dispute Resolution*, pp. 1-12 (Winter).
- Osgood, Charles (1962) *An Alternative to War or Surrender*. Urbana: University of Illinois Press.
- Pruitt, Dean, Jeffrey Rubin and Sung Hee Kim (1994) *Social Conflict: Escalation, Stalemate, and Settlement*. Second Edition. New York: McGraw Hill.
- Rouhana, Nadim and Herbert Kelman (1994) "Promoting Joint Thinking in International Conflicts: An Israeli-Palestinian Continuing Workshop," *Journal of Social Issues* 50, 1: 157-178.
- Spector, Bertram (1995) "Creativity Heuristics for Impasse Resolution: Processes to Reframe Intractable Negotiations," *The Annals of the American Academy of Political and Social Sciences*, 542: 81-99 (November).
- Spector, Bertram and Lawrence Cooley (1997) "Consultant Roles in the Strategic Management of Policy Change," IPC Technical Note No. 8. Washington, DC: Management Systems International Inc. (April).
- Ury, William, Jeanne Brett, and Stephen Goldberg (1988) *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*. San Francisco: Jossey-Bass Publishers.
- White, Louise (1990) *Implementing Policy Reforms in LDCs: A Strategy for Designing and Effecting Change*. Boulder, CO: Lynne Reiner Publishers.
- Zartman, I. William (1993) "Lessons for Analysis and Practice," in G. Sjöstedt, ed., *International Environmental Negotiation*. Newbury Park, CA: Sage Publications.

Zartman, I. William and Maureen Berman (1982) *The Practical Negotiator*. New Haven: Yale University Press.

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