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Win-Win Solutions For Disagreements: Lessons For Effective Decision Making In Public Projects

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Abstract: *Projects of public interest are undertaken to provide utility and comfort to public at large. Such projects require proper planning and consultations. Even with prior homework and cautions, it is eminent that disputes and disagreements would arise because many stakeholders are involved in the decision making. In order to address their grievances and concerns, the project team and authorities negotiates with the affected persons to resolve their issues in a timely manner to avoid court cases and stay orders.*

In this study, qualitative document analysis method was used where the negotiations in BRT (Bus Rapid Transit), Peshawar were studied and analyzed from the environment, safety and safeguard policy reports available on ADB (Asian Development Bank) website from the period 2017 to 2022. The analysis shows that due to the effective policies of Asian development bank, the project team negotiated with the general public and affected persons which resulted in win-win solutions for the stakeholders and the project team.

Keywords: *Grievance Redress Mechanism, BRT, Asian Development Bank, PDA*

Introduction

When projects of public interest are initiated, it is common that disputes would arise, as multiple stakeholders are involved with different interests and perspectives (Illankoon et al., 2022). This could lead to delays and additional costs (Ajaelu & Okereke, 2020). The situation could further deteriorate if the parties involved are not able to resolve the dispute and the matter is taken up to the court. In such cases, lengthy court proceedings could cause further delays to the project.

To avoid such challenges, it is important to resolve all the disputes on the table that will benefit all the stakeholders affected by the project. It is therefore important to adopt win-win solutions to the disagreements to safeguard the interests of all involved. In the same way, during the construction of the BRT (Bus Rapid Transit) corridor in Peshawar, Asian Development Bank used its safeguard policy 2009 to address the grievances of affected persons and resolve the disputes and disagreements with the help of series of negotiations (ADB,2017).

The purpose of this research is to understand how negotiations could lead to win-win solutions and

could be effective in reaching an acceptable agreement to all the stakeholders. For this purpose, 48 reports on environment, safety and safeguard policy available on ADB (Asian Development Bank) website from the period 2017 to 2022 were analyzed.

Literature review

The literature on the importance of negotiation in solving conflicts and disputes provides a comprehensive account of information. According to McCarthy and Hay (2015), negotiations are a voluntary agreement to reach a compromise. Negotiation could be as tough and difficult as in hostage negotiations and diplomatic disputes between two countries. Also, Mulholland (2003) suggests that effective communication is helpful in negotiation. He is of the view that learning to use language appropriately improves negotiation skills. Similarly, Shell (2006) states that the personality of negotiator matters a lot as the process begins with them. The way they communicate influences the outcomes. A good negotiator should be aware of their weaknesses and strengths and understand how to overcome their personality limitations.

According to Fitzgerald (2002), the purpose of negotiation is to make timely and smart decisions, acceptable to all involved. In a study it was found that time has proved that 50 percent of the decisions made by the management of medium to large public, private, autonomous and government organizations were wrong decisions. Therefore, decisions should be made by consensus.

The most common approach to negotiations is known as principled or integrative negotiations. Fells and Sheer (2019), stresses upon the importance of such negotiation. It is the most effective tool against dealing with the difficult people. Similarly, Fells (2009) states that although many articles and books are available on learning how to negotiate but pragmatic knowledge is needed that could be applied business, interpersonal negotiations, domestic and home negotiations with children and spouse.

On the other hand, Zartman and Faure (2005), deduces that conflicts escalate when none of the party steps back from their stance and it further escalates the deadlock. In such a case, usually a third party is involved in the process to mediate and provides some alternatives to end the dispute. Similarly, Kennedy (2009) believes that the outcomes of negotiation are very promising and long lasting. It creates relations between the parties. Negotiation between two friends on deciding where to go on holidays to worse enemies about sorting out some very serious matters like the life and the death. Every day, millions of people negotiate all over the world to sort out the differences.

Lewicki, Barry and Saunders (2016), studied the art of negotiations and states that negotiation is not an occasional phenomenon but occurs very frequently and is a prominent part of our lives. From discussion on which movie to watch, to discussing legal cases with the lawyers, all are negotiations. Also, Brams (2003) explained negotiation with the use of mathematical models and the perspective of game theory. He explained that various weightages could be assigned to available alternatives to access the outcomes of a decision. Similarly, Ury (2007) came up with a model for negotiating with the tough sides. If the counter side is not cooperative, there must be some reasons behind it. It is possible that they are averting risk, or they do not think the negotiations can be beneficial. Similarly, power is also an important factor. The party that dominates the other side in terms of power gets the desired results. These barriers should be eliminated before sitting beside the talking table and getting into effective communication.

Methodology

For this study document analysis, a qualitative research technique is used. It is a superficial process of skimming through documents and its analysis (Mackieson, Shlonsky, and Connolly 2019). It is a systematic procedure of finding, analyzing and interpreting data from documents (Bowen, 2009). The data could be in the form of images or text (Creswell and Plano Clark, 2011). It is a common method of data analysis in social sciences studies (Guest et al., 2012).

Using the qualitative document analysis method for this study, the documents available on ADB website

were analyzed and results were interpreted. The 48 data files providing information about Bus Rapid Transit (BRT), Peshawar were analyzed and the terms like “dispute resolution”, “conflict management”, and “negotiations” were extracted for the purpose of studying the importance of resolving disagreements for the successful project completion.

Results

The document analysis of various reports available at ADB website, shows that as per the social safeguard policies of Asian development bank, efforts were made to facilitate the affected persons and compensate them well. Also, conflicts and disputes with various shareholders were resolved with the help of negotiations. There were designated teams with the purpose to negotiate and resolve the disputes with the stakeholders. In addition to this, many changes were made in the initial design of the corridor, in order to facilitate people and save their land and properties.

As per the safeguards policies of the ADB, the section 17(4) of the Land Acquisition Act 1894 of Government of Pakistan was not used to acquire land from the private owners, but with the series of negotiations with the land owners, the matter was resolved with mutual consensus.

“If there is a need to acquire land for the project, it will be done under normal conditions based on market prices or negotiated prices between the PDA and the landowners. The use of Section 17(4) of the LAA will be avoided unless there is an emergency. Instead, the land will be purchased under a willing-seller willing-buyer deal at agreed-upon market rates. The landowner will also have the choice to not sell the land if a mutually acceptable deal cannot be reached” (ADB, 2017).

Also, successful negotiations with the existing transporters helped in integrating them into the project and compensating with through jobs and monetary incentives. Similarly, shopkeepers and vendors were also compensated, resolving their reservations and disputes.

“At the moment, TMTD and PDA are in talks with the current transportation service providers to reach an agreement that will guarantee that the existing transport workers are integrated into the BRT project in various capacities and that their employment is not jeopardized” (ADB, 2016).

The project team also negotiated with the displaced people and matters were peacefully and with mutual consensus resolved regarding resettlement problems.

“Between December 21, 2016, and January 5, 2017, there was an extensive process of consultation and negotiation aimed at resolving complex resettlement issues and addressing them in a peaceful manner with the DPs”.

For resolving conflicts, disagreements and disputes, a Grievance Redress Mechanism was in place to look into the matter and resolve the issues at hand with the help of negotiations.

“The Grievance Redress Mechanism (GRM) will guarantee the organized disclosure of information, documentation and resolution of complaints, appropriate measures for handling conflicts, and procedures for appealing decisions related to eligibility, entitlements, and resettlement activities implementation” (ADB, 2017).

A series of negotiations were conducted with the already in place bus operators to compensate them, and address their concerns, following the project.

“Conduct negotiations with existing private bus operators” (ADB, 2017).

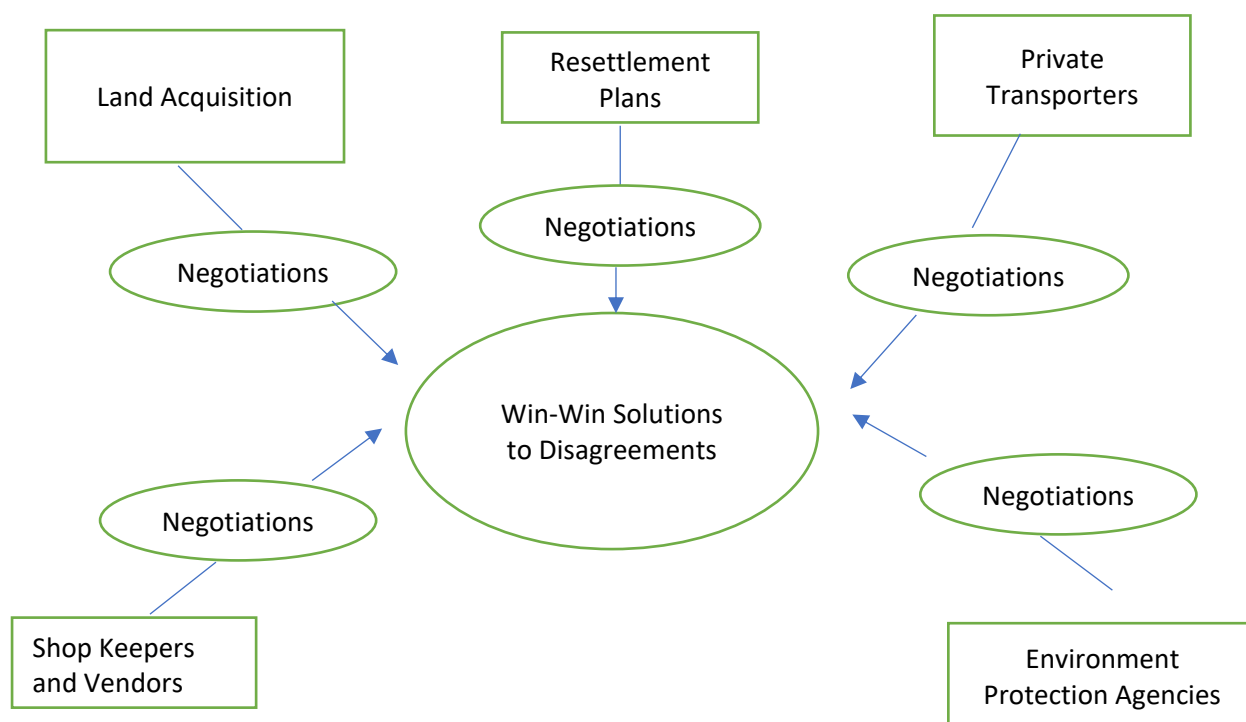


Figure 1. A comparison of main components of various ADB reports regarding BRT Project, showing negotiation helped in win-win solutions.

Discussion

The document analysis of reports on Asian development bank's website about the Bus Rapid Transport (BRT) project shows that there were extensive negotiations and a series of discussions with the stakeholders in order to reach a consensus and resolve the disputes. This means that negotiation was a central and core concept to resolve the problems pertaining to the stakeholders. It also shows that timely addressing the concerns and disputes of the affected persons can help in avoiding complex court procedures. It is significant to know that regarding dispute resolutions, instead of using government policies, the financing agency i.e. Asian Development Bank, used its own framework of Safeguard Policy 2009, to negotiate the differences.

The results from the document analysis shows that negotiations is the most useful, and cost effective method to resolve disputes. In large projects, like the BRT, Peshawar where many things are at stake and disputes are common because many stakeholders and affected persons are involved, negotiations can help in early and timely resolution of the problems. This model of negotiation could be used in further projects to address complex problems.

There are certain limitations of this study as only documents were analyzed and the perspective of the affected persons was not taken into account. Further studies involving interviews with the affected and displaced persons, and onsite visits could provide further information about the negotiation process.

Conclusion

The study concludes that negotiation is an important component in resolving problems, which avoids many complex and cumbersome lengthy court procedures. Negotiations require effective communication and follow ups of disputes. It is important to understand that instead of forcefully

imposing government policies, if the matters are resolved with mutual consensus, it could be more effective and long lasting. As the ADB reports shows that in BRT project, instead of forcefully imposing the Land Acquisition Act of 1894, a new flexible safeguard policy was implemented by the Asian Development Bank which stresses of negotiations and resolving the issues with mutual agreements. The policy also suggests that if required, a compromise on the part of the project team could be beneficial. Similarly many changes where many changes were made in the project facilitating common people.

Although the document analysis, helps in understanding the concepts and extracting main research themes from the text and other documents, further studies, like grounded theory approach, triangulation of data, direction observations and research interviews can provide further insights. Also, the role of negotiations in building consensus could be elaborated more, by studying its applications in other projects. Furthermore, this study only discusses the importance of negotiations, but unresolved disputes, court cases and stay orders are also common in such projects. It is also important to explore, what happens when the problems are not resolved on the table and parties takes the matter to courts, and how it could impacts the project.

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