SECOND EDITION

SETTLING DISPUTES

Conflict Resolution in Business, Families, and the Legal System

Linda R. Singer

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Settling Disputes

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Preface to the Second Edition

Significant changes have taken place since the first publication of *Settling Disputes,* as alternative dispute resolution (ADR) increasingly has become part of the mainstream. Most dramatic have been the developments in the courts, in the federal and local governments, and in business. As a result, I have changed or updated much of the first edition.

My own professional life now is spent mediating large commercial, public, and employment disputes, with some time devoted to one-on-one mediations, lawyering, and teaching. Thus I am particularly grateful to Susan Horn, who ably assisted me in revising and updating the book, and to my law partner and agent, Gail Ross, who, as always, encouraged me to find the time to keep the book current.

Throughout the years, many colleagues and friends have shared with me their visions and their concerns about settling disputes. I could not possibly thank them all by name. I will mention only one here: my husband, comediator, coteacher, and closest colleague, Michael Lewis.

I also want to thank all the people who responded to the first edition and let me know that it had changed the way they practice their professions or handle their own disputes. I hope that this version of the book continues to inspire them and others like them.

Linda R. Singer

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Origins and Growth of the Dispute Settlement Movement

A QUIET REVOLUTION IS TAKING PLACE in the methods Americans have available to them for dealing with conflict. Innovations, almost all of them fewer than fifteen years old, are being developed not only to settle disputes out of court, but to supplement or replace the processes used by legislatures to budget funds, by businesses to manage employees, by therapists to treat families, and by diplomats to respond to global crises. There also are new institutions and new methods for resolving conflicts, such as those between neighboring families or countries, that once could be dealt with only by fighting it out with lawyers, with fists, or with armies.

From the beginning, America has been a nation of fighters, with a tradition of every man—and sometimes woman—for himself. Our culture is permeated with the language of sports—and of war. Perhaps it is our history of bountiful land and ever-expanding frontiers. Perhaps it is the perceived opportunity to get rich within a single generation, unaided by family or community. Whatever the explanation, our tradition of individualism also has spawned a history of confrontation. Except for countries actively undergoing revolution, the United States has the highest incidence of violent crime in the world.

The way we deal with lawbreakers also reflects our frontier and individualistic heritage. Except for the former Soviet Union and South Africa, we lock up more people, for longer periods of time, than any other country in the world.

Our civil as well as our criminal courts have been heavily used throughout our history. The public perception of a litigation explosion is not new. De Tocqueville wrote 150 years ago, "Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question."[1]

Early Americans distrusted lawyers. The Fundamental Constitutions of Carolina termed pleading a case for a fee "a base and vile thing." Yet there are many more lawyers in the United States today than in any other coun-

try, both in absolute numbers and relative to the size of our total population. While the United States accounts for about 5 percent of the world's population, we have at least 35 percent of the world's lawyers.[2] According to a speech by Harvard Law School Dean Robert Clark, the percentage of the U.S. gross national product devoted to legal services more than doubled between 1988 and 1993.[3] Historian Jerold Auerbach has written, "Five hundred years from now, when historians sift through twentieth-century artifacts, they doubtless will have as little comprehension of American legal piety as most Americans now display toward medieval religious zeal. The analogy is illuminating: the courtroom is our cathedral, where contemporary passion plays are enacted."[4]

Several developments have contributed to the public perception of a litigation explosion. Although the actual number of cases filed in state courts has grown only in proportion to population, both the number and complexity of disputes brought to court have increased during this century. Federal legislation designed to regulate business, to ensure civil rights, and, more recently, to protect the public from hazardous products and polluted air and water all have contributed to a significant increase in the business of our federal courts. Whatever the reason, the number of civil suits filed in federal courts alone has nearly tripled since 1970. This trend has been exacerbated by the sharp upturn in the criminal matters brought to federal courts, which in many parts of the country makes it difficult to have civil claims heard at all.

The nature of the disputes litigated also has changed, from a predominance of private business and property cases to personal injury accident claims and cases involving products liability, domestic relations, criminal law, and government regulatory actions. With the creation of products such as asbestos insulation, Bendectin, and Agent Orange, which have the potential of injuring huge numbers of people, and the invention of legal techniques (especially class actions) for bringing large numbers of cases involving accident victims or injured workers or consumers to court at a time, court battles affect the lives of many more people than they once did. They also require greater technical expertise. Demand for expert witnesses has increased markedly; witness brokers and clearinghouses can locate experts willing to testify on almost any subject. Despite the proliferation of new types of lawsuits, some of them with far-reaching implications, preliminary data from an ongoing study of federal litigation between 1971 and 1991 indicate that contract disputes among Fortune 1000 companies constituted the largest category of lawsuits filed in federal court.[5]

When Americans must use the system—for example, to handle corporate conflicts over substantial sums or personal problems such as accidents, discrimination, or divorce—court or administrative action dis-

places our power over our own disputes. The legal process distorts reality; not only speed and economy but the real issues in dispute and the treatment of disputants by the professional dispute resolvers escape our control. Even top corporate managers feel as if their business problems take on a legal life of their own once they turn them over to lawyers and courts.

Despite the well-documented flaws in the system, which have attracted increased attention in recent years, it would be shortsighted to overlook the system's enormous benefits in establishing critical principles—principles many of us consider vital to our individual freedoms. Over the past forty years, for example, the courts have served as the last resort for racial and other minorities whose interests do not command a majority vote. Schools and workplaces have been desegregated; blacks and women have made political, economic, and social gains; public institutions, such as prisons and mental hospitals, have received far greater scrutiny. Courts also have improved the environment, increased safety in the workplace, and deterred manufacturers from injuring consumers through negligence or fraud. For example, the flood of litigation to compensate workers exposed to asbestos undoubtedly brought about safer handling—and eventual banning—of the insulation material sooner than would otherwise have been the case.

But all lawsuits do not involve important legal principles. In a large urban court, it can take years for even the simplest case to come to trial. Lengthy, complex procedures, both costly and time-consuming, make the courts appear to be exclusively the province of the rich, the patient, and the hearty. As early as 1926, Judge Learned Hand confessed, "I must say that, as a litigant, I should dread a lawsuit beyond anything else short of sickness and death."

Costs and delays, coupled with occasional multimillion-dollar verdicts (and, some charge, trial lawyers' and insurance companies' greed), have caused the rates of liability coverage for doctors, lawyers, car owners, and even architects to skyrocket. Yet awards made to the injured who use the courts to obtain compensation also are consumed by these same costs and delays. According to a study of the costs of compensating accident victims through litigation, victims receive only 45 cents in net compensation for every dollar spent on a lawsuit by the parties, their insurance companies, and the public.[6]

Even administrative agencies, established to cope with such widespread, immediate problems as employment discrimination or consumer fraud in a faster, more accessible way than courts, have become courtlike, with long waits, complex procedures, and trial-like proceedings. Our large and complex society no longer can be run like a New England town meeting. The enactment of legislation and regulations, even at the local

level, is so remote that it is completely removed from the lives of most Americans.

Even if our legal system of justice were more efficient, it would not satisfy some participants' most critical interests. The emphasis of courts and other traditional forums on pronouncing right and wrong and naming winners and losers necessarily destroys almost any preexisting relationship between the people involved. Whether the parties are a divorcing husband and wife who must continue to share the parenting of their children, businesses that want to retain their customers and suppliers, or employers and employees who want to keep their jobs, it is virtually impossible to maintain a civil relationship once people have confronted one another across a courtroom.

At the same time that use of the official system for resolving disputes is so forbidding, other traditional methods of settling conflict have lost much of their effectiveness. In a nation where moving from neighborhood to neighborhood, city to city, and job to job has become the norm, the mediating roles once played by the extended family, by churches, and by respected citizens in small towns persist only in a few homogeneous, cohesive communities. For Orthodox Jews in New York and residents in Chinatown in San Francisco, dispute resolution by rabbis or by community elders still remains a possibility. For the rest of us, such traditions, if they ever existed at all, belong to the distant past.

Then what do we do when we have a complaint of nonpayment on a bill or a contract, mistreatment on our jobs, or pollution of our air? Most of us recoil from fighting. Except for large corporations, hiring a lawyer seems far beyond our means: According to a survey by the American Bar Association, approximately 1 percent of the U.S. population receives 95 percent of the country's legal services.[7]

So, in the words of legal anthropologist William Felstiner, most of us "lump it."[8] We take out our frustrations on family and friends. We may even write occasional letters to our representatives in Congress. But generally we do nothing at all. The less money we have, the less likely we are to complain—whether directly to sellers or to third parties such as newspapers or television, consumer complaint centers, or civil courts. The costs, the stresses, and the inaccessibility of ways to resolve conflict other than through the polar alternatives of fight or flight cause some of us to drop out or to seek extreme techniques to make our points.

No less a member of the legal establishment than Derek Bok, former president of Harvard University and former dean of the Harvard Law School, described our system for resolving disputes as "strewn with the disappointed hopes of those who find [it] too complicated to understand, too quixotic to command respect, and too expensive to be of much practical use."[9] Harvard law professor Laurence Tribe adds that the results do

not justify the costs: "Too much law, too little justice; too many rules, too few results. ... "[10]

The Move Toward Alternatives

Against this backdrop, new methods of settling disputes are emerging both in and out of courts, in businesses, in diplomacy, and in communities. Diverse though they are, the innovations have a number of characteristics in common:

- They all exist somewhere between the polar alternatives of doing nothing or of escalating conflict.
- They are less formal and generally more private than ritualized court battles.
- They permit people with disputes to have more active participation in and more control over the processes for solving their own problems than do traditional methods of dealing with conflict.
- Most of the new methods have been developed in the private sector, although courts and administrative agencies now are borrowing and adapting some of the more successful techniques.

The movement by now has earned its own awkward acronym: "ADR," for "alternative dispute resolution." It draws on the history of tightly knit religious and immigrant ethnic groups, beginning with the Puritans in the 1600s and including the Dutch in New Amsterdam, the Jews on Manhattan's East Side, the Scandinavians in Minnesota, and the Chinese on the West Coast. All of these groups resolved differences within the community through mediation by ministers or elders.

The movement also draws on our commercial history. In settings such as the maritime, securities, fur, and silk industries, where firms dealt regularly with one another on an ongoing basis, businesses and trade associations early established private channels for resolving their differences. Commercial arbitration was born in 1768, when the New York Chamber of Commerce set up its own way of settling business disputes according to trade practice rather than legal principles.

This trend reached the personal level as well. George Washington put an arbitration clause in his will to resolve disputes among his heirs. Abraham Lincoln, while practicing law, arbitrated a boundary dispute between two farmers.

More recently, labor unions and employers developed an entire system of resolving work-related disputes as an alternative to violence or costly strikes. Although Congress authorized the secretary of labor to appoint

"commissioners of conciliation" as early as 1913 when it created the United States Department of Labor, authority in U.S. industrial society before World War II, to quote labor arbitrator George Nicolau, was "unilateral and unreviewable." Workers resorted to direct action to challenge management's authority, which was "personal, arbitrary, and virtually unrestrained."[11] Violent seizures of property, sit-downs, and bloody strikes were common. Characterized as unlawful, these actions more often than not were met with force by private security guards, state police, or the National Guard.

In the 1930s and early 1940s, several states and a few cities initiated publicly sponsored mediation services to settle labor-management disputes. During World War II, when Congress determined that industrial strife was too costly to the war effort to be tolerated, the War Labor Board was born. Grievance procedures, binding arbitration, and other innovations for solving industrial disputes became the norm throughout most of the United States. In 1947 Congress created an independent agency to settle labor disputes: the Federal Mediation and Conciliation Service.

The still-evolving history of resolving conflict in nonunionized corporations and in urban communities, prisons, schools, and universities reflects many of the same events. Yet only in dealing with conflicts between unionized labor and management have we actually developed well-defined institutions for resolving disputes, a set of laws that help to achieve settlement, a cadre of professional dispute settlers (negotiators, mediators, and arbitrators), and the resulting expectation that disputes will be settled peacefully and fairly.

In the early 1970s, when I was one of a small group of lawyers working to develop ways of resolving disputes between prisoners and their keepers, the history of labor and management was our chief inspiration. Despite the obvious differences between captive prisoners and unionized employees, we managed to create models of settling disputes that applied mediation and arbitration to a markedly different setting. Some of the same methods are being used today in corporations, in universities, and in public schools and are being discussed as essential components of a revamped health-care system. A few years later, those of us who were involved in creating the first "neighborhood justice centers," where community volunteers help people to settle their own disputes, looked both to our experience with various types of organizations and to the traditional roles of clergy and village elders in tightly knit communities. The pioneers in settling environmental and government-related disputes built on these experiences and took additional inspiration from New England town meetings.

Some of these disparate efforts to develop new methods of dealing with conflict began to coalesce in April 1976, when Warren E. Burger, then

chief justice of the Supreme Court, convened the Roscoe E. Pound Conference on the Causes of Popular Dissatisfaction with the Administration of Justice in Saint Paul. (In 1906, speaking in Saint Paul to the Minnesota legislature, Pound already had voiced concern about the irrelevance of the legal system to the problems of most Americans.) Expressing the fear that "we may well be on our way to a society overrun by hordes of lawyers, hungry as locusts, and brigades of judges in numbers never before contemplated," and that "we have reached the point where our systems of justice—both state and federal—may literally break down before the end of this century,"[12] Burger invited an unusual mixture of people to reconsider Pound's wisdom.

The meeting attracted members of the judicial establishment who were concerned about the volume of litigation in general and the presence of cases with which courts were growing increasingly uncomfortable: environmental litigation, class actions, cases brought to reform public institutions, and so-called minor disputes involving small amounts of money. Also present at the meeting were a few veterans of the civil rights movement, together with public interest lawyers concerned about increasing people's access to the legal system and the fairness of procedures. These strange bedfellows were joined by academics intent on developing better solutions to increasingly complex scientific or social problems. Absent from the conference, but active throughout the early development of the field, were the peace groups and grassroots community organizers, intent on empowering communities and enabling people to resolve their own conflicts.

The Pound Conference served to spark the interest of the legal establishment in alternative ways of settling disputes. But the different, and sometimes conflicting, values and goals of its participants have remained alive as the movement has gathered force. Not surprisingly, these differences have resulted in a diversity of settlement philosophies and techniques. For example, corporate minitrials coexist, sometimes uncomfortably, with community dispute centers as part of the same overall movement. The unusual alliance that makes up the ADR movement also has produced tensions among those who advocate the use of the same processes: There is no consensus on whether the primary benefits of settlement devices are the savings of time and money, the increase in the parties' participation, or the achievement of better results.

Since the Pound Conference, the proliferation of techniques for settling disputes and the emergence of new institutions and professionals to use them have constituted a major phenomenon of social change. In a varied and often unorganized way, discrete efforts are evolving into a new system for handling conflict.

1. Corporate executives are signing up for training courses in negotiation to learn to deal directly with their employees, customers, and competition. They also are attending seminars in mediation. Business school offerings are changing to reflect executives' different orientation. More than half of all business schools now offer courses in ADR. Although managers may have the power to order subordinates to take certain courses of action, they often find it more effective to reach consensus, whether by negotiating or mediating among employees who disagree with their bosses or with one another. High success rates and participant satisfaction have made these skills essential for managers and a permanent part of their job descriptions.

When faced with disputes with consumers or other corporations, business executives increasingly insist that their lawyers reduce cost, delay, and bruised feelings by settling cases through negotiation, mediation, or minitrials. Businesses can bind themselves and those who deal with them to specific methods of resolving future disputes by including agreements to mediate and/or arbitrate in their contracts; some will not sign a contract unless it contains such a provision. As a result of such devices, the number of federal lawsuits over alleged breaches of contract, which peaked at over 10,000 in 1987, dropped 30 percent to just over 7,000 in 1991.[13]

Businesses also have begun to use corporate ombudspeople, mediators, or peer review panels to attempt resolution of complaints by employees or customers. Even the U.S. Senate has implemented a multistep dispute resolution program to resolve complaints of employment discrimination.

Insurance companies used ADR to handle claims arising from Hurricane Andrew and the devastating fire that destroyed much of Oakland, California. As a result, an estimated $20 million will be saved in transaction costs related to Hurricane Andrew victims alone, not to mention the months or years that otherwise would have separated them from much-needed compensation.

In response to their clients' demands, a growing number of law firms are appointing ADR coordinators; a few have separate departments of settlement or negotiation that operate independently of the firm's litigators. Led by Colorado, several states have adopted new ethics rules for lawyers, which strongly encourage or require them to advise their clients of alternatives to litigation. Profit-making dispute settlement firms, such as Judicial Arbitration and Mediation Service, Endispute, and ADR Associates, have sprung up to take advantage of the business market.

2. Troubled families used to go to court or to therapists. Now they can go to mediation—with the same therapists, with lawyers, or with community volunteers. The idea is to use the third party, who has no power to

make decisions, to help settle disputes between husbands and wives, between parents and children, and, increasingly, between divorcing spouses. Some psychiatrists report that the emphasis of their entire practice has shifted from therapy to dispute settlement.

Following this trend, a number of jurisdictions require divorcing couples to try mediation before the courts will resolve their disputes for them. The proponents of mandatory mediation believe that the open communication and resolve-it-yourself nature of mediation make the process ideal for handling divorce settlements, especially where couples have children. Opponents caution that mediation probably works best when the parties engage in it voluntarily.

3. Approximately 350 neighborhood justice centers have been created throughout the United States in the past fifteen years, in sites ranging from storefronts to public schools and courthouses. These centers, sometimes called mediation services or "community boards," use community volunteers to settle landlord-tenant conflicts, neighborhood disputes, family rifts, and disputes involving the education of handicapped children. Some of them mediate between criminal defendants and their victims, either as an alternative to trial or as part of the sentence. In New York City alone, over 14,000 such disputes are handled through mediation each year.

4. Growing numbers of enforcement agencies, such as the Equal Employment Opportunity Commission and local consumer protection departments, require complaining employees and consumers to participate with businesses in settlement attempts presided over by the agency, before claims are investigated. The EEOC contracted with the Center for Dispute Settlement in Washington, D.C., to conduct a successful experiment with offering outside mediators to complainants and employers in an attempt at early settlements of selected charges filed in Washington, D.C., Philadelphia, Houston, and New Orleans. Some businesses have gone a step further and hired private mediators to help them settle disputes with dissatisfied current or former employees either before or after they are brought to enforcement agencies or courts. In Maryland, the state attorney general's office recruits citizen volunteers to arbitrate complaints against businesses instead of prosecuting them.

5. In the United States, 95 percent of the law schools, as well as rapidly increasing numbers of schools of business, planning, and public policy, offer some alternative dispute resolution courses as part of their curricula. Publishers of law school textbooks now include ADR in publications on civil procedure, contracts, torts, and family law. Of the practicing lawyers, judges, and law teachers who sign up for Harvard Law School's Program of Instruction for Lawyers each June, more than half choose the oversubscribed offerings in mediation or negotiation. ADR has become a perma-

nent part of the curriculum at the National Judicial College. Corporate lawyers recently were invited to learn about new ways of resolving cases on board a ship cruising around the Hawaiian islands. Most of them settle for the increasing numbers of ADR offerings in seminars offered by local bar associations or professional dispute resolvers.

6. Growing numbers of high schools and junior high schools across the country are developing courses in conflict resolution. Students are applying their new knowledge to resolving other students' disputes, including the fistfights that once would have guaranteed suspension. Working in teams with newly trained teachers, they also settle differences between students and teachers. Some have mediated conflicts between teenagers and their parents.

7. Congress in late 1990 passed the Administrative Dispute Resolution Act, which requires all federal agencies to develop policies on the use of ADR, appoint an ADR specialist, and provide appropriate employees with training in ADR.[14] Spurred by the legislation, and by a 1991 executive order requiring federal agencies that litigate to use negotiation or third-party settlement techniques in appropriate cases when the federal government is involved in litigation, several federal agencies have developed programs that use a variety of ADR methods to handle disagreements with employees, contractors, taxpayers, or regulated businesses.

8. Increasingly, federal agencies, state public utility commissions, and even local sanitation departments are issuing new regulations through what they call "negotiated rulemaking." In this new process, representatives of opposing special interest groups from industry, consumer, and environmental organizations sit down with one another and with the agencies involved and negotiate government regulations. The negotiating committee that devised the penalties prescribed for violation of the Clean Air Act by the manufacturers of diesel engines, for example, included representatives of competing manufacturers, operators and importers of diesel engines, environmentalists, state agencies, the Environmental Protection Agency, and the Office of Management and Budget. A statute, enacted in 1990, specifically authorized federal agencies to employ this process.[15]

9. In a related process, called "negotiated investment strategies," local, state, and federal officials negotiate with private interests over the allocation of government money for social services and public works projects. Resulting agreements have distributed the state budget for providing social services in Connecticut, established priorities for funding public works in Saint Paul, and provided government aid for industrial growth in Gary, Indiana.

10. The Civil Justice Reform Act, also passed in 1990, requires all federal district courts to create advisory committees to consider ways of reducing

the cost and delay of civil litigation.[16] The legislation specifically directs each committee to consider the use of ADR to reduce cost and delay. As a result of the committees' work, many (if not most) federal courts are instituting some sort of mediation, arbitration, or early neutral evaluation programs (many of them mandatory) to assist litigants in what is hoped will be earlier, less costly resolution of their cases.

11. Lawyers, therapists, retired judges, and entrepreneurs with no particular professional identity are hanging out shingles as mediators or judges for hire. Large numbers of students, together with professionals tired of other careers, are trying to build new careers in dispute resolution. They are helped by the public attention being generated by such events as court-sponsored "Settlement Weeks," when all judicial business stops to allow judges and volunteer mediators to help parties to settle cases, and statewide "Dispute Resolution Weeks," the first of which was proclaimed by the governor of Texas in 1985.

12. In 1978 President Jimmy Carter spent thirteen days at Camp David as a mediator between Menachem Begin and Anwar el-Sadat. (For the last ten days, Begin and Sadat never spoke to each other, although their cottages were only about one hundred yards apart.) Carter's unusual efforts produced the first comprehensive agreement between Egypt and a Jewish nation for more than two thousand years. Carter's efforts were preceded by Henry Kissinger's and later followed by Philip Habib's and then James Baker's shuttle diplomacy—a marked departure from traditional State Department procedures but one being used increasingly and in the most high-stake situations.

Fifteen years after the historic Camp David agreement, perhaps an even greater breakthrough in the Middle East was achieved with an agreement between Israel and the Palestine Liberation Organization (PLO). The negotiations, held in secret, were particularly tricky because neither group recognized the other's right to exist and it was a longstanding policy on both sides not to negotiate with the other.

Again an intervener offered critical assistance. Terje Rod Larsen, head of a Norwegian institute researching conditions in the Israeli-occupied territories, met Yossi Beilin, then an opposition Labor member of the Israeli Parliament, at an academic meeting in Tel Aviv in April 1992. Larsen offered to put Beilin in touch with senior Palestinian officials. Although the timing would not be right until after the Israeli national elections in June, the two kept in touch through an Israeli university professor. After the elections Beilin became deputy foreign minister and Larsen traveled to Jerusalem to renew his offer.

The ensuing events read like a John Le Carré novel. Again the professor served as the point mart. As the *New York Times* later described the first meeting:

> On a December morning, the 49-year-old professor walked into the Gallery Lounge of the modern Forte Crest St. James's hotel central London. He was to have breakfast with Mr. Larsen.
>
> But after a brief conversation, the Norwegian slid out of his seat and left the room. In his place sat Ahmed Suleiman Khoury, a senior P.L.O. official in charge of finances and better known by the nickname Abu Alaa.[17]

Technically, the professor was committing a crime, since Israeli law prohibited private contacts with declared terrorists groups, including the PLO. (The law soon was repealed.) The talks, limited to one aide on each side in order to preserve secrecy, then moved to Norway, first to a medieval mansion, then to a country estate, then to a labor union hall north of Oslo, to different Oslo hotels, and finally to the home of Norwegian foreign minister Holst. In contrast with Camp David, when the chief negotiators did not speak to each other for days on end, the negotiators lived together and dealt with each other face-to-face.

Although Foreign Minister Holst was present at all the meetings, his intervention was much less active than President Carter's. More a convener and facilitator than a mediator, he refrained from joining in the discussions unless there were problems. Although the final document reflected the needs of both the Israeli government, which was elected on a peace platform, and the PLO organization, which was short of cash and experiencing a leadership struggle, the role of the Norwegians in making it safe for the parties to take the first steps toward exploring options for peaceful coexistence seems to have been critical to their eventual accord.

Years earlier, when such an accord could barely be imagined, Swedish diplomats, working through an unofficial committee of American Jews, had crafted a delicate arrangement under which Yasir Arafat met American preconditions for beginning negotiation with the Palestine Liberation Organization. It is no accident that George Shultz's skills as a negotiator were honed at the bargaining table with management and labor. In other parts of the world, mediators from the United Nations in two cases and the Catholic hierarchy in a third helped warring factions to agree to peace formulas in Afghanistan, the Persian Gulf, and Nicaragua.

13. ADR has spread from North America, England, and Australia to Vietnam, South Africa, Russia, several Central European countries, Sri Lanka, and the Philippines. These countries are developing innovative conflict management programs, specific to their own cultures, in areas ranging from civil dispute mediation to environmental protection.[18] Countries also are using ADR to resolve disputes in their ongoing relations with one another. The U.S.-Canada Free Trade Agreement and the North American Free Trade Agreement contain explicit dispute resolution procedures.