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# *On Teaching*

## The Next Generation: Creating New Peace Processes in the Middle East

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*This essay describes how Israeli students in a course on mediation and consensus building taught in an Israeli university law department by an American law professor and an Israeli instructor analyzed and studied the conflict in the Middle East. It describes the suggestions they made for process design for the next stages of whatever peace process might emerge for the region. In light of the students' suggestions, the authors present some ideas as to how different approaches to reconciliation and peace might be used, managed, and coordinated.*

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**Key words:** negotiation, conflict resolution, Middle East peace processes, pedagogy, mediation, consensus building, multilayered dispute resolution processes.

### **Introduction: Our Process**

Those who are familiar with the details of the conflict in the Middle East often claim that, in comparison to many other intractable disputes,

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possible “solutions” to the Israeli–Palestinian conflict seem comparatively obvious.<sup>1</sup> The process for achieving these solutions, however, remains elusive (Friedman 1989; Rabinovich 2004; Ross 2004; Korobkin and Zasloff 2005; Carter 2006; Matz 2006, 2008; Kurtzer and Lasensky 2008; Miller 2008b). Nonetheless, many negotiators, diplomats, politicians, non-governmental organizations (NGOs), and ordinary and extraordinary people continue to commit much of their lives and work efforts to seeking a lasting peace for the region and its diverse and long-suffering population. Perhaps listening to the ideas of those who live in the conflict everyday can bring us a step further in this long search for a durable solution.<sup>2</sup>

This essay tells three stories. In the first, we describe modern experiential methods for teaching new ways to negotiate and mediate to a new generation of actors, Israelis and Arabs who live in close proximity and, in some situations, learn together. In the second, we describe how this new generation sees the issues underlying the conflict and what their suggestions for reconciliation and process design might be after some education in the field of conflict resolution and dispute system design (Bordone Forthcoming). In the concluding section, we describe how different forms of reconciliation and peace efforts (formal, diplomatic, strategic, instrumental, and *transactional* as well as *transformative*, individual, and interpersonal) might be used, managed, and coordinated. We suggest in this section that formal transactional and diplomatic negotiations must be linked to more on-the-ground grassroots efforts at conflict resolution and peace process design.

We believe that leadership is, of course, necessary to generate the ideas, formal agreements, and implementable structures for peace and reconciliation, but that without the participation of the people who are affected by those leadership decisions, the commitment to eliminate conflict will prove insufficient and ultimately, unenforceable.

As Jurgen Habermas (1996) argued, without the full deliberative participation of those who are affected by decisions made in their name for social control and governance, norms and decisions made “from above” will lack legitimacy and adherence. Unlike Habermas, however, we do not believe that the deliberations needed to effectuate peace are purely rational and “principled” or reason based. Peaceful coexistence in the Middle East, we argue, will require not only reason and principle but also instrumental bargaining and trading as well as transformative understanding and empathy (Menkel-Meadow 2005).

In this essay, we address a form of *transformative process*, one that occurred in a classroom, and describe what we learned from this experience that these different kinds of transformative processes should be engaged in at all levels, with room for coordination and communication with the more formal transactional processes.

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## Experiential Education in Conflict Resolution in Israel

Every semester, the Haifa law faculty of the University of Haifa invites specialists in various fields to teach condensed courses in their field of expertise, to expose students to new practices, theories, and learning experiences (see Edrey 2002). These courses are typically taught to a relatively small group of students that includes both Israeli (including Jewish and Arab)<sup>3</sup> students and sometimes foreign students as well.

We taught an intensive mediation and consensus-building processes course there in spring 2008 in meetings over a three-week period in sessions of three and a half hours per day. Twenty-five students enrolled in the class, although fewer (twenty-two) completed all the course requirements because several were full-time auditors. All students spoke English with varying degrees of proficiency and all participated in role plays, simulations, and class discussions. Sixteen of the students were men and six were women. Approximately twelve of the students were native born Israelis, four were immigrants from the former Soviet Union (as is the coauthor of this article), and two were foreign students from Brazil. All the Israeli Jews had served in the army; two of the women had scientific Ph.D.s.<sup>4</sup>

We constructed the course according to principles of active learning and integration of theory and practice, dedicating a substantial portion of class time to open discussion with questions evenly referred from the instructors to the students, and from students to instructors. We presented critical review of the doctrines, theories, and practice protocols of negotiation, mediation, consensus building, facilitation, and conflict resolution. The students engaged in several exercises and simulations, acting both as parties and as mediators, and watched films and demonstrations of mediation processes in a variety of contexts. In addition, we reviewed several important case studies of actual mediations and consensus building events, including one which had taken place not far from the University of Haifa (Levine 2005).

We hoped to facilitate a process of “transformative learning” in the class (Elkins 2003). We designed the course to expose students to new perspectives and theories of conflict resolution, including many different models of mediation, including facilitative, evaluative, transformational, and narrative. We encouraged open and critical discussion of their reactions and reflections on these new perspectives in light of their previous assumptions and perceptions. We also gave the students a genuine problem, requiring them to create action plans to implement or challenge the new insights they had acquired.<sup>5</sup> This approach is now commonly used in legal education in the United States in a variety of “clinical” settings, as well as in dispute resolution courses in a variety of different professional training programs (e.g., business, planning, international relations, and public policy).

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We administered an anonymously graded take-home exam that required students to answer questions on mediation and conflict resolution theories, laws<sup>6</sup> and rules, ethics, policies, and practices. We also asked them to answer an additional bonus question that required them to suggest a possible process for handling the Israel-Palestine conflict, specifying participating parties, forms of process, structures of meetings, location, and timing. (At the time of the course there was no existing ongoing formal peace process, although Israeli Prime Minister Ehud Olmert and Palestinian leader Mahmoud Abbas were meeting privately.) This kind of question followed the course's tutorial methods by involving the students in the learning process and encouraging them to creatively apply their new skills and insights to solve a genuine problem relevant to their own lives. Because the course dealt with mediation and consensus building, as *processes* for managing conflicts (the "how" of conflict resolution versus the "what" of conflict resolution<sup>7</sup>), the students were asked to focus on suggesting and designing processes, not substantive solutions.

All but one of the students who submitted an exam chose to answer the bonus question and to give it serious attention while completing the rest of the exam in a limited period of time. This gives us hope that experiential legal education with engagement and feedback can encourage greater student involvement in the learning process and that real involvement on this level might encourage wider political participation by actively educated and engaged students. We have since learned that several of the students who took this course have become actively engaged in peace meetings and discussions.

We conducted the course in the manner described above because we believe that reflective practice can help bridge the gap between the personal and the political, and that attitudes toward conflict, which are socially created and embedded (Taylor and Pettit 2007), can be affected by a structured educational experience, somewhat apart from national, political, social, and family influences. Hence, we assumed that a change in attitudes and beliefs can, in itself, bring people closer to seeing possible solutions, if not resolution. Similarly, structured social learning exercises and problem-solving workshops have been used in more formal settings to take political elites and opinion framers outside of their usual "comfort zones" (see, e.g., Kelman 1993, 1995) and have been applied in actual formal dispute resolution exercises in the Israel-Palestine conflict at more micro levels of conflict (see, e.g., Levine 2005; Babbitt et al. 2009).

In this essay, we explore the attitudes our students demonstrated after formal instruction in conflict resolution and ask whether we have cause for feeling optimistic that attitudes among younger Israeli citizens may be changing. We acknowledge the limitations of drawing empirical conclusions from such a small and specialized sample, but nonetheless, we believe

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our experience with these students indicates anecdotally a possible reduction of some of the confrontational tendencies that have often dominated the public debate in Israel.

In analyzing the students' ideas, we have been guided by the underlying ideas of action research. We observed how people can reflect on and change their views of their own situations and how they can use their new insights to communicate to other interested people (see Whitehead 2009). We treat the process design suggested by the students as a proposed course of action, which might lead the parties to reflect differently on their behavior in the future. Among conflict educators and practitioners, evaluation of such efforts to teach, promote, and measure attitude change has remained elusive (Matz 1991; Kelman 2008).

By focusing on the students' suggestions for possible process design options — following their critical engagement with new concepts — we further suggest that analogies may be drawn from “bottom up” class participation to “bottom up” engaged political participation among a new generation of conflict-resolution-educated citizens and potential leaders (Menkel-Meadow 2005).<sup>8</sup>

## **Process Design for a New Generation**

During the course, we primarily focused on using mediation and consensus building in conventional legal, business, family, and community disputes, but during class discussions and breaks, the discussion often turned to Israeli-Palestinian peace processes, and the relevance the course principles had to this conflict began to emerge.<sup>9</sup>

Experts on the conflict have long argued that reasonable, plausible resolutions of the conflict are both within reach, but still, their achievement eludes us (Mnookin 2005). Although we cannot fully explain all the obstacles to peace, we believe that some blames lie in the attitudes of the parties who cling to their own versions of historical truths and narratives of victimization that both parties have developed over long years of war and negotiation failure.

In long and intractable conflicts, such as in the Middle East conflict, an “ethos of conflict” tends to evolve. An ethos of conflict describes a structure of social beliefs regarding the just nature of one's own goals and the delegitimization of the other side's concerns. Many Israelis, for example, justify their position based on the Jews' ancient biblical ties to the land, their near destruction during the Holocaust, the aggression of neighboring Arab countries, and as a necessary response to continuing acts of Palestinian terrorism (Kelman 2001; Oren, Bar-Tal, and David 2004). Palestinians counter with their own stories of victimization: the dispossession of their homes and lands in 1948, their mistreatment in refugee camps and Israeli prisons, and human rights violations in the Israeli-occupied territories (Makdisi 2008; Ronen 2008; Shiny 2008).

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Thus, two historical narratives of victimization — with their accompanying narratives of the other side’s demonization — underlie the present struggles over such concrete issues as land, including the sovereignty of the “capital” city of Jerusalem, self-determination, human rights, economic development, and peace and security with seemingly little hope of reconciliation or integration (Rotberg 2006).

Recently, attitudes have begun to shift among some Israelis, as shown by the removal of negative images of Arabs from the school textbooks, the arrival of a wave of “new historians” who present a more balanced picture of the founding Zionist ethos, and changes in the academic discourse about the establishment of the state of Israel and its impact on the Palestinians. More recently, it seems that some Israeli settlers in the occupied West Bank now think that it might be time to abandon their settlements and return to pre-1967 borders (Bronner 2008). Surveys of public opinion have shown a decline in negative perceptions of Palestinians and higher rates of acceptance of the idea of giving up territories in exchange for peace. (This essay was substantially completed before the end of the December 2008 cease-fire and subsequent military action in Gaza, which, although now concluded, has probably changed both Israeli and Palestinian attitudes once again.) We believe that these shifts in attitude provide opportunities to conduct new peace processes with a greater emphasis on achieving understanding, acceptance, coexistence, and a greater likelihood of generating better outcomes.

We asked our students to design the “next stages” of the Israeli-Palestinian peace process. We have analyzed their answers to see:

- what attitudinal changes they revealed;
- what, in the students’ opinions, prevents Israelis and Palestinians from achieving workable and lasting solutions; and
- what processes the students found most promising.

We looked for patterns, as well as for unique, idiosyncratic, and “outlier” suggestions.

This was an optional exercise and bore no relation at all to grades received in the course. All proposals for a peace process design were submitted anonymously and students could and did express skepticism about whether there should, in fact, be further negotiations and engagements with the other side at all. (At least one student expressed strong commitment to this view; several others expressed skepticism that any process design would be ultimately successful but still chose to propose a road map for such a process.)

### ***Student Responses***

We start with what our students perceived to be the main problems of the current peace process:

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- the use of what they called *inappropriate third parties*, which includes, in their opinions, both particular individuals and more significant high-level intervenors, such as the United States (see Miller 2008b);
  - *lack of effective leadership*; and
  - *lack of trust* between the parties.

First, many of the students suggested that an American mediator or representative would not be the appropriate third party to be involved in the process. Some students expressed concerns that American involvement puts too much pressure on the parties and prevents truly voluntary participation. Americans are perceived as biased toward the Israeli side, a perception that hinders their attempts at building trust among Palestinians. We find this to be an interesting finding when considered in light of the recent spate of books and articles suggesting that the United States needs to be “tougher” on both sides to “force” more agreements and concessions (see Matz 2008). (We believe that if we asked the question today, the change of leadership in the United States from President George W. Bush to President Barack Obama might have affected the students’ answers. As of this writing, Senator George Mitchell, one of the successful mediators of the Northern Ireland Easter Peace Accord (Mitchell, 1999), has been appointed special envoy for Middle East relations and has begun meetings in the region with representatives of many sides of the conflict.)

The students also responded that they see leadership on both sides as ineffective because the leaders are not perceived to be representing the genuine needs and interests of the diversity of the populations. Many students thought that current leaders do not enjoy the legitimacy and trust necessary to enable them to make painful sacrifices and to enforce the promises they need to make to the other side (e.g., land exchanges, removal of settlements, and unified and effective security). Professional commentators have called this a “leadership deficit.”

The third and perhaps most acute problem the students identified is the lack of trust between the parties that has developed over a long period of conflict and which was exacerbated by the failure of the Oslo Accords and of the Camp David II negotiations, which were followed by the immediate eruption of violence and the Second Intifada, an uprising of Palestinians in the occupied territories that began in 2000. (This lack of trust has only intensified since the December 2008 actions in Gaza and the recent Israeli election in which the hard-line Likud party currently dominates the governing coalition produced by a complex and inconclusive election.)

The last two problems are clearly interconnected. A lack of trust in leadership generates a lack of trust in the ability of leaders to enforce sustainable solutions and also inhibits efforts to establish trust throughout society. Our students considered how peace processes work at multiple

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levels — at the formal, transactional (Miller 2008b), instrumental, governmental, and diplomatic levels and at the informal “on-the-ground,” person-to-person level.

Interestingly, our students’ presentation of the barriers to negotiated solutions were balanced, with no laying of excessive blame on one or the other side. Apparently, our students did not suffer from reactive devaluation or optimistic overconfidence (Arrow et al. 1995), which were two concepts they studied in the course.

Most of the students proposed a *consensus-building* process that would

- identify all stakeholders,
- map their needs and interests relevant to the process, and
- be managed by skilled third-party facilitators/mediators working to resolve *concrete issues and problems* and to facilitate *dialogue* between individuals and particular interest groups.

Thus, the process envisioned was more open, participatory, and complex than current official (and unofficial) peace efforts have been. As in many conflict-resolution settings, the question of transparency and publicity as opposed to confidential, more secret, and private negotiations was controversial (see, e.g., Susskind and Field 1996; Kelman 2008; Babbitt et al. 2009).

As to the *identity* of the third party, the suggestions varied from a professional mediator to a representative of a country not identified with either of the parties similar to the process at Oslo, which was facilitated by a Norwegian delegation, to comediation by Israeli and Palestinian mediators. Another often mentioned proposal was to match particular third parties to a particular specific issue, suggesting “fractionating” issues to achieve success on some issues separately and incrementally to build trust and avoid the dangers of finding one omnibus solution. Many students suggested that it was important to include authoritative representatives from the Arab world when dealing with sensitive issues, both for credibility and legitimacy, and the ability to promise and enforce agreements. The students recognized this as a difficult *representational issue* at the moment because of leadership deficits and factional strife among the widely divergent parties in Israel; the two major Palestinian parties, Fatah and Hamas; and within many of the neighboring Arab countries.

Regarding the problem of ineffective leadership, the most frequently suggested proposal was to expand and diversify the scope of participants to include representatives of political opposition groups, local leaders, professionals in different fields, and youth groups. These proposals assumed, sometimes explicitly, that most “ordinary” people on both sides want to live in peace and security and that even if leaders cannot reach agreements at

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the national level, those lay people could reach agreements on some practical issues concerning everyday life. The students proposed that ordinary people from all sides be encouraged to meet because informal contact and structured conversation can promote “transformative” processes of understanding and knowledge of commonalities that disappear from the official political discourse. These small spaces of “cooperations” would create, in the words of one of our students, “islands of sanity” for building places of “normality” that could eventually lead to some form of reconciliation.

Many of the students described this as the best way to build trust, engage in joint activities, learn to work together, and promote stability, well-being, financial collaboration, and prosperity on both sides. Eventually, they argued, peace would come from *increased social and informal interaction*. Their responses indicate their awareness of the many groups, both in Israel and supported by other countries, who seek to pursue such interchanges, including groups promoting cross-cultural sports and arts events, educational and cultural exchanges, and economic enterprise (e.g., the Search for Common Ground, the Jerusalem Project, and Seeds of Peace), with varying degrees of success. Such informal interactions have become considerably more difficult in recent years, however, because the Second Intifada has heightened security at checkpoints and has diminished cooperation between Israelis and Palestinians in the West Bank, Gaza, and Israel.

The students who addressed the problem of *competing historical narratives* suggested that both sides should recognize the legitimacy of the other side’s narrative and suffering, and then move on to find new ways to live together in the future, without necessarily achieving full “agreement” about past events (i.e., teach both narratives in schools without resolving or choosing one as definitive). This could be accompanied by some recognition of historical rights, *creation of new “joint” historical narratives*, while recognizing that the ability to implement all claims and rights fully would be limited for practical and logistical, as well as ideological, reasons. (Such a “realistic” approach can be seen in South Africa’s use of a peace and reconciliation process in the wake of the end of apartheid as well as in the Canadian and Australian governments’ recent “apologies” to indigenous communities. In South Africa, Canada, and Australia, some compensation was provided to victims, but there was little land reform. These are examples of coming to terms with the past to achieve peace without full justice.)

Students chose *recognition of mutual “rights to exist”* at the rhetorical level as the optimal solution for both parties. The deferral of the practical details of coexistence pending this mutual recognition is, unfortunately, what derailed the Oslo process (Miller 2008b). But our students were more hopeful that practical solutions could be found to these issues once a mutual “right to exist” framework could be agreed upon. Rhetoric

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acknowledging mutual rights to exist and recognition of a “two-state solution” have increased in both formal and informal discourse recently.

The students expressed concern that any process would be long and could not be rushed (as many believe the 2000 Camp David peace talks were, with false, not organic, deadlines set by two public officials who were leaving office). They wrote that a long mutual education process to generate long-term changes of attitudes toward those on the other side is a key to a lasting peace. We found cause for optimism because we could detect in the students’ answers changes in attitude that have been widely reported in recent public opinion polls from the general populations on both sides. Our students suggested, for example, that young Israelis learn Arabic, as well as Hebrew and English (currently the preferred second language), so that negotiations, as well as everyday life, would be truly bilingual (see Pittinsky, Ratcliff, and Maruskin 2008).<sup>10</sup> Most students indicated that they believed more interaction with their Palestinian counterparts would change attitudes positively on both sides, which is consistent with sociological and psychological research indicating that familiarity can breed tolerance (the “contact hypothesis” of human relations; see, e.g., Rose, Atelsek, and McDonald 1953; cf. Amir 1969). Some expressed the belief that already existing indigenous conflict-resolution processes could be harnessed to larger conflict resolution processes for both smaller and larger conflicts on the borders and in internal conflicts among Israeli Arabs and Jews (see, e.g., Blum 2007; Gellman and Vuinovich 2008; Babbitt et al. 2009).

We have sorted the various suggestions made by students into six categories. (These categories indicate that the students learned that conflict resolution processes are best planned for and conducted in stages.)

*Before the Process.* Suggestions of actions to be taken before the beginning of the process mostly involved identifying all stakeholders and mapping their needs and goals, initiating goodwill acts (e.g., gradually transferring security to Palestinian security authorities or even dramatic preprocess gestures, such as Egyptian President Anwar Sadat’s visit to Israel before the first Camp David accords), convening jointly on economic interdependence issues, jointly designing the peace process, and, finally, setting realistic targets and goals before any formal meeting.

*Process and Techniques.* The suggestions in this category involved the settings for the process and the techniques to be used to promote trust and understanding. Students suggested a neutral and nurturing setting in which the parties would feel at ease and generous and suggested mixed seating arrangements to facilitate interaction and relationship building. To set the emotional tone, the suggestions ranged from beginning with a film demonstrating the sadness and pain of loss on both

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sides (see, e.g., Avni and Bacha 2006; Riklis 2008) to mutual study of case analyses of other peace or postconflict processes (such as Northern Ireland or South Africa). Other suggestions included giving the parties separate activities to work on to reduce tension and build cooperation.

Regarding techniques, the students suggested using shuttle diplomacy and caucusing to make sure each party recognizes the cost of failure, reaching small agreements and putting as many issues on the table as possible for value creation purposes, and, finally, one student suggested using the “toothbrush method,” which means not allowing the parties to leave before an agreement is reached.<sup>11</sup>

*Parties.* Students suggested that all stakeholders be identified and that lay people with common interests (students, feminists, youth, musicians, artists, workers, mothers, activists, and other interest groups) be involved. Other suggestions were to summon different stakeholders according to the particular issue at hand (e.g., water, security, right of return, cultural and educational exchanges, economic development, and governance of Jerusalem) and to break down into smaller groups to conduct mini-mediations on particular issues, with appropriate representation from all interested parties (as in managed negotiated rule-making settings in the United States; see Susskind, McKernan, and Thomas-Larmer 1999).

*Mediators.* Several students wrote that the appropriate mediator should be neither a celebrity nor the leader of a powerful country who could be perceived as biased. Students highlighted the need for having a truly “neutral” mediator, and some suggested using comediation or even a team of mediators. Others suggested that Arab leaders from countries such as Saudi Arabia should participate either in mediation itself or in the choice of mediators, to give greater legitimacy to the process, as in the current “Arab peace proposal” suggested by Saudi Arabia.

*Brainstorming New Solutions for Old Problems.* The issue of *conflicting historical narratives* proved to be the most sensitive one. Students recommended the brainstorming process; topics included acknowledging each others’ historical truths, ideological acknowledgement (recognition of Israel’s right to exist), setting objective criteria to be used to resolve particular problems, and establishing an unbiased third party to interpret and monitor the measurement of those criteria (such as treaties, international laws, specialized courts or tribunals; see Blum 2007). Some students suggested resolving some of the historical property issues by paying compensation to both Palestinians and to Israeli settlers

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who leave the occupied territories (Mnookin and Eiran 2005) and also to neighboring countries that have absorbed refugees.<sup>12</sup>

*Concurrent Peace and Reconciliation Processes.* These suggestions focused mostly on education, beginning with the recommendation that students be required to learn both Hebrew and Arabic, and that Arab culture and history be taught in Israeli schools (sewing “seeds of sanity,” in the words of one of our students). Student responses also considered education more broadly, suggesting processes that include developing mutual projects and trying to make Israel a truly “bicultural” country.

We note that the students did not always agree on similar processes. Some focused on reorienting the work of conventional leaders in peace negotiations, while others wanted to banish official or governmental leaders and focus their attentions on processes for on-the-ground, person-to-person-oriented peace processes. One conclusion that emerges from their suggestions (and from current conditions in Israel and Palestine) is that both kinds of processes — conventional diplomatic and informal contact efforts — will be necessary. How to implement simultaneous, multiple peace processes at multiple levels, whether coordinated or not, remains an open question for peace process design.

Because of the students’ exposure to participatory legal education and because personal acquaintance was mentioned over and over as a key ingredient in the process of trust building, we feel no doubt that efforts to integrate more informal meetings and participatory classes of this kind with formal peace processes is a necessary step on the road toward achieving a sustainable peace. In the final section of this article, we discuss how these more “humanistic” processes could be connected to the hard work of formal peace negotiations.

### **Connecting the Transformational and the Instrumental**

Soon after Carrie Menkel-Meadow returned to the United States, she was consulted by a variety of different groups about how different kinds of peace and reconciliation processes might be brought together. In meetings with officials in the U.S. State Department and the Israeli government, Washington, DC-based peace groups, and the Parents’ Circle-Families Forum, an organization comprising five hundred Israeli and Palestinian families working together to achieve peace and reconciliation through their shared experience of bereavement and the use of narrative to educate both young and old Israelis and Palestinians (Avni and Bacha 2006), the process question of “what to do next” in the stalled peace process was raised at every level. The higher the level of official power the person held, the greater was the pessimism that he or she expressed. But our students gave us hope that existing stories

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can be transformed into “bridging narratives” so that people living in the conflict would be more willing to at least approach those on the other side for the common purpose of promoting understanding and ending violence.

The challenge for those of us interested in promoting peace in this seemingly intractable situation is how to pursue peace process design at realistic, but nonetheless transformative, levels at the same time that formal, diplomatic, and transactional negotiations continue. Efforts to bring Israeli and Palestinian children together in recent decades, such as the Seeds of Peace camp program and the film project called *Promises* (Goldberg, Bolado, and Shapiro 2001), suffered setbacks following the Second Intifada and, more recently, the Gaza war as contacts across borders became more challenging.

We do not, in this essay, analyze in great depth the difficult subjects of substantive solutions. While a two-state solution seems obvious to so many people, many on all sides — there are more than two sides if one considers the many factions among both Israelis and Palestinians as well as interested third parties — cling to a one-state view. Others believe that solutions will come only after unbearable pain or a “hurting stalemate” (Zartman 2003) forces negotiation and cease-fire, if not peace, agreements. Our own view is that there is no optimal level of conflict for producing negotiation. If there is too little conflict and violence, there may be little incentive to negotiate and change the *status quo*, but when there is too much conflict (think about recent civil wars and genocides in Eastern Europe and Africa), parties feel they have “nothing left to lose,” reducing any motivation to engage in peace talks and power sharing.

We do not know whether new political regimes will change the official structure of peace talks and dialogue. But we do think that perhaps more quiet, person-to-person, task-based, on-the-ground efforts at human understanding and the sharing of narratives can be more effectively implemented at all levels to demonstrate the human cost of continued conflict. As Robi Damelin, an Israeli member of the Parents Circle, has eloquently described the origins of her organization, “when they came to tell me that David (her son) had been killed,” she said to them, “You shall not take another life in my son’s name.”<sup>13</sup> And when her Palestinian partner in the organization, Ali Abu Awwad, who lost his brother, says, “We cannot end the pain, but we can end the hate,” there is not a dry eye in the room.

Our own experience was more modest but moving and instructive. At the end of a rigorous and difficult critique of the “softness” and mushiness of mediation and consensus-building processes in our class, two of the toughest Israeli students (Russian immigrants and army veterans) approached us. One had focused mostly on the economic efficiency of peaceful conflict resolution and saw its instrumental possibilities. The other had a big tear running down his cheek. “This course taught me to listen,” he said. “Last year I fought every day with one of my Arab friends (at the

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university) about the war in Lebanon [2006]. Now I know I need to stop and listen to his side of the story. We have all been told for so long we are right that we do not stop to hear the other side. I will try better to listen and to use what I have learned here.” For a teacher, it does not get much better than that — proof of how a human transformative experience can change how people approach each other.

The problems in Israel and Palestine are tough and ugly. Solutions will not come easily. Formal “transactional diplomacy” (Miller 2008a) will be absolutely necessary, and some sort of pressure may have to be applied, but even Track II diplomacy has lost some of its appeal following the failure of permanent agreements after the Oslo accords. We think and hope that it is also true that a younger generation, perhaps less burdened by the weight of history or perhaps better educated to live with the existence of more than one historical “truth,” may develop new processes for dialogue, human understanding, and, if not full reconciliation, at least peaceful coexistence.

We have both found parallels in our experiences as educators listening to our students from the “ground up,” with what leaders engaged in formal diplomatic processes might have to hear from their “ground up” constituencies (Liebman 2000). As clinical and experiential education in law and dispute resolution seeks to encourage learning from actual experience, from students, that is not dominated by didactic lectures, efforts at peace process design must integrate the experiences of the people who have suffered and who live with the conflict every day with the more formal processes that so far have been so unsuccessful. We fully recognize that some Palestinians and Israelis perceive that they have a stake in continuing the conflict, that they do not want peaceful coexistence or even postconflict existence. We also know that many NGOs and grassroots peace groups are themselves demeaned and minimized in formal political action and rhetoric. But we also know, as Margaret Mead once said so eloquently, “[n]ever doubt that a small group of thoughtful committed citizens can change the world; indeed, it’s the only thing that ever does.”

The next challenge of any peace process, we believe, is to connect those committed few who can promote the kind of dialogue our students advocated with those who have the “power” to make a sustainable peace. We are certain of only one thing: instrumental and formal negotiations must be accompanied by transformative human experiences at the individual and group levels. We hope these processes will be designed by a new generation, schooled in conflict resolution and with a desire to progress in more productive and participatory ways.

## NOTES

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1. The many issues dividing the Israeli state and its Palestinian members and neighbors include competing historical narratives, land claims, right of return, the status of Jerusalem, and occupation. Possible solutions include the shared sovereignty of Jerusalem, land exchanges, money payments for land, the “two-state” solution, self-determination, and shared security, see, for example, Kelman (2007).

2. This essay reports on the experiences of those in Israel. For at least some descriptions (there are many) of the lived experience of the conflict “on the other side”; see, for example, Karmi 2007, Makdisi (2008), and Riklis (2008).

3. The University of Haifa is probably the most integrated campus in Israel. It has Arab, Christian, Druze, and Jewish students, as well as Arab faculty. Our class, because it required English language proficiency, was not fully representative of the possible diversity in other classes.

4. Most of the students were in their twenties, but the two women with Ph.D.s were older, in their thirties, studying to change careers, and use law and science together — one of them planned to work in environmental projects. One professional mediator-lawyer attended the entire course as an active auditor and participant, and knew about how mediation was practiced in Israel. In addition, this mediator also personally experienced losses associated with the 2006 Lebanon-Israel war in which several locations in Haifa were bombed.

5. From this perspective, it is important to note that the class was given by an American law professor with a wide background in promoting experiential and participatory legal education — including both clinical education in process and dispute resolution in substance (Menkel-Meadow 2001, 2004) — in the United States and elsewhere to Israeli students assisted by an Israeli teaching assistant.

6. Israel has a mediation law that actually makes a mediation agreement enforceable in court similar to an arbitration award in the United States (Mironi 2008). In this legal development, Israel is arguably more advanced than the United States. In the United States, a mediation agreement is a contract not automatically enforceable with the equivalence of a judgment — a status reserved in American alternative dispute resolution to arbitration awards; see 9 U.S.C. § 9–11.

7. I am indebted to Jack Himmelstein of the Center for Understanding in Conflict and Amira Dotan of the Israeli Knesset for some of the conceptualization and process design for peace processes in the Middle East as we work together to reorient the goals and language of the peace process.

8. Israeli students were quite feisty and critical in their learning of conflict resolution theories and practices, often cynically observing that none of this “touchy-feely” approach to conflict resolution could work with such intractable conflicts as Israeli and Palestinian land, history, security, and identity issues. This was not a passively accepted or didactic teaching and learning exercise.

9. The senior author is indebted to a now deceased mentor, Janet Lederman (1969), a gestalt psychologist and educator who taught that to teach effectively, one should “keep the focus off the focus.” In other words, a skilled teacher allows his or her students to draw their own conclusions and learning from analogical settings that do not explicitly deal with what is problematic and difficult to confront directly. The “a-ha’s” that come from recognizing an insight from a different, but similar, situation can be profound. This is the principle that informs the use of other conflicts (e.g., Northern Ireland) in conflict resolution study and practice. In my view, looking at other conflicts, such as Northern Ireland, in the Israeli-Palestinian conflict is both useful and sometimes unproductive (“we are not them”). Here, ordinary legal, business, family, and community disputes were, for some, removed from the larger existential and geopolitical issues in the larger conflict, but students began to see uses and analogies from simple dispute resolution settings to the larger conflicts they were living with.

10. On a recent trip to Israel, author Menkel-Meadow attended several bilingual elementary schools that are being supported by the government, private fundraising, and parents’ groups.

11. This was the term the students assigned to a practice used in American courts to order parties to major litigation to come to a mediation with “their toothbrushes” to stay until an agreement has been reached, as was controversially employed in the Agent Orange litigation mediation (Schuck 1986).

12. Although compensation for lost land and the current demand for right of return seem so difficult, in fact, many other regimes of “restorative and retroactive justice” have been dealing with compensation for illegal confiscation of both real and personal property for some time; see, for example *weidergutmachung* in Germany, the Swiss banks and German insurance class action litigation in the United States (Eizenstadt 2004), land claims in Poland, and the U.S. Iranian Claims Tribunal. A World Bank-sponsored global recovered assets program to restore or otherwise compensate those who have lost property through illegal governmental regimes and dictatorships has also been proposed.

13. In recent years, many Israeli leaders and writers, including those in the Peace Now movement, have lost children and other relatives in the ongoing conflict and have eloquently continued to advocate for peace, de-occupation, and other reforms; among them is novelist David Grossman (see also Oz 1994).

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