

Disadvantaged Groups in Multistakeholder Negotiations

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ABSTRACT

Environment and development practitioners increasingly promote negotiations among natural resource stakeholders to encourage collective action and, it is hoped, sustainable resource management. Yet the implications of negotiations for disadvantaged groups of people are seldom critically examined. We look at experiences in multistakeholder negotiation to show that negotiations that seek to neutralize differences among stakeholders pose considerable risks for disadvantaged groups. We suggest that negotiations that are explicit about the conditions affecting disadvantaged groups and that emphasize politically-informed behaviour and selective alliance-building promise better outcomes for disadvantaged groups.

Introduction

Multistakeholder negotiations have promised increased visibility, compromise and democratic decision-making in relations among different interest groups. (Borrini-Feyerabend 1997; FAO 1999; O'Faircheallaigh 1999; Ramírez 2001). In forest management, multistakeholder negotiations have enabled disadvantaged groups, such as swidden farmers, indigenous people and forest product collectors, to gain public attention and negotiate formal agreements with powerful stakeholders such as corporations, international environmental NGOs, government and local elites. These processes have proven increasingly popular as a means for facilitating public interest decisions to generate collective action.

Yet the benefits of multistakeholder negotiations to disadvantaged groups depend on how negotiations are undertaken. Our research suggests that many approaches to multistakeholder negotiations mask abuses of power and inequity. In doing so, they are likely to exaggerate the level of agreement reached through negotiations and expose disadvantaged groups to more manipulation and control by more powerful stakeholders. These approaches share one or more of the following assumptions:

- Neutral or objective conditions for negotiation can and should be created;
- Consensus is desirable;
- All stakeholders need to be involved for the process to be effective;
- Stakeholders should share information openly;
- Negotiations can be considered in isolation from other strategies employed by stakeholders;
- The principal barrier to effective collective action is generally poor communication.

Ironically, multistakeholder negotiations that embrace diversity in the selection of stakeholders, seek to eliminate that diversity at the negotiating table (Stein and Edwards 1999). Facilitators aim to “level the playing field” in negotiations by using a neutral place and neutral, “open” processes of communication and information exchange, including impartial facilitation (Borrini-Feyerabend 1997), criteria and indicators as a common

language for stakeholders (CIFOR 1999) and shared rules of order for interactions among stakeholders (see Sinclair and Smith 1999).¹

The intention to level the playing field is an important ideal for achieving more democratic processes. We suggest, however, that the rationality of the process to achieve that intention is flawed. Observations of multistakeholder negotiations suggest that in practice, a truly level playing field is impossible to achieve. Power differences persist, if in no other way than through historical relationships among stakeholders. Rather than assuming that neutral conditions can ever be achieved, we need to assume that we can only work towards this ideal. We need to therefore be vigilantly alert to and deal explicitly with power differences. Instead of assuming we have eliminated or temporarily neutralized political differences within negotiations, practitioners need to acknowledge power relations in negotiations and work actively to increase the decision-making power of disadvantaged groups. Since negotiations are an iterative process rather than a single event, practitioners need to think about how power relations also change, how to keep track of these changes and to use a diversity of approaches that best meet disadvantaged groups evolving needs.

To make our case for a more politically explicit approach to negotiations, we summarize here an analysis conducted by CIFOR of experiences in the co-management of protected areas, forests and other common-pool resources.² We define disadvantaged groups of people as those with limited power to influence decisions in multistakeholder settings. Their power is limited by their social status, their representation in public forums or their negotiating capacities. We critique the “rationality of multistakeholder negotiations” and suggest how a more politically sensitive approach to negotiations can yield better benefits for disadvantaged groups.

Neutrality

Negotiations may produce neutral communication and fair outcomes in settings where the power to influence forest management is relatively well-balanced among stakeholders and where social heterogeneity is low. Such settings are rare however. In forest contexts, it is common instead for dominant groups to set the terms of communication to meet their own interests (Field 1994; Parajuli 1998; Sioh 1998). Multistakeholder negotiations frequently use the language of the dominant parties, use written materials in forums with illiterate participants or use technical terms foreign to many groups. Meetings are scheduled and located for the convenience of the dominant party, and use unspoken rules of behavior to which disadvantaged people are not accustomed (Buck et al 2001).

Less obviously, powerful groups often manipulate seemingly neutral terms that are quickly agreed to in meetings, but then are used in ways that meet each stakeholders' own needs. After extensive stakeholder consultations, the Canadian government adopted in 1971 a policy of multiculturalism (Légaré 1995: 348-51). Aboriginal Canadians initially embraced multiculturalism as a measure of recognition of their history and culture. Some white Canadians, however, used it to deny Aboriginal land claims. They claimed that most living individuals were not “authentic” Aboriginals and so were not entitled to special claims; they also argued that multiculturalism meant all cultures were equal, and no single culture could enjoy rights beyond any other. Aboriginals found it difficult to counter these arguments within the scope of multi-culturalism, at great personal and political costs to themselves (Légaré 1995). Other terms have met with similar manipulation: sustainability, joint

¹ Most guidelines for negotiation and multi-stakeholder collaboration promote one or more of these assumptions (Allen et al. 1998; Borrini-Feyerabend 1996; Fisher 1995; Kearney et al. 1999; Porter and Salvesen 1995; Röling and Maarleveld 1999; Röling and Wagemakers 1998.

² Edmunds, David and Eva Wollenberg. 2001. A strategic approach to multistakeholder negotiations, *Development and Change* 32(2): 231-253.

management and mapping (Lélé 1991, Saxena 1997, Sarin 1998, Peluso 1995). Language will always take on different meanings for different groups. Rationally debating the meaning of specific terms can never reach a genuine conclusion. Negotiations should seek to acknowledge the different meanings assigned to terms rather than assume a neutral language can ever be achieved.

Similarly, the information conveyed in negotiations is rarely neutral. Efforts to use science as a basis for rational multistakeholder negotiations should make explicit that the nature of the problem, the methods and interpretation of results can all be biased by political prejudices (Foucault 1980; Harding 1986). The choice to use science at all is itself a political decision. Disadvantaged groups of people often feel that scientific methods are not transparent to them and do not make use of their experiential knowledge (Ayling 2001).

The Search for Agreement

Practitioners often expect negotiations to yield agreements that bind stakeholders to a coherent course of action (Ayling and Kelly 1997; Borrini-Feyerabend 1996; Lewis 1996; O'Faircheallaigh, 1999). However, there is a tendency for all parties to overestimate the degree and durability of agreements reached. Negotiations act as a moment of interface where an expanded sense of empathy, trust and solidarity occur among stakeholders (Rorty, 1989), but the positive feelings often disappear once the negotiations are over. New relationships resulting from negotiations are often weak, provisional and unstable, especially among groups previously in conflict and having very different levels of power. Agreements built on such temporary good will are likely to be unstable as well (Anau et al. 2002).

Where there is a focus on reaching agreement, multistakeholder negotiations pressure participants to gloss over dissenting views, whether of the weak or the powerful (Doherty and de Geus 1996; Rescher 1993). Facilitators aim to identify a "common" interest and achieve consensus. Yet consensus masks the multiple interests that bubble beneath the surface during negotiations and are left unstated or bargained away. Agreements reached under the Joint Forest Management Programme in India and the Community Forestry Programme in Nepal, for example, disappointed community members, as Forest Departments emphasized protection over local use (Malla 1999; Sarin 2001). Such interests often resurge after participants leave the negotiation table, raising the question of whether investment in relatively quickly reached mutual agreements are warranted, especially if they are not sanctioned by some third legitimate party with the power to enforce the agreement like government (Anau et al. 2002).

Agreements should be able to change. Disadvantaged groups should not be bound to agreements that hurt them when the environment changes unexpectedly. In Krui, Sumatra, farmers declined the Ministry of Forestry's offer to formalize use rights to their agroforestry gardens, even though the farmers had previously lobbied for such rights (Fay and Sirait 2002). The farmers wanted ownership rights instead, explaining that they only agreed to use rights in earlier negotiations as that had been the best option available to them at the time. In Malinau, Kalimantan, local people reached agreements about their village boundaries, only to change them a few months later, after decentralization policies increased the benefits available from timber (Anau et al. 2002) The effective life of an agreement can be very short, and is often subject to external events beyond the control of the stakeholders. Practitioners should be careful about creating excessive expectations about the importance of agreements as the focal point of negotiations. Adaptive management seems inspired by the need to construct agreements that can be re-negotiated in coordination with unexpected events (Borrini-Feyerabend 1996; Lee 1993).

If disadvantaged groups are pressured to reach consensus, they also may be (wrongly) accused of bad faith when tensions among interpretations arise. When Nepal

issued several policies on community forestry, lowland communities interpreted the policies (as did many other stakeholders) as applying to all regions. The government's unstated assumption was that the policies applied only to hill regions (Malla 1999). The government closed down the lowland projects and accused community members of breaking the law. A multistakeholder agreement is thus best viewed as a workable conglomeration of interests (Field 1994; Fortmann and Bruce 1988; Rocheleau and Ross 1995).

Bringing Everyone to the Table

In co-management of protected areas, forests, and common pool resources, practitioners often seek to include all affected stakeholders (Allen et al. 1998; Borrini-Feyerabend 1997; Porter and Salvesen 1995). Conveners' biases and agendas directly influence the selection of stakeholder groups, the people who represent each group and how the expression of interests is facilitated in the meeting. These decisions rarely meet everyone's objectives. The compromises made, in turn, are political choices that reflect to whom conveners and facilitators are accountable. Unfortunately, facilitators and conveners are rarely accountable to disadvantaged groups (McCreary and Adams 1995). In assuming relatively impartial roles for conveners and facilitators, we make it more difficult to see their biases and accountabilities.

In identifying stakeholder groups and their needs, there is a risk that conveners and facilitators also construct misleading images that hurt disadvantaged people. Ramos (1994) observed that advocates for Indians in Brazil were uncomfortable with modern Indians who used practical politics. The advocates constructed instead an image of the romanticized, ideologically pure and self-sacrificing Indian. This latter, "hyperreal" Indian provided a more compelling image for fund raising as well. Many groups employ a romanticized notion of disadvantaged people to serve their own professional and personal ends (Conklin and Graham 1995; Froehling 1997; Li 1999; Veber 1998). The case of the Aboriginal Canadians above also demonstrates how such images can be abused to unfairly exclude groups that do not fit the ideal. The interests of disadvantaged groups are quickly lost when debates focus on the needs of such imagined, "hyperreal" groups.

Bringing an individual from a disadvantaged group to the negotiating table does not ensure that they represent the interests of a constituency. Personal perks can tempt representatives to improve benefits for themselves at the cost of benefits for their constituents. By attending meetings convened by outsiders, representatives also often become part of a specialized and privileged class more distanced from their constituency (Melucci, 1996). In Orissa, India, villagers complained that donors co-opted their village representatives in federations of forest user organizations; their representatives were no longer critical of donor initiatives or willing to raise uncomfortable complaints from villagers at federation meetings (Neera Singh, pers. comm.). Such divisiveness can be especially damaging to disadvantaged groups' interests as collective action is often one of their strongest assets for achieving their objectives (Shrestha and Britt 1997).

Disadvantaged groups could simply stay away. Withdrawal is a powerful form of protest (Melucci 1996). Unfortunately, by linking legitimacy of the process to the inclusion of all stakeholders, people or groups that refuse to participate can be left with no legitimate place from which to criticize the outcomes (Wilson 1999). The focus on involving all stakeholders in a process, especially a process with a goal of achieving agreement, encourages us to regard all those who refuse to participate as having relinquished their moral authority to speak on the issues.

Transparency of information

An ideal negotiation process is often assumed to require full and transparent sharing of information by all stakeholders (Habermas 1984). This may, however, force groups to give up important aspects of their privacy. In Kakadu National Park in Australia, traditional land owners in Mirrar declined to participate in collaborative management of the park, especially in the identification of sacred sites (Government of Australia 1999). Even when the park offered to allow the group to retain control over sacred sites in exchange for information about their location, the Aboriginal elders remained silent.

The assumption that information should be shared freely also overlooks the value of control over information. If disadvantaged groups are expected to share information freely in multistakeholder negotiations, they also can be put in the difficult position of having to choose whether to be supportive of the process, versus giving potentially valuable information to those who could use that information against them. Scott (1998: 11-52) discusses examples where states acquired information about forests and people's use of them and then used that information to the disadvantage of weak groups.

There are also issues that disadvantaged groups might refuse to subject to negotiations because they are so fundamental to their livelihoods, sense of self, or security. Li (1999) notes that community forestry agreements in the Philippines appear to make the rights of uplanders to a home and a livelihood contingent upon meeting government-defined environmental standards for land use. She argues that basic human rights should not be the subject of forest management negotiations. Tribal sovereignty and rights to religious and cultural freedom are other issues often considered non-negotiable (Karlsson 1999; Melucci 1996). Requiring all subjects be open to rational debate may work against disadvantaged groups' ability to defend basic rights.

Negotiations in the Context of Other Stakeholder Strategies

Multistakeholder negotiations are often presented to stakeholders as the only strategy available to them for resolving their differences. It is possible, however, that people participate in negotiations precisely because they are also engaged in other activities for pressing their interests. Negotiations may provide political cover for more aggressive tactics, such as media campaigns, sabotage, legal challenges, peaceful protest or even violence. Zapatista negotiations with the Mexican government took place while the government waged a quiet war against the indigenous peoples of Chiapas, including the destruction of local natural resources (Froehling 1997; Stephen 1997).

Disadvantaged groups may also participate in negotiations more out of an interest to increase their visibility than to reach agreement. Residents of a village in Uganda seized every opportunity to meet with staff of the Kibale Forest Park to be recognized by the government as legitimate actors in local politics, even if the specific projects they undertook had little local relevance (Edmunds 1996). Understanding the reasons why stakeholders engage in negotiations helps put negotiations in perspective relative to other strategies. Disadvantaged groups might well need to pursue other strategies such as lobbying, capacity building, networking and protesting to expand their decision-making authority (Froehling 1997; Sherraden 1991; Turner 1998, Bebbington 1998).

Conclusion

The point we are making is not that disadvantaged groups should avoid multistakeholder negotiations. Experience has shown that they can be useful under many circumstances. We believe, however, that practitioners have come to accept a rationality of multistakeholder

negotiations that exposes disadvantaged groups to risks of manipulation and control by more powerful groups and of wasting valuable resources.

Negotiations will achieve more just outcomes for disadvantaged groups if we are more open in discussing the politics at work in negotiations (Bickford 1999; Fraser 1992; Jakobsen 1998). Some steps that practitioners can take to adopt such an approach to multistakeholder negotiations are:

- Inform participants fully about to whom conveners and facilitators are accountable.
- Give disadvantaged groups the option to not participate in negotiations and to not be made more visible to powerful stakeholders.
- Create possibilities for disadvantaged groups to use alliances with more powerful groups in negotiations.
- Acknowledge the right of disadvantaged groups to identify “non-negotiable” topics, or items they view as inappropriate for discussion in the negotiations.
- Acknowledge that each group may not fully and unconditionally support proposed agreements. Encourage stakeholders to express their doubts about agreements. View “consensus” as likely to mask differences in perspective and discount the input of disadvantaged groups.
- Assess the likelihood that external events will require revisions in agreements and make provisions for disadvantaged groups to be involved in those revisions.
- Prepare disadvantaged groups for the possibility that the good will demonstrated among groups in multistakeholder forums may not last.
- Approach negotiations as one strategy among several that disadvantaged groups may pursue simultaneously.
- Assess the legitimacy of processes, decisions and agreements in terms of the role and implications for disadvantaged groups. Analyze the reasons for participation or non-participation by each group in negotiations, how groups are represented, the roles of conveners and facilitators, and the history of relationships underlying agreements.
- View negotiations as a long-term, iterative process and be ready to monitor impacts and adjust strategies to assist disadvantaged groups accordingly.

These steps do not eliminate the vulnerability and representation of disadvantaged groups, but do help to place these issues at the center of the process. We suggest that such treatment needs to become a standard of professional achievement if more democratic processes and outcomes are to ever be achieved.

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