

A Grounded Method to Explore Dispute Resolution Strategies In Asia: Studying Practice  
Stories

John Forester, Cornell University

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I hope this morning to propose—and review with you—a distinctive method, producing detailed, narrative profiles of practitioners, that we can use to study emerging dispute resolution practices in diverse institutional settings. This method, I will try to show, can help us to learn in ways that are ethnographically vivid, instructively engaged and practically grounded—while being theoretically generative as well.<sup>i</sup> If we ask good questions, we can explore the work of skillful practitioners as windows onto the world of dispute resolution practices—even if these practitioners might simply call themselves by more traditional names, “managers” or “engineers,” “planners” or “administrators,” for example. My argument will go this way:

We can begin with a wonderful saying of the English language philosopher, John Austin, who anticipated post-modernism by 40 years and who once remarked, “fact is richer than diction.” Because our language of dispute resolution remains so often vague—“assessing,” “convening,” “fact-finding” and so on—we will see that the actual practice of “mediators,” “facilitators,” “consensus-builders” and their cousins involves far more interesting judgments and strategies, sensitivities and skills than our vague categories even begin to suggest. Practice, that is, often leads theory! (Forester, 1999). As a result, if we wish to continue to learn from engaged dispute resolution practices, we need better research methods to see what “mediation” and “consensus-building,” for example, might actually mean as institutionally staged and

responsive pragmatic actions, as thoughtfully and critically improvised, and perhaps innovative, organizational performances. We need to be able to examine flows of practice in real cases, and we need to do that in ways that are not held hostage to a priori theories of what these practices “must” involve.

So I hope to show that we can produce rich accounts of both the challenges and the opportunities of such practical dispute resolution work—if we refine a fieldwork-based, oral history method of producing first-person, case-focused narratives that we can simply call “practice stories,” practitioners’ accounts that can richly illuminate the fields of our interests. As we shall see, these practice-stories can teach us about the complexities and uncertainties, the formal obligations and the informal entanglements, the ambiguities and judgments, and the strategies and sensitivities involved in handling real disputes in a wide range of public and administrative settings.

To make this argument, we can begin with an example of the kind of result that we might produce: so I will provide an excerpt from a rich practice story and suggest an initial analysis of it. After considering what we can learn from such accounts of dispute resolution practice, we can turn to “how to” questions of method. Then, finally, we can consider several of the further substantive questions that this research strategy might help us to understand, as we try to explore both emerging and existing forms of public dispute resolution.

### Practice Stories: An Excerpt

Consider for a few minutes, then, just a small excerpt I’ve taken from a recent profile of Robert Rich, an experienced planner-turned-organizational development consultant in New York State.<sup>ii</sup> He’s reflecting here upon his own development and his own emerging recognition of a

distinctive style of work that took shape first as he served as the Deputy Director for a small city's Department of [Community] Development. He begins,

I started to manage the community development block grant projects, which was this new form of much more locally determined ways of using the federal support, so we had a lot more flexibility with it. And that's when I started using what ultimately we called 'self-design', which was just to get people in the room. This is where I learned about the power of convening: Of just getting people in the room and saying, 'What do you want? What would you like things to be like?' We would have our staff, our architects, our engineers and our design people in the room to support and give shape, to talk about the practicalities and the feasibilities of actualizing their desires. This fundamentally reversed the design process. It started with what they wanted and would like to see happen, and then we used our resources to see if indeed that was possible—and how to make that happen.

He goes on,

Before, the plans would have been made on the 4<sup>th</sup> floor of City Hall, in the suite of architectural and engineering offices, by civil engineers, architects and transportation engineers. And then they would have been presented to the parts of the city that they affected, and they would have been presented, using what, I'm sad to say is still the most common technique— the design and defend mode. Meaning they say, "Here it is," and when people start asking questions about it, the designers defend their designs, and they say why it's that way and why it can't

be changed. This is what sets up the loggerhead and conflictual situations between the professionals and the people, merchants or property owners, or whomever else.

He continues now,

It was my observation that the old process didn't work. They had been going for three and a half years trying to do a downtown development project and still didn't have anything going on the ground. Three and a half years of just going back and forth, and they couldn't get anything to happen because they were just constantly in conflict—back and forth.

What this process did was basically start with the concept of the design from the values and perspectives of the people that were going to be affected by it, and then [it] used the technical resources to facilitate the actualization and operation of it. It was a complete reversal of the sequence. It made perfect use of those professional resources, but it subordinated them in a way to the values and interests of the people that were going to have to live with the results of the changes that were being made.

The big conceptual shift was in turning that around—and the only reason it happened was because we had the power; we were the Director and Deputy Director of the department. We could say, “We're going to do it this way.”

He goes on,

The professionals would not have done it this way. There was one architect that was happy to do it this way, and I think it's just because he had been beaten

up so badly for so long that he just didn't want to do it the other way any more. Thank god. He'd say, "Sure, I'll go in a room and sketch this stuff."

And that's literally what he would do. We would line the wall with paper and people would come in and he'd sketch. He loved it. It was very successful, but that actually set the stage for me to set the pattern to always think about starting from the values and interests of the parties as the foundation place to start, to use learning as the motivation for making change and to have the parties themselves do that learning. They themselves have to discover what they want to change—because once they do that, they are actually willing to change.

Rich summarizes this way,

I would have to admit that it was a value of my own that led me to make these changes. I thought it was really quite arrogant for an architect or an engineer, or someone from any professional position, to presuppose that they knew what people wanted or needed in a neighborhood or in a business district. Or that they knew more about the neighborhood than the residents knew. I just thought there was something asymmetrical about that, but I saw nothing wrong with them collaborating and co-generating the plans. From a purely ethical and moral perspective, let alone a practical and pragmatic one, I thought it was wrong for them to overlay their 'professional knowledge and expertise' onto people's lives and have those impacts occur on others without others really having an initial way of helping to shape how that was going to happen. This is what I've been doing ever since and the only difference was that, in that instance, the venue

or application was at a community level. Eventually I brought it into individual organizational venues.

### Commentary on Our Excerpt from Robert Rich's Practice Story

Now this brief passage recounts an early experience of a project, in which a political opening—the support of the community development department's director—gave this practitioner the power not to implement any downtown design but to try a new process of public involvement and collaborative design. Rich describes his own learning process here, and so we can come to learn with him too.

He speaks early on of “learning about the power of convening,” by which he obviously means quite a bit more than just getting people in the same room, though he does mean that too. He speaks immediately to the significance of asking several future-oriented questions that not only recognize and respect the participants (“What do you want?) but that draw them into a design process (“What would you like things to be like?”). Notice that these quick examples of questions speak not to past grievances but to future possibilities; they do not ask what you do not like (or who has done what damage to you) as much as they probe for practical proposals.

Rich speaks immediately to the role of expertise, practicality and feasibility. He is no romantic, no ideologue. The architects and engineers must do their work, but he speaks of the design process now as being “fundamentally reversed.” The experts can solve problems, but the affected city residents, the main street merchants and others, must be involved in defining and identifying the problems in the first place. Problem solution, he reminds us, can only be as good as problem formulation and problem identification.

Rich teaches us about institutional history here in two significant ways. “They’d been going for three and a half years trying to do a downtown development project and still didn’t have anything going on the ground,” “three and a half years.... just constantly in conflict” he says. So he’s responding to problems of efficiency and effectiveness: “the old process didn’t work,” he suggests. But he tells us more too: he tells us about a traditional way of thinking of professional work that has often produced its own problems: “Before, the plans would have been made on the 4<sup>th</sup> floor of City Hall, in the ...offices...and then...presented using what I’m sad to say is still the most common technique—the design and defend mode.”

Rich asks us here—and the professionals with whom we work—to distinguish between matters of epistemology and knowledge and matters of public performance and interaction. Let’s not confuse, he suggests, first, the trained expertise of the architects and engineers—he refers to and clearly values making “perfect use of those professional resources”—with, second, the dramatic performance and pragmatic style of presentation of those experts, the “design and defend mode”—because this “common” style, “decide, announce, defend,” he’s suggesting, leads to constant conflict and not necessarily any good result.

We might find this quite ironic, of course, because the experts care deeply about their fields, even as the design and form of their interactions with affected publics gets them into “constant conflict,” into troubles of trust, accountability, and responsiveness—issues about which, of course, they are experienced but not expert at all. So Rich helps us to understand how “one architect” seemed “happy to do it this way,” because, as he says, “he’d been beaten up so badly for so long that he just didn’t want to do it the other way any more.” So we have here, too, a story of administrative innovation, an improvised way of using expertise with the promise of quicker results and no loss of professional quality!

Rich summarizes and helps us to appreciate what's at stake in our studies of emerging forms of dispute resolution, when he says, "that actually set the stage for me...to always think about starting from the values and interests of the parties, as the foundation place to start [to start, he says, not to end!]" Then he says, crucially, that here he came, "to use learning as the motivation for making change—and to have the parties themselves do that learning." And "This," he tells us, "is what I've been doing ever since."

Now, consider what we might learn from this brief fragment of Robert Rich's practice story. We may have a short "story" here, but this one has been told not to entertain us but to capture several practical themes. We see reference not only to constant, inherited conflict, but also to past and continuing institutional practices—both professional and administrative—that seem both inefficient and ineffective.

The planning staff here looked for a better way. So we see a tale of administrative and organizational innovation that did not seem to depend on substantial new resources. With his Director's support Rich had the power to try a new process, but not the power to assure its success. So we see beyond matters of administration to the limits of conventional ways of using professional expertise: the limits of asking professional engineers and designers not only to solve problems but to diagnose and formulate them as well, with modest input from affected publics or their representatives, it seems. We see an improvised re-design of the use of expertise, so that the "the design process" was, Rich says, "fundamentally reversed," so the professionals still speak to feasibility and practicality, but now they do it in collaboration with affected business owners and residents. We see too what Rich refers to as "the power of convening," in the light of previous years spent with too little accomplished. And then we see Rich struggling to make sense of this new way of administering the planning process, as he tries to capture the lessons of this way of

working which, he says, he has adopted “ever since” then: to use learning as the motivation for making change and to have the parties themselves do that learning. So here from the practice story we have an emergent theory too—one that Rich suggests his whole career has then corroborated: planning processes and governance can result in community change, at times, not because of raw power, but because community members can learn together, learn about threats and opportunities, learn “what they want to change” given the expertise at hand—because once community members, he says, “discover what they want to change” “they are actually willing to change.”

Now, we have something more here too. We have a grounded story of an experience that challenges popular suspicions that collaboration is inefficient, that it takes too long, that it must compromise or sacrifice quality, that it cannot be implemented within governmental processes. To the theory that claims, “If you find a swan, it will be white,” we have a refutation; we have a healthy black swan.

In this way, I suggest, carefully gathered practice stories can be not only ethnographically vivid and rich, but scientifically useful, even generative. They provide far more than simple data points. They may challenge prevailing theories and assumptions. They may pose new suggestions and theoretical propositions to explore: here, for example, the connection between stakeholders’ learning in the face of uncertainties and vulnerabilities and their subsequent motivations to act in new ways, their subsequent ownership of decisions to act now.

Furthermore, notice that the work described here breaks the boundaries of simple labels, whether we speak of this work as “collaborative planning,” or “convening stakeholders” or “co-generating knowledge” or “participatory action research.” Roughly speaking, all these labels work, but that’s the problem—they work too poorly: our theories of practice tend to be quite

impoverished relative to the complexities of practical judgment required. Likewise, in political science, public administration, planning and dispute resolution literatures, our language of process design does little justice yet to the complexity, richness, and subtleties of actually facilitated and de facto mediated processes, processes helped along even if not called “mediated” (Forester 1999).

### “Fact is Richer than Diction”: Assessing “Practice Stories” as Project-focused Oral Histories

So let me offer for your consideration, then, a research method that I have developed over the past fifteen years or more, a research method devoted to gathering and analyzing just these kinds of “practice-focused oral histories,” “practice stories” for short, that has helped me to produce two books and almost two dozen articles, not counting another two books virtually now finished.

Almost 20 years ago now, I applied for a small grant from my University in a competition designed to promote innovations in undergraduate education. My idea was very simple: let’s try to connect, I thought, the real work, the daily practice, of our graduates from ten years ago, let’s say, to the seats in the classrooms now occupied by our current students. Then we might be better able, not simply to ask students to trust our good professorial judgment, but to show the students the kinds of challenges that they too might soon face.

I received the grant, but then the idea turned out not to be quite as simple as I had thought. How would we link the practice of our graduates back to the classroom? After a series of false starts, I asked Linda Chu—who had been a journalist before returning to study for her Master’s degree—for help as a research assistant. I asked her to interview a planning graduate, a transportation planner, then working to improve the connection between New York’s two airports, La Guardia and JFK International.

A week later, Linda brought me a competently written three and a half pages that described our graduate's work. This was good but I thought, somehow not good enough. Everything here was true, but somehow too schematic, too much the outsider's version of the story.

So I gave Linda a book of Studs Terkel's, a well-known oral historian who'd published an immensely popular book called Working, in which people from all walks of life and work described what their being a priest, or a telephone operator, or a sex worker or car salesman was really like. Each selection had a minimalist introduction followed by each person's account or story, edited by Terkel, but retaining their own words, their own inflections and tone, senses of perspective and emphasis.

So Linda returned another week later with 12 edited pages of transcript from her tape-recorded interview. Here, in this transportation planner's own words was his story of trying to connect the two airports, as he'd told it to Linda who'd asked questions about his work.

I distributed copies of those 12 pages to my third year undergraduate class that week and told them what we'd done. Here, along with their earlier readings about planning case studies and negotiation practices, was this transportation planner's story, just as he'd told it. "It's optional," I suggested, "take it or leave it, see what you think."

I didn't know what would happen. The next week, half the class had been curious enough to read Linda's transcript. "What did you think?" I asked.

Marjorie raised her hand. "Yes?" "Now I know what to tell my mother when she asks, 'What do urban planners do?'" she said. I was surprised and struck too: this was a question that haunted our interdisciplinary program, and somehow this piece had given Marjorie the confidence to answer it.

Sean sitting nearby raised his hand. He said, simply, “This was the most practical thing I have read in this program in three years.”

I didn’t know whether to laugh or to cry. He had just read a brilliant, award winning economic development case study, grounded, vivid, politically and practically insightful. He had just read Fisher and Ury’s negotiation primer, nothing if not immensely practical. What was he talking about? How could this be the most practical thing he had read in 3 years?

Somehow Linda’s transcript—in our graduate’s own distinctive words—had reached these two students in quite a profound way. I knew that something pedagogically powerful and intellectually significant had just taken place, but I also knew, somewhat painfully, that I really didn’t understand what had just happened.

But then I got lucky. A month later I came upon an article of Martha Nussbaum’s, “Finely Aware and Richly Responsible: Literature and the Moral Imagination,” and my interest in the ethics of practice led me to seize upon the subtitle and read the essay. I should say that Linda’s transcript, Sean and Marjorie’s comments, and Nussbaum’s article changed my life, for that article brilliantly and forcefully showed me not just why but how my students had been so struck and so impressed by such a simple, even somewhat messy, transcript.

Nussbaum’s problem in her article was this: How can we learn about ethics (the sensitive moral imagination of our practice and our options and their meaning and consequences) from novels? Novels after all are “made up,” invented, fabricated, stories that are not even histories—so how could we learn about ethics—honesty, betrayal, generosity, callousness, respect, kindness and so on—from them?

I do not wish to do violence (by overly quick summary) to her analysis, but a good bit of my 1999 Deliberative Practitioner rests upon her analysis of the power of literature and, by

extension, the power of narrative and story. Now I understood far better how the-not-so-simple, detailed planner's story about his work of connecting the airports showed so much to my students, showed so much of the entangling responsibilities and complexities of his planning practice, showed so much of the challenges of perception and ambiguity and judgment that arise in such practical work—in this case, the work of planning, not mediating.

But the implications of all this reached far beyond the classroom. ~~I had, for years, studied planners at work, in part by sitting in with them in their staff meetings in City Hall. I was bound to secrecy and confidentiality, of course, but they appreciated having someone who cared about their work “sit in” and pay attention, and this was their way of helping academics do more justice to their real practice.~~

#### Practice Stories at Work: Pedagogy and Research Assessing Professional Practices

Very soon I realized that in the actual flow of the planners' work, they had to gather and actually tell stories all the time, stories, again, not told for entertainment but to do real work. “What happened at the meeting last night?” they would ask one another, and they would hope to get a useful and perceptive account of who did what, so they might now know who to call, who to invite to a future meeting and, perhaps, who no longer to invite, and so on. I came to see that far from being confined to “novels” and “literature,” stories were to practitioners a bit like water is to fish: if you try to get out of that water, you're not going to be doing good work for very long.

~~Now this experience had grown out of my interest in the micro-politics of planning, the ways that selective attention and problem framing shaped who knew what, and when, and how they did. So it now led me in two closely related directions, first to the essays that became the Deliberative Practitioner, published by MIT Press in 1999. Second, though, So I soon realized,~~

then, too that by collecting and analyzing “practice stories”—refined descendants of Linda’s early transcript produced from our transportation planner’s account—I might now be able to do, just what I am suggesting that you now can do as well: explore the actual challenges and opportunities faced by “mediators” of different kinds, practitioners who found themselves working “in between” multiple and conflicting stakeholders, practitioners whose experience promised—and still promises—to teach us not only about dispute resolution practices but about encouraging public participation and even “managing” in organizations much more generally. That work has appeared in articles and will appear, in the next year or so, I hope, in a book about what planners in many fields might learn from the experiences of mediators, facilitators, and consensus-builders, practitioners a bit like Robert Rich whose work we’ve discussed here.

So let me explain, now, how you too might gather and produce grounded, vivid, and rich practice stories relevant to dispute resolution—for both research and classroom use—practice stories that explore the particular institutional contexts in which you may be most interested. ~~With a Cornell colleague, Professor Scott Peters of our Department of Education, I have worked in the last several years to integrate the study of “practitioner profiles” and “practice stories” into undergraduate and graduate courses alike (see: <http://courses.cit.cornell.edu/practicestories/>). So here’s what we do as a research matter and what we ask our students to do in classes as well.~~

### Collecting Practice Stories

We wish, first of all, to learn through the friction of actual practitioners’ struggles. In whatever field of practice that we, or our students, wish to explore—economic development planning or urban design, environmental planning or city management, historic preservation or post-disaster response, for example, at neighborhood, urban, regional, or larger scales—we begin by identifying candidate interviewees. We look for practitioners who, by reputation, have been

deeply immersed in the problems we wish to explore, practitioners who might be thoughtful, willing to speak about their own practice, willing to discuss what they've tried, what they might have done differently, what they've found surprising, how they'd adapted and so on. Let's say I'm interested in exploring the character and handling of value-based or, perhaps, ethnic disputes, to take two examples. Then, when I identify experienced mediators as candidates to interview, I ask, of course, if they could speak about a specific case that centrally involved one or the other of these kinds of disputes.

We select experienced practitioners, then, who might discuss cases that speak to our research interests, but we proceed only if they can choose a case that they take to reflect the actual challenges and opportunities of their work. We do not ask for success stories. We ask for cases that the practitioner himself or herself finds fascinating, engaging, intriguing because in part it can teach us, again, about both the difficulties and obstacles, the challenges, and the openings and promises, the opportunities, of their actual work. And we do these interviews by asking some quite particular questions, as we shall soon see, persistent "how?" rather than "why?" questions.

So with a case selected by or with the practitioners, who often offer several cases that they might describe, we typically ask for one hour's conversation. We want ultimately, then, to follow the trajectory of their work on a real case. We want to save perhaps a quarter of an hour or so for their reflections about what they might have done differently, so that leaves us three-quarters of an hour for their story. But if we ask, as we usually do, for five to ten minutes of autobiographical history ("How did you come to do this kind of work?"), then we have thirty-five minutes or so left for the story of their work, and we try to begin that story by marking the entry and outcome points: "How did you get into this specific case?" "How did the case come

out; what were you able to achieve?” So with that origin and destination, our interview will work to connect entry to outcome—to connect ‘The mayor called and asked me to convene this group....’ (their beginning) to ‘Nine months later we took an agreement to the City Council for ratification...’ (their outcome).

But our interviews will connect that beginning to that outcome in two important ways that distinguish these interviews from those that social scientists might ordinarily do. We wish, first of all, to learn about practice from the actor’s point of view, not the spectator’s. We want the account of the game from the player on the soccer field, not from the spectator in the upper deck of the stadium. So how do we do that? Most of all, and quite practically, we do not ask, “What did you think about X” but we ask instead, “How did you handle, or respond to, X?” Asking “What did you think about the pressure from the politician?” will give us the interviewee’s views and perhaps theories about political pressure; asking instead, “How did you handle the pressure from the politician?” gives us what we want, a story of engaged, politically sensitive practice, not a theory. This simple interviewing strategy makes a deep difference in what we can learn: asking not, “What did you think...” but, “How did you respond...?”

Because we want to understand flows of practice, we also do not ask, “Why did you call for a delay then?” but instead, “What did you see that led you to call for a delay then?” If we ask the “why” question, the interviewee will often try to give us a rationale or justification for their action. If we ask “how” questions, we learn about their perceptions of the setting and their practical judgments, without putting the interviewee on the defensive, having to justify themselves to us instead of explaining how they came to act as they did.

These interviews allow us to explore the kinds of issues that we, as researchers, find problematic, as they have been faced or experienced, as they have arisen or become problematic

in a practitioner's work. If we wish to learn about problems of "representation" or "adversarial science" or "fear" or "anger" or the relationship of dispute resolution to elected politicians, these interviews provide opportunities for us to ask, in specific settings, how experienced practitioners have handled and worked through just these questions.

Significantly too, asking for detail, asking for examples, frees us from the interviewee's own shorthand, his or her own abstract summaries: "It's all a matter of building relationships," an interviewee might say. "Yes, surely," we should respond, "building relationships: Can you give me an example of what you mean?" Or the interviewee will say, "It depends on respect," and we might ask simply, "Respect? Can you give me an example?" When we can prompt examples, we find they give us pictures worth far more than a thousand words, pictures of "respect" or "building relationships" that serve as windows onto the practical worlds we are exploring.

These interviews also provide the occasion for us to ask about surprises. What did these experienced planners—or managers or mediators—confront that they did not expect in the case at hand? Instances of surprise can teach us all, for surprise shows us the limits of our prior expectations, the limits of our operating theories, and so surprise and response teach us about what more refined theories and practical expectations we might need to bring to bear on cases in the future. As these practitioners learned from surprise, so do we, and so do our readers.

All through these interviews, we see how our interviewees built relationships with stakeholders, managed trust and suspicion, learned as they went, inquiring sometimes by themselves and sometimes facilitating inquiry by the stakeholders themselves too. As we see their stories of learning unfold, we may well expand our own sense of ways in which we might learn, sometimes in interviews, sometimes via argument, sometimes via site visits, sometimes

from outside experts, sometimes by being corrected by others in the flow of conversation and negotiation. All through these interviews we can recognize practical challenges of substantial theoretical interest: learning about interests, reconciling value differences, responding to posturing, strategies of joint-fact-finding, ways of enabling venting and catharsis, modes of respecting deeply differing identities, strategies of representing stakeholders, and far more.

### Challenges of Public Dispute Resolution That We Might Now Explore

So let me now summarize just four challenges of dispute resolution practice that my interviews, and the resulting practice stories, suggest as opportunities for continuing research:

First, dispute resolution processes depend upon a constructed fabric of relationships that makes conversation and negotiation possible. Robert Rich spoke of the power of convening, and in our small excerpt he had a bit to say about the conditions under which the stakeholders and the professionals actually met. Although Americans may be notorious for wishing at times to “sit down and make a deal,” many mediators in the U.S. and abroad take pains to “build relationships” first, to enable parties to “get to know each other”—whatever that really means. To say this raises more questions than it answers, and we need to understand better how such relationship building can shape subsequent learning together and dispute resolution, and how a variety of social and cultural rituals can play crucial roles in such work.

Second, the presentation of self and the practical construction of disputes themselves need attention, for we can often expect stakeholders with much to risk to be quite circumspect, guarded, selective about the information they reveal to each other. Mediators know to expect this, to respect what’s said initially even as they know too that much more can—and will—be said, much more can be learned. Mediators know that parties deserve respect not only for their

opening statements but for their abilities to listen and learn, to consider today's information and tomorrow's options as well—and we can learn from mediators' strategies here.

Third, many mediators know, too, that when parties focus, often, for example, through the press, on what surely appears irreconcilable, many more options may nevertheless be present. So mediators may well ask to convene stakeholders at just those times when others, planners or managers or community leaders too, might think that only more antagonism will come from bringing together such adversaries. The wisdom of mediation here might be put like this: parties might disagree deeply about fundamental doctrine or what their conception of the deity requires, but they might yet agree about where to put the traffic signs. Parties might well disagree “fundamentally” about these issues and yet come to make important practical agreements on those issues. They might disagree about abortion policy and yet agree on the need for further funding for healthcare for small children. And so on.

Fourth, mediators' stories suggest, too, that many people who remain unfamiliar with dispute resolution processes often confuse three kinds of stakeholders' interaction that need to be both distinguished and then carefully re-integrated practically. Processes of dialogue differ from those of debate, and both of those differ substantially, in kind, from processes of negotiation. Dialogue seeks understanding via conversation; debate seeks justification via the better argument; negotiation seeks agreement upon a course of action via the invention of interest-satisfying proposals. We need to understand each of these processes (and their relationships!) better than we do.

As importantly, these three processes require different forms of skilled intervention if they are to succeed, and each may well be important in any given case. Dialogue requires the work of a skilled facilitator; in contrast, debate requires the work of a skilled moderator; and

negotiation, if it is not to produce lose-lose outcomes typified by the tragedy of the commons, requires the work of a skilled mediator—a mediator seeking not only dialogic clarifications or the sharper arguments of debates but more: creative, responsive, workable proposals for future action.

So I began this morning with a lengthy excerpt from Robert Rich’s practice story—to provide an example of richly grounded material suggesting both difficulties (of traditional roles of experts for example) and opportunities of dispute resolution strategies too (his fundamentally reversing the design process). I have suggested that dispute resolution practices are emergent, ambiguous, and fascinating, and that if we do further research to gather and assess practitioner-focused profiles, such “practice stories” addressing the challenges and opportunities of actual dispute resolution efforts, we stand to learn a great deal about actual emergent possibilities of practice across a range of legal and institutional settings. We can recognize new opportunities; we can develop powerful research and teaching materials too. We will also be able—if we develop careful practitioner profiles—to connect our theoretical work ever more closely to settings of practice. That, I suggest, provides ample reason for us now to develop a wide and provocative range of profiles of dispute resolution practitioners—in just the fields (and countries!) we wish together to study.

Thank you very much.

### Bibliography

BenHabib, Seyla.

Forester, John. JAPA 2006.

Hill, Renee. Profile of Robert Rich on Community Development and Organizational Consulting, available via John Forester, Department of City and Regional Planning, Cornell University.

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<sup>i</sup> That we gather practice accounts in the language of the practitioners themselves creates not simply a quaint flavor of local scenery but what Seyla Benhabib, following Hannah Arendt, has called the moral resonance of our analysis with the character of the case material at hand.

<sup>ii</sup> The profile of Robert Rich was created by Cornell Master's student Renee Hill as a project for my course, City and Regional Planning 546, "Introduction to Environmental and Community Dispute Resolution," given at Cornell University in the Fall term of 2006.