

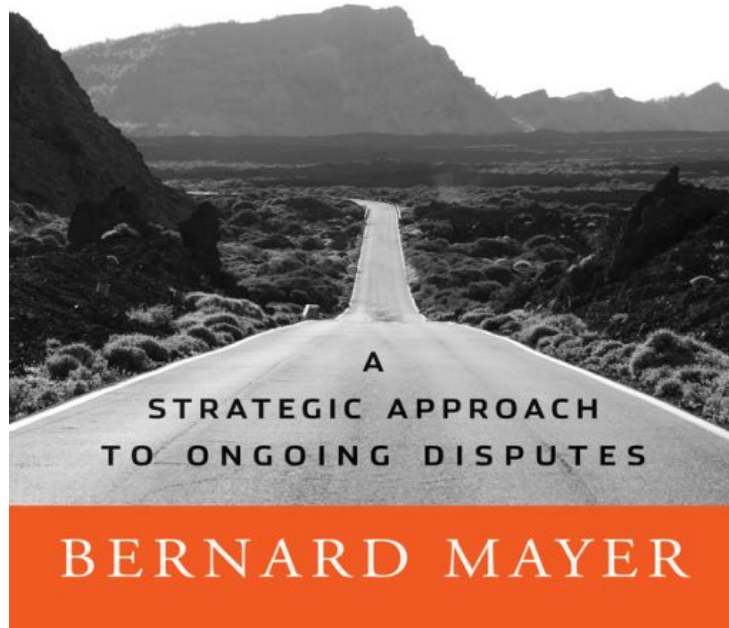
STAYING with CONFLICT



A
STRATEGIC APPROACH
TO ONGOING DISPUTES

BERNARD MAYER

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Staying with Conflict

*A Strategic Approach to
Ongoing Disputes*

Bernard Mayer

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*To Julie, who stays with conflict with courage,
integrity, wisdom, and compassion*

Preface

Why should we commit to resolve disputes? Maybe we need to deepen them?

Environmental activist

Participants in a project I was assisting with were having doubts about advocating consensus-based solutions to environmental conflicts. As part of the Common Sense Initiative, sponsored by the U.S. Environmental Protection Agency in the mid-1990s, conflict specialists and a variety of others were working to produce a manual for industry, government, workers, environmentalists, and citizen groups about participation in collaborative processes, but a number of the participants were not buying the premise.

After considerable discussion, participants came up with the term *constructive engagement*, and the resultant *Constructive Engagement Resource Guide* (Mayer, Ghais, and McKay, 1999) details criteria for deciding whether a collaborative effort makes sense and how best to engage in one if it does. This was not the abstract formulation of conflict specialists, but the best take of experienced environmentalists, community activists, industry leaders, and government officials on how to characterize their aims for dealing with what they understood to be long-term conflicts. They were onto something and my colleagues and I needed to listen.

As usual it was not the experts who broke new ground but the participants in conflict, who knew what they needed.

According to their understanding, they did not necessarily need conflict specialists to help them resolve their disputes—because many of their conflicts were either not ripe for resolution or had to be understood in the context of deeper and further-reaching struggles. Instead, they wanted the conflict experts to understand the essence of what people in each conflict need and then to figure out how to meet those needs.

Given their inclination, values, and skill set, most conflict professionals are oriented to respecting client autonomy and leadership. But we also have to carve out our own identity and develop a market niche to make a living. And we are bound by the structures of our own practice. As a result we have not really embraced the concept of constructive engagement. Instead, we have gravitated toward conflict resolution as our defining goal. When resolution is the phase of conflict that parties need to address, we are in business. But this is a very limited and limiting view of what disputants want and need in the broad range of conflicts that they face in their lives. As a result our efforts have been more constricted than they need to be.

I have written previously about our need to move beyond identifying our work solely with third-party efforts to resolve conflicts (Mayer, 2004). But as I have considered the heart of what people struggle with in conflict, I have come to believe there is an additional dimension to our challenge. The most significant conflicts people face are the enduring ones—those struggles that are long lasting and for which a resolution is either irrelevant or is just one in a series of partial goals in service of a long-term endeavor.

Everyone knows that not all conflicts get resolved. Many of the conflicts that people experience today in their families, workplaces, and communities have probably been present in some form or another for a long time and are

likely to continue for many years. But we in the conflict intervention field often act as if resolution is our entire purpose and focus. What we overlook is that there is work to be done—constructive, hopeful, and valuable work—in dealing with conflicts that are ongoing and likely to be around for a long time.

As I look back at the most challenging and meaningful work that my colleagues and I have been part of, almost all of it has been about assisting in some way with enduring conflict. Our role may have been specific and time limited, but the thrust of our efforts was to help people make progress in the ways they engaged in the long, deep, and intensely meaningful conflicts they faced. This has been true no matter what the system, focus, or context of the conflict—interpersonal, group, organizational, communal, societal, or cross-cultural.

Despite the comparatively narrow focus and self-definition that we conflict specialists have generally adopted, I am convinced that we have a great deal to offer participants in enduring disputes if we can broaden that focus and definition. We need to start by revising our sense of purpose. As articulated by the participants in the Common Sense Initiative resource manual project, our overriding goal ought to be to promote a constructive approach to engagement in the significant issues that disputants face, and very often that means working on enduring conflicts.

And just what does *constructive engagement* imply? Constructive engagement requires disputants to accept the conflicts in their lives with courage, optimism, realism, and determination. It means learning to engage with both the conflict and the other disputants with respect for each person's humanity, if not his or her behavior or beliefs. It means articulating the nature of the conflict in a way that opens the door to communication and understanding rather

than slamming it shut. It means developing durable avenues of communication that will survive the ups and downs of a long-term conflict. Constructive engagement requires using one's power and responding to others' use of power wisely—upping the level of conflict when necessary but doing so in a way that promotes desired behavior rather than becoming destructive. It means negotiating and problem solving within the context of the long-term challenge, and it means developing support systems that can sustain and energize individuals throughout a conflict.

When disputants avoid important issues, polarize problems, look for quick fixes to long-term issues, cut off all intentional communication or communicate to shut others down, use power or respond to power with the intention of hurting others or beating them into submission, they are not engaging constructively. When they escalate their use of power way beyond what is necessary to encourage constructive behavior, sacrifice important concerns to avoid unpleasant or even dangerous interactions, or alternate between obsessing about a conflict and denying its existence, they are not engaging constructively.

Everyone, no matter how sophisticated he or she is about conflict dynamics and communication, struggles with maintaining a constructive approach to long-term conflicts. Everyone needs help with this critical challenge, and conflict specialists are one important resource. But to offer this help we have to recognize the nature of the challenge—which is at its core about assisting people in finding a way to stay engaged and committed to working on problems that are going to be around for the foreseeable future.

When faced with enduring conflict, we need to ask a new question. Instead of asking, “What can we do to resolve or de-escalate this conflict?” we need to ask, “How can we help people prepare to engage with this issue over time?” As we

seek to answer this new question, our focus will begin to change and significant new avenues of intervention will become apparent. The basic challenge is strategic—it is the broad approach to the conflict that has to be altered. There are no simple steps or tactics that can change the whole dynamic, but the overall way in which parties approach the conflict can make a big difference in how constructive or destructive the conflict process is for them. This means that we have to start by understanding the nature of enduring conflict, and especially what makes it enduring. Once we achieve that understanding, I believe we have six strategic challenges:

1. To confront the pervasive and destructive power of conflict avoidance
2. To work with disputants to construct conflict narratives that encourage an effective approach to long-term disputes
3. To assist in developing durable avenues of communication
4. To help disputants use power and respond to power wisely
5. To understand and recognize the proper role of agreements within the context of long-term conflict
6. To encourage the development of support systems that can sustain disputants over time

In this book, I look at the nature of each of these challenges and the strategic considerations that conflict specialists need to employ in meeting them. I examine this from the perspective of the three primary roles that conflict professionals play—as conflict allies, third parties, and system interveners. The tools that the conflict intervention field has developed over many years are a rich resource for helping with enduring conflicts. We have developed approaches for dealing with poor communication, the

destructive use of power, polarizing approaches to negotiation, cultural variations in approaches to conflict, and destructive group dynamics. We have honed our skills as mediators, coaches, advocates, negotiators, dispute system designers, and conflict trainers. We have learned a great deal about the nature of conflict, communication, collaboration, and decision making. And we have certainly found ourselves in the middle of many ongoing, enduring disputes. This is a firm foundation upon which we can build effective approaches to dealing with long-term conflict.

I believe that good practice derives from a clear understanding of the nature of the challenge and the essence of the intervention that is needed. Although there are many specific intervention tools that we can use (and I will discuss a number of these), the essential challenge is to reorient our thinking and the strategic approach we take. That is the focus of this book.

HOW THIS BOOK WORKS

For many years as a conflict intervention trainer, I said that the growth of individuals, communities, organizations, and societies is dependent on two variables in the conflict equation, knowing how and when to initiate a conflict or raise it to a higher level of intensity on the one hand and knowing how to resolve conflict wisely and thoroughly on the other. I have now come to believe there is a critical third variable as well, knowing how to stay with conflict over time—steadfastly, effectively, and responsibly. The experiences I have had over the past thirty and more years as a conflict practitioner and student of conflict and conflict intervention (and also my earlier work in mental health, child welfare, and substance abuse treatment and as a social activist) have led me to this conclusion and have informed the concepts and approaches described in this book.

In the first chapter I discuss the essential challenge and opportunities that enduring conflict presents and what it will take for conflict specialists to address these. In Chapter Two I start with a discussion of how we can help disputants understand the nature of enduring conflict and what it takes to engage constructively over time. I also examine the reasons why people need enduring conflict, and I introduce the concept of creative nonresolution. In the subsequent chapters I offer specific approaches to helping people stay with conflict.

In Chapter Three I discuss what may be the biggest obstacle to constructive engagement—conflict avoidance. Specifically, I look at why and how people avoid conflict and how we can help them deal with their avoidant tendencies. I also consider what to do when the wisest course may be to avoid a dangerous conflict. In Chapter Four I discuss how we

can help disputants frame an enduring conflict constructively, which usually means altering the conflict narrative.

Chapter Five focuses on communication, with an emphasis on establishing durable approaches to communication and responding over time to dysfunctional patterns of communication. Chapter Six deals with power and escalation. Power differentials, the inappropriate and oppressive use of power, and the desire to maintain power are key factors in perpetuating conflict. Helping people learn how to develop constructive sources and applications of power and how to respond to the power of others is often the key to helping them stay with conflict. This sometimes requires that we guide people in escalating a conflict appropriately.

Chapter Seven focuses on the role of negotiation and agreements in enduring conflict. Agreements are viewed as tools for ongoing constructive conflict engagement rather than as the end point of a conflict process. Chapter Eight takes on the question of how people can sustain themselves over the long haul in an enduring conflict. I discuss how to help people develop the substantive and emotional resources necessary to stay with conflict, and then I consider how we can help disputants to encapsulate conflict so that they do not avoid it but they do not allow it to take over their lives either.

Chapter Nine looks in more detail at the different roles that conflict specialists can play in assisting disputants engaged in enduring conflict. I revisit our sense of our purpose and look specifically at the relationships among conflict resolution, transformation, and engagement. I then look at how conflict specialists can work in enduring disputes as third parties, allies, and system interveners. I also consider the challenge of marketing this approach. The

Epilogue revisits the fundamental challenge of enduring conflict, summarizes the essential approach I am advocating, and ends with a consideration of the dynamic nature and potential of enduring conflict.

Throughout I rely on examples drawn from a broad variety of conflicts from interpersonal to international. I do this in the belief that the challenge presented by enduring conflict and the skills that staying with conflict requires are not specific to one type or arena of conflict and that the lessons we learn from one area can be adapted and applied to other circumstances.

Note also that I have changed the specifics of some of these case examples considerably, and in a few instances I have combined several cases into one, both to protect confidentiality and to consolidate the presentation. Although the specific facts have been altered, the dynamics and essential stories have not. In examples drawn from events that were open to public and media participation (for example, the Alaska Wolf Summit), I have tried to present what occurred as accurately as possible.

I have tried to maintain a focus on the conflict field, the role of conflict specialists, and the goal of conflict engagement. I have avoided referring to the field of *conflict resolution* or *alternative dispute resolution*. I believe that one way to begin to change our sense of purpose is to change the way we refer to who we are and what we do. When we fall into identifying our role as agents of conflict resolution and our approach as third-party intervention, we do not adequately describe our potential and often our practice, and we limit the scope of our services. I also focus on conflicts that are *enduring, ongoing, or long term* rather than ones that are *intractable* or *irresolvable*, because I think the latter terms suggest that conflict duration is itself a problem or that progress is hopeless. I believe that

enduring disputes are important and necessary expressions of individuals' struggles as social beings and that their enduring nature is not itself the problem.

I have addressed this book specifically to conflict specialists. But the ideas and approaches are relevant to anyone who is faced with an enduring conflict, which of course means everyone. The challenge of staying with conflict is a fundamental one, and I hope that discussing how we can help others with this challenge will also help us consider how we can face it for ourselves.

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In the thirty-plus years I have worked as a conflict practitioner, I have been privileged to have wonderful, creative, supportive, and wise colleagues, first as a partner at CDR Associates and now as a professor at the Werner Institute for Negotiation and Dispute Resolution at Creighton University. One of the things I most appreciate about CDR is the degree to which reflective practice is valued. Theory and practice are seen as equally important, as coevolving, and as inseparable. CDR has provided me many wonderful opportunities, across a broad variety of conflicts and settings, to try out new approaches and ideas—and the development of these tools and concepts has taken place in the context of a collaborative approach to practice and management so that it has often been hard to say exactly where ideas originated.

For the past several years I have been privileged to be part of the Werner Institute, where I have been associated with an immensely creative, innovative, and dedicated set of colleagues and capable students who were willing to challenge me and to grapple with new approaches to practice and thinking. At Werner I have been encouraged and assisted in reflecting on my experiences as a practitioner, and I have been provided with a terrific laboratory for trying out new ways of looking at those experiences. The energy and enthusiasm that I experience at the Werner Institute reminds me of the excitement that I and many of my colleagues felt in the early years of building a conflict practice and a conflict field.

But my greatest teachers have always been the disputants who have let me into their lives and who have

been willing to tell me exactly what they think of the approaches I have taken in order to assist them with serious conflicts. They have always guided my practice and development, and I have grown tremendously through my contact with them.

I also specifically want to thank my wonderful colleagues at Werner—especially Arthur Pearlstein, Jacqueline Font-Guzman, and Debra Gerardi—for their support, encouragement, and insights and my long-term partners and colleagues at CDR Associates—Mary Margaret Golten, Christopher Moore, Louise Smart, Susan Wildau, Peter Woodrow, Jonathan Bartsch, Judy Mares Dixon, Suzanne Ghais, Julie McKay, and many others.

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1

A New Direction for the Conflict Field

Divorced parents returning yet again to court have been referred to mediation because of disputes about child rearing. They have profound differences about religious upbringing, parenting practices, and education for their children. One of the parents now wants to move to a different state, partly in the belief that this will finally resolve their conflict—but it won't.

The principal partners in an engineering firm are embroiled in conflict about how to compensate themselves. Some argue that all profits should be shared equally, others that allocation should be based on billable hours, on dollars earned, or on business generated. Some believe that special credit should be given for enhancing the firm's profile or for providing public service. This dispute has been going on in various versions for many years and has led to the departure of a number of key staff.

An electricity generating facility has a long history of labor relations problems, including highly publicized job actions, threatened facility closures, lawsuits, and multiple grievances. Union leadership and management have an antagonistic relationship, and the membership has just issued a vote of no confidence in the management over a plan to outsource certain plant maintenance functions.

Traffic in an attractive and prosperous midsized city has grown tremendously over the past ten years, and

downtown parking has become especially challenging. Every time there is a proposal to increase parking capacity or engage in major transportation infrastructure development, conflict erupts between those who feel that automobile traffic should be limited and discouraged and those who feel that unless more parking is made available the local economy will suffer.

Most of us who have worked in the conflict field have faced situations such as these throughout our careers. They are emblematic of the most challenging disputes we face, as both individuals and practitioners—the ones that won't go away. These conflicts are unlikely to be resolved, and they therefore call for long-term engagement strategies. This presents a terrific opportunity for conflict professionals, but one that we have largely neglected.

We can make progress in the management of these conflicts. We can help the parties to arrive at interim or partial agreements, we can guide them in escalating or de-escalating them, but we typically can't help them to end these conflicts because the disputes are rooted in the structure of the situation (for example, limited resources or conflicting organizational roles), core values (for example, the kind of community people want to live in or the life they want to lead), personality traits (for example, being quick to anger or conflict averse), or people's sense of who they are (for example, committed social activists or realistic business people).

As conflict professionals we exhibit a strong tendency to ignore the *ongoing* (or *enduring*, *long-term*, or *endemic*) aspect of these conflicts and to focus only on those aspects that can be resolved. In doing this we fail to address people's most important conflicts and miss out on a major opportunity to increase the role and relevance of the work

that we do. In each of the previous examples, if we limit our focus to the immediate conflict, we may provide some value but we overlook the underlying challenge that confronts the individuals, organizations, and communities involved. For example, if the only assistance we offer to the struggling parents relates to the proposed move, we leave them adrift with the ongoing conflict they are likely to experience for the duration of their coparenting years, if not longer. And although it is no doubt worthwhile to mediate an immediate solution to the out-sourcing issue, if we cannot help the union and the management to develop a more productive framework for confronting their ongoing conflicts, we have failed to address the most important challenge facing the electricity generating facility.

In each of these conflicts, whatever the terms of our involvement, our outlook will expand dramatically if instead of asking our customary question, What can we do to resolve or de-escalate this conflict? we ask, How can we help people prepare to engage with this issue over time? As our outlook grows, significant new avenues of intervention become apparent, and our potential to help parties with their core struggles will grow as well.

Our challenge as conflict specialists is to meet people and conflicts as they are genuinely experienced and to help disputants deal with each other and their conflicts realistically and constructively. When we focus only on those elements that are resolvable, we are neither meeting people where they truly are nor offering them a realistic scenario for dealing with the most serious issues they face. Instead, we marginalize our role, limit the reach of our work, and fail to realize the full potential we have to help disputants. In the process, we also constrain the growth of our field and our economic viability as conflict professionals. We have the tools, the experience, and the capacity to do better than this, but too often we don't have the vision.

Intuitively, we know that important conflicts don't readily end. Each of us can think of a conflict that was present in an organization, community, or personal relationship when we entered it and will likely be there, in some fashion, when we leave. This is not necessarily a sign of organizational or personal pathology—it is rather a reflection of the human condition. That does not mean, however, that there is nothing to be done about these long-term conflicts. People can deal with these conflicts constructively or destructively. They can face conflicts or avoid them. They can escalate or de-escalate. They can let conflicts destroy important relationships or see them as the context for deepening these connections.

There is of course a role for mediating agreements or finding ways to de-escalate dangerous or destructive interchanges, and there are times when our focus must be on the immediate and the short term. But we ought always to do this with a full appreciation for the enduring nature of most significant conflicts and with a clear view of how what we do in the immediate circumstances needs to be informed by the long-term struggle that disputants face.

CHALLENGING OUR CONFLICT NARRATIVE

Perhaps the hardest challenge enduring conflicts present to conflict professionals is that they ask us to alter the assumptions we have about conflict and the narratives we construct to explain our approach. The story we often tell is that conflict is a problem in human interactions that might be inevitable but can usually be fixed. Conflict can be fixed by *prevention*, *analysis*, and *intervention*. We say that we can anticipate and prevent conflict by effective communication and decision-making processes. We can understand conflict by analyzing the interests, needs,

values, and choices of all the players. We can intervene in conflict by bringing the right people together to engage in a collaborative problem-solving process. Most important, by doing this, we can end a conflict. We can address the key interests of the people involved and thereby solve the problems that led to the dispute.

This is a heartening story. It offers a simple and optimistic approach and suggests a clear and appealing role for conflict professionals. And sometimes an intervention works in just this way, producing constructive results that are welcomed by parties who had thought their conflict was unsolvable. But where profound conflict is concerned this story is incomplete and unrealistic, and people know it. The real course of the most significant conflicts people face is muddier, less predictable, and more impervious to intentional change.

Conflict professionals can anticipate conflict up to a point, but the more significant the conflict—the deeper its roots and the further reaching its impact—the more likely it is that we will not be able to prevent it, only prepare for it. Conflicts involve chaotic and ever changing systems. The idea that we can find the key to solving a conflict by deploying ever more systematic tools of analysis is misleading. Understanding the nature of a conflict is an ongoing challenge, and our best hope is to gain enough insight to help us make good choices at a given time.

Rarely will analysis itself reveal a magic key that will transform the nature of a deep or complex conflict. We can contribute to a better understanding, but seldom can we offer the blinding insight that will alter the course of a conflict. And whether we are talking about the long-term struggle between divorced parents, warring business partners, ethnic or racial groups in a community, workers and managers in a troubled organization, environmentalists

and energy producers, or religious and secular worldviews, such core conflicts do not get resolved cleanly, completely, or quickly—if at all.

The basic choice that each of the four situations described at the beginning of the chapter and countless others like them present to us is one of purpose. Should our intention be to identify those elements of conflict that are resolvable and focus on these or to devise ways to assist people to *stay with conflict* in a powerful, constructive, and effective way?

THE CHALLENGE FOR THE CONFLICT FIELD

As conflict professionals we gain something and lose something by limiting our range of services to the resolution process. When we make resolution our focus, we are better able to explain our purpose and role definition, presenting them clearly to the public (and to ourselves). At the same time, we lose a great deal of relevance and opportunities for intervention, because disputants come to view our services as relevant for only a narrow range of conflicts. And this is why we are sometimes viewed with a certain amount of mistrust, why people often feel that conflict specialists—mediators, facilitators, conflict coaches, and collaborative practitioners—are offering a formula that is too easy, too clear cut, and just plain naïve. We often feel that way ourselves.

People want help with conflict, but they also want realism. When we offer to help them prevent, resolve, or in some way fix conflicts that they are experiencing as inevitable, intractable, or deeply rooted, we are not seen as credible. This is not to say that the worst aspects of long-term conflict cannot be ameliorated, that complex and destructive

interactions cannot be made more constructive, or that progress toward a more positive approach is impossible. But when we focus on preventing or settling conflicts that are not likely to be resolved, we lose credibility and forego the opportunity to help people in realistic and meaningful ways.

I am not suggesting that conflict professionals have created this problem out of either naïveté or hubris. We have responded to a clear need as we have seen it, and we are often asked to take on impractical goals—to resolve a long-term, deeply rooted conflict or fix a complex and entrenched problem. But if we buy into such unrealistic hopes or expectations, we are in the long run likely to disappoint our clients, and perhaps ourselves. Taking a request for assistance that may be unrealistic and negotiating appropriate and realistic terms for our work is often our first big challenge. In doing so, we need to maintain a clear view of the dispute and the possibility that it is an enduring conflict.

Sometimes the challenge of helping people face long-term conflict is obvious, either because the dispute cannot be mediated or because the disputants are clearly entrenched in their positions. Efforts to mediate disputes about abortion provide an interesting example of this. The fundamental conflict between the “pro-choice” and “pro-life” camps about abortion rights is clearly irresolvable—but that does not mean the conflict cannot be engaged with in a more constructive way. Ancillary issues (such as ground rules about picketing outside abortion clinics or information that should be provided to teenagers about contraception, abstinence, and pregnancy termination) have also proved to be enduring because they cannot be disconnected from the core values and identity issues involved in the abortion issue itself.

Sometimes we have the choice of whether to look at the enduring aspects of a conflict or to focus just on the immediate and the resolvable features. For example, when mediating a high-conflict divorce we are occasionally presented with seemingly short-term disputes that are manifestations of intractable conflicts. A hiring conflict among business partners may seem like a short-term conflict, and we may choose to treat it as such, but it may also be a manifestation of a long-term struggle about organizational mission or direction, fair hiring practices, or power over decision making.

Sometimes our role in enduring conflict is short term, if for example we have been called in to mediate a conflict about a proposal to build a new parking facility rather than to address overall concerns about traffic and development. At other times we may find ourselves having a role to play over time, as when we are asked to work with organizations over a period of years or to set up and participate in ongoing systems for dealing with ethnic violence. But regardless of the specific circumstances of our involvement, the challenge is the same. Can we help people deal constructively with long-term, enduring conflict, and what tools can we bring to this task?

We have reached a stage in the development of the conflict intervention field where we are comfortable and often adept at working as third parties in time-limited, resolution-focused approaches. But if our field is to realize its full potential to assist with the key challenges conflict presents, we need to move beyond this zone of comfort, beyond this fairly circumscribed and limited role we have generally defined for ourselves.

We are therefore at a crossroads in the work we do as conflict professionals. We can take on the important challenge and opportunity that enduring conflict presents,