

## Good Travelers: Following the Many Career Paths of ADR

*Book Review of Evolution of a Field: Personal Histories in Conflict Resolution (Howard Gadlin & Nancy A. Welsh, eds. 2021)*

JENNIFER W. REYNOLDS\*

In 2013, a team of mediators and support staff traveled to South Central Asia to assist with a long-standing conflict between local residents and an international organization attempting to make certain changes in the region. The conflict was sectarian, political, and complicated by the numerous and diverse grievances between and within the groups involved. The mediation team, accompanied by guards for their safety, interviewed all the disputants separately and then assembled a group of twenty-five representatives for further discussion. Once assembled, everyone began arguing and the atmosphere soon grew uncomfortably heated. As lead mediator Johnston Barkat later recalled:

Out of the corner of my eye I saw the hand of my protective guard move toward his firearm. As the tension in the room quickly escalated, my protector leaned toward me and whispered in my ear, "Sir, it may be a good idea to leave the room. They are getting too agitated." From his perspective he was right. I considered this for a moment, though, and whispered back, "Not yet."<sup>1</sup>

Instead of postponing the meeting, Barkat drew the participants into a dialogue. He recognized the participants' "righteous anger and drama of the debate" as unremarkable and culturally appropriate, both in terms of local norms and as part of a conventional negotiation process.<sup>2</sup> Eventually the tension in the room abated and the parties engaged in productive collaboration over the course of several days.

Later, as the mediation was winding down, three of the representatives pulled Barkat aside and told him that they planned to sign the agreement he had worked so hard to draft. His immediate reaction was surprise and

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\* Professor of Law and Associate Dean for Faculty Research and Programs, University of Oregon School of Law; J.D., Harvard Law School; M.A., University of Texas at Austin; A.B., University of Chicago. Warm thanks to the wonderful student editors of the *Ohio State Journal on Dispute Resolution*. As always, I am grateful for the support of Dean Marcilynn Burke and the University of Oregon School of Law.

<sup>1</sup> EVOLUTION OF A FIELD: PERSONAL HISTORIES IN CONFLICT RESOLUTION 160 (Howard Gadlin & Nancy A. Welsh, eds. 2021) [hereinafter EVOLUTION].

<sup>2</sup> *Id.*

gratification that his mediation efforts and skill had proven effective in such a challenging and contentious setting:

[But] before I could let any of this go to my head, they added, “Because you have a white beard, in our culture this means you are wise. Everyone has agreed to accept the agreement if you think it is fair.”<sup>3</sup>

It was not exactly the feedback he was expecting. “Nothing brings you down to earth more quickly,” he observed ruefully, “than being told that a mediation was successful, in part, because your beard game was strong.”<sup>4</sup>

In the new book *Evolution of a Field: Personal Histories in Conflict Resolution*, Barkat and twenty-three other conflict resolution practitioners and scholars explore the trajectories of their careers. Like Barkat, the authors are humble and honest as they recount their extraordinary experiences and reflect on how and why they came to be part of a field that tends toward the amorphous and does not provide obvious points of entry. Editors Howard Gadlin and Nancy Welsh provided the contributors with a list of questions to consider as they contemplated their professional paths and developed their chapters, but ultimately each author determined their own chapter’s organization and emphasis. The final product, as Gadlin and Welsh explain, is a “collection of the principles and aspirations that have actually guided people within our field, not those that have been said to do so.”<sup>5</sup>

Predictably, these accounts are highly individuated and quite diverse. The editors have attempted to impose some measure of order by sorting the chapters into four broad categories: conflict resolution as a noble craft to end discord; conflict resolution as forum for voice and connection; conflict resolution as creative exercise; and conflict resolution as bridge to socially just, democratic, and inclusive community.<sup>6</sup> These are not hard and fast categories, of course, and the editors provide additional alternative frames through which the submissions may be viewed.<sup>7</sup>

Though the categories and frames are helpful devices for those wanting more practical advice on fashioning careers in conflict resolution, it is also possible to read these personal histories in conversation with one another, creating a sort of shared origin story of the kinds of people who gravitate toward the field of conflict resolution. Many people (myself

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<sup>3</sup> *Id.* at 161.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* at 6.

<sup>7</sup> These include ADR processes, career development, culture, gateways to the field, generations, and institutional contexts for conflict resolution. *Id.* at 6–8.

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included) have remarked upon the generosity and kindness of the alternative dispute resolution (ADR) community, made even more distinctive by the divisive and contentious contexts in which ADR people typically work. By providing a closer look at how some gifted individuals found their way into alternative practice, *Evolution of a Field* provides useful insight into how our treasured ADR community has come into being.

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For many contributors, their formative years were indicative of the direction their professional and personal lives would take. Mediator David Hoffman, for example, recalls how his father's "stern demeanor and occasional anger-management problems sucked the oxygen out of our house from 5:30 p.m." until bedtime.<sup>8</sup> Hoffman speculates that many mediators may be drawn to the field because of their experiences as children in difficult or complicated family situations:

[A] surprisingly high percentage of the people in our field have similar stories of family tensions that caused a part of them to recoil from conflict. Like moths drawn to the flame, however, those mediators and I found our way to a profession in which we plunge daily into the fire of conflict. This no longer seems paradoxical or perverse to me. I think many people choose occupations that address core conflicts or traumas from their childhood.<sup>9</sup>

Similarly, arbitration scholar Tom Stipanowich locates his calling to conflict resolution and teaching within his own family dynamics. Stipanowich's father, a college professor who adored teaching but increasingly found himself in soul-crushing administrative roles, was both a role model and a cautionary tale for Stipanowich. "My father always had a mercurial temper," Stipanowich recounts, "and the constant stress of his situation led to migraine headaches and outbursts that affected us all."<sup>10</sup> Like Hoffman, Stipanowich developed an aversion to conflict that he describes as "visceral," impelling him toward work that would "make the world a better place."<sup>11</sup>

Other authors recounted that their family and school situations positioned them outside the dominant group, and accordingly they had to learn to adjust. Lisa Amsler describes the "otherness" her family experienced when

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<sup>8</sup> *Id.* at 318.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 234.

<sup>11</sup> *Id.*

moving from Michigan to Mobile, Alabama: “Mom hid the fact she was part-Jewish, and Dad hid his serious leftie leanings.”<sup>12</sup> One year later the family moved to New York, where Amsler remembers entering “an integrated fourth-grade classroom with my Southern accent and manners,” again setting her apart from those around her.<sup>13</sup> Through these experiences, Amsler became unusually perceptive about context and roles, which proved invaluable in her later work in transformative mediation and dispute systems design.

Being displaced and feeling like an outsider is unsettling for children, who must develop ways to cope and exist in their new environments. As Homer La Rue puts it:

My sisters and I were the only African American kids in an all-White Irish-Catholic school. School was not always a pitched battle, but each day had the potential for emphasizing the differences between us and our classmates.<sup>14</sup>

La Rue, who would go on to a distinguished career in arbitration and academia, observes that Black children learn from an early age to avoid drawing attention to themselves and to adopt an attitude of “unwarranted meekness”:

I understood early on that I was smart, worked hard, and had a way with people. I did not want to be meek, however, because I had something to contribute, so early on I began to learn to listen deeply, to “read the room” carefully and accurately. But I still understood that stepping up and speaking out carried the real risk of being rejected—or perhaps even worse, of being treated as if I were invisible. My sisters and I knew that we were different and perceived as lesser than the White children. We knew we had to work harder, and I knew I had to protect my sisters. Thus, without recognizing it, I began my mediation training.<sup>15</sup>

Like La Rue, many of the contributors commented upon this sense of being both a part of and separate from the dominant culture. Geetha Ravindra describes growing up as a first-generation Indian-American as having to “straddle[] two continents, mediating between the Eastern and Western

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<sup>12</sup> *Id.* at 254.

<sup>13</sup> *Id.* at 255.

<sup>14</sup> *Id.* at 383.

<sup>15</sup> *Id.*

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cultures.”<sup>16</sup> In her chapter, Ravindra traces the impacts of this straddling throughout her personal and professional career, which has culminated in her current work adapting Western mediation to disputes in India.<sup>17</sup>

Ravindra’s notion of “straddling cultures” is an apt description of how people positioned on the intermediary often find themselves. In situations featuring seemingly incompatible values and interests, straddlers are often the ones looking for ways to reconcile differences and develop forward-looking plans that can accommodate divergent concerns. It is no accident, certainly, that such people might end up in careers where they design systems and processes to manage conflict.

Consider the example of Carol Izumi. In her chapter, Izumi recalls her own childhood experience of being both “highly assimilated into majority American culture” while “also infused with Japanese customs, culture and values”:<sup>18</sup>

My behavior was either in harmony with the traditional Japanese values or in opposition to them. In grade school, I mortified my mom and sister by yelling at boys who taunted us in the mall, “Go home and ask your parents why you’re racist!” While my folks silently suffered discrimination, I marched in protest, wrote letters to the editor, penned articles, and read *Rules for Radicals*. Yet, ever dutiful, I bought Abbie Hoffman’s *Steal This Book*.<sup>19</sup>

For Izumi, this intercultural dialectic animated her career choices throughout her life, drawing her to the law, to alternative practice, to clinical work, and to the study of implicit bias and discrimination.

Learning how to straddle cultures in childhood can prepare a person to recognize cultural differences and respond appropriately later in life. When Jackie Font-Guzmán was asked to deliver conflict engagement workshops in a Latin American country, for example, she noticed “[i]ntercultural differences” immediately.<sup>20</sup> The program coordinator who had invited Font-Guzmán was an American working for a private company. Some student organizations were engaged in violent protest (“burning cars and throwing rocks”) and, as Font-Guzmán recalls, the program coordinator had certain ideas about what a successful mediation with the students would look like:

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<sup>16</sup> *Id.* at 112.

<sup>17</sup> *Id.* at 122.

<sup>18</sup> *Id.* at 341.

<sup>19</sup> *Id.* at 342.

<sup>20</sup> *Id.* at 288.

From my perspective, the coordinator was excessively concerned with security and had inappropriately labeled the students as violent, volatile, and dangerous. The student leaders, the coordinator said, were “resisting” authority, and we needed to preserve “democracy” and “peace,” terms I considered value-laden. The coordinator was afraid that if “order” were not “imposed” through strict guidelines, such as who was allowed to talk when, the mediation would be chaotic (as if there were any other kind).<sup>21</sup>

Font-Guzmán agreed to meet with the students in a house in the Andean mountains. They ate lasagna and talked about their lives before jointly developing a plan for a more organized discussion. “I wanted to be in a mental space that would allow me to flex my conflict intervention style based on what the student leaders needed,” Font-Guzmán explains. “As it turned out, they did not need mediation; they needed a dialogue.”<sup>22</sup>

Because of her own experiences living inside and outside the dominant culture, Font-Guzmán was able to facilitate deep and meaningful discussion among the students. In his chapter, mediator and author Bernie Mayer describes this cultural agility as “connecting while remaining separate.”<sup>23</sup> While living in a collective with other families and needing to make decisions about homelife together, Mayer became exquisitely aware of the challenges of balancing community and autonomy. An intense argument over whether the collective would raise chickens served as a reminder that people need privacy, cultural and psychological safety, and personal autonomy.<sup>24</sup> Yet at the same time, as Mayer observes, people must find ways to exist with others within a larger framework of social and political life.

Colin Rule and many of the other contributors echo this sentiment. Rule, who has become an influential innovator and technologist in dispute resolution, takes Mayer’s point a step further in explaining his mission to support peaceful coexistence in both physical and virtual spaces:

We’re all stuck on this rock together and none of us can leave, so we had better learn how to get along. ... [E]ventually we will civilize cyberspace, and I am confident we

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 289.

<sup>23</sup> *Id.* at 418.

<sup>24</sup> *Id.* at 413–14.

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will harness its power to open a new era of greater peace,  
justice, and happiness for everyone.<sup>25</sup>

Learning how to get along means being open to differences in other people, in other cultures, and in conflict generally. Becoming open to differences, in turn, requires humility and curiosity. In 1966, Lucy Moore moved with her husband to the Navajo Reservation in Chinle, Arizona. “I approached this world full of idealism, energy, and compassion, ready to save everyone I encountered,” she recalls.<sup>26</sup> No one seemed particularly eager for her to save them, however, so she sought out any opportunity to serve her new community:

I was a Head Start teacher’s aide and a school bus driver. I sold vehicle insurance to Navajos who were victimized by off-reservation dealers who charged triple the going rate. I helped start a daycare center, and finally I ran for justice of the peace and was elected to two terms.<sup>27</sup>

Moore notes that she found her job as justice of the peace challenging, because she often did not feel comfortable simply ruling for one side or the other. Indeed, conflict resolution professionals do not see conflict in black and white, but instead recognize the variability of experience and context as part of what must be understood to get anywhere. In his chapter, conflict management expert Peter Adler argues for moving past “binary” thinking in favor of learning to recognize that a single problem may have two or even more possible answers:

I’ve been told that the true sound of critical thinking at work is not “Aha!” but “Huh?” It was one of my first real moments of “Huh,” some kind of crunching sound in the world of binaries. “Huh” decoded is another way of saying you are baffled, which can also be a small triumph of curiosity over judgment. This, and other incidents, led me into one of the characteristics I would eventually carry into the world of conflict management. I became nosy. A snoop. A lifter-upper of rocks to look at wiggle worms and a potential wiggle-worm meddler.<sup>28</sup>

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<sup>25</sup> *Id.* at 195–96, 208.

<sup>26</sup> *Id.* at 95.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 20.

Being genuinely curious about the world and wanting to be useful to others, as described by Adler and Moore, is another common thread throughout *Evolution of a Field* and certainly describes many people who are drawn to conflict resolution. That said, simply being curious and wanting to help does not immediately reveal conflict resolution as a career path. This is especially true for the authors who were coming into the field before it could even properly be called a field. As Andrea Kupfer Schneider points out, sometimes you just chalk it up to fate:

My story of how I got involved in negotiation and dispute resolution began in my first year of law school with a class in negotiation. I don't recall why I chose this elective in the first-year curriculum. ... Whatever the reason, I am confident that at the time I had no idea it would change the trajectory of my career. In retrospect, I think it might have been *bashert*, which is Yiddish for "destiny." Something I was meant to find.<sup>29</sup>

Like many of the contributors to *Personal Histories*, Schneider did not know much if anything about ADR when she was a student. Discovering the field and her place in it, Schneider reflects, was in part meeting the right people at the right time. Schneider served as a research assistant for Roger Fisher and later worked with Bob Mnookin, reporting that both mentors had an inestimable impact on the direction of her professional life.

Similarly, many other contributors mentioned the importance of mentors in their professional development (often naming other contributors in the book). For those transitioning from practice to academia, having role models and intellectual inspirations was particularly crucial. Howard Bellman calls the writing of Lon Fuller "a wonderful gift" that "explained in scholarly terms what I had experienced" in collective bargaining and labor disputes.<sup>30</sup> Other contributors brought up life-changing interactions with ADR luminaries like Gary Friedman, Len Riskin, Josh Stulberg, and Margaret Shaw.

When it comes to *bashert*, however, it's not just whom you happen to meet and when—it's also being in the right place at the right time. For many contributors, that right place was Wisconsin. Schneider and Bellman both had significant contacts with Wisconsin, with Schneider landing at the law school at Marquette and Bellman taking a position early in his career at the Wisconsin Employment Relations Commission (WERC). Working at the WERC was

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<sup>29</sup> *Id.* at 211–12.

<sup>30</sup> *Id.* at 42.



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absolutely formative for Bellman. “The WERC is my alma mater,” he observes. “It is where I acquired my skills and values.”<sup>31</sup> Another contributor with an early Wisconsin connection is Chris Honeyman, though he frames his career trajectory less as a matter of destiny than accident:

Luck enters here. When I graduated, I pursued my then-girlfriend (and now wife) from Chicago to Milwaukee, where she at least had a job and I was no more unemployed than I would be anywhere else.<sup>32</sup>

After moving to Milwaukee, Honeyman passed the federal entrance exam and interviewed at the Milwaukee regional office for the National Labor Relations Board. He took a position in Detroit, finding a mentor in David Tanzman, the chief federal mediator in Detroit. Honeyman was intrigued by Tanzman’s claim that mediation has “no tools and no rules,” and he decided to look for a position as a mediator—ultimately finding one in Wisconsin, also with the WERC.<sup>33</sup>

The notion that one’s career path is largely fortuitous, either as a matter of destiny or luck, is a prominent theme in one of the co-editors’ chapters as well. “I never intended to become an ombudsman,” writes legendary ombudsman Howard Gadlin.<sup>34</sup> Gadlin started out as a politically active psychology professor. In 1970, he agreed to chair the university’s strike committee, which was tasked with preserving the right to protest in a nonviolent environment. After securing a promise of nonviolence from both the strikers and the administration, Gadlin learned of a student plot to bomb the ROTC building:

Through my contacts with other graduate students, two of the student strike leaders and I were able to meet with the group that was planning the bombing. At 2am, after four hours of discussion and negotiation, they agreed not to go ahead. The strike continued through the end of the semester. There was no violence.<sup>35</sup>

Gadlin did not tell the administration of his role in preventing the bombing, but they found out and eventually asked him to serve as the

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<sup>31</sup> *Id.* at 38.

<sup>32</sup> *Id.* at 174.

<sup>33</sup> *Id.* at 178.

<sup>34</sup> *Id.* at 296.

<sup>35</sup> *Id.* at 299.

ombudsman at the university. He did not seek out that role and in fact felt “apprehensive” about taking it.<sup>36</sup> Entering the field was accidental, in the sense that Gadlin did not work toward becoming an ombuds but instead accepted the opportunity when it came. Indeed, accepting opportunities that presented themselves became a pattern over the course of Gadlin’s career.

Gadlin concludes his chapter remarking on the “wonderful naïve[te]” of his early belief that he was “working toward a conflict-free world.”<sup>37</sup> He now “appreciate[es] both the inevitability and desirability of conflict.”<sup>38</sup> Likewise, many of the contributors note that their own early idealism around the possibilities of resolving conflict was tempered or perhaps refined by their own willingness to examine and critique alternative processes more carefully. Co-editor Nancy Welsh describes this dynamic as forming one of many “crosscurrents” in her professional life:

Following my sabbatical, Len Riskin and I wrote an article proposing that someone, courts or lawyers or mediators, should be required to ask the parties what model of mediation they wanted and what issues they hoped to address. On the other hand, Bobbi McAdoo and I wrote an article suggested that court-connected mediation had to serve courts’ goals, not vice versa. Looking back, it’s clear that I was still searching for how mediation fit in civil litigation and whom it should serve.<sup>39</sup>

As Welsh explains, being “a proponent of mediation who constantly critiqued it” is exhausting and may lead to an existential conundrum for those working in dispute resolution.<sup>40</sup> It is challenging to feel caught between trying to convince others that alternative processes are beneficial and even superior while also recognizing and wanting to address serious shortcomings in those same processes.<sup>41</sup>

Put another way, conflict resolution professionals are often drawn to the field because of its transformative potential but can become disenchanting with the realities of practice, including the tradeoffs posed by institutionalization and professional culture. After consulting in Colorado on social justice issues including nonviolent peacekeeping and nuclear

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<sup>36</sup> *Id.* at 296.

<sup>37</sup> *Id.* at 314.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 145–46.

<sup>40</sup> *Id.* at 146.

<sup>41</sup> See, e.g., Jennifer W. Reynolds, *The Lawyer with ADR Tattoo*, 14 CARDOZO J. CONFLICT RESOL. 395, 399–402 (2013).

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disarmament, Christopher Moore decided to become a mediator. “But I had doubts,” he admits.<sup>42</sup> “I feared that I would miss living in the mainstream of history, engaged in addressing the big issues of the day—civil rights, the draft, ending the Vietnam War, closing Rocky Flats.”<sup>43</sup> Ultimately Moore found a way to honor both priorities, joining an environmental conflict management firm and later the Denver Conciliation Service.

Finding the right balance between professional and personal commitments has particular resonance in the present moment, as Western societies are riven by divisive politics and media-fueled discord.<sup>44</sup> Carrie Menkel-Meadow, one of the original founders of the modern ADR movement, has grappled with these issues for years. As she points out in her chapter, the current conflict landscape raises crucial questions for her own practice and scholarship:

So one question I have about our field is, what is (or is not) “mediateable”? When are dialogue, creative solution-seeking, even empathy, hard or impossible to achieve? When does justice require rulings of right or wrong – calling out what is simply unacceptable behavior (hate speech, KKK, Nazis, bullying, etc.) and yes, even punishing it?<sup>45</sup>

Ian MacDuff expresses a similar concern, noting that the success of alternative processes in “freeing parties to be the authors of their own outcomes” has also “freed them from the normative anchor or legal and constitutional motherships.”<sup>46</sup> This issue becomes particularly pressing in the online context, explains MacDuff, where “[t]he question arises then as to whether, and if so how, to create a degree of normative coherence to the processes of social ordering that emerge in this online context.”<sup>47</sup> As MacDuff’s work has evolved from more “conventional” mediation practice to online settings, he has started focusing more intently on these issues of democratic empowerment and participation.<sup>48</sup>

In short, the protections, safeguards, public values, and norms associated with the law and formal legal processes are not necessarily part of

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<sup>42</sup> EVOLUTION, *supra* note 1, at 451.

<sup>43</sup> *Id.*

<sup>44</sup> *See, e.g.*, Jennifer W. Reynolds, *Does ADR Feel Like Justice?*, 88 FORDHAM L. REV. 2357 (2020).

<sup>45</sup> EVOLUTION, *supra* note 1, at 438.

<sup>46</sup> *Id.* at 88.

<sup>47</sup> *Id.* at 89.

<sup>48</sup> *Id.* at 91.

alternative processes, which can enhance but also complicate conflict management and dispute resolution. Mediators who attempt to provide legal information to assist parties, for example, may find themselves running afoul of both the law and mediation standards of practice. Practitioner and scholar Ellen Waldman has long argued that drawing such rigid professional boundaries may be “irresponsible” and lead to “grossly unfair or unconscionable agreements.”

Unlike many in the mediation field, my move into mediation did not entail a rejection of legal norms. Whereas many of my colleagues see legal rules as rigid, formalistic impediments to a more individually responsive, organic version of justice, I see something more sheltering and redemptive.<sup>49</sup>

Finding a way to navigate between the benefits of bespoke process (creativity, self-determination, empowerment, relationship) and more traditional public law (safeguards, legal norms and entitlements, shared values) is thus a central challenge of alternative practice. As mediator Marvin Johnson argues:

There are some who think that anyone who advocates for social justice issues should not be a mediator, but I strongly disagree. For me, being an advocate for social justice means standing up for what is fair regarding diversity, equality, inclusion, and human rights in general. ... Bringing diverse communities or subsections of a community together to create change using conflict resolution skills surely is a valuable contribution to society and the field of conflict resolution.<sup>50</sup>

That said, Johnson acknowledges that “[a]n advocate for social justice can also be a good mediator -- as long as the mediator is not advocating for social justice while in the role of mediator.”<sup>51</sup> For those seeking to help people manage and resolve conflict, working toward peace and toward justice is an unavoidable balancing act.

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<sup>49</sup> *Id.* at 479–80.

<sup>50</sup> *Id.* at 377.

<sup>51</sup> *Id.* at 377.

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It has been said that a good traveler has no fixed plans and is not intent upon arriving.<sup>52</sup> Good travelers do not stay in one place but instead explore and appreciate the world around them. They carry what they have learned on their voyages while continually revising their understanding of what they know. Good travelers take pleasure in making and remaking maps, learning new languages, and meeting people where they are.

In 1983, Lela Love began working as a community mediator in Brooklyn. She was thrilled to see that the lessons she learned in mediation training actually worked on the ground:

Time and again, after telling their stories, parties would come to some accommodation. For me, it was like an addiction—to take something difficult and bad and change it into something workable, good, and promising.<sup>53</sup>

Over the years, Love has continued bringing her commitment to meaningful dialogue to new contexts and new challenges throughout her exemplary career. Her story, along with all the stories in *Evolution of a Field: Personal Histories in Conflict Resolution*, remind the reader that there are many possible paths to building a more just and peaceful world—and that we in ADR are incredibly fortunate to have such inspiring fellow travelers along the way.

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<sup>52</sup> This definition of a good traveler is often attributed to Lao Tzu and the Tao Te Ching. *See, e.g.*, <https://www.goodreads.com/quotes/357987-a-good-traveler-has-no-fixed-plans-and-is-not>.

<sup>53</sup> *EVOLUTION*, *supra* note 1, at 63.

