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Problem-Solving Negotiation: Northern Ireland's Experience with the Women's Coalition Symposium

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Problem-Solving Negotiation: Northern Ireland's Experience with the Women's Coalition

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Throughout the Troubles, we have often heard the voices of women call-ing for compassion instead of conflict, collaboration instead of coercion, and cooperation instead of competition.[1]

I. INTRODUCTION

Professor Menkel-Meadow challenges us in this Symposium to consider the relevance of domestic conflict resolution theories in broader cultural contexts.[2] She questions whether the field of conflict resolution offers any broadly applica-ble propositions that work across all domains.[3] Our interest is on the application of problem-solving negotiation theory to sectarian conflict in Northern Ireland. We will focus on a case study of the Northern Ireland Women's Coalition (Women's Coalition)[4] whose members participated in the negotiations leading up to the 1998 Good Friday Agreement (Agreement).[5] Members of the Coalition responded to thirty years of sectarian violence with a negotiation process based on

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1. MAIREAD CORRIGAN MAGUIRE, THE VISION OF PEACE: FAITH AND HOPE IN NORTHERN IRELAND 39 (John Dear ed., 1999).

2. *See* Carrie Menkel-Meadow, *Correspondences and Contradictions in International and Domes-tic Conflict Resolution: Lessons from General Theory and Varied Contexts*, 2003 J. DISP. RESOL. 319 [hereinafter Menkel-Meadow, *Correspondences and Contradictions*].

3. *Id.*

4. Borrowing from Cynthia Cockburn's language, we credit these women with having filled the dangerous spaces between themselves and destructive conflict with words instead of bullets. *See* CYNTHIA COCKBURN, THE SPACE BETWEEN US: NEGOTIATING GENDER AND NATIONAL IDENTITIES IN CONFLICT (1998). The metaphor of creating spaces is a familiar one with female peacemakers in Northern Ireland. *See* Swanee Hunt et al., *Women Waging Peace: Lessons in Leadership*, 24 FLETCHER FORUM OF WORLD AFFAIRS 61, 69 (2000).

5. United Kingdom of Great Britain and Northern Ireland – Government of Ireland – Alliance Party – Progressive Unionist Party – Sinn Fein – Social Democratic Labour Party – Ulster Unionist Party – Women's Coalition: Agreement Reached in the Multi-Party Negotiations, Apr. 10, 1998, 37 I.L.M. 751, *available at* http://www.nio.gov.uk/issues/agreement.htm [hereinafter The Good Friday Agree-ment]. The Agreement is known both as the Good Friday agreement, because it was signed on Good Friday, Apr., 10, 1998, and the Belfast Agreement, indicating where the parties signed the agreement. *See* Northern Ireland Online, Key Issues-The Agreement, *at* http://www.nio.gov.uk/issues/agreemain.htm (last visited Nov. 22, 2003). In May 1998, a referendum was held in which more than 71 percent of the people voted in favor of the Good Friday Agreement. The Good Friday Agreement, *supra*.

accommodation, inclusion, and relationship building. These concepts have resonance in American-style problem-solving negotiation.[6] Their "peace story" unfolds through two years of arduous negotiations. It suggests that there are procedural aspects of problem-solving negotiation theory that may work across domains, specifically in multi-party, intractable conflict situations where not all players share the same end game.

Unlike the scholar/practitioners who developed the architecture of modern problem-solving negotiation, the women who participated in the Women's Coalition had no formal training in conflict resolution theory. Drawn from multiple walks of life, they approached the bargaining table with a "problem-solving in action" attitude and actively engaged in the political negotiation process. All of this occurred in the midst of violent and protracted conflict.[7]

Women's peacemaking skills have long empowered them as voices for reconciliation in divided societies[8] and therefore, the role of women in preventive diplomacy, conflict resolution, and post conflict reconstruction is widely advanced today.[9] Although historically women are credited with being actively involved in peacemaking efforts at the grassroots level during periods of conflict,[10] they are not generally considered to play a significant role in formal peace negotiations.[11] Northern Ireland proved to be an exception.[12]

II. CONFLICT IN NORTHERN IRELAND: THE TROUBLES

A contextual understanding of the Northern Ireland conflict is helpful in illuminating some aspects of problem-solving negotiation that may work across domains. Volumes have been written on the conflict and it is beyond the purview of this paper to address more than its essential elements. The conflict is complex and

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6. GEORGE J. MITCHELL, MAKING PEACE 44 (1999). Commenting on the activities of the Women's Coalition during the negotiations, former Sen. George Mitchell, who mediated the negotiations said:

> The women overcame a great deal of adversity. Early in the process they were not taken seriously in our talks and they were insulted in the Forum. I would not permit such conduct in the negotiations, but it took many months for their courage and commitment to earn the attention and respect of the other parties. In the final stages of the negotiations they were serious, important participants, and were treated as such.

Id.

7. For example, at the same time that the peace negotiations were being conducted, a paramilitary group engaged in an act of murder. *Id.* at 173-74.

8. Shelley Anderson, *Women's Many Roles in Reconciliation, in* PEOPLE BUILDING PEACE 230 (1999).

9. *See, e.g., The Windhoek Declaration: The Namibia Plan of Action on 'Mainstreaming a Gender Perspective In Multidimensional Peace Support Operations'* (May 2000), *at* http://www.peacewomen.org/un/pkwatch/WindhoekDeclaration.html; S.C. Res. 1325, U.N. SCOR, 55th Sess. (2000) (calling for the broad participation of women in peace-building and post-conflict reconstruction).

10. *See, e.g.,* Elisabeth Rehn, *The Future of Peace Efforts,* 25 FLETCHER FORUM OF WORLD AFFAIRS 101 (2001).

11. Working Group I, Strasbourg Conference, *Participation of Women in the Prevention and Resolution of Conflicts,* 55 (Sept. 2001) (copy on file with authors).

12. In Northern Ireland, the voice of women, exemplified by the work of Nobel Prize winner Mairead Corrigan Maguire was energized to build a culture of nonviolence. *See* Jennifer Schense, *Creating Space for Change: Can the Voluntary Sector Help End Northern Ireland's Troubles?,* 11 HARV. HUM. RTS. J. 149 (1998).

comprised of multiple economic, religious, political, and social facets.[13]   Since
the partition of Northern Ireland in 1921, unionists, mainly Protestant, have desired
to remain part of the United Kingdom while nationalists, mainly Catholic, have
wanted Northern Ireland to become part of a united Ireland.   Deep mistrust has
divided both communities.   The conflict intensified during a thirty-year period
known as "The Troubles" (1966-1996)[14] when sectarian warfare between Catho-
lics and Protestants, nationalists and unionists resulted in the death of more than
3,600 persons and the wounding of tens of thousands more.[15] In a country with a
population of roughly 1.7 million people, these figures are significant.

    After cease-fires by paramilitary groups on both sides, the Peace Talks began
in June 1996 with ten political parties participating.[16] The talks were chaired by
former U.S. Senator George Mitchell, supported by General John de Chastelain of
Canada and Mr. Harry Holkerie, former Prime Minister of Finland.[17] An agree-
ment was reached on Good Friday, April 10, 1998.[18]

    Despite significant advances in peaceful co-existence since the Agreement
was signed, sectarian conflict is still deeply embedded in Northern Ireland.
"Peace Line" walls, topped in some areas by barbed wire, still exist in Belfast to
separate nationalist and unionist communities.[19]   A recent study by University of
Ulster Professor Paul Connelly, demonstrating the intractable nature of the con-
flict, reported that children in Northern Ireland are socialized into sectarianism by
the age of three with negative perceptions of the opposing community.[20] In the
last five years, news reports of a young Catholic crucified on a fence,[21] children

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13. *See* FACETS OF THE CONFLICT IN NORTHERN IRELAND (Seamus Dunn ed., 1995).

14. *See* TIM PAT COOGAN, THE TROUBLES: IRELAND'S ORDEAL 1966-1996 AND THE SEARCH FOR
PEACE (1996).

15. DAVID MCKITTRICK ET AL., LOST LIVES 13 (1999).

16. MITCHELL, *supra* note 6, at 46.

17. *Id.*

18. The Good Friday Agreement, *supra* note 5.   *See also* Northern Ireland Office,
http://www.nio.gov.uk/issues/agreement.htm (posting the Agreement in its entirety and providing links
to other relevant information).

19. *See* EAMONN MALLIE & DAVID MCKITTRICK, THE FIGHT FOR PEACE: THE SECRET STORY
BEHIND THE IRISH PEACE PROCESS 13-14 (1996), wherein the authors note:

    Even after the 1994 IRA ceasefire, workmen in Belfast continued to build more of the
    'peacelines' which criss-cross and deface the city-high brick and metal walls designed to
    separate Protestant and Catholic districts. This is not some governmental effort to impose
    segregation: the walls were put up by community demand, and are generally popular in the
    districts they divide. They are a symbol of ancient and lasting community divisions.
Id. See also MITCHELL, *supra* note 6, at 11 (describing the walls to be up to thirty feet high). There
are thirty-nine peace walls in Northern Ireland with thirty in Belfast, two in Portadown, one in Lurgan
and six in Derry. BBC Northern Ireland, *Eyewitness-Holy Cross-Streetscape Resources*, *at*
http://www.bbc.co.uk/northernireland/eyewitness/holycross/ (last visited Nov. 22, 2003). Thirty-two
percent of people killed in the Troubles died within 100 meters of a peaceline and 68 percent within
500 meters. *Id.* Of the thirty peacelines in Belfast, fifteen are in north Belfast. *Id.*

20. Press Release, Community Relations Council (June 25, 2002), http://www.community-
relations.org.uk/home/press/press020625a.htm. One of the characteristics of intractable conflict is the
length of its existence and the fact that children are born and socialized into the conflict. *See also*
Louis Kriesberg, *Intractable Conflicts*, *in* THE HANDBOOK OF INTERETHNIC COEXISTENCE 333
(Eugene Weiner ed., 1998).

21. Anne Cadwallader, *UDA 'Crucifies' Catholic Man*, IRISH ECHO, Nov. 6-12, 2002, *available at*
http://www.IrishEcho.com.

prevented from entering their school,[22] a mailman attacked by mobs,[23] and senior citizens frightened out of their homes during parade season[24] have been reminders that extremist paramilitary groups and opponents of the Agreement are still active and that conflict of an intractable nature still exists.

In the following section we sketch a brief historical and theoretical account of problem-solving negotiation and then situate within it the behaviors and strategies of the Women's Coalition during the multi-party negotiations leading to the Agreement. Problem-solving negotiation theory has evolved in differing contexts; and, in our view, there are procedural aspects of it that offer significant potential for managing situations of intractable conflict.

III. PROBLEM-SOLVING NEGOTIATION THEORY

A. *Historical Background*

Scholars and practitioners from diverse academic disciplines have devoted considerable attention since the second half of the twentieth century to developing a theory of problem-solving negotiation. Problem-solving theory, as we know it today, emerged from the field of labor negotiations in the early 1940s.[25] Professor Morton Deutsch's early writings in social psychology emphasized the benefits of cooperative over competitive behaviors and more recently, Deutsch has identified specific characteristics of cooperative behavior that ultimately may lead to more constructive resolution of conflicts.[26] Taken together, they form a foundational basis for problem-solving theory.

In the context of international relations, the historical roots of problem-solving have been traced to the work of game theorist Anatol Rapoport, who identified such concepts as cooperative efforts to advance parties' common interests, the search for common ground, and joint problem-solving.[27] The practice of adopting problem-solving approaches in international diplomatic efforts was advanced as a favorable means of producing greater flexibility and more equitable

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22. Anne Cadwallader, *Bomb Try at Holy Cross*, IRISH ECHO, Jan. 8-14, 2003, *available at* http://www.IrishEcho.com.

23. Brian Lavery, *A Catholic Mailman Is Slain As Ulster Violence Continues*, N.Y. TIMES, Jan. 13, 2002, at A6.

24. Ross McKee, *Pensioner Vows To Defy Republican Death Threat*, NEWS LETTER, June 22, 2002, at 7.

25. *See, e.g.*, MARY PARKER FOLLETT, DYNAMIC ADMINISTRATION: THE COLLECTED PAPERS OF MARY PARKER FOLLETT (1942); *see also* Susan Cross, *Three Models of Conflict Resolution: Effects on Intergroup Expectancies and Attitudes*, 55 J. SOC. ISSUES 561 (1999).

26. Morton Deutsch, *Social Psychology's Contributions to the Study of Conflict Resolution*, 18 NEGOTIATION J. 307, 311 (2002). Deutsch listed the following characteristics of cooperative behavior: (1) effective communication; (2) friendliness, helpfulness, and unobstructiveness; (3) coordination of effort, divisions of labor, orientation to task achievement, orderliness in discussion, and high productivity; (4) feeling of agreement with the ideas of others and a sense of basic similarity in beliefs and values, as well as confidence in one's own ideas and in the value that other members attach to those ideas; (5) willingness to enhance the other's power; (6) defining conflicting interests as mutual problems to be solved by collaborative effort. *Id.*

27. P. Terrence Hopmann, *Bargaining and Problem Solving: Two Perspectives on International Negotiation, in* TURBULENT PEACE 445, 446-47 (Chester A. Crocker et al. eds., 2001) (*citing* ANATOL RAPOPORT, FIGHTS, GAMES, AND DEBATES (1960)).

and durable agreements than the then-prevalent "bargaining" paradigm.[28] These claims gained empirical validity through the problem-solving workshop experiments conducted by John Burton and Herbert Kelman. As participants in these workshops, individuals from conflicted societies would engage with those whom they considered the enemy, acknowledging the responsibility of their own community and acknowledging the pain of the "other" as legitimate.[29] Additional creative expansion of problem-solving in the international arena is found in the work of Harold Saunders, who developed a variation of the problem-solving workshops: a dialogue process based on transforming relationships between parties in conflict.[30]

A more popularized theory of problem-solving was explicated in the early 1980s with the "principled" negotiation theory of Roger Fisher and William Ury presented in the book *Getting to Yes*,[31] and in the realm of American law with Professor Menkel-Meadow's article, *The Theory and Practice of Problem-Solving*.[32] The norms that regulated problem-solving in the American legal system were similar to those prevalent in international relations, in that parties were required to separate positions from interests, identify specific needs, and develop solutions that directly responded to those needs.

B. Theoretical Underpinnings

The development of problem-solving theory was a reaction in part to the predominant negotiation model of adversarial, positional bargaining, and the negative behaviors that it produced.[33] Problem-solving assumed good faith, honesty, and integrity in bargaining.[34] Thus, it encouraged parties to build trust into relationships.

The essence of problem-solving theory is a deceptively simple formulaic prescription—negotiators should focus on their underlying needs, preferences, priorities, and interests, as well as those of their opponents, rather than emphasize their respective positions. Such value-creating behavior and interest-based orientation sets the stage for integrative bargaining conditions where opportunities for mutual gain are possible and zero-sum games can be avoided.[35] Through mutual information-sharing, a greater variety of possible solutions are presented. All negotiators

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28. *Id.* at 447.

29. *Id.* at 448. *See also* Working Group 1, Strasbourg Conference, *supra* note 11.

30. Harold H. Saunders, *Sustained Dialogue in Managing Intractable Conflict*, 19 NEGOTIATION J. 85 (2003). Saunders based this process on his work with parties from the former Soviet Republic of Tajikistan. *Id.* Through the Inter-Tajik Dialogue, Saunders conceptualized the process as "sustained dialogue." *Id.*

31. ROGER FISHER & WILLIAM URY, GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN (Bruce Patton ed., Penguin Books 2d ed. 1991) (1981).

32. Carrie Menkel-Meadow, *Toward Another View of Legal Negotiation: The Structure of Problem Solving*, 31 UCLA L. Rev. 754 (1984) [hereinafter Menkel-Meadow, *Toward Another View*].

33. Jacqueline M. Nolan-Haley, *Propter Honoris Respectum: Lawyers, Client, and Mediation*, 73 NOTRE DAME L. REV. 1369 (1998).

34. Good faith and fair dealing are longstanding requirements of contractual obligations in the United States. *See* Robert S. Adler & Elliot M. Silverstein, *When David Meets Goliath: Dealing with Power Differentials in Negotiation*, 5 HARV. NEGOT. L. REV. 1, 49-54 (2000).

35. ALAN RAU ET AL., PROCESSES OF DISPUTE RESOLUTION: THE ROLE OF LAWYERS 131 (3d ed. 2002).

have the freedom to devise agreements that respond to their real needs. In this way, problem-solving negotiation theory emphasizes the importance of building trust, restoring human relationships and recognizing the humanity of the "other" negotiator.

Problem-solving skills include the ability to engage in creative thinking,[36] distinguish interests from positions, share decision-making power, and engage with other stakeholders in dispute management and resolution. Partnering, dialoguing, consensus-building, listening, and collaborating are all elements of problem-solving behaviors.

In the following section, we describe the emergence of the Women's Coalition as a political party in Northern Ireland and then describe some of their behaviors, strategies, and approaches as participants in the multi-party negotiations that led to the Agreement.[37]

IV. THE NORTHERN IRELAND WOMEN'S COALITION AND THE MULTI-PARTY NEGOTIATIONS

A. Background

The role of women in maintaining social cohesiveness and stability during the period of "the Troubles" has been much applauded. Former Secretary of State Marjorie Mowlam, in her foreward to the book *Contesting Politics – Women in Ireland, North and South* stated:

> I know that in relation to the peace process we would not be where we are today if women had not worked as they have for the past 30 years in their communities, not just in political parties but in trade unions, community groups, and in the 400 or so women's groups across Northern Ireland.[38]

Mowlam's observation resulted from a practical, political reality. Exclusion from political and other decision-making forums served to increase women's efforts in Northern Ireland to develop their own structures, processes and power base. Women's active and leading involvement in community and volunteer activities stood in stark contrast to their invisibility in the political arena.[39] As the

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36. Janet Weinstein & Linda Morton, *Stuck in a Rut: The Role of Creative Thinking in Problem Solving and Legal Education*, 9 CLINICAL L. REV. 835 (2003).

37. *See generally* Bronagh Hinds, *Women Working for Peace in Northern Ireland*, *in* CONTESTING POLITICS – WOMEN IN IRELAND NORTH AND SOUTH 109 (Yvonne Galligan et al. eds., 1999); Kate Fearon & Monica McWilliams, *The Good Friday Agreement: A Triumph of Substance Over Style*, 22 FORDHAM INT'L L.J. 1250 (1999).

38. Marjorie Mowlam, *Foreward* to CONTESTING POLITICS, *supra* note 37, at xi.

39. There were many reasons for this: the narrowly defined political agenda, the structure of party politics, and the hostility of politics in Northern Ireland. Many women activists were concerned about losing the independence and hard won trust they had achieved across communities through joining what they considered to be very sectional, sectarian parties. Warring words from some politicians and little responsible leadership did not offer incentive. Women experienced a complete disregard among politicians for the issues at the center of their lives; and thus had no meaningful starting point for engagement with the formal political process. Fearon & McWilliams, *supra* note 37, at 1254-55;

climate for peace negotiations improved with the frequency of cease-fires, this situation changed. Beginning in the early 1990s, women became increasingly concerned about their political exclusion, and the negative impact that exclusion was having on the entire peace process. They began to engage in political discourse outside the narrow and rigid confines of traditional national politics, often within the non-governmental organization (NGO) sector.

In 1995, in the context of two cease-fires heralding important political discussions on the future of Northern Ireland, leading women's organizations in Ireland asked a probing question: "How can any negotiating fora compensate for the fact that women have no parity at a time when the future agenda for the island, new structures in Northern Ireland and north/south institutions and arrangements are being determined?"[40]

The response to this question would be the emergence of a new political party for women.

B. The Emergence of the Northern Ireland Women's Coalition

The Women's Coalition was formed in mid-April 1996. This followed successful lobbying by several groups including the Northern Ireland Women's European Platform, who influenced the legislation authorizing a special election to decide which political parties would be represented at the multi-party negotiations.[41] This legislation significantly extended access to the negotiation process beyond the usual political parties.[42]

Comprised of women from all walks of life, different political aspirations and religious traditions, the Women's Coalition recruited seventy women to take part in the election, with many more willing to work on the party's campaign. A press release announced that while experience in politics was not an essential criterion for women applying to run for election under the banner of the Women's Coalition, two essential qualifications were sought: "(i) women must have views on

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Bronagh Hinds, Women in the House 3 (July 11-12, 1997) (unpublished paper from Charter 88 Constitutional Convention in London) (on file with authors); Bronagh Hinds, The Emergence of the Women's Coalition 1 (Oct. 28, 1997) (unpublished paper from Agreed Ireland Forum in London) (on file with authors) [hereinafter Hinds, Women's Coalition].

40. Council for the Status of Women & Northern Ireland Women's European Platform, Staking a Claim on the Future 7 (Jan. 19, 1995) (unpublished paper from Dublin Forum for Peace and Reconciliation) (on file with authors).

41. Fearon & McWilliams, *supra* note 37, at 1253-54; Bronagh Hinds, Northern Ireland Women's European Platform, Designation of Parties for the Forthcoming Election in Northern Ireland to the British Government 1 (Apr. 10, 1996) (unpublished conference paper) (on file with authors).

42. The Northern Ireland (Entry To Negotiations, etc.) Act of 1996 provided for elections for the purpose of electing ten parties to take part in negotiations. 1996 N. Ir. Stat. 11. All parties wishing to take part in the election had to be named in the legislation; in all, twenty-three parties and six independents were registered in the legislation. The election was conducted on the basis of a two-tier list system with voting in eighteen local constituencies. The ten parties with the largest aggregates gained entry to the negotiations. *Id.* The Women's Coalition came ninth. *Id.* The six largest parties were entitled to three delegates and backup teams of three while the four smaller parties were entitled to two delegates and a backup team of three. *Id.* The legislation also provided for a forum for all those elected at local and regional level and for referendums to hear the views of people in Northern Ireland. *Id.* The negotiations took place usually three days a week over almost two years, while the forum, which had no relation to the negotiations, met one day a week.

issues and problems facing themselves and their community and (ii) women must be willing to seek a political accommodation that is inclusive of all interests."[43]

Unlike most other participants in the multi-party negotiations, the Women's Coalition did not represent one narrow, sectional interest. It opted for joint leadership rather than a single leader and concentrated on three core issues: inclusion and accommodation, equality, and human rights.[44] All subsequent policies, positions, and actions were informed by these principles and every woman taking part in the election for the Coalition signed a pledge to uphold them.

C. Strategies for Developing a Sustainable Agreement

Throughout the negotiations, the Women's Coalition remained focused on its twin goals of including women on an equal footing with men and achieving accommodations upon which a stable and peaceful future could be built.[45] The new, creative approach of the Coalition prevented the formation of rigid bargaining positions.[46] In this way, its internal practices modeled behavior for the multi-party negotiations.[47]

The Coalition entered the negotiations with a specific frame of mind—to reach a settlement that could move Northern Ireland beyond the regular cycles of conflict in every generation. Specifically, the Coalition sought a durable settlement that could win the consent, allegiance, and active support of all. For the Coalition this meant engaging in a comprehensive set of problem-solving strategies:

-- Structuring an inclusive negotiation process involving all those who had been successfully elected to participate in the negotiations, as well as consultation with other interest groups that were not directly represented;

-- Generating a comprehensive and complex discussion agenda that would address the needs and interests of all the participants;

-- Building relationships and helping others to transform relationships;

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43. Press Release, Northern Ireland Women's Coalition (Apr. 23, 1996) (on file with authors). Elections were held at the end of May 1996. Just seven weeks after its formation, the Women's Coalition was elected as one of the top ten political parties in Northern Ireland, thereby securing a place for itself at the negotiation table. The Coalition's success in capturing the election just behind the most well-known parties, its ability to remain united, and its capacity to stay focused while making substantive contributions during the negotiations – all with no background in party politics – was no small feat given the contentious and contested political arena. This accomplishment was due in large measure to the women's prior experience in engaging in collaborative processes, along with a strong will to succeed and a determination to interrupt the culture of failure that had dogged Northern Ireland politics for decades.

44. Yvonne Galligan, The Politics of Women's Representation in Northern Ireland and the Republic of Ireland, Address at the John Henry Whyte Memorial Lecture (Nov. 22, 2001), www.qub.ac.uk/cawp/research/whytelecture.htm.

45. Election Communication, Northern Ireland Women's Coalition Manifesto (May 30, 1996) (on file with authors).

46. *Id.*

47. Fearon & McWilliams, *supra* note 37, at 1259.

-- Contributing positively with ideas and solutions rather than with negatives;

-- Listening and demonstrating genuine comprehension of others' ideas and paying attention to body language and dynamics;

-- "Interpreting" between other parties to ensure that differences in positions were clear and could be addressed without conflict being exacerbated by confusion over communication or language; and

-- Building cross-party collaboration and consensus.[48]

D. *Process-oriented and Outcome-focused*

The organizational management and community action backgrounds of women in the Coalition meant that they were attuned to the process and dynamics of negotiations. Thus, the Coalition was clearly "process-oriented" as well as "outcome-focused." Coalition members had learned valuable lessons from their collective past. Having witnessed proxy battles fought over procedure rather than political content and having listened to abstract legalism and pettiness in strident public speeches attacking others, the Coalition quickly identified what their leadership would describe as "the overwhelming sense of defensiveness and fear which results in some parties seeking to close down options and take up entrenched positions long before political possibilities have been explored."[49] The Coalition declared that it had entered the Multi-Party Talks in June 1996 with the intention of "nurturing the Talks, engaging in the necessary procedural discussions and keeping doors open rather than slamming them shut."[50]

E. *Inclusion and Democracy*

The Coalition's vision of inclusion extended even to paramilitaries. For example, before and during the two years of negotiations, the Coalition consistently promoted full participation of all elected parties, even when some parties with paramilitary links were excluded from time to time over the failure to honor cease-fires.[51] This approach differed from that of many other political parties who argued vociferously for the exclusion of certain parties from the talks and refused to dialogue with them when they were present.

The Coalition took a significant step to make inclusion meaningful by convincing the parties to change the governing Rules of Procedure for negotiations so that all parties shared in the decision-making power.[52] Its understanding of inclusion went beyond the involvement of all political actors to achieve engagement,

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48. *Id.* at 1257-61.
49. Monica McWilliams & Pearl Sagar, *Women Finding Hope*, IRISH NEWS, July 1, 1996.
50. *Id.*
51. Fearon & McWilliams, *supra* note 37, at 1261.
52. *See* Northern Ireland Women's Coalition, Submission on Procedural Guidelines and Opening Plenary Agenda (June 14, 1996) (copy on file with authors); Northern Ireland Negotiations Rules of Procedure (July 29, 1996) (copy on file with authors).

whenever possible, with civic leaders from across the spectrum of society. Consistent dialogue between Coalition negotiators and a broader constituent base, through monthly open meetings and larger consultative conferences, enabled the Coalition to keep those outside the talks abreast of developments at the negotiating table. It also helped to keep negotiators in touch with the views and feelings on the ground. This in turn formed part of the feedback the Coalition could share within the talks and, specifically, bring to the attention of the Independent Chairs. The dialogue with the public helped to prepare them for compromises that would be required in the long term, allaying fears about an agreement that was too extreme.

Publishing its inclusive and problem-solving platform in the *Irish News*, the Coalition argued that it was necessary to address the fears and concerns of all other participants, engage in discussion with all, value and build on others' ideas whenever possible and frame and reframe contributions in a manner that would lead to solutions.[53] It described itself as "solution-focused," and argued "that all parties and interests have to be heard if realistic political options are to emerge."[54] This approach was in marked contrast to the negotiating behavior of some of the traditional political parties who would defend their own position at all costs, support it with intemperate language and wild assertions in the media to keep supporters in line, herd supporters in a particular direction, and threaten the entire process while doing so.

F. Establishing New Standards of Negotiating Behavior

The Women's Coalition was determined to play its part in creating a different expression of democracy that would allow negotiation to flourish. An abnormal and deviant political culture that indulged in antagonistic, bullying, sectarian, and sexist behavior had thrived during years of conflict and had become embedded as normal in the minds of politicians, the media, and those working in the political arena. Demonizing people and parties was standard practice, while open and democratic debate based on well-presented arguments, especially on contentious issues, was rare. Some politicians chose to vilify and demonize opponents in order to beat them out of an argument or to ensure they had no standing among the public. Terms such as "traitor," dangerous in the midst of a violent conflict, were used to describe those who were prepared to consider compromise, agreed to dialogue, or envisaged a negotiated settlement and common future. The language frequently used carried violent and militaristic overtones that corroded the democratic process, with opponents to the multi-party peace talks speaking about "battle," "the enemy," and "destruction."[55] Women were called "whinging," "whining," and "feckless," or admonished to "breed for Ulster" rather than engage in politics.[56] Statements such as, "Republicans cannot be appeased," "Tigers belong behind bars, they are only safe when they are shot and stuffed and mounted on the

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53. McWilliams & Sagar, *supra* note 49.
54. *Id.*
55. Hinds, Women's Coalition, *supra* note 39, at 6.
56. *Id.*

wall," were not uncommon."[57] Even those supportive of the peace process talked about "confronting," "eyeballing," and "smashing."[58]

Northern Ireland had been damaged by decades of adversarial and violent politics. It was clear that such behavior was a barrier to dialogue and serious engagement. Abuse was used as a tool to thwart substantive negotiation and political progress. Fundamental change was required if more women were to be encouraged to participate in politics. The Coalition decided that this negative language and behavior had to be interrupted and that it would challenge old attitudes and set new standards for respect and competence. It refused to accept abuse as normal political banter and constantly confronted disrespectful attitudes and actions with a view to fostering inclusion, respect, and political progress. It worked to free the concept of compromise from the negative connotation of the word "traitor." These efforts played a more important role in the negotiation process than has often been credited by observers.[59]

G. Dialogue and Consensus

A key reason women wanted to be involved in the negotiations was to argue for and demonstrate a different way of doing things—concentrating on solutions to shared problems rather than on mutually exclusive aspirations, and driving negotiation by values and visions for the future rather than protecting historical certainties. As noted by Professor Christine Bell, the history of Northern Ireland shows that "adversarial politics lends itself to 'positional bargaining' where both sides are afraid to volunteer the first concession [and] each may take a harder position than that for which they are prepared to settle and the whole thing becomes a zero sum game."[60]

Instead of remaining fixed in this traditional positional bargaining mode, the Coalition attempted to provide leadership for redefining problems in mutually beneficial ways. The Coalition, comprised of women with completely opposite aspirations for new constitutional arrangements, opposed presenting options and choices as a zero-sum game with the negotiations as a battleground for the total victory of one side or another.

Throughout the negotiations, Coalition representatives continued collaborative practices of checking the views of others and seeking to reach accommodation across a wide variety of differing interests. Such practices, combined with their prior experience in cooperative efforts, helped the women approach the peace talks confident that their strategies were in the best interests of promoting dialogue and consensus. Every effort to describe the Coalition as 'unionist' or 'nationalist,' for example, or to drive a wedge between women from different religious or political traditions by insisting that the Coalition take a position on the constitutional status of Northern Ireland, met with failure.[61] Despite concerted

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57. *Id.*
58. *Id.*
59. MITCHELL, *supra* note 6.
60. Elizabeth Meehan, *Democracy Unbound, in* DEMOCRATIC DIALOGUE, RECONSTITUTING POLITICS 23, 29 (Robin Wilson ed., 1996) (quoting Christine Bell), *available at* http://www.democraticdialogue.org/report3/report3b.htm (last visited Nov. 22, 2003).
61. *See* Fearon & McWilliams, *supra* note 37, at 1257.

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efforts to know "which camp the Women's Coalition was in" in order to interpret Coalition votes as unionist or nationalist, Coalition representatives declined to engage in positional-based bargaining.[62] They were accustomed to dialoguing through difference, confronting and respecting difference, and transcending difference in pursuit of a common purpose. They were prepared to live with ambiguity and experiment with various configurations until they reached a consensus.

H. Relationship Building

The Coalition entered the negotiations in good faith with a will to make them work. It was prepared to move beyond the status quo to a position where all political players were entitled to put their aspirations and views on the table and to have them taken into account. It worked to reach a political accommodation with others that was shaped by inclusive dialogue of all parties. It assumed a duty to demonstrate good faith by working to develop relationships between itself and other parties and building trust and confidence in the process. The Coalition did not constrain itself in any way when meeting other parties: it moved more easily than most between political parties and from an early stage successfully built a solid relationship between the four smaller parties. This positively impacted the negotiation's procedural dynamics and ultimately, the content of the Agreement.[63]

Even in the face of adversity, the Coalition sought to extend the hand of friendship, build relationships, and practice inclusion. After nearly two years of opposition and filibustering in the negotiations, two anti-Agreement unionist parties[64] excluded themselves by walking away shortly before the end of the negotiations. Despite having been the recipient of a considerable share of their criticisms, the Coalition made every effort to demonstrate bridge-building and promote cooperation by inviting the parties' return. During deliberations on principles and requirements for the Agreement, the Coalition, unlike any other party, made a point of directing these conversations to both the process and the content of the Agreement.[65] Parties to the Agreement focused their discussions on content and underestimated the importance of consistent attention to process and relationships.

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62. *Id.*

63. Significantly, the Coalition played a small but critical role in moving the negotiations forward to the substantive political agenda after months of stalling. A proposal on a comprehensive agenda framed by the leading nationalist (SDLP) and unionist (Ulster Unionist Party, UUP) parties left the UUP exposed to a diatribe on traitorous behavior. An adjournment called by anti-agreement unionists to give them time to prepare their attack, created space for the Women's Coalition to galvanize the smaller parties along with another party to co-sign the agenda proposal. Thus, the UUP was joined by others from the same political hue upon its return to the table and the opposition no longer had a basis for confrontation.

64. These were the Democratic Unionist Party (DUP) and the United Kingdom Unionist Party (UKUP).

65. According to the Coalition's Principles and Requirements Paper, the process for agreeing upon and delivering the Agreement encompassed the following commitments:

[C]ommitment to work to win consent inside the Talks through sufficient consensus of all parties, not two trading blocks; a commitment to collective responsibility for the outcome, and for being honest about the compromise, so there is a shared project to put to the people; [and] a commitment to collective leadership to winning the greatest possible majority among the people . . . on a common platform not on an adversarial basis.

Northern Ireland Women's Coalition, Principles and Requirements for Strand 1 and Strand 2 of the Multi-Party Talks (Oct. 1997) (on file with the authors).

The single greatest difficulty facing the Agreement was and continues to be the capacity of parties to demonstrate shared responsibility for a common project and collective leadership in its full implementation. Nevertheless, the negotiation process was sounder than any before, due to its inclusiveness and the comprehensive agenda. Despite setbacks in implementation,[66] the Agreement has endured and has established a solid baseline for further progress in the peace process and the framework for constructive political engagement. To conclude on a hopeful note in the vernacular of problem-solving: "[T]he reason why this Agreement will work is because it presented and utilized space in which to create multiple options for mutual gain."[67]

V. RESONANCES, EXPERIENCES, AND AFFINITIES

Professor Menkel-Meadow cautions that Western conflict resolution theories may not work across multiple domains.[68] She has doubts about the "exportation" of American-style dispute resolution, but does not accept the theory that such exportation is "always wrong and imperialistic."[69] Other scholars in the field of comparative dispute resolution have observed that comparisons can be misleading and have warned, for example, against comparing South Africa to Northern Ireland regarding the question of whether societal transformation is possible.[70]

Reflecting on Professor Menkel-Meadow's "exportation" skepticism, we question the use of the term "exportation" in the context of this discussion and rather suggest thinking about the roles that affinity and resonance play. Even though cultures and context may differ, there are affinities that cross national borders, cultures, and boundaries. Affinity and resonance are fundamental concepts among self-help groups in the domestic sphere who have suffered through incredible conflict, difficulty, and pain. They are also often shared across boundaries by people who are affected by and genuinely seeking ways out of conflict. Among these groups there is a heightened sensitivity to affinity with people who find themselves in the same situation, coupled with an eager ear for stories, theories, and techniques that resonate with their own experiences. This approach also places importance on context without detracting from learning lessons, drawing comparisons, and exploring similarity and difference to illuminate and inform decision-making. Thus, within an "affinity and resonance" framework we cautiously suggest that there are some aspects of problem-solving negotiation that

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66. There were many rows over implementation. The Assembly was suspended on several occasions. Elections that should have been held in May 2003, were suspended while further discussions took place.   BBC News, *Blair Postpones NI Elections* (May 1, 2003), *available at* http://news.bbc.co.uk/go/pr/fr/. The elections were finally held on November 26, 2003. *See* Glenn Frankel, *Election Sets Back Accord in N. Ireland*, WASH. POST, Nov. 29, 2003, at A1.

67. *See* Fearon & McWilliams, *supra* note 37, at 1271.

68. Menkel-Meadow, *Correspondences and Contradictions, supra* note 2, at 324.

69. *Id.* at 325.

70. *See, e.g.*, John McGarry, *Political Settlements in Northern Ireland and South Africa*, Political Studies, XLVI, 853-70 (1998). Hazel Markus also points out in her critique of Fisher and Ury's GETTING TO YES, *supra* note 31, that conflict is configured differently and modes of conflict resolution preferred by cultural groups in other social contexts may differ from the European American perspective of conflict. *See* Hazel Rose Markus & Leah R. Lin, *Conflictways: Cultural Diversity in the Meanings and Practices of Conflict, in* MELISSA L. NELKIN, UNDERSTANDING NEGOTIATION 34 (2001).

may be useful across domains and provide workable principles applicable in other situations of intractable conflict. These concepts relate to inclusion, trust, and relationship building.

A. Inclusion

We agree with Professor Menkel-Meadow's observation regarding the predominance of two-party negotiation models in the formation of dispute resolution theory and practice.[71] However, we suggest that more attention needs to be paid to the role and dynamics of multi-party negotiations, particularly in situations of intractable conflict. This is true, not simply for learning more about managing process issues, but also to gain insights on the challenge of ensuring the sustainability of any agreement reached in negotiations. Inclusion is a key principle that contributes to long-term durability of a negotiated agreement. As the experience of the Northern Ireland peace talks has shown, it is a principle that makes a difference; previous negotiations had failed in Northern Ireland because of their exclusive nature. The inclusion of additional political parties removed some of the barriers to trust, enhanced the process of relationship-building, and motivated parties to concentrate on crafting solutions to shared problems.

Professor Menkel-Meadow also observes new approaches and innovation in conflict resolution coming from the NGO sector.[72] This resonates with the Northern Ireland experience where the engagement of civic leaders and the public as stakeholders in the outcome helped the parties to share ownership and responsibility for the future—even if their particular goals were not always achieved. The importance of including non-political actors—civic leaders and community organizers—in public negotiation processes leads to a greater focus on the role of women who are most often found in these sectors and greater considerations of how they may be included in formal negotiation processes.[73]

Professor Menkel-Meadow raises a question about the tension between a focus on the past, particularly on matters of accountability and justice, and an eye on the future.[74] She hints that a way of managing this tension might be the use of a practice adopted by the Women's Coalition, moving beyond self-needs to articulating communal and societal needs such as social justice.[75] An inclusive and comprehensive agenda, formulated through an inclusive process, is the basic requirement for reaching a forward-looking outcome based on new arrangements

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71. *See* Menkel-Meadow, *Correspondences and Contradictions, supra* note 2, at 330-33.

72. *Id.* at 340.

73. Using the examples of the United States and the European Union, it becomes clear that women's access to political decision-making is a common topic, but rarely an issue in situations of conflict in which these governments intervene. We need to consider what responsibility the United States and the European Union's global strategists, peripatetic negotiators and intervention delegations have to sufficiently and prominently include women participants so that "political democracy" means women *and* men at the negotiating table. *See* Bronagh Hinds, Moving the Agenda Globally 10 (Feb. 2000) (unpublished paper from Bejiing + 5 Pacific Region Conference) (on file with authors).

74. Menkel-Meadow, *Correspondences and Contradictions, supra* note 2, at 338.

75. *Id.* at 338-39. Entering the negotiations with a commitment to the principles of inclusion, equality, and human rights gave the Coalition a yardstick by which to judge success.

and promising eradication of old injustices.[76]   In short, properly mediated inclusion has greater possibility to lead to a sustainable outcome because all interests have been given the opportunity to be part of framing the future.

B. Trust and Relationship Building

In societies afflicted by intractable conflict, negotiation is usually only the start of a longer-term process that includes several separate and overlapping stages: negotiation, agreement, implementation, transition from conflict, and transformation of society.[77]

In our view, trust is overrated as a *starting* point for negotiations and in some cases it can be used as a stalling mechanism to delay the onset of negotiations. In situations of intractable conflict, particularly where violence has been part of the conflict, it is unreasonable to expect that parties will come to the table with any developed sense of trust.   Experience in Northern Ireland suggests that trust is important not in *beginning* a negotiation but in *concluding* an agreement and particularly in sustaining delivery.[78]

Trust is a critical value at the implementation stage of negotiation, an area which is still underdeveloped in our view.[79]   Those who enter negotiations with fixed bargaining positions, a practice that is particularly deep-rooted in a long-running conflict, have little time or patience to focus on learning new processes and dynamics, even when a negotiation is managed in a manner that leads them halfway through this learning process.   When content outcome is prized above relationships or joint ownership and the resulting agreement is then sold to supporters as a "win" over the other side, the cycle of positional bargaining continues.

To the extent that problem-solving negotiation processes create space for trust to develop, it moves the parties away from the positional bargaining cycle. It also offers better prospects for developing and refining operating principles to guide in the implementation of an agreement. Trust can be developed through confidence-building measures such as demonstrating integrity and respect for others, making and keeping promises, taking risks, and experiencing reciprocation in kind. Agreements will be tested in the implementation stage and it is here that the presence or absence of trust development may make a critical difference. We suggest

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76. The Women's Coalition found that one way of helping others to square the circle was to contribute working papers based on combined interests and needs rather than traditional combative positions. When negotiations are based on a comprehensive, rather than exclusive agenda, and principles, such as inclusion, equality, and human rights, are used to "proof" proposals, there is greater possibility that the outcome can incorporate acknowledgment of past grievances within a more universal perspective that delivers an agreement that is "forward looking" in protections and provisions.

77. As a practical matter, informal negotiation frequently continues between those who agree and those who do not, and between former, and some would say still current, opponents who find themselves on the same side of the agreement.

78. For example, in the case of Northern Ireland, the Agreement envisaged the involvement in government of a party who disagreed with the outcome of the negotiations and tried its utmost to have the Agreement rejected by the people of Northern Ireland. Thus the end of formal negotiations, even with an Agreement in place with the support of more than 71 percent of the population, is not the end of conflict.

79. Questions for future research include: How are the terms of an agreement communicated to the public? How is constituency and public support gained? How are trust values sustained in relation to the long-term durability of an agreement?

that greater attention needs to be given in negotiations to how parties intend to manage a process of implementation, including continuing to build relationships and consolidate trust.

VI. CONCLUDING THOUGHTS

The experience of the Women's Coalition in writing its chapter of the Northern Ireland peace story suggests two aspects of problem-solving processes that have resonance for scholars and practitioners in the field of comparative dispute resolution. First, when a negotiation process is *structured* in an inclusive fashion, so that all stakeholders have a meaningful ability to participate, trust begins to develop and there is greater potential for generating mutually beneficial options and realizing mutual gains. When that negotiation process is then *perceived* publicly as being inclusive of all stakeholders, there is a greater likelihood of community acceptance of the outcome. Second, when dealing with conflict of an intractable nature, a commitment to relationship-building goes a long way towards developing the strategic alliances with diverse communities that are essential to insuring the long-term durability of negotiated agreements.

The Women's Coalition's consistent attention to process and relationships during the peace process negotiations marked a significant departure from traditional, positional-based bargaining that had characterized politics in Northern Ireland. The significance of process concerns in this case study suggests that problem-solving negotiation theory may be informed by insights from procedural justice studies,[80] and perhaps at the same time offer new perspectives on developments in that field.

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80. *See, e.g.*, Nancy A. Welsh, *Making Deals in Court-Connected Mediation: What's Justice Got To Do With It?* 79 WASH. U. L.Q. 787 (2001).