Summer 2002

User Friendly: Informality and Expertise

Annelise Riles
Cornell Law School, ar254@cornell.edu

User Friendly: Informality and Expertise

Annelise Riles

Toward the end of their essay, Nader and Grande quote the provoca-
tive words of Vaclav Havel: "We have to abandon the arrogant belief that
the world is merely a puzzle to be solved, a machine with instructions for use
waiting to be discovered." What I want to do in this piece, by way of taking
on Havel's challenge, is to suggest we think more about the relationship
between informality and expertise as these appear in techniques such as
ADR, which are exported to "facilitate." These techniques go beyond the
benevolent technocratic paternalism Foucault once identified as govern-
mentality (Foucault 1991): They appeal, rather, to a new market-inspired
rationale of providing a service, filling a need, or solving a problem people
surely want solved. I want to suggest that this new "user-friendly" rationale
is far more impervious to critique, including academic critique. In this sense,
I am less interested in what the proper "solution" to the dispute resolution
debate might be as in the character of the engagement between academics
and practitioners in which this paper is situated.

I am an outsider to the ADR debate per se. However, as an ethnogra-
pher of nongovernmental organizations, with their equally innocuous "in-
formation sharing," "networking," and "skills-training" agendas, I find much
in the authors' critiques that speak powerfully to phenomena I have ob-
served (Riles 2000). In particular, I want to embrace the authors' attention
to "such mundane questions as, Who is providing funding? Who is asking
the questions? Who benefits?" (Nader and Grande 2002, 577). This turning
of ethnography on the tools of user-friendliness not only exposes the inter-
ests ADR and kindred practices serve, but also refocuses attention on how

---

Annelise Riles is professor of law and of anthropology, Cornell University.

613

these practices disguise interests precisely by rendering them mundane: Sure, we receive funding from all sorts of sources, the ADR expert tells the ethnographer, but aren't you more interested in seeing ADR *at work*, seeing *real people's uses* of these techniques? The rest is merely background, no different from the drudgery you encounter in your own life every day. What is exciting here, rather, are what we actually *do*." This rhetoric is seductive indeed, and Nader and Grande powerfully suggest that we nevertheless turn our attention to the technical details and the mundane practices that are also our own (cf. Riles forthcoming a).

I want to focus on one particularly ubiquitous image of user-friendliness that seems to have become a kind of imperative of its own. "Informality"— the "alternative" to "formal" dispute resolution processes in the ADR context, or again in the case of NGO "networks," the alternative to old-fashioned "institutions," "collectives," or "movements" (Riles 2000)—now has powerful appeal in fields from medicine to management studies (Martin 1994). Appeals to the rhetoric of informality seem to obviate the most intractable political conflicts of our time: Whatever one may think about who should win or lose in any particular context, who could oppose jettisoning rigid rules for flexible standards? Who could be against abandoning large committees for informal break-out groups? In our late modern world, the flexible, anti-institutional approach, of which ADR is a paradigmatic example, seems more up to the minute, more hopeful, more *technically* sophisticated (cf. Riles forthcoming c). The powerful intervention of the authors' essay, and indeed of the larger body of Nader's work on ADR, is to make the countercultural assertion that informal is not necessarily more just, or indeed more effective.

Now, as the authors point out, the fashions of formal and informal dispute resolution come and go in a seemingly perpetual cycle. One could read this piece as yet another step in this cycle: After several decades in which ADR has been the fashion, perhaps this article signals a new trend, a return to formal law. If so, the arguments presented in this article participate in a wider resurgence of interest and faith in formal law, what Justice Scalia has termed "The Rule of Law as the Law of Rules" (Scalia 1989)—a faith not without its own hegemonic pretensions and consequences (Riles 2001). What should we make, then, of the pendulum swings the authors identify from formal to informal and back again? What does it mean in this context to advocate for the one or the other?

First, we might pay attention to the agreed bases of this dispute: Advocates on all sides assume a significant divide between formal and informal law that is perhaps less self-evident than the advocates of ADR, or even the authors of this essay, might suggest. To take one example used by the authors in their paper, is the World Court really an instantiation of formal law? From one perspective, it is; but from another perspective, the World

Court is really a form of ADR of its own—a dispute resolution forum freely chosen by the parties, with the proviso that they may always disavow the final decision of the arbiters without sanction. The World Court *looks* formal from the point of view of state to state bilateral negotiations of disputes; but it looks *informal* compared to bringing a suit against a foreign sovereign in a domestic court, for example. My point is that formal and informal dispute resolution procedures—and indeed formal and informal technologies of the wider category we are considering here— exist only in relation to one another. Without formal law, ADR is not an "alternative" at all. This is true in the concrete legal sense, where the decisions of alternative dispute resolution forums usually depend on the powers of the state and its formal legal machineries for ultimate enforcement. Yet it is also true in the more subtle, and pervasive "discursive" sense in which both formal and informal approaches garner their authority and legitimacy from the implicit or explicit comparisons they effectuate with the other.

What I want to suggest is that from this point of view to think of formal and informal dispute resolution as alternatives, to appeal to the justice or injustice of the one in contrast to the other, is to participate in the very vocabulary that ultimately enshrines ADR as a powerful (that is: effective, efficient, modern, technical, expert, sensitive, flexible, user friendly) *alternative*. Indeed, one could take the authors' questioning of the equation of the "informal" with the "indigenous," the "traditional," and so on a step further: One could ask whether the entire opposition of formal and informal which now constitutes the matrix within which the clients of international development organizations find their options presented to them, as if in menu form, does not in itself impose a particular technocratic epistemology and politics upon others who may imagine themselves and their choices in very different terms.

Rather than engaging with the opposition of formal to informal dispute resolution as if it were a real choice that demands to be made, I prefer to think of formal and informal as two genres of expertise (cf. Kennedy 2000). From this standpoint, we might inquire into the sociality of expertise, as it is fostered, represented, imagined, and expressed in dialogues between academics and practitioners—such as this dialogue, for example—in which different communities (academics, practitioners) are constituted in part by the positions their members are imagined to take, the choice they make from the agreed menu of options, formal and informal (cf. Riles forthcoming b).

From this standpoint, there is something particular, I think, about ADR, NGO networks, information technologies or audit practices (see Shore and Wright 1999), and all the other technologies and techniques that insert themselves into our lives and the lives of others *as if to fill a latent need:* These technologies are troubling, and they engage the question of how to manage the academic-practitioner divide, precisely because in these tech-

nologies, academics see their claims and arguments coming back to them, instantiated as "real" phenomena, as options in the world. In the case of ADR, for example, the problematization of "tradition" and traditional dispute resolution norms or practices has been a central theme in the anthropological theory of the 1980s and early 1990s (e.g., Moore 1992). And yet, as Nader and Grande note, the insight is deployed in ADR practices to effects that might give its authors pause. Or again, consider the authors' call for greater attention to local solutions and social context: Whether or not ADR delivers on its promises, the move to localize, to pay attention to context, to appreciate the complexities of the situation "on the ground" is central to the ADR commitment; it is the *reason* for turning away from formal law, the core principle of its self-serving ideology. Here, then, we have another agreed basis upon which the academic/practitioner and ADR critic/ADR proponent divides are constructed: No one is against detailed understandings of local disputing conditions or against contextual approaches. If they were asked to respond to the charges that they ignore local conditions, for example, the targets of the authors' criticisms might respond by claiming that they do pay attention to these issues. Or in typical pragmatist fashion, they might respond that they are doing the best they can under complex institutional, economic, and political constraints. They would not directly dispute the value of local knowledge, however. We need an approach to the politics of these technologies that allows us to account for the shared theoretical bases of formal and alternative, academic and practitioner, social science and technique.

This is important because the class of technologies of which ADR is an example already anticipate the insertion of critical academic response into their projects and programs. They extend to the academic two choices— "engage us in the language of the programmatic; give us concrete suggestions for improvement" or speak in the outsider's language of critique. When taken at face value, this menu of discursive choices proves as intractable as the menu of formal and informal dispute resolution techniques offered to ADR's clients. Consider, for example, the authors' attention to the way politics—in the sense of local and global inequalities—somehow vanish from the ADR dispute resolution process. I take the point of this critique to be that this omission is not simply a matter of sheer oversight, something that better ADR training, or better information about local conditions would overcome. Rather, the vanishing of politics is fundamental to the ADR process—indeed, it is its *purpose*. Generations of academics have made this point, the authors note, and yet ADR has "marched on." Practitioners encounter the critical insight that ADR obviates politics as quite mundane—not much of a discovery at all—since they will cheerfully assert that the obviation of politics is indeed their very objective. So if critique fails, it is no wonder that in this piece, the authors choose rather to present

the question of politics in the technical, programmatic mode—politics as a factor to be included if ADR is to become more sophisticated in the future. In translating a critical insight into a programmatic or technical one, the authors demonstrate the power of these technical forms to absorb even the most fundamental challenges to their project as yet another tool in the tool-box, or factor on the checklist.

Or again, consider what happens to ethnographic knowledge in the hands of the ADR expert: The authors point out that the ADR rhetoric of commitment to contextual understanding of the cultural facts of disputing is rarely honored in practice. This in turn creates a rhetorical problem for the authors: If their essay actually engaged with the ethnographic literature in great contextual detail, it would become unintelligible to its target audience of ADR practitioners because the latter are interested in general arguments about the nature of their engagement with the particular, not in the particular per se. What we have here is an example of the aesthetics of user-friendly expertise: Detail disappears and is replaced by a *gesturing* toward detail.

I first encountered this problem in the context of ethnographic work on "networks" of nongovernmental organizations in the Pacific. Despite all the talk within these organizations of creating informal structures that would "reach out" to the "grassroots" and foster "information sharing" in all directions—from top to bottom and across the network—in practice, very little information moved through the networks I studied, although networkers spent many hours examining organizational diagrams and dis-cussing ways of keeping in touch. A cynic might dismiss this as incompe-tence or worse; a believer in the liberal development agenda might question whether this distortion of the primacy of substance over form is just the absurd particularity of a faraway place. Yet if we think of the time we aca-demics devote to our own funding application procedures, protocols, website design, evaluations, auditing processes, or mission statements, and the way in which the substance of what we care about is replaced in these practices with the *effect* of substance and detail, I think we can recognize that the practices of networkers in Fiji are not as distant as these true believers might claim.

To return to ADR and the ways in which informality has become its own realm of expertise, my point is that it is not just that standardized solutions have replaced specific ones. Rather, in these new technologies we encounter the standardization of the specific: The expert's manual becomes a kind of formal tool of its own—one can take it anywhere—but it ac-knowledges and even points to its own gaps; it makes room for the inclusion of local conditions and specificities. It incorporates in advance the critiques of the anthropologist by gesturing at repeated moments to the local, the particular, the need for translation and adaptation, and by translating our

analytical perspectives—our concerns about the vanishing of power, for example—into technical factors to be taken into account by the expert. The particular becomes quite literally a gap in the expert form, something imagined, prefigured by expert knowledge itself (Riles 2000). This standardization of the particular depends, however, on imagining and constituting a point of *need*—a place for the technologies to insert themselves into others' lives and for those others' particularities to express themselves into the technologies. As Havel's comments suggest, these technologies produce users. They are quite literally user-friendly.

In this essay, Nader and Grande engage the hegemonic institutionalization of a heady fantasy of liberal communication, a hope that political conflict can be resolved through new and ever more technological solutions (Baudrillard 1994). I take their insight to be that what the critics of liberalism have too often missed are the procedures and processes, the mundane technical details that draw us (academics and practitioners alike) into a faith in dialogue, in imagining the world as sets of problems and solutions. What I want to suggest here is that we have in the form of informality, and its self-image as an "alternative," one important element of this aesthetic of the technical through which our collective hope in the liberal fantasy is continually renewed. From this vantage point, the present political moment demands a response that is neither in the mode of critique nor of technocracy. It demands an encounter with what is invisible or uninteresting precisely because it is *shared* by the academic and the practitioner as the agreed basis of our disputes and claims to expertise.

REFERENCES

Baudrillard, Jean. 1994. *Simulacra and Simulation*. Ann Arbor: University of Michigan Press.

Foucault, Michel. 1991. Governmentality. In *The Foucault Effect: Studies in Governmentality*, 87–104. Chicago: University of Chicago Press.

Kennedy, David. 2000. When Renewal Repeats: Thinking Against the Box. *New York University Journal of International Law and Politics* (Millennium Issue):335–500.

Martin, Emily. 1994. *Flexible Bodies: Tracking Immunity in American Culture from the Days of Polio to the Age of AIDS*. Boston: Beacon Press.

Nader, Laura, and Elisabetta Grande. 2002. Current Illusions and Delusions about Conflict Management—In Africa and Elsewhere. *Law and Social Inquiry* 27(3):573–594.

Riles, Annelise. 2000. *The Network Inside Out*. Ann Arbor: University of Michigan Press.

———. 2001. The Transnational Appeal of Formalism: The Case of Japan's Netting Law. ABF Working Paper.

———. Forthcoming a. Introduction: When Knowledge Fails: Encountering the Mundane. In *Documents: Artifacts of Modern Knowledge*, ed. Annelise Riles. Durham, N.C.: Duke University Press.

——. Forthcoming b. The Virtual Sociality of Rights: The Case of Women's Rights Are Human Rights. In *Transnational Legal Process*, ed. Michael Likosky. London: Blackwell.

——. Forthcoming c. Property as Instrument: Towards a Technical Anthropology. In *The New Property*, ed. K. Verdery and C. Humphreys. New York: Wenner-Gren.

Scalia, Antonin 1989. The Rule of Law as a Law of Rules. *Chicago Law Review* 56:1175–88.

Shore, Chris, and Susan Wright. 1999. Audit Culture and Anthropology: Neo-Liberalism in British Higher Education. *Journal of the Royal Anthropological Institute* 5(4):557–75.