

SALTMAN CENTER FOR CONFLICT RESOLUTION TENTH ANNIVERSARY HONORS NELSON MANDELA

Jean R. Sternlight*

In 2014 the Saltman Center for Conflict Resolution celebrated ten years of teaching, research, and public service pertaining to conflict resolution. Rather than host a “mere” party, we decided to sponsor a very special event honoring the contributions of Nelson Mandela to the world of conflict resolution. We believed such an event would further our mission of bringing greater knowledge about conflict resolution to the public and thereby help bring more peace and justice to our troubled world. Over the years, the Saltman Center has hosted numerous very special public events, including well-known public speakers, conflict resolution experts, panel discussions, and academic conferences. For example, journalists Tom Friedman, Linda Wertheimer, and Daniel Schorr have all given lectures as part of our Peace in the Desert™ lecture series, and we have hosted panels and symposia on topics such as resolving environmental and water disputes, seeking peace in the Middle East, dealing with human rights abuses around the world, and using mediation to help deal with our region’s economic crises.¹

The choice to honor President Nelson Mandela in connection with our tenth anniversary event was easy. The late Nelson Mandela, through his words, his writings, and his actions, epitomized the best of the world of conflict resolution. A leader in the effort to free black South Africans from the injustices of racial oppression, Mandela was cruelly imprisoned and mistreated for twenty-seven years by the South African apartheid regime. During this long period of imprisonment, the people of South Africa engaged in often bloody fights and bombings as the white regime sought to maintain its economic and political control over the impoverished black majority of the country.² Having endured brutal imprisonment that deprived him of his vocation, contact with his family, and his physical wellbeing, Mandela nonetheless negotiated a largely peaceful transition from white rule to democracy in his troubled country. He ultimately

* Director, Saltman Center for Conflict Resolution, and Michael & Sonja Professor of Law, at the William S. Boyd School of Law, University of Nevada, Las Vegas.

¹ See *Past Events*, UNLV WM. S. BOYD SCH. LAW, <http://www.law.unlv.edu/saltman-center/past-events> (last visited Dec. 21, 2015).

² Mandela discusses his life in NELSON MANDELA, LONG WALK TO FREEDOM: THE AUTOBIOGRAPHY OF NELSON MANDELA (1995).

became the first elected president of the new Republic of South Africa in 1994 and also won the Nobel Peace Prize in recognition of his role in helping South Africa transition to democracy.³

To discuss Nelson Mandela's contributions to the world of conflict resolution we selected five superb panelists who could address his work from a variety of perspectives. We asked the panelists to make fairly brief remarks and then converse with one another and our audience. Their remarks highlight several important themes regarding the work of Nelson Mandela, and also show the continued relevance of his legacy to the many disputes that continue to plague our world.

Our moderator, Professor Andrea Schneider, teaches at Marquette University Law School.⁴ An acclaimed scholar and teacher in the field of dispute resolution, Schneider has written multiple books and articles, focusing especially on negotiation and international conflict resolution. She explains that Mandela's contributions continue to have great relevance today both because "South Africa is a beacon of how we hope all conflicts could be resolved" and because Mandela himself "is the model of leadership."⁵ Schneider notes that one of Mandela's key strengths as a leader was his humility, emphasizing that "[h]is awareness of personal flaws" made him stronger.⁶

The first speaker in the panel, Professor Carrie Menkel-Meadow, is Chancellor's Professor of Law at UC Irvine School of Law.⁷ A founder of the modern field of dispute resolution, Menkel-Meadow has written over 150 articles as well as numerous books that examine how best to resolve disputes in both the legal and international political arenas. Menkel-Meadow chose to emphasize Mandela's early years as a "committed revolutionary," before he transitioned to become a "mentor and model of reconciliation, forgiveness and peace seeking."⁸ She explains:

Nelson Mandela was the model of the familiar phrase, "Without justice there can be no peace, but without peace, there can be no justice." Ultimately he was committed to both, but he put justice first. There are lessons in this for all of us

³ See *The Nobel Peace Prize 1993*, NOBELPRIZE.ORG, http://www.nobelprize.org/nobel_prizes/peace/laureates/1993 (last visited Dec. 21, 2015) (explaining that Nelson Mandela shares the award with former South African President Frederik Willem de Klerk "for their work for the peaceful termination of the apartheid regime, and for laying the foundations for a new democratic South Africa").

⁴ See *Andrea Schneider*, MARQ. U.L. SCH., <https://law.marquette.edu/faculty-and-staff-directory/detail/2004356> (last visited Dec. 21, 2015).

⁵ Transcription, *Making Peace with Your Enemy: Nelson Mandela and His Contributions to Conflict Resolution*, 16 NEV. L.J. 281, 284 (2015).

⁶ *Id.*

⁷ See *Carrie Menkel-Meadow*, U. CAL. IRVINE SCH. LAW, <http://www.law.uci.edu/faculty/full-time/menkel-meadow> (last visited Dec. 21, 2015). She is also A.B. Chettle, Jr. Professor of Dispute Resolution and Civil Procedure at Georgetown Law. See *Carrie J. Menkel-Meadow*, GEO. L., <https://www.law.georgetown.edu/faculty/menkel-meadow-carrie-j.cfm> (last visited Dec. 21, 2015).

⁸ Transcription, *supra* note 5.

in conflict resolution, as the challenge of seeking justice is sometimes not so peaceful.⁹

That is, we must not forget that Mandela and the African National Congress used “boycotts, strikes, riots, protests, rolling actions, sabotage and yes, violence” to achieve their ends.¹⁰ Thus, emphasizes Menkel-Meadow, “Mandela and the ANC taught ultimate commitment to the cause of justice—peace comes only after ‘rights’ have been achieved.”¹¹ She urged current activists to remember that conflict, as well as conflict resolution, can be critically important to alter not only “the psyche—but the political order as well.”¹²

Our second panelist, Robert Mnookin, is the Samuel Williston Professor of Law at Harvard Law School and Chair of Harvard’s Program on Negotiation and another leading figure in the world of dispute resolution.¹³ One of his many books, *Bargaining with the Devil*, sets out an analytical framework to help negotiators decide when they should and when they should not negotiate with enemies or “devils”—persons or organizations with whom they have very fundamental disagreements.¹⁴ In short, Mnookin asserts that one should negotiate with an enemy “not always, but more often than you’ll feel like it,” due to strong emotions and cognitive biases that interfere with peoples’ ability to think clearly about the costs and benefits of such negotiations.¹⁵ One chapter in his book focuses on Nelson Mandela and the question he confronted as to whether, and if so how, to negotiate with the apartheid regime.¹⁶ Mnookin explains that Mandela is one of his heroes, both because he surmounted his emotions and biases when he undertook to negotiate with the apartheid regime, and because he so deftly dealt with dissension on his own side, overcoming those who were not prepared to relinquish violence, and convincing them that reconciliation had become the best way to accomplish their goals. “In my view Mandela really was the greatest negotiator of the twentieth century,” based on those accomplishments.¹⁷

Our third panelist, Richard Goldstone, is a South African jurist and international human rights leader¹⁸ who worked directly with Nelson Mandela as the apartheid regime was coming to an end:

⁹ *Id.* at 285.

¹⁰ *Id.* at 286.

¹¹ *Id.*

¹² *Id.* at 290.

¹³ ROBERT H. MNOOKIN, <http://www.mnookin.com/index.html> (last visited Dec. 21, 2015).

¹⁴ See ROBERT MNOOKIN, *BARGAINING WITH THE DEVIL: WHEN TO NEGOTIATE WHEN TO FIGHT* (2010).

¹⁵ Transcription, *supra* note 5, at 291; see also MNOOKIN, *supra* note 14, at 261.

¹⁶ See MNOOKIN, *supra* note 14, at 106.

¹⁷ Transcription, *supra* note 5, at 293.

¹⁸ Justice Goldstone has led international human rights investigations pertaining to the former Yugoslavia, Rwanda, and the Gaza War. See Amy Kingsley, *Making Peace: Lessons from Mandela*, NEV. PUB. RADIO (Oct. 29, 2014), <http://knpr.org/knpr/2014-10/making-peace-lessons-mandela>.

Without question, the greatest privilege of my life was to get to know Nelson Mandela on a personal one-to-one basis. That came about as a result of my appointment, in fact by President de Klerk, but through the leadership of Kobie Coetsee, the then Apartheid Justice Minister, to investigate the causes of the violence that began almost immediately after Mandela was released from prison.¹⁹

Reflecting on some of his many personal interactions with Mandela, Justice Goldstone highlights one incident in which Mandela chose to give a public apology to Goldstone for having criticized his interim report before having read it.²⁰ Asserting that few other leaders would have made such an apology, Goldstone attributes Mandela's willingness to apologize to both his character and his excellent political instincts.²¹ Justice Goldstone also tells several personal anecdotes illustrating Mandela's genuine forgiving personality, as well as his sense of humor.

Like Justice Goldstone, Penny Andrews draws on her personal experiences to help us understand Nelson Mandela's contributions to the world of conflict resolution. Having grown up "colored" (mixed race) in apartheid South Africa,²² Andrews had to overcome many racial and economic barriers to receive a university education, but persevered to get a law degree and then become president of an American law school.²³ An expert on civil rights, Andrews's remarks draw on her own experiences in South Africa and her personal knowledge of Nelson Mandela. She highlights Mandela's ability to lead the nation on a path of reconciliation, despite its history of intergroup violence and apartheid, and states,

I think the most profound thing about Nelson Mandela was the concept of forgiveness . . . [F]orgiveness was key to taking South Africa from extraordinary violence and bitterness to a country in which we can say at least that people who at one stage hadn't known each other or hated each other terribly actually can live together, even though in a very imperfect way. This concept of forgiveness, as articulated through the Truth and Reconciliation Commission is, in my view, the most powerful legacy of Mandela.²⁴

Following each speaker's initial remarks, moderator Andrea Schneider leads a discussion among the panelists and also with the audience. This discussion focuses especially on whether we can or need to find more "Mandelas"—

¹⁹ Transcription, *supra* note 5, at 295.

²⁰ *See id.* at 296–97.

²¹ *Id.* at 297. Goldstone believes that had the public apology not been, members of his African National Congress would have ceased to have trust in the investigatory commission, which likely would have led to its demise and undermined the peace process. *See id.*

²² Robert Gavin, *Long Road to Law Dean*, TIMESUNION, Aug. 23, 2013, <http://www.timesunion.com/local/article/Long-road-to-law-dean-3811338.php>

²³ Subsequent to the event, Penny Andrews was named dean of the Faculty of Law at the University of Cape Town in South Africa. *See President Andrews Named Dean of the Faculty of Law at University of Cape Town in South Africa*, ALB. L. SCH. (July 1, 2015), <http://www.albanylaw.edu/about/news/current/Pages/President-Andrews-Named-Dean-of-the-Faculty-of-Law-at-University-of-Cape-Town-in-South-Africa.aspx>.

²⁴ Transcription, *supra* note 5, at 301.

Fall 2015]

NELSON MANDELA

279

leaders with his similar capabilities—to solve the world’s many remaining problems. While the panel may not provide definitive answers on how to bring more peace and justice to our world, they certainly help us to see the path a little more clearly, drawing on Nelson Mandela’s great work.

We are delighted now to present the transcript of this very special event to the world, thanks to the generosity and help of the editors of the Nevada Law Journal.²⁵

²⁵ Interested readers may also wish to watch the video we produced of this event, at <https://vimeo.com/111054866>. And, they may also enjoy listening to the interview of panelist Richard Goldstone on our local NPR affiliate, at <http://knpr.org/knpr/2014-10/making-peace-lessons-mandela>. See Kingsley, *supra* note 18.

