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Conflict in Northern Ireland after the Good Friday Agreement

Seamus Dunn*

Jacqueline Nolan-Haley†

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Abstract

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CONFLICT IN NORTHERN IRELAND AFTER THE GOOD FRIDAY AGREEMENT

*Seamus Dunn**
*Jacqueline Nolan-Haley***

I. INTRODUCTION: THE GOOD FRIDAY AGREEMENT

In 1998, Good Friday fell on the 10th of April. On the same day an historic agreement relating to the long-lasting conflict in Northern Ireland was signed in Belfast by all the involved political constituencies (except for two small unionist parties that had refused to attend the negotiations).¹ The signatories included the leaders of the Irish and British governments, who had been closely and personally involved in the last stages of the negotiations; the representatives of all the nationalist parties; and the representatives of all the major unionist parties.

It was an agreed part of the process that any agreement reached would be put to the electorates in Northern Ireland and the Republic of Ireland in the form of referenda and that these would be quickly followed by an election in Northern Ireland. The signing of the Agreement Reached in the Multi-Party Negotiations ("Agreement" or "Good Friday Agreement") was, therefore, followed six weeks later, on May 22, 1998, by two referenda asking the people living on both parts of the island whether they supported the proposals contained within the Agreement. The results were that the proposals received overwhelming support in both parts of the island. In the North, seventy-one percent of the electorate voted yes out of a record poll of eighty-one percent, while in the Republic of Ireland, the figure was ninety-four percent out of a poll of fifty-six percent. The agreed elections then took place—five weeks after the referenda—on June 25, 1998, and those parties and individuals in support of the Agreement were overwhelmingly successful with over seventy percent of the votes cast.

It would be difficult to exaggerate the significance of this event. It was the first time since Northern Ireland was formed

* Director, Centre for the Study of Conflict, University of Ulster, Coleraine.

** Associate Professor of Law, Director of Fordham University School of Law Mediation Clinic.

1. Agreement Reached in the Multi-Party Negotiations, Apr. 10, 1998.

that a majority of both nationalists and unionists had voted in support of a proposed settlement, and the joint referendum was thought by some to counter finally the 1918 general election, which was the last previous time the people on the island of Ireland voted as a unit.²

The Agreement, perhaps paradoxically, compels us to reflect upon the many difficulties that remain. Its central achievement has been to establish a set of political compromises, involving agreed structures and procedures, which the large majority of the people in Northern Ireland voted to accept in the post-Agreement referendum. The Agreement, therefore, represents a workable political settlement mandated by the referendum vote. The result is that power is being given to the politicians to control some of the functions of government in Northern Ireland.³

This ground-breaking accomplishment nevertheless leaves many other longstanding difficulties and problems unresolved, some, if not all, of which result from our common history—because groups define themselves through history—and the diverse ways in which we confront one another with two sets of memories. The current difficulties with parades, policing, punishment beatings,⁴ and decommissioning of weapons are only the most visible symptoms of these continuing underlying oppositions within the society.

A. *Other Matters Dealt with in the Agreement*

The Northern Ireland problem can be conceptualized as an amalgam of a range of problems—political, social, cultural, economic, and historical—all of them a consequence of community division.⁵ The political breakthrough on Good Friday deals

2. The 1918 result has always been claimed by republicans as a mandate to speak, and to act, for the people of Ireland.

3. The hidden agenda is the need to test the concept of power sharing within government, and so the new Assembly will begin with control of issues such as housing, health, and education.

4. The debate about the future of policing in Northern Ireland and the very strong opposition being expressed by Sinn Féin, in particular, and republicans, in general, to the Royal Ulster Constabulary, are closely related to the current high profile of punishment shootings. The argument is that, in the absence of an acceptable local police force, the people will go to the paramilitaries for justice.

5. See FACETS OF THE CONFLICT IN NORTHERN IRELAND (Seamus Dunn ed., 1995) [hereinafter FACETS].

mainly, and in a substantive way, with the political division only. The end of violence and the accompanying political accommodations are only the first steps in a long-term process of social reconstruction.

The Agreement does, however, acknowledge many of the other difficulties and outlines a set of commitments and agreements relating to matters identified as presenting barriers to progress. These include a "commitment to the mutual respect, the civil rights and the religious liberties of everyone in the community" and eight particular rights are spelled out: the "complete incorporation into Northern Ireland law of the European Convention on Human Rights, with direct access to the courts, and remedies for breach of the Convention, including powers for the courts to overrule Assembly legislation on the grounds of inconsistency"; a new Northern Ireland Human Rights Commission; a new statutory Equality Commission; a normalization of security arrangements and practice, including the reduction in the numbers and role of British Armed Forces deployed in Northern Ireland; an agreement to acknowledge and to address the sufferings of the victims of violence; and the establishment of an independent commission to make recommendations for future policing arrangements (currently sitting); and a parallel wide-ranging review of the criminal justice system. Finally, with regard to prisoners, the Agreement proposes an accelerated program for the release of prisoners by both governments, and this part has already been substantially achieved.

In relation to the vexing question of decommissioning of weapons, the words of the Agreement are that

[a]ll participants accordingly reaffirm their commitment to the total disarmament of all paramilitary organisations. They also confirm their intention to work constructively . . . and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following endorsement in referendums North and South

The Independent Commission is to monitor, review, and verify progress.

B. *Social Separation*

There is a danger, however, that the many entrenched, al-

beit at times invisible, structural, institutional, and cultural divisions will continue to reinforce the existence of that social distance and group self-containment that created and sustained the conflict. Examples of these separations between the two communities include the fact that, for the most part, individuals of these communities attend separate schools,⁶ worship in different churches, read different newspapers, play different games, and belong to different social and sporting clubs.⁷ Such associations and divisions are of great power and significance because they relate to the ways in which people identify themselves and their individual places in the world. The determination to remain distinctive and separate leads to drawing of boundaries or building of walls, to marking out territories, and to a physical and emotional distancing from others.⁸

Attempts to change or reform these divisions are resisted, often for reasons that, in themselves and in other more stable contexts, are perfectly justifiable. In particular, there is a fear of assimilation and acculturation, of losing the marks and signals of identity.⁹ Such fears often manifest themselves as a search for confidence in the rituals and practices of the past, such as parades.¹⁰ This is particularly true within local communities, small towns, and villages, including villages within cities, which perceive their position in social and cultural terms as peripheral and, therefore, threatened. In such contexts, many believe that the only way to ensure the continuation of a community and a way of life is to live together separately; this demands segregated schools, housing estates, and bars. The consequence is that, in a

6. See, e.g., Seamus Dunn, *Integrated Schools in Northern Ireland*, 15 OXFORD REV. EDUC. 121 (1989) (describing controlled schools attended mainly by Protestants and maintained schools as generally attended by Catholics).

7. This statement must be qualified by saying that the degree to which any or all of these is true varies considerably with respect to such variables as geographical location, social class, levels of residential segregation, and levels of employment/unemployment.

8. Needless to say, such emotional distancing increases what Elaine Scarry has labeled "the difficulty of imagining others" and blocks efforts at collaboration and peacemaking on an interpersonal level. Elaine Scarry, *The Difficulty of Imagining Other Persons*, in THE HANDBOOK OF INTERETHNIC COEXISTENCE 41 (Eugene Weiner ed., 1998) [hereinafter INTERETHNIC COEXISTENCE].

9. For example, the Catholic Church is strongly opposed to the new program of school integration on religious grounds.

10. DOMINIC BRYAN ET AL., UNIVERSITY OF ULSTER: CENTRE FOR THE STUDY OF CONFLICT, POLITICAL RITUALS: LOYALIST PARADES IN PORTADOWN (1995); NEIL JARMAN & DOMINIC BRYAN, UNIVERSITY OF ULSTER: CENTRE FOR THE STUDY OF CONFLICT, PARADE AND PROTEST: A DISCUSSION OF PARADING DISPUTES IN NORTHERN IRELAND (1995).

strong sense, the communities do not know each other. Any one of these separations by itself would be innocuous and unexceptional, but when the many forms of separation parallel and reinforce one another, without any other compensatory alignments, the result is a malign level of suspicion, anxiety, and fear that almost inevitably leads to violence. The consequences are then expressed in political terms and the cycle of fear and violence repeats and reinforces itself.

C. Beyond the Good Friday Agreement

Considerable work remains to be done to establish and to support practical ways whereby the injurious effects of the range of divisions in Northern Ireland society can be identified, understood, and ameliorated. It is equally important that such processes recognize the importance of preserving and even nurturing strong cultural, spiritual, and ethnic identities and do not involve cultural assimilation or the collapsing of identities into a universal human nature. Nevertheless, divisions of this sort are often symptomatic of the absence of a unifying social solidarity, or of a commonality of aims and aspirations between the communities, and the absence of procedures or techniques—such as mediation—for combining respect for difference with a sense of mutual belonging. Such divisions ought, therefore, to be considered dysfunctional and in need of continuing thought, energy, and resources.

It would be reductive not to be aware that there are also some individuals on both sides within Northern Ireland who are opposed to community cohesion across the divide and who, for a range of reasons—religion, politics, nationality, history—consider social separation as an important, even necessary, way of protecting their identity. On one side, therefore, there is a belief that what happened in Northern Ireland over the past thirty years was a rebellion and that the state ought to have put it down with all necessary force. And, on the other side, there are those who think that the war was not over, that they were winning, and that it should not have been stopped.

It is only by a consideration of these wider contexts that current difficulties, for example those concerning parades, can be understood. The need to win is a matter of fundamental signifi-

cance: to lose is not just about a parade,¹¹ but about the fear of a loss of identity, an irreversible movement away from cultural safe ground. Without this understanding the disputes and arguments seem arcane and atavistic.

II. THE NEED FOR INTEREST-BASED APPROACHES TO RESOLVING UNDERLYING PROBLEMS

In the aftermath of the Good Friday Agreement, in addition to the social separation issues noted earlier,¹² there are many underlying problems that must still be acknowledged and confronted; human rights,¹³ unemployment, and the quality of the criminal justice system are just a few examples.¹⁴ The reality of this post-Good Friday Agreement era presents a paradoxical paradigm for conflict resolution, one of competing rights and interests. On the one hand, a rights-based approach to the problems that afflict Northern Ireland offers ostensible protection to civil rights and religious liberties of all members of the community. On the other hand, an interest-based approach seeks to honor and to maintain human relationships, to accommodate all competing constituencies, and to sustain a commitment to mutual respect. In our view, the development, support, and sustaining of interest-based approaches for resolving the continuing underlying problems in Northern Ireland society will provide a structural framework within which rights can be acknowledged and respected in divided communities. Specifically, we believe that

11. See, e.g., EXECUTIVE SUMMARY: INDEPENDENT REVIEW OF PARADES AND MARCHES (The Stationery Office) (1997) [hereinafter EXECUTIVE SUMMARY]. In EXECUTIVE SUMMARY: INDEPENDENT REVIEW OF PARADES AND MARCHES, the authors state that:

[t]he parades issue is a microcosm of the political problems of Northern Ireland. It is not new. It is a complex issue that has great capacity to polarize local communities and the whole of Northern Ireland society. The events of 1996 showed that Northern Ireland remains divided, too often marked by misunderstanding, mistrust and fear.

Id. at 3.

12. See *supra* text accompanying notes 5-7.

13. See, e.g., Martin Flaherty, *Human Rights Violations Against Defense Lawyers: The Case of Northern Ireland*, 7 HARV. HUM. RTS. J. 87 (1994); Roger Myers, *A New Remedy for Northern Ireland: The Case for United Nations Peacekeeping Intervention in an Internal Conflict*, 11 N.Y.L. SCH. J. INT'L & COMP. L. 1 (1990).

14. See "Mo" Mowlan Finds 10 Peacemaking Lessons from the Good Friday Negotiations, 16 CONFLICT RESOL. NOTES 25, 26 (1999) (discussing remarks of Dr. Marjorie Mo Mowlan addressing Fourth European Conference on Peacemaking and Conflict Resolution on October 12, 1998).

interest-based approaches such as mediation,¹⁵ conciliation,¹⁶ consensus building, and collaboration¹⁷ offer tremendous potential for the kind of transformation that must occur in human relationships if rights not only are to be enforced through the legal system but also are to be fully appreciated and respected in divided communities.

A. *For a Broad Vision of Reconciliation*

Reconciliation of the competing interests in Northern Ireland's conflicted communities is critically important for any meaningful social reconstruction to occur.¹⁸ It requires, above all, a great deal of thoughtful consideration in constructing a broad-based design plan for elevating human relationships from current levels of suspicion, anxiety, and fear to transforming human relationships based on trust. Our understanding of a broader vision of reconciliation does not mean forgetting the past and the injustices suffered by both communities. It is, rather, a realization of the many dimensions of reconciliation and an acknowledgment that personal¹⁹ and social reconciliation is necessary to create new communities of trust. These are communities where individuals can participate and fulfill the vision of justice made possible by the political reconciliation of

15. In a unique way, mediation skills build the consensus that is so necessary to a new social structure. See Patrick Fn'Piere & Linda Work, *Symposium on Emerging Alternative Dispute Resolution Systems: On the Growth and Development of Dispute Resolution*, 81 Ky. L.J. 959, 973 (1992-1993) (discussing "the process and attendant skills of mediation that are being drawn upon to increase citizen participation and build consensus at all levels of government").

16. Conciliation has been defined as "the psychological component of mediation in which the third party attempts to create an atmosphere of trust and cooperation that is conducive to negotiation." CHRISTOPHER MOORE, *THE MEDIATION PROCESS: PRACTICAL STRATEGIES FOR RESOLVING CONFLICT* 124 (1986). We include fact finding and isolation issues within the meaning of this process.

17. See WILLIAM R. POTAPCHUK & CAROLINE G. POLK, NATIONAL INSTITUTE FOR DISPUTE RESOLUTION, *BUILDING THE COLLABORATIVE COMMUNITY* 1, 3 (1994) (asserting that collaboration includes wide spectrum of third party processes including facilitation and conflict resolution).

18. See, e.g., TIM PAT COOGAN, *THE TROUBLES: IRELAND'S ORDEAL 1966-1996 AND THE SEARCH FOR PEACE* xv (1996) (discussing need for reconciliation for success of peace process.).

19. Personal reconciliation may include a spiritual dimension. See John Paul Lederach, *Beyond Violence: Building Sustainable Peace*, in *INTERETHNIC COEXISTENCE*, *supra* note 8, at 236.

April 10, 1998.²⁰ As Professors McThenia and Shaffer have written,

Justice is not the will of the stronger; it is not efficiency in government; it is not the reduction of violence. Justice is what we discover—you and I, Socrates said—when we walk together, listen together, and even love one another, in our curiosity about what justice is and where justice comes from.²¹

Finally, with our vision of reconciliation is a recognition of the intrinsic value of forgiveness and the freedom that comes from an apology. As former IRA member Shane Paul O'Doherty wrote in a letter to the New York Times one year after the IRA cease-fire,

Finally, both sides should apologize for the horrors and crimes visited on each other and on civilians. Freedom from the tentacles of my own history came in part from the letters of apology I wrote to my victims. If we do not admit our sorrow and our wrongs, if we continue to pursue an eye for an eye, we will all wind up blind.²²

B. *The Role of Mediation in Achieving Reconciliation*

Mediation is a valuable process for helping to create the conditions of trust that are necessary for reconciliation.²³ Mediation is an interest-based process of conflict resolution that emphasizes the importance of autonomy and self-determination, as well as the sustaining power of human relationships. Mediation autonomy operates individually and communally.²⁴ Scholars have observed that the central quality of mediation is its capacity to help re-orient parties towards one another, not by imposing rules upon them, but by helping them to establish, re-establish,

20. See Gerry O'Hanlon, *Justice and Reconciliation*, in RECONCILIATION IN RELIGION AND SOCIETY 48 (Michael Hurley, S.J. ed., 1994).

21. Andrew W. McThenia & Thoms L. Shaffer, *For Reconciliation*, 94 YALE L.J. 1660, 1665 (1985).

22. Shane Paul O'Doherty, *In the Name of the I.R.A.*, N.Y. TIMES, June 20, 1996, at A21.

23. The value of mediation as a tool of conflict resolution is well known. See, e.g., Jacob Bercovitch, *Understanding Mediation's Role in Preventive Diplomacy*, 12 NEGOTIATION J. 241 (July 1996).

24. See Jacqueline M. Nolan-Haley, *Informed Consent in Mediation: A Guiding Principle for Truly Educated Decisionmaking*, 74 NOTRE DAME L. REV. 101, 115-17 (forthcoming 1999) (discussing dimensions of mediation autonomy).

and restore relationships.²⁵ The language of mediation focuses on parties' individual values²⁶ and interests rather than on the abstract notion of rights. The process of mediation is directed towards helping parties understand one another's needs and values and then focusing on solutions that respond directly to those interests.²⁷ The United States' experience with mediation both in the court system and the private sector has demonstrated a high degree of compliance and satisfaction with outcomes.²⁸

There is nothing new about the notion or the practice of mediation in Northern Ireland. A number of organizations offer mediation either directly or through peace and reconciliation groups.²⁹ Efforts thus far have been focused on individual projects, however, and have not focused on institutionalization in any of the ways that it has occurred in the United States. One of the challenges for structuring plans for a broad-based vision of reconciliation is to develop sustained mediation initiatives at all levels of society where conflict occurs.³⁰

25. See, e.g., Lon L. Fuller, *Mediation-Its Forms and Functions*, 44 S. CAL. L. REV. 305, 325 (1971). More recently, John Paul Lederach has acknowledged the importance of relationship development as a "primary essence of mediation." John Paul Lederach, *Exploring the Depths of Mediation: Some Discoveries*, 16 CONFLICT RESOL. NOTES 32 (1999).

26. One of the problems with understanding the concept of values in Northern Ireland is that they have often been used to support the political claims of individual groups. See MARI FITZDUFF, *COMMUNITY CONFLICT SKILLS: A HANDBOOK FOR GROUPWORK 99* (1988).

27. Examples of current interest-based approaches are the restorative justice movement and victim offender mediation programs. Another example of such approaches that focus on relationships and changing attitudes and behavior is the community relations initiative. See, e.g., Colin Knox, *Conflict Resolution at the Microlevel: Community Relations in Northern Ireland*, 38 J. CONFLICT RESOL. 595 (1994) (reporting achievements during four year period of study).

28. For example, see Chris Guthrie & James Levin, *A "Party Satisfaction" Perspective on a Comprehensive Mediation Statute*, 13 OHIO ST. J. ON DISP. RESOL. 885 (1998), and sources cited therein.

29. One example is the Corrymeela Community, a dispersed ecumenical Christian community founded in 1965. Throughout the period of political violence in Northern Ireland, the Corrymeela Community has tried to retain an intercommunity and interdenominational ethos and practice. Duncan Morrow & Derrick Wilson, *Three into Two Won't Go? From Mediation to New Relationships in Northern Ireland*, NATIONAL INSTITUTE FOR DISPUTE RESOLUTION FORUM, Winter 1993, at 13, 14. See generally Derrick Wilson & Jerry Tyrrell, *Institutions for Conciliation and Mediation*, in FACETS, *supra* note 5, at 230.

30. In fact, project members have begun development of individual initiatives since their return.

III. IMPLEMENTING MEDIATION: THE NEED TO DEVELOP TRUST

One of the core values of mediation is trust. Despite all good intentions on the part of a mediator and/or the parties, the mediation process will not succeed where there is a lack of trust. Parade conflicts are a good example. In a recent article on parade disputes, an experienced mediator in Northern Ireland wrote that "mediation (that is, direct contact between the two parties to discuss their situation in the presence of a mediator) is not possible due to the high level of fear and distrust in the more powerful group."³¹ This is particularly true when mediation is tried, appears to have succeeded, and then fails in its final outcome. Such frailty must be anticipated in some contexts, but in a situation where both sides are determined to win, an initial positive response to mediation that then fails can become perceived as a weakness and a danger. In addition, where there is a continuing perception, whether accurate or not, that much has already been given up, the resulting high levels of suspicion can make mediation seem like a plot.³²

The lack of trust between the divided communities of Northern Ireland is well noted.³³ Mediation, however, is a process that depends upon consent of the governed, a consent that comes from trust.³⁴ Both communities must trust whatever mediative processes are established. What Professor John Hart Ely has observed about democracy is equally true of mediation and other interest-based processes of conflict resolution, namely, that "[m]alfunfunction occurs when the *process* is undeserving of trust, when (1) the ins are choking off the channels of political

31. Joseph Peake, *A Parades Dispute in a Border Village in Northern Ireland*, 15 CONFLICT RESOL. NOTES 36, 37 (1998).

32. The history of the Northern Ireland conflict contains many examples of words and language that have become devalued and instinct with suspicion as a consequence of perceived failure and resulting suspicion.

33. See, e.g., Dick Spring, *Gaining the Consent of the Governed: A Prerequisite to Peace in Northern Ireland*, 18 FORDHAM INT'L L.J. 6 (1994).

34. See William Ross & Jessica LaCroix, *Multiple Meanings of Trust in Negotiation Theory and Research: A Literature Review and Integrative Model*, 7 INT'L J. CONFLICT MGMT. 314 (1996); see also Bernard Mayer, *The Dynamics of Power in Mediation and Negotiation*, 17 MEDIATION Q. 75 (1987) (asserting that mediator's power over process derives from parties' consent).

change to ensure that they will stay in and the outs will stay out"³⁵

Programs that help to create trust and seek to transform weak relationships into trusting ones through a practical and realistic understanding of opposing perceptions are a necessary precondition to social reconstruction in Northern Ireland society. In the following part, we discuss a joint endeavor to develop such a program.

IV. *THE FORDHAM/ULSTER CONFLICT RESOLUTION PROJECT: DEVELOPING TRUST THROUGH COLLABORATION*

The authors conducted a three-year conflict resolution project in Northern Ireland and in the United States pursuant to a grant from the United States Information Agency.³⁶ We believe that some of the lessons that we learned from this endeavor may be helpful to others in developing program models that can help to sustain an environment for peace and positive, transformative reconstruction in Northern Ireland. Only through sustained initiatives will we be able to work through the difficult problems that remain with parades, policing, punishment beatings, and decommissioning.

A. *Background*

How disputes get resolved says much about the qualitative level of coexistence in a society, particularly a divided one such as Northern Ireland. The purpose of our project was to train citizen leaders from Northern Ireland in conflict resolution and mediation skills that would be helpful in resolving the ordinary disputes of their workplace and communities. We believed that such training would have a positive, spillover effect on the larger issues created by sectarianism, as the everyday "micro" disputes of daily life are often a metaphor for the larger macro issues affecting society. Our goal was to bring together leading citizens from both of the divided communities who would return to Northern Ireland and make a positive contribution to social reconstruction. Our program was designed to provide an introduction to a range of theoretical perspectives on mediation and alternative dispute resolution skills. It sought to provide practi-

35. JOHN H. ELY, *DEMOCRACY AND DISTRUST* 103 (1980).

36. United States Information Agency, Grant No. 25-07-2165.

cal illustrations of the implementation of mediation programs relevant to the needs of members of the group,³⁷ and, finally, it offered a basis for practical development work to be carried on by members of the group after their return to Northern Ireland.³⁸ Participants attended two seminars at the University of Ulster at Coleraine and spent two weeks in the United States at Fordham University School of Law, attending lectures and skills training workshops and making site visits to mediation centers in New York City.

B. *Selection of Participants*

Considerable care was given to the method of selecting participants for the workshop because Northern Ireland is a small and closely interconnected society and the professional and community networks are correspondingly on a small scale. Personal contact and recommendation can produce closed groups and suspicions of patronage, all of which work against trust building. We saw transparency in the selection process as central, and it was eventually decided that this transparency could best be achieved through a completely open public advertisement and subsequent selection on standardized criteria. An identical notice was, therefore, placed in each of the three main daily newspapers that have a Northern Ireland wide circulation: The Belfast Telegraph, which has a broadly cross-community readership; the Irish News, which has a mainly Catholic/nationalist readership; and the News Letter, which has a mainly Protestant/unionist readership.

The advertisement gave a very brief outline of the project and asked those interested in applying to contact the Centre for the Study of Conflict at the University of Ulster at Coleraine. We recognized that this procedure had potential pitfalls. It was unclear whether people would apply on this basis, whether it would

37. In designing the program, we were conscious of the need to develop a culturally specific model and not import the U.S. version of mediation. See JOHN PAUL LEDERACH, *PREPARING FOR PEACE: CONFLICT TRANSFORMATION ACROSS CULTURES* (1995).

38. The authors gratefully acknowledge the contributions of Professor Valerie Morgan, Research Director of the Initiative on Conflict Resolution and Ethnicity (IN-CORE), University of Ulster, Magee College, who conducted the evaluation of this project. Her evaluation model was ongoing throughout the project. This allowed us, and the participants, to have ongoing feedback, and it provided a summary evaluation for the founders. The elements of formative evaluation were designed to support the concept of joint ownership between providers and participants.

produce a cross-section of applicants from target groups, and whether it would be possible to assemble a group balanced by age, gender, geographical location, and professional and community involvement using standardized criteria. Ultimately, however, we felt that the importance attached to transparency in the procedure and the idea that individuals would have to be motivated to apply would outweigh these possible difficulties. After extensive interviews conducted at the Centre for the Study of Conflict, twenty-one individuals were chosen to participate. The group was representative of both communities and had almost equal proportions in respect of other variables such as gender, age, and geographical residence within Northern Ireland. The final group of twenty-one included individuals in the following occupations and professions: social workers, prison governor, training officer for youth, principal of primary integrated school, community development worker, community relations officers, resident magistrate, legal officer, education officer-Community Relations, advice officer, Fair Employment Commission member, RUC inspector, civil servant, solicitor, and director of a school mediation project.

C. Course of Study

We began the project with two seminars conducted at the University of Ulster at Coleraine. This introduction gave the participants an opportunity to begin developing social relationships with one another, to establish ground rules for their own behavior, and to share with us and with one another their expectations for the learning that was to take place. These meetings were critical to the success of the project and they established collaboration as the preferred model of behavior.

At the first seminar we asked the participants to identify critical issues for consideration in the skills training workshops. Many of them believed that if a new era of peace would in fact unfold as a result of the IRA cease-fire of August 31, 1994, there had to be a new vocabulary. Language and its meaning assumed a great deal of importance for the group, and they identified the following words on which there should be common understanding before the workshop should proceed: community, mixed community, cross-community, sectarianism, tradition, neutral, law, and prejudice. Working in small groups, they discussed

their understanding of these words and then shared them with the whole group. Some of the agreed upon definitions were enlightening. Tradition was defined by one group as "anything that happens more than twice in Northern Ireland and is linked to an earlier period in a group's history." In response to the word "neutral," one group stated that "a car in neutral isn't going anywhere." We assigned several readings on conflict resolution theory, negotiation, and mediation.³⁹ Finally, the group agreed upon seven rules that would govern their behavior throughout the workshop: (1) listen while others are talking, (2) show respect for all, (3) everyone is encouraged to speak, but no pressure to do so, (4) be open minded, (5) no volunteering others, (6) no putdowns, and (7) confidentiality.⁴⁰ Most group members were concerned with their personal safety and, therefore, confidentiality was quite important to them.

In June 1996, participants came to New York for a two week period that included study and visits to local mediation centers where various models of mediation and conflict resolution had been adopted.⁴¹ We used a theory/practice model, with lectures, skills development workshops, role playing problems, videotaping, and critique followed by site visits for process observation. Classes were conducted by eminent mediation and conflict resolution academics and practitioners in the United States.⁴² For two weeks the group lived as a community, working, studying, and socializing together. Many of them came to know each other in ways that would not have been possible in Northern Ireland.

Over the last two years, several members of the project have been meeting regularly in Belfast pursuing a number of mediation endeavors including a pilot court mediation project.

39. Readings included Robert H. Mnookin, *Why Negotiations Fail: An Exploration of the Barriers to the Resolution of Conflict*, 8 OHIO ST. J. DISP. RESOL. 235 (1993), and Jeffrey Z. Rubin, *Conflict from a Psychological Perspective*, in NEGOTIATION: STRATEGIES FOR MUTUAL GAIN 135 (Lavinia Hall ed., 1993).

40. The rules were developed and agreed upon on May 24, 1996.

41. Visits were arranged depending on the professional background of the participants. Thus, there were visits to schools, court programs, therapy centers, and mediation centers.

42. We were privileged to have the assistance of Professors Nancy Rogers, Leonard Riskin, Maria Volpe, Margaret Shaw, Miguel Hernandez, and Thomas Colosi to lead major workshops.

D. Lessons Learned

1. Neutrality

Almost every mediation text assumes that mediator neutrality is an absolute requirement.⁴³ While a number of recent studies suggest that neutrality as practiced in mediation may in fact be more a question of degree than one of absolutes,⁴⁴ it is still accepted as the normative model. At the very least, the appearance of neutrality is a governing norm.

In Northern Ireland, on the other hand, the very idea of neutrality implies at best a compromise of integrity and, at worst, ineffectual behavior. Neutrality is a suspect concept in Northern Ireland.⁴⁵ The starkest reminder of this fact is the definition of neutrality offered by one of the participants in the project, that "a car in neutral isn't moving." Morrow and Wilson suggest that there is a cynicism about the neutrality of internal mediators and the possibility of their existence.⁴⁶ At a Human Rights Symposium held at Fordham University School of Law on February 28, 1997, Angela Hegarty, from the University of Ulster, Magee College remarked that "everyone is biased. It's impossible to be neutral."⁴⁷

As interest-based programs are developed in this society divided along sectarian lines, we need further thoughtful consider-

43. See, e.g., JAY FOLBERG & ALISON TAYLOR, *MEDIATION: A COMPREHENSIVE GUIDE TO RESOLVING CONFLICTS WITHOUT LITIGATION* (1984). The authors define mediation as a "process by which the participants, together with the assistance of a neutral person or persons, systematically isolate disputed issues in order to develop options, consider alternatives, and reach a consensual settlement that will accommodate their needs." *Id.* at 7; see CHRISTOPHER MOORE, *THE MEDIATION PROCESS: PRACTICAL STRATEGIES FOR RESOLVING CONFLICT* 14 (1987) (stating that "[m]ediation is the intervention into a dispute or negotiation by an acceptable, impartial, and neutral third party").

44. Sara Cobb & Janet Rifkin, *Practice and Paradox: Deconstructing Neutrality in Mediation*, 16 *LAW & SOC. INQUIRY* 5 (1991).

45. This is true of other societies plagued by conflict, such as South Africa. Christopher Moore writes that:

[i]n many conflict-ridden societies, members cannot conceive of a person who is outside of the conflict, and they see third parties as either allies or enemies. Such was the case in South Africa in 1989, when conflicting groups could not imagine any South African playing a neutral, impartial or a mediating role in dismantling apartheid.

Christopher Moore, "Have Process, Will Travel": *Reflections on Democratic Decision Making and Conflict Management Practice Abroad*, NATIONAL INSTITUTE FOR DISPUTE RESOLUTION FORUM, Winter 1993, at 1, 9.

46. Morrow & Wilson, *supra* note 29, at 13.

47. Notes on file with the authors.

ation about the relevance and meaning of neutrality in conflict resolution processes.

2. The Culture of Politeness

There is in Northern Ireland a dominant culture of politeness that inhibits efforts to address difficult issues. Communities do not really know each other not just because they continue on with segregated housing estates, schools, and bars, but because they avoid confronting the real divide in common conversation with each other. As Morrow and Wilson have observed, “[w]e often prefer to remain apart or to meet politely avoiding anything that touches on the dominant societal contest.”⁴⁸

The reality of this politeness culture became quite apparent while group members were attending the New York workshops at Fordham Law School. During this period of time, newspapers reported considerable activity in Northern Ireland with parade fever mounting.⁴⁹ The agenda for the first week of training included workshops on identifying and confronting sources of community conflict, protecting scapegoats in the community, and peace building. In group discussions, however, no one ever referenced or mentioned the conflict “back home” in Northern Ireland. They simply did not want to talk about it with one another.⁵⁰ Certainly, all members of the group felt a keen sense of what was happening in their own country, but they did not want to be told to engage in discussions about the problems of sectarianism.⁵¹ Not until about one week had passed did such discus-

48. Morrow & Wilson, *supra* note 29, at 13.

49. Consider what happened at the Drumcree parade shortly after participants returned home. EXECUTIVE SUMMARY: INDEPENDENT REVIEW OF PARADES AND MARCHES, reports that:

[t]he dispute in the summer of 1996 between the Loyal Orders and Nationalist resident groups, which required major intervention by the police under the public order legislation, brought Northern Ireland close to anarchy. . . . There were major costs to Northern Ireland: two deaths and a significant number of injuries, polarisation between the two parts of the community, damage to the relationship between the police and the community, public expenditure costs of at least £ 30 million, losses to trade, tourism and inward investment.

EXECUTIVE SUMMARY, *supra* note 11, at 1.

50. Some group members did not object to talking with U.S. newspapers. See Jack Holland, *Where and how the peace process went astray*, IRISH ECHO, July 10-16, 1996, at 10.

51. During one of the de-briefings following the workshop, group members told us that they appreciated that they were not required to discuss this topic, but were allowed to let discussion develop when they were comfortable with it.

sions develop as a natural outgrowth of conversations about how difficult it would be to resolve disputes at home where some people do not even think that sectarianism is a problem. In a later small group discussion about the transformative aspects of mediation, some members emphasized the need for conciliation before any real reconciliation could occur "back home." Conciliation as a method of conflict resolution requires articulating facts and identifying issues, activities that might undercut habits of avoidance. The culture of politeness, a persistent presence in Northern Ireland society, must be acknowledged and understood if we are to have a better appreciation of the conditions for reconciliation and effective mediative approaches in Northern Ireland.

CONCLUSION

That conflicts remain in Northern Ireland after the Good Friday Agreement is inevitable. But the Agreement gives us hope that a community with two sets of memories will no longer continue blindly in avoidance and violence, but will begin to engage in the difficult conversations that lead to true reconciliation.