Best Practices for Consensus Building and Other Participatory Processes in Asia

Lessons from the CBAsia 2014 Workshop in Tokyo

Consensus Building in Asia

A Network of Academics and Practitioners

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Introduction

On 19 and 20 June 2014, we convened the CBAsia 2014 International workshop: 'Learning from the practice of consensus building and participatory planning in Asia,' held at the University of Tokyo's Hongo Campus.

The two-day workshop was attended by 18 practitioners and scholars from 10 countries in the Asia-Pacific region, namely, Australia, Canada, Indonesia, Japan, South Korea, Philippines, Singapore, Thailand, United States, and Vietnam. Attendees represented a wide range of fields, including national planning, urban planning, energy, ecosystem preservation, and forest management. The goal of the workshop was to draw lessons from the practice of consensus building in Asia, and to share them with public officials and practitioners for improving consensus-building processes for environmental policy issues.

We paid special attention to the peculiarities of consensus building in Asia from the perspective of collaborative planning and deliberative democracy. Instead of simply promoting specific technical approaches to consensus building, we discussed ways of designing various kinds of best practices that fit with the local context and making that happen, even in fields where technocratic top-down decisions have been imposed. Therefore, we encouraged each participant to point to his or her specific experience when generating the relatively abstract list of best practices. During the two-day workshop we collaborated in preparing a set of recommendations for practitioners in Asia regarding ways of improving their consensus-building practice. Drawing on attendees' experience, the list of best practices in Asia focused on three stages of consensus building: 1) Pre-negotiation phase, 2) Negotiation phase, and 3) Post-negotiation phase. We generated a long list of best practices under these headings, and deliberated over the ideas generated through brainstorming sessions. Drawing on this list, we prepared this document outlining the best practice for consensus building and other participatory processes in Asia.

One of the main conclusions of the workshop discussion is the similarity of, rather than differences between, our experiences of practice in Asia. For instance, we share some difficult issues, such as developing trust and dealing with bureaucracy. This finding is encouraging because we can continue to learn from each other's different backgrounds in order to improve our own practice of consensus building.

This best-practice document is just a beginning of our journey to better consensus-building practices in Asia. We look forward to hearing your feedback on our proposals.




Best Practice for Practitioners in Asia

The following list of best practices follows the general sequence of participatory processes, starting from the pre-negotiation preparatory phase. In the first instance, you are advised to consider the characteristics of the policy issues you have to deal with. This document does not provide 'one size fits all' guidelines. Instead, you need to design your own consensus-building processes that fit best with the characteristics of your settings by adopting relevant lessons from Asian best practices.

Phase I Pre-negotiation

Assessing the situation and identifying stakeholders
Designing negotiation processes

Phase II Negotiation

Communicating effectively
Building trust
Crafting an agreement

Phase IIII Post-negotiation

Designing implementation mechanisms

Phase I Pre-negotiation

Consensus building does *not* begin with disseminating brochures and holding public meetings. Instead, it begins with a careful analysis of the situation. We recommend a 'go slow to go fast' approach that allocates substantial resources in planning before actually inviting key stakeholders.

Lesson 1: Assessing the situation and identifying stakeholders

Consensus-building processes usually start with an analysis of the situation. Only when you have a good sense of the situation at hand can you identify appropriate stakeholder representatives to be invited to the negotiating table. Your analysis can employ different methods of information gathering. The following are some examples.

Desktop analysis

Review newspaper articles, statements by government agencies and civil society organizations, and other relevant materials to **draw a holistic picture** of the policy issue of interest.

Interviews and initial sounding

Conduct interviews with key stakeholders. Interviews can be either formal or informal. Instead of considering this as a method of analysis, you can frame the interview as an initial encounter with the key stakeholders for **rapport-building** and initial sounding. Meeting each stakeholder in person allows you to understand their temperament, way of speaking, and other characteristics that determine their appropriateness as stakeholder representatives at the table.

In conducting the assessment, you might want to consider the following issues.

Case: Environmental Conflict in Mae Sot, Tak Province, Thailand (by Supanat Permpoonwiwat)

Cadmium contamination in Mae Sot, Tak Province, Thailand, has been occurring for decades. Citizens believe that Pha-Daeng Zinc Mining created this contamination problem, which has led to conflict between local people and the mining company. The health and way of life of approximately 6,000 people have been negatively impacted due to the contamination levels. Despite the involvement of various organizations, only temporary methods to solve the conflict could be reached. The concern now is how this problem can be solved in a sustainable manner among various stakeholders, such as government organizations, the mining company, and villagers. Our KPI team attempted to solve this issue by first visiting the affected communities and getting to know the local residents. The purpose of the first visit was to determine if these people were willing to participate in solving the problem together. Without the willingness of the community, the chance of successful dialogue is slim. Fortunately, all parties agreed to participate, which allowed the KPI team to proceed with the dialogue. Key steps are as follows:

(1) Convening the willingness of parties is crucial in order to achieve a successful dialogue.

(2) Creating a clear understanding of the dialogue processes for the team and all parties is very important.

(3) Creating a friendly working environmental will help to reduce stress and facilitate the sharing of ideas.

(4) Communicating and interacting with all parties continually is a fundamental requirement.

Understanding the local context

Every consensus-building effort is different; your consensus-building effort will be **unique**. Therefore, you need to understand underlying policy processes, political cultures, values, traditions, and other contextual factors before starting to design a process. How could these constrain your consensus-building processes? At what point should the agreement be reached? What kind of arrangement is not acceptable in public deliberations?

Unpacking interests from positions

The best-selling book *Getting to Yes* by Roger Fisher and William Ury suggests we separate interests and positions. Stakeholders, particularly when they are in dispute, often make exaggerated demands as a strategy. Such positional statements do not contribute to productive negotiation. Instead, try to unpack their statements and discern their **real interests** behind such statements. Put your feet into their shoes and think hard.

Selecting representatives

Inviting the right people to the consensus-building table is a critical aspect of your planning effort. You want to avoid obstructive participants who discourage others from being proactive and productive. On the other hand, limiting the membership to a very small number of friendly and comfortable stakeholders will not guide you to a robust outcome. To strike the right balance, you might want to set out **selection criteria** in identifying stakeholder representatives. Another way of inviting stakeholders is to organize a **leadership committee**, or **steering committee**, with a handful of key figures.

Case: Kelekak in Indonesia: Using Local Wisdom to Sustain Community Legacy (by John Haba)

Literally, Kelekak means a fruit garden, planted by parents for their descendants, traditionally consisting of durian, lychee, mango, banana, and other fruits. In Belitung District, local wisdom in rural areas plays an important role, with three primary purposes: (1) an ecology function for maintaining a water reservation zone and minimizing the risk of drought, (2) socially linking community members through a kinship nexus, and (3) an economic function that provides additional income from Kelekak. Furthermore, local wisdom is considered by the local government as a cultural heritage upon which further developments in the rural area are grounded. On the other hand, however, Kelekak has long been under pressure of being replaced by other economic developments. Toward the sustainable conservation of Kelekak in the Belitung District, the Indonesian Institute of Sciences (LIPI) is conducting studies for organizing stakeholder dialogues to conserve the practice. This is an example of a research organization taking on the role of convener in the stakeholder process.

Lesson 2: Designing negotiation processes

Having assessed the situation and identified key stakeholder representatives, you can now design the actual consensus-building and negotiation processes. In designing the processes, you need to consider at least two key components of the design: **outcomes** and **steps**.

Clarify outcomes

First of all, you have to state the **goals** of the **processes** that you are about to initiate. Why do you want to engage stakeholders and other members of the public? People can consider public participation as something you 'must' have, but there has to be a reason. It can be a legal mandate or there might be a huge risk of lawsuits or political turmoil. Your goals will be the guiding principle in your design, albeit that they should be stated in acceptable language for the audience.

Then you will also need to **define the problem** to be discussed in the consensus-building processes. While overly narrowing the issues would limit the areas of bargaining during the negotiation phase, there has to be a specific problem that the stakeholder representatives are going to solve. Thus, you, in consultation with key stakeholders, need to prepare a problem statement as a part of the process design.

Sequence of stakeholder meetings and outreach opportunities

The core component of consensus-building processes is **a series of stakeholder meetings**. The number of meetings must be determined by considering a variety of factors, including resources available, political deadlines, and the nature of the issue to be discussed. Multiple groups – such as a plenary, working groups, and steering committees – could be set up in order to work effectively within a limited time period.

There are a few key steps to be followed particularly in the early meetings. Firstly, stakeholder representatives should be given an opportunity to a**gree on the process and agenda items**. This allows stakeholders feel the 'ownership' of the process, which becomes crucial in the post-negotiation phase. Secondly, the dialogue must be conducted in a relatively 'safe' space in which representatives are willing to **share their interests**, not positions.

Your process design must be realistic. You need to secure an **adequate supporting staff** and **resources** before starting the process. You will have to gain enough political support for implementing this relatively new way of policy-making.

When designing the process, you will also have to consider the possible role of any appropriate **technical experts**. Letting each stakeholder representative bring in their own preferred technical experts could be a source of controversy over 'scientific facts.' Thus, you might want to structure your negotiation process as 'joint fact-finding' processes in which stakeholders and a panel of experts work together to develop a repertoire of information to be drawn on during the negotiation phase.

In practice, the **funding source** is another critical element in process design. In order to ensure that your stakeholder processes is regarded as a fair and unbiased arena for deliberation, not as a political attempt to manipulate the public opinion, try to secure funding support from multiple and/or independent sources. For example, the following are our thoughts on options for structuring funding schemes.

1. All parties pay.
2. One party pays via a trust account.
3. Government pays all.
4. Funding has clearly stated conditions of its use.
5. Funding source/s are independent.
6. Services/participation are offered pro bono.
7. Funding is linked to a specific project or activities.

You might want to provide a **statement of neutrality** in order to promise your independence from funding sources. This is especially true if you are a professional meeting facilitator or a consultant. Your cost estimate must include the resources necessary during the pre-negotiation phase. When searching for funding to match your needs, carefully consider the requirements imposed by the funding sources.

Case: Ok Tedi Community Mine Continuation Agreement Review in Papua New Guinea (by Barbara Sharp)

The Ok Tedi Mine is an open-pit copper and gold mine in the remote mountains of Papua New Guinea, owned by BHP Billiton. It became internationally notorious when villagers affected by the mine's operations staged public protests at BHP's annual general meeting. They garnered additional global attention through media and litigation efforts seeking redress for the devastating impact of the mine waste that had choked the rivers on which the communities depended.

In this environment of global umbrage and scrutiny, as well as the history of failed legal redress, Ok Tedi Mining Limited (a subsidiary) was forced to implement a rigorous compensation agreement review process. The processes needed to withstand the toughest scrutiny and deliver genuine sustainable development outcomes to the communities where residents' livelihoods were in jeopardy. After 18 months the mining company delivered a stable compensation deal for the 90,000 people adversely affected by the mine's operations.

The Ok Tedi Community Mine Continuation Agreement (CMCA) Review process design included a team of independent facilitators, observers, and a funds administrator. Confidence that the independent team was at arm's-length from the review's sponsor and key party, Ok Tedi Mining Limited, was critical to other parties agreeing to take part in the review.

The company paid funds into an accounting firm's trust account and also paid the independent team's fees and costs. This meant that the company could not withhold payment if they disagreed with decisions made by members of the independent team. The establishment of this review process was a valuable device for dealing with both the perception and potential reality of the company exerting undue influence in its favor.

Phase II Negotiation

While the pre-negotiation phase is crucial for the success of any consensus-building effort, you need to know a few tactical strategies to avoid unwanted problems during the negotiation phase.

Lesson 1: Communicating effectively

You need to remove any obstacle to stakeholder representatives communicating effectively in meetings. It is therefore advisable to determine the following in the initial stakeholder meetings.

Ground rules

Each stakeholder meeting could involve upwards of twenty representatives, and there are often strict time constraints. In order to make sure each representative has a chance to speak, each meeting must be managed in a very orderly manner, otherwise, just a few representatives can dominate the meeting and frustrate other participants' willingness to contribute to the problem-solving effort. There may be other consequences of poorly managed meetings that could also jeopardize your efforts in consensus building; it is therefore prudent to have a set of **ground rules approved by all participants** at the beginning of the first meeting. Ground rules can set out acceptable behaviors for the meetings and serve as guidelines for participation.

Roles

Some specific roles can be useful to establish for stakeholder meetings. First of all, you need a **convener** who organizes the meeting and provides the necessary resources for it. This could be you. In addition, you might need to hire a professional **meeting facilitator** who leads the discussion among representatives. When engineering and technical knowledge is crucial to problem solving, such as transportation planning or public health projects, stakeholders might want to appoint a **panel of experts** in a joint fact-finding fashion. If these roles are not clarified in the beginning, confusion about the process among participants could lead to difficulties later.

There are a few other tactical strategies that you can employ during the negotiation phase.

Keep everyone informed

While consensus-building processes are often structured

Case: Inclusive Communication in Singapore (by Stephanie Tan)

Our Singapore Conversation (OSC) was initiated in September 2012 by Singapore Prime Minister Lee Hsien Loong as a national conversation among Singaporeans. Its aim was to engage Singaporeans in discussions about their desired future for the nation and to establish a broad consensus on the key issues that should be addressed. The design of the OSC was inclusive and multi-sectoral. In addition to the dialogues organized by the Secretariat, the broader community organized their own ground-up dialogues, such as the labor movement, grassroots and volunteer welfare organizations, and other interest groups. These helped to broaden the reach of the OSC effort across Singapore's multiracial and multilingual communities. A concurrent face-to-face OSC survey was also conducted nationally in all four official languages gathered from a demographically representative sample of 4,000 citizens. More than 47,000 Singaporeans participated in approximately 660 dialogue sessions. The perspectives articulated by Singaporeans have since helped to shape policy directions, and also encouraged richer development of engagement capabilities in public service.

around stakeholder meetings, other **outreach and communication opportunities** must be provided to those who do not participate in each meeting. Public communication effort usually starts even before the first stakeholder meeting is convened. Multiple communication techniques are often employed to ensure that different kinds of stakeholders are reached using the most appropriate media.

Ensure mutual understanding and learning

Stakeholder representatives should not limit their role to being a mere 'representative' of specific interests. Negotiation in the public policy field is not just a type of bargaining between powerful stakeholders, it entails learning other perspectives and developing **empathy** toward each other. While stakeholders should pursue their interests, they are also encouraged to acknowledge the legitimacy of different perspectives. They do not have become friends with each other, but they have to develop a working relationship for problem solving. Thus, sufficient opportunity for such mutual learning should be allowed even when the time available for consensus building is limited.

Sustain the motivation of stakeholders

Stakeholding is actually a demanding process for most participants. They have to prepare for upcoming meetings, take time to participate in the meetings, and confront other stakeholders with whom they might have had difficult relationships in the past. Thus, it is a common risk to have participants **dropping out**, deciding not to come to meetings any more. In order to prevent such dropouts, you will have to consider ways of sustaining the motivation of each participant. One way is to set out a clear timeline at the beginning so that everyone can confirm progress toward the goal. The common facilitation technique of asking everyone to speak out at least once in the meeting also helps each participant to feel to some extent empowered and heard.

Lesson 2: Building trust

In our CBAsia workshop, trust in the process itself, as well as among stakeholders, turned out to be one of the crucial issues in implementing consensus-building processes in Asia. Public distrust in political institutions, as well as the tradition of technocratic governance in developing states, hinders an effective introduction of participatory processes to public decision-making. Thus, you will have to consider trust-building as a cornerstone of your processes.

Transparency

Consensus building on public-policy issues needs to ensure a certain level of transparency, albeit not to the fullest extent. It has to be at least accountable to public

Case: Building Trust in Vietnam (by Hieu Nguyen Ngoc)

Lessons from Vietnam show how trust building can influence the planning process to reach consensus. However, this trust is rooted in traditional Vietnamese societies, where community spirit is regarded as a basic social value. This trust system aligns with the community's ideas about who to trust (e.g., seniors, and proven knowledgeable and reputable people). We found successful urban planning cases in Vietnam that have roots in this high community spirit (most of them from rural areas). Trust exists with the overall social structure, and this built-in value guides leaders in the design of planning processes.

interests so that the outcome of such processes will be acceptable as public-policy recommendation. Meeting minutes, for instance, are often made available online for public scrutiny. Meetings might be open to the public and, in some cases, anyone can make his or her input to the discussion. On the other hand, too much transparency can intimidate stakeholder representatives and encourage them to make positional statement – as they might do in front of the news media. Therefore, certain kinds of stakeholder meetings, such as working-group meetings, could be shielded from public scrutiny in order to provide a **safe space** for participants to speak out their true interests.

Responsiveness and openness

There can be a tendency among Asians to make ambiguous statements in order to avoid open conflict in the public arena. This is an effective tactic for saving face. An unwanted consequence, however, can be due to the delaying of a much-needed solution to a problem. In consensus building, therefore, each stakeholder must be encouraged to be **upfront** about their response to the ideas suggested in the meetings. Being overly confrontational is obviously detrimental to consensus building, but if everyone takes to conciliatory an approach, the stakeholder group cannot make any progress in negotiation. It is the organizer's responsibility to set up an environment where all the participants feel comfortable being honest about their interests. This might be one of the most difficult areas that practitioners in Asia must work in.

Building a working relationship

Consensus-building processes do not end with signing an agreement between representatives. Decisions then have to be implemented through collaboration among stakeholders. Therefore, **trust must be developed between stakeholders** in order to enable such follow-up efforts. Animosity in the past could have severely damaged stakeholder relationships, so in order to make a dialogue possible, these hostile groups must be able to trust what the other side is saying. This level of trust must be achieved through their face-to-face encounters in a series of stakeholder meetings. Meeting facilitators, as well as conveners, have to pay attention to such aspects in addition to problem solving.

Facilitator's role

Meeting facilitators are becoming common in participatory processes in Asia. There is a growing number of professional facilitators available, but you should be aware of the risk of hiring inexperienced facilitators. When hiring professionals, always ask for evidence of their past experience in public processes. In a large-scale effort, you might want to train a number of facilitators to serve as the liaison with local communities. We also contend that facilitators in consensus-building processes must have **knowledge of the substantial issues** at hand. Facilitators are responsible for ensuring the ground rules are observed by all participants, therefore participants must be able to trust such facilitators. If the facilitator lacks substantive knowledge, stakeholders are likely to distrust their ability to facilitate the dialogue.

Lesson 3: Crafting an agreement

The negotiating phase ends with a stakeholder agreement (or a similar output from a series of participatory processes). Finding an agreement that the stakeholders can live with is not an easy task, considering the fact that some public disputes end up with legal and political battles that can last for years. While there is no easy solution to crafting an agreement, we propose a few guidelines reflecting on our own experience.

Trade between interests

In theory, stakeholders can achieve mutual benefits by trading between different interests: one side conceding issues that the other side values higher while receiving concessions on the issues that they themselves values highly. This kind of trade has been seen among the Asian

cases that we discussed in the workshop. **Bundling multiple issues for mutual gain** is a universal tactic for crafting a durable agreement through consensus-building efforts. One practical way of making the most of such trades is to encourage stakeholders to explore additional mutual gains without making commitments. Worries about being taken advantage of by other parties often discourages negotiating parties from making practical suggestions. Skilled facilitators can impose the brainstorming rule to make sure that nothing is final until everyone signs the agreement.

Authority of participants/representatives at the table:

At this stage of negotiation, you have to worry about ratification by the stakeholders who did *not* personally participate in the process. While the representatives might be enthusiastic about the agreement that they developed, their constituents might have been totally detached from the negotiation process and reject the proposed agreement. Therefore, you have to be alert to the linkage between the representatives and **their constituents**.

Sequencing of the issues to be explored

Once you are engaged in the process, you will understand the priorities of the issues. Some issues are critical, while others are relatively trivial. To start the negotiation by discussing critical major issues would assure ample time for tough negotiation, but **stakeholders might feel powerless** in the face of such a daunting task. When the stakeholders seem skeptical about the process, you might encourage them to start from a relatively small problem so that they feel empowered to resolve bigger problems. Thus, to work on the main issues or to start from the relatively minor issues depends on the level of confidence in problem solving.

Ethical concerns in value distribution

Consensus-building efforts in the public-policy arena require attention to ethical concerns because their outcomes must be regarded as **legitimate by the public**. When crafting an agreement, you have to make sure that it is acceptable in the light of ethical concerns.

Framing an 'agreement' in different terms

Some stakeholders might feel intimidated by the terminology, for instance *negotiation*, *trades*, and *agreement*. Such feelings can lead some stakeholders to adopt a defensive mode of communication during the negotiation phase. In order to avoid this, you might want to use different words and phrases in referring to the 'agreement.' For example, you can describe the whole process as **scenario building** instead of negotiation, or **option development** instead of trading. Such tactics are often deployed by skilled facilitators to save the participants from unnecessary psychological stress while maintaining the goals of the original processes.

Case: Ok Tedi Community Mine Continuation Agreement Review in Papua New Guinea (by Barbara Sharp) *(continued from page 5)*

The Ok Tedi CMCA Review used the mediation process as its "spine," with the first stage of meetings was built on the talking and listening phase of mediation, which built a shared understanding and drew out the parties' shared goals.

The resulting discussion of agreements and disagreements helped to flesh out an agenda for negotiation. The mediation process also provided a rich basis for generating options that reflected each party's stated interests. With all parties understanding the others' positions, it was possible to trade between these interests and, ultimately, agree upon mutually acceptable outcomes.

Phase IIII Post-negotiation

Best practice of consensus building doesn't end with reaching an agreement through negotiation. It's just the beginning. Many social problems of today require a long-term solution and an institutional support for making that happen. Therefore, you will have to encourage stakeholders to think about sustainable mechanisms for dealing with the problems.

Adaptive governance and joint monitoring process:

In the environmental policy arena, it is often recommended that the stakeholders adopt the adaptive governance approach in which they continuously monitor the environment and periodically adjust their strategy for improvements. Environmental science is not perfect. It entails a large amount of **uncertainties**. Therefore, in order to fit with the ever-changing environment, stakeholders need to continue their collaboration even after the negotiation phase. Building such a robust arrangement becomes the goal of consensus building processes in such instances.

Build in compliance target:

Compliance is the key to the success of consensus building and other participatory processes. Saying is one thing and doing another. In the post-negotiation phase, there has to be a mechanism to penalize those who do not keep their processes in some ways. Otherwise, a few **free riders** will try to benefit from the arrangement without paying their dues. Sometimes, triggers for renegotiation can be embodied in the negotiated agreement so that such problems can be fixed immediately.

Integrating the agreement into formal policy:

Most participatory processes produce policy recommendations, but not policy itself. Therefore, you will have to do the homework of integrating the participant's ideas into formal public policies. This could be a difficult task if proposed actions span across different departments and jurisdictions. One possible strategy is to build a network with similar projects in your country or region to start up an **advocacy coalition** for change. Another strategy is to seek continued support from a semi-independent respected party (e.g., foundations, notable figures, and aid agency).

Case: Ecosystem Services for Climate Resilience in Quy Nhon City, Vietnam (by Tuyen Phuong Nghiem)

The climate resilience project aims to restore mangrove ecosystems along the Thi Nai lagoon in an effort to reduce the climate vulnerability of poor people living on the edge of Quy Nhon City, which is undergoing expansion. The project supports mangrove reforestation and protection by engaging local resource users and provincial government agencies in providing key inputs to decision-making on how to plant, protect, and manage mangrove ecosystems. The stakeholders negotiate sets of regulations on plantation, protection, and benefit-sharing mechanisms that can help to promote harmony in resource management, especially between contracted households and groups of households that are exploiting aquaculture products in newly planted forest areas. The involvement of government agencies helps to legitimize community regulations, creating a virtuous cycle in which community members participate more actively in decision-making.

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