

## Module 2: DIALOGUE WITH GOVERNMENT AND CONSENSUS-BUILDING



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### *For the Trainer*

- Activity
    - Interactive discussion
    - Case study analysis
  - Time
    - Two sessions:
      - Session 1: 3 hours
      - Session 2: 3 hours
  - Learning Objectives
  - Discussion Outline
- Materials
    - -Powerpoint presentation
    - - Sec. Ging Deles' videos; transcriptions
    - -Case studies from *Justice for the Poor*, CAS-WB Phnom Penh, 2006
      - 1. "Land Dispute in Prasat Sambo District, Kompong Thom Province,"
      - 2. "Fishpond Dispute in Sa'ang District, Kandal Province"

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### Learning Objectives

- Introduce participants to basic principles
- Share some application of basic principles to local experiences in Cambodia and the Philippines

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### Discussion Outline: Session 1

#### **Session 1: Introduction and Context**

- Two case studies in Cambodia
- Philippine experience: National Anti-Poverty Commission
- Dialogue with Government
- Consensus Building
- Assessing the need for dialogue and for consensus-building

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### Discussion Outline: Session 2

#### **Session 2: Basic Principles of Dialogue and Consensus Building**

- Thumb exercise
- Understanding Conflict
- Basic Principles of Communication
- Hand Tangle Exercise
- Introduction to Negotiation
- Consensus Building Tips

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## Introduction and Context

Session 1

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## Video Presentation 1

### Sec. Teresita "Ging" Deles

see video or attached transcript

## For the Trainer: Opening exercise

- Form groups of **3 people in each group**
- Look back to your activities last week. **Share with your group** any experiences you had in dealing with government agencies or officials (it can be a simple or complex interaction on any issue)
- Among the experiences you shared, **choose one** memorable experience you want to share with all participants.
- **Write a phrase** to describe it on an idea card.

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## For the Trainer

- Introduce the case studies:
  - Cambodia
  - Philippines
- Focus on:
  - the concerned parties;
  - addressing the issues; and
  - outcomes

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## The Cambodian Experience

Center for Advanced Studies  
WB Phnom Penh



[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=983317#PaperDownload](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=983317#PaperDownload)

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## Case No. 1:

### Land disputes in Prasat Sambo District, Kompong Thom Province



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## Concerned Parties

### 2001

- Villagers who converted forestlands to farms
- High-ranking district official claiming land used by villagers for chamkar
- Village chief, elders, achar

### 2005

- Villagers who used forestlands for farms
- District Commission claiming the farm lands for school construction; deputy district governor
- Village chief, village representative
- Local NGOs, SRP parliamentarian, Voice of America
- Provincial Governor

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## Addressing the Issues

2001

- Villagers asked help from village chief, elders
- Elders and achar met with district official
- Achar told, he “should not play with his life”

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## Addressing the Issues

2005

- Villagers protect their chamkar with knives and axes; asked help from village chief
- Villagers meet with deputy district governor; villagers refuse to sign land survey/list
- Villagers contact NGO; NGO helped village rep prepare petition to Provincial Governor
- SRP Parliamentarian and VoA help, villagers spread the word
- 2nd meeting with dep dist gov; threats
- Provincial Governor acts on petition

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## Outcome

2001

- Meeting between achar and high-ranking district official
- After the warning to achar, no more protests, villagers move to other areas
- Villagers feel they were cheated

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## Outcome

2005

- 1st meeting with district official, villagers asked to sign)
- 2nd meeting with official, villagers threatened with court cases
- NGO assistance to file petition with Provincial Governor
- Assistance from SRP parliamentarian and VoA to inform villagers about the issues
- Provincial Governor refused to resolve the issues between villagers and commune officials but issues order to reduce claimed land for school

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Case No. 2:

### Fishpond dispute in Sa'ang District, Kandal Province



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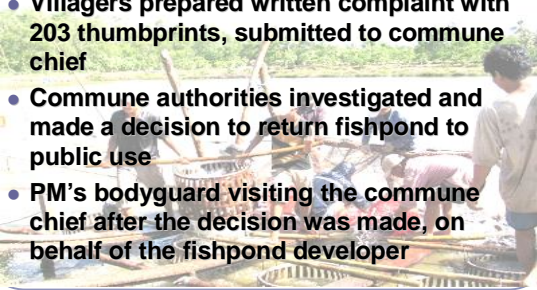
## Concerned Parties

- New resident who developed the fishpond on public land (near a natural pond)
- Long-time resident who allowed development of fishpond through agreement with new resident
- Villagers who opposed fishpond dev't., led by village chief
- Commune chief and council who decided on the issue
- Prime Minister's bodyguard who intervened

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## Addressing the Issues

- Villagers prepared written complaint with 203 thumbprints, submitted to commune chief
- Commune authorities investigated and made a decision to return fishpond to public use
- PM's bodyguard visiting the commune chief after the decision was made, on behalf of the fishpond developer



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## Outcome

- After the visit of the PM's bodyguard, the commune authorities changed their decision and allowed the fishpond owner to use the pond for private purposes.



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## The Philippine Experience

### National Anti-Poverty Commission (NAPC)

- Dialogue between the basic sectors and government

### The Social Reform Agenda (SRA)

- Consensus building among basic sectors on a common agenda to raise with government

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## Video Presentation 2

The Structure of NAPC

see video or attached transcript

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## Video Presentation 3

Roles and Important Functions of NAPC

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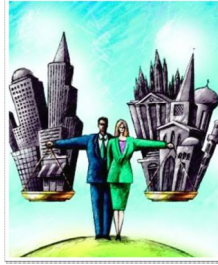
## Video Presentation 4

NGOs got together and laws were passed

see video or attached transcript

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## Dialogue with Government



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## Elements of Dialogue

- Parties - who are involved
- Issues - subject matter
- Information/resources needed to understand and address issues



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## Elements of Dialogue

- **Context**
  - Power relations (authority, knowledge, force, outside support)
  - Cultural context
  - Dialogue venue, etc.

**Dialogue with Government:  
How is it different?**

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## Roundtable Discussion on Green Benches



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## Dialogue on Geothermal Exploration in a Protected Area



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## Dialogue and Social Accountability



- What is social accountability?
- What is dialogue with government like in the context of seeking social accountability?
- ALIR

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## Range of SA Dialogues

- Requesting for information, clarification
- Asking for delivery of services
- Asking for a change in laws or policies
- Monitoring government performance
- Demanding official accountability
- Direct participation in governance

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## For the Trainer

- Guide Questions: Role of Dialogue in the Case studies
  - When did dialogue happen?
  - Between whom?
  - What was the outcome in each dialogue?
  - Did dialogue help resolve the issue?

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## Case No. 1:

### Land disputes in Prasat Sambo District, Kompong Thom Province



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## Addressing the Issues 2001

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## Case No. 2:

### Fishpond dispute in Sa'ang District, Kandal Province



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## Addressing the Issues

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## Barriers to Dialogue in Case Studies

- What are some barriers to dialogue?
  - Threat - Case 1: "play with your life"; Case 2: PM bodyguard unit
  - Officials not ready or willing to dialogue
- How did the parties deal with the barriers?
  - Acceptance of situation
  - Find other officials willing to intervene
  - Counter-threats (rally with weapons to defend farms)

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## Consensus Building



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## For the Trainer

- Discuss: Consensus Building
  - Definitions
  - Advantages and Disadvantages
  - Consensus building process
  - Examples

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## Definitions

- **Consensus**
- **Consensus Building**

"Consensus Building allows parties with differing interests and values to produce agreements that are better for everyone than their "no-agreement" alternatives. Consensus is reached when all "joint gains" have been explored, and explicit efforts have been made to meet the needs of all parties—though parties are never asked to give up pursuing their own self-interest."

Consensus-Building Institute

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## Advantages / Disadvantages

- Advantages - unity; priority
- Disadvantages - long process
- Consensus among whom?
  - Caucus of like minded groups before engaging government in dialogue
  - Consensus with government counterparts on addressing issues raised by the group/s

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## Consensus Building

Getting community consensus to oppose construction of a dam



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## Consensus Building

Workshop to draft a waste management ordinance



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## Consensus-Building Process

- Introduction: Role of Facilitator / Convenor
- Storytelling: Identifying the issues
- Problem Solving: Generating options to address issues
- Agreement: Process and substance; Fairness



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## Video Presentation 5:

National Peace Conference Process of Consensus Building

see video or attached transcript

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## Video Presentation 6:

National Peace Conference Process of Consensus Building 2

see video or attached transcript

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## Assessing the Need for Dialogue and Consensus-Building



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## Legal Analysis of Case 1

### • The Prasat Sambo case

- People cleared forest and converted it into agricultural land.
- The fact that the land was once forest would be enough to have it classified as state public land and thus bar villagers from acquiring it by possession.

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## Legal Analysis of Case 1

- In practice, the Forest Administration has indicated that they will determine forest cover with reference to a 2002 map based on satellite imagery.
- If this rule is applied, then land cleared prior to 2002 will be eligible for possession.
- The majority of the Prasat Sambo villagers claim to have been continuous possessors since before 2001.
- Applying the law in this way, they would be considered to be lawful possessors.

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## Legal Analysis of Case 2

- In the fish pond case, as long as the fish pond was part of a preexisting natural lake, the commune authorities were correct in their initial decision that the pond belonged to the state for public use. Because the land in question was state public land, private individuals had no right to claim exclusive use over that area.

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## Philippines' SRA/NAPC

- Consensus on the Social Reform Agenda took many many years before basic sectors could bring the SRA to government for action.
- There was a long struggle to create NAPC as the venue or space for dialogue, and institutionalize a process for dialogue
- Dialogue between government and basic sectors can mean differently at different times, depending on the value that government placed on the process

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## Video Presentation 7:



Summary

see video or attached transcript

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## Conflict Mapping

Consensus Building Institute

- Are issues and stakeholders identifiable?
- Is there a credible convenor?
- Are stakeholders willing to participate (what are their alternatives)?
- Are there sufficient time and resources for consensus building?
- Is there a reasonable prospect of agreement on at least some of the issues?

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## Basic Principles of Dialogue and Consensus Building

Session 2

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## Understanding Conflict



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## For the Trainer

- Discuss 'Conflict'
  - local terms
  - Characteristics
  - Different types

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## Local Terms for "Conflict"

CAS-WB Phnom Penh

- *mean roeung* 'there are troubles',
- *mean panh'ha* 'there is a problem'
- *mean tumnoah* 'there is a conflict'



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## Local Terms for "Conflict"

CAS-WB Phnom Penh

- Conflict management follows the customary practice of *sâmroh sâmruol* (*sâmroh* 'to cause to be together or to be friendly to each other', *sâmruol* 'to make something easy').
- *dohsray* 'to untie, to take off, or to solve something such as a puzzle'

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## Local Terms for "Conflict"

CAS-WE Phrom Penh

- *viveat* or *chomluh* used to mean 'conflict'
- *tumnoah* and *chomluh* may also be used to mean 'dispute'



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## Characteristics of Conflict

- Two or more people believe they have irreconcilable differences and feel that their resources, relationships, needs and values are threatened
  - Conflict is **everywhere**
  - Conflict generates **energy**
  - Conflict can create **change**
  - Conflict is **double-edged**
  - Conflict is influenced by **personality** and **culture**



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## 危机

### CRISIS AS OPPORTUNITY

(wēi jī)

The Chinese word for "crisis" is made up of two parts: "danger" and "opportunity".

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机

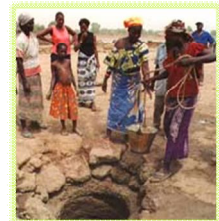
"Danger", originally pictured as a man on the edge of a precipice 危

"Opportunity"—a reminder of the seemingly small but important opportunity that can come out of danger.



## Types of Conflict

- about **Information** - lack of facts, different sets of facts, or different interpretation
- over **Resources** - land, money, rights
- about **Relationships** - how parties are connected or relate to each other as family, friends, business partners, etc.



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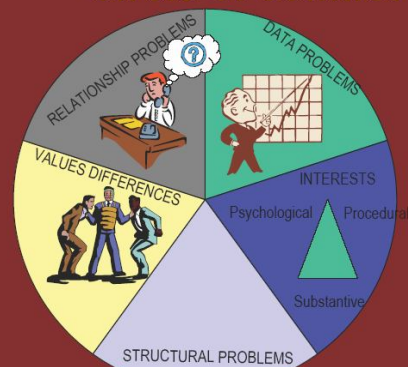
## Types of Conflict

- over **Interests** or **Needs** - win-lose mentality: over substance, process and psychological satisfaction
- over **Structures** - social or organizational structures that determine who has power, who is respected, who has access to resources
- over **Values** - beliefs and faith perspectives



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## Circle of conflict





## Typology of Conflicts

CDRI

- **Offences:** instances of apparently one-sided, anti-social behaviour by an individual, which offends against village society (e.g. drunkenness or violent attack).
- **Disputes:** particular limited disagreements between two or more parties (e.g. domestic disputes or land disputes).

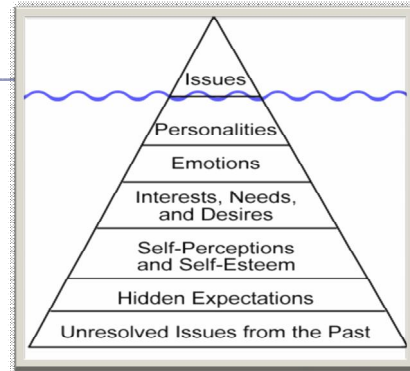
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## Typology of Conflicts

CDRI

- **Conflicts of interest:** ongoing disagreements between two or more parties, in which any outcome would have a clear effect on the material interests of one or both parties (e.g. mutually incompatible uses of shared water resources).

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## For the Trainer

- **Guide Question:**
  - Why is it important to know the type of conflict?



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## Common Responses to Conflicts

- Ignore or avoid dealing with it (conflict remains)
- Let it pass (until conditions change)
- Work with your opponents to find mutually acceptable solutions (negotiate)



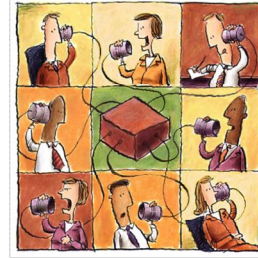
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## Common Responses to Conflicts

- Use force or violence to get your way
- Find another person who can help solve the conflict (third-party assistance as mediator, arbitrator)
- Go to court
- (other responses?)

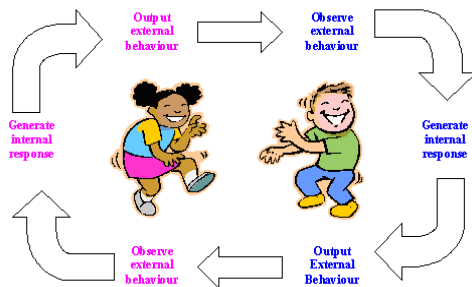
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## Basic Principles of Communication

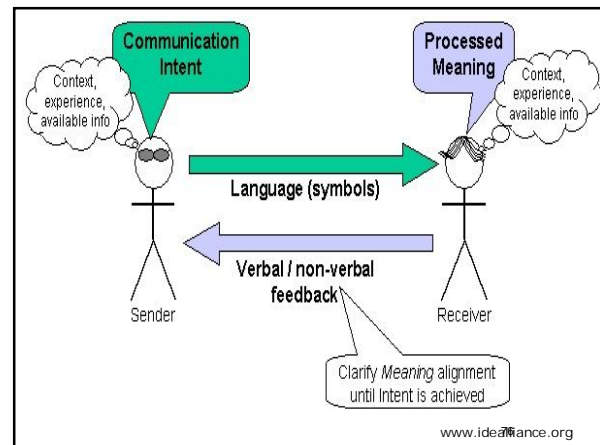


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## Communication Loop



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## Barriers to Communication



- **inaccurate perception**, where we make judgments, conclusions, or attribution based on a specific and limited information;
- **strong emotions**, whenever we experience difficulty accepting other people's values, perceptions, or behavior;
- **misunderstanding** brought about by poor communication or miscommunication.

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## Active Listening



- Listening is important in order to allow us to shift from the "top half of the Circle", i.e., to deal with emotions and "to empty one's cup". It is also important to stop confrontation and to learn facts, information and interests.
- **Active Listening** is the capability of one person to demonstrate and prove his/her understanding of the substantive and emotional messages of a speaker.

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## Active listening

- When you are talking to your friend or colleague, how do you show that you are listening? That you understand what the other person is saying?

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## Reframing Statements



- **Reframing** is about hearing the other person's negative comments, stripping away the toxic language to understand his/her interests and feeding this information back to the speaker. It also involves translating positional, toxic comments into neutral, positive comments that focus on interests and lead to more productive communication.

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## Reframing

- **Motorcycle hits pedestrian:**
  - Driver: Are you trying to commit suicide? You are crazy to cross the road when traffic is moving fast!
  - Pedestrian: Are you blind? Do you want to kill me?

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## Reframing

- Imagine yourself as part of the community in Prasad Sambo in 2005, you are angry at the officials for trying to grab your land again. What would you say? How would you reframe the toxic statements?
- You are the government official, you think the community members are abusing their rights. You want to scold them. What would you say? How would you reframe?

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## Framing the Issue



- **Framing** is posing an issue in a way that both or all the parties are willing to work on it. In order for a group to work effectively together, they need to embrace a common goal or task. The skill of framing is used to engage all group members in a task that is acceptable to them.

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## Framing

A formula that can be used:

*Party A's statement*

*Party B's statement*

*Party A's interests*

*Party B's interests*

*Joint Problem-Solving Issue*

*(Frame the issue as a mutual problem to be mutually solved)*

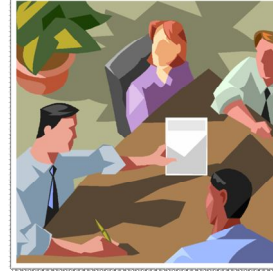
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## For the Trainer: Hand Tangle Exercise

- Each group may be composed of 6-9 persons.
- Instructions
  1. All participants form a circle.
  2. Stretch out your hands toward the center of the circle, move forward, and each person take a hand of two different people. You may not hold the hand of the person standing next to you.
  3. Each group should slowly and carefully “unwind” and form a single circle **without letting go of one another’s hands**. It is all right to turn backward or even have crossed arms in the finished circles.

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## Introduction to Negotiation



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## Elements

- ▣ A *topic or issue* to negotiate
- ▣ Identifiable *parties* who are willing and ready to negotiate
- ▣ *Leverage or power* - interdependence on the outcome
- ▣ *Sense of urgency*
- ▣ *Negotiated outcome* is potentially better than no agreement

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## Positional Bargaining

- There is a limited pie, to be carved up
- A win for me means a loss for you
- The goal is to win as much as possible



## Positional Bargaining

- The other party is an opponent
- There is one right solution – mine
- I must stay on the offensive
- A concession is a sign of weakness



### Stu's Views

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Give me everything I want right now or I will crush your company with an unending torrent of litigation.



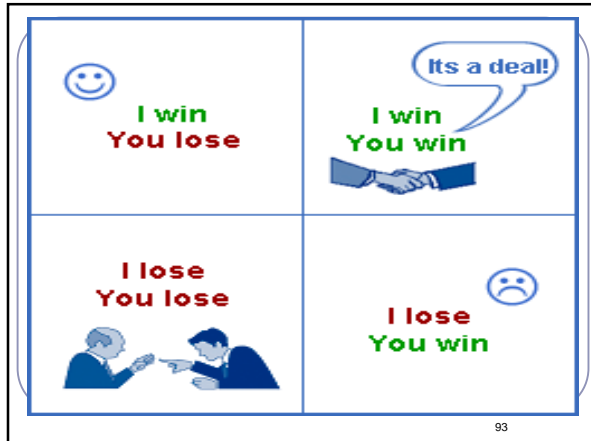
## Interest-Based Negotiation

- The pie is not limited (my goal is to get the biggest piece)
- The needs of all parties must be met to reach agreement
- Parties are cooperative problem-solvers rather than opponents

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## Interest-Based Negotiation

- There are probably several satisfactory solutions
- People and issues are separate
- Goal is for win/win solutions (or mutual gains)



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## Negotiation Tips

Fisher and Ury

- Separate the people from the **substantive problem**.
- Focus on **interests**, rather than on positions.
- Generate **options** before making a decision.
- Ensure that the result is based on some **objective criteria**.

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## Consensus Building



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## Facilitation

**Facilitation** (group facilitation) - a process in which a neutral person helps a group work together more effectively. Facilitators may work with small groups within an organization, or with representatives of different organizations who are working together in a collaborative or consensus-building process.

### Core Values

- valid information
- free and informed choice
- internal commitment to those choices

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## Facilitator / Convenor

A **facilitator** is someone who skillfully helps a group of people understand their common objectives and assists them to plan to achieve them without taking a particular position in the discussion.



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## Benefits of Facilitation

- Group members are often **more motivated** to support the decisions made because of their investment in the process.
- The best efforts of groups usually produce **better results** than individual efforts.
- Everyone involved has a chance to **contribute** and feels they are an integral part of the team.



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## Benefits of Facilitation

- People realize and respect that **responsibility** for implementing decisions lies with everyone.
- Innovation and problem-solving **skills** are built.
- People are encouraged to think and act for the **overall benefit** of the group.



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## Benefits of Facilitation

- A forum for constructively **resolving conflicts** and clarifying misunderstandings is created.
- Negative attitudes, low morale, low involvement, and withholding of information are less likely because everyone is involved in a **joint process**.



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## Facilitation vs Mediation

**Mediation** is a process in which a third-party neutral assists in resolving a dispute between two or more other parties.

It is a non-adversarial approach to conflict resolution.

The role of the mediator is to facilitate communication between the parties, assist them in focusing on the real issues of the dispute, and generate options that meet the interests or needs of all relevant parties in an effort to resolve the conflict.

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## Transformative Mediation

The **transformative** approach to mediation does not seek resolution of the immediate problem, but rather, seeks the empowerment and mutual recognition of the parties involved.



## Transformative Mediation

**Empowerment** means enabling the parties to define their own issues and to seek solutions on their own.



## Transformative Mediation

**Recognition** means enabling the parties to see and understand the other person's point of view--to understand how they define the problem and why they seek the solution that they do.



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