

Vision for the Stone Soup Dispute Resolution Knowledge Project
hosted by the University of Missouri School of Law
Center for the Study of Dispute Resolution



Most people are familiar with the [Stone Soup fable](#). Travelers arrive at a village with only an empty cooking pot and they find that the villagers won't share any food. The travelers fill the pot with water, drop in a large stone, and place it over a fire. One by one, villagers ask what is happening and are told that the travelers are making "stone soup," which tastes wonderful but needs a little of this or that to improve the flavor. Different villagers contribute various ingredients until the soup truly becomes a delicious meal, which is shared with all the villagers.

The Stone Soup Dispute Resolution Knowledge Project also is designed to promote collaboration. Rather than cooking a tasty meal to share, however, it is intended to promote a global collaboration of lifelong learning about dispute resolution. It seeks to engage faculty, students, scholars, practitioners, educational institutions, and professional associations to produce, disseminate, and use valuable qualitative data about actual dispute resolution practice. It has been developed by American law professors but we hope that people in other countries and disciplines will adapt the ideas to fit their situations and join in this enterprise.

In this Project, dispute resolution is defined broadly and includes dispute system design, conflict management, organizational decision-making, dispute prevention, and transactional negotiation, among other things.

Because of the central role of institutions of higher education in creating and disseminating knowledge, faculty are pivotal actors in engaging other stakeholders. Many faculty will participate in this Project to enhance their teaching, especially when they first participate. It is intended to improve dispute resolution scholarship as well.

People in the dispute resolution community can create more knowledge together with some adjustments of our regular activities. Schools can become laboratories of new learning by engaging practitioners in interviews, focus group classes, and student competitions. Continuing education programs for practitioners also can provide new opportunities for learning. Rather than leaving unrecognized knowledge "on the table," we can systematically collect it and feed it back to students and practitioners.

This Project also is intended to promote new scholarship. Academics may decide to use students' assignments as data for publication. Even if they do not use students' assignments and class activities as data, this Project may generate ideas and insights that academics can use in their scholarship. In addition, academics may be inspired to interview practitioners or conduct other empirical research themselves, possibly collaborating with colleagues in other disciplines and parts of the world.

Need for More and Better Research About Dispute Resolution in Practice

The original idea for this Project was to have students conduct interviews about actual cases and include case reports in a searchable database. This idea came in response to an [article by David Matz and Adrian Borbély, who argued that existing empirical data is inadequate to understand the complex reality of negotiation](#). In reaction to their recommendation to develop book-length case studies, [John Lande suggested developing a large body of shorter case studies](#) in addition to longer ones.

Lande had recently conducted a study in which he interviewed 32 lawyers, asking them to provide detailed accounts of the case they most recently settled. [This study produced data challenging traditional understandings of the two-model structure of negotiation theory \(i.e., integrative and distributive models\) and even the conception of negotiation itself](#). Rather than estimating frequencies in a population, it analyzed patterns in the case narratives. It documented some cases that didn't fit the traditional integrative and distributive models but fit in a third model (called "ordinary legal negotiation," which might generically be called "norm-based negotiation"). It also identified cases that didn't fit into any of the models, and it suggested a new framework for analyzing negotiation.

Lande also used this data for a companion article, [Good Pretrial Lawyering: Planning to Get to Yes Sooner, Cheaper, and Better](#), which catalogued practices and recommendations from the lawyers in the study. These theoretical and practical insights would not have been possible with traditional quantitative methods.

Focus on Qualitative Research for Theory Development

The Stone Soup Project is intended primarily for qualitative theory-development rather than quantitative theory-testing. This approach should be valuable considering the need to develop new theory (as identified in the University of Missouri symposium, [Moving Negotiation Theory from the Tower of Babel Toward a World of Mutual Understanding](#)), and the limitations of quantitative methods for developing theory about the complex and rapidly changing dispute resolution phenomena.

Quantitative research offers significant benefits in making population estimates and testing hypotheses. However, it also has significant limitations in understanding dispute resolution processes. In studies relying primarily on quantitative data about dispute resolution cases, the entire experience of each case is collapsed into a relatively small number of quantitative variables. Ideally, research subjects could validly reflect their

experience as framed in the questions and response options, though this can be difficult or impossible for lengthy, complex interactions. For example, there are limits about how much one can learn about a case from a subject's "somewhat satisfied" response. Even when such research permits valid comparisons, it misses a lot of important information about the processes, interactions, and evolution of cases.

Qualitative research also has significant limitations. Qualitative studies often involve small non-random samples, which can bias the findings due to selection of the particular subjects included in the study. In addition, qualitative research often relies on subjective perceptions and motivations of subjects and researchers. Subjects may not be accurately self-aware and they may want to provide accounts that garner the researchers' respect. Researchers bring their own biases to the data collection process and may want to collect data validating their pre-existing views.

However, there are techniques to identify and limit these biases, and qualitative case studies can provide unique opportunities for discovery and developing new theories. In [*Case Studies and Theory Development in the Social Sciences*](#), Alexander George and Andrew Bennett wrote, "Case studies are generally strong precisely where statistical methods and formal models are weak. We identify four strong advantages of case methods that make them valuable in testing hypotheses and particularly useful for theory development: their potential for achieving high conceptual validity; their strong procedures for fostering new hypotheses; their value as a useful means to closely examine the hypothesized role of causal mechanisms in the context of individual cases; and their capacity for addressing causal complexity."

Faculty can assign a class to conduct interviews about particular questions of interest. Practitioners don't strictly follow theoretical prescriptions and faculty can use a Stone Soup assignment to analyze differences between theory and practice. This may be particularly relevant to debates based on questionable empirical assumptions. For example, people differ about the effects of integrative and distributive negotiation, "facilitative" and "evaluative" mediation interventions, and some arbitrations triggered by pre-dispute arbitration clauses. Faculty often highlight such issues in dispute resolution courses and they can use Stone Soup assignments to learn about actual experiences relevant to these issues.

Just as current theory needs renewal (for reasons described in the Tower of Babel symposium), there also is a need for a renewed approach to empirical research. Indeed, they should go hand in hand. The dispute resolution field is so broad that people don't have consistent understandings of some basic concepts, and research findings often have been equivocal. Although we would like to have robust empirical findings that people using ADR generally get better results, save time and money etc., one can find many quantitative studies showing that particular interventions in mediation, for example, have positive effects, negative effects, or no effects.

New qualitative examination of dispute resolution in actual cases can help advance our understanding. Ideally, research should combine both qualitative and quantitative methods as appropriate.

Legal Education Reform to Increase Practical Real-World Training

The need for practical education in law schools is reflected in sociolegal scholarship about pervasive “gaps” between the “law on the books” and the “law in action.” The theory taught in law school and other professional disciplines often isn’t the way things work in practice. Faculty frequently notice this gap when judging competitions with practitioners as fellow judges, as the two groups regularly have very different perspectives.

There have been efforts to increase practical training in law schools for more than a century with limited effective change. The ABA recently adopted a standard requiring law students to take at least six hours of experiential courses, which is a good step but more is needed. The Stone Soup Project is designed to increase students’ – and academics’ – knowledge of the real world of practice.

US law schools generally will have to do more with less because of declining enrollments and reduced public financial support. This Project, which generally requires no out-of-pocket expense, can help.

It is designed to help faculty increase student learning by taking greater advantage of activities that they normally do. Faculty regularly require students to do certain assignments and faculty could design some assignments for students to learn more about real-life practice by interviewing people about actual cases. ([Click here for examples of student papers.](#)) Faculty often invite guest speakers and they can produce more learning by conducting them as “[focus group classes](#).” Students, academics, and practitioners regularly participate in competitions designed to educate the competitors. After a student competition, academics and practitioners who served as judges can jointly analyze the performances along with students, noting similarities and differences in perspectives.

Students who conduct interviews practice effective questioning, documenting interviews, and assessing the veracity of the information received, which all are critical skills for lawyers. Students develop rapport with their subjects, elicit sensitive information, and protect confidentiality. They write up the interviews in a coherent analysis and consider possible alternative explanations, noting possible other perspectives, limitations of subjects’ memory, subjects’ desire to present themselves favorably, etc. These are important skills for lawyers in virtually every area of practice.

This Project is also designed to increase students’ enjoyment of learning. Too many students feel alienated and believe that their studies do not have practical value for their future work. Stone Soup assignments and activities provide an opportunity for

students to experience more joy of learning, particularly about things they believe are important to them.

Promoting Collaboration Between Academics and Practitioners

Practitioners are both sources and recipients of knowledge in the Project. They are valuable sources of data as interview subjects and speakers in class. Many practitioners value the opportunity to share their experiences with students and faculty. As repeat-players, they can compare cases in their experience.

Practitioners gain insights about their own experiences by perceptive questioning, raising issues they hadn't considered. This can happen through interviews, focus group classes, de-briefing of student competitions, and participation in continuing education programs designed to elicit information about actual dispute resolution practice. In addition, academics can use a Stone Soup approach in their research to produce knowledge relevant to practitioners' work.

Professional associations can strengthen connections between professionals and academics. These organizations' members can collaborate with academics to design research projects of mutual interest. For example, a program at the annual ABA Section of Dispute Resolution conference in 2017 [identified issues that would be helpful for practitioners to learn about](#).

Initial Phase of the Project

After consulting the Stone Soup Board of Advisors, we decided that it was premature to develop a case database. Faculty need better understanding of the possibilities and limits in this Project and the chance to experiment with different pedagogical approaches. So we are proceeding as a decentralized project, providing resources and promoting collaboration by faculty and other stakeholders. This is a thousand-flowers-blooming phase and we will survey faculty to assess their experiences and share their insights and advice with the Stone Soup community.

This document describes some possibilities for the Stone Soup Project. How well we achieve them will depend on the level of motivation, creativity, and collaboration within our community.

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