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## We Can Work It Out

By Colin Rule

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“...there is no such thing as a conflict that can’t be ended. Conflicts are created, conducted, and sustained by human beings. They can be ended by human beings.”

—*Former senator and Northern Ireland peace negotiator George Mitchell*

When I was growing up, I remember encountering *The Morton Downey Jr. Show* for the first time. The syndicated television program centered around Downey, an irate, chain-smoking host in a cheap-looking television studio

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screaming at his audience and guests, generally working himself into a frenzy of anger about whatever outrage or hypocrisy was the chosen topic of the day. Downey would stalk the stage, tapping his ashes into a large silver ash-tray, occasionally blowing smoke into the face of one of his guests in order to rile them up. He'd accuse anyone who made the slightest progressive argument of being a "pab-lum-puking liberal" and would frequently interrupt others mid-sentence by shouting "ZIP IT!" into their faces from inches away. Often he'd urge his guests to fight with each other on stage, even goading them on several occasions to come to blows.

But the aspect of the show that really made an impression on me was the audience. His diehard fans referred to themselves as "Loudmouths." They loved everything about Downey's act. They'd bring homemade signs to his shows with slogans urging Downey on, trying to draw Downey's ire so he could deliver them a personal dressing-down. When Downey would go on a rant, they'd stand up and cheer—almost like spectators at a professional wrestling match. The camera would pan the faces of the smiling and elated audience members (many of them young white men) as Downey's rants escalated and the veins popped out of his forehead. They knew it was all staged (they must have known), but they clearly loved it. In interviews, they'd explain that they loved "The Mouth" because "he's not afraid to open his mouth ... he's not afraid of anybody."

For some reason, Downey's popularity profoundly disturbed me. I couldn't take more than 10 or 15 minutes of the show before I was extremely disquieted. What did it say about human nature that this man had such an audience? What was it about his absurd ranting that commanded such attention? But because it fascinated and horrified me in equal measure, I would flip over to it on occasion.

To me, Downey's ranting seemed like playing with fire. I was raised as a Unitarian Universalist and from my earliest days was surrounded by the community at First Unitarian Church in Dallas. I looked up to many of the adults in that church and saw a future for myself in their lives. Although Unitarianism is free from any prescribed belief system, the principles undergirding the religion—such as the inherent worth and dignity of every person; justice, equity, and compassion in human relations; acceptance of one another; understanding that everyone is on their own search for truth and meaning; and the shared goal of a world community with peace, liberty, and justice for all—made an early and indelible impression on me. Downey seemed to be entirely devoted to the opposite.

Unitarianism asks its members to figure out their own faith. In response, as I crafted my personal theology, I had little confidence that humans were anything other than the smartest monkeys around. We're all riding this little blue rock out in space for a fairly short period of time, trying to make sense of our existence and bring some meaning to our lives. We like to think of ourselves as reflections of the divine—enlightened and rational—but any cursory observation of current events provided me plenty of evidence of the limits of human enlightenment. People seemed to me easily confused, manipulated, and set against each other. My studies in school documented how hate and fear could easily metastasize into nationalism, jingoism, and racism. History offered a long parade of leaders who had appealed to the devils of human nature to achieve their (often selfish) ends. But there were others who spoke to the angels of our nature: the ones who led from love, which seemed to me to be the one thing that made our lives have meaning. I came to believe that there was no higher calling than working to promote understanding, tolerance, empathy,

and peace. We're all stuck on this rock together and none of us can leave, so we had better learn how to get along.

When I was in eighth grade I wrestled with depression, and at one point it got bad enough that I dropped out of school for a few months. In retrospect, I think I was uncomfortable in my own skin, and it was making me feel lonely and ostracized. But during this period I discovered a new community on a local bulletin board system (BBS) called "Eclectic." This was long before the Internet, so to access this community you had to dial up via a modem, and there were no pictures—only text. I spent many hours each day talking with my new friends on Eclectic about politics, books, philosophy—really anything that captured our attention. Eventually I asked my Mom if I could host a party for my online friends at our house and she said yes, not knowing anything about them but knowing I needed some social interaction.

When the day of the party finally arrived, I was nervous and excited. The first person who showed up was a 50-year-old Vietnam vet named Ed who arrived on his Harley dressed all in leather. The second person who showed up was a local nurse in her mid-30s named Cynthia. The third person was an engineer from Texas Instruments named Don. Thirteen-year-old me was (understandably) terrified, so after saying a quick hello I ran back to my room and hid while my mother served iced tea to them in our backyard. Eventually someone showed up who was sort of close to my age (probably 15), and we hung out together until the party ended and everyone went home. Then we all logged onto Eclectic and everyone raved about what a great time it had been. Remember, this was long before the Internet was associated with cyberbullying, or child exploitation, or racial intolerance. This community welcomed me at a time when I didn't feel as if I belonged anywhere. To a kid painfully aware of his awkward appearance, the connections on

Eclectic, which were intellect-to-intellect, felt almost more genuine and more authentic than in-person connections, inevitably influenced by first impressions around attractiveness and age.

By high school I had become a competitive debater. I uncovered my skill in public speaking as my shyness receded and my Eclectic friendships faded away, so by my junior year I was traveling around the country to dozens of debate tournaments, steeped in a community with its own elaborate terminology and ruthlessly competitive mindset. In a way, the debate community was similar to Eclectic, because debate is all about your mind; it doesn't matter what you look like, as long as your brain is sharp enough to make the winning argument. All the elite teams on the national circuit spent their summers at various institutes reading books, "cutting cards" (e.g., gathering evidence), and educating themselves about every nuance of the selected topic for the year, and I was no different. I gave myself to it fully.

In debate you never know what side of the argument you're going to be on. When you walk into the room, you know the general topic (maybe improving water quality, or improving agricultural yields, or improving retirement security), but you might be put into the position of arguing for ("political stability is good") or against ("political stability is bad") a proposition. The competition isn't about the truth, *per se*, it's about who is the better debater. We called debate "mental football." The goal was to win, to be more agile in your arguments, and to get the better of the other side. The truth was beside the point.

I remember one debate round in New York City where my opponents, an inexperienced team from Alaska, proposed an expansion of funding for the Peace Corps. In the first cross-examination I got them to admit that their proposal would increase economic growth, so I spent the

rest of the round speed-reading the various apocalyptic scenarios that would trigger, scenarios they did not have the evidence to rebut. We won the round handily, but I as I was packing up my boxes of evidence, I had a queasy feeling: I had always wanted to be a Peace Corps volunteer. I believed the Peace Corps was a good thing for the world. But I had just spent two hours using my talents to convince the judge otherwise.

Debate teaches very useful skills. There are many lives to be lived where you argue as your profession, and most of my fellow debaters assumed that future awaited them. Whether in the law, or politics, or even business, competition (“winning at all costs, truth be damned”) is at the heart of the job. I was recruited to some of the top programs in the country to continue my debate career, with the assurance that my continued success would open doors in these professional pathways. But I also had a sense that being a professional arguer wasn’t a career that would a) make me happy and well-adjusted, or b) make the world a better place. So I applied early to Haverford College, a small school that had no debate program. Acceptance by Haverford marked the end of my career as professional arguer (although my wife might say I have retained my amateur status).

I fully embraced Haverford from my first day on campus. I felt a resonance between my Unitarian values and the values of Haverford’s intentional community, which was influenced by its long association with the Quakers. Haverford’s honor code, all-campus plenary meetings, and decision-making by consensus felt like hard, noble, worthwhile work. I found that the public speaking skills I’d gotten from debate were useful for things other than just winning arguments. I was the kind of kid who loved staying up until the wee hours talking about the state of the world, exploring how we could promote more under-

standing, empathy, and respect. I even ran a weekly campus speaker series called Collection, in which I brought in a spectrum of speakers to explore those themes further. I focused my academic studies on becoming a peacemaker, even though at the time I was more than a little unclear about exactly what that meant.

I majored in political science (with a peace studies concentration), aiming to look at politics through the lenses of sociology, anthropology, and social psychology. During my sophomore year, I was lucky enough to gain a seat at a mediation training conducted on campus by the Friends Suburban Project, and I was immediately entranced; to me, mediation seemed like practical peacemaking, much more useful than the political science books I had been poring through in my intro poli-sci classes. After the training I went on to co-lead the campus mediation program (called Communication Outreach), which focused on disputes between students, faculty, and staff, and eventually I got elected president of the Student Council, where I got deeply involved with the big identity-based conflicts on campus. I took every class on dispute resolution I could in the course catalog, devouring any ADR-related book I could get my hands on. I wrote my thesis on student-run collegiate mediation programs, all the while sending out query letters to dozens of dispute resolution organizations, introducing myself and asking for information about their activities. (Note to the younger generation: this was what we did back before the Internet.)

One of the organizations I came across in my research was the National Institute for Dispute Resolution (NIDR) in Washington, DC. Since my fiancée was already in DC, during my senior year I had plenty of excuses to visit NIDR and do research in their (somewhat unorganized) library. After graduation I talked my way into an unpaid internship at NIDR, and a few months later a position opened up,

so they hired me as an Information Services Specialist (I guess so I could help organize the library). At NIDR I had a chance to work on many diverse projects that advanced ADR, including the “Building the Collaborative Community” and “Statewide Offices of Mediation” initiatives, two efforts aimed at expanding the use of dispute resolution in state and local government. I also handled all the external information requests, usually connecting unhappy lawyers with local mediation trainings. I attended my first ADR conferences during this period—the Society of Professionals in Dispute Resolution (SPIDR), the National Conference on Peacemaking and Conflict Resolution (NCPCR), the National Association for Mediation in Education (NAME), and the American Bar Association’s Dispute Resolution Section—and felt a real kinship with the community of mediators. I felt: these are my people. They are appealing to the angels of human nature. They are trying to get people to understand each other and trying to promote peace and empathy. I decided then that I wanted to spend my career working with and becoming one of them.

After NIDR my wife, Cheryl, and I signed on with the Peace Corps to be English teachers in Eritrea for two years. I joined the Peace Corps thinking I’d be a peacemaker but quickly realized once I arrived in the rural Horn of Africa that many more fundamental challenges, such as water, food, and education, demanded our attention before I’d be getting around to any hands-on peacemaking. I went to Eritrea expecting to teach and take care of people but really I spent all my time learning and being taken care of. Seeing my culture (and my privilege) from a distance fundamentally changed my view of the world. Even though my service was many years ago, I still feel a deep connection to Eritrea and Eritreans, and serving in the Peace Corps is one of the best things I’ve done with my life.



After we returned to the United States I signed on to get a master's from Harvard's Kennedy School of Government (in conflict resolution and technology, because I am a nerd) while also studying for an ADR certificate at night from the University of Massachusetts-Boston, where I did my first small claims mediations. The Kennedy School was light on conflict resolution courses, so I cross-registered at Tufts University's Fletcher School, Harvard's law school, and its business school to round out my dance card. I was an insufferable broken record with my fellow students, going on and on about the wonders of mediation and facilitation. In retrospect, I can see that I was chomping at the bit to get started as a full-time dispute resolver.

During my studies in Massachusetts I took a position at Larry Susskind's Consensus Building Institute (CBI), where I served as business manager for the newspaper *Consensus*. I thought that with a degree in public policy, multiparty dispute resolution and facilitation might be where I'd start to hone my skills. The work CBI did was very interesting and inspiring, but it was clear I'd have a hard time breaking in. Most of the facilitators at CBI (and other multiparty firms) already had doctorates or extensive scientific/technical backgrounds. I found myself handling administrative tasks (e.g., taking notes, managing mailing lists) instead of working with disputants.

One thing that had remained a constant since my Eclectic days was my love of technology. I never thought of technology as my profession, as it was more of a hobby. But here is the thing: every organization I worked with eventually started to give me more technical responsibilities because I enjoyed them, I was good at them, and I added value. One of the friends I had made at NIDR was John Helie, who started the online discussion forum Conflict-Net. Based on my Eclectic experience, I took to Conflict-Net right away. By the time I graduated from the Kennedy

School six years later, the Internet was in full bloom, and John had evolved ConflictNet into Mediate.com, which was the largest online resource for mediators. John and his co-founder Jim Melamed invited me to join Mediate.com as general manager, so I resigned from CBI and moved my career full-time onto the web.

Mediate.com gave me an excuse to keep attending all the ADR conferences as an exhibitor, but it also introduced me to many skilled practitioners, because I was building and maintaining their websites. Over the next few years I had a growing number of discussions around how one would go about resolving disputes over the Internet. eCommerce was expanding rapidly, which meant more disputes between people who had never met and would never meet in person. Just up the road at UMass-Amherst, Ethan Katsh had started a pilot program resolving disputes on eBay, and he had launched the Center for Information Technology and Dispute Resolution (CITDR). Because I was both a dispute resolution acolyte and a technology-loving nerd, this was right up my alley, so I got as involved as I could get. I started writing about ODR (articles on Mediate.com and on my new blog, ODRNews) and developing ODR software, and eventually I convinced the Mediate.com founders to let me spin off a new company focused on ODR, OnlineResolution.com. Online Resolution was one of the first ODR providers, and I hired a small team to figure out how to make the company work. I raised money from friends and family and got to work learning how to run a startup, mostly by trial and error.

Michael Lang, a giant in ADR, was working with me at Online Resolution designing our ODR training for mediators. At one point, I remember, he said he needed more resources to build out the curriculum he had designed. I looked up to Michael because of his ADR experience, but I

was the CEO, so I had to draw the line. We didn't have more resources we could devote to the effort, and I told him so.

After a lengthy negotiation over the telephone in which I didn't budge, Michael started chuckling. When I asked him what was so funny, he said (in an amiable tone), "Colin, I have shoes older than you."

"That may be, Michael," I said, "but you're still not getting any more money for training."

Michael got a contract with Jossey-Bass to write a book on ODR, and we all volunteered to help him. He gave us chapter assignments and told us to have drafts by the first of the year. Come the first of the year, none of us had written a word. As a result, Michael decided to cancel the contract. But I called him and asked if I could take over the project, and he graciously agreed to introduce me to his editor. That was how I got the chance to write my first book, *Online Dispute Resolution for Business* (Rule, 2002).

I did some work on multiparty disputes during these years, helping resolve complex environmental and energy-related disputes (such as the Cape Wind development in Nantucket Sound). I even brought ODR into the picture by co-creating the "Online Public Disputes Project," which applied ODR tools to multiparty, complex disputes. But I couldn't get any sustained traction in the multiparty space—it was too hard to break in. I also started to get calls from schools that were interested in having me teach: Ethan Katsh asked me to teach a course at UMass-Amherst, and I taught a full 40-hour course on ODR at Southern Methodist University.

In 2003, out of the blue, I got a phone call from a senior vice president at eBay. He had found my book on Google, and he wanted to talk to me about coming to Silicon Valley. After two trips out as a consultant, eBay hired me as its first director of online dispute resolution.

Joining a huge Internet company moving at full speed was quite an education. Over the next few years I led the creation of eBay's ODR platform, the eBay Resolution Center, and then moved to PayPal (which was owned by eBay) in 2005 to build out the PayPal Resolution Center. Eventually the eBay and PayPal resolution centers grew to resolve more than 60 million disputes per year around the world in more than 16 languages.

I continued to write and teach on ODR during my time at eBay, serving as a fellow at both the Center for Internet and Society and the Gould Center for Conflict Resolution at Stanford Law School, which was just up the road. eBay and PayPal gave me a huge platform to experiment and learn about ODR and to travel the world to learn how ODR could be adapted to different cultures. Eight years later, I was able to secure a license to some of the ODR technology I had helped to design at eBay and PayPal, and with my colleague Chittu Nagarajan, I co-founded a company called Modria.com to apply those technologies in new areas. Over the next six years, from 2011 to 2017, Modria grew to become the premiere ODR platform in the world, resolving millions of cases in Asia, Europe, and North and South America. Modria's technology managed (and manages) the largest caseload for the American Arbitration Association (the New York No Fault caseload) and handles online property tax appeals in the state of Ohio and cities such as Nashville, New Orleans, Atlanta, Durham, and Gainesville. During this period I co-authored my second book with my friend Amy Schmitz, entitled *The New Handshake: Online Dispute Resolution and the Future of Consumer Protection* (Schmitz and Rule, 2017).

Throughout, I continued to write, speak, and teach about ODR, offering full-credit courses at schools such as Pepperdine University, Santa Clara University, and Stanford University and guest lecturing at schools such as Har-

vard, Yale, New York University, Cornell, the University of Southern California, Northwestern, and many others. I kept blogging and writing book chapters, articles for law reviews, ADR journals, and publications such as *Dispute Resolution Magazine* and *ACResolution*. Along with Ethan Katsh, who is generally acknowledged as the father of ODR, I became something of a spokesman for the emerging field. In cooperation with my colleagues and fellow fellows at the National Center for Technology and Dispute Resolution,<sup>1</sup> we held annual ODR conferences all around the world and expanded ODR into new areas and applications.

From its inception, ODR was global because eCommerce crossed boundaries and cultures so fluidly. This fit with my values: perhaps influenced by my Peace Corps experience, I wanted to do work that built global connections and spread empathy across borders and boundaries. I thought ODR was an important evolution of ADR practice, in some respects the future of ADR, and that I was the “ADR nerd” who could help the field through this period of evolution. This work also felt very much in line with my Unitarian-instilled values around equity, justice, and compassion.

In 2017 Modria was acquired by Tyler Technologies, a multi-billion-dollar public company that develops software for local government. Tyler is the leading provider of court case management and e-filing software in the United States, and it positioned Modria as an integrated court ODR system to promote early resolution in family, small claims, and minor criminal caseloads. The Tyler-Modria Court ODR system is now deployed across the United States in states such as Nevada, Texas, California, Ohio, New Mexico, and Georgia. The ODR field is expanding more rapidly than ever, which is very gratifying. The COVID-19 pandemic has raised ODR’s profile even further, as all mediators are being forced to become online mediators.

A friend of mine jokes that dispute resolution is like the dentist's office: no one walks around daydreaming about visiting the dentist, but if someone has a toothache, all they can think about is getting to the dentist. He says it must be depressing dealing with angry disputants all the time, but I explain that I enjoy it because I can help them resolve their problem and end the aggravation and annoyance. At base I don't like conflict—it makes me feel anxious and unhappy—and I like being able to help other people resolve their conflicts so that they won't have to feel that way. And I get great satisfaction from being part of the dispute resolution field and carrying the torch forward.

I also have loved working to build a new field from scratch. To be present at the naming of a new discipline, to start one of the first providers, to write one of the first books, and then to see it evolve into a global movement, one that has the potential to significantly expand access to justice for people all around the world, is enormously satisfying. For some time, I suspected I might be the person who knew the most about ODR in the world, which felt like a real gift. And even now, as ODR grows beyond me in directions I could never have imagined, I'm honored to have played the role I did.

I do have political opinions, and opinions about how people should treat each other, and I do sometimes have to work to keep those opinions from interfering with my role as a dispute resolver (and as a trainer). Even though Morton Downey Jr. is long gone, his intellectual heirs have definitely kept that angry and confrontational message (and methodology) alive, and I sometimes find it a challenge to empathize with its adherents. But much of my work these days is at the systems-design level, and I rarely serve as a neutral in conflicts between individual parties. As a result, I don't have to struggle with maintaining impartiality.

I know that our recent political palpitations, especially the conflict-exacerbating actions of the Trump administration, have shaken some of my colleagues' and mentors' confidence in conflict resolution practice and methods. This period has unquestionably been jarring, but I don't share that concern. I believe there's a time and a place for everything, and one can resist now while acknowledging there will be a time soon for reconciliation. At some point, when the pendulum swings back from fear and division and the country again hungers for healing and understanding, I am confident our work will be more important than ever.

Technology is changing the way we interact with each other. So it makes sense that it will also have a massive impact on how we fight and how we resolve our fights. We can't keep resolving disputes the way we've been resolving them and expect that to work in a world that is changing so radically. We must take all the lessons we've learned over the past six decades of dispute resolution practice and integrate them into a vision for the future. People are just as complicated when they communicate over technology as they are when they communicate face-to-face.

We also can't think that the challenges of the future are so new that we can't learn from the past. We have to learn to leverage the growing power of technology to make peace and build understanding, instead of letting it drive misinformation and conflict, and we need to take our wisdom and experience and play a formative role in building these systems for dispute resolution. We need to embrace the power of the tools that technology is offering us and learn to leverage their benefits and mitigate their challenges. We can't just sit on the sidelines saying "Call us if you have a conflict."

The pandemic is moving us toward a world where we reserve face-to-face interaction only for our most intimate friends and family members, and it's clear that the bulk

of our professional and public lives will take place online. Before long, I believe, the idea of driving to the doctor's office or to the courthouse will seem as antiquated as getting your water from a well. Along with electricity and water, access to the Internet will be a new utility—a new human right, even. Our identities will be seamlessly online and offline, and navigating from one to the other will be entirely normal. I can even envision a world where technology is designed in a way that builds human empathy and understanding. Algorithms will monitor enormous amounts of data from the Internet and social media in real time to identify escalating conflict early, so we can intervene effectively and prevent the outbreak of violence. Global networks (maybe delivered to every corner of the planet by low-orbit satellites) will provide access to opportunity and education for more than a billion people who have previously been disenfranchised solely as a result of their geographic location.

We will physically live in communities we choose, surrounded by the people we love, but technology will enable us to interact instantly with all other people around the planet. This frontier is where online dispute resolution starts to blend with the field of peace tech, which I've observed through my work with the Peace Tech Lab at the United States Institute of Peace. We're still in the Wild West phase of the Internet, with technology unleashing profound and destabilizing change, but eventually we will civilize cyberspace, and I am confident we will harness its power to open a new era of greater peace, justice, and happiness for everyone.

I see my work as moving the practice of dispute resolution and peacemaking into the future. I have always believed that you shouldn't work to impress your peers—you should do work that would make your heroes proud. My heroes are the people who built the field of dispute



resolution. Their work inspired—and inspires—me and cleared the way for my professional path, so my objective is to advance their values and aspirations for what conflict resolution can achieve in the world. I believe I have a window of opportunity to continue their work, so I will do the best I can during my time at the tiller. And then I'll hand it over to the next generation.

## Notes

<sup>1</sup>The National Center for Technology and Dispute Resolution, [odr.info](http://odr.info), supports and sustains the development of information technology applications, institutional resources, and theoretical and applied knowledge for better understanding and managing conflict.

## References

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