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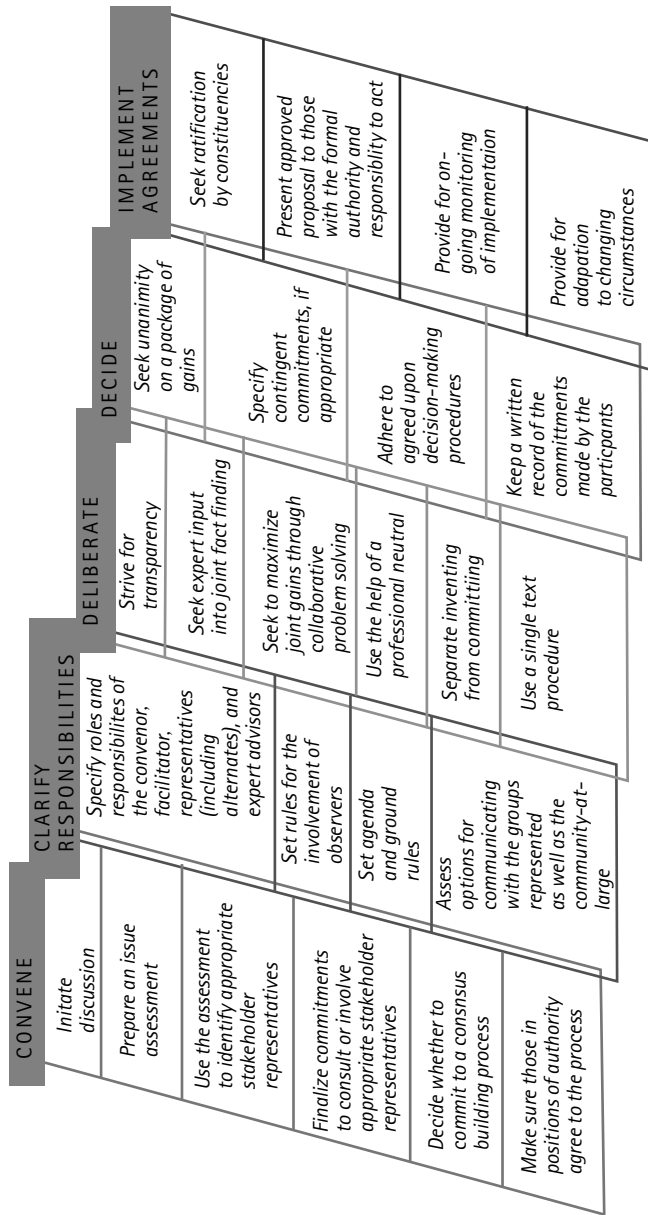


Fig. 13.2. Consensus building: essential steps

Source: Susskind, McKearnan, and Thomas Lamar 1999.

4.6 The Role of Professional Neutrals

The person or group selected by the convener is often (but not always) tapped by the full group to serve as the manager of the consensus-building effort, if such a process goes forward. Over the past twenty years, the number of people trained to manage such conflict resolution efforts has increased rapidly. The Association for Conflict Resolution (ACR) is one of several professional associations of neutrals in the United States who do this kind of work (www.acrnet.org). There are degree programs at more than a dozen universities in the United States that offer training in facilitation, mediation, and other dispute-handling skills. The Code of Ethics of the ACR defines a professional neutral as someone who is forbidden from taking sides in a conflict or from trying to impose his or her view of what the “best” outcome ought to be (SPIDR 1986). Public dispute resolution has emerged as a subspecialization within the conflict management field (Carpenter and Kennedy 1988; Dukes 1996).

Facilitation

A great deal, but not all of the work done by a professional facilitator takes place “at the table”—when the parties are working face to face (Doyle and Straus 1993). Facilitation of consensus-building efforts involving many parties working on complex issues often requires a team to keep track in written form of the commitments made by the group. Although the facilitator must refrain from taking a stand on the issues before the group, he or she often reframes elements of the conversation, drawing attention to emerging agreement or insurmountable disagreements, and reminding the parties of their commitment to the process ground rules.

Mediation

Much of what happens in consensus building, particularly what often seem like a breakthrough, occurs “away from the table” as the professional neutral meets privately with one or more parties to sound out their willingness to accept an emerging package or to find out what it will actually take to win their support. Mediation includes everything described under facilitation plus all the away from the table activities required at each stage of the consensus-building process. Table 13.1 summarizes these tasks.

4.7 Who Can Mediate Public Disputes?

There is some disagreement about the need to involve professionally trained mediators in public dispute resolution efforts. Indeed, some public officials argue that they are in a better position to manage the dispute resolution process—in part

Table 13.1 Tasks of the mediator

Phases	Tasks
Prerenegotiation	
Getting started	Meeting with potential stakeholders to assess their interests and describe the consensus-building process; handling logistics and convening initial meetings; assisting groups in initial calculation of BATNAs
Representation	Caucusing with stakeholders to help choose spokespeople or team leaders; working with initial stakeholders to identify missing groups or strategies for representing diffuse interests
Drafting protocols and agenda setting	Preparing draft protocols based on past experience and the concerns of the parties; managing the process of agenda setting
Joint fact finding	Helping to draft fact-finding protocols; identifying technical consultants or advisers to the group; raising and administering the funds in a resource pool; serving as a repository for confidential or proprietary information
Negotiation	
Inventing options	Managing the brainstorming process; suggesting potential options for the group to consider; coordinating subcommittees to draft options
Packaging	Caucusing privately with each group to identify and test possible trades; suggesting possible packages for the group to consider
Written agreement	Working with a subcommittee to produce a draft agreement; managing a single-text procedure; preparing a preliminary draft of a single text
Binding the parties	Serving as the holder of the board; approaching outsiders on behalf of the group; helping to invent new ways to bind the parties to their commitments
Ratification	Helping the participants "sell" the agreement to their constituents; ensuring that all representatives have been in touch with their constituents
Postnegotiation	
Linking informal agreements and formal decision making	Working with the parties to invent linkages; approaching elected or appointed officials on behalf of the group; identifying the legal constraints on implementation
Monitoring	Serving as the monitor of implementation; convening a monitoring group
Renegotiation	Reassembling the participants if subsequent disagreements emerge; helping to remind the group of its earlier intentions

Source: Susskind and Cruikshank 1987.

because they are accountable to the public and must stand for election (or, if they are an appointed official, work for someone who does). There are others who believe that only former officials (i.e. those who have retired from the public or the private sector) have the clout or standing necessary to pressure unreasonable parties to work out an agreement. The evidence available thus far, however, suggests that professionally trained mediators are usually quite effective (Susskind, Amundsen, and Matsuura 1999). Many of the most experienced public dispute mediators come from a background in planning, public management, or law (Sadigh and Chapman 2000).

5. ORGANIZATIONAL LEARNING

One of the striking results of recent efforts to document the successful application of consensus building in the public arena is how few public agencies and units of government, even those with positive experiences to date, have tried to institutionalize mediation or other forms of conflict management into their normal operations (Dukes 1996). Almost two dozen US states have created offices of dispute resolution of various kinds—some in the executive branch, some in the legislative branch, and some in the judicial branch. Yet, most of these offices continue to operate on an experimental basis and have been asked to help with relatively few public policy controversies (Susskind 1986). Only three or four states have amended their zoning enabling acts to encourage consensus building. State and local agencies that confront constant challenges to their facility siting efforts have used consensus building on occasion (some with great success), yet few states have taken steps to shift as a matter of course to collaborative approaches. At the federal level, the results are a bit more impressive. The Administrative Dispute Resolution Act of 1996 requires federal agencies to use more consensus-oriented approaches to meeting their statutory mandates and to use these methods whenever possible.

5.1 The Barriers to Organizational Learning

There are a variety of forces working against the move to consensus building in the public policy arena. First, there is a substantial lack of knowledge about these relatively new techniques for getting agreement on public policy matters. A great deal of misinformation has been spread by advocacy groups who mistakenly believe that ad hoc, non-accountable representatives, working behind closed doors, will be given undue power (while key advocates are excluded) if consensus building is allowed. They fail to understand that consensus building guarantees that all relevant stakeholder groups must be given a place at the table and that in terms of both

process and outcome, consensus-building efforts must be conducted in the “sunshine.” Finally, the product of every ad hoc consensus-building effort must be acted upon by duly elected or appointed officials.

A second obstacle is the unwillingness on the part of elected and appointed officials to give up any measure of control. They rightly see consensus building as an effort to open up the operation of government to closer public scrutiny and more direct involvement of civil society. They know that the presence of a professional neutral, committed to a code of ethics and to non-partisan intervention, means that policy choices will have to be justified in a way that satisfies the interests of the community at large. The usual exercise of power will have to be accompanied by an explicit statement of the reasons why one package of policies or proposals was selected.

Finally, there is no entity responsible for trying to improve the quality of problem solving or group decision making in the public arena. Thus, there is no locus of public learning where the results of a shift to consensus building can be weighed and reviewed.

5.2 Dispute Systems Design

In the same way that total quality management (TQM) moved slowly from the private to the public sector, even though the results (in terms of consumer satisfaction) more than justified such a shift, consensus building has been slow to take hold in the public arena. Only a larger-scale, systemic assessment of the gains and losses associated with such a shift will provide sufficiently convincing evidence to allow those who see the benefits to make their case successfully. What needs to be done is to assess the advantages and disadvantages of a consensus-building approach at the systems design level. So, for example, when a stream of similar disputes (in the same locale) is handled in a new way there is a basis for comparison. In Canada, for instance, the Alberta Environmental Appeals Board, which hears hundreds of challenges each year to environmental enforcement efforts undertaken by the Provincial level agency, shifted to a mediated approach (when the litigants were willing). The results suggest that the overall effectiveness and responsiveness of the Appeals Board were improved markedly (Taylor et al. 1999).

5.3 Overcoming the Barriers to Organizational Capacity-building

There are a number of strategies that have been used to overcome some of the organizational barriers described above. Training agency personnel so that they are not fearful about more direct involvement of stakeholder representatives in

collaborative decision making is an important first step. Senior staff need to set internal policies so that agencies are willing to participate in consensus building, and operational staff need to learn how to function effectively in a mutual gains negotiation. Training also needs to be made available to the full range of stakeholder groups. If they feel they are at a disadvantage because an unfamiliar process has been selected, they will resist. A wide array of public agencies are sponsoring training for non-governmental, business, and other organizations.

Some agencies, such as the US Environmental Protection Agency, have set aside funds to cover the costs of consensus-building experiments. Without additional funds, staff will be disinclined to use existing program money to explore new ways of managing disputes surrounding the drafting of technical regulations. Once funds were set aside that could only be used for negotiated approaches to drafting regulations, internal advocates for such innovative efforts emerged. When word got out within the agency that negotiated rule making not only took less time and cost less money than traditional approaches to rule making, there was a greater willingness (although no great rush) to adopt such a consensus-oriented approach (Freeman 1997). The availability of discretionary grants also attracted the attention of non-government groups that saw an opportunity to generate subsidies for their involvement in rule-making processes that usually offer no support to non-governmental actors.

A third approach to promoting consensus-oriented approaches to public dispute resolution involves establishing a clear locus of responsibility for improving the quality of dispute handling. Federal legislation requires every agency to name a dispute resolution coordinator to look for opportunities to use consensus building in ways that will enhance the efficiency and effectiveness of government (Negotiated Rulemaking Act 1996). Once someone has this responsibility, it is not surprising that opportunities emerge. A number of states have something similar: naming an existing agency or creating a new agency to advocate consensus building. These agencies not only measure their success by the level of use of these new techniques, but they are also available to explain to others who may have reservations why consensus building is appropriate.

A fourth strategy depends on pre-qualifying a roster of approved neutrals. The US Environmental Protection Agency in conjunction with the US Institute for Environmental Conflict Resolution (USIECR) has established a computer-based list of carefully reviewed service providers. By maintaining this list (in an easily computer-accessible form) they have made it easier for stakeholder groups to participate in reviewing and selecting qualified neutrals. By standardizing payment rates for equivalently experienced mediators, the USIECR has eliminated many of the questions that often impede collaborative efforts to employ neutrals.²

It is easy for groups of all kinds to find reasons not to support consensus-oriented approaches to resolving public disputes when they are used to hard bargaining or feel qualified only to participate in traditional approaches to dialogue. It will take some time for democratic institutions to extend a full-fledged commitment to consensus-oriented approaches to resolving public disputes.

6. CONCLUSIONS

1. Persuasion and hard bargaining do not produce results that are as fair, as efficient, as stable, or as wise as the public often desires when public policy choices must be made. Consensus building or the mutual gains approach to negotiation (as a supplement to, not a replacement for direct democracy) offers some hope of doing better.
2. Dialog can improve understanding if that is the goal, but dialog alone won't produce agreements, especially when values and not just interests are at stake.
3. Hard bargaining will continue to be used in a great many public policy-making situations, in many parts of the world, but the use of this approach ultimately makes it harder to implement agreements (because less powerful parties will feel that they have been unfairly overpowered and seek revenge), undermines trust in government, and often generates suboptimal (i.e. wasteful) agreements.
4. Consensus building puts a premium on mutual gains negotiation and creates a new, important role for an emerging player—the professional neutral (who knows how to use facilitation and mediation techniques)—to generate agreements that meet the interests of all the stakeholders involved.
5. The obstacles to institutionalizing consensus-building techniques in the public policy-making arena are imposing. It is difficult to overcome the resistance of public officials who mistakenly believe that ad hoc consensus-building efforts are a substitute for the legitimate exercise of government or that professional neutrals are a threat to their authority.
6. More participatory and more collaborative approaches to public policy making, built around the mutual gains model of negotiation, can enhance the legitimacy of government and reduce the long-term costs of collective action.

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CHAPTER 14

POLICY IMPACT

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1. INTRODUCTION

At a certain level, questions about the impact of policy are easy to answer. Consider the two Korea states, North and South. Fifty years ago, ravaged by war, both were dirt-poor, both had few natural resources, and their prospects were bleak. The North and the South followed policies which were almost diametrically opposed. The former adopted the centralized economic policies of China and the Soviet Union. The latter pursued policies that were more free-market oriented (though certainly not completely *laissez-faire*), and more open to the outside world. Now, the South is a prosperous country, after nearly a half-century of unprecedented growth (in the context of development since 1950, the economic crisis in 1997 was only a minor setback), while the North is one of the poorest countries on earth, suffering regular famines.

That policy can make a difference is therefore clear. Certainly, mistaken policies can have disastrous results. But the example of the two Koreas also raises two questions of a general nature. The first is: did policy makers really have a choice? Or were policies largely dictated by circumstances, in this case in particular by the cold war and international power relations? Secondly, which South Korean policies were key to the economic success? Or did the precise policies not matter much, as long as they did not impede private enterprise? Both questions ask: do politics matter? but in different ways. The first question does so in the spirit of Castles and McKinlay (1997), who enquire whether policy makers can make real choices, or

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whether their actions are largely determined by social and economic forces beyond their control (and perhaps even beyond their consciousness). The second question asks whether the policies that are enacted (irrespective of how they are arrived at) make a difference for persons' actual circumstances of living. It is the second question with which we will be concerned in this chapter.

This is of course a very large question, which we cannot possibly do justice to in a short chapter. Let us note the main limitations. In order to maintain coherence, we focus our review on the impact of *public income transfer* programs, mainly because that is the area of research with which we are familiar. However, we believe that at least some of the points made also apply to the study of other areas of public policy. Even in this domain we must be selective as regards topics and studies. We do not even claim that the studies quoted are in some sense the best or the most interesting; we use them to make the points we want to make, with a certain preference for cross-national analyses. While we would have liked to concentrate on the impacts itself, methodological discussions cannot be avoided, as different approaches (sometimes) come up with different answers.

The chapter proceeds as follows. The next section reviews a number of approaches than can be taken in the study of policy impacts. In the third section we look at the impact of tax-and-transfer systems on income inequality and poverty. Though the reduction of inequality and the relief of poverty are not the only explicit goals of public transfer systems, and perhaps not even the main ones (Barr 1992), most of the actual goals would imply some redistribution, and therefore "it seems reasonable to assess welfare state policies in terms of their redistributive impact" (Sefton, this volume). The following section considers the impact of public transfers on various activities, in particular labor market participation and informal care. These are both areas where, it has been argued, welfare state programs have unwanted effects, discouraging people from working, and crowding out informal care by relatives and friends. We will see what the evidence in this regard says. The final section has some concluding remarks.

2. METHODS TO ASSESS POLICY IMPACT

Analysts use a variety of approaches to assess policy impact. Often, *social experiments* are seen as the ideal way to evaluate policies. In such experiments, persons are randomly assigned either to a "treatment" group, which receives the benefits or services of a certain program, or to a "control group," which does not. Program impacts are measured as the difference between outcome variables (e.g. income labor market participation, skill level) before and after the "treatment," after adjusting for the results in the control group, which are supposed to capture the effects of all other factors apart from the program which might influence the outcomes. Despite their clear attractiveness, social experiments have serious limitations, as emphasized by