Law and Society
Alternatives to Law: Varieties of dispute processing

I. Functions of law: the context for considering law and alternatives to law.
   Recall the meaning of functions: consequences of patterns of action
   intended (manifest functions)
   unintended (latent functions)
   
   a) social control: processes and structures used to (intended to) reduce or prevent deviance. Law is formal or governmental social control.
   b) dispute resolution: there is no society without dispute, difference, conflict and most have violence of some sort. Societies vary (in time and across the globe) in how they manage conflict, differences, disputes.
   c) distribution, innovation, and social change.

II. Historical forms of "law"

III. Contemporary forms of dispute resolution - processes and their names: varies

IV. Mediation, a criticism and a critique

   criticism: unmasking, truth telling, holding institutions accountable to self-claims
   critique: locates practices within history and social forces; identifies who benefits and and who loses by the way things are done; alternatives not pursued

   A. Claims for mediation:
      informal, third party without coercive power
      non-binding
      faster
      cheaper
      better solutions, get to heart of problem

   B. Observations of mediation
      routinized rather than responsive and adaptive
      mandated by organizations and legal institutions
      mediators act with authority
      cheaper, faster, not clearly better solutions
      differences in practice between law and mediation not as stark as conceptual models
      both negotiate settlements
      blend formal and informal
      develop categories and language of "trouble" and how to respond (typifications)
      often involve postponement - time
C. If mediation is not what claims to be, what is it?
   history of its rise since 1970s, professional project of legal elites, access to justice proponents, progressive community organizers
   particular normative conception of conflict: it is bad rather than productive
   reconceptualizing the human subject (person) as rights bearer, set of interest, constellation of needs

D. End product: a new profession