

The Dialogue Series:  
Knowing Dialogue Through Dialogue

# THE DIALOGUE FORUM HANDBOOK



MORRIS J. WOSK

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SIMON FRASER UNIVERSITY



## GATHERING TOGETHER, REACHING OUT, GATHERING TOGETHER

The circle of equality, the hands of inclusion, the drum of energy

Designed by Liz Gontard and Anna Comfort

Cover illustration by Deb Dawson

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Dialogue Forum group photo provided by Morris J. Wosk Centre for Dialogue

Centre *for*



# The Dialogue Forum *Handbook*

ENERGIZING CONVERSATIONS ABOUT DIALOGUE, THROUGH DIALOGUE

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Dialogue



# Contents

- 5 THE DIALOGUE FORUM HANDBOOK
- 7 THE DIALOGUE FORUM
- 9 THINK PIECES
- 11 THE SURROUND SOUND OF DIALOGUE  
REFLECTIONS ON POWER AND VALUES
- 12 WHAT IS DIALOGUE?  
WHAT KIND OF DIALOGUES ARE  
WE TALKING ABOUT?
- 21 WHY DIALOGUE? WHY NOT?
- 27 START. START WHAT?
- 30 HOW CAN A DIALOGUE BE STARTED?
- 35 GETTING INVOLVED:  
SHOULD I OR SHOULDN'T I?
- 41 DOING DIALOGUE
- 44 THE LAYERS OF CONTEXT  
AROUND DIALOGUE
- 47 DIALOGUE AND GOVERNANCE
- 55 WHAT IS THE ROLE OF A NEUTRAL  
THIRD PARTY, SUCH AS A MEDIATOR OR  
FACILITATOR?
- 60 WHAT IS SUCCESS? IS QUALITY EQUIVALENT  
TO SUCCESS?
- 64 THE QUALITY DIAGNOSTIC:  
A FUNDAMENTAL CHECKLIST

# THE DIALOGUE FORUM HANDBOOK

## ENERGIZING CONVERSATIONS ABOUT DIALOGUE THROUGH DIALOGUE

What follows began with a recognition by the participants in Dialogue Forum I that it would be helpful in giving focus and energy to the next dialogue for *Think Pieces* to be prepared prior to it. From among the participants, Howard Bellman, Gerald Cormick, E. Franklin Dukes, Glenn Sigurdson and Barry Stuart agreed to do so.

Each of whom I affectionately refer to as the *Think Piecers* took on board (with varying degrees of enthusiasm). The challenge identified in the first dialogue. A meeting was also held in Portland involving the writers and participants which provided a further opportunity for them to think together about what and how these contributions could add value.

While the strong personalities that were represented in the group produced very distinct contributions, the collective effect of what they produced is a collage of insights and experience that represents a rich and remarkable resource for the field of dialogue.

The focus that the *Think Pieces* brought into the Dialogue Forum and the energy that was inspired among the participants is evidenced in the report that was developed, *The Dialogue Forum Journal: Building Knowledge About Dialogue Through Dialogue*.

Ensuring that the resources represented in this body of work were also made accessible to others became a goal of the Dialogue Forum participants. Meeting that challenge became my task in my leadership role of the Dialogue Forum as a Fellow of the Simon Fraser University Morris J. Wosk Centre for Dialogue.

*The Dialogue Forum Handbook: Energizing Conversations About Dialogue Through Dialogue* represents what we hope will be seen as a user-friendly collaboration of sagacious and practical wisdom honed through the long and distinguished careers of highly regarded practitioners in the art and practice of helping others in difficult conversations

The collaboration's personality of diversity reflects the distinct personalities represented in this work, which is mirrored in the different style each collaborator brings into conversation and onto paper. The connective text which weaves together the bits and pieces of the *Think Pieces* into a fabric has been crafted with the able and insightful assistance of another of the participants in the Dialogue Forum, Luke Danielson.

Accompanying this Handbook, adding further texture to what is drawn together here, is a wonderful series of interviews conducted by Dr. Joanna Ashworth, Director of Dialogue Programs, North Growth Systems, Simon Fraser University.

Each of the *Think Pieces* deposits alongside their contribution a candid acknowledgement that in what follows they have already told you more than they know.

Howard, Gerald, Franklin, Barry, Luke, Joanna, join me in offering the hope that this Handbook will represent an important contribution to the field of dialogue, which will carry over time the dog-eared signs of well-worn use on every page.

Glenn Sigurdson

Fellow

Simon Fraser University Morris J. Wosk Centre for Dialogue

The Dialogue Forum is a continuing dialogue about dialogue—exploring the use of dialogue-based approaches in dealing with challenging conversations, often involving difficult public issues. It is an iterative exchange between experience and practice, and choices and consequences in the use of dialogue-based approaches to interactions among diverse interests.

The vision that inspired the Dialogue Forum was to build a dialogue community of learning and leadership—a growing community of people who are committed to evolving a generic understanding of dialogue through the identification of common elements in principle and practice—and discerning the differences that may apply within different contexts characterized by activity and sector, people and place, and through these efforts contribute soul and energy to the Simon Fraser University Wosk Centre for Dialogue.

This exploration is guided by collaborative leadership from across North America and is occurring through a series of dialogues and exchanges involving participants from diverse sectors with deep and broad experience as users and neutrals in dialogue-based and other approaches to engagement.

## BACKGROUND

### DIALOGUE I

In September 2001, the first Dialogue Forum brought together 29 individuals from across North America. They gathered from September 23rd to the 25th in Vancouver at the Morris J. Wosk Centre for Dialogue. The participants came from a variety of organizations (industry, non-government, government, media, legal and academic) with broad-based experience in a range of settings (consultation, negotiation-based efforts, consensus-building, litigation, and other forms of engagement) creating a dynamic constituency with a wealth of practical insights and experience.

### THINK PIECES

An outcome of this first meeting was a commitment by five of the participants—E. Franklin Dukes, Howard Bellman, Barry Stuart, Glenn Sigurdson and Gerald Cormick—to develop a series of *Think Pieces* that could help energize and inform subsequent meetings, and further the project.

In October 2002, in Portland, a meeting was held to enable these writers, and other leaders in the project, to prepare and plan for the subsequent dialogue, and to share and discuss early drafts of the *Think Pieces*. This meeting also provided an opportunity to include others in leadership roles, and to explore the potential for building supportive relationships.

**DIALOGUE II: MORRIS J. WOSK**  
**CENTRE FOR DIALOGUE**  
**SIMON FRASER UNIVERSITY,**  
**VANCOUVER, B.C.**  
**JANUARY 10-12, 2003**

This follow-up gathering brought together approximately 30 participants from across North America—many of whom had been to the initial Dialogue, as well as several new participants—with a similar mix of perspectives and experience as Dialogue I. The goal of this Dialogue was identified and discussed at the outset (page 44 *Establishing Clear Expectations*) was to continue the work of fulfilling the particular objectives of the meeting as they are aligned with the aims of the Dialogue Forum.

It was agreed that *Think Pieces* should be prepared to help inform, energize and advance the substantive discussions of the Dialogue Forum. The flow of the meeting reflected both the *low-beam* focus on the *Think Pieces* and the *high-beam* focus on the future evolution of the Forum.

## THE FIVE THINK PIECES— IN A NUTSHELL

**E. Franklin Dukes**

**The Landscape:**

**Why and Why Not Dialogue?**

A *landscape* piece which sets the stage, cast in a way that exposes the currents and undercurrents at work—philosophical, psychological and practical. This piece aims to make what is often implicit, explicit—to challenge, and not conclude—adding texture by revealing and reflecting. It not only asks the question *why dialogue*, but also *why not*.

**Howard Bellman**

**The Process Array**

The challenge taken on board in this *Think Piece* is to develop a user-friendly tool that will assist public officials and other decision-makers in the selection of participatory processes appropriate for public policy development goals and situations. What are

the attributes of different process options that might be considered? In what situations might they be appropriate? And where and why not? Can guidelines be developed that will enable these public officials to make informed early choices about possible interactive processes for a particular policy-making activity?

**Barry Stuart**

**Starting the Process**

This *Think Piece* challenges us with questions of this nature. What does it take to get started *in a good way*? Who will need to be involved, and how is that to be determined? What are the implications inside the organization when a decision is made to engage externally? What will it take to respond to those implications and what are the consequences of not responding? What will it take to bring participants into the room from outside? What expectations need to be addressed and clarified and how is that done? If expectations are not clear, what might be the implications?

**Glenn Sigurdson**

**Context: What Do We Mean by Context**

Where does the dialogue fit in relation to other processes, specifically those that are constitutionally and legislatively prescribed. What are the rights, mandates and respon-

sibilities established by law? How do power and values play out in dialogue and the surrounding context? What is the nature of the interface between authority-driven processes (with government and the courts) and voluntary dialogue-based initiatives? Are there tensions and frictions that need to be understood? What steps or processes can be developed to ease these tensions and impediments? What are the implications of different legal and constitutional parameters for *across-border* dialogues?

Gerald Cormick

#### Quality

*Success*, is that what we are trying to measure? Is *success* the right word for what we think we are describing? If so, what does it mean in this context? The outcome? The process? The participants and how they discharge their roles and responsibilities? The third party (if there is one)? The quality of the relationships? The cost? The situation as it might have been in the absence of the dialogue? Might an evaluation itself have an impact upon that which is being evaluated? What can we learn from an inquiry during the process and following it that might sharpen our insights before starting the next round?

# THE SURROUND SOUND OF DIALOGUE

## REFLECTIONS ON POWER AND VALUES

Like air and water, power and values flow and swirl inside and around dialogue-based interactions, seeping and percolating up differently in different places at different times. Values are about who we are and power is about what we can do to each other. Values are inside; power is outside. Values inform how we perceive our interests. Power energizes the positions we take. Power and values influence whether prospective participants to a dialogue-based interaction decide to enter into it or not, to stay engaged or not, how they perceive their interests and the choices they make in relation to them.

Values are the lens through which we see the world and others see us. Values include the beliefs and attributes we see in ourselves and what others see when they listen and look at us. Values are rooted in history, which is to a people what memory is to a person. Culture, religion and race are built on a foundation of values and provide the filters through which we see the world and interpret the actions of others in different ways, and others see us and define who we are and interpret our actions. We think of values in understanding who we are and who we are not as a community, an organization, a people, a country. Organizations define and

represent themselves through a set of values, sometimes explicitly declared for the world within and outside, sometimes implicit and more like glue.

So, too, with professionals. The imprint they bring to the way in which they define and respond to problems is often even much deeper than cultural or national imprints. The professional implicitly and explicitly seek to characterize and solve the problem in terms familiar to them—like vacuum cleaners seeking to suction up the challenge in their own image amenable to their comfortable tool kit of concepts and competencies.

Power flows from might and rights. It comes in many forms and with many labels—orders and judgements, threats and campaigns, gavels and guns. On the one hand, we speak of the power of people, groups, organizations and institutions and of powerful interests and powerful influences. But we also speak of power in other senses, such as the power of an idea. With power and values come drama and energy, peace and war, fighting and talking.

Power is underpinned by authority based governance and judicial structures and the

# WHAT IS DIALOGUE? WHAT KIND OF DIALOGUES ARE WE TALKING ABOUT?

cultures that surround them. How they are given expression and applied is part of the stage for the role of dialogue-based approaches within the social order. Both as to how choices will be made about dialogue-based approaches and whether there is any role for dialogue at all. In much of the world this choice is circumscribed by the rule of law and the institutions around it; in autocratic parts of the world it is managed by the simple expediency of eliminating it, in any form. Democratic values are built on the right to choose who shall exercise authority; the governance institutions through which the authority is exercised set the rules within which choice is exercised. Choice in relation to authority is always constrained to lesser or greater degrees. The way in which authority based processes interconnect with dialogue based interactions is central to any discussion of dialogue and context

The essence of dialogue is a purposeful conversation, in which the participants are open to the possibility that the views they hold when they come into the conversation may evolve over the course of it. It is a conversation that may occur on one occasion or on an ongoing basis. The heart of a dialogue is a willingness to listen.

When I use the term dialogue in a 'stand alone' way my sense of this is a current is running more visibly and nearer to the surface as we move from Public Meetings and Workshops to Advisory Committees and Negotiations as Bellman uses those terms. My primary interest is where current runs strongest. I feel the need to make this clear as it has implications as to how one might read and interpret some of what is said subsequently.

Dialogues take place in many settings. A dialogue may be as basic as two people in conversation, at home or at work, living out there daily life. Sometimes it involves multiple groups and organizational thinking and acting with a passion underpinned with intensely held and diverse values; my focus is more in this direction. Sometimes the purpose is to address an everyday problem, or perhaps to seek common ground on a project or a plan; but it also includes settings where the parties are deeply conflicted and are seeking ways to find a preferable outcome than continuing to fight.

Dialogue has been described as “ a conversation in which people think together in a relationship.” Thinking together implies that you no longer take your own position as final. You relax your grip on certainty and listen to possibilities that result from simply being in a relationship with others (Isaacs). This goes a little further than I am comfortable going.

First, it seems to suggest the need for a new and distinct category in Bellman’s process array - as I said, I am more comfortable thinking of dialogue as a “current” flowing across a variety of categories running deeper, and wider, and truer in some than in others. Secondly, I do not see relationship as a condition or precursor to dialogue but an outcome of it. This point is most clearly evidenced where the environment is highly conflicted, where no relationship exists, and the challenge is to find a way through dialogue to build a relationship sufficient to start, and then sustain a dialogue. The dialectic between dialogue and relationship is dynamic, iterative, and fluid.

—Glenn Sigurdson

## THE ATTRIBUTES OF PROCESSES OF INTEREST HERE

- The parties include organizations, usually from the public and private sectors
- The organizations are represented by individuals (or representatives)
- They are assisted by an intervenor (mediator, facilitator)
- They involve face-to-face exchanges
- Engagement is triggered by some specific set of concerns or issues
- The purpose is to reach agreement on some outcome. That outcome may be:
  - Substantive undertakings (such as design of physical project or a process)
  - A regulation or legislation
  - A joint policy or joint policy statement
  - An exchange of views for the purpose of making some joint statement or communiqué
  - Others

—Gerald Cormick

What are the nature of the dialogues that we are talking about here? In general, we are examining dialogue-based processes that are multi-sector, involve at least some sort of public resource, and have some quality of “agreement seeking” associated with them. These processes engage a society’s interest, and are often inadequately described as consensus building and collaborative processes. Examples include: representatives of a private business negotiating with community representatives over the site of a new facility; a multi-lateral negotiation concerning a proposed policy change involving public, private for-profit, and private non-profit representatives; an agency convening a multi-sector advisory group to secure legitimacy for a controversial decision; an attempt to reconstruct a war-torn society that has suffered ethnic or racial conflict.

Dialogue as a term is used in different ways by different people. For some within the professional community, it represents a distinct compartment of process activity. Used in this sense, it conveys the notion of learning and thinking together that opens up a new field of possibilities. Others use the term to imply something more akin to values and an associated set of attributes that manifest in different ways at different times

in different processes. It is in this later sense that the *Think Pieces* apply the term, and hence they also speak of dialogue-based processes.

## DIALOGUE PROCESSES—SOME KEY CHARACTERISTICS —E. FRANKLIN DUKES

### 1) Direct, face-to-face discussion

This does not exclude the use of other, less direct forms of communication that may play a significant role in engagement (see Figure 2 below).

In-person
Telephone/video conference
Real-time (instant messaging)
E-mail (direct, person-to-person)
Web-based forums
List-serves (responses to entire group)
Technical papers, reports
Direct representation
Indirect representation

### Dialogic Qualities ↔ Non-Dialogic Qualities

### 2) Deliberation intended to enhance participants' mutual education and understanding

Again, other goals may be relevant as well. However, this is a key element of dialogic engagement.

**3) Typically inclusive of participants and involving multiple sectors**

Although there are certainly exceptions, dialogic engagement is not generally reserved to an elite few. It often involves private citizens, groups and businesses.

**4) Openness and flexibility of process**

One key component is the ability to structure the process in accordance with participants' needs. Such flexibility is not always seen as an advantage by critics of these processes, who are concerned with violations of due process, reduced access to public records and bypassing of public officials.

**5) Focus on finding collaborative solutions**

Not all participants necessarily support that intention and discussion may still be highly confrontational. Nonetheless, the stated intention is to develop solutions that are workable and acceptable for all participants.

**6) Consensus or some variation as the basis for decisions**

Consensus has two essential meanings. The first is a decision of a discrete group that has

been developed co-operatively and is acceptable to all group members. For some groups, that means that all members must sign off on all components of that decision. Other groups might operate by defining consensus as a *significant majority*. In this case, opposition by one or two members would not stop a proposal from moving forward. Consensus also refers to development of adequate support for a particular proposal or set of proposals, such that a decision is seen as legitimate and able to be implemented successfully despite remaining criticism or opposition.

Significant concerns specific to consensus processes include the amount of time required to work through issues and a concern that consensus requires such significant compromise that agreement becomes meaningless.

**7) Use of a third-party convenor, mediator or facilitator**

This third-party is supposed to be (but in fact may not always be) independent and impartial. The mediator or facilitator is there to help people talk and negotiate in effective ways.

As one can imagine, these characteristics are present to varying degrees in dialogic processes.

The challenge of dialogues is intensified where conflict is rife—here the challenge is overcoming the parties’ concerns about risks they may run, and the development of mutual expectations as to roles, responsibilities and procedures (groundrules) that will negate these risks.

Dialogue-based processes—such as negotiation, consensus building, collaboration and mediation (assisted negotiation)—are not alternatives to legal, legislative or administrative processes. They are often undertaken by private citizens’ groups and businesses, but can also be utilized by government agencies. There is a considerable difference between dialogues among individuals whose own interests are at stake and dialogues among people who are at the table in a representative capacity, such as spokesmen for broader organizations or constituencies.

Dialogue is a word that invites no boundaries. The situations in which dialogue-based processes have the potential to arise is broad and diverse. An important consideration for each of the *Think Pieces* was to further define and clarify the situational attributes

which framed their observations—but all agreed that their common focus was on matters with a public element.

Bellman worked within the widest field of vision: including his array of processes conventionally referred to as public-participation processes, in which the purpose is to consult, not agree, and beyond agreement seeking to those with a permanent authority structure like a commission with defined term and mandate. All of the situational contexts from listening and informing to agreeing, were advisory in nature in the sense that they take place within a legal architecture that requires a further final decision making authority. Typically, these activities are interactive (probably involving meetings); facilitated/mediated; usually (but not necessarily) government initiated and funded; open to the public; initiated on an ad hoc basis to address a current matter (see figure on page 18). Bellman makes this important distinction:

**Negotiations represent a significant distinction from other strategies because they are the most collaborative of discussion modes. The particular features and groundrules for negotiations usually require consensus, and the give-and-take of negotiations requires government**

## THE PROCESS ARRAY

THERE ARE NO CONVENTIONAL TERMINOLOGIES NAMING THESE PROCESSES

<b>I. PUBLIC MEETINGS:</b>	These may be convened by the government at its discretion. Information may be provided and received.	Think of government officials facing an audience; perhaps presenting plans, taking testimony and answering questions.
<b>II. WORKSHOPS: MORE INTERACTIVE:</b>	Questioning among participants.	Think of groups of individuals with various points-of-view, perhaps in <i>break-out</i> sessions, questioning one another, reporting to a plenary group, developing lists of goals and possible strategies.
<b>III. ADVISORY COMMITTEES:</b>	The government is seeking advice from experts and stakeholders. May seek consensus. May result in majority and minority reports (voting).	Think of commissions with appointed members asked to develop an advisory report, and perhaps to seek consensus where possible, within a certain schedule.
<b>IV. NEGOTIATIONS:</b>	These emphasize developing agreements to limit or conclude the conflict, subject to ratification. Mediation.	Think of a body consisting of representatives of stakeholders and regulators working together to develop regulations or a planning document.
<b>V. PERMANENT COMMISSIONS</b>	These have statutory and long-term status and stature and address perennial conflicts.	Think of a representative council charged to advise on a regular basis respecting a statutory program.

representation with authority to engage in that process.

Since successful negotiations come closest to being a dispositive process it is crucial that no significant interests be unrepresented. This has implications for the number of participants, as the give-and-take is most likely to be manageable among a limited number. Larger numbers of participants will require more time and/or smaller numbers. Mediation is most useful in negotiations, whereas facilitation may serve well in other processes. Negotiations require a mature dispute in which the interests are identified and willing to participate and much of the relevant data has been gathered.

Negotiations promise closure more strongly than the preceding processes and this implies that a successful conclusion will be owned by all concerned.

An agreement-seeking quality to some outcome—what Bellman describes as negotiations—is the underpinning of the *Think Pieces*, although that agreement in a public context will likely as a legal reality be

subject to ratification by some specifically empowered authority like an agency or a minister.

Dukes weaves the threads together with this perspective. Dialogue can involve negotiation but it does not necessarily connote negotiation, for to learn and inform is not the same as seeking agreement over a particular issue or set of issues. What differentiates dialogue, he goes on, *includes an intention of mutual understanding that is not essential to other forms of engagement*, but it may and often is present.

Barry Stuart's terms of reference are a consensus process where the edges are softer and more elastic, much akin to what Bellman describes as negotiations:

In many multi-party processes, the skills, resources, internal structures and reporting relationships vary immensely among the parties. Ensuring equal opportunity to participate, respect for differences and methods of compensating for those differences can be essential to getting everyone on board. There are many different versions of a consensus process. No two processes are the same because in each case the parties participate in designing

A definition of consensus used by some groups follows:

- Everyone can live with the final agreements without compromising issues of fundamental importance.
- Individual portions of the agreement may be less than ideal for some members, but the overall package is worthy of support.
- Individuals will work to support the full agreement and not just the parts they like the best.

Consensus processes require a set of behaviours (e.g., equal opportunity for participation, good-faith efforts to address all participants' concerns) consistent with the attempt to satisfy the needs of all participants. Consensus processes are used because:

- Individual participants who might be skeptical of working with opponents or those they don't know are reassured by having effective veto power over any decisions.
- Minority views which may have been summarily dismissed are supposed to be given real consideration.
- A norm of responsibility for the group may be enhanced.
- As a practical matter, decisions with broad-based support are more likely to be implemented.

a process to fit the circumstances surrounding their dispute.

However, there are several principles that characterize all consensus processes. Firstly, process is based upon shared values and principles. For example, a shared value common to a consensus process is respect. Within a consensus process respect calls upon the parties to respect differences by investing the time to understand and appreciate the differences, not just in what the parties seek as an outcome but also the differences within their personal and working lives.

Secondly, dialogues, not debates, predominate the exchanges within the process. They involve conversations without sides, with only a centre. Conversations which engage parties in thinking together, in listening and in searching for outcomes that are inclusive of all participant interests.

Finally, consensus processes are designed by and driven by participants (unlike litigation and most other processes, which follow a predetermined process).

—Barry Stuart

## WHY DIALOGUE?

## WHY NOT?

Aside from the interests of private parties, there may be a social interest in promoting dialogue as a way to solve problems. Conflicts have social costs. These may include the measurable costs of the time of courts, administrative officials or police or the less tangible, but very real costs, of creating social divisions that make all of the community's problems more difficult to solve. They may also include the costs of polarizing politics, in which the winners are those who espouse the most extreme positions, and the consequences of losing become so severe that people will adopt almost any tactic to avoid losing.

Dialogue may have potential to stave off some of the worst of these outcomes and reduce these social costs by resolving conflicts that cannot be resolved in other ways. On the global level, in the absence of global governance institutions, voluntary dialogue may sometimes be the only way to solve problems.

Are the results likely to be more stable because they are consensual? Is this an avenue to seek more social solidarity and move away from cycles of retaliation and revenge, or increasing polarization? Dialogue processes address a wide range of problems, including pivotal issues of race, ethnicity, class and gender. They uncover the struggles for power, status and human needs behind many disputes.

If there is a social interest in promoting dialogue, how can existing institutions address it? What resources are needed, to whom should they be made available and through what channels? What policy changes will facilitate an increase in dialogue as a way to resolve problems?

## WHY NOT DIALOGUE? DUKES PROVIDES THE BIG PICTURE FRAME OF THE DIALECTIC IN THIS WAY.

Why should such processes be favoured over traditional decision-making processes in democratic governance? Will it not be an inevitable consequence that the use of these processes will weaken mechanisms such as advocacy, organization, coalition building, democratic government and science.

## 12 RED FLAGS

### E. FRANKLIN DUKES

Opponents of collaborative processes reflect a concern that their cumulative impact is to threaten and weaken traditional practices of democracy and constitutional governance and marshal their rationale in this way:

1. Many if not all the traditional processes intended to protect the public interest (public notice, open meetings, right of appeal) are weak or absent when ad-hoc dialogue processes are used to address public resources.
2. Ad-hoc private groups accountable only to themselves may in effect replace public processes for rulemaking.
3. Dialogue processes involving public lands favour local representation that may ignore or weaken national interests that cannot be sufficiently represented. This has led to incompatibility with national plans and policies, as well as disenfranchisement of national/urban constituencies.
4. Accountability of elected and administrative officials and appointed boards is eroded when ad-hoc groups become increasingly responsible for influencing policy on major issues.
5. Public officials too often delegate their decision power in order to pass the buck and avoid making controversial decisions.
6. Legal and regulatory standards that reflect national and provincial or state policies can become bargaining chips rather than baseline standards.

Dukes offers us two entry points into the *Why Dialogue* question —a case-specific and descriptive perspective and the other structural with political and philosophic underpinnings.

Case-specific proponents suggest that dialogue has the potential to achieve benefits that may be more difficult for other forms of decision processes to produce. They may bridge what were formerly viewed as insurmountable differences to achieve gains in relationships. They enable on-the-ground solutions that are informed by those who know the most about the issues. They bring together sufficient resources to accomplish what cannot be accomplished by any one single party or smaller coalition. They engage former adversaries in respecting the views and values of others so as to enlarge what had been a narrow self-interest to encompass a broader interest combining environmental, social and economic goals. They enable faster, cheaper decision-making methods by avoiding costly and time-consuming administrative, legislative or judicial public processes, and they create gains beyond the minimum standards required by laws or policies.

Structural or big picture proponents have this to say in favour of dialogic processes

Continued on next page

in the public arena. Government today is challenged to accommodate and respond to a wide variety of public problems and conflicts. Sometimes the issues present themselves as dilemmas too complex or too wide to be amenable to a response through conventional wisdom and approaches. Some fall outside the scope of government, politically or geographically. Others require horizontal, not vertical responses which government is ill-equipped to deliver. Some bring to this the sense that the problems are unique to this time and despair at the seeming inability of existing institutions to deal with them. All of these forces play into a growing sense of the need to engage in new ways to determine new responses. But not everyone is similarly engaged.

7. Agency authority and current laws and regulations can be systematically bypassed and weakened as the power of ad-hoc groups grows.
8. Dialogue processes offer equal validity to competing values when many circumstances and often laws and regulations demand that resource protection should be the highest priority.
9. There is an ideology of harmony that is particularly compelling in community-based processes where parties are negotiating with fellow community members. This ideology is reinforced by convening agencies, mediators and facilitators for whom agreement is the chief desired outcome and who may feel considerable obligation to satisfy those in power.
10. There is a danger in developing a norm that decisions are only legitimate when they are acceptable to all parties.
11. The more time that is devoted to dialogue processes, the less time is available for other action (sometimes called opportunity costs);
12. Public participation procedures were developed over many years and based on a strong foundation of public involvement theory to provide an opportunity for all owners of a particular resource to participate in its management. Even if imperfect, these procedures should not be abandoned in favour of less formalized approaches that often decrease public accountability.

## CASE-SPECIFIC PROPONENTS MAKE THEIR POINTS ABOUT DIALOGUE

—E. FRANKLIN DUKES

1. **They serve to break the ice**, to develop a capacity for talk where quite literally none existed before. It sounds simple, but in situations where much is at stake and substantial differences exist, it is virtually impossible for dialogue to occur without some independent forum and facilitation. Once the ice is broken, it stays broken.
2. **They allow for new learning.** For many conflicting parties there is an understandable dependence on ignorance or stereotype about each others' beliefs, values and goals.
3. **They weaken the extreme and empower the reasonable.** When all communication is conducted through filters of media and third-party reports, what is most likely to come through is what is shouted the loudest, what excites the greatest reaction and what is most inflammatory and newsworthy. Facilitated dialogue in particular, when done properly, focuses on providing all interests an opportunity to speak without interruption, to be heard with respect and to listen with attention. By showcasing voices and ideas which have not had currency, and by modelling processes of respectful, candid and productive dialogue, the extremes tend to stand out as extreme and the reasonable as worthy of consideration.
4. **They create empathy** and therefore recognition of common values, goals and concerns. For example, it is common for those who have been most actively engaged in discussions with one another to realize that they assume a considerable risk of ostracism and criticism within their own constituencies for meeting and working together.
5. **They allow for productive action** even in circumstances where some differences continue. Because parties realize that they can talk to each other even with continuing differences, they can work together when appropriate on certain issues while opposing each other on other issues.
6. **Areas of joint interest continue to be discovered** as discussion proceeds. If trust can be developed that parties will not abuse the demonstrations of candor and honesty, dialogue will continue to be productive. At the personal level, people who used to be considered opponents learn that they do share many values, such as hard work, community involvement, personal and social responsibility, and a concern for youth and community environmental, economic, physical and mental health.

## STRUCTURAL PROPONENTS HAVE THIS TO SAY:

1. **The shortcomings of other means of engagement.** Changes in the public realm of past several decades which make authoritative public decision making more problematical include:
2. **Growth of what is considered a public rather than private matter**—a huge range of behaviours which are no longer considered private, such as abortion or land use or childcare—has led to an unwieldy administrative apparatus of state government, bound by formal rules which, while intended to protect the public, also stifle dialogue and actually promote divisiveness.
3. **Diffusion of power**—the growth of public advocacy groups, of sunshine and public involvement legislation, of access to media and communication technology.
4. **Changes in legal landscape**, including new legislation and more activist judiciary.
5. **The nature of most difficult public problems**—interdependent, complex, evolving—and of those associated with a sense of uniqueness. It is easy for every generation to forget the problems that beset earlier generations and to imagine—wrongly—that their own challenges are greater. Many significant problems seem only to be getting worse, as is evidenced by the growing gap between rich and poor, the antagonisms of race, culture and religion, and the promiscuous cult of violence, both state and private-sponsored, among other indicators.

Despair often accompanies this sense of uniqueness. Within many populations globally there is little expectation that there are viable peaceful solutions to these problems. And there is often even less hope that our institutions of governance might be able to implement what solutions there are. This despair and the accompanying cynicism, manipulation, partisanship, polarization and disengagement from civic life, prompts us to reconsider the foundations of community life and governance.

This reconsideration forces a reconception of who we are, how we relate to one another and how we govern ourselves. It also necessarily suggests ways of addressing conflicts that strengthen social, moral and civic ties.

6. **A social imperative** also suggests a need for dialogue processes. Humans are ultimately social beings. They are not independent entities whose primary interest lies in maximizing individual gains (*homo economicus*). This view of human nature is incapable of explaining behavior inconsistent with its premises, such as affection, altruism and co-operation (Gould, 1988). We are neither innately

competitive nor fundamentally good; rather, we have the potential for both co-operation and competition, for good and for evil. Furthermore, we are social beings, who do not develop our autonomy without bondedness (Clark, Haworth). Human nurture includes:

- Individual and societal respect for the needs and, indeed, inherent worth, of each individual.
- A focus on the responsibilities of individuals to all levels of community, from the family to the globe.
- A stress on partnership and cooperation.
- The acceptance of differences (the celebration of “diversity”), and the attending search for means of productively dealing with those differences (Dukes, 1996).

7. **A moral imperative**—caring—and only through dialogue engagement, with its attendant netting of responsibility—me (or us) can be expanded to we. Some call this an expanded moral universe (Bland, 2002) or development of an enlarged self-interest (Marcus, 1998).

8. **A civic imperative**—the need for a healthy civil society—seeks to connect the needs of citizens and communities to political action and structures. Despite apparent apathy, citizens actually care deeply about public life. We will become involved, but only when we have a sense of belonging and when we see that our voices can make a difference (*Citizens and Politics*, 1991). We need more than good institutions of governance to transform the private interests of individuals into the public concerns of citizens. Public life must offer individuals the affiliation they seek, as well as the responsibility to offer the same social bonds for others. People need and often yearn for accessible places to engage one another productively and safely, to learn the concerns of their neighbours and to speak their own concerns.

Individuals, through their participation in the public realm, are capable of transcending pressures of self-interest in search of common goals. And such processes encourage productive, realistic relationships both within and among communities of all kinds that recognize and affirm their interdependence—their relatedness—within this shared public domain. They strive to strengthen public institutions by encouraging active, lasting and meaningful public participation in decisions made on that public’s behalf.

9. **The rational/scientific imperative**—the need for knowledge and shared understanding—benefit from multiple perspectives and resources. Dialogue is an essential vehicle for translating knowledge into larger collective action.

10. **The adaptive imperative** refers to the need for growth. Without engagement with people of different views we risk encasement inside a shell where creativity, change and growth disappear. At a structural level, a social system (family, organization, community) without dialogue is no society at all, but a hidebound, rules-bound static set of atomistic individuals. Social systems need to adapt because we are in physical and social settings that continually change.

## START. START WHAT?

Bellman turns our mind to the question of what process—the how do we decide the way that is appropriate to the challenge, or as he says the challenge of *fitting the forum to the fuss*. He has these preliminary observations:

Conflict-resolution and dispute settlement may be provided by a very broad array of more-or-less deliberate processes ranging from simple persuasion and the exercise of authority in interpersonal matters to diplomacy and warfare on the international level. The selections that are made from that array in a given circumstance may reflect psychological factors, value systems, cultural norms, assessments of alternatives and risks and tactical skills; among other influences.

In recent years a subset of these processes has evolved for conflicts and disputes—there is a difference—that feature public policy issues. One may be confident that this evolution is still underway. We often refer to this subset as dialogue or consensus processes. These processes may serve as alternatives to others, such as litigation of parliamentary process or conventional regulatory enactment; or in a series or combination with such

other processes. While the following may seem to catalogue dialogue or consensus processes, it should be emphasized that there are as many variations, combinations, and otherwise unmentioned versions as there are varieties of disputes and conflicts.

The purpose here is not cataloging or forcing all disputes and conflicts into a limited number of processes. It is to provide a conceptual framework for more refined and case-specific decision making by those who would participate in settlements.

The presentation to follow does suggest a sort of diagnostic tool for beginning to *fit the forum to the fuss*; but clearly it is, at best, a preliminary instrument to be followed by much more incisive analysis and tailored process design.

Finally, the following is formatted mainly for visual presentation and as a simple guide for individuals in leadership positions who are not themselves dispute resolution experts. I hope that it may also serve the purposes of this conference. See charts on following pages.

—Howard Bellman

The following tables display the attributes, resource demands and predictable outcome benefits and demands of each of the four processes. Note that as you move down the scale from public meetings to negotiations, they tend to be more time-consuming, expensive and demanding of staffing.

Similarly, as you head downward they require more care as to participation and ripeness and move more governance into the membership. As to predictable

benefits and limitations, as you read downward the benefits of consensus come into greater focus, but so do the risks, attendant to exacerbation of disagreements and advice-not-taken.

It is probably not sound to suggest that in any case the resources were wasted, for example a process that fails to achieve the goal of consensus may nonetheless yield very valuable information exchange and advice.

	PARTICIPATION	RIPENESS	GOVERNANCE
<b>I. PUBLIC MEETINGS (INFO EXCHANGE)</b>	<ul style="list-style-type: none"> <li>• Most inclusive</li> <li>• Largest numbers</li> <li>• Least concern for missing interests</li> </ul>	<ul style="list-style-type: none"> <li>• Some info to share</li> <li>• Useful for learning info needs</li> </ul>	<ul style="list-style-type: none"> <li>• Government/sponsor controlled</li> </ul>
<b>II. WORKSHOPS (INTERACTIVE INFO EXCHANGE)</b>	<ul style="list-style-type: none"> <li>• Less inclusive</li> </ul>	<ul style="list-style-type: none"> <li>• More informed</li> <li>• Interests forming</li> </ul>	<ul style="list-style-type: none"> <li>• Mainly government/sponsor controlled</li> </ul>
<b>III. ADVISORY COMMITTEES (AD-HOC, VOTING OR CONSENSUS SEEKING)</b>	<ul style="list-style-type: none"> <li>• Fairly exclusive</li> </ul>	<ul style="list-style-type: none"> <li>• Much known</li> <li>• Interests identifiable</li> </ul>	<ul style="list-style-type: none"> <li>• Some non-government governance</li> </ul>
<b>IV. NEGOTIATIONS (CONSENSUS SEEKING)</b>	<ul style="list-style-type: none"> <li>• All identified interests have influence</li> <li>• Exclusive</li> </ul>	<ul style="list-style-type: none"> <li>• Much is known</li> <li>• Interests identified</li> <li>• Willing to negotiate</li> </ul>	<ul style="list-style-type: none"> <li>• Shared governance</li> </ul>

	RESOURCE DEMANDS	BENEFITS	LIMITATIONS
<b>I. PUBLIC MEETINGS (INFO EXCHANGE)</b>	<ul style="list-style-type: none"> <li>• Least cost/staffing</li> <li>• Time very flexible</li> </ul>	<ul style="list-style-type: none"> <li>• Info exchange</li> <li>• Economical</li> <li>• Inclusive</li> <li>• Controlled</li> </ul>	<ul style="list-style-type: none"> <li>• Least incisive</li> <li>• Least conclusive</li> <li>• Adversarial</li> </ul>
<b>II. WORKSHOPS (INTERACTIVE INFO EXCHANGE)</b>	<ul style="list-style-type: none"> <li>• Somewhat greater demands</li> </ul>	<ul style="list-style-type: none"> <li>• More incisive info exchange</li> <li>• Economical</li> <li>• Fairly inclusive</li> <li>• Fairly controlled</li> </ul>	<ul style="list-style-type: none"> <li>• Somewhat exclusive</li> <li>• Somewhat guarded exchange</li> </ul>
<b>III. ADVISORY COMMITTEES (AD-HOC, VOTING OR CONSENSUS SEEKING)</b>	<ul style="list-style-type: none"> <li>• Still greater demands</li> <li>• Less controlled</li> </ul>	<ul style="list-style-type: none"> <li>• good info exchange</li> <li>• Yields influential advice and maybe consensus</li> </ul>	<ul style="list-style-type: none"> <li>• Exclusive</li> <li>• Expensive</li> <li>• May be divisive</li> <li>• May be guarded</li> </ul>
<b>IV. NEGOTIATIONS (CONSENSUS SEEKING)</b>	<ul style="list-style-type: none"> <li>• Expensive</li> <li>• Considerable staff</li> <li>• Substantial time</li> </ul>	<ul style="list-style-type: none"> <li>• Best info exchange</li> <li>• May yield closure</li> <li>• May <i>treat</i> relationships</li> </ul>	<ul style="list-style-type: none"> <li>• Exclusive</li> <li>• Expensive</li> <li>• Not controlled</li> <li>• May not find consensus</li> </ul>

## HOW CAN A DIALOGUE BE STARTED?

**H**ow we start determines how we end. It is difficult, if not impossible, to realign a process that fails to start on track. Mistakes made at the outset may not become apparent until it is too late to make adjustments. Too often, the starting phase of a dialogue is rushed through, as if the preliminaries were merely logistical challenges to be expediently resolved. This may affect whether the matter at hand is ever constructively engaged.

Building a consensus process that creates the capacity for dialogue requires careful planning. Failing to invest adequate time and resources at the front end will cripple the capacity of the process to turn differences into opportunities for building better relationships, understanding, respect and innovative approaches to seemingly intractable problems. Stuart expresses the challenge in these terms:

Each piece of the process shapes the process. As an Aboriginal elder in a Circle sentencing process noted, *You can't get to a good place in a bad way. How you travel determines where you will end up.* Taking time to address and gain consensus over each piece of the design is crucial. A participant in a major urban community-planning circle noted,

*You don't pack right for the trip, you ain't always able to count on getting what is needed along the way. If you leave ready to go—even a long, hard trip can be made. All the time and resources invested in starting the process in a good way pays enormous dividends throughout the journey and profoundly increases the prospects of reaching a good place—mutually agreed outcomes.*

Investments of time and resources in the beginning stages are critical. Much of the hard work to move parties beyond debate, beyond entrenched positions to a place where their collective energies and skills can produce mutually acceptable solutions must be done before the parties begin talking about their differences. The more time spent in preparing for a difficult conversation the higher the prospects of a consensus outcome.

Planning and preparation translate an idealistic notion about consensus into a practical reality. It is not enough to begin with an abiding faith in the virtues of consensus. The necessary level of investment and commitment to the process can only arise from a practical appreciation of the effective

capacity of the process to penetrate difficult problems in ways that generate innovative resolutions.

Failure to start in a good way will affect who will participate and how they will participate, the level of commitment to the process and the outcomes, the nature of the discussions and the outcomes reached and the development of relationships among the participants.

All the work necessary to secure the requisite investment to begin and sustain the process takes much more time and resources than most parties realize or are willing to invest. Hopefully the discussions prompted by these challenges might develop an understanding of why it is critical to slow down the rush to get at the conflict and increase the time invested in talking about how to talk and in constructing the necessary foundation for a consensus process.

—Barry Stuart

Engaging the participants in designing the dialogue process is the underpinning on which their belief in the process, and com-

mitment to giving effect to any outcomes is built.

Getting principals and constituents involved at the earliest stages and keeping them involved throughout the process is essential to maintaining successful dialogue. First is the development of the framework and guidelines to ensure that expectations are clear as to roles, responsibilities and procedures for working within it. The evolution of the process must be shared in a manner that engages key constituents and encourages their support.

## THE 12 ESSENTIAL STEPS IN STARTING A CONSENSUS PROCESS

—BARRY STUART

### 1. Suitability of consensus:

Consensus processes are not suitable for all disputes. A thorough diagnostic analysis of the conflict by the parties is essential to determine if a consensus process is appropriate.

### 2. Identifying values and principles:

The crucial first step towards unleashing the power of consensus involves identifying shared values and principles to build the essential foundation for difficult con-

versations about the issues. When some South Pacific Aboriginal cultures meet to resolve a difficult conflict, they talk about everything but the conflict. They fully understand the importance of building the foundation for difficult conversations. The shared principles and values are the building blocks of a consensus process, as well as the critical basis to redress any problems or challenges that arise internally or externally. Guidelines derived from shared values build an accord about behaviour and accountability.

### **3. Designing the process:**

Further, as there are no standard consensus-process models readily made for any public dispute, the parties must work together to design a process that maximizes their abilities to engage in difficult conversations and to use their differences as an opportunity to develop mutually acceptable and often innovative outcomes. By working together to design their process, trust and an invaluable sense of collective ownership over the process evolves. These are often the essential elements that enable the parties to move through the minefields that endanger all public dispute processes.

### **4. Meaning of consensus:**

From the outset, decisions must be based on consensus. Consequently, one of the first consensus decisions will be to define the meaning of consensus. Each process develops a different means to reach and define consensus.

### **5. Forging vital linkages:**

Consensus processes involving public disputes are impacted by numerous external changes driven by other processes (litigation, elections, new legislation etc.). Allowances must be made at the outset for these other processes. Further, the unique nature of a consensus process must be understood and endorsed by each party's principal and constituency. Maintaining effective connections between the process and all principals and constituencies is essential. These connections must respect significant differences in the internal dynamics of each party's organizational culture (corporations, non-governmental groups, First Nations, governments etc.). Getting all of these vital linkages right at the very beginning can make an enormous difference.

### **6. Determining the need for a facilitator:**

In underestimating the challenges of a consensus process and the complexity

of their differences, parties tend to go it alone and fail to engage a skilled facilitator. Deciding if a facilitator is necessary and if so, choosing an appropriate facilitator at the outset can be instrumental in starting off in a good way. If the facilitator is not properly skilled, the process can be grossly mismanaged and quickly become adversarial.

#### **7. Recognizing benefits of a consensus process:**

The benefits are important, but not readily apparent (better relationships, greater trust, improved understanding). The costs in time and money are readily apparent. Promoting interest in these processes within institutional cultures steeped in adversarial power-based interactions can be very difficult, especially as the interest for effective engagement must penetrate beyond institutional leaders to the managers and others needed to implement outcomes.

#### **8. Clear understanding of alternatives:**

Gaining a clear appreciation of possible outcomes from alternatives to a consensus process is crucial. A facilitator can be critical in helping parties rigorously assess the costs of not pursuing a consensus process. This assessment needs to

be reviewed throughout the process. The assessment must not just encompass the likelihood of realizing their objectives and the cost of doing so through an adversarial process, but also explore whether their original position serves their larger interests.

#### **9. Depth of understanding:**

The ability of any organization to invest in a consensus process can depend upon the depth of understanding within the organization about the process. The greater the understanding, the greater the interest in and commitment to the process. For many, participation in a consensus process will be a new experience. Their impressions of the process will be mixed. Some may come filled with stories of the bad experiences of others and thereby be overly wary of engaging. Others may have heard of the *miracle of consensus* and come with wildly inflated expectations. Time is required at the outset to shape realistic expectations and a practical understanding of what the process entails. Failing to do so can be fatal to any prospect of beginning or to even finishing in a good way.

#### **10. Engaging key participants:**

Considerable care must be taken at the

beginning of a consensus process to determine what measures are needed to help each representative be effective, and to ensure each representative is engaged internally in order to engage externally. Measures must also be in place to adjust to changes among key representatives in the process.

**11. Creating space for participation:**

Often participants are expected to continue carrying their normal workload. The time spent at the dialogue and in keeping their organization current with developments flowing from the process can be full-time work. Addressing the need for organizations to carve out time for effective participation can be instrumental to the success of these processes.

**12. Extending reach of process:**

Dialogues require ensuring the organizations represented are kept current. Acceptance of, and commitment to, outcomes requires maintaining very active two-way communication between participants and their organizations. Maintaining this connection calls for different arrangements for each organization. Developing processes that place the responsibility for these connections individually and collectively on all participants, calls for careful planning at the very beginning of a process.

# GETTING INVOLVED: SHOULD I OR SHOULDN'T I?

Different people, groups, organizations and institutions can have very specific concerns about dialogue processes. What you see depends on where you stand, and a lot of folks *stand* in a lot of different places. Consider the different risks that parties may perceive as they decide whether to enter a difficult conversation, as opposed to continuing to pursue more conventional advocacy-based paths. The concerns are numerous and often very real:

- One of the oldest lines in the conventional wisdom of negotiation is *who will blink first?* This is personified by the trial lawyer and the hard-nosed negotiator preoccupied with a concern over showing weakness. *Will I be seen as surrendering to the adversary by entering dialogue?*
- An environmental group worries that they are being hoodwinked into entering a setting where the *rules of the road* will suddenly change.
- A First Nation worries that it will have compromised the hard-won principle that there is a *duty to consult*, without requiring potential adversaries to honour it to the fullest extent.

## WE ALL WORRY! THE MORE CONFLICTED THE SITUATION, THE MORE WE WORRY.

Sufficient to say that a lot of stuff is likely to be swirling around in the minds of prospective participants in a dialogue, especially in a conflicted situation. This much is clear. They are unlikely to participate in a dialogue-based interaction if they think they might be in a worse situation had they not participated. Unless of course the potential advantages to them are sufficient that they consider the risk worth taking. This calculus is always an evaluation of the prospects in relation to the alternatives, and the likelihood of achieving or not achieving them. The alternatives, and the way in which we perceive them, are shaped, not by the dialogue yet to take place, but in the context which already exists.

Most of us presume we know what we want and we worry that someone or something may get in our way getting there. Therefore, our first instinct is to look through our *risk lenses*—and assess the likelihood of getting what we presume we want and the possibility that others might frustrate our efforts in doing so. It's likely that we consider a range of options in terms of how we might go forward in interacting with others. Sometimes our first and last response is as simple as—no way am I having anything to do with those people. Or, perhaps, almost the same—those people need to hear me tell it to them straight it's my way or the highway. Other times the response might be, *look my friend, this is what I intend to do, and if you have some thoughts about that lets hear them*. Sometimes we go further and encourage input and assure the other side we will listen

Continued on next page

carefully and take their views into account. Or, we go even further—I hear you. We need to talk. We need to work this out. If we cannot work this out, I don't see this working for either of us, and if we reach that point, I guess we will both have to do what we have to do! Let's get down to it.

Risk in one breath—often the next is money. Another typical reaction, stated or unstated, is *what's it going to take?* As a minister of the crown was known to say to a mayor in a major environmental dispute where the local community was in a high state of agitation over the prospect of lost logging jobs, *what's it going to take to get you people off my back?*

—Glenn Sigurdson

- The corporate manager is worried that he is being drawn into a discussion with people whose intention it is to delay or defeat the process, not to deliver on agreements. He fears it will be difficult to back out if the process is endless and fruitless.
- The senior bureaucrat worries about *losing control* or surrendering bureaucratic *turf* if his department no longer retains the unilateral right to set process guidelines.
- Those who are speaking on behalf of others fear they will lose credibility back home and be seen as suckered, stupid or weak.
- Behind that lurks the fear of losing organizational resources or the personal concern that, *I won't have a job, or the necessary skills or my good reputation once this gets going.*

Sometimes enthusiasm and desperation subdues the hard question—is the situation suitable for some form of a dialogue-based approach? Gaining a clear appreciation of possible alternatives to a dialogue process is also crucial.

Often, parties have misconceptions about what will happen in the absence of dialogue. These may include:

- Overly optimistic views about the outcome of litigation.
- Lack of accurate understanding of how the dispute is viewed by the general public or influential third parties.
- A resulting lack of appreciation of what results may come out of the political process if the dispute winds up being resolved politically.

- A lack of understanding of the consequences of deadlock.
- The risk of appearing to be intransigent, unreasonable or unwilling to talk.

What can be done to change perspectives of *problem ownership* and reveal the benefits of participation? If the ownership of the problem does not become invested in the participants, as both a matter of fact and perception, through dialogue there will be no potential for reaching mutual outcomes.

A key issue is whether it is in the interest of others—society as a whole, public institutions or even adversaries—to help a group with a weak capacity for dialogue to strengthen that capacity, so it can engage in dialogue without much risk. Options for facilitating this include:

- Internal dialogue within the group, out of the public view, to try to achieve a shared sense of purpose and a deeper understanding of objectives.
- A process to increase the legitimacy of leadership and strengthen its mandate.
- Strengthening the capability of the group to do independent fact gathering and research in ways in which its members have confidence.
- Resources.

When there is unity in the group regarding objectives, a clear, legitimately selected and broadly supported leadership to speak for

## LET US NOT OVERLOOK:

“There are many factors that militate against these processes, and favor more traditional administrative procedures, litigation and other less interactive processes. Such factors include: the need for legal ruling or precedent; the unwillingness of important interests to participate; issues too fundamental to compromise; emergency, too little time; an outcome that seems inevitable; relative resource demands.”

—Howard Bellman

the group, and the capacity to perform independent information gathering or research in ways that all the group members trust, a group is likely to do very well in dialogue.

But when the give and take of negotiation and dialogue will expose the lack of shared objectives, lack of mandate of leadership, lack of broadly supported leadership that truly speaks for the group or the lack of capacity to do information gathering or research, dialogue may not be the solution. Often an organization in this kind of position is essentially *frozen in* to litigation, a public campaign or a lobbying position. The group's unity is so fragile that even the possibility of compromise or new ideas threatens to shatter the group's limited, but hard-won cohesion.

Dialogue processes involving public disputes are affected by numerous external changes stemming from such processes as litigation, elections and new legislation. Allowances must be made at the outset for these processes.

## IN ORDER TO ENGAGE EXTERNALLY IN DIALOGUE, YOU NEED TO THINK DIFFERENTLY INTERNALLY

The unique nature of a dialogue process must be internally understood and endorsed by each party's principal and constituency. Maintaining effective connections between the process and all principals and constituencies is essential. These connections must respect the internal dynamics of each party's organizational culture (corporations, non-governmental groups, First Nations, governments, etc.).

Forging these vital linkages at the beginning of the process can make an enormous difference. Some points to consider:

- What must groups do internally in order to be able to engage effectively externally?
- Can *outsiders*' play a role in helping with this internal process of organization? Where can the resources come from?
- Is it in the interest of the group to organize more effectively internally?

- Is it in the interest of the group's supposed adversaries to see the group become better organized and thus able to participate more effectively in dialogue?

For many, participation in a dialogue-based process will be a new experience. Their expectations as to the process may be mixed. Some may be filled with stories of the bad experiences of others and thereby wary of engaging. Others may have heard of the *miracle of consensus*, and have wildly inflated expectations. Time is required at the outset to shape realistic expectations and a practical understanding of what the process entails. Failing to do so can be fatal to any prospect of beginning or finishing in a good way.

## ADDRESSING INTERNAL START-UP RESISTERS

—BARRY STUART

**Challenge:** how to reveal and address the fears and concerns that block interest in using consensus processes. Some typical blockers include:

**1. No guaranteed outcome:** unlike adversarial processes an outcome is not guaranteed. The process could end without any resolution. Consequently, many worry they will have spent time and money only to be in the same place (or worse) than when they began the process.

**What can be done to:**

- reduce fears of *no gains*,
- introduce realistic sense of value of:
  - i. improving trust, understanding and relationships,
  - ii. embraced understanding of interests and issues.

**2. Problem not mine to resolve:** key parties to the process may balk at becoming involved since they place the responsibility for *solving the problem* at someone else's feet.

**What can be done to:**

- change perspectives of *problem ownership*;
- reveal benefits of participation.

**3. Too risky for me with my superiors:** managers fear the process will take control out of their hands and lead them to places that will only bring on problems with their superiors/constituents.

**What can be done to:**

- remove risks of condemnation by superiors;
- address concerns of "losing control"

Continued on next page

#### **4. Fear they will end up agreeing' to something I**

**should not be agreeing to:** a common fear stems from perceiving a consensus process as building the momentum towards outcomes that cannot be avoided, yet are not acceptable to a party.

##### **What can be done to:**

- ensure each step is accepted by each participant;
- avoid fears of being railroaded into outcome.

#### **5. Process too unwieldy, will involve too many others**

**issues, other interests:** the potential magnitude of the process provokes fears of worst-case scenarios around what other interests and participants will be drawn into the process.

##### **What to do about:**

- creating perception that process is manageable;
- generating limits that do not unduly restrict needed flexibility for encompassing key issues and interests revealed during the process.

#### **6. I have no time to commit to the process:**

representatives are often selected internally and not given the time off from ongoing internal responsibilities to effectively participate. They are wary of taking on the extra responsibility as it may risk their performance at their regular job. They may burn out very early in the process or stress the down sides of the process to constituencies to terminate the need for their involvement.

##### **What to do about:**

- creating the time, resources and internal support for each representative to willingly and fully participate.

Creating front-end space to explore, vent emotions and debunk erroneous assumptions may be critical, as dialogue may contain components of negotiation, tit-for-tat bargaining, confrontation or persuasion.

Addressing those who resist the process or attempt to sabotage it is worth special attention. In almost all highly controversial situations there will be some leaders who will stake their political future on opposing dialogue, pointing to the dangers and betting on the failure of the process. There will also be—if dialogue is to have any chance—leaders who will stake their future on participation in dialogue and betting on the success of the process. Highly skilled leaders are able to move back and forth between these roles effectively. But leaders with these abilities are not always present.

There is rarely a stable status quo—conflict situations tend to be dynamic. Events are therefore either going to be seen as validating the decision to come to the table, or validating the fears of those who don't want to come to the table. If tangible progress—steps that demonstrate that dialogue is going somewhere—is not achieved at some perceivable rate, the bulk of the followers are likely to want to leave the tent.

### Some observations:

- The rate at which progress must be achieved depends on the situation. In general, the deeper the distrust, the more important it becomes for there to be some early signs of progress if dialogue is to be maintained.
- This visible sign of progress may be small and symbolic. It could be parking some irksome language, disquieting to the other side. Or something as simple as saying *this has been a good day*. This could involve parties' publicly disowning extreme positions that everyone knows are unrealistic, but which serve as a real irritant to adversaries. It can be as fulsome as agreement on some civilized rules for the dialogue.
- It may be a symbolic agreement with leaders before the dialogue is publicly announced, so that an announcement of progress can come quickly after the dialogue is announced. It is best always to have a next-step agreement in mind.
- Announcing a dialogue prematurely may quickly become a landmine if followed by a long period of dicker-ing, over even the most basic rules, will discourage those who favour dialogue

and may be fatal to the chances for continuing dialogue.

There are some other critical observations that need to be kept in mind:

- **The process is voluntary.**  
The participants in the process are there by choice and not by mandate. This would suggest that they made an informed overview, that it is in their self-interest to participate. They may not like the range of choices, but they do have the power, make what they perceive to be the most desirable choice.
- **Self-determination.**  
The participants in the process have the information necessary to make an informed choice as to whether or not to engage in the process or to leave it.
- **Recognition of differences in capacity.**  
Not all parties have the same internal coherence, access to funds, ability to do research when they lack knowledge, access to expert advice or other capacities. A dialogue that doesn't recognize this, and attempts to find ways to respond to it, will face difficult challenges.

- **Openness and flexibility.**

One key component of dialogue is the ability to structure the process to accommodate participant needs.

- **Use of a third-party convenor, mediator or facilitator.**

This third party is supposed to be (but in fact may not always be) independent and impartial.

- **Consensus, or some variation, as the basis for decisions.**

What is absolutely fundamental is that the parties all agree upon what they mean by consensus. Consensus has a variety of meanings. It can indicate a decision reached by a discrete group, which has been developed co-operatively and is acceptable to all group members. For some groups, it means that all members must sign off on all components of that decision. Other groups might operate by defining consensus as being able to live with the outcome or not oppose it.

A value that must be inherent in dialogue processes is respect. Within the process, respect calls upon the parties to understand and appreciate the differences not just in what the parties seek, but also the differences within their personal and working lives.

One of the outcomes of many dialogue processes is a deeper understanding of what the issues are. This can sometimes be rather dramatic. When people begin to realize that they have not fully understood the concerns of others or failed to appreciate some of the nuances of the context, they most significantly become open to the possibility that there may be few options for interests, new possibilities often emerge.

Benefits of good dialogue processes might include inspiring, nurturing and sustaining a vital community life; invigorating the institutions and practices of governance; and enhancing a society's ability to solve problems and resolve conflicts. The overall goal of the process is to empower the participants to make their own informed decisions in pursuit of mutual agreement.

Sometimes dialogue is used to address an everyday problem or perhaps to seek common ground on a project or a plan. Or in settings in which the parties are deeply conflicted and are seeking ways to avoid fighting over a crucial issue.

# THE LAYERS OF CONTEXT AROUND DIALOGUE

We interact with each other, and between and among groups and organizations, in a variety of ways. We talk. We listen. We demand. We threaten. We discuss. We sue. We fight. We ask judges to order. We ask ministers to decide. We consult. We negotiate, and when we include a third party to help, we say they facilitate or mediate. And wherever we are in this panoply of possibilities, we make choices about how we will interact with those who can help us and hurt us.

Behind those choices are our goals—what we want to achieve and our worries about what we face in achieving them. And there is always a wider context in which the choice is made. Context opens onto a lot of space in every direction and the line between the choice we make and what surrounds it is blurry and mobile.

Making our choices is akin to the challenge of putting a tire on a moving car with the sights and sounds of a changing landscape as we go by. Power and values, events near and far and the other choices we could have made, are all part of this moving backdrop.

Our choices are based on how we perceive our interests will be most effectively advanced or protected. Our actions, and the choices behind them, are always made with regard to the context around them. What else might we do? What is happening elsewhere? All this to say that the decision and way in which we act is always in relation to the surround sound of context, and as the context changes so to may our perception of where our interests lie, our motivation to pursue, continue, or modify a particular course of action.

Participants in a dialogue are there by choice, not by compulsion—free to come and go, to say yes or no, and to decide what they will talk about and how. They could have made other choices as a means to pursue, advance or protect their interests. The other choices they could have made are always the context for the choice they do make. When the choice made is dialogue, the other alternatives become the first layer of context. If the dialogue does not continue then it is to these other alternatives that they will turn.

—Glenn Sigurdson

The more conflicted the situation, the greater the likelihood that the dialogue relationship will be strained, fractured or non-existent. Taking people and groups into difficult conversation requires building a relationship in which the participants feel sufficiently comfortable to share their concerns and desires. That evolving relationship becomes the inner layer of context.

## THE INTERNAL LAYER OF CONTEXT

For people and groups to take themselves into difficult conversation requires the building of a relationship. The participants must feel sufficiently comfortable and safe that they are prepared to share what worries them and what they want. They must have the courage to share possible options as to how their goals can be met, at the same time as meeting the goals of others. The relationship becomes the context in which it is possible to continue to grow the dialogue. If that relationship cannot be established, the basis to continue the dialogue is lost. Exploring this threshold, and then crossing over it is a delicate journey.

Context includes creating the setting for these conversations. The more

## THE EXTERNAL LAYER OF CONTEXT

This outer layer includes the external realities of place and time and circumstances that surround the discussions—such as political, technical, legal influences, forces that frame the discussion and possible responses and outcomes to it. Context also includes events, sometimes related and sometimes distant and unlikely, that can have implications and impacts on the discussions. What characterizes this outer layer is that the participants to the dialogue have no control over it and must accept it as it is, and as it evolves. To use an obvious but powerful example, after 9/11 many aspects of life have come into different focus in different ways for different folks in different places. How we measure risk and assess the prospects of relationships are always influenced and shaped by the influences and forces from this outer layer. And what happens within the dialogue is impacted by these external events.

A long-range planning exercise involving tanker traffic within fragile marine environments can take on a different quality and intensity on Wednesday morning with the sinking of the Exxon Valdez on Tuesday night.

Dialogue around a long-range plan where the real *rubber will not hit the road for some time downstream* is one thing, but the calculus of choice may suddenly change when word comes down from the government mid-stream that the expectation has become a decision in one month to *divide up wood and water on which livelihoods and lifestyles depend*.

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With new information, or a change in regulations, motivation may change. And there is always the superimposed double image of perceptions, for the critical factor is not what is, but what appears to be.

The stronger the relationship platform, the more resiliency it will have in withstanding and incorporating the unexpected consequences of external forces and influences.

—Glenn Sigurdson

difficult the conversation, the more important that these places are, and are seen to be, safe. Context often starts with the sense that it is OK (perhaps from the folks back home) to go forward into an exploratory discussion. Context is also about building structures and processes that ensure that the parties are working on a common platform of clear expectations about what, who, where and how. This is the foundation on which relationships are built which make it safe and comfortable to talk about the real interests and concerns at stake, not those ostensibly put forward as positions. And it is about the insights and skills to create the context and then get on with getting the job done.

First Nations capture this synergy in an elegant expression: a good way to a good place. Reaching explicit understandings on how we will talk before we try to talk is to build the context around the dialogue and the basis on which to build and enhance a relationship. The first step to owning the outcome is to own the process through which the outcome is to be sought. Reaching a good place involves first reaching agreement in a good way. How we respond to potential outcomes reflects not only on our reaction to the outcome, but our feelings about the way in which we arrived at it. Shakespeare's, *an ill-favoured thing, sir, but mine own* continues to resonate.

—Glenn Sigurdson

The outer layer includes external realities, such as political, technical and legal influences, as well as forces that frame the discussion and possible responses and outcomes to them. Context also includes events, sometimes related and sometimes distant and unlikely that can impact the discussions. The participants have no control over this outer layer and must accept it as it is.

# DIALOGUE AND GOVERNANCE

Constitutions and laws, and the institutions of governance that enforce them, are invariably a key component of the contextual surround sound of dialogue. In most democracies, the rule of law is seen as defining and guarding the public interest and protecting the rights of the individual. It reflects deep-seated values and provides the framework for the legitimate exercise of power. The closer the subject matter of a dialogue-based process comes to touching upon a matter within the jurisdiction of a governmental body, the more significant this contextual layer becomes in shaping the dialogue process. And the more significant the interface between authority-driven processes and voluntary based initiatives becomes.

Institutions of democracy have evolved differently in different countries. The nuances of these different political frameworks inevitably have implications for dialogue, including the enthusiasm with which dialogue-based approaches are received. But another reality must not be overlooked. The world is far older and bigger than the western democracies. This much is clear. Talking and listening is fundamental to the human condition and the art and practice

Rights, mandates and responsibilities are the instruments of governance—directing actions and requiring accountability. How is this to be reconciled with voluntary, participant-driven, dialogue-based process? One major consensus process responded to that question:

## GROUND RULES FOR CLARIFYING RIGHTS AND RESPONSIBILITIES

A) The intent of this process is to provide the opportunity for all parties with a stake in the outcome to participate in a voluntary process to deal with issues and resolve disputes so that, whenever possible, final decisions are made on the basis of recommendations supported by a consensus as opposed to being unilaterally imposed. Decisions in the dispute-resolution process shall be by consensus. Consensus shall mean the general agreement of all participants on a package of decisions or recommendations and shall embody the following concepts:

- Consensus does not mean total concurrence on every aspect of a decision, but all participants must be willing to accept the overall decision package.
- If a participant withholds agreement on an issue, that participant is responsible for explaining how its interests are adversely affected or how the proposed agreement fails to meet its interests. The participant withholding agreement must propose alternatives and other participants must consider how all interests may be met.

Continued on next page

- When initial agreement is achieved, some participants may need to take the agreement back to their constituencies or a higher decision-making authority for ratification.
- Once consensus is reached on the overall package, it is assumed to be binding.

B) All participants to a recommendation on which consensus has been achieved agree to exercise their rights, mandates, and responsibilities consistent with the recommendation and to take such further steps as maybe necessary to give it effect.

C) If no consensus is achieved through this process, each participant will exercise its rights, responsibilities, and mandates as it sees fit—unfettered as to its statutory decision-making responsibilities and without prejudice to its rights and obligations by reason of having participated in the process.

2005 *Initiative* involving the development of a planning and regulatory framework for the gas industry in Northeast British Columbia.

of dialogue stretches to the deepest roots of civilization. Which leads one to ask: are dialogue-based approaches on matters of public concern some recent invention of the western mind? Or do they reflect a reaching back to an ageless wisdom, long before there were courts and arbitrators and governments as we have come to know them. That the reality of life together in communities requires ways to work and decide together?

For some, the prospect of dialogue-based processes include diverse perspectives and sectors with persuasive influence or real decision-making power around public issues and raise questions about the fundamental tenets of democracy such as:

- Didn't we elect town councils, state and provincial legislators and members of parliament and congress so that accountable representatives could resolve public questions?
- Does it not undermine that system to allow a hodge-podge of non-governmental organizations, regulators, developers and the like to develop expectations that any consensus they may reach on critical and difficult issues that affect both their interests and the public interest will be taken seriously, if given effect, by legislators?

- What do dialogue-based approaches have to do with good governance, which is built on an adversarial culture infused in government, the courts and the fifth estate?
- Have we forgotten about 50 plus 1?
- Changes in the legal landscape, including new legislation and a more active judiciary have caused many to question how and where their voice is to be heard.
- Disquiet with the effectiveness and accessibility of traditional means of dispute-resolution has given rise to a growing role for alternative voluntary, as opposed to prescriptive, processes.

Others assert the view that changes over the past several decades have hindered authoritative public decision-making. The perspectives they offer include:

- Increases in what are considered public rather than private matters, as diverse as land use or childcare, lead to an unwieldy administrative apparatus of state government, bound by formal rules which, while intended to protect the public, also stifle dialogue and actually promote divisiveness.
- Diffusion of power, the growth of public advocacy groups, public involvement legislation, access to media and communication, technology and the like have created new and different expectations within the citizenry about their role and responsibility in governance. Particularly about decisions that affect them.

## SNAPSHOTS OF TWO SYSTEMS OF GOVERNANCE

In parliamentary democracies, such as Canada, power is determined at the ballot box. The anvil of power is the party, which works on the basis of solidarity, not free expression. The process of informing and reaching decisions is through the cut and thrust of debate, with the loyal opposition on the other side of the house. The prime minister (who is also the head of the governing party) appoints his Ministers and their deputies, and terminates them at his pleasure. His appointment-making authority is vast—from the justices of the Supreme Court of Canada to the membership on the hundreds of federal agencies and bodies. The premiers of the provinces have essentially the

same scope of powers, but exercised within a much smaller purview. The Canadian Constitution, until the 1982 Charter of Rights and Freedoms, was confined to an enumeration of federal and provincial powers and constitutional challenges were largely jurisdictional tug-of-wars. The Charter now extends a far wider sweep for judicial overview, including the right to strike down federal and provincial legislation inconsistent with the Charter as interpreted by the courts in much the same fashion as the U.S.

What of the U.S.? Allen Gottlieb, former Canadian Ambassador to the U.S., elegantly describes the dynamics within that framework as he came to know and understand them:

A foreign ambassador to Washington is accredited neither to a government nor even to a system. He is accredited to an unstable mass of people, forces and interests that are constantly shifting, aligning and realigning in ways that can affect or damage the interests of the country he represents. So complex is this mass, so unstable its properties, so shifting the terrain on which it rests that the only way to describe the phenomenon is by recourse to metaphors and mixed ones at that.

I see the Washington political scene as a mass or physical field or continuum in which myriad electrons or particles are constantly moving about, as in an atom, in seemingly infinite patterns and designs. Each particle is charged with power. Some of the elements have more power than others, but all have power of some kind. The particle that is the president is charged, as a rule, with more power than most other particles, but the power emitted by that particle is not constant, and, in some patterns or formation, other particles may emit charges that are equally or more potent. The speaker of the house, the majority and minority leaders in both houses, the whips and the chairmen of committees and of the proliferating subcommittees may all be charged with very specific power, exceeding at times the power of the president and the cabinet secretaries and other top-ranking officials, all of whom in turn emit charges of greatly varying strength. Indeed, the particle that is one senator may be sufficient to neutralize or put on hold the movements of all the others. Some of the particles are barons of media, some are celebrity columnists, some are permanent members of the foreign-policy industry. Others are congressional staffers,

Continued on page 53

## THE DECISIONS OF GOVERNMENT AND DIALOGUE

At all levels of government in Canada, elected politicians delegate much of the day-to-day responsibility for environmental management to non-elected officials. For example, in practice, it would only be in highly exceptional circumstances that the minister of fisheries and oceans would personally review the details of area fishing plans: this responsibility is typically delegated through the deputy-ministerial and director levels to regional or field offices. There, appointed officials make the decisions that powerfully affect the livelihoods of fishers and their communities. Recently, some groups have successfully pressed for consensus forums and co-management of the resources to replace dependence on the discretion of departmental employees. To suggest that a consensus process usurps what would otherwise be the thoughtful, direct involvement of the elected official ignores the nature of bureaucratic decision-making in Canada today. The move toward consensus processes involving non-governmental groups, as well as government agencies, broadens the process in a way that reinforces the participatory foundation of a democracy.

No consensus process used in Canada to date has been advocated as an alternative to the exercise of legitimate government mandates... These initiatives no more deny final ministerial responsibility for project approval than do appointed advisory panels.

The importance of direct government participation, especially by agencies with regulatory duties, was noted earlier. Their presence within a multiparty group operating by consensus means no decision will be allowed to violate any legally required mandates. For example, in the Sandspit Harbour negotiations, the federal Department of Fisheries and Oceans Habitat Management Division was directly represented on the negotiating team. Official habitat policy was not negotiable. This meant that although there was flexibility in the placement and development of the proposed harbour, the Department required habitat compensation consistent with established standards.

—From Cormick et al., in *Building Consensus for a Sustainable Future: Putting Principles into Practice*

## THE DECISIONS OF THE COURT TRIBUNALS AND DIALOGUE

Judicial and administrative processes, with a common foundation of British Common Law in many corners of the world, are grounded on the principles and protocols of adversarial advocacy. The agencies and tribunals charged with administrative responsibilities work within the same culture and values as the courts. There has been a growing frustration with the accessibility of the courts and tribunals and their ability to deliver solutions for the real problems of the parties before them.

The courts and agencies in turn are looking for new ways to deliver outcomes efficiently, effectively and creatively. The judicial toolbox is confined to declaring, stopping, and giving or taking money from one to the other. The more complex the case, the more challenged the courts are to deliver responsive solutions. The legal issue will be resolved, but only to the extent necessary to deliver an outcome on the facts before the court. And the legal issue may not resolve the real issue for the parties. And so too with administrative tribunals working within circumscribed jurisdictions and a legalistic culture.

Increasingly, those with the problem have come to demand their right to be part of developing

the solution and to resist sitting in silence while others speak for them. Often the courts are asked to address cases with a very high public profile, involving determinations as to the public interest. Often, the decision reached in such cases does not resolve the problem for the parties or leaves questions as to how the decision is to be implemented.

The courts decide the issues before them, and in doing so, urge the parties to renew their efforts to resolve their own problems. Often, these efforts are unsuccessful and the parties are soon back before the courts.

Unlike the courts, there is no limitation on the capacity of the parties to build solutions that meet their needs. But finding effective ways to reach such outcomes often perplexes the parties.

Understanding the interface between authority and participant-driven approaches—for each to understand the potential and limitations of the other—and to work effectively and seamlessly in helping to shape responses to difficult public challenges, is an important work-in-progress. This will require the professionals inside and outside authority-based processes to each develop a better understanding of the insights and approaches of the other to enhance their own effectiveness and each others.

—Glenn Sigurdson

some are lobbyists registered and unregistered, some are lawyers, some are former secretaries, some are future ones, some are hostesses, and many fall into no particular category at all. Just how complex are the centres of power almost defies description.

Thus, in order to succeed, or to have even a chance of succeeding, the diplomat has to enter into the physical field. He has to become a particle, so to speak, and be able to carry a charge of his own, no matter how modest, so that he can, in some manner, refract or repel the power of the others. The particles are the players in the political contests of Washington, the participants in the vast number of decisions that are embodied in the laws, regulations, directives, guidelines, processes, and other outcomes that emanate from the various centres of power on any ordinary day in the nation's capital.

How do these different pictures play out in responding to questions like those below:

- Does the fact that fundamental institutions of governance are built on a deeply seated set of adversarial values

and approaches have implications for use (and disuse) of dialogue-based approaches as part of the apparatus of governance?

- Are there implications that flow from the different ways in which power is institutionally divided in Canada and the U.S.? What are the implications of this for managing interests across borders and dealing with disputes?
- Against the backdrop of the U.S. Constitution and in Canada since the advent of the Charter, with the role of the courts as the ultimate arbitrator of values, has the scope of dialogue within the society around difficult value-based choices grown, or diminished, and what are the implications for the use of dialogue in responding to these challenges?
- Do we agree or disagree? And why?

Dialogue-based processes in respect to public issues are not distinct from, but rather work within administrative, legislative and legal institutions. For these institutions, dialogue-based processes offer the potential to enhance their effectiveness in responding to problems that are rapidly increasing in

complexity and scope. These approaches represent potential channels of participation by an engaged citizenry to respond appropriately to public demands. And by encouraging active, lasting and meaningful public participation in decisions made on that public's behalf they offer the potential to strengthen, not undermine, those institutions. That is the question.

# WHAT IS THE ROLE OF A NEUTRAL THIRD PARTY, SUCH AS A MEDIATOR OR FACILITATOR?

**I**t behooves those who intervene in the affairs of others to understand and espouse a set of essential principles that define their work as intervenors. The basis for making difficult choices during the process of intervention should be a clearly defined set of values. The intervenor should be explicit about these values in discussions with process participants.

## Some questions for consideration:

- Sometimes parties seem to be able to negotiate directly with each other effectively. In other situations this seems very difficult or even impossible. Why? What factors determine this?
- What value does a neutral third party add, in helping build relationships or resolving disputes that have arisen within them?
- Does the third party have a role in internal organization or capacity building within groups? If so, what are the guiding principles, what are the limits, and where do the resources come from?

- Recall Stuart's earlier words—in underestimating the challenges of a dialogue process, parties may prefer to go it alone, and fail to engage a skilled facilitator. Deciding if a facilitator is necessary and choosing an appropriate facilitator at the outset of the process can be instrumental in starting off on the right foot. If the facilitator is not properly skilled, the process can be grossly mismanaged and quickly become adversarial. The risks of a failed dialogue are not just in the parties' imagination, they can be very real.

A facilitator can help parties make informed choices as to whether it is or is not in their interest to participate in a dialogue-based process, helping to assess both the value in pursuing or not pursuing a dialogue-based process. The greater an organization's understanding of dialogue, the greater will be its interest and commitment to participate.

If any party is uncomfortable with the intervenor, it severely limits that intervenor's ability to be helpful. Even if the chemistry is poor for no discernible reason, the parties should address the problem and consider looking for a new intervenor.

## SOME FACTS OF LIFE

—GERALD CORMICK

It is important to remember that our processes are not a magic bullet. They will not always work. They are not always appropriate. They can make situations worse. As intervenors we do not have the right to make those determinations for the parties

The most important element in ensuring a quality process and quality intervention is to enable those who would use such processes and engage the services of intervenors to be informed consumers. This requires that we be clear and explicit in terms of what we do and what we know and what we do not know. It requires clarifying rather than muddying choices. An egregious example of our tendency to muddy definitions to appease concerns within the intervenor community was one of the best practices documents where it was agreed that facilitation and mediation were synonyms. An important opportunity to differentiate quite different but equally legitimate roles and functions was missed. And it requires intervening in a manner that permits and enables potential process participants to make their own choices, separately and collectively.

Convening relates to getting the parties to the table. A role that intervenors play, and often do.

However, sometimes an individual or institution a) uninvolved in the dispute, b) respected and trusted by all parties, and c) with a positive public reputation for integrity and fairness, may be the champion of the process and create the context for an intervenor to advance the convening function to a more explicit phase.

The convenor's role may simply be:

- To call the parties to the table. This may relieve the parties' representatives of the onus of appearing weak by trying to promote negotiations themselves. It may impel those who may be wavering, to desire not to be seen publicly as rejecting a convenor's call to dialogue.
- To serve as a guarantor of agreed rules of behaviour. Where parties have a deep concern that certain rules of dialogue be observed—for example that private trial balloons not be made public—the possibility that the convenor will show disapproval of any breaches of etiquette may serve as some form of

Continued on page 62

guarantee against trickery or breaches of agreed understandings.

Some questions for consideration:

- How do we know an appropriate and effective convenor when we see one?
- What defines success or failure in the role of convenor?
- Sometimes a single individual or institution can successfully convene a dialogue process. Other times a balanced group of convenors may be necessary. How do we know?
- Can a convenor also serve as a mediator? Are there times when the roles conflict?
- Is the lack of appropriate and effective convenors a major obstacle to some kinds of desirable dialogues?

WHY ARE WE WORRIED ABOUT THE  
QUALITY OF THE INTERVENOR, OR THE  
INTERVENTION?

—GERALD CORMICK

There appears to be variety of reasons why quality has emerged as a concern. Not all are explicit. Do they require or suggest different ways of looking at quality? Should we pay attention to some and ignore or even discredit others?

1. There are practitioners out there who are not providing a service and process that we regard as appropriate or good. But:

- Who determines what is good?
- Does good differ between the parties? The parties and the intervenor?
- Is the perceived problem a disconnect between what is promised and what is delivered?
- No consensus? Oh well, 50% is good enough.
- The environmentalists are leaving the process? Oh well, we'll just go

on without them. It will still be a consensus, just not of all the parties.

- This was supposed to be an off-the-record exploration unless otherwise agreed? Never mind, after all, do we really need to make this effort public?
- We are all here as individuals. Don't worry, we are just noting your affiliation for information.

2. If we don't tell people what they should look for and what they should be concerned about, how can they be informed consumers of our processes?

- Who should be defining what they should look for?
- Is there an inherent conflict of interest if we define quality for the processes we are selling?
- Do consumers know that they want or what they should want?

3. It is a necessary step in the accreditation process: this raises the whole debate of why accreditation is or

is not a desirable outcome for the field. With tongue somewhat in cheek, some of the arguments seem to be:

- It would inform and protect the users of the process by ensuring that only qualified practitioners provide the service. But,
- Do we know what makes a qualified practitioner? Does it make them less wary than they should be given the level of knowledge?
- Qualifications may not be quality and most existing lists focus on hours of training (which in itself is not accredited and may not have much correlation with quality, as is yet to be defined).
- If we don't do it, someone else might.
- The fear is that some particular group (lawyers) might impose their qualifications as a basis for accreditation. It will limit entry (there isn't enough work to go around now).
- Too many people chasing too little work will lead people to do-

ing what they shouldn't just to get the work.

- Other professions do this? At present accreditation masquerades as lists of approved practitioners available from various agencies and organizations. The ability to accredit or maintain a list is a source of power and control: if we keep the list, we can start to control access to work. But,
- What are the criteria for getting on lists?
- Are they the right criteria?
- Do the criteria mirror the qualifications and beliefs of those who keep the lists? If not, where do they come from?
- It will greatly enhance opportunities for those who provide training (albeit for jobs that don't exist).

# WHAT IS SUCCESS? IS QUALITY EQUIVALENT TO SUCCESS?

What is valued at the beginning of a dialogue may be very different from what is valued at the end. As the relationship grows, the potential exists that what was initially seen as a risk increasingly comes into focus as an asset. What was a cost becomes thought of as an investment.

The recognition of the potential for these perceptions to change has implications for the choices to be made at the beginning. What it will take to build an effective and enduring relationship by endeavouring to reach a consensus may be seen very differently if the parties recognize this potential by using the looking glass of relationships as an asset, as opposed to the lenses of risk and cost. Elsewhere I have made this point in this way:

Effective relationships must have the capacity to respond to changing circumstances, the evolving needs and goals of the parties, differences in values and perspectives, and inevitably, disagreements. The capacity will exist where each of the partners considers that its own self-interests are best

served by understanding and addressing the interests of the other party and where the relationship is seen and valued as an asset that requires ongoing and explicit attention and investment.

Success is measured in terms of how well the essential needs of the parties are met, and continue to be met.

—Glenn Sigurdson

Cormick anguishes his way to suggest three possible definitions of quality:

- There is the quality of the process, which asks if the process that was received matched the process that was delivered. Are there qualities of a process that are inherent in its nature?
- Next is the quality of the intervention. Did the intervenor do right things? How does the intervenor compare with other intervenors?
- The third definition is the quality of the outcome. Was it successful or not? Is success defined by the purpose of the process?

“WHAT DO WE MEAN BY QUALITY? WHY DO WE CARE ABOUT IT? HOW CAN IT BE MEASURED—AND WHO WOULD MEASURE IT? AND WHAT WOULD YOU DO IF YOU KNEW WHAT QUALITY WAS, AND COULD MEASURE IT?”

—GERALD CORMICK

If we are proposing dialogue as a solution to some of the problems of individuals and society, we need to recognize that all that glitters is not gold. There are activities that call themselves dialogues that are far removed from the kinds of processes we are trying to describe. Some of them may be profoundly abusive of the interests of some parties.

We therefore need to be careful to define what we are talking about and distinguish the real product from the counterfeit.

But while the problem of unfair processes, or counterfeit discussions masquerading as dialogues is real, the more frequent and harder to define issues are those of quality: what distinguishes a good, skillfully conducted dialogue from a poor, clumsily managed process. Success in the promotion of dialogue is dependent on our ability to set measurable criteria of quality.

Our use of a dialogue process is successful when we see evidence of the following:

- Bridging of insurmountable differences in relationships.
- Creation of empathy for common values, goals and concerns.

- Discovery of areas of joint interest as discussion proceeds.
- Crafting of workable solutions informed by those who know the most about the issues.
- Bringing together of sufficient resources to accomplish what cannot be accomplished by a single party or smaller coalition.
- Making faster and cheaper decisions by avoiding costly and time-consuming administrative, legislative or judicial public processes.
- Creating gains beyond the minimum standards required by laws or policies.

Another important indicator of a successful dialogue process is the feasibility or implementability of the solution reached by the group. The following questions can be used to gauge the implementability of a proposed solution:

- Was there a rush to agreement just to have a success?
- Is the solution financially, technically, politically, institutionally, socially and culturally feasible ?

- Are the responsibilities for implementation clear?
- Are the time lines for implementation clear?
- Is a dispute-resolution process needed for resolving unforeseen problems?
- Are there consequences for failing to implement?
- Is the agreement public? Is there some provision for public review and comment? Should there be?
- Will the parties be happy with the result in the future? Or has someone failed to see how his interests will be compromised as the agreement is implemented, winding up feeling swindled?

E. Franklin Dukes reflects on the set of concerns which arises with respect to doing the dialogue process right as distinct from doing them at all. He suggests that there are two fundamental criticisms that are advanced. The first is that dialogue processes are being initiated in inappropriate circumstances.

Dialogue processes have been criticized for being used in the wrong circumstances. Some participants complain that they have found themselves in processes that sounded promising, but that turned out to have been misrepresented by the convenor. Or they were tainted by the motivations of key players. Or there wasn't sufficient attention up front to thinking through all that would be required to conduct an effective and fair process. Sometimes that involves such things as inappropriate practices in the selection of a mediator or inadequate access to socio-information.

—E. Franklin Dukes

The second is that they are being conducted using inappropriate practices.

There have been dialogue processes on issues where such efforts may well have been appropriate and potentially helpful, but the process failed to live up to its potential because best practices were not followed. Perhaps a mediator was selected by an agency without

consultation of participants or key representatives were excluded or there were insufficient resources to provide high-quality information.

—E. Franklin Dukes

# THE QUALITY DIAGNOSTIC: A FUNDAMENTAL CHECKLIST

—GERALD CORMICK

## A. THE PROCESS

### 1. Clarity:

The purpose and the intended outcome of the process are clear and are explicitly agreed to by the participants—communication, consultation or consensus.

Questions: Does the Bellman array provide a basis for determining and comparing outcomes?

### 2. Voluntary:

The participants in the process are there by choice and not by mandate. This would suggest that they make an informed suggestion that it is in their self-interest to participate. This is not to suggest that no coercion is involved, *I will not negotiate under threat*. They may not like their choices, but they do get to make them.

Question: how do we deal with labour disputes where mediation may be required or imposed as a step in the process. Does it prove or disprove the importance of voluntarism?

### 3. Self-determination:

The participants in the process have the

information necessary to make an informed choice as to whether or not to engage in the process. What might participants want to know? In my own experience, recurring questions seem to be:

- How long will it take?
- What will it cost?
- How much time and effort will it require?
- What if it doesn't work?
- Will I be worse off?
- Will they make it look like it's my fault it failed?
- They'll know more about me.
- They'll know my arguments.
- We'll have used up many of our resources.
- Will I be better off?
- Reverse of the above.

- What if it works?
- Compromises?
- Certainty?
- Will they be bound by the agreement?
- What if they violate the agreement?
- Time to fully communicate with members/constituents/principals.
- Choices are not limited by ability and resources to participate in the process (e.g., travel expenses, cost of taking time off from jobs, etc.).
- Other.

Questions: how do we identify the right questions? Are they a combination of the questions asked by the clients and those that intervenors think should be asked? Is a process involving both camps (such as this or the development of the 10 principles, the best way to go)?

#### 4. Fairness:

Are all participants in the process able to participate at a level that they would define as fair. How would fair be defined?

Elements might include:

- Access to information.
- Independent ability to assess information (especially scientific and technical information).
- Time to become informed.

Question: How do the participants define fairness? If the process isn't proceeding in a fair manner, who should make the call? What should they do?

#### 5. Inclusiveness:

Are there those who are disadvantaged by not participating?

- Has some party with a direct interest chosen not to participate?
- It seems somebody always wants to leave somebody else out (they are unreasonable).
- Are there provisions for adding other participants?

Question: How do you differentiate between a process to settle a dispute vs. a process that creates a coalition that overpowers minority

interests by exclusion or going forward without them?

#### 6. Ownership:

The process belongs collectively to the participants. Is not owned by an agency, nor is it owned by the intervenor. They understand the process in which they are participating and control all decisions.

#### 7. Empowerment:

The overall goal of the process is to empower the participants to make their own, informed decisions in pursuit of mutual agreement.

## B. THE INTERVENOR

#### 1. Role:

Does the intervenor understand that they are intervenors in the affairs of others?

#### 2. Values:

Does the intervenor understand and espouse the process values listed above?

- Do they defend them against the parties?
- Are they willing to “walk” if they are violated?

#### 3. Independence:

Is the intervenor independent of the parties?

- Importance of full disclosure?
- How are they selected?
- How are they managed?
- Who can fire them?
- How are they paid?
- Do they have views on the substantive issues?
- Are they benefited by the outcome? How?

#### 4. Experience:

Is there reason to believe that the intervenor knows what they are doing?

- Importance of references?
- Experience with this process?
- Familiarity with structural, cultural and social context?
- Is substantive knowledge important? Why?

## 5. Chemistry and trust:

If any party is not comfortable with the intervenor it severely limits the intervenor's ability to be helpful. Even if for no discernible reason the chemistry is poor, the parties should dispense with the intervenor's services or he should withdraw.

- Do you trust the mediator enough to tell them things that could hurt you?
- Do they understand and accept what is most important to you?
- Do they have a sense of the appropriate, and what is and isn't important?
- Do they push you? Challenge some of your assumptions?
- Do they help you become better negotiators?

## C. THE OUTCOME

The first measure of the outcome should be whether or not the outcome of the process (communication, consultation, consensus) is what the participants expected. Where there

is a substantive outcome (e.g., agreement of the parties) there are a number of questions that the participants should consider (and that the intervenor should press them to consider).

### 1. Implementability:

Can the agreement be implemented?

- Was there a rush to agreement just to have a success?
- Is it feasible financially, technically, politically, institutionally, socially and culturally?
- Are the responsibilities for implementation clear?
- Are the time lines for implementation clear?
- Is a dispute-resolution process needed for resolving unforeseen problems?
- Are there consequences for failing to implement?
- Is the agreement public? Is there some provision for public review and comment? Should there be?

## 2. Commitment:

Different agreements require differing levels of commitment and continued or future effort by the parties if they are to be implemented successfully. In one situation not opposing an agreement may be sufficient. In another the public commitment of all parties is necessary if implementation is to be successful. A number of questions might be asked:

- Is the level of commitment to the agreement sufficient to achieve implementation?
- Have principals and constituents ratified it formally?
- Are the parties willing to publicly commit to the agreement?

## 3. Future relationships:

Agreements often define a new relationship or even quasi-organization for implementation.

- Is the relationship clearly defined?
- Are the expectations of each of the parties clear?

- Do all of the parties have a role in the implementation?
- Is sufficient time set aside for the relationship and the implementation?