

NEGOTIATION, LAW AND POLICY: MANAGING CONFLICT IN PUBLIC CONTEXTS

Spring, 2017
3crs.Index #:02913
Graduate level course
Maximum enrollment: 20

Sanford M. Jaffe
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34:833:572:01, T 1:10-3:50, CSB 112
Public Policy Program

Gaining agreement on public policy issues is often difficult, indeed, more often than not, the policy-making process is fraught with such contentiousness that considerable amounts of time and energy are invested in reaching decisions and managing conflicts that arise in respect of them. The court system is clogged with litigation over a myriad of governmental regulatory and civil matters; administrative agencies, federal and state, are burdened with disputes; the development and implementation of regulatory policy is mired in legalistic and adversarial rule-making processes. Objectives can be lost in the process.

The last several decades has witnessed the growth of less costly and time-consuming ways to deal with disputes in order to reduce their incidence, and, to improve decision-making. These initiatives rest on consensual rather than adversarial models. In the public policy arena, negotiation, mediation and facilitated collaboration predominate as processes that can produce stable, practical and lasting solutions to policy needs.

The basic purpose of this course is to acquaint students with these developments, loosely referred to as “conflict resolution,” and their relationship to planning and policy-making. Understanding the legal context is critical to recognizing the value of alternatives to litigation. Accordingly, students will come to understand that context, the relationship of law to policy, the limits of law and legal process, and the place that negotiation and conflict resolution occupy in that universe. Students are introduced to problem-solving scholarship and case studies that illustrate collaborative, creative and responsive methods for meeting public needs.

Practitioners of conflict resolution use analytical and intervention skills to address organizational, policy and legislative concerns in areas as diverse as the workplace, the community, government regulatory practice and international relations. Increasingly, they build on innovations in negotiation, mediation, organizational development and communication to design systems to improve decision-making and to manage conflict. Accordingly, the focus of the course is also experiential; emphasizing the construction of knowledge and skill development, it provides students with opportunities to apply concepts and practice negotiation and intervention skills in hypothetical and factual policy and planning contexts.

Textbook (required): Alfini, J; Press, S.B.; Sternlight, J.R.; Stulberg, J.B., Mediation Theory and Practice, (Matthew Bender and Company, second edition, 2006).

Recommended books: Fisher, R. and Ury, W., (and Patton, Bruce, for the second edition), Getting to Yes: Negotiating Agreements Without Giving In, (Penguin Books, second edition, 1991).

Gray, Barbara, Collaborating: Finding Common Ground for Multiparty Problems, (Jossey Bass, 1989).

Course Requirements:

Class participation: Attend all classes prepared to participate knowledgeably in discussions and exercises by reading assignments in advance. While there are some lectures, the majority of class time is spent in discussing readings, engaging in exercises and role-plays and debriefing those experiences. Participation is likely to be advanced by reading newspapers and magazines, listening to radio and watching television and, of course, surfing the WEB, to find cases/reports/articles that suggest “conflict resolution potential” that may be relevant to class discussion and bringing these references to the attention of the class. Students are strongly encouraged to participate in this way.

Academic Integrity: Please visit the following link at the start of the semester to be sure you are fully aware of the University’s requirements with respect to academic integrity:

<http://academicintegrity.rutgers.edu>

Two regularly scheduled classes (February 21, 2017 and April 11, 2017) are canceled in order to arrange for a longer single session to engage in a complex mediation role-play. **This session is mandatory: Saturday, April 8, 2017.** (Rm. 113)

Bi-weekly assignments: A paragraph or two—no more—on one or more of the week’s assigned readings or recommended readings (we expect 7-8 of these brief assignments over the 16 weeks of the course). Relating the readings to a news item, where that may be possible to do, is encouraged (e.g., impasse in trade negotiations; siting an unwanted facility in a community; allocating water resources; landlord/tenant dispute; land use policy) or, of course, to an experience of your own.

All assigned readings are either in the text you have purchased or appear in one of several articles or texts that are either “on reserve” for your use in our offices (4th Floor) or at Sakai site. Course number is: 34:833:572:01 Sp’17

Semester written requirements:

1. Review and comment briefly on an article that you will select from the Negotiation Journal, Conflict Resolution Quarterly or Mediation Quarterly, Journal of Dispute Resolution, or the Ohio Journal on Dispute Resolution. (A small collection is available at CNCR; you can access Negotiation Journal online at this link: http://www.libraries.rutgers.edu/rul/rr_gateway/ejournals/ejournals.shtml--select the Full A-Z list link, search for Negotiation Journal, enter into Wiley Online

Library link). The paper should be no more than two double-spaced pages and is due on **March 7, 2017**.

2. Prepare briefing papers for either a governor, a legislative committee, a mayor, or an agency director that will recommend “a conflict resolution process” in a proposed executive or agency order or legislation (e.g. siting hazardous waste facilities, for example, or setting insurance rates; altering child custody policy) or a collaborative process to use for either a specific siting issue, say siting a facility for recovering substance abusers or a marijuana distribution center, or for a matter of major controversy or complexity (e.g. halfway house; group home; development of a downtown business district) or an issue relating to education, for example, or transportation, the environment or welfare policy.

An outline, to be submitted for review and approval, should indicate what is being proposed (to whom and in what capacity) along with a rationale for the recommendation. (Due date for the paper proposal is **March 28, 2017**) The final briefing paper—no more than 3 double-spaced pages—is due on **April 25, 2017**.

In evaluating written assignments, we will consider the following dimensions: **comprehensiveness** (how thoroughly topics are covered and concepts from the course are demonstrated); **validity** (how well descriptive data is used to support concepts); **organization** (how clearly and professionally the report/review/briefing is written and presented) and **creativity** (how well the assignment is executed, i.e., in form and style).

Semester oral requirement:

Prepare and deliver (to the class) a 6-8 minute presentation on the subject of your briefing paper. You will want to persuade the class to act on the process you are recommending for the issue you’ve identified.

Grading: Briefing paper and oral presentation: 50%; Critique: 25%; Class Participation: 25% (bi-weekly paragraphs are not graded but count as “participation”).

Required Reading:

Alfini, J; Press, S.B.; Sternlight, J.R.; Stulberg, J.B., Mediation Theory and Practice, (Matthew Bender and Company, second edition, 2006).

Recommended Reading:

Fisher, R. and Ury, W., (and Patton, Bruce, for the second edition), Getting to Yes: Negotiating Agreements Without Giving In, (Penguin Books, second edition, 1991).

Forester, John, Dealing with Differences: Dramas of Mediating Public Disputes, (Oxford, 2009).

Gray, Barbara, Collaborating: Finding Common Ground for Multiparty Problems, (Jossey Bass, 1989).

Kolb, Deborah and Williams, Judith, Everyday Negotiation, (Jossey Bass, 2003).

Ury, William, Getting Past No: Negotiating in Difficult Situations, (Bantam, March, 2007).

Visit Policy Consensus web site: www.policyconsensus.org and subscribe to receive "Policy Consensus E-news".

Note: Required reading(s) other than in the text will be either copied and distributed or will be accessible on the Sakai site.

Additional Reading: Selections from some of the readings below may be assigned either as required or recommended readings. Several copies of hardcover books are in our offices as are some journals, and in RU library as well.

Other references listed, while not required or recommended for specific class topics, may be of interest nonetheless.

Arrow, Kenneth; Mnookin, Robert H.; Ross, Lee; Tversky, Amos; and Wilson, Robert, eds., Barriers to Conflict Resolution, (W.W. Norton, 1995).

Babcock, L. and Laschever, S., Women Don't Ask: Negotiation and the Gender Divide, (Princeton University Press, 2003).

Bingham, Gail, Resolving Environmental Disputes: A Decade of Experience, (Conservation Foundation, 1986).

Bush, Robert A. Baruch and Folger, Joseph P., The Promise of Mediation, (Jossey-Bass, 1994).

Carpenter, S.L. and Kennedy, W.J.D., Managing Public Disputes, (Jossey-Bass, 1998).

Chrislip, David D. and Larson, Carl E., Collaborative Leadership, (Jossey-Bass, 1994).

"Consensus," (MIT-Harvard Public Disputes Program): Various issues dealing with policy disputes and their resolution, 1990-1995. (All issues in CNCR Library).

Fisher, Roger, Kopelman, Elizabeth, and Schneider, Andrea Kupfer, Beyond Machiavelli, (Harvard U. Press, 1994).

Folger, Joseph P. and Jones T.S., eds., New Directions in Mediation: Communication and Perspectives, (Sage, 1994).

Freund, James C., Smart Negotiating: How to Make Deals in the Real World. (Simon & Schuster, 1992).

Goldberg, Stephen; Rogers, Nancy and Sander, Frank E.A., Dispute Resolution, Negotiation, Mediation and Other Processes, second edition, (Little, Brown, 1992).

Gray, Barbara; Lewicki, R; Elliott, M., Making Sense of Environmental Conflicts: Concepts and Cases, (Island Press, 2003).

- Herman, Margaret S., ed., Resolving Conflict: Strategies for Local Government, (ICMA, 1994).
- Kagel, Sam and Kelly, Kathy, Anatomy of a Mediation: What Makes It Work?, (BNA, 1989).
- Kressel, Kenneth and Pruiitt, Dean, Mediation Research: The Process and Effectiveness of Third-Party Intervention, (Jossey-Bass, 1989).
- Menkel-Meadow, C., ed., Mediation (Ashgate, 2001).
- Miall, Hugh, Mitchell, Christopher, Ramsbotham, Oliver, and Woodhouse, Tom, editors, The Contemporary Conflict Resolution Reader, (Polity Press, Cambridge United Kingdom, 2015)
- Nelkin, M.L., Understanding Negotiation (Anderson, 2001).
- O'Leary, Rosemary and Bingham, Lisa eds., The Promise and Performance of Environmental Conflict Resolution (Washington, DC: Resources for the Future, 2003).
- Raiffa, Howard, Negotiation Analysis, (Harvard University Press, 2002).
- Raiffa, Howard, The Art and Science of Negotiation, (Harvard University Press, 1982).
- Schelling, Thomas, The Strategy of Conflict, (Harvard University Press, 1980).
- Shields, Venessa E. and Baldwin, Nicholas D. J., Beyond Settlement, (Fairleigh Dickinson University Press, 2008)
- Singer, Linda R., Settling Disputes: Conflict Resolution in Business, Families, and the Legal System, (Westview Press, 1990).
- Susskind, Lawrence and Cruikshank, Jeffrey, Breaking the Impasse: Consensual Approaches to Resolving Public Disputes, (Basic Books, 1987).
- Susskind, Lawrence and Field, Patrick, Dealing with an Angry Public: The Mutual Gains Approach to Resolving Disputes, (Free Press, 1996).
- Ury, William L.; Brett, Jea M. and Goldberg, Stephen B., Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict, (Jossey-Bass, 1988).
- Vasquez, John A.; Johnson, James T.; Jaffe, Sanford; and Stamato, Linda, Beyond Confrontation, (University of Michigan Press, 1995).

Class Schedule:

January 17, 2017 Negotiation: Understanding Theory and Process

The first several sessions will focus on negotiation, a basic understanding of which is essential for making group decisions and managing conflicts. Negotiating is a critical skill but it is not easy. Consider the derivation of the word from Latin (neg (not)+otium (leisure). Negotiation is the art and science of securing and not securing agreements between two or more interdependent parties and it may well involve more emotional and difficult encounters than any individual bargainer may appreciate at the start of the semester or at the start of any particular class session.

Required Reading:

Alfini et. al. (text) “Historical Context and Conceptual Framework,” pp. 1-34.

Recommended Reading:

Raiffa, The Art and Science of Negotiation, (Harvard University Press), chp. 1.

Raiffa, Howard, Negotiation Analysis, (Harvard University Press, 2002) (peruse).

January 24, 2017 Positional and Interest-Based Negotiation: Applying Concepts and Skills

Required reading:

Alfini et. al. (text) “Negotiation,” pp. 35-61.

Pruitt, Dean, “Readiness Theory and the Northern Ireland Conflict,” The Contemporary Conflict Resolution Reader, pp. 225-230.

Frank, Robert H., “‘Getting to Yes’ Offers Clues to Fiscal Talks,” The New York Times, (December 8, 2012).

Carr, David, “It’s Not Just Political Districts. Our News Is Gerrymandered, Too,” The New York Times, (October 11, 2013).

<http://www.nytimes.com/2013/10/12/business/media/when-our-news-is-gerrymandered-too.html>

Recommended Reading:

Fisher and Ury, Getting to Yes, Parts I and II.

Fisher, Robert and Davis, Wayne; “Six Basic Interpersonal Skills for a Negotiation’s Repertoire,” in Lewicki, et. al. Negotiation: Readings, Exercises and Cases, (3rd edition, 1999), pp. 354-359.

Wetlaufer, Gerald B., “The Limits of Integrative Bargaining,” The Georgetown Law Journal (Vol. 85, No.2, Dec.1996), pp. 369-394.

January 31, 2017 Barriers to Effective Negotiation (and Implementation)

Required Reading:

Alfini et. al. (text) "Negotiation," pp. 61-69; 85-105.

Deutsch, Morton, "Social Psychology's Contributions to the Study of Conflict Resolution", Negotiation Journal, (Volume 18, No. 4, October 2002), pp. 307-320.

Sebenius, James K., "Six Habits of Merely Effective Negotiators," (April 2001), pp. 87-95.

Recommended Reading:

Arrow, K., Mnookin, Robert H., et. al., Barriers to Conflict Resolution, (W.W. Norton, 1995). (peruse).

Lack, Jeremy, and Bogacz, Francois, "The Neurophysiology of ADR and Process Design: A New Approach to Conflict Prevention and Resolution?" Court ADR Connection, (January 2013)

Levinger, George and Rubin, Jeffrey Z., "Bridges and Barriers to a More General Theory of Conflict," Negotiation Journal, (Volume 10, No. 3, July 1994).

Ross, Lee and Stillenger, Constance, "Barriers to Conflict Resolution," Negotiation Journal, (Volume 7, No. 4, October 1991).

Rubin, Jeffrey Z. "Psychological Traps," in Lewicki, et al. Negotiation: Readings, Exercises and Cases, (3rd edition, 1999), pp. 399-407.

February 7, 2017 Group Negotiation and Third Party Interventions that Assist Negotiation (Mediation; Facilitation and Collaboration): Introduction

Required Reading:

Alfini et. al. (text): "Mediation," pp. 107-111; peruse pp.111-148; pp.149-158.

Guiora, Amos N. "Negotiating implementation of a Peace Agreement: Lessons Learned from Five Years at the Negotiating Table," (Cardozo Journal of Conflict Resolution, Vol. 11:411) pp. 411-436

Pogrebin, Robin, "Dallas Museum Simmers in a Neighbor's Glare," The New York Times, (May 2, 2012).

Lewicki, Roy, "Third Party Interventions," Chapter 10, pp. 199-213.

Suskind, Lawrence and Cruikshank, Jeffrey, Breaking the Impasse: Consensual Approaches to Resolving Public Disputes, (Basic Books, 1987) pp. 150-175.

Recommended Reading:

Folger, Joseph P. and Jones, T.S., eds., New Directions in Mediation: Communication and Research Perspectives, Part IV.

Jaffe, Sanford and Stamato, Linda, "Mediation and Public Policy: Variations on a Consensus Theme," Mediation Quarterly, (Vol. 9, No. 2, 1991).

Kagel, Sam and Kelly, Kathy, Anatomy of a Mediation: What Makes it Work? Bureau of National Affairs, 1989.

Kressel, Kenneth, "Mediation" in Deutsch, Morton, and Coleman, Peter, eds., Handbook Of Conflict Resolution: Theory and Practice, (Jossey-Bass, 2000), pp. 522-545.

Kressel and Pruitt, eds., Mediation Research: The Process and Effectiveness of Third Party Intervention, (Jossey-Bass, 1989), Introduction.

February 14, 2017 Third Party Interventions (continued); Regulatory Negotiation

Required Reading:

Alfini (text): "Diversity, Power, and Fairness," pp. 339-375; and peruse the following: "Standards of Conduct," pp. 419-421.

Hampson, Fen, "Why Orphaned Peace Settlements are More Prone to Failure," The Contemporary Conflict Resolution Reader, pp. 231-233.

Nocera, Joe, "Justice, Without The System," The New York Times, (Saturday, November 20, 2010) B7.

Nolan-Haley, J. "New Problem-Solving Scholarship," Negotiation Journal, (April, 2003), pp. 169-182.

Ravindra, Geetha, "Is Mediation a Profession?" Dispute Resolution Magazine, (Summer, 2009), pp.7-8.

Singer, Linda R., Settling Disputes, (Westview Press, 1990) pp. 144-150.

Siegler, Ellen, "Regulatory Negotiation: A Practice Perspective," Negotiated Rulemaking Sourcebook, (ACUS, 1995), (pp. 917-924) or in Environmental Law Reporter, 10647-10654 ((1992).

Susskind and Cruikshank, pp. 35-55.

Wheelwright, Jefferey, "In a Polluted Stream, a Pathway to Peace," The New York Times, (October 9, 2013) <http://www.nytimes.com/2013/10/10/opinion/in-a-polluted-stream-a-pathway-to-peace.html? r=0>

Recommended Reading:

Auerbach, Jerold, Justice Without Law?, (Oxford University Press, 1983).

Goldberg, Stephen; Rogers, Nancy and Sander, Frank E.A., Dispute Resolution,

Negotiation, Mediation and Other Processes, second edition, Part I, “Overview” and Part III, “Dispute Resolution in the Justice System”.

Marone, James A., The Democratic Wish: Popular Participation and the Limits of Government, (1990).

For those interested in the legal issues in mediation, such as confidentiality, enforcement and good faith and for those interested in further information on mediator qualifications and standards of conduct, see pp. 205-338 in the Alfini text.

February 21, 2017 No Class (Cancelled to allow for Saturday session on April 8, 2017)

February 28, 2017 Collaboration and Bargaining in Public Contexts

Required Reading:

Alfini et. al. (text): Review March 10th Alfini reading, pp. 609-612, and pp. 664-665.

Woodhouse et.al., The Contemporary Conflict Resolution Reader, pp. 287-296.

Cambanis, Thanassis, “Egypt and Thirsty Neighbors Are at Odds Over the Nile,” *The New York Times*, (Sunday, September 26, 2010) International 4N.

Forester, John. Dealing with Differences: Dramas of Mediating Public Disputes, chapter one, “Discovery, Creativity and Change in the Face of Conflict,” pp. 3–16.

Kaufman, Leslie, “Environmental Partnership Keeps Both Fish Stocks and Livelihoods in Mind,” *The New York Times*: (Monday, November 28, 2011), A15.

Gray, Barbara, “Collaboration: The Constructive Management of Differences,” in Lewicki et.al., *Essentials of Negotiation*, (McGraw-Hill Irwin, 3rd edition), pp.111-126.

Lewicki et.al., Essentials of Negotiation, (Irwin, 1st edition, 1997, chp. 9, “Multiparty Negotiation: Coalitions and Groups,” pp.315-340.

Peruse these websites:

<http://ruckelshauscenter.wsu.edu/enews>

<http://www.scottlondon.com/articles/oncollaboration.html>

Recommended Reading:

Gray, Barbara, Collaborating, “The Benefits of Collaboration,” chp. 1.

Herman, Margaret, ed., Resolving Conflict: Strategies for Local Government, Part III.

Lake, Resolving Conflict: Strategies for Local Government, Introduction.

Myers, Steven Lee, "Cooperation is Pledged by Nations of the Arctic," The New York Times (May 13, 2011)

Raiffa, Howard, The Art and Science of Negotiation, "The Camp David Negotiation," pp. 205-217.

March 7, 2017 Collaboration and Bargaining in Public Contexts (continued)

ARTICLE REVIEW/CRITIQUE DUE

Required Reading:

Alfini et. al. (text): pp. 567 (introduction), pp. 609-633; (peruse remainder of chapter 11)

Bingham, Gail, Resolving Environmental Disputes, chapter 1, pp. 13-57.

Singer, Linda, Settling Disputes, chp.1.

Recommended Reading:

Bingham, Gail, Resolving Environmental Disputes: A Decade of Experience, Part I.

Young, Iris Marion, Justice and the Politics of Difference, (Princeton University Press, 1992).

March 14, 2017 SPRING RECESS: NO CLASS

March 21, 2017 Intra-institutional Disputes

Required Reading:

Alfini (text): pp. 609-612.

Goldberg, Green and Sander, Dispute Resolution, (1st edition: 1985), chp. 8, "Intra-institutional Disputes," pp. 371-387.

Kressel, Kennedy, Lev, Taylor, and Hyman, "Managing Conflict in an Urban Health Care Setting: What Do 'Experts' Know?," Journal of Health Care Law & Policy, Vol. 5, No. 2, 2002.

New York Times editorial: "Gutting Class Action," (May 13, 2011).

Recommended Reading:

Princeton University, "Fairness Review Process"

A.A.A., "Smart Solutions"

Singer, Linda, Settling Disputes: Conflict Resolution in Business, Families and the Legal

System, pp. 87-111.

Stamato, Linda, "Dispute Resolution and the Glass Ceiling: Ending Sexual Discrimination at the Top," Dispute Resolution Journal, (A.A.A., February, 2000), pp. 24-31.

Welsh, Nancy A. and Coleman, Peter T., "Institutionalized Conflict Resolution: Have We Come to Expect Too Little?" Negotiation Journal, (Volume 18, No. 4, October 2002), pp. 345-350.

March 28, 2017 Lessons learned and Arbitration

BRIEFING PAPER PROPOSALS DUE

Required Reading:

Silver-Greenberg, Jessica and Gebeloff, Robert, "Arbitration Everywhere, Stacking Deck of Justice," The New York Times (Sunday, November 1, 2015).
<http://www.nytimes.com/2015/11/01/business/dealbook/arbitration-everywhere-stacking-the-deck-of-justice.html?ribbon-ad-idx=5&rref=business/dealbook>

Silver-Greenberg, Jessica and Corkery, Michael, "In Arbitration, A 'Privatization Of the Justice System'," The New York Times (Monday, November 2, 2015).
<http://www.nytimes.com/2015/11/02/business/dealbook/in-arbitration-a-privatization-of-the-justice-system.html>

Corkery, Michael, and Silver-Greenberg, Jessica, "When Scripture Is the Rule of Law," The New York Times (Tuesday, November 3, 2015).
http://www.nytimes.com/2015/11/03/business/dealbook/in-religious-arbitration-scripture-is-the-rule-of-law.html?emc=edit_na_20151103&nid=54014192&ref=cta&r=0

Susskind and Cruickshank, pp. 175-178.

Singer, pp. 25-29.

Robbins, Tom, "Abused Inmates Strong Unions and Hard-to-Fire Prison Guards," The New York Times (September 28, 2015).

"Brutalized Behind Bars," The New York Times Editorials/Letters, The New York Times (September 30, 2015).

Silver-Greenberg, Jessica and Corkery, Michael, "U.S. Consumer Bureau Proposes End to Arbitration-Only Credit Clause," The New York Times (October 7, 2015).

April 4, 2017 Policy Dialogues and Organizing Facilitation in Policy and Public Domains

Required Reading:

Abelson, Reed, "Blood Treatment's Promise Mired in Bureaucracy," The New York Times, (Saturday, May 29, 2004) A1, A12. (prepare for class discussion).

Dean, Cornelia, "Study Finds Hope in Saving Saltwater Fish," The New York Times (July 31, 2009): Collaboration between ecologists and fisheries experts.

Harris, Gardner, "Deal in Place for Inspecting Foreign Drugs," The New York Times: Science (August 13, 2011).

Korte, Gregory, "Comments Slow Down Rules Process," USA Today (May 25, 2011).

New York Times editorial "Discarded Kidneys," (September 25, 2012).

Sack, Kevin, "Kidney Transplant Committee Proposes Changes Aimed at Better Donated Organs," The New York Times, (September 20, 2012).

Thaler, Richard, "Opting In Vs. Opting Out," The New York Times, (September 27, 2009).

PCI Publications of the National Policy Consensus Center and Policy Consensus Institute (Policy Consensus.org E-News which is available at <http://www.policyconsensus.org/publications/news/>; look at sense of "developments" in state policy contexts).

Recommended Reading:

Clarke, Lee, Acceptable Risk?: Making Decisions in a Toxic Environment, (University of California Press, 1989).

Karambayya, R. and Brett, Jeanne M., "Managerial Third Parties: Intervention Strategies, Process and Consequences:" in Folger and Jones, New Directions.

Susskind, Lawrence, and CBI, "Using Assisted Negotiation to Settle Land Use Disputes: A Guidebook for Public Officials," (Lincoln Institute of Land Policy, 1999).

Susskind, Lawrence, van der Wansem, Mieke and Ciccarelli, Armand, "Mediating Land Use Disputes: Pros and Cons," (Lincoln Institute for Land Policy, 2000).

Ury, William, L.; Brett, Jeanne M. and Goldberg, Stephen B., Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict, Part I.

ORAL PRESENTATIONS

April 8, 2017 **Saturday: Complex Mediation in a Public Context (9:30 a.m.-4:30 p.m.)
Double Session (replacement for the classes on February 21st and April 11th)**

April 11, 2017 **No Class (Cancelled to allow for Saturday session on April 8, 2017)**

April 18, 2017 **Institutionalizing Negotiation and Mediation in Public Domains**

(Guest Speaker: John Weingart, former Assistant Commissioner of the New Jersey Department of Environmental Protection, Director of state's Low-Level Radioactive Waste Disposal Facility Siting Board. Weingart is Associate Director of the Eagleton Institute of Politics at the University.)

ORAL PRESENTATIONS

Required Reading:

Alfini et. al. (text): "Institutionalization of Mediation," pp. 517-527; 543-555.

Brock, Jonathan and Cormick, Gerald, "Can Negotiation Be Institutionalized or Mandated? Lessons from Public Policy and Regulatory Conflicts" in Kressel and Pruitt, Mediation Research, chp. 7.

Fernandez, Manny, "Smelly, Slimy and Somewhat Lucrative: 3 Communities Near Philadelphia Reap Rewards from New York's Trash," The New York Times (November 2, 2009).

Forester, John, Dealing with Differences: Dramas of Mediating Public Disputes, chapter 9, "Conclusion: Transforming Participatory Processes," pp. 175-187.

Goldberg, Rogers, and Sander, Dispute Resolution, chp. 11, "Institutionalization".

Stamato, Linda and Jaffe, Sanford, "Why is Collaboration the Last Resort?" New Jersey Municipalities, April 2007.

Peruse websites for: The Policy Consensus Institute (policyconsensus.org); Consensus Building Institute (cbuilding.org); and Center for Negotiation and Conflict Resolution: (www.CNCR.rutgers.edu).

Recommended Reading:

Managing Environmental and Public Policy Conflicts: A Legislator's Guide, (National Conference of State Legislatures, 1985).

Collaborative Competencies for Public Managers and Planners. (Draft).

Marcus, Leonard, Renegotiating Health Care, Jossey-Bass, (1995): peruse.

Dubler, N.W. and Leibman, C.B., Bioethics Mediation: A Guide to Shaping Shared Solutions, (2004: United Hospital Fund).

"States Mediating Solutions to Environmental Disputes" in "The Policy Consensus Initiative" (CNCR Library).

Taylor, Matthew, et.al., "Using Mediation in Canadian Environmental Tribunals: Opportunities and Best Practices" in The Dalhousie Law Journal, (Vol.22, No.2, Fall, 1999).

Weingart, John, Waste Is A Terrible Thing to Mind, (Center for Analysis of Public Issues,

Princeton, NJ: 2001).

April 25, 2017 **Decision-making in Public Domains/Overview**

FINAL BRIEFING PAPER DUE

ORAL PRESENTATIONS

Required Reading:

Campbell, Marcia Caton, "Intractable Conflict," pp. 90-130, in O'Leary, Rosemary and Bingham, Lisa eds., The Promise and Performance of Environmental Conflict Resolution (Washington, DC: Resources for the Future, 2003).

Chrislip, David D and Larson, Carl E., Collaborative Leadership; peruse book and read selections on Sakai site: preface and pp. 1-36; 107-123.

Stamato, Linda and Jaffe, Sanford M., "To End and Prevent Wars Between States: Negotiate, Don't Litigate," Alternatives, (Vol. 27, No.8, September 2009).

Stamato, Linda, "Conflict Resolution and Public Policy: Two Decades of Experience," in Conflict Resolution Notes (Vol. 21, No.2, December 2003), pp. 17-20.

Stamato, Linda, "Conflict Resolution: How It Can Be Applied to Planning Issues," New Jersey Planners Journal, (Vol. 4, No.1, Winter/Spring 1998).

Susskind, Lawrence and Hulet, Carri, "The Practice of Public Dispute Resolution: Measuring the Dollar Value of the Field," Negotiation Journal, Vol. 23, No. 3, July 2007), pp. 355-364.

BIBLIOGRAPHY

ADDITIONAL READINGS IN PUBLIC POLICY CONTEXTS

Bacow, Larry and Wheeler, Michael, Environmental Dispute Resolution, (New York, Penguin Press, 1984).

Barkan, Elazar, The Guilt of Nations, (W.W. Norton & Company, New York, 2000).

Bingham, Gail, Resolving Environmental Disputes, Part III.

Cormick, Gerald, "Crafting the Language of Consensus," Negotiation Journal, (Vol.7, No. 4, October 1991).

Gray, Barbara, Collaborating, Part II.

Demone, Harold W. Jr. and Gibelman, Margaret, "The Social Worker as Mediator in the Legal

- System,” Social Casework: The Journal of Contemporary Social Work, (Vol. 70, No.1).
- Gaylin, Willard, “The Health Plan Misses the Point,” The New York Times, (Sept. 15, 1993).
- Hamline Journal of Public Law and Policy, Alternative Dispute Resolution Symposium,
(Vol. 15, No.2, Spring, 1997).
- Lax, D.A. and Sebenius, J., The Manager as Negotiator, (New York, Free Press, 1986).
- Marcus, Dorn, Kritek, Miller and Wyatt, Representing Health Care - Resolving Conflict to Build Collaboration, (San Francisco, Jossey-Bass, 1995).
- Martin, Douglas, “Harri Holkeri, Northern Ireland Peace Negotiator, Is Dead at 74,” New York Times, (August 11, 2011).
- Mishkin, Barbara, “The Needless Agony and Expense of Conflict Among Scientists,”
The Chronicle of Higher Education, (Feb. 23, 1994).
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WEB SITES

www.cncr.rutgers.edu

www.cbuilding.org (Consensus Building Institute)

www.internationalpeaceandconflict.org - an online initiative to bring together professionals, academics and students involved in Conflict Resolution, Human Rights, International Development, Democratization, Social Entrepreneurship and related fields. It is a *Free*

Professional and Academic Networking Site in Conflict Resolution, Peace Studies, Human Rights, International Development, Gender, Civil Society Development, and more.

www.acrnet.org - Association for Conflict Resolution (ACR) is a professional organization dedicated to enhancing the practice and public understanding of conflict resolution.

www.policyconsensus.org - builds and supports networks that provide states with leadership and capacity to achieve more collaborative governance.

www.mediation.com and - a site that offers a broad range of information on dispute resolution.

<http://www.usdoj.gov/odr> - U.S. Dept. of Justice Office of Dispute Resolution.

www.adr.gov - federal government's Alternative Dispute Resolution (ADR) Working Group

<http://www.crinfo.org>- the Theory to Practice Institute's on-line lists major publications (free copy without charge).

www.beyondintractability.org – this is the website the Intractable Conflict Knowledge Base Project. This system, which focuses on society's most difficult and dangerous conflicts, includes over 3000 pages of material written with the help of more than 250 experts. Currently available resources include:

1. [350+ Essays/Articles](#) - succinct, readable, executive summary-type articles describing key conflict dynamics and intervention options. Broad topics covered include, for example:
 - [Causes of Conflict](#),
 - [Conflict Dynamics](#),
 - [Culture, Power, and Justice](#),
 - [Peace Processes](#) (Peacekeeping, Peace Making, Peacebuilding)
2. [70+ Conflict Expert Interviews](#) - with over 100+ hours of online audio, plus searchable transcripts.
3. [300+ Book and Article Summaries](#) - providing quick introductions to key publications.
4. [Annotated Conflict Cases](#) - instructive accounts of typical intractable conflicts, with abundant links to interpretive materials.
5. [Comprehensive Search System](#) - simple and advanced tools for finding information
6. [Checklists](#) - suggestions of things for people in different roles to think about as they struggle to deal with difficult conflict situations.
7. [Group Projects](#) - a quick primer for students wishing to limit the conflicts that often undermine the success of group projects.
8. [Guide to Working with Strong Emotions in the Classroom](#) - offers useful suggestions for discussing the difficult issues that lie at the core of intractable conflict.
9. [Student Contributor Program](#) - providing advanced students with an early opportunity to make a lasting contribution to the field.
10. [Build-Your-Own-Text Module](#) - allowing instructors to quickly and easily craft (and revise) primary and secondary "virtual text(s)," focused on immediate student interests and needs.

11. [Special Editions](#) focused on a variety of topics, including: post-conflict reconstruction and peacebuilding, civil rights mediation, conflict/peace journalism, and Bill Ury's "Third Side."

These, and many other, resources are available from the [Beyond Intractability home page](#). To make things a little easier to find, a special version of the home page has been created to highlight, by number, links to the items listed above: <http://www.beyondintractability.org/index-brochure1.jsp>

www.beyondintractability.org/education-brochure.jsp - free educational resources for those who are interested in exploring more constructive approaches to intractable social conflicts.

www.CRInfo.org - extensive database on conflict resolution research and practice.

CRInfo is a clearinghouse, or “super site” which provides links to, and information about, almost 5,000 websites, books, articles, organizations, programs, events, scholars, job and career opportunities, education and training programs, and lists of practitioners working in the field. All of this information is annotated and coded, making it searchable with a variety of specialized browse and search tools.

In addition to the main edition, which highlights the full range of conflict topics and processes, users can access special topic editions which contain all the resources of the main edition, but highlight articles on specific topics. Current editions focus on business, interpersonal, intergroup, international and environmental/public policy conflicts, and legal ADR (alternative dispute resolution). Users can also design their own edition focusing on topics of their choice. For more information go to <http://www.crinfo.org> or contact the project co-directors, Guy Burgess and Heidi Burgess at burgess@crinfo.org.

Some journals provide online access, in some cases free and in some cases for a fee – some examples follow:

<http://www.springerlink.com/content/1571-9979/> - Negotiation Journal

<http://moritzlaw.osu.edu/jdr/index.html> - Ohio State Journal on Dispute Resolution

<http://www3.interscience.wiley.com/cgi-bin/jhome/97519532?CRETRY=1&SRETRY=0> - Conflict Resolution Quarterly

<http://hq.ssrn.com/jourInvite.cfm?link=IACM-2009> – International Association for Conflict Management (IACM) 2009 Meeting abstracting journal, free subscription.