

# Public Disputes & Consensus Building Digest



PUBLIC ENGAGEMENT  
PUBLIC DISPUTE RESOLUTION  
PEACEBUILDING  
CIVIL PUBLIC DISCOURSE  
PUBLIC ISSUES FACILITATION

## Volume 1, Issue 3: October, 2023

### Introduction


Welcome to the first issue of the *Public Disputes and Consensus Building Digest*, a new quarterly publication prepared by the Public Disputes and Consensus Building Committee of the ABA Section of Dispute Resolution. Each issue of this quarterly *Digest* will bring together a recent selection of publications and other media offerings on public dispute resolution, consensus building, civil public discourse, peacebuilding, and related practice areas.

Each content piece will feature basic information (name, author, source / link), a short synopsis, icons to indicate the content type (e.g. book, podcast, video, etc. 🎧 for Audio, 📖 for Book, 📰 for Article, 📺 for Video), and the very rough estimate of the time needed to read, watch, or listen to the item. We hope this format will neatly and conveniently organize the information and allow the reader to easily decide what content to review based on the topic, format, and the time you have to spare.

With the help of the Committee Co-Chairs Loraine Della Porta and Tina Patterson, the Dispute Resolution Section Fellow Alec Chapa will curate 8-10 *Digest* content pieces for circulation each quarter – and yes, we welcome your content suggestions! Now more than ever, the ocean of sources and content can be overwhelming. Rather than selecting a list of “top” or “recommended” items, we hope to provide a list of notable pieces that are diverse enough to appeal to many interests and schedules, and for those wanting an option for a quick read or a deeper dive.


# Digest Selections

**Environmental Dispute Resolution: Past, Present, Future** | Danya Rumore and Michele Straube, American Bar Association |

[https://www.americanbar.org/groups/dispute\\_resolution/publications/dispute\\_resolution\\_magazine/2023/april/environmental-dispute-resolution-past-present-and-future/](https://www.americanbar.org/groups/dispute_resolution/publications/dispute_resolution_magazine/2023/april/environmental-dispute-resolution-past-present-and-future/) |  Article | Est. Time: 20 minutes.

With a historical view, this article helps orient readers to where environmental dispute resolution is headed based on where it's been and how it's developed. Previously revolving around litigation, EDR has since become much more preventive and upstream thanks to a sustained push by federal agencies and the institutionalization of collaborative practices into law. Moving beyond the federal level alone, state and local actors have helped make advances, a change made possible because the promise of EDR has been successfully fulfilled by adhering to best practices. Interestingly, the article points out the conditions under which EDR is likely to fail and succeed, which largely revolve around whether EDR programs are given the resources known to make for successful programs. The article offers profound insights on the differences in feature and impact between EDR and the traditional process of laws, litigation, and attorneys, before concluding with a note about the future of EDR: increasing the "conflict competence" of disputing parties to enable richer and more collaborative self-advocacy; opportunities to make lawyers more collaborative by shifting law school education; and the potential for policymakers and EDR professionals to collaborate to bring about these more cohesive changes. **ABA membership required to access.**


**Bernie Mayer interview: Neutrality, Polarization, and Mediation** | Mediator Vikram, LinkedIn |

<https://www.linkedin.com/events/conference-2neutrality-polariza7067134504125014016/theater/> |  Video | Est. Time: 1 hour

Bernie interrogates the idea of neutrality and prods us to dig deeper, looking beyond polarization as the problem but as a symptom: could the lack of widespread mediation be the expression of an unmet community need, and what would it look like to address polarization in a meaningful way, even if initially counterintuitive? He heavily references his book "Beyond Neutrality" and other works, specifically citing that one of the principles is "sustaining conflict," which requires support systems (e.g. scaled mental health systems for

capacity). Bernie also reflects on the way conflicts are portrayed through media and storytelling, calling us away from the all-too-common hero's journey toward those depicting collective action, which provide a more realistic depiction of effective conflict management on public issues at scale. Deep and insightful, yet casual and conversational, this hour-long video is easy and fascinating to tune into. **Free to access.**

**Family Court Online Dispute Resolution for Thinly Resourced Parents, Courts and Communities: Impediment, Improvement or Impossible Dream?** | Susan M. Yates and Eric Slepak-Cherney, Resolution Systems, Inc. |

<https://s3.amazonaws.com/aboutrsi/591e30fc6e181e166ffd2eb0/Family-ODR-Report-FINAL-with-ES.pdf> |  Article | Est. Time: 4+ hours


This extensive research delves into the current and potential interplay between state court systems and ODR platforms with an eye towards identifying strengths and weaknesses to increase access to justice, especially for thinly resourced communities. While the document totals at 100+ pages, the executive summary, complete with an introduction, research design, weaknesses, recommendations and conclusion, is a modest 6 pages. This robust study does some heavy lifting towards the enticing idea of streamlining at least some court proceedings with online platforms, pointing out what's needed to make it a reality. Under the right conditions, the article asserts good reason to believe that ODR can indeed increase access to justice. **Free to access.**

**What does RJ look like?** | Caralee Adams, *Hechinger Report* |

<https://hechingerreport.org/what-does-restorative-justice-look-like/> |  Article | Est. Time: 20 minutes

Even a small lighter can burn a bridge, and so it is that even seemingly banal misdeeds among kids can lead to bigger concerns. That's where restorative justice (RJ) comes in. This article reviews the spread of RJ outward from indigenous communities to prisons, then eventually to schools as an alternative to expulsion. Through a variety of examples, this piece reviews the differing approaches and their results: some are leaning in while others are running in the opposite direction. Like anything, key structural design questions and the learning curve are vital to getting RJ right. Anyone interested in RJ would benefit from this brief but insightful collection of stories filled with rich examples. **Free to access.**

**Putting the AI in ADR** | Ryan Abbott and Brinson Elliot, JAMS |

<https://www.jamsadr.com/files/uploads/documents/articles/abbott-ryan-amicuscuriae-putting-the-artificial-07-2023.pdf> |  Article | Est. Time: 1 hour


AI is all the talk these days, and rightfully so. Yet it can be tough to keep up with the latest and greatest tech, tools, uses, and more. That's why this article is a refreshing step back, away from the rushing details and into the longview. With the acknowledgment that AI is already widely in use in ADR, the article reviews a spectrum of possibilities of future developments, from the less-integrated notion of "assistive technology" to the more-integrated notion of "automotive technologies." Among other interesting topics, this piece reviews multiple benefits and scenarios AI could be successfully leveraged in such as expanding A2J for low income parties; it therefore pairs well with the article by Resolution Systems Institute, picking up on that point and adding meaningful contributions to the risk and challenges areas. **Free to access.**

**Conservative Socialism?** | Sean Illing, Vox's *The Grey Area* |

<https://podcasts.voxmedia.com/show/the-gray-area> |     | Est. Time: 1 hour

In these highly polarized times, brave conversations across these divides are highly welcome. Those who found inspiration and delight in "ModCom" – the House Select Committee on the Modernization of Congress – would likely appreciate the same camaraderie demonstrated in the conversation aired on this podcast. Both the host and the featured author demonstrate the kind of intellectual humility that collaborative exchanges require, as well as the courage to reach towards and challenge each other respectfully. The topics center around several examples, including labor unions as a leveling force on political power which ultimately make workplaces more democratic, and how political movements might de-escalate left-right tensions that could then help further address divides. **Free to access.**


**Digital Peacebuilder's Guide** | ConnexUs | <https://cnxus.org/digital-peacebuilders-guide/> |

 Web Tool | Est. Time: 10 minutes

This website is an interactive tool, taking input from the dispute resolution practitioners who visit, using information about their work and goals in order to recommend fitting digital tools and resources to help enhance their work. Recommended by the US Institute of Peace on a recent event, "AI and the Next Generation of Peacebuilders." **Free to access.**

**We Hit Rock Bottom on Civics Education. Can We Turn it Around?** | Danielle Allen, *The Washington Post* |

<https://www.washingtonpost.com/opinions/2023/05/23/civics-education-democracy-danielle-allen/>

/ |  Article | Est. Time: 10 minutes

Civic education is in peril, but anyone that's been following this issue knows that's nothing new. As this article is keenly aware of, the same old cycle of studies, alarm sounding and continued setbacks plague the arena. So how can the cycle be broken? The article goes on to suggest that meaningful education slows and even stalls because stakeholders can't agree on what to teach in the first place, showing a ground zero for beginning a rebuild of civic education in America. Then, it reviews some transpartisan work done in this area, including working through disagreement on foundational civil education topics like: should an education prepare students for a democracy or republic? What principles should it center around? What type of learning vehicle best supports the ideal civic education? And much more. This brief but fascinating read is at once both uplifting and clear-eyed. **Free to access.**

## Submit your suggestions!

We're always looking for more resources to share with committee members. Submit your suggestions [here](#).

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