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# Practitioners of a New Profession? A Discussion Summary of the First Dispute Systems Design Conference

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# Practitioners of a New Profession? A Discussion Summary of the First Dispute Systems Design Conference

## Abstract

[Excerpt] Participants at the first Dispute Systems Design Conference, held April 7, 1989 at Northwestern University, were excited and expectant. We suspected that we had the practical beginnings of a new field, but we weren't sure whether or not we would be able to apply each other's experiences to our own. In a way, we were looking for a common language or frame of reference that would enable us to learn from one another. Ury, Brett, and Goldbeig's work in "Getting Disputes Resolved" was to be put to the test as to whether it could initiate that frame of reference for this diverse group of practitioners.

## Keywords

dispute systems, organizational culture, conflict

## Disciplines

Hospitality Administration and Management

## Comments

### Required Publisher Statement

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FIRST DISPUTE SYSTEMS DESIGN CONFERENCE


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the test as to whether it could initiate that frame of reference

for this diverse group of practitioners.

The good news is that participants were clearly able to

discuss dispute systems implementation issues across settings,

and to build on one another's experiences. There are differences

between, say, labor dispute systems and divorce dispute systems,

but a surprising amount is shared as well—practitioners in the

different realms seemed genuinely able to provide professional

suggestions to each other. Issues that emerged after any given

case presentation were developed just a little further after

each following case. While some implementation issues must be handled in a way that is particular to the setting, the type of issues that confront dispute systems designers is, to a great extent, independent of circumstance.

Cross-contextual issues include: how to deal with culture, where to look for the "sources of conflict," and how to build legitimacy and referrals for a new dispute system. Dispute systems design practitioners all face a common challenge: How does one change established patterns of dealing with disagreements? Answers to that question provided the basis for the conference.

## Culture and the Design of Dispute Systems

The influence of culture in dispute systems design and implementation was a topic that was introduced early, and remained a focal point of interest throughout the conference. Conference participants agreed that there is a complex relationship between culture and both formal and informal dispute resolution systems, and this relationship is not yet fully articulated or understood. Established patterns of deference and power in the organization are among the factors that can work strongly for or against the success of a new dispute system. In addition, practitioners must be alert to the

possibility that changes in organizational culture can have a great impact on dispute systems.

Ray Shonholtz suggested that, in the context of community dispute systems, the most effective way to gain broad grass roots support is to make a simple and direct appeal to cultural values. This approach, he offered, will allow the interest in the new dispute resolution system to cross racial, ethnic, and class boundaries. In the Central City situation, for example, the values placed on information and on democratic representation played this role. Shonholtz, supported by other discussants, also pointed out that dispute systems design does not occur in a vacuum, and that environmental and organizational cultures must be taken into account when dispute systems are designed. Maiguerite Millhauser built on this theme by observing that an explicit appeal to deeply held values is a critical factor in enabling a corporation's dispute system to survive managerial turnover. A company's priorities often shift when a new CEO comes in, she noted. The goal of the practitioner is to anchor the dispute system in shared values that are not likely to change.

Deborah Kolb observed that organizational cultures have the power to change a dispute system in a direction that is congruent with existing value orientations. Sometimes you put a dispute system in place, and a year later you find that it has

developed many of the worst characteristics of the previous system. This evolution may occur for better or for worse, and has to be considered in advance by the effective dispute systems designer. Joan Kelly noted the complementary notion that changes in dispute systems influence broader cultural systems. This influence, she suggested, is more striking in closed (corporate)systems than in open (community) systems. Her recommendation was that practitioners should attend to the cultural changes that emerge after dispute system implementation, and that dispute systems may as a result need to be refined in an interactive, ongoing process. Cultures can change dispute systems, which, in turn, can change cultures. Managing this interaction effectively is a critical challenge for the dispute systems designer.

Alan Westin provided examples of culture-sensitive dispute systems design. At a firm like NBC, he noted, people are extremely vocal and articulate. A dispute system that emphasized rights-based adjudication would not have responded to the well-educated, expressive norms that prevailed for that work group. The system that was successfully implemented at NBC used professional psychologists as neutrals in order to incorporate participant self-expression and "venting" of emotions into the dispute resolution process. Westin contrasted this design approach to the one implemented at Federal Express, where a more

rights-oriented culture prevails, and where self-expression is not as central a value. At Federal Express, the dispute system includes a multi-level board of review and a Fair Treatment Guarantee that both focus on the rights of employees. The responsibility of the dispute systems designer, Westin said, is to become steeped in the formal and informal cultures of the organization, and to select possible system designs with these cultures in mind.

Richard Weise's presentation of the dispute system at Motorola highlighted how dispute systems implementation is in many ways similar to organization development and culture change. Weise noted the extensive use of training workshops and explicit statements of value orientation at Motorola, and indicated that a current thrust of these activities is directing organization members towards dispute avoidance.

The group's response to Karl Slaikeu's presentation on conflict management system implementation at a metropolitan hospital further developed the cultural theme. Physicians tend to view themselves at the top of the hospital community, and for this reason, William Ury noted, it may be more acceptable to have physicians available to mediate between physicians.

Searching for the "Roots" of a Dispute

Another question considered by the conference participants is how deep to dig in seeking the "roots" of a dispute and in "planting" a new dispute resolution system. This theme emerged following John Murray's presentation as it was of central importance in that particular case. Stephen Goldberg noted the need for systems designers to operate at both the "causal" and at the "dispute" levels in a given situation, and that sometimes turmoil on the dispute level can obscure deeper causes. Ury questioned the common perception of individual disputes as "only symptoms," as sometimes the process used in settling a particular dispute will have impact on deeper levels. Thus the relationship between individual disputes and deeper levels of assumption is interactive, like that between dispute systems and culture.

Kelly remarked that in divorce mediation practice, the cause of a conflict (e. g., rage, feelings of abandonment, etc.) is generally known, and that the most productive dispute systems direct focus away from these issues and toward the practical matters at hand. Weise observed that a key problem for dispute systems designers is how to convince a client to scratch where it does not—yet—itch. Like patients seeking doctors, organizations will typically only seek dispute systems help when their "symptoms" are overwhelming. The problems that are visible are individual disputes, and these must often be addressed on a

"symptom" level. The task of the systems designer at that point is to guide the organization toward dispute systems that will prevent unnecessary and expensive escalation.

Communication and Legitimacy

Conference participants discussed caveats of using dispute systems design jargon. Weise noted that dispute systems designers at Motorola explicitly abandon methodological jargon, and seek to implement new systems wholly in the existing language of their clients. If the client group, for example a service department, has trouble working with customer complaints, the dispute system might be termed a "complaint response system." The Motorola systems designers and trainers work to use as many of the words that are already in use as is possible. While this practice of incorporating existing terminology serves well the goals of communication and system user "ownership," there is a possibility that client language may sometimes imbed stagnant patterns of conflict or battle terminology that can undercut the efficient dispute system.

Conference participants agreed that the establishment of a "pipeline," or channel that directs potential users toward the dispute resolution system, is a key practical design task for both open (community) and closed (organization)systems. Kolb

said that the support of key decision makers is often critical
as a source of legitimacy and referrals into a new dispute
system. Linda Singer added the caveat that legitimacy gained
through the personal charisma of top management is vulnerable to
managerial turnover, and suggested that other sources of
legitimacy must be fostered in order to fortify a fledgling
dispute system. Singer and Murray then pointed out that linking
new dispute procedures to existing routines can be a crucial
source of both legitimacy and referrals.

Kelly's discussion of divorce mediation also emphasized the
importance of pipelines into alternative dispute resolution
systems. Kelly observed that the route through which disputants
enter mediation influences their receptiveness to interest-based
dispute resolution. Disputants who enter mediation through the
courts may bear in mind their rights-based alternatives to
negotiation, and so may be less cooperative. The group debated
the relative virtues of mandating dispute resolution procedures
versus a gentler, "awareness-heightening" approach.


Other Aspects of Dispute Systems Design

In a corporate setting, Weise of Motorola described an
internal dispute system that stresses use of nonadjudicative
procedures whenever possible. This system provides that each

case referred to the Motorola legal department must be scrutinized for alternative dispute resolution potential, and includes a presumption that ADR will be attempted in appropriate cases. This framework, which places new dispute system use in the position of being the normal procedure rather than the exception, is an inspiring model of successful dispute systems design and implementation.

Another concern of the conference participants was making the transition from mediation of an individual dispute to designing a system to deal with future disputes. Kelly pointed out that when such disputes are predictable, as they are in the divorce context, it is common for the mediator to introduce the concept of designing procedures to deal with future disputes. Ury noted that when future disputes are not so easily predictable it is more difficult to persuade people to design procedures to deal with them.

Howard Chalmers observed that dispute systems design is sometimes performed under very different names. Dispute systems, he noted, are often developed as part of a strategic planning program, a marketing process, or an employee involvement or job enrichment program. In short, any project that entails sustained cooperation requires efficient methods of dispute resolution. This requirement may serve as a crossover point for consultants to commence dispute systems design.

Other questions that were touched on in the course of the conference included:

- What are the values and goals that drive dispute systems design?

- What are the societal risks of *not* developing new dispute systems? (e. g.,spiralling medical costs)

- What are the available diagnostic models for analyzing dispute systems in place?

- What types of implicit and informal dispute systems currently exist?

- How does a systems designer adapt to existing organizational and environmental culture so that the culture supports the system?

- How does dispute systems design affect the distribution of power? Can it enhance the relative power of one disputant without alienating the other?

- How does training relate to dispute systems design? Do disputants need to learn new skills?

- How can public sector practitioners, who usually cannot mandate use of new dispute systems, encourage their use?

- What is the effect of having a dispute system be voluntary or mandatory?

- What standards should be used to measure the success of
dispute systems design?

- What other disciplines and bodies of knowledge would be
useful in building the field of dispute systems design?

Conclusion

A dominant theme throughout the conference was how best to
relate existing, traditional dispute systems (e. g., the courts,
grievance panels, etc.) to the methods generally advocated by
dispute systems designers (e. g., negotiation, mediation, etc.).
Exploring that relationship is one of many dispute system design
issues worthy of further discussion by practitioners and
scholars.

In sum, the conference discussion strongly indicates that
there is a common set of dispute systems design issues across
several contexts. Practitioners were clearly able to build on
each other's insights and to learn from one another's practices,
even when the settings for these practices diverged widely. An
approach that focuses on these common dispute systems design
issues appears to be a powerful method of developing individual
practitioners and of developing the practical knowledge base of
the profession as a whole. Based on this observation, the answer
to the question in the title of this article is "yes."