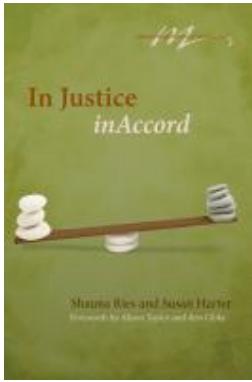# In Justice
inAccord

Shauna Ries and Susan Harter

Forewords by Alison Taylor and Ken Cloke

In Justice inAccord speaks to the need for people to find fairness and dignity in their search for justice. Whether within couples, companies, or countries, there are inevitable conflicts. Mediation is presented as an alternative to costly, time-consuming litigation. The inAccord model allows disputants to identify the emotions that naturally accompany conflict. Parties are empowered through Touchstone Skills that facilitate dialogue leading to conflict resolution. Research surveys provide evidence for the efficacy of the model.

In Justice, inAccord

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In Justice, *inAccord*

Shauna Ries & Susan Harter

Introduction

It is by understanding the differing perspectives and the emotions that each person brings to a conflict situation that we are able to empower all parties and, as a result, attain a lasting resolution, and with it true justice.

- Shauna Ries, President, Mediators without Borders®

The global community today is more united in the desire to expand peaceful resolution of conflict than at any other time in history. The instantaneous transmission of events through the media, among once-isolated societies, has exposed a growing sense of commonality and a deep desire for shared peace, yet we struggle to understand, to connect, and to bring our common desire for justice into more sustainable economic, political, and social models.

The cost of violent solutions to conflict has reached the point where they are irretrievably weakening the economies of the most powerful nations. There are not enough sanctions, guns, bombs, or prisons to control such a diverse and culturally rich worldwide community. Nations and societies who seek to control and force others to view the world from their perspective are doomed to collapse under the economic weight of the destructive devices designed to maintain such control. There are countless examples of this folly: a series of costly wars that contributed to a global recession; the leveling of Beirut that all but destroyed a thriving economic tourist destination and weakened both sides involved in the conflict; the genocide in Darfur and the inability of the global community to effectively respond; and, the totalitarian rule in North Korea that created a country of nuclear might while its citizens starve and languish in labor camps.

In this book, we present the *inAccord Conflict Analysis™ model*, hereafter referred to as the *inAccord* model, operated within the Mediators without Borders International Alternative Dispute Resolution (IADR®) Centers as one answer that can help us connect and share ideas that will help build a more peaceable world, one society at a time. Briefly, these International ADR Centers are established globally, linked by a virtual campus, and directed by local citizens.

Each Center provides facilitation, mediation, and arbitration services to a regional population while promoting the *inAccord* educational model. At the heart of the our model and International ADR Center project of connection and sharing, is an ever increasing understanding of the important role of emotions in shaping perceptions, reactions, and solutions to conflict. By understanding the important role of emotions in both escalating and resolving disputes, we may be able to systematically tackle even the most intractable conflicts. This is a foundational concept of this book and the *inAccord* model.

Overview of In Justice, inAccord

Many leaders in the field of conflict resolution and peace programs accept that conflict is not only an *inevitable* condition of human interaction, it is a *good* condition. In this book, the authors will extend the conviction that conflict can be a powerful force of systemic change for the betterment of a society by exploring the value of honoring not only divergent perspectives of conflict but the potential contrast of emotional reactions to the conflict by each of the disputants. Conflict can help open minds to divergent thinking and help disputants understand how differences in their cognitions and emotions offer exposure to unique options that might otherwise not be imagined.

This book explores critical questions linked to the exploration of solutions to conflict such as, (1) How might justice be served, given the differing perspectives and emotions inextricably tied to each version of a conflict? (2) Are we able to enhance the current justice systems with alternatives such as International ADR Centers designed to ameliorate conflict between disputing parties, once their individual negotiation attempts failed them? (3) How do we evaluate the efficacy of these new International ADR Centers and other interventions? and, (4) What mechanisms must be instituted to guarantee the ongoing sustainability of intervention models?

By answering these questions and others, the authors make a case that the Mediators Without Borders International ADR Centers and their forms of direct alternative dispute resolution processes may offer an invaluable vehicle to deliver justice to the underserved in society,

whether that underserved be a disempowered individual or a company unable to find the funds to battle a larger or more economically resourced institution. On a broader level, this book considers how to help resolve conflicts to disputes as seemingly intractable and complex as those between and within countries.

The guiding premises and assumptions of the *inAccord* model include: (a) conflict is inevitable, normal, and workable; (b) disputants can be empowered to work successfully with conflict; (c) empowerment derives from transparency in the mediation process and from teaching the *disputants* the *Touchstone Skills* of reflecting, re-framing, and questioning; and (e) mediators must help disputants explore the role of emotions, which then enables parties to create enduring agreements.

In Justice, inAccord is written as a text for the foundational mediation course at Mediators Without Borders, as a resource book for any practitioner in the field, and as a book for anyone desiring to learn about the fields of justice and conflict resolution. The book is organized into three parts beginning with Part One where the reader is taken through an overview of the field of justice and alternative dispute resolution, how the *inAccord* model complements and fits into these fields, and the three central functions of the model. In Part Two, the book focuses on placing the foundations and processes of our model into practice during mediation sessions. Part Three concludes the book by presenting the *inAccord* research component and its application through the networked Mediators Without Borders International ADR Centers.

Part One: Foundations of the inAccord Model

It is the authors' contention that justice delayed is justice denied and so Part One begins with a focus on the overarching concepts of justice and why new and complimentary systems to existing conflict resolution approaches are imperative to create a more peaceable world. This includes a discussion of the difficulties inherent in the criminal justice system, focusing on the United States crisis of funding which is seriously debilitating local, state, and federal courts. The discussion

then moves to the remedies and complimentary systems of alternative dispute resolution that can certainly help with this ongoing crisis in the courts.

Chapter Two of Part One presents both the field of ADR and an introduction to the *inAccord* model*,* emphasizing the fact that it departs from traditional ADR methods through a concerted focus on how the disputant understands and is satisfied with the procedure. *inAccord* is a disputant- centered facilitation model, meaning that it examines the needs of the disputants, what they require emotionally (this informs the facilitative technique chosen), and what is required economically to reach settlement. Ultimately, the settlement of the conflict is a goal in the *inAccord* model.

The *inAccord* model is referred to throughout this book as a facilitation model because it best designates the process as a form of alternative dispute resolution with a third party neutral "facilitating" mediation between disputants. Although we refer to this facilitator as a "mediator" in this particular text, we will apply the *inAccord* facilitation model to arbitration, negotiation, and conciliation methods of dispute resolution in our other Mediators Without Borders courses and textbooks. Throughout the book, we use the words "party" and "disputant" interchangeably as terms for the participants involved in conflict. Part One concludes with two chapters that cover the foundational concepts of transparency, empowerment, and the role of emotions which form the central foundational functions of our model. We will discuss these functions briefly in the following pages.

Central Function One: Transparency. Transparency, one of three central functions that support the *inAccord* model, is presented in detail in Chapter Three, including discussions of neutrality and impartiality in theory and in practice, differentiation and self-regulation, transference and counter-transference, and the links of transparency to authenticity. *Transparency* applies to each of three phases of our model, to each party engaged in the conflict, and to the mediator. Transparency means making the covert overt. It includes shedding the mediator's role as the expert in the parties' dispute because it is the disputants who ultimately understand their perception of the injustice and what they are wanting in the form of an apology and/or remuneration to reach a solution.

Mediators are not the primary problem solvers to a disputant's problem; this role falls to the disputants themselves. Transparency is facilitated in the *inAccord* model through a sequence of surveys at each of the 4 stages, including surveys the mediator fills out. The model further promotes transparency by teaching the disputants the same *Touchstone Skills* the mediator uses to clarify and frame the underlying interests, understanding, and satisfaction of each party.

All parties are encouraged to communicate from an authentic stance based on increased self-awareness and increased awareness of the perspective of the "other" party. The goal is to reach a negotiated agreement to the conflict and to use an informational, more transparent process. Examining the approach to the mediation itself at certain points in the process and making necessary adjustments to the choice of intervention strategy, helps facilitate movement to a negotiated agreement. It is our hypothesis that transparency is critical for examining the role of emotions, because it exposes power imbalances that are critical to address when empowering the disputants. This power balancing process thus becomes a vehicle that helps disputants achieve equal footing in the negotiations. Once this is achieved, it is possible to come to a Memorandum of Agreement, with which the parties will realistically comply over time after the process concludes.

Central Function Two: Empowerment and Systemic Change. Chapter Three also covers the second of the central functions, empowerment, in terms of how to use the *directive* and *relational* techniques (described in subsequent chapters), along with sharing the *Touchstone Skills*, to maintain a balance of power between the disputants. The chapter concludes with a discussion of how facilitators can influence positive disputant power and the links between empowerment and the concept of "self-efficacy". Empowerment applies to each phase of the model. Empowering the parties and facilitator to find their own personal voice in the dispute is also a central component to the *inAccord* model, as the process encourages parties to take an active role in the resolution of *their* dispute.

Although many alternative dispute resolution models seek empowerment, what is central to our model is teaching the *Touchstone Skills* of *reflecting, reframe, and questioning* directly to the parties at

the end of Stage 1 in Phase Two. This prepares the disputants for negotiation with each other. The *Touchstone Skills* are designed to increase self-empowering emotions and self-awareness, along with understanding the other party's perspective. This may have the added benefit of creating greater compassion and open-mindedness among the disputants. These *Touchstone Skills* are not unique to the *inAccord* model and were written about extensively in books such as *The Making of a Mediator* (Lang & Taylor, 2002). What distinguishes our model is that we not only encourage the facilitator to "model" these skills but direct them to take time to *teach* these skills to each disputant to use throughout the 4 stage process.

Why is empowerment such a critical concept of our model? Because, the feeling of disempowerment is so universally negative and debilitating that many people, groups and nations who feel disempowered will do anything to feel even a little more empowered. Anything may include taking away someone else's property or rights, taking their life, or waging a war. Often, these styles of conflict resolution to address an injustice create a cyclical system of violence where one party is constantly trying to regain power over the other. This type of power over another is not empowerment. It is a hollow victory built on violence toward the other. What is needed is a systemic change, including an empowerment process which encourages people to constructively release their own overt or dormant personal power and gain the skills and knowledge to overcome obstacles in their lives. Ultimately, this should help them develop and create this change within themselves and their societies.

Central Function Three: The Critical Role of Emotions to Inform Facilitator Technique. The central function of the role of emotions in the *inAccord* model is the focus of Chapter Four which presents the emotional scale used in the model and the *My Feelings* pre- and post-survey instruments. This scale is based on the first-hand practice experience of first author Ries as well as the scales presented in *Ask and it is Given* (Hicks & Hicks, 2004) and *Power vs. Force* (Hawkins, 2002). This presentation is followed by discussions of self-conscious emotions, emotional competence, hope theory as applied to facilitation, and the function of positive emotions. Emotions are powerful forces

that disputants bring to the table. Others such as Bolton (1970), Deutsch (2006), Furlong (2005), and Taylor (2002) have also highlighted the importance of addressing strong disputant emotions at the outset of conflict. One novel contribution of the *inAccord* model is the identification of emotions that are empowering (e.g. optimistic, happy) as well as emotions conceptualized as disempowering (e.g. depression, humiliation)*, namely, negative effects that can disrupt the success of the process. Our expectations, if the model is effective, is that empowering emotions would increase in strength and disempowering emotions would decrease in strength as a result of the *inAccord* model for facilitation.

An important feature of the model includes the implications of the emotions that disputants report at the outset of the facilitation. We shall see how the particular emotions of each party dictate the intervention strategy employed by the facilitators. In addition, we will explore recent theorizing about the role of positive emotions, including cognitive-emotion hybrids such as hope and optimism. In our sessions, we find most disputants are seeking a feeling of emotional relief, which may be important to consider as we examine the role of emotions in Chapter Four.

Part Two:The Practice of inAccord Facilitation

Part Two of this book will present a more comprehensive discussion of how mediation practitioners can practice the *inAccord* model. Chapter Five, in this section, will focus on the mediation skills necessary to successfully guide disputants to a resolution of their conflict and begins with a discussion of the competency cycle and how it relates to the need for ongoing self-reflection in the maturity and development of any practicing professional. This is followed by an examination of three essential skills sets that are used throughout the model including building rapport with each disputant, employing the *Touchstone Skills* of reflecting, reframing, and questioning, and conducting fair and impartial caucuses when needed. The chapter concludes by introducing pre-mediation protocols that offer a solid structure to help contain the inevitable intensity of any dispute.

Chapter Six of Part Two takes the reader through the three phases and four stages of the *inAccord* model, highlighting specific techniques and interventions to use at each stage. These two main components include: (1) the Three Phases including Phase One, the pre-facilitative assessment, Phase Two, the 4 disputant-focused stages, and Phase Three the post-facilitation; and (2) a deeper clarification of the 4 stages of facilitation in Phase Two. These 4 stages include: *Stage 1*: Sharing of Perspectives: Issues, Positions, and Interest Identification- teaching the *Touchstone Skills*, *Stage 2*: Developing the Agenda and Option Generation, *Stage 3*: Joint Solution Statements, Testing the Agreements in Principle, and *Stage 4*: Crafting the Memorandum of Agreement (MOA). See Table One below for a summary of these phases.

Table 1: Overview of Phases and Associated Surveys to Assess the inAccord Model

PHASE ONE Pre-Facilitation Assessment	PHASE TWO 4 Stage Intervention Scores	PHASE THREE Post-Facilitation Outcomes
Conflict Styles Survey* *-Avoidance* *- Competition* *-Compromise* *-Accommodation* *-Collaboration* ***My Feelings*** Pre Survey* *-Empowering Feelings* *-Disempowering Feelings* ***My Expectations*** Scale* *-Saving money* *-Saving time* *-Saving the relationship*	***Stage 1***: Sharing of Perspectives: Issues, Positions, and Interest Identification**(caucus; review touchstone skill sets) *- Understanding* *- Satisfaction* ***Stage 2***: Developing the Agenda and Option Generation** *-Understanding* *-Satisfaction* ***Stage 3***: Joint Solution Statements: Testing the Agreements in Principle** *-Understanding* *-Satisfaction* ***Stage 4***: Crafting the MOA* *-Understanding* *-Satisfaction*	***Signed versus did not sign*** ***Exit Survey**** *- inAccord Model successful,* *party satisfied* *-Can understand, implement* *inAccord Model* *-Mediator fair/impartial* *-Process transparent* *-Process empowering* ***My Feelings*** Post Survey* *-Empowering Feelings* *-Disempowering Feelings* ***My Expectations*** Scale* *-Saved money* *-Saved time* *-Saved the relationship*

*Mediator evaluates disputant responses to survey
**Mediator completes a parallel version of this survey

Part Three: inAccord Research and International Applications through ADR Centers

Another unique contribution of this book is the inclusion of a research evaluation component in Part Three. As with any intervention, we believe it is critical to evaluate, through appropriate research designs and statistical techniques, whether the components of the *inAccord model* are effective in producing the desired outcomes. We will share our specific research endeavors to the *inAccord* model in Chapter Seven. Conclusions from our initial research are presented here as well as plans for future research in this ongoing effort.

Our book often references Morton Deutsch (Bunker & Rubin, 1995), a social psychologist, considered to be a leading contributor to the field of conflict, cooperation, and justice. He pointed out that there is "an appalling lack of research on various aspects of training in the field of conflict resolution" (p. 128). He laments that this lack of research has left us with many unanswered questions about who benefits, what is effective, when and where, in what circumstances, and through what mediation processes. We agree that these questions along with many other practice-related issues and issues of efficacy need well-designed research and data to back up any potential answers. In this spirit, we introduce not only the *inAccord* model of facilitation but its research component that will help us determine the effectiveness of this model in the United States and abroad.

Mediators Without Borders is in the early stages of creating a foundation of study for empirically-demonstrated findings. We are in the beginning phase of testing our International ADR Center research component and our second edition will produce data sets with more active international cases. Our initial research results were based on a study using the results of mock disputant trainees from *inAccord* onsite trainings and from role play practice through our weekly teleconferenced practice sessions. We chose this venue as a practice area to refine the survey instruments created by the authors and to see if these had initial validity. We have noted similar results with disputants from actual facilitation sessions and we felt it was imperative to publish a first edition while we await the results with a larger sample from the

International ADR Centers. Although, we do not yet have the requisite number of these actual surveys to report statistically significant findings, the live surveys we have administered mirror the results from the mock disputant findings. A more comprehensive study will be included in our second edition.

Chapter Eight of Part Three focuses on the business model of globally networked ADR Centers and the proposed International University for Professional Studies as vehicles for disseminating the *inAccord* model and research study. In this chapter, we present an overview of the ADR Center Project and the University of Professional Studies founded by Mediators Without Borders including the importance of bridging the divide between corporate and non-profit organizations, the emphasis on local direction of ADR Centers, and the underlying business model of fair profit and sustainability for thriving centers. In addition, we apply the central functions of transparency and empowerment from *inAccord* to the International ADR Center project and outline some of the challenges ahead as we launch this model on the world stage. Our ADR Centers are the current delivery systems for our model, and they will work collaboratively with one another to expand the research study and University goals on an international level.

We believe our business model of partnering with local citizens and institutions to co-create a fair-profit model of conflict resolution, education, and service will help create a more peaceable and just world. We also recognize that a broader application of the model will bring greater challenges as we deliver the courses and services in other nations and cultures. From the psychological literature, we present some of these specific challenges to the ADR Center project such as the intractability of certain conflicts, identity-based conflict, issues of self-verification and how they impact conflict resolution interventions, the implications of false self-behavior, and folk theories about whether people can change. We conclude this chapter and *In Justice, inAccord* with a look at the path forward, one that we see as immensely hopeful.

Mediators without Borders: The Mission

The highest possible stage in moral culture is when we recognize that we ought to control our thoughts. - Charles Darwin

Just trust yourself, then you will know how to live. -Goethe

Mediators Without Borders is a part of a growing movement, nationally and internationally, toward increasing our awareness of the unique interests that accompany diverse perspectives and positions in a conflict. The world is increasingly interconnected, socially, politically, and economically, yet there remain serious limitations in the distribution of fairness and justice. This is an important time in the evolution of professionals who deal with those in conflict. It is necessary for each of us to continue efforts to work collaboratively and creatively, building trusted, impartial frameworks for the global and national delivery of dispute resolution services to families, organizations, or nations. This mission underscores the authors' creation of the *inAccord* research survey instruments to gather early data to support the hypothesis that a disputant-focused facilitation model could embed fundamental and trusted concepts such as transparency and empowerment in the quest for justice and procedural fairness in resolving disputes. With our professional roots in psychology, we seek to measure the role of emotions and how these emotions might inform a facilitator and the disputants of reliable techniques to move them to agreement, how to move through four measureable disputant-focused stages of facilitation, and how these two efforts might combine to create research-based methods in the quest for justice. This initiated the creation of our three phases and 4 stages of the *inAccord* research methodology.

The *inAccord* model is part of a natural progression of creating more effective and comprehensive training for students, by providing a measured, procedurally-fair, disputant-centered model for those in conflict. The model is built to address the need to measure our efficacy as facilitators, mediators, and arbitrators and as a call to action to create a research-based process that is straightforward in its approach, rigorous in its measurement, and always centered on the empowerment of all parties. Our approach includes the identification of theories and

skills from psychology and sociology which might support interventions for disputants, and to build on the groundbreaking, classic work of leaders in the field of mediation such as Morton Deutsch, Alison Taylor, Jay Rothman, Evelin Lindner, Ken Cloke, Lawrence Kriesberg, Jay Folger, Robert Bush, Bernie Mayer, Bill Ury, O.J.Coogler, John Haynes, Jeffrey Z. Rubin, John Paul Lederach and many others. These pioneers have been an inspiration to our work and set the early call for a serious consideration of alternatives to litigation and war in the quest for justice.

Mediators Without Borders is continually seeking answers to the question of what can be done to promote justice. Old ways of handling conflict, with what many consider to be the alpha male, winner-takes-all mentality, are no longer an option. Social media is opening our minds and hearts to the plight of those in conflict internationally. As we witness vast societal and regional problems, the inordinate need for effective methods for conflict resolution to bring about justice becomes apparent. The *inAccord* model*,* and the Mediators Without Borders International ADR Center project introduced in Chapter Eight, may be one alternative to intervene early and provide a viable alternative to lengthy litigation or continuing hostilities that can at worst, lead to war.

It is the continuing mission of Mediators Without Borders to identify new and innovative approaches for positive, sustainable change in the field of conflict resolution grounded in research-based techniques. If both seasoned and young democracies in the West and abroad are to thrive, we must be able to connect and share new paradigms to deal with conflicts and continue to pursue effective and stable mechanisms to deliver justice for our citizenry, even for disputes that are by nature interpersonal rather than political or social. To this end, Mediators Without Borders continues to add increasing specializations and credentialing as the field of conflict resolution continues its rapid expansion around the world. With new models and delivery platforms for our courses, our courses are able to be efficiently and effectively transmitted to this growing global audience.

Conclusion

It is important to reiterate that this new, more just world does not translate to an absence of conflict. Conflict is a necessary process in human interaction. It is an essential component of social evolution as challenges and disputes across the globe compel us to find more creative and affirming ways to expand our humanity. The processes created for justice must embrace conflict in this manner. We must understand that war is almost always waged as an answer to a conflict that has no other defined resolution. In this sense, models of justice must begin to build alternatives to violence that become embedded in the institutions of each nation and people. If you take away guns, people will fight with sticks and stones. If you offer more constructive alternatives to the gun, people will have more options when they inevitably react to conflict. Moreover, if we define peace as a direction rather than an end to conflict, any diversion from that direction can be resolved through a simple course correction.

There were many times during the birth and growth of *inAccord* and Mediators Without Borders where forces acting against it threatened the leadership team with paralysis, with despair, and sometimes with a strong urge to abandon the dream. But we, along with our team, were fortunate to be what Rand and Cheavens (2009) refer to as "high hope" individuals, who worked diligently to transform stressors into challenges, even opportunities to soldier on. Hope, for most of us, is a sense where even the possibility of a happy ending is desirable goal.

In *The Better Angels of our* Nature, Pinker (2011) states that outside forces which transform individuals and the world include technology, demographics, commerce and growth. However, he also observes that ". . . they also originate in the intellectual realm, as new ideas are conceived and take on a life of their own" (p. xxiii). *In Justice, inAccord* and the new ideas embodied within will help with what we see as the continuing positive transformation of our world.

It is certain that no single world leader, regardless of his or her passion or charisma, can affect the broad change that is needed for justice. We must all find ways to act by crafting thoughtful

interventions, delivering these through creative private and public models, and carefully studying the results of each unique attempt to create a peaceful global community. With the folly of our antiquated solutions more clearly defined, how do we best respond? We do this by acts of construction rather than destruction, by finding ways to link us to one another so we can continue to share our common desire for peace. We do this by honoring our differences and celebrating the unique perspectives and solutions that each nation and people have to offer. We do this, most importantly, in ways that ensure that our solutions will survive the forces that seek to continually disrupt their positive effects. We believe that Mediators Without Borders®, its project of networked International ADR Centers, its future University of Professional Studies, and its evaluative research on the *inAccord* model will create a continuous source of constructive solutions to help this shared vision become a celebrated reality.

Chapter Eight:
The Mediators without Borders ADR Center Model and its Global Implications

Chapter Overview

As we described earlier in our book, it is not enough to simply point out that justice is not alive and well for most people. More importantly, we must turn our efforts to remedy the systemic problems that engender or maintain these disputes, such as: How do we create thriving systems of justice within our communities, and, more importantly, how do we maintain them as viable options for all, even when populations or individuals cannot afford private services or complex procedural justice infrastructures? The concepts of people taking control of their solutions, and the perspective of "deep democracy" as a global response, call out for ways to resolve these disputes in more tenable and efficient ways.

Arny Mindell (1992) developed the term deep democracy which has evolved into a philosophical approach that builds on conventional democracy's goal to include all individuals in the political process. This approach takes it a step further by seeking to foster a deeper level of dialogue and inclusiveness that makes space for all people as well as for their styles of communication, competing views, tensions, and feelings. The *inAccord* model aligns deeply with Mindell's philosophy, by promoting a space in the resolution of conflict where all actors not only take part in the process, but where their competing needs, interests, tensions, and beliefs are valued and given expression. Our unique focus on the role of emotions provides a greater outlet for this diverse meeting of disputants by teaching them the *Touchstone Skills* which encourage a deeper dialogue. In addition, our emphasis on measuring understanding and satisfaction at each stage of the mediation process helps ensure that each person is given time to express any

obstacles to their free and unfettered participation in the *inAccord* model.

In this chapter, we turn to the ways in which we might deliver the *inAccord* model of mediation to appropriate audiences with the greatest number of people, and therefore make the greatest social impact. Here we are presenting the vision of Mediators Without Borders (MwB) and the web of globally-networked Alternative Dispute Resolution (ADR) Centers which can help to bring the *inAccord* mediation model to a broader audience. With expanded solutions for those who experience injustice, these ADR Centers can also collect the data necessary to measure the efficacy of the *inAccord* model, providing feedback and cross-cultural verification through research comparing different populations and cultures, and adaptations that might make this model more culturally appropriate for certain societies and cultures. Here we will discuss the ways in which the use of the ADR Center initiative in different global regions reflects the concepts of transparency, empowerment, and the role of emotions imbedded in the model, as well as identify and discuss impediments to this model when delivering it to and with other cultures as participants and social systems.

Description of ADR Center Initiative

This book has as a basic premise the global need for a more comprehensive, research-based approach to conflict resolution education and services, as well as a firm belief that the world is poised to embrace and to perpetuate peaceful means of resolving conflict such as our model. It is our hope that the *inAccord* model, and the theoretical foundations behind it, will contribute positively to this current and future global need.

Mediators Without Borders was founded as an educational company to provide mediation training, which we hope will serve to help with the large social task articulated above. As a business entity, we are interested in delivering our unique *inAccord* model as a specialized product to a national and international market. Our delivery system dictates the expanding ADR Center model of education and

services that is beginning to be established throughout the United States and abroad, currently in Romania, the broader EU, and Nigeria.

As of this writing, the Mediators Without Borders ADR Centers are planned at specific sites around the world, and will be linked both physically and virtually through technology to our central business and research team in Colorado. Our research team is led by second author, professor emerita at the University of Denver.

We designed the web of conflict resolution learning and mediation ADR Centers on the foundational concept of economic sustainability. The ADR Center model serves a multi-layered function of operating as a location for multiple purposes, including: (1) teaching the *inAccord* model to social leaders and potential ADR practitioners, (2) conducting research using the *inAccord* survey instruments to provide feedback, and (3) providing local citizens with conflict resolution services using the *inAccord* model.

It is our vision that this network of educational ADR Centers will help create local solutions to conflict. By being connected to our organization, the local area can then archive these cases and their outcomes, which then can be used as resources for other ADR Centers dealing with similar issues. In this sense, an ADR Center in the Niger Delta that is successfully dealing with the tensions of an inequitable distribution of wealth and resources case might offer assistance to another ADR Center, half-way around the world in a village in Peru which is also struggling with inequitable resource issues, but in their own local context. This assistance could be offered in as simple a manner as a letter, email, or phone call, or through more advanced technology such as virtual classrooms, and web-based communication between ADR Centers and among practitioners. The hope is that the learning of what methods work to bring resolution to one area can inform and guide the process in another area due to the linkage through this organization.

Mediators Without Borders International University of Professional Studies

As a natural outgrowth of both the training of mediators and facilitators and the ADR Center initiative, Mediators Without Borders is in active creation of an international university of professional studies that will focus on three areas of research and scholarship: leadership, management, and ADR studies. The first track of study will include leadership with an emphasis on entrepreneurship, ethics, sustainability, and ADR. This track will include specializations in private sector leadership, NGO leadership, and public sector leadership. The second track of study will focus on management strategies with an overlap of leadership and ethics study, ADR, and team building and organizational development. The third track will focus on students who wish to complete a masters and/or doctoral program in Alternative Dispute Resolution. This track will focus on direct practice skills of facilitation, mediation, arbitration, and advanced specialization areas such as construction, family, workplace, and public policy conflict resolution.

The decision to create a professional studies program as opposed to creating an international peace and conflict resolution masters and doctoral program, is based, in part, upon the analysis of IPCR – International Peace and Conflict Resolution programs that was conducted by the United States Institute of Peace (Carstarphen, Zelizer, Harris, & Smith, 2010). This analysis revealed a disconnect between academic programs that teach peace and the organizations who seek to employ graduates who have conflict resolution skills. The authors note that, "Graduate-level academic institutions are not adequately preparing students for careers in international peace and conflict management" (p. 1). The study underscores the fact that overseas experience is the most valuable asset that employers want in their new hires. In addition, they want their new employees to have basic skills in fundraising, project management, writing and computer literacy, grant writing, and research skills.

This analysis, and the lack of research that has been noted in this field, prompted Mediators Without Borders to focus on a professional, career-focused masters and doctoral program where students can learn both theory and practical skills related to the tracks they choose. For instance, a student focused on working in NGOs would need to have classes in fundraising, grant writing, and project management as well as the direct practice skills of facilitation and conflict resolution. A student who chooses the public sector track of leadership or management would need specialized classes in public policy, good governance, and democratization as well as the practice skills of ADR.

The ADR Center initiative will provide our students with the ability to gain overseas experience through work/study apprenticeships in the ADR Centers and in the regional planning in various countries such as Romania, Nigeria, Bulgaria, Greece, France, and Hungary. The *inAccord* model and ongoing research studies will provide ample opportunity for our students to join in existing studies as well as have a hand in establishing new studies as the ADR Center initiative expands to more countries. Mediators Without Borders will always work to establish strong and enduring relationships with governments, NGOs, and other businesses because we recognize great value in bridging the gaps between private and public sector organizations who work for peace.

Bridging Corporate and Non-Profit Organizations

As an example of the types of problems in providing on-going conflict resolution services, a noted church leader in Denver, Reverend Heidi McGuiness, remarked at an MwB strategy meeting that from her experience in working with aid societies in the Sudan she was sensing the frustration of many in the global helping community with the transiency of non-governmental organizations, commonly referred to as NGOs. The frustration centered on the fact that these well-meaning groups came over to offer food and medical supplies and then, either because of increased violence or collapse of funding, left the area just as the locals were becoming dependent on their services. She recalled touring an area of war-torn Sudan where the guide pointed to numerous

empty buildings, stating, "That is where the Presbyterians used to be, and that is where the Methodists used to be, and that is where a medical aid group used to be." The Reverend, who was well versed in the tribulations of this impoverished country, sensed the growing despair in the people as their hopes were raised and then dashed by each subsequent exodus. This is an understandable phenomenon as many aid workers graciously and bravely volunteer in the most disadvantaged areas, only to be forced out by funding cuts or unsafe conditions. This is why any model that wishes to be successful must train the local population and provide a sustainable system that locals can operate after the initial help to build it has left. This is the concept that MwB wishes to promote when setting up our conflict resolution training and service provision ADR Centers. We train those who will stay to maintain the operations of the ADR Centers.

NGO's are not the only organizations that "befriend, then end", or the only organizations to have their own internal conflicts that need to be resolved. International corporations have their own pitfalls. We find for-profit corporations answering to shareholders who want to see their stocks increase in value. Most of these shareholders are not involved in the actual workings of the companies in which they invest. There is a "disconnect" between the share indexes of stocks and how the company is actually making these increased earnings. Sometimes, this disconnect leads to disastrous results, as shareholders turn a blind eye toward corporate crimes, such as human rights violations, environmental tragedies, and gross economic inequities in the countries where they do business. A more sustainable approach is to have an effective conflict resolution mechanism attached to and used by the corporation that provides services when conflicts arise, whether those are between the corporation and the country where it is doing business, or within the organization itself.

Not surprisingly, corporations and NGOs have eyed one another cautiously, losing many golden opportunities to collaborate in solutions that could not only work for the rights of indigenous populations, but actually increase the corporation's bottom line of profits. We consider the need for a complimentary system of conflict resolution in these areas as a hybrid style of business between for-profit corporations and

nonprofit aid groups. We are doing this through the establishment of free-standing ADR Centers, training cadres of mediation providers, and offering dispute resolution services to local communities.

Local Directors of ADR Centers

Many peace initiatives are delivered in safe havens away from the disruption of the armed conflict that is being deliberated. This isolation and insular approach can work against sustainability if the decisions that are made from afar do not create workable, physical solutions in those nations that are dealing directly with the social or political or armed conflict. In many cases, peace initiatives are often delivered "after the fact," when a conflict has escalated to a highly destructive level, while tensions are still high and the potential for harm is still great, but before the reconciliation phase of the conflict cycle described by Kreisberg (1998) has started. Conflict resolution communication that engages local communities at the earliest point and lowest level possible will create an intervention that is more preventative than reactive, and is therefore, more sustainable in the long run. We believe that our ADR Center model can serve in this capacity.

Mediators Without Borders has a bold plan for its ADR Center model, yet implementation will rely on careful measurement of the successes and challenges of each of the following initiatives:

1. Establish a physical and virtual ADR Center presence that can withstand disruptions, natural and man-made (ADR Centers in Nigeria and Romania are underway)
2. Establish the ADR Centers as centers of research to gather information that reputable organizations and citizens can use to facilitate worthy projects and local initiatives
3. Insure, by working with the local administrators in different countries, that our model and research surveys are culturally appropriate
4. Create alternative dispute resolution education and service techniques that will intervene with a conflict at the earliest point and lowest level possible

5. Use and teach the *Touchstone Skills* with our clients, ADR Center directors, at the international level, and with our advisors, investors, and colleagues
6. Engage local corporations in alternative dispute resolution solutions as a means that best serves their interests and the interests of the local communities within which they operate
7. Create a strong web of ADR Centers such that any one strand that breaks or is removed can be maintained by the strength of the global community of ADR Centers
8. Link the ADR Centers to our research team in Colorado, with accessible data to help people around the world conduct research and engage in networking with others working toward conflict resolution as a part of sustainable peace

Sustainability

The phrase "economic sustainability" stems from a United Nations paper, the Brundtland Report (United Nations General Assembly, 1987), which defines sustainable development as development which meets the needs of the present without compromising the ability of future generations to meet their own needs. Too often, global initiatives, no matter how well-meaning, lack the continuity to have a lasting influence in a nation or region. Many well-intentioned initiatives to broker peace fail to create sustainable solutions. Individual nations and communities must have broad commitment to any solution for their unique issues of conflict. They must feel respected, included, and have a decisive voice in the building of sustainable peace. With this in mind, the Mediators Without Borders ADR Centers are each collaborative partnerships with active participation and ownership from citizens within each country.

Transparency in the ADR Center Model

In our earlier discussion of the central theme of transparency, we stated that transparenc*y* means making the covert overt, shedding the mediator's role as the expert in the parties' dispute. This theme underscores the manner in which the ADR Center model is introduced

in local communities. Local ownership and control ensures that the American team that heads Mediators Without Borders does not enter into other regions without invitation, and that the original team from MwB have culturally sensitive participants who do not come as experts as much as offering technical assistance to the local promoters and builders. The introduction of a Mediators Without Border ADR Center will exemplify the concept of making the covert overt by means of transparent policies, tuition rates for trainings that are fairly set, and a research model for the provision of mediation and conflict resolution services that will continually measure its application in diverse cultural environments.

Our earlier discussion of the use of transparency in mediation through a continual cycle can also be applied to the ADR Center teams in the following ways:

- Remaining focused on the interests, understanding, and satisfaction of the ADR Center Directors and corporate team.
- Encouraging all parties to communicate from a transparent stance based on increased self-awareness, increased awareness of the perspective of the "other", who are the ADR Center Directors and staff, by maintaining a goal of reaching an equitable business arrangement for all concerned.
- Empowering the ADR Center Directors and leadership team to find their unique voice in running of the business, by brainstorming options without judgment, by learning skills that will increase self-confidence, and by engendering a compassion that comes from learning to walk in another person's shoes.
- Reflecting on the process at certain points in order to make necessary adjustments to the process itself, such as the content and business policies used to create a successful, mutually satisfying partnership. It should be noted that the value placed on transparency in the *inAccord* model may not always be reflected in other cultures. Thus, one must be particularly sensitive to cultural variations in such concepts, rather than assuming that our own value structure necessarily applies to other countries.

Transparency, Neutrality and Impartiality

John Donovan of National Public Radio interviewed Michael Kocher, vice president of International Programs of the International Rescue Committee as part of a larger dialogue on the increased dangers to aid workers around the world. The conversation moved to a discussion of neutrality and impartiality when workers were entering foreign territories. The director made a very compelling distinction between his organization's stance on impartiality and that of neutrality. "Impartiality is being non-discriminatory. We hold it very dear. We're impartial in providing assistance without discriminating as to ethnic origin, gender, nationality, political opinion, race, religion." However, the director was adamant that this did not translate to neutrality, because his organization had very firm beliefs of anti-violence, women's rights, equality, and freedom. While they were impartial in regard to their service delivery, they were not neutral because they operated from a clear set of principles and beliefs which they carried into their work. As he stated, "You know, we're not neutral to genocide, the killing of civilians, sexual violation, forced migration. So that is a distinction to keep in mind just in the language we use" (Donovan, 2012).

The *inAccord* model supports the notion that impartiality must be a cornerstone of our business model, in our business practices as well as in the delivery of services from ADR Centers. However, we agree with the concept that neutrality cannot be as singularly defined, and that it may be important to approach situations, both in the business sphere and in the provision of conflict resolution training and services, where we maintain integrity of the concepts that lie under our practices, and therefore are not strictly neutral. Certainly, MwB holds to similar beliefs as described above, and supports values and maintains an active bias against the use of coercion, manipulation, and violence in interpersonal and inter-group disputes. This is why this model of conflict resolution makes a case for distinguishing between interest-based disputes and rights-based disputes, which are both employed where appropriate, as explained earlier in the book.

Empowerment in the ADR Center Model

Empowerment of disputants is a central theme of the *inAccord* model, and this theme is also embedded in the creation of the ADR Center model. Rappaport (1987) believed that ". . . the aim of empowerment should be to enhance the possibilities for people to control their own lives" (p. 119). Our business model echoes this as a guiding value, in the way in which we attempt to set up and maintain ADR Centers under local control and by invitation. The emphasis on local ownership of ADR Centers extends the empowerment model beyond the mediator and disputants doing the ostensible work of the ADR Center, to include the staff and directors who oversee the day-to-day business of managing a Mediators Without Borders ADR Center. Potential owners of ADR Centers are selected based on intrinsic skills, including empowerment as a concept, as well as their ability to deliver a marketing strategy for their region. We believe this planning process empowers them by providing a central element of self-efficacy, "the skills for solving problems themselves" (Maddux and Gosselin, 2012, p. 3).

Of equal importance is the manner in which local direction of ADR Centers contributes to the collective efficacy of the leadership team, ADR Center directors, and international staff. By learning to work together effectively to accomplish shared goals, we empower each other. As Bandura (1977) notes, collective efficacy influences shared motivation, planning and decision-making, the effective use of group resources, and persistence in pursuing goals. This concept is a core value we bring that supports and matches the work being done in the ADR Center. When ADR Center owners and staff begin to identify with a larger socially-responsible business such as Mediators Without Borders, we believe they will unite and feel more motivated and confident in tackling issues of injustice and conflict in their local communities.

A response to social equity is one call to bring the ADR Center model to the country of Romania. An impassioned Romanian citizen reached out to Mediators Without Borders to begin establishing ADR Centers in Constanta and Botosani, in his desire for more accessible

and affordable conflict resolution alternatives for the land disputes of the area. We believe the ADR Center initiative we are starting there will help our Romanian friends experience personal and social change through the *inAccord* education and service model. As Whitmore (1988) notes, a sense of empowerment will enable people to act upon organizations and institutions within their communities which directly affect their lives, and MwB believes this concept will permeate the area by the development of ADR Centers in Romania.

Challenges Ahead for the ADR Center Initiative

We recognize there are very real challenges ahead as we begin the delivery of *inAccord* services in this country as well as around the world. We want to address some of these challenges and offer a rationale for how our model might either ameliorate the impediment to resolution, or serve specific cultures in a more limited way. These challenges or impediments include intractable frames, which could be defined as the inability to change the way in which the conflict is viewed by one or more of those affected, and the existence of identity-based conflict, which Rothman (1997) describes as deeply- held beliefs about oneself and one's core identity.

Other barriers to conflict resolution can include self-verification (Swann, 1996), people's tendency to want others to verify their perceptions of themselves, even when these evaluations of self are negative. Such a stance precludes a productive reframing of the issues. In addition, false-self behavior, the antithesis of authenticity, can also be a hindrance to mediation, as will be discussed. These challenges, and many not discussed here, exist for any individual or organization desiring to carry their message or model of conflict resolution to other countries and cultures. There may even be barriers to resolution we have yet to discover as we take this *inAccord* model to other nations, where the expression of feelings, which is so central to our model, may not be culturally appropriate. We believe it is imperative that any of us who dare to venture into these realms also design a system of measurement or checks and balances to consistently monitor

effectiveness as we apply this model to other places and conflict structures.

We have identified several of these potential barriers or limitations to the use of the *inAccord* mediation model, and/or to the ADR Center-based model for training and providing services, for larger-scale socio-political conflicts, intractable disputes, identity-based disputes, and other potential problems not currently addressed by our current models. For instance, in Romania, there are ongoing conflicts from the rapid transition of the government from a brutal dictatorship to a nascent democracy. It takes our team more time to understand and assess who the decision makers are in the local governments and extra sensitivity to move carefully through a society with many lingering resentments and fragmented power structures. By being aware of these in advance, and by listening to the data and the local constituencies, the provision of our business and mediation model may help change these barriers.

Intractable Conflicts

On the global level of conflict resolution, where conflicts typically erupt across and within nations, the stakes for management or resolution of the conflict can be higher and the challenges can be more complex. These conflicts can lead to physical confrontations, uprisings, bloodshed, and war. There may be particular impediments of greater magnitude that are not encountered in disputes with interpersonal or intragroup conflicts. There are many seemingly intractable dynamics that influence the passionate frames that these disputants within a country bring to their conflict issues. According to Gray (2004), frames of perceiving the dispute can, in global or international disputes, be vastly different in the minds of two or more disputants. These disputants may be less willing to reframe the issues in ways that lead to resolution as they hold tenaciously to their point of view, resulting in a hopeless deadlock and maintenance of the conflict.

Gray (2004) contends that reframing usually does not occur easily, particularly for parties mired in longstanding, adversarial relationships where there is no real commitment to reversing conflict intractability. If neither disputant wishes change, it is difficult for even a skilled

mediator to penetrate the barriers. Thus, intense commitment to one's frame or worldview prevents the reframing process, and could potentially prevent parties from accepting an agreement that might represent a compromise for all involved. Gray believes that some of the most difficult frames are those that appear to be frozen in time. One enduring example of these types of conflicts exists between the Palestinians and the Israelis that have persisted for centuries, frustrating even the more skilled and patient mediators in the process.

Gray's point about the intractable current frame a disputant holds is critical to our thinking with our *inAccord* model. It bring up a series of questions that may inform or be the center piece of future research: Rather than seeking a common frame, or even encourage a reframe, could a mediator frame a particular issues as an agreement to disagree? Would this in itself bring about a new willingness to manage rather than resolve the conflict? In this sense, might the mutual acceptance of disagreement of each of the frames becomes the re-frame? Might this mutual acceptance free the disputants from the powerful force of this issue of the conflict to attend to secondary issues?

On the other hand, intractable frames may call for a completely different approach to the conflict than can be offered through mediation. Pruitt and Olczak caution that mediation and negotiation are not panaceas for conflict resolution as issues of noncompliance and noncooperation may reflect that there is "insufficient motivation to escape the conflict" (cited in Bunker, 1995, p.68). Whether it is a result of the conflict not having enough of what they refer to as "ripeness" or there is simply insufficient trust, attempts to force a mediation model onto these situations would not be appropriate. This is not to negate the potential value of mediation or negotiation in such situations. However, we argue that any attempts to initiate mediation or negotiation should be carefully monitored through research design and study. This is our intent with our prudent and measured delivery of the *inAccord* model and research component to other countries.

Identity-Based Conflict.

Another particular type of impediment to the resolution of a larger scale national or international conflict has been described as "identity-based conflict," a term initially introduced by Rothman (1997). Identity-based conflict denotes ongoing struggles between groups that are intransigent and impervious to resolution, because they are deeply rooted in the underlying human needs and values that together constitute people's social and personal identities. During these conflicts, the very issue of "who I am as a person", or "who we are as a nation or region" is threatened, leading to a stronger need to withhold agreement to otherwise viable options. Rothman (1997) has articulated a four-stage process through which identity conflicts that threaten one's dignity and selfhood may be successfully resolved which he labels as: Antagonism, Resonance, Invention, and Action.

According to Rothman, Antagonism surfaces at the beginning of a dispute, in that festering angst and anger are now up for discussion. Initially, during this first stage, there is a negative, adversarial framing of the content of the conflict, an "Us" versus "Them" mentality. Other writers such as Berreby (2005) have tried to explain further the function and meaning of this sorting into Us/Not Us. Rothman aptly observes, "Conflict is often a powerful axis around which life stories are told" (p. 34). At Rothman's next stage of Resonance, reframing begins with a new narrative about the needs of each disputant. There is a focus on the why of who wants what, which provides an effective way to reframe the conflict as a vehicle for learning, growth, and cooperative action.

Reframing, in Rothman's stages, clarifies the needs and values that have been threatened on both sides, leading to the realization that "we are in this together." Such reframing requires honest introspection, shifting from blame and counter blame to a more internal attribution, for example, the acknowledgement that "I am afraid" rather than "you are aggressive." Both parties, through dialogue in the presence of a mediator, must come to take responsibility for their role in the conflict. Both parties ideally develop a new awareness of their own imperfections, promoting a less self-righteous or judgmental battle, in favor of more tolerance for the failings of the other side, as well. This

process requires the type of transparency that is articulated in our *inAccord* model.

If reframing is successful, if parties can express what Rothman terms "analytic empathy," cognitively understanding the other's position, then the process can move to the next stage of Invention. Analytic empathy proceeds when both parties honestly identify their underlying needs, as well as hopes and fears. According to Rothman, during his third stage of intervention, brainstorming can lead to mutually acceptable, creative, and integrative options for addressing the central and underlying aspects of the conflict. The focus is on cooperatively resolving the conflict. Through collaboration, rather than competitive tactics, the parties learn that not only are they in this together but that "we can get out of this together." Rothman describes a number of cooperative problem-solving techniques to facilitate the invention of potential solutions.

Rothman's fourth and final stage is one of Action, building upon the preceding three stages. Joint agendas are established, fleshing out what should be done, and why, by whom, and how. Through cooperation, tangible solutions are identified and acted upon. There is a consolidation into specific plans for action. Throughout these four stages, disputants are guided by a mediator, although the focus is on how the disputants themselves can actively resolve the conflict, consistent with the *inAccord* model. Rothman ends his treatise with an application to negotiation among nations, adapting his principles to peace building in Jerusalem.

As Fischer (2001) points out, when group identities and the needs that underlie them are threatened or frustrated, intractable conflict is also inevitable. Such intractability, according to Rothman, stems from the more abstract and interpretive dynamics of history, psychology cultural, values, and belief of one's particular identity group. Thus, hostile interactions are often based on deep-seated racial, ethnic, religious, and cultural hatred that have persisted over long periods of time with sporadic outbreaks of violence. While these hatreds and prejudices may be amenable to change, since they are often socially learned and therefore can be un-learned, there are indicators from brain science that some of the response to the perception may be built in to

our brains and physiology based on a triggering of our perception of threat, and therefore be less amenable to change (Berreby, 2005).

The challenge for mediators is that these deep-rooted social and political conflicts are not based on interests that can easily be negotiated or settled, in contrast to more superficial or circumscribed disputes; rather, they are based on non-negotiable needs that are resistant to conflict analysis and resolution. Rothman (1997) has cogently pointed out that if conflicts are based on these personal identity-based issues that define ones core self, rather than on interest- or resource-based conflicts, the negotiation efforts, even with a skillful mediator may be doomed to failure. However, his caveat is that "Identity conflicts require that special efforts be made to ensure accurate analysis, definition, and amelioration precisely because such conflicts are not tangible" (p. 12). Even these comments pose serious challenges for the mediator.

Fischer (2001) traces these themes through an extremely thoughtful and thorough analysis of how such identity processes have played out in the painful conflicts between the Greek-Cypriot and the Turkish-Cypriot communities, which has lasted for decades. These disputes have been resistant to many forms of intervention including litigation, negotiation, arbitration, power tactics, but to no avail. Thus, global conflict that, in particular, involves *identity issues that define the self,* are particularly challenging for today's mediator.

Shultz (Bunker, 1995) adopts a similar perspective to Rothman in applying how the principles of identity-based conflicts can derail the attempts to bring conflict resolution and peace. She points to the fact that often fierce identity issues are countered by fear and enemy images that are foisted on the other party. She analyzes the lengthy history of various Mideast peace process initiatives that have not been successful over the decades. The identity focus leads to fears that identity needs will be neglected or negated in a conflict settlement, and that compromise will be personally threatening, for example, "I could lose my sense of self which I thought was relatively safe and secure". She concludes that mediators need to be particularly sensitive to these identity issues, noting that power-based negotiations are insufficient.

Perhaps, no other continent faces the dilemma of identity-based conflicts more than Africa, where tribal conflict and loyalties stretch back across countless generations. Mediators Without Borders has been working for over three years to bring the ADR Center initiative to the Niger Delta region. This process has been marked by abrupt starts and stops as we patiently seek ways to effectively introduce this model into a region with many overlapping and complex conflicts. We have found that in such areas where issues of tribal identity collide with a fragile and nascent democracy, a long-term perspective is essential. This is in stark contrast to Romania, where the process of bringing the ADR Center initiative was so sudden we had to work diligently to slow it down. We have accepted that the process will unfold much more slowly in the Niger Delta and need to honor each area's need to understand that the adoption of a new model for justice systems and conflict resolution may come at different paces in areas where there are generational impediments, or where the climate is not yet ready to move from active conflict to the reconciliation phase of the conflict cycle outlined by Kreisberg (1998).

This exploration of social and cultural differences also brings into question our model's reliance on a settled agreement as a measure of success. It may be that our research study into diverse communities illustrates that this will not be an adequate measure in all cases. In Western cultures, which have resort to procedural law, something is not considered binding and final unless or until it is reduced to paper with signatures and dates, but other cultures do not have this tradition, and may not value it in the same way. In some cultures, one's handshake or the payment of restitution or a symbolic act is the mark of finality and success.

Culture and Conflict

Human behavior is greatly influenced by underlying beliefs, values, and assumptions. These beliefs, values, and assumptions are, largely, a by-product of culture. Ting-Toomey and Chung (2005) define culture as a learned meaning system that consists of patterns of traditions, beliefs, values, norms, meanings, and symbols that are passed on from

one generation to the next and are shared to varying degrees by interacting members of a community. Most of the time we are not conscious of how culture influences our values, beliefs, assumptions and our behaviors because culture is so all-encompassing.

Through empirical research, different cultures have been found to have different communication styles. Some studies about the efficacy and nature of conflict across cultures have been done, with early work by Gudykunst and Ting-Toomey (1988) and Augsburger (1989) indicating that some cultures are considered to be along a continuum from Low-context to High-context, depending on their focus of whether they see themselves as part of the group or independent from it.

High-context Cultures. Individuals from high-context cultures favor an indirect verbal style; prefer ambiguous, cautious, and non-confrontational ways of working through communication issues; they rely on nonverbal behaviors and subtleties, and are very listener-oriented. High context cultures tend to place a higher value on harmony, tactfulness, and saving face. Someone from a high-context culture will likely ease into a conversation, will wait to be invited to speak or request permission. Individuals will first connect on a relational level and only after that has occurred, introduce substantive issues.

Low-context cultures. Low-context cultures prefer communication that is direct and frank. An open confrontation of issues is ideal and a speaker-orientation is valued. Directness and self-assertion are preferred in low-context cultures so an individual will likely verbally assert him or herself into a conversation and will promptly acknowledge content issues. One communication style is not better or worse than another is but they are different. Parties in conflict, due to ethnocentrism, may judge the other party's style to be inferior and even offensive. In addition, parties with these different communication styles may have problems communicating with each other therefore making interventions such as mediation more challenging.

Further study and research needs to be conducted on the levels of conflict within and between cultures, including interpersonal, intergroup, and national and international disputes. Success may be

measured incrementally through a lessening of conflict over time rather than a sweeping and sudden solution. This is not always an easy concept for Westerners who are used to a more expedient and rapid process of conflict resolution in our culture which is low-context and more self- than group-based within the mainstream, but due to changing trends in demographics may be more or less so depending upon the actual disputants.

The signing of the MOA is a goal in the *inAccord* model. This does not necessarily mean all of the issues have been settled, and often to get a final outcome document, underlying issues and value conflicts have just gone underground ready to spring back into action after the signing. Is this then a failure? We think not, although it could be a limitation of our model which will have to be changed to adapt for use in other cultures. As Kreisberg (1998) pointed out, success in conflict resolution often rests on two factors – equity and stability. If the agreements reached are both, whether the outcome document is signed or not, it might meet this definition of success.

Our contribution with the introduction of the *inAccord* model is to work with disputants to create a common understanding, a common language, with accepted research methods, data and statistical analysis. Our hope is that the MOA will build in language that encourages continued discussion and modification, be it weeks, months, decades or generations. When we review the failed mediations in the Palestinian and Israeli conflict, one can also highlight there has not been a formal war since the 1960's. Can we not consider this a success as the global community continues to work toward a "grand" solution? And, can we accept that the grand solution will not be sudden but incremental and timeless?

Self-Verification Theory

Although global conflicts sets many of these issues on a much grander scale, the field of psychology alerts us to other possible impediments to conflict resolution that occur at a more personal level that involve the protections of the individual "self". In a book entitled *Self Traps,* Swann, (1996), a social psychologist, challenged the

commonly-held assumption that people are consumed by an overwhelming desire to enhance the self, by having people think highly of them, support them, and capitulate to their needs. However, Swann countered this often-held perception, arguing, persuasively, that far from a self-enhancement motive, people are more likely to seek self-verification. In this sense, they want others to confirm or validate their own core evaluations of themselves, including their negative self-judgments. Swan argues that they do not want feedback that will contradict their highly personal and entrenched self-identities.

Why such a stance, particularly if one views the self as imbued with negative characteristics? Because these self-identities provide a psychological blueprint for action, they are the very guideposts by which to navigate how one is to behave within one's family and personal relationships, in one's work environment, within one's primary community, and in one's nation. These guideposts set the stage for how a person's motivational energies are to be deployed, consistent with that person's core perceptions of who he or she is as a person. In more collectivistic nations or communities, one may not deviate from the shared perceptions of one's personhood. This author (Harter, 2012), frames a discussion of the self from a cross-cultural perspective. In the extreme, a person's personal sense of self is enmeshed within the larger community persona or identity, as identified by Augsburger (1989).

To extrapolate from Swann's (1996) self-verification theory, in the totem pole of life, certain individuals occupy a lower status, where they are not highly revered; however, they are respected for the role they play. They fulfill their mission within their community to which they are devoted. They have dutifully crafted and accepted a self, consistent with the role that their society has assigned them. Those who may occupy a lower status are threatened by anything or anyone who would deny their need for self-verification; they require feedback as to their less than favorable status, simply because it violates their entrenched view of who they are as a person. On a broader scale, such societal mechanisms insure that more collectivist societies function because everyone is cognizant of their role and plays it out, leading to harmony within. The boundaries within and across societies are clear, and they exquisitely define the individual self, with great clarity.

One can appreciate, in this brief excursion into self-verification theory, how the tenets may be relevant to attempts at mediation not only on the interpersonal and group levels, but also on the scale of national or international disputes. Suppose that the disputants are from different countries, or different tribes, or different ethnic groups with a country, as is common on the contemporary global landscape. If Rothman's (1997) theory of self-identity, coupled with Swann's (1996) concept of self-verification, has any validity, one can predict a challenge for the mediator. Here we may have two disputants or groups of disputant parties who have deeply entrenched perceptions of their core self, their identity, each resistant to change that would be far too threatening to alter. The edifice of the self would crumble and with it negotiating power. Thus, profound cultural forces, supported by socialization practices that lead to the construction of a self and an identity must be thoughtfully considered (see Harter, 2012, on the construction of the self).

Harter (2012 traces the developmental and sociocultural foundations of the self, including how cultures can shape an intractable self, resistant to change. Therefore, in national and international negotiations, the mediator needs to be sensitive to different cultural conceptions of self, and their implications for the initial frame and the potential for a reframe. It is particularly important that a mediator not assume that one disputant feels disempowered due their lower socioeconomic or political status nor that the disputant of higher status displays more empowering feelings. This makes the use of the *My Feelings Pre-Survey* prior to mediation not only imperative but potentially groundbreaking in terms of research results, especially if it reveals high levels of empowerment in lower- status populations and high levels of disempowerment in higher- status populations. In either case, this survey and others used in the *inAccord* model will help validate or challenge mediator assumptions about empowerment based on social status or participation or perception of belonging to a group. It may also help to support the theory of self-verification as it relates to identity-based conflict in global disputes.

The Implications of False- Self Behavior

Earlier in this book, we emphasized the important of authenticity, linking it to the concept of *transparency*, an important concept in the *inAccord* model. The disputant is encouraged to be honest and open, to attempt to identify characteristics of their typical styles for dealing with conflict, as well as the natural emotions they experience in dealing with conflict, particularly those that brought them to mediation. Our goal, in inviting disputants to explore their own styles and emotions, through responses to our surveys, was designed, in part, to bring greater transparency or authenticity to the mediation process. These would seem to be important lessons, identifying skills of self-awareness, which will bring greater clarity to the process for disputants and mediators, alike.

What impediments might there be that could stand in the way of such lofty and practical goals? Within the United States, a talented therapist and analyst of American culture, Lerner (1993) in her book entitled The *Dance of Deception* has put forth a provocative commentary on the depths of deception within our language. The premise of this book is that it delineates the needs of partners and people in conflict to *deceive* one another. As someone who pays great attention to the language of a given culture, she points to the inordinate number of words in our English language that communicate deception.

For example, verb forms make reference to fabricating, withholding, concealing, distorting, falsifying, pulling the wool over someone's eyes, posturing, charading, faking, and hiding behind a façade. Adjectives include evasive, elusive, wily, phony, fake, artificial, two-faced, hypocritical, manipulative, calculating, pretentious, crafty, conniving, duplicitous, deceitful, and dishonest. Noun forms include charlatan, chameleon, imposter, hypocrite, a fake, and a fraud.

So what might Lerner's fascinating linguistic foray tell us of these needs in terms of mediation? First, it sensitizes us to the fact that in our culture, people steeped in these negative frames may have difficulty switching to reframes, more constructively. Secondly, some of these more negative terms imply direct action against another, for example, being evasive, manipulative, conniving, or hypocritical in their dealings

with the other party. These natural language tendencies in our language, sadly, can well undermine the mediator's goals of instilling more positive language and associated actions. Requiring that the disputants alter their vocabulary or abandon certain language and terminology can potentially send the conflict underground, leading to a less transparent process. However, from a global perspective, it is important to acknowledge the potential language barriers in different countries or cultures.

Our English language also does not naturally cooperate with the goals of mediation in that there are far more negative emotion terms than positive. The most common negative emotions terms include anger, frustration, regret, despair, hopelessness, resentment, anxiety, depression, and the list goes on. Positive emotions are fewer in number, an interesting observation, in and of itself. We have happiness, love, pride, gratefulness, hope, but the list is far shorter.

What are the implications for mediation to resolve disputes? One such approach would be to sensitize disputants and mediators that in our own culture, our very language stacks the deck against a more positive reframe. We naturally frame our conflicts and concerns within the native language given to us. Constrained to a language that emphasizes words of deceit, and a vocabulary of negative emotions, we are prone to couch our own concerns in that parlance. Thus, it is all the more important for mediators, and for our own surveys, to counter this negativity by highlighting positive alternatives that can lead to a more positive reframe.

For this reason, our approach to identifying the various emotions that may define disputant's initial reactions contain a list of not only the typical negative reactions that many mediators focus on, but a list of potential *positive* emotions that may be empowered in the course of the mediation process, for example, hope, optimism, gratitude, and serenity. Our own findings, presented earlier, indicate that these positive emotions do, in fact, increase as a function of the mediation experience, whereas the negative, disempowering emotions decrease in strength. These positive emotions need to be fostered as part of the mediation process, in addition to the decrease of the most destructive emotions.

Folk Theories About Whether People Can Change

Individual differences can also influence the effectiveness of the mediator's efforts to guide disputants toward the resolution of a conflict. Such differences are apparent when one asks people about their "folk theories" of human behavior, for example, their views of whether it is possible to *change* one's personality or cognitive-behavioral attributes. Dweck (1999) has proposed that people hold one of two theories about the malleability of the nature of human qualities. Those who hold what Dweck labels as an *entity theory* believe that qualities such as goodness or intelligence are *fixed*, that is, they are entities that people simply do or do not possess. These are considered to be immutable traits that cannot be altered.

In contrast, other people hold what Dweck calls an *incremental theory* of human qualities, that is, they believe that people's characteristics are malleable and can be altered or developed. This more dynamic view of human nature implies that through effort or education, anyone can change or improve upon attributes that they wish to nurture. Dweck and Ehrlinger (2006) apply this distinction to conflict resolution, illuminating how one's theory about the ability of people to change can impact the goals of mediation. Depending upon which type of theory one holds about the nature of human qualities, people's strategies of conflict resolution will differ.

Interestingly, when serious conflicts arise, for example, between a couple, those who hold an *incremental* view of their partner's qualities are more likely to express their frustrations, but they are also more willing to try to work through the differences toward a reasonable solution. That is, they see the potential for change, in their partner as well as in themselves. They display an openness toward alternative ways of thinking which is particularly conducive to promoting understanding between parties and is, therefore, useful in resolving conflicts. Those with an incremental view are open to mutual negotiation, to the possibility that both they and their partner can change, toward an acceptable solution.

In contrast, those who hold an *entity* perspective about the immutability of human characteristics are less likely to express their

anger or to explore possible solutions. Given that they believe that their partner cannot change, they decide either to stoically live with his/her flaws or to leave the relationship. There is little room for negotiation or growth. Thus, the reluctance to revise one's impressions of others makes conflict resolution particularly difficult for entity theorists. The rigidity of their thinking can hinder reconciliation. Given this mind set in which they do not believe in the capacity of people to change, the only solution to the conflict is to marginalize, subjugate, or psychologically eliminate the other party. As an alternative, they may simply leave the relationship.

Given this distinction, it follows that those who hold the perspective that people's attributes are fixed or immutable entities will be more resistant to the skills that the *inAccord* mediation model hopes to instill, in the resolution of conflicts. Fortunately, and perhaps paradoxically, Dweck and Ehrlinger (2006) find that the implicit theory that human nature is predetermined or an immutable entity can be altered through intervention. When such a view is gently challenged by teaching such individuals a more incremental view of human nature, they may move toward a greater willingness to entertain the possibility of change in others, as well as in themselves. They manifest decreased defensiveness and greater openness to learning which fosters more effective negotiation and conflict resolution. Although those who hold an entity perspective represent a challenge to the mediator, it is possible that they will respond to the mediation intervention if the nature of their thinking is sensitively explored, in the spirit of change that will facilitate conflict resolution.

The Path Forward

The goal of Mediators Without Borders is not only to offer an educational solution and contribute to complimentary systems of justice, but also to find ways of delivering the *inAccord* model to a wider international audience who may be ready to start alternative dispute resolution processes. Our business model, which is still in its early stages of development, is based on the creation of a system of integrated virtual, as well as physical conflict resolution ADR Centers

which will train mediators who will then be able to deliver *inAccord* education and mediation services to couples, companies, and countries. The path forward for *inAccord* as a mediation practice and the setting up of the ADR Center initiative along with the establishment of the University of Professional Studies will surely experience unforeseen challenges and may not always follow a direct route. However, we believe the data collection from the research component built into the model will help us with continuous course corrections along the way.

The field of conflict management and resolution is both old and new, and although mediation has now over a half century of use in family courts across the U.S and is routinely used in business, workplace and environmental and social disputes, and has been institutionalized into the fabric of our justice system along with arbitration, its efficacy is still under scrutiny. Often this scrutiny focuses on that fact that there has been little systematic research. It may appear overly ambitious to some to embark on such a bold plan as ours, setting up ADR Centers in other nations and creating a University, yet we continue to follow the word of first Century Jewish scholar, Hillel who asked, "If not now, when?" (Marcus, 2002). We believe it is time for this field to be both brave and measurable of its strengths, while also addressing the impediments and the challenges of the process and the outcome.

We continue to build on the insightful concepts of such conflict resolution greats as Deutsch, Rothman, and others who have started a course which we should continue to pursue. Much of our *inAccord* mediation model is a reworking and adaptation of these great thinkers in our field, and we want to articulate the theoretical positions under our practice. We do not claim we have the definitive answer as to what mediation techniques are applicable to all situations. Rather, we want to look carefully and design our on-going research assembling what we think we do know along with questions regarding each phase, each stage, which we hope will provide a clearer understanding of the mediation process. This is a first step, and we have much work ahead. We are humbled to take our first steps and introduce the formulation of mediation called the *inAccord* model. The three phases of the *inAccord* model create a procedural framework we will work from unless or until

the data shows us how to change the model to be more effective. The overview on Table 1 in Chapter Two outlines the specific research methods that are naturally embedded in the process, which measures issues of expectations, emotion, fairness, understanding, satisfaction and outcomes into the process.

A Case for Hope

This returns us to our opening question: *What then is Justice*? As we close this first edition of *In Justice, inAccord*, we remain both interested and optimistic about our ability as researchers to accurately pose the questions and try to find the answers. As humans in the profession of helping, we hope to successfully navigate the many conflicts that permeate couples, companies, and countries and provide a process we believe will help manage or resolve conflicts, to bring about more interpersonal justice to the disputants, and more harmony to the context in which the conflict resides.
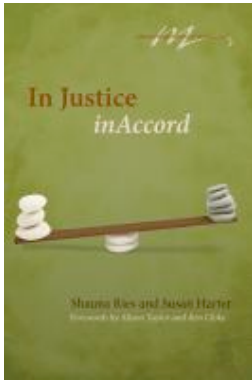
This book is based on a deeply held common belief, that we have an obligation to live our lives in a way that respects not only the lives of others but the lives of those yet to come who will inherit the consequences of our decisions, good and bad. This is founded on values consistent among many of the indigenous peoples of the Americas, that are commonly referred to as the Seventh Generation Principle. It states that the manner in which we live our lives today is based on decisions that were made by the previous seven generations of our people. Furthermore, the decisions we make in our lives will have a similar effect on the seven generations that follow us. This is a guiding principle of Mediators Without Borders and the *inAccord* model.

All times are challenging, and the times we live in have unique and important issues for us on many levels. It is easy to fall into an apathy born not from lack of caring but from a paralysis to deal with problems that seem insurmountable. Climate change, diminishing resources, broken governments, poverty and death on epic scales can leave us breathless and broken. Yet, we must not give up hope and fall into the abyss of making excuses for why we should not actively address these issues.

We stand on the shoulders of many who came before to expand the field of conflict resolution and take special inspiration from the United Nations Universal Declaration of Human Rights which we include in the following section of our book. We have a deep hope and optimism that *inAccord* and Mediators Without Borders ADR Centers will take on a life of their own and add to the expanding dialogue of how to create and sustain a more peaceable world. This is our hope, our dream, and our vision for the future.

In Justice inAccord speaks to the need for people to find fairness and dignity in their search for justice. Whether within couples, companies, or countries, there are inevitable conflicts. Mediation is presented as an alternative to costly, time-consuming litigation. The inAccord model allows disputants to identify the emotions that naturally accompany conflict. Parties are empowered through Touchstone Skills that facilitate dialogue leading to conflict resolution. Research surveys provide evidence for the efficacy of the model.

In Justice, inAccord

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