Strengths and Weaknesses of Practicing ADR from Different Institutional Settings
Session Notes
ACR-EPP Conference, Portland, Oregon
June 30, 2011, 10:45 am – 12:15 pm

Session Description

Practitioners of conflict resolution and collaborative policy-making operate out of a variety of institutional settings including sole practitioners, for-profit firms, non-governmental organizations, government agencies and academic institutions. Each setting presents advantages and disadvantages, for the practitioner and participants. This panel brought together an experienced practitioner from each of these settings with a moderator who has worked in most of them, for a lively discussion. The goal was for an informal, interactive exchange among and between the panel and the audience about this important aspect of the field.

Panel

Michael Kern *(moderator)* is Director of the William D. Ruckelshaus Center, a joint effort of the University of Washington and Washington State University that fosters collaborative public policy in the State of Washington and the Pacific Northwest. Michael has over 20 years of experience in helping diverse groups reach common ground on public policy issues. Prior to joining the Center, he was a Senior Associate at Triangle Associates Inc., providing facilitation, mediation, public involvement, strategic planning, project management and other services. He has also provided these services as a sole practitioner and at non-profit and academic institutions for the North Cascades Initiative, Hatchery Reform Project, Hanford Openness Workshops and other projects. Michael has a Master of Public Administration degree from the University of Washington's Evans School of Public Affairs.

Cindy Cook is the principal of Adamant Accord Inc., a past Co-Chair of the ACR-EPP section, and the Immediate Past Vice President of ACR. Cindy has designed and facilitated processes on issues of sustainability, climate change, green jobs, environmental justice, public lands management, etc. Cindy sustains herself by reserving significant chunks of time to be with family and dear friends, and to play outside; and through the liberal application of humor.

John Ehrmann is co-founder and Senior Partner at Meridian Institute and has 25 years of experience facilitating national and international policy dialogues, negotiations, and internal and multi-organizational strategy development processes. John is a recognized leader in the field of facilitation and consensus building, with expertise in the areas of general environmental policy; agriculture and biotechnology; oceans and fisheries; water and watersheds; chemicals, pesticides, and toxic substances; climate change, energy and air quality; environmental cleanup and waste management; forests, ecosystems, biodiversity and natural resources; health; mining; and sustainable communities / corporations / development. John holds a PhD from the University of Michigan in Natural Resource Policy and Environmental Dispute Resolution.

Bill Ross has over 25 years of experience in public policy issues, including ten years as a public official for the state of Alaska, culminating as Commissioner of the Alaska Department of Environmental Conservation. Since 1987, Bill has been President of Ross & Associates and has led the firm in establishing a national reputation for assisting public sector agencies in addressing critical emerging environmental and natural resource issues. The firm assists clients in all realms of environmental programmatic arenas and provides expert assistance ranging from information management and analysis, to policy and program development, to stakeholder engagement and mediation. Bill is a respected advisor and convener of public agencies and their stakeholders in a wide-ranging array of issues and situations. Bill is currently emphasizing ecosystem restoration, reducing greenhouse gas emissions, and developing sustainable partnerships in his practice.

Steve Smutko holds the Spicer Chair in Collaborative Practice and is a professor in the Department of Agricultural and Applied Economics and the Environment and Natural Resources Program at the University of Wyoming. He is affiliated with the University's Ruckelshaus Institute. Steve carries out a research, teaching and outreach program in policy development and public decision-making in natural resources and community development. The focus of his work is on working with local governments, state and federal agencies, and the private and nonprofit sectors to enhance participatory decision-making in environmental policy and natural resources management issues. Steve provides assistance and training in participatory decision-making, negotiation, collaborative process design, public dispute resolution, and technical analysis of resources, economics and policy. Steve teaches graduate and undergraduate courses in negotiation analysis and environmental conflict resolution.

***Elissa Tonkin*,** an experienced mediator and facilitator with the United States Environmental Protection Agency's Boston office, currently serves as Director of EPA's leading Regional ADR Program, which she helped to establish almost 20 years ago. Previously, she worked as a civil litigator in private practice, an EPA manager and case lawyer, and a junior high English teacher. Elissa is significantly involved in the development of EPA policy and practice nationally regarding the use of ADR, particularly in the areas of superfund, public consensus-building processes, and the role of the agency neutral.

Initial Thoughts on ADR in Different Institutional Settings

Each panelist shared three initial observations about practicing ADR from their setting.

Sole Practitioner–Cindy Cook

1) Flexibility and Affordability
    - You are your own boss - can work in a variety of different settings, for a variety of different clients and have the freedom to choose your work.
    - Your work is not informed by the rules, mission and/or culture of an organization.
    - Your services are more affordable – don't have to account for staff or overhead.
2) Variable Work Load
    - There is a thin line between idle and overbooked.
    - If projects get too large, you may find yourself needing to find other practitioners with whom to partner , which can be challenging.

3) Mid-Stream Processes
    - Sole practitioners are ideal for processes and groups that are in middle stages of their efforts – groups already formed and requiring a non-biased practitioner.
    - Lack the organizational structure and resources needed to do large scale situational assessments and convening of groups at the beginning of a process, as well as the structure and resources needed to do evaluations at the end.

Non-Profit Organization–John Ehrmann

1) Mission Driven
    - Your work is motivated and selected according to your organization's mission.
    - Employ subject matter experts and dedicated to a project.
2) Neutrality
    - Able to do international work and trusted at the international level.
    - Non-profits are not always seen as neutral.
3) Financing
    - Constantly seeking funding for projects and are able to bring additional resources from funders/foundations.
    - Meridian is also classified as a 501(c)4, which allows it to move more aggressively into implementation.

For-Profit Firm–Bill Ross

1) Money and Performance Driven
    - Highly driven by performance, because it is what the client is paying for.
    - Balance between profits and principles.
    - Your work is motivated by and follows the money, that's what keeps the doors open.
    - Focus on clients who want to get something done.
2) Collective Wisdom
    - Superior service on issues that matter at competitive rates.
    - Employ and collaborate with people who have many different skill sets.
    - Avoid collaborating with those who have same skill sets – they are your competition.
3) Neutrality
    - Maintain an image of neutrality when services are paid for by government, but it can be difficult to be seen as neutral when working for private funders.

Academic Institution–Steve Smutko

1) "Pracademic"
    - In an academic setting, you are both a practitioner and an academic.
    - Your work must be consistent with the mission of the university, the mission of the college you are working out of, the school and/or program within that college you work from, and your own practice.
    - Projects must adhere to specific criteria, and have educational value: what participants learn, what the university can learn and what students can learn.
2) Administration is Risk Averse
    - Cautious and selective with the types of projects and services offered.

- Open, often and transparent sharing of information on the work you are doing with university administration.
- Maintain and be sensitive to university relationships with legislature, funders and other practitioners.
- Big bureaucracy

3) Teaching and Trainings
   - Able to teach students about ADR, collaborative governance, mediation, etc.
   - Trusted providers of trainings for government, business, non-profits, etc.

Government Agency–Elissa Tonkin

1) Stable and Multi-Functional
   - Not competing with other practitioners for resources – designated FTE's for staff.
   - Opportunities to collaborate with private, non-profit and universities.
   - Adapt to the needs of the region.
2) Big Bureaucracy
   - Risk averse, silos and not always seen as neutral.
   - Changing leadership and varying budget cycles can create instability.
3) Trainings
   - Provide direct, in-house services and outside training.

Panelist and Attendee Discussion

Michael Kern invited attendees to reflect on the statements made by the panelists, ask questions and engage in an open discussion.

Q1: How is government accommodating the younger generation and teaching them about collaboration?

a. There are multiple and new opportunities available to the younger generation to learn about collaboration. People are becoming much more accepting of collaboration and ADR services, and the younger generations are embracing these practices. For those under 30, collaborative decision making is assumed. It is how they did all their projects in school.

Q2: Question for Steve Smutko: You mentioned that you are a "pracademic", how much of your work is academic and how much is practitioner?

a. Neither one nor the other is greater, but instead my work is a melding of the two.

Q3: Is there a gap or a need for identification/certification in the field of ADR?

a. The "giants" of the field are retiring and accreditation is needed more than ever before. The time has come for the field of ADR to move beyond the founders and we have a responsibility to make sure the younger generation is prepared and equipped to take the lead.

Q4: Has has your work, technique, and/or approach as an ADR practitioner changed since you first entered the field? If so, how and/or what facilitated that change?

Cindy Cook: The use of technology and how important it now is to the field.

John Ehrmann: When I started, this field was focused on mediation. It then evolved into collaboration and now we are moving more towards systems thinking and approaches.

Bill Ross: Today we suffer from "process fatigue." Our field is very focused on the process of helping people get to decisions and less so on implementing them. The value and role of the ADR field in implementation is just beginning to be recognized.

Steve Smutko: Thinking back to just 1995, I had to explain to people what collaboration was. Today, you no longer have to do this, people know about collaboration.

Elissa Tonkin: In the past, mediation services were preferred. Today, facilitation is preferred and mediation is seen as threatening.

Q5: In 1992, Gail Bingham did a survey/profile of all ADR businesses, centers and practitioners for ACR's predecessor. Next year will be 20 years since that survey. Maybe it is time to update it, do a new field profile?

Closing Remarks

Michael Kern thanked the panelists and attendees for their participation in the session and asked each panelist to share a closing statement.

Cindy Cook: As a sole practitioner you have the ability to choose the projects and work that you want to do. My current work is focused on mentoring and applying my skills towards problem solving.

John Ehrmann: While each of us operates out of a different institutional setting, we share a common goal – to help people solve problems.

Bill Ross: To be in this field you need to develop a thick skin. You put your heart into a process and helping people solve problems. Then, one day the process is completed and you move on to the next project. You may invest years into a project and when it is complete, you may never see the folks you helped again.

Steve Smutko: Universities have a responsibility to provide high quality teaching, research and outreach. Universities that provide ADR services will be doing so long term with a responsibility to provide the same high quality services.

Elissa Tonkin: Today, the term "agency neutral" no longer carries the negative connotation it once did. As a government agency practitioner, you are afforded the opportunity to teach others about ADR and to build capacity within your agency.