

How Appropriate Are These Strategies in Your Organisation?

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A number of different dispute resolution strategies were raised. The main thrust seemed to be that dispute prevention strategies were as important as dispute handling. It was agreed that with appropriate preventative strategies being put in place the level of conflicts in the organisation would reduce. The other aspect dealt with developing strategies to effectively handle conflicts when they do arise, as surely they will, no matter how effective your preventative strategies are.

Some of the main strategies discussed are briefly listed below:

- Providing training and support to staff, management and those officers responsible for handling conflicts;
- It was considered important to determine who your organisation's customers are, for once this was established, a better understanding of their needs and views would be obtained resulting in better conflict prevention and resolution strategies being developed;
- It was considered that inviting participation from customers could result in conflicts being reduced. Customers could provide suggestions or even get involved in committees that provide advice and liaise with management;
- The provision of information to staff and customers could also help in conflicts being reduced;
- Creation of a good working environment for employees;
- The establishment of conflict resolution officers in the organisation;
- The establishment of proper procedures to deal and manage conflict when it does occur.

It was agreed that a lot of the above strategies could be developed and implemented in a number of organisations, but that the extent to which it could be done would depend on the organisation itself. Factors such as organisation structure, organisation culture, type of industry and nature of the company would affect the types of conflict resolution strategies that could be employed. It was agreed that a good understanding of the organisation would be a prerequisite to developing strategies that would be appropriate for it.

Whether the strategies that are developed are informal or formal or somewhere in between would depend on the organisation and the objectives it wishes to achieve.

**Environmental, Development and Planning Issues
Intervention, Management, Resolution and Provention**

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* The views expressed in this paper are those of the above individual and should not be construed as representing any official organisation position

Conflict

IS a natural part of human social relationships. It occurs at all levels of society - intrapsychic, interpersonal, intragroup, intergroup, intranational, international.

IS NOT the opposite of order.

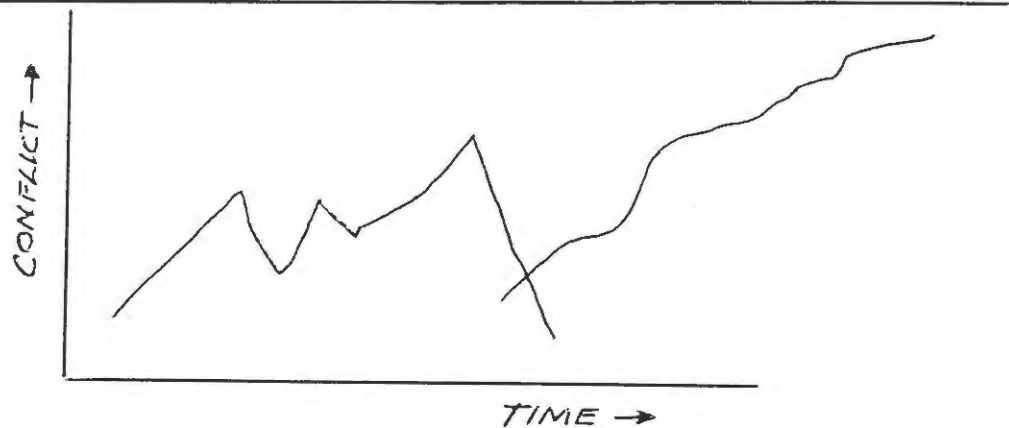
IS highly patterned; can be analysed; is predictable.

THERE IS orderliness, although can become disorderly

CAN BE a very helpful part of society

IS a living, dynamic, multidimensional and complex series of interactions and inter-dependencies between social entities

NOTES:



Intervene at the lull, not at the peak of conflict

If there is no attempt at resolution, the overall trend of conflict will rise,

Conflict

Conflict opposition among social entities directed against one another

Competition opposition independently striving for something of which the supply is inadequate

Rivalry opposition which recognises one another as competitors

Opposition social entities function in the disservice of one another (includes conflict, competition, rivalry)

Cooperation social entities function in the service of one another

NOTES:

Sources of Conflict

Biosocial

- instincts, hormones
- frustration to aggression to conflict
- relative deprivation

Personality and interactional

- "difficult people"
- "rub each other the wrong way"
- personality clash
- different orientations (eg democratic vs autocratic)

Structural

- rooted in society / organisations
- actual or perceived inequity
- class, status, power

Cultural and Ideological

- clash of culture
- political, social, religious beliefs
- conflicting values

These often converge

NOTES:

Types of Conflict

Interest clash of opposing interests

Induced intentionally created to achieve other than explicit objectives

Mis-attributed incorrect attribution as to the behaviours, participants, issues, causes

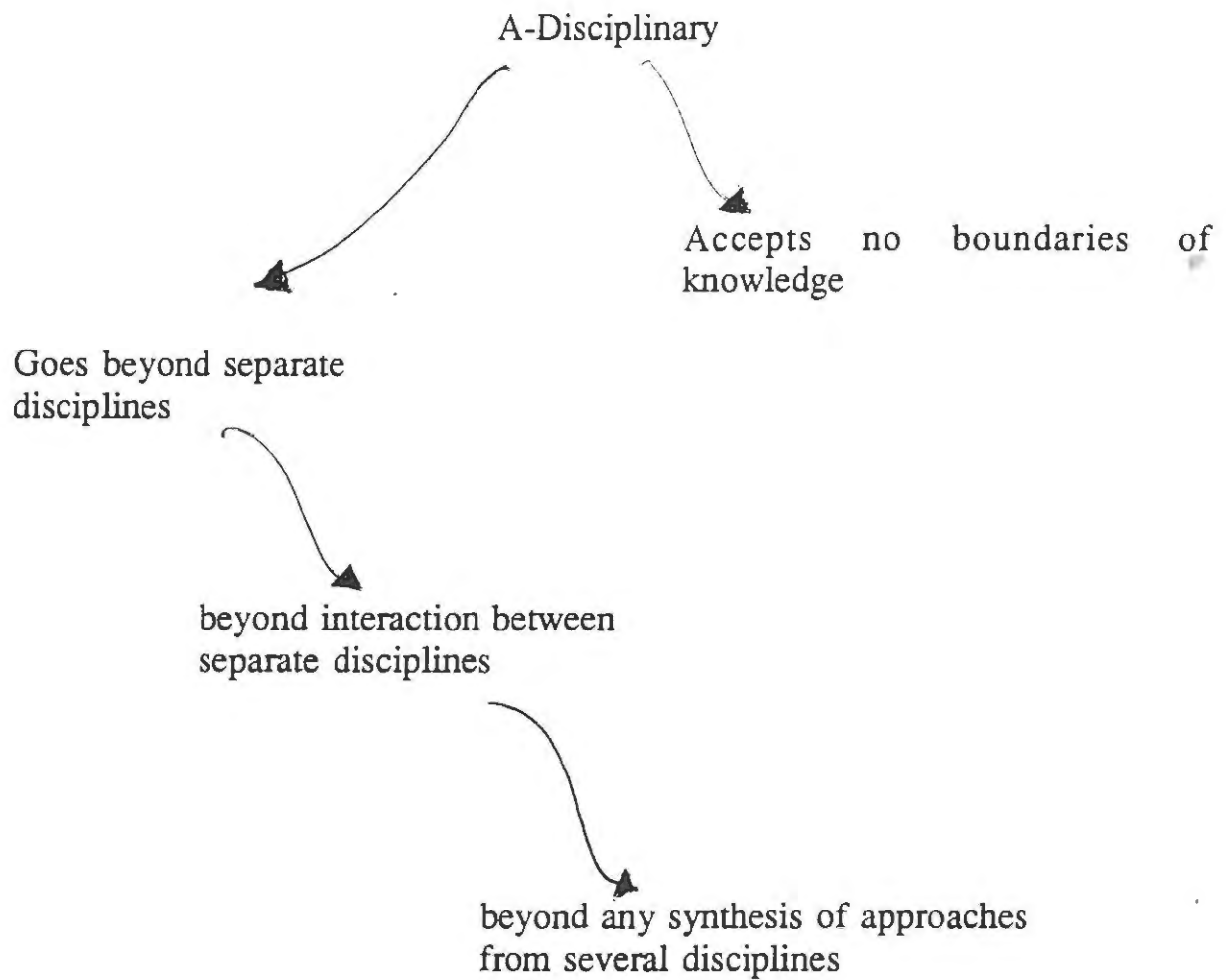
Illusionary based on misperceptions or misunderstandings

Displaced directed toward persons or concerns other than the actual offending parties or real issues

Expressive characterised by a desire to express hostility, antagonism or other strong feelings

NOTES:

Conflict, its Resolution and Provention



NOTES:

Conflict

Intervention when an outside party enters into a conflict with the objective of influencing the conflict in a direction the intervenor desires. It alters the power configuration among the social entities.

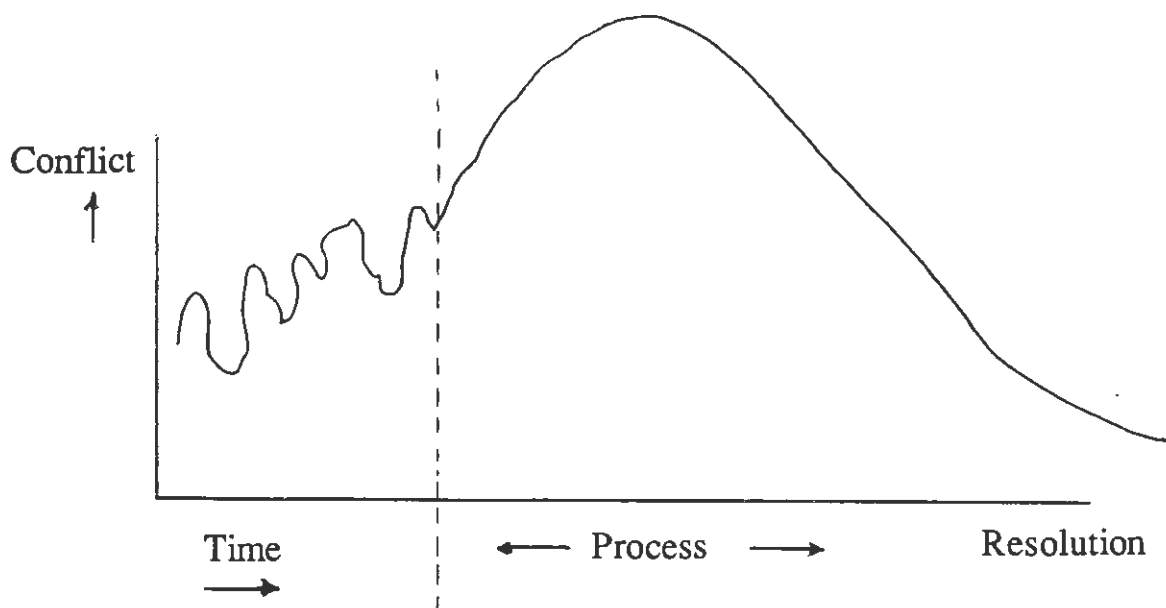
Settlement imposed or arranged by co-ercion by one party or by powerful outsiders. Relationships remain fragile and liable to be overturned at the earliest opportunity.

Management a framework where the conflict ceases to interfere with work, lifestyles. It acknowledges the underlying dispute still exists.

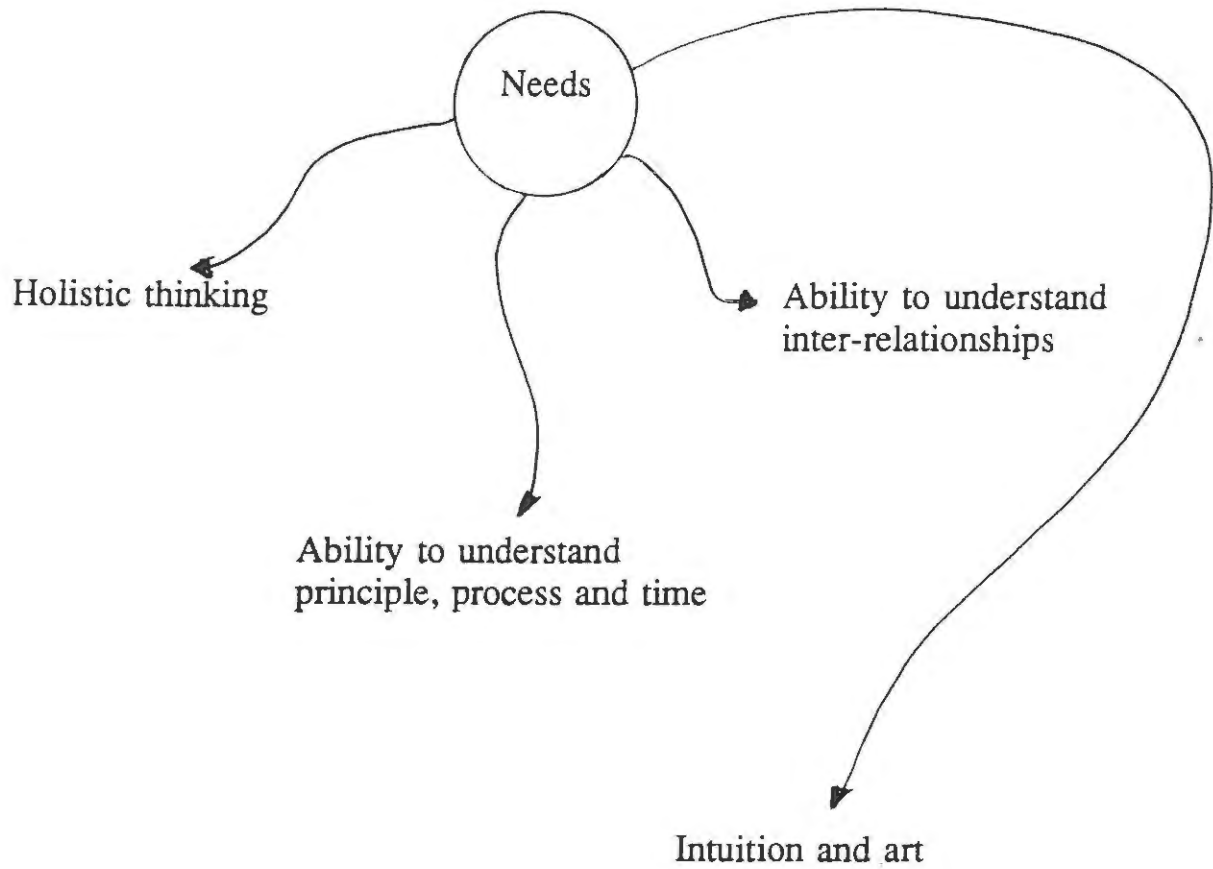
Resolution process where the dispute no longer exists and all parties accept the terms of resolution. Provides durable, long term and self supporting solutions. Removes underlying causes and establishes new, satisfactory relationships.

Provention actions to remove sources of conflict and promote collaborative and valued relationships which control behaviours. The future is analysed and anticipated. Steps are taken to remove sources of likely conflict.

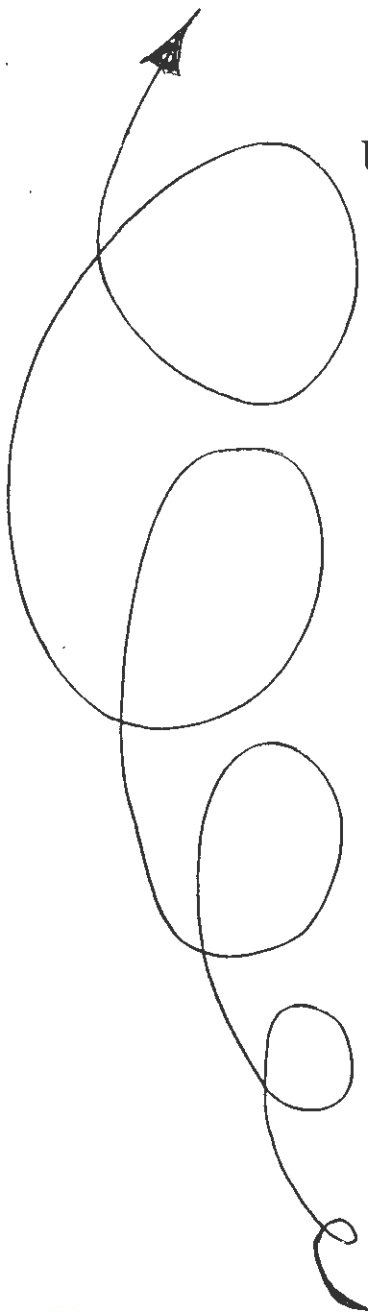
GRAPH



Analysis, Management and Resolution of Conflict



NOTES:



Unmanaged Conflict Spirals

Sense of crisis emerges

Perceptions distort

Conflict goes outside and beyond

Resources are committed

Communication stops

Positions harden

Sides form

Problem/issue emerges

Leading to a range of outcomes: direct action, reallocation of resources, legal action, law enforcement, sanctions and the parties are motivated by revenge.

Conflict Analysis

People

Interest groups
 individuals
 goals
 attitudes
 values
 perceptions
 motivation
 style
 power

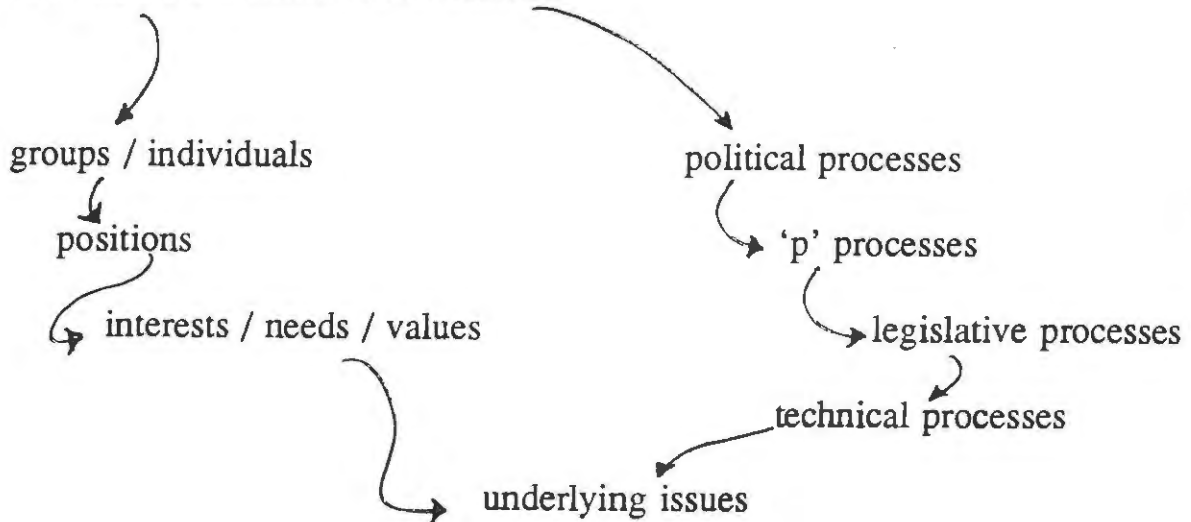
Relationships

history
 dynamics
 trends

Substance

central issues
 options available
 secondary issues
 events

On the run



Conflict Analysis

* The dynamic integrated structure of environmental / land use conflict is multi-levelled, with each level consisting of sub-systems which are both whole in themselves and parts of a larger whole. As wholes become parts of other wholes, the level of complexity becomes higher.

'Holons' are subsystems which are both wholes and parts. Thus we have an apparent contradiction present - individual assertion to be a part and an integrative assertion to the whole in order to sustain the system. This is a dynamic interaction and interdependency is the prevailing framework.

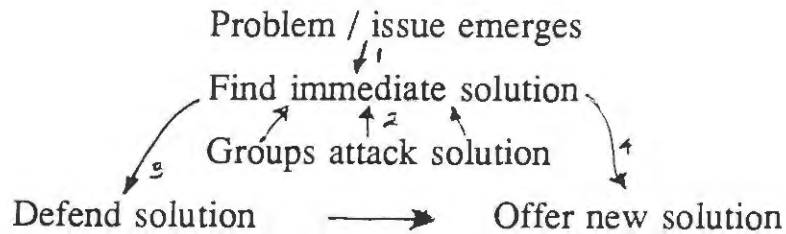
NOTES:

Old Ways of Managing Environmental / Land Use Conflict

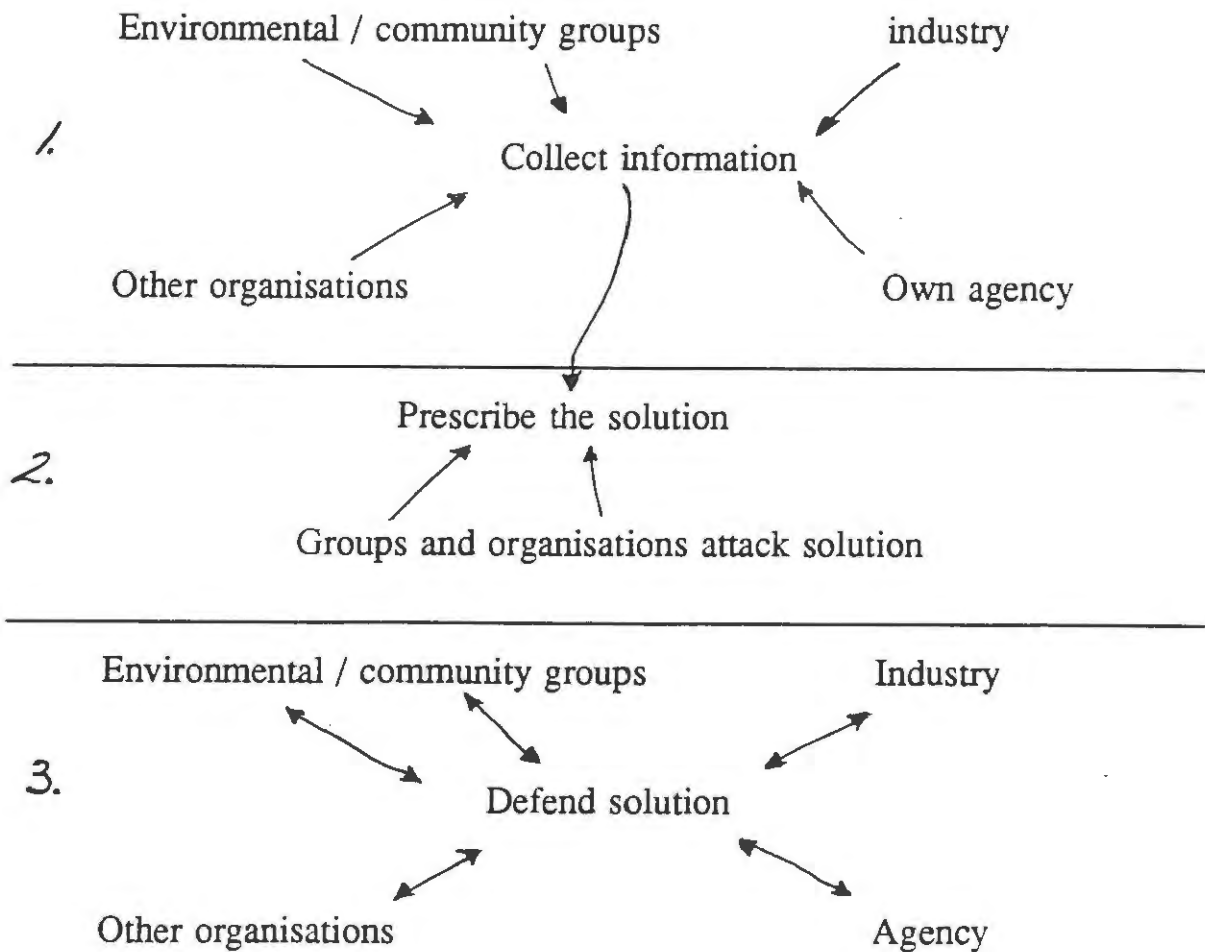
Avoid the issue

Charge into battle, beat the opponents

Find a quick fix



Fall into the 'solomon' trap



Public Participation and Environmental / Land Use Conflict

Public participation is conflict management

Public participation is conflict resolution

Public participation can become conflict prevention

Environmental / Land Use Dispute Resolution

Is characterised by certain elements - voluntary participation, consensus building, joint problem solving and negotiation. Consensus is the key element of the process.

Principles

Representation of all affected parties

All parties cooperate in setting agenda and designing the process (which is flexible)

Problem solution orientation

Process which is educational, open and highly visible

Fact finding

Consensus decision making

Solutions based on interest, not positions

Phase by phase process with distinct time limits

Focussing the process of implementation

Process guided by neutral third parties

NOTES:

New Processes and Criteria

Public enquiries - formal and informal

Terms of reference directed towards resolution

Issue(s) clearly defined and dealt with expeditiously

Full public participation

Interest groups resourced for meaningful participation

Matter(s) of the dispute protected during the enquiry process

Access to all relevant information by all participants

Identification of all parties facts, opinions and values

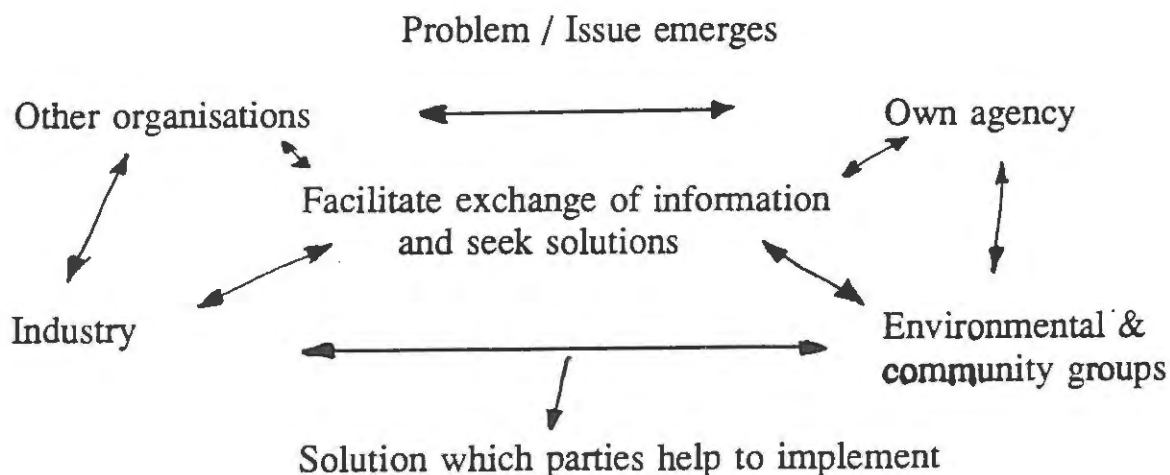
Disputed facts, opinions and values highlighted

Process of evaluation and analysis by the enquiry to be transparent

Ideally, public acceptance of final recommendations - obtained by transparency and the reasons for findings explicitly and comprehensively presented

Ongoing Management

The decision maker is a facilitator, focus is on the problem, parties meet face to face and sort through differences, parties help shape process and decisions are made by consensus.



Management Resolution Provention

Resolution is characterised by a solution which is:

- complete - issues disappear from political / public agenda
- acceptable to all parties
- self supporting - no necessity for policing
- satisfactory - all perceive it as fair and just
- uncompromising - goals are not sacrificed
- innovative - new and positive relationships established
- uncoerced - arrived at by parties without imposition by outsiders

Technical

Information

Political

Participation

'p'olitical

Information

Legislation

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Cross Cultural Communication in Dispute Resolution

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ADR is currently developing in Australia a culture of linguistic diversity. In Australia, one hundred and forty two different languages are spoken and twenty five percent of the population comes from a non-English speaking background (NESB).

There is a need to address areas of misunderstanding in cross cultural dispute resolution. A knowledge of linguistics helps overcome some cultural misunderstandings. Some interpreters can provide a very valuable insight and there should be extensive interviews with them and with the disputants and mediators. There is also a need to recruit mediators of NESB. Simulations of cross cultural mediations are a very enlightening training tool.

COMMUNICATION DEMANDS ON DISPUTANTS

There is a need to address these demands in cross cultural dispute resolution.

The workshop was broken up into three groups who were asked to list some difficulties which had been experienced in mediations where one or more parties were of NESB.

The difficulties listed were:

1. Understanding the subtleties of the idiomatic English expressions (eg 'over the moon', 'red herring') or technical or professional terms (such as 'options' or 'defined');
2. Differences within cultures (Serbian/Croatian etc);
3. Understanding non-verbals, body language or tone and pitch of voice;
4. Gender difference and what is acceptable behaviour;
5. Cultural subtleties - understanding the moral codes/politeness;
6. Acceptability of mediation;
7. Acceptability of the mediators on such criteria as age, gender and class;
8. The use of interpreters and their understanding of their role and task;
9. Parties misunderstanding the mediation process due to inadequate information from intakes via the Telephone Interpreter Service or agency;

10. Cultural differences (eg not taking the word of the agency at face value);
11. Process takes more time; delay changes the process;
12. Interpreters who are not professional. There were reports of:
 - one interpreter reprimanding a party;
 - another stating what the party 'should' say.

HOW WERE THESE DIFFICULTIES ADDRESSED?

In answering this question, the groups came up with the following responses:

1. Speak in simple concrete language, eliminate jargon and idiomatic language;
2. When in doubt, check with participants;
3. Speak slowly and clearly, but without condescension;
4. Provide information, forms, booklets etc in different languages;
5. Use well trained interpreters - but not spouses, siblings etc;
6. Be open to ongoing feedback and be flexible;
7. Education about the process during intake must be:
 - more detailed and
 - face to face;
8. Have a competent interpreter;
9. Move more slowly through the process;
10. Recognise when values clash;
11. Report to co-ordinator;
12. Insist that interpreters interpret the words, and check this with the parties;
13. Explain the interpreter's role to the parties.

VALUES AND IDEOLOGIES UNDERLYING ADR IN AUSTRALIA

ADR is often contrasted to the adversarial system of dispute resolution. The communicative demands on disputants in an ADR process are quite different from those required in an adversarial system of dispute resolution. In mediation, the disputants are required to:

- tell their story clearly
- express their needs and concerns
- generate options
- negotiate
- seek clarification.

These demands require literacy skills.

Mediation is an activity type, that is, it arises from a particular political and social context. The social and political context provides certain values and ideologies which underlie the activity. In Australia, some values and ideologies underlying mediation are:

- individual responsibility;
- equality;
- voluntariness;
- freedom of choice;
- self determination;
- honesty - an assumption that people will be honest;
- withholding of information is considered dishonest;
- a presupposition of equal power relationships, and the need to redress power imbalances;

- a presupposition of the neutrality of the mediator;
- an exclusion of retribution, paying for sins etc;
- the non-judgmental quality of the process;
- an assumption of assertiveness.

A large number of people in the Australian population may not share these values and ideologies.

Indeed, the differences in cultural values and ideologies relating to mediation are sometimes quite profound. That this is so was dramatically demonstrated in excerpts of a video recording of a simulated mediation involving parties from different cultures.

The dispute was between two neighbours. Julie, an Australian woman, was a temporary resident in an Arabic country. Her Arabic neighbour, Mrs Rabi, was very welcoming of her and the two ladies enjoyed a warm and cordial neighbourly relationship. Julie kept a goat in her backyard to provide a ready supply of milk. The goat found a hole in the fence through which it used to go into Mrs Rabi's garden and eat her plants. Mrs Rabi was not happy with the situation and said so to Julie in a polite, but somewhat oblique manner. Julie was not attuned to the nuances and carried on unaware that a problem existed until she was asked, to her surprise, to attend a mediation.

In the simulation, the role of the mediator was played by an Imam from a local Arabic community in Sydney. He was in fact an experienced mediator within his own community. Although the simulation was unscripted, he acted as he would have done in a real life mediation within his community.

The conduct and character of the mediation were strikingly different from that of mediation as we understand and practise it in Australia. Some of those differences were the timing of the mediation in relation to the history of the conflict, the purpose of the mediation, the tone of the mediation and the role of the mediator.

The mediation had been initiated by Mrs Rabi in the hope that it would avoid confrontation with Julie, to preserve the good neighbourly relations that existed and to promote a sense of harmony.

In opening the session, the mediator put the proceedings straight away into a religious context, not only because of his clerical position (he was also robed), but also by the use of explanatory remarks to Julie, such as 'according to our religion...' and 'the Prophet encourages us to...'. He brought the authority of his vocation to the mediation and did not attempt to 'change hats'.

The mediator called Julie 'a friend of our country' and he addressed her as 'sister Julie' and addressed Mrs Rabi in a similar way.

He confirmed that the mediation was aimed at achieving harmony between neighbours and in the community generally. Julie, having failed beforehand to understand that conflict existed, was confused at what she perceived to be the premature calling in of a third party. She said to Mrs Rabi, 'I wish you had told me sooner'. To which Mrs Rabi replied, 'I did not want to confront you. His Eminence can help.'

The matter was superficially resolved in that Julie agreed to take steps to ensure that her goat would no longer stray into Mrs Rabi's garden. It is interesting to note, however, that in a debriefing of the role players following the simulation, 'Julie' remarked that she felt an outsider and uncomfortable during the mediation and most importantly, she would probably avoid all further contact with 'Mrs Rabi'. It may be said, therefore, that due to different perceptions of the process, the mediation had failed to achieve its fundamental aim -