

## **Introduction**

Last summer I had a conversation with David Matz, a professor in the Dispute Resolution Program at the University of Massachusetts – Boston. The purpose of our conversation was to discuss a possible topic for my master project. I had the idea of designing a Program in which bilingual community members were recruited and trained in mediation to encourage non-English speakers to participate in mediation. This idea's origin is related to my internship experience in Cambridge Court. The semester I mediated in the court for my internship I translated on several occasions for the Spanish speakers. I was known as the bilingual mediator.

While I was offering this idea to the professor, I remember he was telling me “Gherta this is a good idea but there is nothing new to be said on it. The only reason this idea has not become real is because of resources” I hoped this was not the end of our conversation. Although I was out of ideas of what to write for the master project, David Matz was not. He asked me “What about your mediation experience in Nicaragua?” He continued, saying “Maybe you could do some analysis between the practice of mediation here in the US and Nicaragua?” Although I liked the idea I was worried about comparing my two experiences in mediation, since they implied two different settings: community and court. Previous to my enrollment in the Dispute Resolution Master Program, at University of Massachusetts – Boston I worked in the Mediation Center of the Law Faculty at the Nicaraguan National Autonomous University, Leon (UNAN-Leon), which is a community oriented. In my second semester of the master project, I had the opportunity to mediate in small claims court

in Cambridge, Massachusetts. David Matz sent me home to think and brainstormed some ideas.

Our second meeting was scheduled a week later. I thought about it and realized I could not waste an opportunity to present a different viewpoint of my country, Nicaragua. I think that many foreigners in this country, especially Latin Americans, want people to know not just the bad things of our homelands - civil war, poverty and violence but also the good things that happen in our countries as in the story presented on these pages. I went to the meeting with a lot of ideas about the project but mostly focused on the “cultural adaptations” of a mediation model brought from the US to Nicaragua. At that time I was sure of two things: First, I wanted to have David Matz as my advisor. The second thing, I felt was concern of having to translate all of my information from Spanish to English in a month. I was in the US and was planning to go to Nicaragua in December for Christmas break and do all of the interviews, transcribe and translate them.

Despite my concerns and worries my advisor, David Matz and acknowledged my enthusiasm for the topic and this was pretty much how the project crystallized. I wrote the proposal and the interview questions. As I thought about the differences between mediation in Nicaragua and the US I realized that I could not find as many as I had expected. By the end of October I received a package from the Mediation Center of the Law Faculty of the UNAN-Leon about its establishment, training materials and evaluations. Reading it helped me to realize that the documents did not have much information or description about cultural adaptation. One more time the

master's project's direction changed from cultural adaptations to the story of a mediation program established in the oldest Law Faculty of Nicaragua.

This study is primarily focused on the story of the mediation center of the Law Faculty in the UNAN-Leon, the condition of its establishment, as well as the changes that have taken place in its development. My intention is neither to engage in the discussion of the establishment of the mediation program of Nicaragua nor the establishment of the mediation process in the formal system.

The first chapter of this study is the literature review section. In this section I described some of the considerations I found to be relevant to the life of the Mediation Center, the difficulties encountered during the research process as well as some of my doubts that were not answered despite the many articles and books I read.

The second chapter presents, in chronological order, the thoughts and feelings of the people involved in this project of the Mediation Center of the Law Faculty in the UNAN-Leon.

The last two chapters of this project correspond to the results, some suggestions I considered important to take into consideration in the establishment of mediation programs in Latin American countries and the conclusion.

I hope this story can offer some insights for the establishment of mediation programs in University settings and mostly can bring to light that despite the limitations in resources positive attitude, engagement, vision and appreciation for own's work are vital in the development and successfulness of such programs.

## **Methodology**

Since this project attempted to describe the establishment and development of the Mediation Center of the Law Faculty of the UNAN-Leon, my advisor and I considered it appropriate to gather information for this study in two directions. The first method utilized was, written document analysis. I received almost 300 pages from the Mediation Center and The Chancellor Office of the UNAN-Leon, training materials, agreements, evaluations, etc. I studied all of the documents and formulated some of my interviews question from this analysis.

Second, since not much has been written about the story of the Mediation Center, the interview was a relevant tool to collect information from the people whom were and or still involved with the Mediation Center. While I was planning the interview process, I classified the process in two levels: interviews with the faculty members and interviews with the mediators and center director.

I contacted the Chancellor of the UNAN-Leon, Dr. Ernesto Medina, who represents the University and signed the agreement between the UNAN-Leon and Capital University for the establishment of the Mediation Center. Also contacted were: Roberta Mitchell and Scott Dewhirst from Capital University Dispute Resolution Center, the Center's first partners, Prof, Timothy Lytton, founder of the Mediation Program of Nicaragua and also representative of the Capital University in Nicaragua, current mediators of the Mediation Center of the Law Faculty and Center director, Dr. Morales. I explained my project to each of them and asked for their collaboration I have working with this group since last October with the exception of Roberta Mitchell and Scott Dewhirst from Capital University Dispute Resolution

Center. They referred me to Professor Timothy Lytton. I want to acknowledge their support and contribution to this case study. Without their help and enthusiasm this project could have never been completed.

### *The Participants*

This case study had of two types of interviews: faculty members and staff members or mediators. The faculty members interviewed were: Chancellor of the UNAN-Leon, Dr. Ernesto Medina, Dean of the Law Faculty, Dr. Ernesto Castellon, Former Director of the Mediation Center, Salvador Centeno, Director of the Mediation Program in Nicaragua, Timothy Lytton and current Director of the Mediation Center, Dr. Luis Morales, Capital University Dispute Resolution Center. Of all of interviews I planned to conduct there were only two that I did not complete: the former Dean of the Law Faculty, Dr. Ernesto Castellon could not be interviewed because of health reasons and the Former Director of the Mediation Center, Salvador Centeno because he does not longer work for the Law Faculty and I had no way of contacting him.

### *The Conversation (interview)*

I have changed the technical terminology of interview to the friendlier term “conversation”. I have known most of the interviewee for a long time with the exception of Professor Lytton. I studied Law at the UNAN-Leon and worked as mediator in the Mediation Center from 1998 until I came to University of Massachusetts-Boston for the Master Program. My former boss, Dr. Morales, was also my College Professor and the mediators are not just former co-workers but also

closely friends. Because of this I felt I was not interviewing strangers, but talking with friends.

When two Nicaraguan, or any Latin Americans get together, a good and long conversation is about to take place! These conversations were no the exception, they each lasted between 1 and 1 hour and 45 minutes. Most of the conversations took place in Nicaragua in January 2003. Four out of the six conversations done in this project were conducted face to face. The other two conversations - Professor Lytton's, and one of the mediators who is doing her Ph D study in Salamanca, Spain were phone taped-interviews. I transcribed and translated all of the interviews into English. If clarification was necessary, I used email to contact the interviewees.

Although I constructed a set of questions for each of the interviewees<sup>1</sup> and I followed them, I also practiced the dynamic of opened-ended questions, which helped me to not only to go deeper into some of the issues the interviewees mentioned but also these type of questions created a good environment to help the interviewees to express more freely their feelings and thoughts. (Schein, 1990)

Besides the open-ended questions, this study used a combination of ethnographic and historical methods. According to Edgar Schein, the Ethnographic approach "illuminates descriptively and thus provide a richer understanding of, certain organizational phenomena that had previously not been documented." (1990, 110) This master project will be the first complete document written about the story of the mediation center. Before this study, the story of the Mediation Center was an unwritten and unheard story even for the mediators. Hopefully with this document more people and even the University authorities will become more aware of the work

and activities the mediation center has offered to the community since its establishment.

Secondly, this study has an ethnographic approach because I describe the UNAN-Leon institution and its values and goals that undoubtedly shaped not only the development of the program but also the work of the mediators.

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<sup>1</sup> See in appendix the questions prepare for the interviews.

## **Chapter I**

### **Literature Review**

The literature review process in this study became a difficult task, because despite my efforts in searching for literature regarding mediation programs established in university settings, I could not find any information. Although universities are considered to be a good place for the establishment of community mediation programs (National Institute for Dispute Resolution; 199, 5) According to authors of the Community Dispute Resolution Manual “*An organization chooses a sponsor based on the tangible benefits that the program could receive*” (1991, 5) Some benefits that Universities can bring to a program are: reputation, credibility, publicity, space, accessibility, referral and users (population). Besides those possible benefits it is paramount to remember that Universities represent a potential eligible agency to receive grants allowing the continuation of the programs established within their structures. Undoubtedly the founder of the Mediation Program in Nicaragua, Lytton took into serious consideration the benefits of establishing the Mediation Center in the oldest University and Law Faculty of the country.

The literature review for this project is concentrated in four directions. The first is the literature regarding the establishment of community mediation programs inside and outside the US. Some of the programs examined inside the US were: The San Francisco Community Board [SFCB] (Merry & Milner; 1993) Orange County: North Carolina Dispute Settlement Center, The Albany, New York Center for Alternative Dispute Resolution, Inc., New Mexico Center for Dispute Resolution and Hawaii Center for Alternative Dispute Resolution (Daniel McGillis; 1997) The two

programs I reviewed outside the US were: Community Mediation in Singapore (Ngoh-Tiong Tan) and Building Conflict Infrastructure in the Central and South Pacific: Indigenous Populations (Bruce E Barners). The second category of the literature relates to Neighborhood Justice Programs. There was contradiction between both literatures in some aspects, especially in the definition of popular justice and in the terms of proximity and distance each program used to define itself relating to the formal system. It was interesting to find out the similarity of both programs in their processes, language and principles. The third type of literature deals with cross-cultural concerns in the establishment of Dispute Resolution Methods abroad and in the US. Finally I found in the literature of community mediation programs a framework that focuses on the development and establishment of community mediation programs. Since the framework was mainly designed for US community mediation programs, it did not discuss cross-cultural differences. Despite of this, I found it structure useful to organize this project's finding section.

### **General Notions of Community Mediation**

According to the literature of the field, Community Mediation Programs have their roots in the late 1960's developing as a result of the "social activism to reform the US Judicial System" (National Institute for dispute Resolution (NIDR) 1991, 1)

The two major types of Community mediation programs are: community and court based settings. They can be established in societies in different stages of development, for example: "*transitional, divided society or both at the same time.*" The Court-based programs "are usually government-sponsored and operated by

justice legal system agencies”. The community –based programs “are typically sponsored by non-profit organizations” (McGillis, 1997:8-10; Yarn, 2002)

The literature for the establishment and development of community mediation programs emphasizes the relevance of considering the characteristics of sponsored institutions such as: their nature, mission, goals, case referrals possibilities, structure and decision-making policy before their formal establishment in order to avoid unnecessary conflicts. It is also important to “never lose sight of the impact a sponsor has on its mission, goals and community presence” (Community Dispute Resolution Manual, 1991:5)

The writers of the Community Dispute Resolution Manual list three different methods for establishing the *Leadership structure* for community dispute resolution programs: installing a new board of directors, assimilating with the sponsoring agency’s board and the last method is creating an advisory committee. Usually the criteria to decide the appropriate structure of the programs relate to financial responsibilities, level of autonomy and decision-making policy. (1991:5)

According to Hofrichter, Nancy DiTomaso developed the concept of “*Centralization of authority and the decentralization of function.*” DiTomaso<sup>2</sup> suggests that “In hierarchical organizations’ structures, the locus of power is more easily identified because it is more visible. Moreover the *point of change* is also more easily identified. Therefore, under conditions of resistance from subordinate classes, a diffusion of power or decentralization may be the best means to maintain the existing relationships of domination .....” (1978: 84) This model perfectly fits with the

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<sup>2</sup> DiTomaso, Nancy. (1978). *The Expropriation of the Means of Administration: Class Struggle over the U. S. Department of Labor.* 7 Kapitalistate 81.

setting in which the Nicaraguan Mediation Program was established: the Law Faculty of the oldest University of the country. The UNAN-Leon University practices a centralized approach, especially in the decision-making policy but through the path of decentralization of function. Although the Mediation Center had autonomy in the planning and development of its activities, the real decision-making power was held in the upper level, with the authorities of the Law Faculty.

Having a short and long range plan before the establishment of the program is an important tenet of community mediation. The planning of the activities, services, strategies, function delegations, goals and decision-making process is paramount not only for the development and strength of the program but also is a good reality test of the programs' limitation. "*Planning has been described as the art of dreaming with one's eyes open wide.*" (Community Dispute Resolution Manual, 1991, 10)

The literature of the community mediation programs, especially the one related to the San Francisco Community Boards (SFCB) as well as the Neighborhood Justice Programs acknowledged that one precious value of the community programs is the promotion of popular justice. However, there is confusion between both literatures not in the definition of popular justice but also in its relation to mediation and neighborhood justice. According to Merry & Milner, author Richard Abel<sup>3</sup> defined popular justice as "the systems for handling cases that are less bureaucratic rather than more, less closely connected to the state rather than more, less reliant on legal forms of discourse and more of the discourses of the world outside the legal system and less focused on rules and consistency." (1993:158) In the Abel's

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<sup>3</sup>Abel, Richard. (1982). *The Contradictions of Informal Justice*. "In the Politics of Informal Justice, vol.1. New York: Academic Press.

definition, popular justice is defined through the distinction between its characteristic and the formal system's.

The literature of the Neighborhood Justice Programs, although it shared with the community mediation programs the assumption of promoting popular justice. The concept of popular justice is implicitly defined differently based upon on the setting in which it is applied: mediation process or neighborhood justice setting. According to Hofrichter (1987: 115) “The process of mediation is different than popular justice in the sense of what people do for themselves without the state (Santos, 1982; Buckle and Buckle, 1982; Spence, 1982) or a more explicitly defined collective justice (Cain, 1984)<sup>4</sup>. The way I can explain the Neighborhood Justice Program definition of “popular justice” in the setting of community mediation programs is through the assumption that community mediation programs are closely linked to the Legal System even more than the community mediation defenders realized it, “because informal justice is just an extension of the formal state masked as informal Justice, it is not free of the traditional trappings of the state, it expands and intensifies state power into realms of social life not amenable to formal state control and it unites top-level centralized planning” (Boaventura, 1982; Hofrichter, 1987)

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<sup>4</sup> Santos, Boaventura de Sousa. (1982). Law and Community: The Changing Nature of State Power in Late Capitalisms, in Richard L. Abel, ed., *The Politics of Informal Justice, Vol 1: The American Experience*. New York: Academic Press.

Buckler, G., Leonard & Buckle – Thomas, R., Suzane. (1982). Doing unto others: Dispute and Dispute Processing in an urban American-Neighborhood. In Roman Tomasic and Malcolm Feely, eds., *Neighborhood Justice: Assessment of an Emerging Idea*. New York: Longman

Spencer, Jack. (1982). Institutionalizing Neighborhood Courts: Two Chilean Experiences, In Richard Abel, ed., *The Politics of Informal Justice, Vol 1: The American Experience*. New York : Academic Press

Cain, Maureen. (1984). *Beyond Informal Justice*. Working paper no. 129. Florence, Italy: European University Institute.

One of the biggest failures of the promoters of the San Francisco Community program was the underestimation of the power (historically and culturally) of the legal system in the society. The SFCB promoters did not take into consideration that regardless the problems of access (time and resources) and the delay, in the resolution of conflicts facing by the legal system, this system has been used by the community for hundred of years in the resolution of the communities' conflicts. Moreover, the formal system has established and reinforced ways and values for the resolution of the conflicts in the community. In this sense, expecting to break those patterns in the community through a competitive approach against the formal system was a strong desire in the SFCB. This was not just naïve but also shows confusion between what the program can reach (reality) and what the program hope to do (dream).

There is a saying in Spanish “The one who does not dream, does not build” but I guess the SFCB program dreamed too much, losing perspective and objectivity of its goals. Even though the effort of the SFCB to displace the Legal system was one of its weakest points, it also set a realistic precedent in the later community mediation programs and neighborhood justice programs to focus on approachable goals for example to “offer subordinate groups greater access to justice or greater control over its administration” (Merry & Milner, 1993; Alper and Nichols 1981)

Without any exception the community mediation programs studied established goals of accessibility, time efficiency, affordability, privacy, education, empowerment and the preservation of relationships between the disputants to be the benefits of using a community dispute resolution program.

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Although the Mediation Program established in Nicaragua at the Law Faculty of the UNAN-Leon was not a “pure” community mediation program, it was similar in many aspects to community mediation programs developed in the US. Three big differences could be pointed out between the mediation program established in the Law Faculty and the community mediation programs in the US. First, the Mediation Center did not expect to replace the Formal System, rather it wanted to represent an alternative to the legal system for the community to resolve their conflicts, especially for people without direct access to the legal system. Second, the mediators at the Mediation Center are not volunteers but a paid staff, although at the beginning of the Mediation Center (1994-1997) it attempted to develop the “voluntarism” aspect by using the services and the skills of volunteer mediators. Third, the mediators of the Mediation Center do not represent the community values in any particular way.

Through there are differences and particularities of each of the community programs I studied inside and outside of the US, the programs share similar patterns regarding the structure and development of the process, training activities, case load and referral, the users’ socio-economical background, mediators’ self-development and definition of success.

### Process

As I expected the community mediation programs developed a volunteer mediation process, in which the mediators emphasize theories of communication between the parties as “opposed to being primarily agreement-oriented” (DuBow & McEwen 1994:149). I also found the community programs are strongly influenced by the principles of: empowerment and recognition (Bush and Folger, 1994). The writers

in the field of the community mediation commonly defined the principle of empowerment as the disputant's ownership of their conflicts. The principle of recognition was understood as the acknowledgement of the community's needs, conflicts and concerns. "Informal Justices services simultaneously strengthen a neighborhood's capacity to meet the local needs of the citizens and build a more cohesive, interactive community." (Shonholtz, 1993: 234)

I would add to this practice of recognition a comment from one of the Nicaraguan mediators that the mediation programs can be used to acknowledge the community's unheard social-conflicts that for one or another reason have emerged or been resolved by the formal system. I think that recognition is a critical aspect of the community mediation programs not also in the shaping of the strategies of the process but also it is the framework many mediators used to justify the success of the programs. Although I am not sure to what extent recognition was relevant in the establishment of the Mediation Center goals, it has been one of the accomplishments of this center.

The community mediators did not consider it relevant to use private caucuses in the development of the process, mainly because they consider the strategy of private caucuses as discouraging communication and that for most of community mediators this is the cause of the conflicts. "Conflict is primarily a problem of communication or a misunderstanding rather than an issue of interest or power" (Folger & Taylor, 1984; Silbey & Merry 1986; Rothschild, 1986,) Moreover, communication theory proposes that " conflict is the result of poor communication in either quantity, quality or form" (Moore, 1996; 23) I am not sure if Nicaraguan

mediators did not use the strategies of private caucuses because their perception of mediation process is to focus on face to face communication or if is also related to cultural aspects. It is suggested in the model for understanding Latin Americans cultural patters, that people in Latin American society prefer to establish “face to face communication over more impersonal means of communication” (Albert, 1996: 343)

Another aspect found in the community mediation programs was the policy of *pressure-free* mediators. Most of the practitioners of the community mediation process do not pressure the parties to reach agreements, because all the programs are more communication-oriented than settlement-oriented.

#### Training model

Similar training models were discussed among the different community mediation programs. Despites each programs’ differences: location, culture, goals, etc, all of the programs structure their training activities through the use of simulation: role-play, communication theories, neutral terminology, discussions and apprenticeships activities: observation, co-mediation and solo. (Community Dispute Resolution Manual, 1991; McGillis. 1997, Cobb & Rifkin 1991) A common assumption of the field literature is that when working abroad in dispute resolution programs, the best way to plan the training sessions is in multidisciplinary teams, in which at least one of the members should be a local member of the community. (Honeyman & Cheldelin, 2002)

Despites the cultural differences between communities in and outside the US, the training activities in other countries are very similar to US training sessions. Since my study relates to a mediation program established in Nicaragua, a Latin American

country, I would like to examine two differences that were discussed by some authors as relevant cultural differences in mediation training activities. The first one was related to the role-plays activities and the last one to the common structure of the communication process in Latin American societies. According to several authors, the dynamic of the role-plays seems to be problematic to adjust to the Latin American culture even if the trainees' made significant effort to create culture specific role-play scenarios based on the community's lifestyle. For example, using their own ways of talking, customs and characters in the role-play dynamics are still being looked and sounded like "gringos" (Shook & Milner, 1993; Tan, 2002). I agreed to some extent with the authors' arguments in the sense that role-plays dynamics are unfamiliar ways to learn in Latin American societies, where the traditional way of teaching is through formal methods, primarily lecture and discussions. However, my experience in Nicaragua is that if role-plays are culturally adapted to the community's environment, role-plays would be less problematic to adjust in Latin American countries.

According to Merry & Milner, Lederach<sup>5</sup> suggests that the "North American speech structure" of one person speaks at a time while the other listens it is not a typical dispute-resolution behavior in Latin America. The Latin American societies are known for rarely established a dialogue with a "discernable" beginning, middle and end of the story." (1993:254) Although circular theory is commonly used to characterize woman's speech rather than Latin American speech structure, there is proximity between circular communication theory and the Latin American speech structure. (Cobb & Rifkin, 1991) Despite the cultural differences between the North

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<sup>5</sup> Lederach, P. John. (1986). Mediation in North America: An Examination of the Professions Cultural Premises. Comprehensive examination paper, Department of Sociology, University of Colorado.

and Latin American speech structures, it is important to acknowledge that mediation sessions (training and in reality) have been developed based on the North American speech structure. Although the establishment of this particular speech structure has not been fully appreciated by the Latin American disputants, at least in Nicaragua it has worked and has been incorporated as a relevant dynamic of the mediation process.

### Case Loads

Even though each of the community mediation centers studied for this project were established in different environments and context, all of them attended to a wide range of issues: noise, vandalism, insults, property care, health hazards, nonpayment of bills, tenants complaints, breakdown of personal relationships, false accusations, child-support issues, etc. According to some mediators, the community mediation programs have expanded their range of services for matters of demand but also as a way to generate cases. (Silbey & Merry, 1986)

It was interesting to notice that cases in which domestic violence are present are usually not mediated in community mediation. The Nicaraguan mediators consider that mediation cannot be developed in situations where domestic violence is involved. Some of the reasons they pointed out for their reluctance to mediate in these situations were that they were unprepared to handle those cases as well as the risk in developing a process in which self-determination and imbalance of power were never overcome by the weak party.

### Case referral

Most of the community mediations programs established inside and outside the US shared the case referral system with police, lawyers, religious institutions, courts, social service offices, former disputants, direct program contact, schools and in the Nicaraguan case the Law School Clinic.

It is relevant to point out that the Mediation Center of the UNAN-Leon does not receive a lot of cases from the court. A possible reason for this is that due to the implementation of mediation in the formal system, the courts have their own staff of mediators inside their institutions to develop the processes.

A possible consideration for the mediation programs to keep distance from the legal system could be related to the situation of corruption faced by the formal system. (Hofrichter, 1987; Yarn, 2002) In that sense being the Mediation Center unattached to the Court System has brought many benefits such as: greater independence and full control of the Program activities and services as well as the users' trustfulness in the process. The Nicaraguan mediators recognized that being perceived as an independent program from the legal system liberates the program from the bad image of corruption that is unfortunately linked with the formal system.

### Users

The community mediation programs are primarily established for low-income population, whose levels of education are relatively low. (Merry & Milner, 1993; McGillis, 1997; National Institute for Dispute Resolution, 1991, Shonholtz, 1993; Albert, 1996) I am not totally aware to what extent if any "the status of the community service" has a pejorative connotation in The US as it does in Nicaragua.

Unfortunately the word community in Nicaragua is linked to the idea of low quality or less professional services because it is not paid and it focuses on low-income population.

#### Mediators' self-development

A common pattern in the community mediation programs is the deeply impact of mediation's ideology on the mediators' personal levels. The community mediators acknowledged the improvement of their communication skills as well as their ability to handle conflict in their private sphere through the practice of mediation.

Another pattern found among the different community mediation programs was what Smith (1975) called "the social attachment and engagement in social networks that characterizes volunteers in other settings." Even though *social attachment* was a predominant aspect within the staff of the community mediation programs I will have to argue that "social attachment" is not only related to the aspects of voluntarism but also to the process' (mediation) own ideology, its social values and cultural pattern. (1993:158)

According to Albert, Latin American culture is more "*allocentric*" than "*idiocentric*", that is, more attention is paid to others' needs, values and goals than own individuals' (1996, 334) and with higher "*tributes of collectivisms*" or emphasis on the group. (337) Taking into consideration those cultural patterns of Latin American societies, I will include them in the Nicaraguan mediation experience case for a better explanation of the level of attachment and compromise from the Nicaraguan mediators to their community.

### Definition of success

There has not been specific research revealing “changes” in either way that community mediation programs help users to resolve their conflicts or in the way they foster communication. Some mediators believe that community mediation programs not only transform the parties participating but that the “mediators themselves may be the most transformed by meditative process and ideologies” (Carrie Menkel-Meadow, 1995:231)

The vast majority of the community mediation programs have characterized the success of their programs by the welcoming attitude of the community who have not just accepted the community mediation process as an “alternative justice system” but also have increased the demand for the community mediation services. (Merry & Milner 1993) The community mediation literature establishes that the programs have opened a form of alternative justice for the community and the program represents new spaces for communication in which the mediators recognize and empower the parties to resolve their own disputes. (Bush & Folger, 1994) Community mediation scholars also consider the community mediation programs as well as neighborhood mediation forums to be successful in the sense that “social relations in the community are constructed and class relation is translated organizationally into relations between individuals.” (Hofrichter, 1987:88)

On the other hand, some mediators hold the idea that “the community could have welcomed the programs and improved their practice not because communication spaces were established but as a result of economical limitation from its users to

pursue complaints in the formal system. Although this might be possible, it has not been proved.

Both explanations, the one in favor and the one opposed to the success of the community mediation programs, offer valid arguments from their own perspectives. I think that the contradiction between them involves not only implementing different approaches for the understanding of success, but also with desired purposes of obtaining throughout the process: “effectiveness in the settlement, timeless or disputant commitments”. (Elangovan, 1995: 460)

### **Some Unanswered Questions**

Although there was abundant information relating to the establishment, development and planning states of the community mediation programs, I did not find answers to all of my questions regarding the establishment of mediation programs outside the US.

1. Not much literature was available relating to the possibility of allowing too much responsibility to one person to the point that a program could become personalized.
  - Although the literature emphasized that defining as clear as possible “partnership” responsibility could help to share responsibilities and develop equal opportunities in the decision-making process, it was not discussed how to handle the situation in which one of the partners in the program became exclusively the “funder-driven” individual or the resources controller.

2. Is any literature written about voluntary mediation in a University setting? Or is voluntary mediation considered the same as community mediation? Is the only difference between voluntary mediation and community mediation that in one setting mediators are paid and in one they are not?
  - Since this study was focused on a Voluntary Mediation Program established in a University setting, with a lot of similarities to the community mediation programs but at the same time different from those programs, I kept asking my-self during the literature review phase is there literature that recognizes “voluntary mediation programs” as different from pure community mediation programs? Or is it just in my head that I have invented a label for “almost” community mediation programs? This is an area for future research.
3. Most of the literature review concerning exporting conflict resolution from the US abroad focuses on “invitations to work abroad. I did not find any literature regarding “voluntarism” in working abroad.
  - I did not find any abroad program in which the mediators volunteer themselves to work in the establishment of dispute resolution programs, as was actually the case in Nicaragua. Although that was the case in the Nicaraguan Mediation experience and did not happen, I expect that when experts offer themselves to be part of a project possibly many aspects in the dynamic of partnership, issues control and communication could evolve differently than if the institution requests the expert’s assistance.

4. Why is not training activity considered a social transformation aspect of the community mediation programs?

- Even though I found a lot of criticisms regarding the unproved success of the community mediation programs, I perceived education through the training activities was not taken into consideration as being an active part of the effort toward the community transformation. From my understanding, transformation is a long-term project. It would be unrealistic to expect people to be transformed from morning to night, but the more informed people are the more chances they have to reach the desired transformation. Education is linked to this process.

5. Is quality of justice the same as quality of services?

- Daniel McGillis defines quality of justice based on three aspects: access, speed and space to discuss point of views (1997). Even though I think that the Nicaraguan Mediation Program was not established to offer justice but rather to provide the community an alternative service, I was unclear if taking in consideration the mediation services' purposes (access, time and communication) the concept of service could be the same as the concept of justice?

## Chapter II Narrative Section

Professor Timothy Lytton, visited Nicaragua for the first time in 1987 as a volunteer in an American humanitarian project called “New Heaven.” When he first arrived, he worked with the farmers building houses. After his experience with the farmers he worked as an English teacher in the UNAN-Leon<sup>6</sup>, a major university in Nicaragua. After working for a year in the Nicaragua, Lytton returned to the United States and initiated his studies in Law at Yale University.

In 1991 following his graduation, the American lawyer-mediator traveled to Nicaragua with the desire of using his legal education assist Nicaragua in developing a different process for resolving conflicts. He began his work by operating under the assumption that mediation was a “*common method in the US that did not require a lot of resources and that it could be easily adapted to the Nicaraguan culture*” (TL)

Lytton initiated contact with Xiomara Paguaga, dean of the Law Faculty at the UNAN-Leon and started “The Mediation Program of Nicaragua”. It was through this program that he began his efforts to provide formal mediation training to local, legal and social service professionals.<sup>7</sup> Among his public sector trainees were federal and local attorneys, family court judges, law enforcement officials, and professional educators. From the non-government sector, his trainees included catholic and protestant clergy, psychologists and law students.

It was precisely in one of the earlier training sessions that Lytton met and trained future officers of the Mediation Program such as Salvador Centeno (Director,

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<sup>6</sup> Nicaraguan National Autonomous University -Leon

<sup>7</sup> Magazine article “Building Peace by Teaching Mediation” written by Prof, Lytton.

1994-1997), along with the current director of the Mediation Center Dr. Luis Morales. *“In those years (1992-93) Professor Timothy Lytton, one of the biggest methodologist of the mediation techniques in Nicaragua was directing a Mediation Program in the city (Leon). This program offered mediation’s training workshops to different institutions and I as the director of the Labor department Office attended one of the workshops.”(L.M)*

During his tenure in founding the Mediation Program, Lytton received financial support from a variety of institutions. The Center for Dispute Resolution, Capital University Law School in Columbus, Ohio provided financial support for the Nicaraguan Project under a grant from the Eastabrook Foundation. The World Council of Churches funded Lytton’s travel expenses between The US and Nicaragua<sup>8</sup>. And The Comite Evangelico Pro-Ayuda Desarrollo (CEPAD –Leon)<sup>9</sup>, Law Faculty of the UNAN-Leon and the Secretariat for personnel and human resources development provided funding (for a wide variety of ongoing expenses dedicated to the growth and development of the program). However in this document the contribution of the CEPAD and the UNAN-Leon is discussed only in terms of its relation to the training process of mediation inside the institutions themselves, rather than their economical support.

During my interview with Lytton, he explained that the Mediation Program of Nicaragua was comprised of a Director (Lytton) and a nine-member board of

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<sup>8</sup> Information found in a document written by Professor Lytton

<sup>9</sup> CEPAD is a Nicaraguan Development agency affiliated with the world council of churches

advisors.<sup>10</sup> The board assisted the director of the program in the promoting and planning of the activities and training processes within the program.

The volume of activities that the Mediation Program of Nicaragua developed during 1991-1994 was quite impressive. The board of advisors and the director of the program initiated programs through a variety of means. First, they contacted institutions such as governments, ONG's, schools and universities (such as the UNAN-Leon and Central America University, UCA-Managua). Second, they contacted Catholic and Protestant religious organizations. And third, they wrote a number of articles for newspapers and local magazines further increasing interest in the project and its activities in regions throughout the country.

According to Lytton, mediation was welcomed in Nicaragua not just because of the possibility of saving money and time in the resolution of conflict, but also because the process of mediation represented a more real access to justice especially for members of poorer communities. *"We found that for a variety of reasons some communities did not have any access to justice. For all of those reasons we wanted to offer them a simple method to resolve conflicts and that did not need much resource for its implementation and the community welcomed it"*(TL)

While establishing the Mediation Program of Nicaragua, Lytton encountered some predictable differences in mediation methodology, largely driven by cultural differences between the United States and Nicaragua. He also encountered variations in institutional infrastructure that mediation agreements and the types of case for mediation. Listed below are the major differences in mediation norms, which Lytton found to be driven by cultural tendencies.

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<sup>10</sup> See in appendix the chart of the structure of the Mediation Program of Nicaragua

### **Role Playing**

In the first training sessions, Lytton was advised by some that the use of role playing as a training tool was ill-advised. *“Here in the US we use a lot of role-play for the teaching of mediation. People in Nicaragua told me that the Nicaraguan culture was not well- educated and ready for role-plays and that was not the case. I used in Nicaragua almost the same methodology that I use here in the US.”(TL)*

Role-plays are still in the process of being incorporated in Nicaragua as an acceptable teaching tool. I believe that “people” were not initially open to role-playing because it represented a major shift in educational standards. This is not to suggest that trainees are uneducated. Rather, I believe that the use of role playing simply represented a major shift away from a formal style of teaching developed by conferences and lecturing, with less focus on trainee participation.

### **Lack of Supporting Infrastructure**

In addition to the lack of role-playing in formal education, Lytton found another significant difference between the United States and Nicaragua. Lytton learned soon after his arrival that unlike the United States, Nicaragua had little support for mediation within the infrastructure of the Nicaraguan Formal System. This difference was probably not unexpected, since mediation did not become part of the legal process until 1996 when the Supreme Court approved a law allowing local courts to compel attendance at mediation sessions for some Judicial Process.

This lack of an infrastructure for mediation in the formal system impacted the concept of mediation in two ways. First, mediation could only become a significantly viable means of settling disputes once it received a degree of legal support. Second,

there was a need for infrastructure that allowed for accessibility: *”Here in the US you have the support of the legal infrastructure. When you mediate between two people you do it under the shadow of the legal infrastructure In Nicaragua there is not such infrastructure, there are courts but not of the communities have much access to them”* (TL)

### **Mediation in domestic violence**

Another interesting difference Lytton found while practicing mediation in Nicaragua was that mediating in situations of domestic violence was sometimes the better option. This was quite contrary to common wisdom held in the United States. *”I went to Nicaragua with the strong belief that one should not mediate in domestic violence situations. Here in the US most of the training courses hold the position that situations of domestic violence cannot be mediated. Such cases should first go to the legal system. In Nicaragua if you do mediate those cases, the woman has no place to go for legal protection-- or at least at that time that was the case. A lot of Nicaraguan lawyers told me it was better to offer to the parties the service of mediation than ignore those cases. Here in the US the BATNA will be to go to the court and ask for legal protection for the women but that was not an option in Nicaragua.”*(TL)

### **Denial of Conflict**

Still another difference in mediation norms emerged when Lytton discovered was the tendency for Nicaraguans to deny the very existence of conflict situations. *“I noticed” that people in are not comfortable dealing with conflict they tend to avoid it until it become violent. There is an attitude of “denial of conflict”. Here in the US people are more open to recognize and talk about conflicts”* (TL)

### **Resistance to Documentation**

Finally, the resistance of Nicaraguans to documenting their work was a significant cultural difference faced by Lytton in his mediation experience. Although Lytton tried to collect the Nicaraguan mediation experience through written documents, the locals were uncooperative in keeping records of their work as mediators. “We wanted to have more statistics studies but it was difficult because people were not used to documenting their work. Most of the information I have from our work in Nicaragua is based on anecdotes. I think that was a cultural difference, Nicaraguans are not used to documenting their work.”(TL)

Despite the cultural differences Lytton found in the country, he did not consider the differences to be insurmountable obstacles to the development of the mediation process. “*They did not affect the use of mediation because the mediation techniques are pretty easy to adapt from one culture to another.*”(TL) Apparently the process of adapting mediation techniques from American to Nicaraguan culture was developed while practicing mediation in the communities. “*I introduced mediation but the Nicaraguans adapted it to their reality). I trained people from the community who were interested in mediation. From the role-plays we noticed the things that did not work and that needed to be adapted to the cultural reality. I did not create new techniques for the training process in Nicaragua I just emphasized some techniques more than others--for example, techniques that allowed people to talk more about conflict and that helped me to bring to the table the history or the perceptions of the parties. I guess there are cultural differences but I do not think it is accurate to say that because of them the mediation process had to be radically changed. I do believe*

*that the differences between mediation here and in Nicaragua are related to the use of some techniques more than others, to the different structures of agreements in order to reinforce them, along with the need to select different cases for mediation.”*  
(TL)

#### Techniques, curriculum and organization

Reading an article<sup>11</sup> Lytton wrote about his work in Nicaragua, I found a section entitled “Problems of Communications.” The section explains that many of the conflicts Nicaraguans had were not really conflicts, but rather misunderstandings which resulted from a failure to discuss situations. In the same section Lytton suggests some techniques for the mediator to use to help the parties to improve their communication. Important techniques include the use of open-ended questions to get more information, clarification, and recognition for parties’ feelings. Other techniques encourage parties to shift focus from past (conflict) to the future (options to resolve conflict) etc. Thus, it was clear that a primary focus for Lytton was to encourage the use of these proven successful communication techniques as an integral part of encouraging the practice of mediation within Nicaragua. It was under this premise and the premises of cultural differences mentioned above, that Lytton

In 1994 the UNAN-LEON held an internal election. The deans of each of the UNAN-Leon faculties (medicine, law, etc) elected a new Chancellor and Vice-Chancellor. The new authorities initiated their period with the challenge of changing and expanding the social projection of the University in the community. *“The university was planning some programs that could help us to establish closer interaction with the community. We were trying to develop a university that became*

*more relevant and closer to the problems of the country.”(Dr. Ernesto Medina, Chancellor of the UNAN-Leon)*

At the beginning of the Chancellor’s period (1994), Timothy Lytton initiated formal conversation with Dr Ernesto Medina, the new chancellor, about establishing a permanent office in the Law school clinic at the Law Faculty. The Mediation Program of Nicaragua and The UNAN-Leon merged their mutual interests in the establishment of the permanent office at the law school clinic. On one hand, the law school clinic represented the perfect space that the Mediation Program needed to continue the promotion of its services. The law school clinic is the oldest community program within the Law Faculty It had been offering legal advice to the community since 1980, thus proving a good source for the mediation program to get cases for mediation. On the other hand, through the mediation program, the University could develop a closer relationship to the community and initiate the changes in the academic curriculum that the Law Faculty was looking for.

The Law Faculty Board also benefited with the relationship, since it had already been considering the option of some of the ADR methods (negotiation and mediation) as new subjects in the academic curriculum. “ *We found that mediation was an important topic to develop inside the university not just because of the transformational aspect we were working on inside the institution, but also as a possible contribution from the institution in the resolutions of the problem Nicaragua was facing at that time. As you remember we were in the period of the post peace agreement. We had a lot of conflicts relating to property, penal, politic and civil levels that brought to the country into a really bad and violent situation. It was from*

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<sup>11</sup> Mediation in Nicaragua: Advancing on the road of Peace and Justice by Prof. Timothy Lytton

*that perspective that we initiated the talks with Lytton about the mediation program.”(EM)*

The University’s authorities debated about the possible incorporation of mediation and ended up with the resolution that provided “...two interesting components.... *One was related to the university’s interest in the establishment of new programs that allowed closer interaction between the Institution and the Community. The other component was focused on the academic levels. We thought that it was necessary for the university to experience a process of academic transformation. Since the Law Faculty for the past 200 years had earned prestige and respect from the community, we considered it to be the right facility to promote the ADR’s new methods in the resolution of conflicts.”(EM)*

Though in 1994, mediation in Nicaragua was still very much a novelty the University’s real interest was in the ADR methods in general techniques of mediation (negotiation, conciliation, arbitration, etc) rather than in mediation itself. However, because of a lack of resources from the institution to promote a simultaneous practice of all ADR methods, along with a the lack of expertise in the different ADR methods, the UNAN-Leon was forced to chose mediation as a primary focus, instead of choosing to focus on other ADR methods. *“To begin with we did not have a lot of resources to support the development of the ADR methods in general. The other reason was that Lytton, who was going to be directing the program, was a mediator and his experience was in that field. (EM)*

Thus, it was with a somewhat altered approach and with a certain lack of highly clarified strategies for program development, that the Mediation Program of

UNAN-LEON signed an agreement of partnership and collaboration with the Ohio Capital University on May 31 of 1994. The First Community Mediation Center in Nicaragua was thereby established.<sup>12</sup> Despite the fact that there was a clear Institutional agreement between the two Universities, the UNAN-Leon recognized from the outset that the program became a reality because of a personal initiative from Timothy Lytton. *“I do believe that the mediation program in Nicaragua emerged from the personal initiative of Lytton. He was mainly in charge of the program’s development. The participation of the Capital University as an Institution was minimal. I think that in theory the agreement between The Capital University and the UNAN-Leon University was a mere formality to get resources. But in practice, our direct contact was Lytton.” (EM)*

The agreement between the universities stipulated that the resources for the functioning of The Mediation Center, as well as the salary of the Director of the Mediation Center, be financed by the American Government and Capital University Law School of Columbus Ohio. The Law Faculty was responsible for the location of the mediation center. The Pakachoag Church in Worcester, Massachusetts donated \$ 900.00 for the rehabilitation and furnishing of the Mediation Center.<sup>13</sup> I suppose that the involvement of The Pakachoag Church in the Mediation Center was exclusively managed by Timothy Lytton. During this period he was, in fact, living in Boston. It is important to mention that while Lytton was actively involved in the Mediation Center’s daily operations (1994-1997), he was mainly in charge of getting funds to

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<sup>12</sup> See in appendix a news paper article of the Agreement between the Capital University and the UNAN-Leon University

<sup>13</sup> Information taken from the document: Mediation in Nicaragua a joint project between .... written by Professor. Lytton

the Center. In other words he looked for the resources to support the activity of the center during those three years.

According to the UNAN-Leon, the Center initially was managed within a structure of “Co-Direction”<sup>14</sup> managed by Lytton from the Capital University and by Salvador Centeno from the UNAN-Leon University. Salvador Centeno was a Law Faculty alumnus and was one of the first trainees of Lytton, having attended his first classes in 1991. According to the Chancellor, Dr. Medina, Lytton recommended Centeno for the Director position.

In theory the Center’s decisions and policies were to be made collectively by the Directors of the Center, the Chancellor office and the Dean of the Law Faculty. However, in reality the administration of the center turned out to be very different from the one stipulated in the initial agreement. *“I think there was confusion during the first years of the program. Although the Mediation Center was part of the structure of the Law Faculty and the law faculty was in charge of decisions for applying mediation in the community in practice the Mediation Center functioned independently from the Law faculty and sometimes from the University. I think we [at the University] did not have much control in the administration of the program. I think that the program developed so slowly because of the high level of un-definition”* (EM)

According to Lytton, the structure of the Mediation Center was accommodated under the Mediation Program of Nicaragua<sup>15</sup>. “There was an entity called The Mediation Program of Nicaragua and this entity had different programs.

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<sup>14</sup> See in appendix the chart of the structure of the Mediation Center in 1994 according to the UNAN-Leon

One of them was the Mediation Center at the Law Faculty. The Mediation Center had a Nicaraguan Director, Salvador Centeno, I as the director of the Mediation Program for Nicaragua and representative of Capital University” (TL)

However in a document Lytton sent to the Director of World Council Churches, he described the Mediation Center as “consisting of a full-time Nicaraguan Director, a nine-member board of advisors and an office in the Law school of the UNAN-Leon.” In the same paragraph of the document it is mentioned by Lytton “Centeno’s salary from June 1994 to May 1995 is supported by a grant from the Interamerican Foundation”

It was clear to me that the UNAN-Leon and Lytton were at least to some extent operating under two different interpretations (real or understood) of the formal structure of the Mediation Center. Until my conversation with Lytton, I had not realized that the Mediation Center was a project supported by the Mediation Project of Nicaragua. Even though the UNAN-Leon mentioned the Mediation Project in reference to Lytton’s work in Nicaragua, the Mediation Project was not mentioned specifically as being part of the Mediation Center. Even now, it is difficult to discern whether the University’s authorities have realized the level of involvement in which the Mediation Project of Nicaragua has had in the structure and activities of the Mediation Center.

The Mediation Center was established with the purposes of – offering mediation services to the community and developing training activities with the Law students and with the aforementioned public and community institutions

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<sup>15</sup> See in appendix a chart of the structure of The Mediation Center according to Prof. Lytton

Between 1995 and 1996 three Law students (future mediators at the Center) signed up for an elective mediation course offer at the Law Faculty. As they explained to me the Center Director, Centeno and Lytton participated in the activities of the training course. It was interesting to learn that the three students agreed that their first perception of mediation was a limited vision of the process and [that] it was basically based on agreements. *“At the beginning I thought mediation was a more simple process and that agreements were dependent on the mediators. I considered agreements to be the main purpose of mediation... it was frustrating when the parties did not reach agreements.” (EV)* *“I was personally worried about the agreement. I felt that if the parties did not reach an agreement, no mediation was done. At that moment, the concept I had about mediation was not that developed. Maybe I was not thinking about the whole process of mediation.” (FR)* *“At the beginning of our career as mediators we all practiced mediation pretty much under the schema of the Harvard model<sup>16</sup>. We were trained with this model [Harvard]. Our first knowledge of mediation was based on the concepts of the Harvard model! We developed based on this model a legal-oriented process: exposition of the situation by both parties, a little bit of reformulation by the mediator and we quickly moved to options, negotiation and agreements. Looking back I guess we were in a hurry to end the process and reach agreements.” (RQ)*

#### Staffing, methodology, and mediation processes

During its first years of the functioning, the Mediation Center did not have a large staff of people working at the Center, not did it have a permanent staff of mediators. The Center had the policy of having volunteer mediators to conduct

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<sup>16</sup> See in appendix a Harvard model schema

mediation sessions at the center, although they were not related in any way to the Law Faculty. The volunteers were largely chosen because they were former trainees of Lytton. *“We had some mediators form the community, they were volunteers at the Mediation Center but they also worked (as mediators) inside their institution (labor department, attorney office, police department and so for).”(TL)*

Later on the Mediation Program of Nicaragua paid for the services of an Intern from Israel. The Intern helped the director of the Center in the training activities and in the offering of mediation services. He also designed the first database system the Center had to keep records of the mediation and the agreements reached. However, most of the Center’s activities remained planned and directed between the director of the Center, Salvador Centeno, and Lytton.

Since the Mediation Center simultaneously trained students and a variety of institutions, the resources, the time and the staff of trainers were insufficient for the training activities. For this reason, the director and Lytton designed different (in length not in methodology) training process in order to enhance the center’s capacity (time and staff), making sure to consider the trainees’ needs and time disposition for the workshops. The methodology used in the training sessions was a combination of theoretical and practical knowledge. *“Some of the activities we developed in the training workshops were co-mediation, role-plays, groups’ dynamics and discussion.”(TL)*

The Mediation Center under the direction of Salvador Centeno designed a mediation process based on seven phases<sup>17</sup>. *“We used a model of seven phases that covered the same aspects that the models that have six or twelve phases. Our model*

*paid attention to the establishment of a comfortable environment for negotiation, opportunity for the parties to present their point of view, analysis of the problem (past) to the development of options (future), selection and evaluation of the alternatives and the agreements. A big difference among mediators is related to make or not make suggestions. Our model encouraged the parties to generate alternatives and demanded from the mediators to avoid suggestions.”(TL)* Despite all of the changes the mediation center has experienced since its foundation, it was interesting to find out that until now some aspects of the seven –phase model are still being practicing by the new mediators, especially the emphasis establishing a safe space for the parties to present their points of view as well as the avoidance on behalf of the mediators for making suggestion to the parties.

#### Infrastructure and documentation

Lytton acknowledged that the data system of Mediation Center was a weak system. Besides the cultural problem that the Nicaraguans tended not to document their work, there was an additional challenge with respect to infrastructure: *“We had a data system but we did not have a lot of cases. And on top of that people did not keep records of the cases.”(TL)*

As Lytton recognized there were many problems in the organization of the activities of the Mediation Center. One of them was related to the practical component of the training process for the Law Students and the development of a data system for the records of the mediation process at the Center.” *The problem was formality in getting the cases to mediate. I guess we failed in the organization of the reception of cases for mediation. It was a problem of organization and was related to*

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<sup>17</sup> See in appendix a chart of the model of the mediation process (1994)

*the structure. We did not have much access over the cases and clients over the Legal Clinic and they were our potential clients for mediation. If we had we contacted the student already trained and they co-mediated with a supervisor. . Unfortunately many people were trained without having the opportunity to mediate.” (TL)*

This may explain the confusion the law students, (now mediators) pointed out during the interview. Some interviewees said that it was not possible to practice mediation through the Law School, while others claimed that there was no opportunity. “[At] *that time the program did not establish the service of mediation for the community. It was a couple of years later that the program institutionalized the service of mediation in the community (FR)*”

At this point it is paramount to remember that when mediation was introduced in the Law Faculty, the population did not have much awareness of this process. The concept itself was introduced to the public through the law school clinic. The law school clinic that attended legal cases promoted mediation services to its users depending on the conflict and the willingness of people to try the new process. However, neither program ever established standards for the designation of cases to mediation. The decision as to whether or not to mediate a case was mainly designed by the Law school clinic, which had a negative effect on the number of cases that were deemed eligible for mediation.

Another organizational problem was systematization of the Certification. In some cases the Center certified the trainees while in others, the Institutions sponsoring the training sessions were responsible for the Certification. “At the beginning we (The mediation center) certified people [while] some institutions had

their own certificate. I think we had a problem of organization. And I think that was part of the development of the process and a cultural pattern in the Nicaraguan Institutions.” (TL)

The fact that the Mediation Center did not have clear stipulations regarding it's the implementation and administration of the service's policies actually caused unnecessary conflicts. Such conflicts impacted negatively on the development of the center and on its ability to control and administer policies. But the conflicts also had a negative impact internally at the Law Faculty Board. “There was some hostility between the law faculty board and the people directing the program because the amount of information they provided to the law faculty board was limited” (EM)

The Chancellor did not specify the reasons for the hostility between the Law Faculty Board and the Mediation Center personnel. However, he did mention that the law faculty authorities were not happy with the way the center was functioning. I think the law faculty was not only concerned with their lack of control in the center's activities, but also with the lack of ownership in the program.

In October of 1997, the Dean of the Law Faculty, Dr. Ernesto Castellon received a letter from Salvador Centeno, the Director of the Mediation Center. In the letter, the Director of the Center notified Dr Castellon that Timothy Lytton (in September) had officially named Alejandra Moreno as the Administrative and Public Service Director of the Mediation Center of the Law Faculty. Apparently the nomination and designation of Moreno was a decision made solely by the Director of the Mediation Program of Nicaragua without consultation with the Law Faculty Board. Dr Castellon then replied to the letter from the Director of the Mediation

Center by canceling (via written response) the designation of Moreno. Dr. Castellon justified his response by citing the hierarchical structure of the Mediation Center: “Since the Mediation Center is part of the structure of the Law Faculty, all of the nominations and designations for new employees must be taken by the Law Faculty Board” After reading and analyzing the data collected for this study, I realized that the Law Faculty had a radically different understanding of the Center’s hierarchy. The law faculty understood the project to be one of their programs, especially since they were allowing Center to use the structure and the name of the Institution. However, it was apparent that the members of the Mediation Project viewed the program as their own personal project.

In October of 1996 the UNAN-Leon and the Nicaraguan Supreme Court signed an agreement of collaboration<sup>18</sup>. The agreement stipulated the hiring of six Law students that were trained in Mediation to do the first research study to examine the possibility of the incorporation of the Mediation in the Nicaraguan Judicial System.

In 1997 the Director of the Mediation Center, Salvador Centeno interviewed 25 Law students and chose 6 students to initiate the research project with the Nicaraguan Supreme Court.

In 1998, Salvador Centeno resigned his position of Director of the Mediation Center. According to his resignation letter, he resigned because of “ false allegations that damaged his dignity and image in the Institution, as well as the lack of opportunity to discuss the conflict.”

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<sup>18</sup> See in appendix Contract between the Mediation Center (represented by the University) and the Nicaraguan Supreme Court.

According to the Chancellor of the UNAN-Leon, prior to 1998 the University was not clear of the structure of the mediation center. Although it was part of the Law faculty, members of the law faculty were not fully involved in the Centers' decisions and activities. It was only in 1998 (after the hostilities arose between the Law Faculty Board and the Mediation Center) that the University realized it would need to be more involved if the Mediation Center were to continue operating in cooperation with the Law School. *"It was in 1998 [decided] that the Mediation Center needed to be fully integrated with the University-- not just formally but in reality. In that sense the program needed to change. And it was also the opportunity for the institution to express its clear interest in the program. The best way to do it was [by designating] a Director from the University Staff, [and by hiring] more people to work on the program, especially students from the Law Faculty who were knowledgeable in ADR methods specifically in mediation"* (EM)

In 1998, Dr. Luis Morales, a Roman Law Professor of the Law Faculty (already trained in mediation) was designated by the Law Faculty Board as the new director of the Mediation Center. *"Similar to any Latin American University, the UNAN-Leon has a rigid hierarchical structure so I was designated as Director of the Mediation Center by the dean of the Law Faculty Dr. Castellon<sup>19</sup>. He proposed my name to the faculty board and they accepted my nomination...and that is pretty much the process of how I became director of the mediation center. I think they were not opposed to my nomination because they knew I was one of the few people in Nicaragua that had knowledge about the process."*(LM) As mentioned earlier in this

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<sup>19</sup> See in appendix the document of the designation of the Director of the Mediation Center

paper, Prof Lytton had trained Dr. Morales while he was directing the Labor Department (1993)

When I interviewed Lytton, he mentioned that in 1997 he received a letter from the Dean of the Law Faculty notifying him that the Law Faculty was ending the relationship and taking over the mediation center. The document in which Dr. Morales was confirmed as the new director also established that Lytton was to remain in his position as Technical Director of the Mediation Center as it had been stipulated in the previous agreement between The UNAN-Leon and the American University, Capital University.

It was then in 1998 that the Mediation Center was structurally re-organized<sup>20</sup>. A new director was assigned to the Mediation Center and four mediators were hired to work permanently at the Center. Even though the Mediation Center continued training people in mediation, in this second phase (1998) the Mediation Center gave priority to the training program for the Law students and the mediation service in the community. There are two possible reasons for the decision to refocus the Center's attention to the programs inside the law faculty. The first reason is that before 1998, the efforts of the Center were directed to activities outside the law Faculty and there was a need to include law students in a more integral fashion. The second and more obvious reason is that the new director of the Center (as well as the mediators) came from the Law Faculty, and all were undoubtedly quite loyal to the institution. I guess it was hard to realize that a program that was established inside the Law Faculty was functioning better outside the Institution than inside.

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<sup>20</sup> See in appendix the chart of the new structure of the Mediation Center (1998)

In the same year (1998), under Dr. Morales' direction, The Mediation Center incorporated for the first time an ethic code for the behavior of Mediators and Director.

Upon his arrival at the Mediation Center, Dr. Morales entrenched himself in a program which he a as "a not well-structured Center, *"I do not think it was under any university policy. It was more like a program from the Law Faculty but with the vision of the promoters of the mediation program."*(LM) According to Dr. Morales, at the beginning The Mediation Center was more involved and organized with respect to the training activities outside the Law Faculty than it was with respect to the Law Students' training sessions. I understood that Dr Morales, as well as many others members of the Law Faculty Board, felt that the Mediation Center priority was not the training of the Law Students as they had expected it to be, especially since the Center was part of the Law Faculty. *" The Center did not have the capacity to educate students and community at the same time. It was necessary to establish priority between the students and the community. As part of the structure of the law faculty the center has the priority of the formation of students"* (LM)

The new director surmised that the Center's failure to focus significant attention on the law students was a result of circumstances that prevailed during the establishment of the program. *"I found a program that was not part of the academic curriculum. Though the mediation program being practiced in the Law Faculty, it (mediation) was not considered as the scientific discipline it is. I felt that the Law Faculty and the University did not take mediation seriously as the discipline that*

*could provide students with a new vision or perspective in their career in this case Law.”(LM)*

But despite the challenges the director and his new staff re-opened the Mediation Center and continued offering mediation services. *“I was new at the mediation center along with the Staff. It was a new administration and a new staff. It was like a new mediation center. At that time there were no professional mediators. Some students had only basic training and some did not have any training experience.”(LM)*

In order to first address the challenges resulting from a certain lack of experience in some members, the Mediation Center initiated the phase of internal training with the help of different Institutions and Universities.

One of the training courses that had the greatest relevance and influence in the development of the Mediation Center was the course offered by Costa Rican’s mediators of the University for the Peace of the United Nation (UPAZ). Mediators and the Director of the Mediation Center remembered it with special consideration because it was the first course they attended after 1998. This course provided a lot of information and technical support for the rehabilitation of the Mediation Center and apparently provided valuable guidance to the staff and Director as the Mediation Center entered its newest phase. *“We received relevant support from the University for the Peace (UPAZ). They shared with us information that helped us to improve our vision and concepts of mediation. They also gave us ideas relating to the organization and administration of a mediation center. They brought us information and new*

*elements that were incredibly useful in the restructuring and development of the mediation center.”(LM)*

The director and the Mediators of the Mediation Center considered the courses offered by the UPAZ as an excellent boost to the development of the Mediation Center. It was from those courses that the Mediation Center became exposed to the different tendencies and schools of mediation, specifically from a Latin American perspective. *“UPAZ for us was a conceptual support because before them our knowledge of mediation was based on American schools and models. UPAZ helped us to transform and adapt all of the mediation concepts to our reality. Although the UPAZ training had great influences from the American schools, they designed with us a mediation process based on our culture and reality example such as the excessive influence of legal terms in our culture to resolve conflict. People in Nicaragua resolve their conflict mainly through the legal process. One of the problems we faced with the voluntary mediation was the agreement. In our culture people want to have legal security in their agreements and voluntary mediation does not offer that security. I remember sitting with the UPAZ trainers and studying all the possibilities in order to adapt the voluntary agreements to a document that people could find effective and secure. . Still, we came to the conclusion it was not in our hands to transform voluntary agreements into legal documents. We discussed the issue and felt that UPAZ mediators understood our doubts since their reality was closer to our own. Another example of cultural adaptation was the challenge for a mediator to decide how to proceed if during the mediation process, he discovered that one of the parties had behaved in illegal way? Following our legal system, if I*

*discover an illegal situation, I am obligated to disclose it. But mediation works differently from the legal system so we needed to meditate and find the best way to adjust both situations for the mediator's job in the context of a variety of situations: social, moral and ethical. In that sense, somehow unconsciously, we decided to abandon the pure and rigid mediation principles we learned from the American models. I think that is how we have been creating our own model of mediation according to our values, culture and reality" (LM)*

More or less consciously, the mediators initiated their transformation period that allowed them to practice mediation from different perspectives beside agreements. It is a reality that after 98 the center has paid greater attention to the communicational aspect of the process and has found in the principle of recognition a great tool to enhance their service and compromise with the community. *"Through mediation I have helped people that some how has been left out and unprotected by the judicial system. I think the community has found in the mediation process an open space for recognition of their conflicts, people feel that their worries and concerns are important enough to be heard and to have echo at this Center" (RQ)*

Even though they did not consider that the Center practices mediation exclusively under the shadow of the Transformative approach, approach that they considered it to be a direct influence from the UPAZ mediators, They also pointed out that: experience, knowledge from different tendencies and mediation schools, community interaction and the social-political environment of the country influenced their transformational phase. *"I think that the changes are based on the experiences either way in theories and in the practice of the service" (EV) " I guess time is an*

*important factor in transform the vision of mediation into a more wide and critical vision. My perception of mediation changed as I started practicing and learning more about the process” (RQ).*

As each of the mediators and I discussed the process of transformation in their understanding and practice of mediation from a simple method to resolve conflicts into a complex method that could be used to improve communication and recognition of the conflicts of the community, the mediators related how their professional transformation process carried over to their private lives. It was really hard for them to talk about mediation just in their professional world. I was truly amazed the way the mediators have incorporated what they have called “The philosophy of mediation” in their private space. Two of the mediators cleverly explained to me the connection between her profession and personal experiences, as I heard their words it was almost like listening the echo of my own experience in the Mediation Center *“When you intensively expose yourself to what you do in my case mediation, I guess you have two options you either love or hate it. Luckily I found myself in love with mediation. Mediation has helped me to improve my communicational skills, my levels of empathy and tolerance and mostly has exposed me to the reality and needs of my community (RQ). “ Mediation has affected me personally because I as a mediator am not mediator just at work in the mediation center I can be a mediator at any place and can apply the knowledge of mediation to any situation, any type of relationship which means that some how that has transformed my life because It has helped me to internalize mediation and how can I apply it in my relationship, in my work, with my family and with the community.” (FR)*

Together with the transformational process of the understanding and practice of the mediation process, there were also changes in the administration of the center. The Mediation Center designed a new data system to keep records and control of the cases attended at the Mediation Center<sup>21</sup>. *“We designed a system in order to keep records, statistics, etc. We established new books to register all the cases and the services provided by the mediation center. I think we have a good file system we wrote the necessary information to keep records but without altering the principle of confidentiality” (LM)*

Regarding to changes in the terminology used by the Mediation Center, it has shifted from formal and legalistic to a more simple and common terminology. Unfortunately I could not get an example of an invitation for a mediation process used previously to 1998. The first invitation the Mediation Center had was not called invitation but Citation. Although the citation explained that the attendance was voluntary, the word “citation” has a legal connotation because is the term the Court and the Police used instead of invitation. Moreover the Citation document was redacted as a legal document. *“We redesigned the invitation and used ADR terminology, neutral terms<sup>22</sup>.”(LM)* Some examples of the new terminology used in the Center’s writing documents are: invitation for citation, misunderstanding for dispute, person who invite to the process for plaintiff, invited to defendant.

The ADR terminology that the Mediation Center practiced was also reflected in the training documents written by the Mediators and Director. *“We want mediation to be more accessible to the community, which means to write less formal, less*

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<sup>21</sup> See in appendix the documents the Mediation Center uses for each user’s file

<sup>22</sup> See in appendix an example of the invitation of the Mediation Center

*theoretical and more practical It is important to teach mediation in simple ways, not only saying what the theories said but also clarifying to the people what mediation is and how can it be used. We are not interested in the community to learn about different mediator authors. We want them to know mediation through their language, reality and how can mediation be used in their community.”(FR)*

Even though the mediators considered it that the way language is used depends mainly on the contextual circumstances I noticed a similar pattern (simple terms) in the last documents they have written<sup>23</sup>. For example the document “*Peer mediation training material.*” was written for different organizations working with teenagers. The terminology used in the document was very legal-oriented and formal. I noticed the same pattern in the document “*Training for the Judicial Facilitators*” similar to the training for the Peer mediation organizations, this document described the process of mediation through a legal terminology for example: Disputants instead of participants.

On the other hand in the document “Training proposal for the students of the Law Faculty” was designed with simple terminology (more into the direction of communication than legal). Each phase of the Mediation process discussed the role of the mediator. The training proposal was presented in the format of a check -list that students needed to take into consideration during the mediation process.

The fact that the mediators had learned to adapt their vocabulary depending on the user’s culture and educational levels is what The Center Director has described as being “good mediator”. The Mediation Center’s staff was clear that in order to provide the community an accessible method to resolve their conflicts it was

paramount to do it differently than the traditional way, the legal system. Unfortunately in the legal system if the users do not adapt to the process terminology they are unable to participate directly in their process, as it is usually the case.

The mediators agreed that being able to adapt the process and made it accessible to the community as well as practicing mediation with high ethical standards have been powerful reasons for gaining the community's support. *“ I think that the community has giving us support first, because they feel that their conflict had echo at the Mediation Center regardless the amount in dispute. Second, because our work is developed through ethical standards. I just want to give you this example, even though most of the people we work have low incomes they some times offered you gifts (a soda, money, etc) When I said no, thanks I really appreciate your gesture but I cannot accept it. The users know that is not because you are a rude person but because that is the way we work at the Center. More over they know that if you did not take from him/her you either will not take it from the other party. Just by doing this you are teaching them respect or recognition for their gesture but also integrity for your job and loyalty for the process' principles and with you are earning his/her trust in the service and in the institution. Unfortunately you know that corruption is a big problem in our society and institution and the legal system is not an exception. So, I think that our compromise to work with high ethical standards has been rewarded with the community trust in our work and Institution” (RQ)*

In the process of the searching of identity and authenticity the Center has practiced an experimental process in their work with the Law students, institutions and the different communities where the Mediation center has carried out the message

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<sup>23</sup> See in appendix the chart of the training process

of mediation. The Mediation Center has organized and developed many mediation and communicational training programs some of them are:

- Management of conflict among college leaders in Law Faculty (sponsored by the Law Faculty)
- Juvenal Conflict (NGO sponsored by The American Embassy),
- Indigenous Community (sponsored by the Nicaraguan Supreme Court),
- Judicial Facilitators (sponsored by the American State Organization)
- Communicational Program with the Nicaraguan Army (sponsored by the University and Nicaraguan Army)
- Anti-corruption Program (sponsored by the American Embassy)
- Mediation Internship at the Law Faculty

As the mediators pointed out each of the program has been planned depending not only on the infrastructure of the place in which the training process is developed but mostly on the participants' background, cultural and educational levels. However the mediators admitted to apply similar methodology in the training courses. They mediators commented that they still practice the same participative methodology their trainers used to train them. *"The training methodology depends on the physical conditions. Some times we use the overhead projector, blackboard, paper and colors to explain theories but we mostly practiced groups' dynamics to break the ice in both directions: among the group's member and between the trainers and trainees"*(EV)

An important new element I noticed was the differences in the mediators' training courses compared to when they were trained with the communicational theories. Before 98 the mediators were more agreement-oriented and it was after the

training course with UPAZ that they become more aware of the role of communication in the mediation process. *“I try to emphasize the importance of communication not only in the mediation process but also in our daily life. After all mediation is a way of communication a tool people have to resolve in pacific terms their differences.”(EV)* *“Now that I am a trainer I emphasize to the trainees that I am not an expert and that in this field there is not a written and untouchable truth”(RQ)* *“Now I trained people in both aspects: technically and practically. I am taking advantage of my experiences and using them to transmit my own perception of mediation and how mediation can transform.” (FR)*

By October of 1998 Lytton who represented not longer Capital University but New York Law School (NYLS) and as Director of the Mediation Program of Nicaragua signed with The UNAN-Leon an agreement of Exchange Program for the Study and Resolution of Conflict in Nicaragua, program that was funded by a \$ 100.000 grant from The United States International Agency (USIA)<sup>24</sup>

As Lytton explained in his article *“Building Peace by teaching Mediation”* the *“exchange program planned to send law professors, lawyers and law students from the New York area to Nicaragua for a month to teach and conduct research about conflict resolution. The program was also going to sponsored a Nicaraguan delegation to New York for a month to teach and conduct research”*

The activities I remembered from this Exchange Program were the visit of two mediators from New York Law School to the Mediation Center, a workshop (June 1999) in which Dr Morales and Lytton were the expositors. At this point I am not

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<sup>24</sup> See in appendix the agreement

sure if the Exchange Program still or not, unfortunately it did not function the way it was programmed.

In 1999 The Chancellor of the UNAN-Leon contracted the services of a Psychologist and a Statistic-Computer programmer, both trained in mediation as Consultants for the Mediation Program of Nicaragua<sup>25</sup>. Although the contract did not specify the activities of the consultants, their Coordinator was the Director of the Mediation Center, Dr Morales. Since the date the consultants were hired by the UNAN-Leon I as mediator of the Mediation Center never worked with them. I am not sure if they still working or not at the Center but during my interview with the Director of the Mediation Center he neither mentioned the presence of the consultants at the Mediation Center nor do the consultant's work

In the year of 2000 The Nicaraguan Supreme Court and The UNAN-Leon signed an agreement of collaboration regarding the development of Community Mediation.<sup>26</sup> In the agreement The Nicaraguan Supreme Court compromised to sponsor the course "Reflecting on Community mediation" that was directed by a Mexican Mediation Center. On the other hand the University agreed that the staff of The Mediation Center was going to attend the course and re-produce it into one Indigenous Community. "This course had the condition that in order to certificate us. We needed to reproduce the same course in a local indigenous community and we did it with the Subtiaba Indigenous Community. In that course we experienced a double role: as trainees and later on as trainers" (LM).

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<sup>25</sup> See in appendix the Contract

<sup>26</sup> See in appendix document between the Nicaraguan Supreme Court and The UNAN-LEON

In 2000 the Mediation Center moved from the Legal school clinic to its own space. This was the first time that the Mediation Center had its own secretary. *“The transformation process started with physical changes. The mediation center moved to a new building where each of the mediators had their own office to practice mediation. At the beginning of my administration the mediation center had only one office for all of the mediators and the director. It is funny to remember that when we only had that office to work every time one of us had a mediation the rest of the staff had to leave the office and wait in a public branches for the mediation to be over to continue with their activities” (LM)*

Many versions about moving from one place to another have been formulated by the mediators and the University. The Chancellor described it as a matter of resources, which is a validated reason, especially from a Public University as it is the case of The UNAN-Leon. However, the Chancellor also pointed out that before 1998 the Mediation Program was not fully integrated at the Law Faculty. Although the Mediation Center was promoted as a community program of the Law Faculty, internally the Law Faculty did not have much relevance in the planning and decision-making process of the Center. I think that another reason that restrained the University to invest more in the Center was the fact that the program with the Law students and the mediation service to the community were not the priority of the Mediation Center during its first years and after all those were the purposes the law faculty took into consideration for the establishment of the Mediation Center.

According to the Director of the Mediation Center, Dr Morales the Mediation Center moved from the office of the Law school clinic to its own building not just

because the amount of the mediation services to the community improve enormously and just having one office space for all of the mediations was just not working. “ *We went from a few mediations weekly to have more than 5 mediations every day*” (LM)

The Mediators and the Director agreed that besides that the community at that time had more awareness of mediation and the center’s services, they also found in the center a space to vent their conflicts and recognition for their concerns. The mediators pointed out another reason why mediation services were increasingly used was the trust the users deposit in the process, trust that was built by the mediators’ behaviors in the way of conducting the process. I suppose the aspect of “trust” the mediators were referring to is closely related to the situation of corruption the population perceives in the formal system. “*It is necessary to add to this transition phase the fact that our work is developed through ethical standards. I just want to give you this example, even though most of the people we work with have low incomes they some times offered you gifts (a soda, money, etc) When I said no, thanks I really appreciate your gesture but I cannot accept it. The users know that is not because you are a rude person but because that is the way we work at the Center. Just by doing this you are teaching them respect or recognition for their gesture but also integrity for your job and loyalty for the process’ principles and with you are earning his/her trust in the service and in the institution. Unfortunately you know that corruption is a big problem in our society and institution and the legal system is not an exception. So, I think that our compromise to work with high ethical standards has been rewarded with the community trust in our work and Institution.*” (RQ)

Dr Morales pointed out that the reason why the Mediation Center received additional economic and moral support from the University and the Law Faculty after 1998 was because The Center was no longer perceived as being separated from The University but as an extension of it into the community. *“It was in 98 that for the first time the center felt part of the university. It was a fact that the center functioned as part of the university but the sense of ownership from the university to the mediation center was missing. After 98 I think that the university felt more obligated to support the mediation center and at the same time the mediation center felt more incorporated to the institution with more relevance inside the university” (LM)*

One of the mediators had the opinion that beside the factors mentioned by the Chancellor and Director Center it was also a contextual situation. By 2000 Nicaraguans knew more about mediation and it was also practice in the legal context and that situation motivated the university to invest more in the Mediation Center *“I think it was a contextual situation. By that time (2000) the mediation process was more recognized for the community and by them it was a popular topic in the legal systems. I guess that the University realized that since mediation was conquering more space and importance in the community and in the judicial system it was their duty to give more support to the Center” (RQ)*

In the year of 2000 two new phases - the filter and the following up phase- were added to the mediation process at the Mediation Center.<sup>27</sup> The concept of “the filter” was learned in a UPAZ training course. The filter is used in a Costa Rican’s mediation model as a previous interview between the mediator and each party. It is like a private caucus the mediator has with the parties in order to explain in details the

process as well as to listen privately to each side of the story. Before the filter was formally incorporated at the Mediation Center, the mediators and director discussed some possible advantages the filter could bring to the process. One of the advantages in using the filter as the first phase of the process was to reassure the presence of the person invited to the process (defendant). Before the filter the plaintiff was the only party that had the chance to talk privately with the mediator about its situation. After listen to the plaintiff's story the Center sent an invitation for a mediation process to the defendant. Even though the defendant had the last word to show or not at the Center, the defendant did not had the opportunity to express to the mediator privately his/her story as the defendant's. The mediators thought that if the filter was introduced in the process the parties could have equal opportunity to talk in private with the mediators prior to the process and also it could help the Center to minimize the risk that the defendant did not attend the mediation process. Another positive aspect the mediators recognized in the practicing of the filter is the reinforcement of impartiality. "Having included the filter has helped us not just to reinforce our image of impartiality but also to practice impartiality in the practice of mediation." (EV)

The "following up phase" was one of the many things the Mediation Center wanted to practice since 1998, however due to the scarcity in the resources this phase was not established in the process until 2000 when Robert deRosset, a United States Peace Corps Volunteer living in Leon, assisted with a follow-up survey of mediation participants. Mr. deRosset became involved with the UNAN-Leon Mediation Center while living and working in Leon. The mediation participants were visited in their home approximately one month to six weeks after the conclusion of the mediation.

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<sup>27</sup> See in appendix the chart of the structure of the mediation process at the Mediation Center

Participants were asked if the parties came to agreement at mediation, if they had complied with the terms of the agreement, if they were satisfied with the results of the mediation, if they would consider using the mediation process to resolve any future disputes they might have, and if they would recommend mediation to others in the community. The purposes of the Following Phase were: to check if the parties were respecting their agreements, to design a more complete data base system (keeping control of the statistics) and to evaluate the mediators' work and the services of the center.<sup>28</sup> A large majority of people surveyed indicated that they were able to reach an agreement at mediation. Of those, a majority had complied, at least in part, with the agreement reached at mediation. The agreements that were not honored by participants tended to be agreements for the payments of debts. Most participants were satisfied with the mediation process, and stated that they would recommend it to others. Those participants that were not satisfied usually complained that there was no mechanism to enforce the agreements at mediation, which suggests that those people did not fully understand the characteristics of voluntary mediation.

According to Mr. DeRosset "mediation participants were almost universally willing to take the time to be interviewed for the survey. This may have been in part due to the novelty of having a foreigner visit their home".

The number of participants surveyed was limited by geography. Only participants who lived in the city of Leon were visited, because resources were not available for travel to other towns. Also, many times the directions given by participants to their homes were inadequate to locate them. In Nicaragua a person identifies his or her house by a set of directions from a known landmark instead of a

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<sup>28</sup> See in appendix the document used for the following up phase

formal address. Many times participants gave directions were too vague to be followed, or simply gave the name of the neighborhood where they lived

The other relevant change that took place in 2000 was the re-organization of the Internship program with the Law Students. As professor Lytton pointed out before 98 there were some organizational problems that restrained the development of the Internship program. The fact that by 2000 the mediation center had permanent mediators, it owns space and the community more awareness of the mediation process favored that the Internship program became one of the strongest contribution the Center has given to the Law faculty and the community. The way the internship works is through a list of the Students assigned to Mediation. Once the list arrived to the Center, the students are divided among the mediators. Each of the mediators will have a number of students for tutoring and from that point the mediator start working with the students in weekly plans. Of course that previous to that process there is a planning process among the mediators about the Internship courses and practices. The students have always the option to end the internship if he/she has not interest in the ADR. The priority of the Center is to work with students that are interested in mediation and willing to compromise time and effort to the Center and to his work with the community. At the end of the internship the Center certified the students' assistance and participation during the period of the internship.

Besides of having a new structure a new element was adding to the Internship program, the "legal consultation" service at the mediation center. The way the legal consultation service worked was through schedules from the users of mediation whom wanted and needed legal information in order to be better prepared in the

decision-making process. Once a week, a law student (different from the Internship students) offered legal information to the users. The establishment of this service in the Internship program had two purposes: first provided legal information to the users and second to reinforce the use of the mediation services. Before the Legal consultation service was offered at the Mediation center, if the users needed legal information they were sent to the legal department and in most of the cases never returned the mediation process.

### **Lessons Learned**

Many lessons have been learned since the establishment of the Mediation Center in 1994. Since I begun this project, last October, I have been reading and analyzing different information related to the establishment and development of the Mediation Center and the more that I read the more convinced I am that the Mediation Center was an experimental program at the UNAN-Leon. The University did not have a real understanding of the program. As the Chancellor has acknowledged if the UNAN-Leon would have done a depth planning or researching for the establishment of the mediation center many logistics inconvenient and bad feelings could have been avoid it.

Before I interviewed Timothy Lytton I was not totally aware of the role cultural differences played in the working-styles between The UNAN-Leon and Lytton, who was the contact between both Universities (UNAN-Leon and Capital) Obviously coming both institutions from different culture background, the Institutions representatives expected differences, although I am not sure they realized that those differences harmed their personal and professional relationship.

It is my perception that the “culture differences” between the UNAN-Leon and Lytton were mainly related to the feelings of ownership of the program, understanding of autonomy in the management of program and decision-making process. On the one hand I perceived that Lytton’s idea of having a Mediation Center in the Law Faculty was not with the purpose to work exclusively inside the Institution, giving priority to the Law students training program and mediation services to the community. On the other hand I do not think the Law Faculty visualized the Mediation Center in those terms.

As unclear as the Law Faculty was about the program just by incorporating it the Law Faculty’s structure their understanding was that the program belonged to the Law faculty. As I talked to Lytton I felt that for him the Mediation Center was an extension of his Mediation Program in Nicaragua and under this perception he and the Director Center managed the program differently as it is usually managed university programs. The UNAN-Leon has a strong hierarchical structure same as the Law Faculty.

Even though the programs established in the Law Faculty have autonomy in the planning and development of activities, the Law Faculty Board has to be included in the decision-making process. I guess that not having paid attention to this part of the culture of the University and Law Faculty complicated and deteriorated the working relationship between Lytton and The Law Faculty. *“I personally have not good feelings about the UNAN-Leon experience. I felt I went to Nicaragua with a new method to resolve conflicts, worked with the Law Faculty obtained resources for the establishment of the center because I wanted to build some Nicaraguan under the*

*structure of the Law Faculty. At some point when there were more resources involved the Law Faculty just ended the working-relationship, treated me as non-gratuitous person and confiscated things that were not theirs. I also think that there were personal and political reasons that unfortunately have greater influences in the way things are done in Nicaragua. I mentioned political reasons but in the sense that the UNAN-Leon wanted to control the program in the usual way “the hierarchical” top to down. It is such an ironic that the Mediation Program was destroyed by a personal conflict, for lack of negotiation.”(TL)*

According to the Chancellor, the Mediation Center has taught the University many lessons: First, the importance to design and implement more community programs like the Mediation Center in order to develop a closer relationship between the University and the community. Second, The Center is giving us a lesson of how programs should function in the institution, which is “not to complicate with the bureaucracy of the functioning of the Institution. Third, The Center’s staff is setting up in the university a new way of working-style through the teamwork schema with a high level of participation from each member in the planning and execution of the center activities. Fourth, the center’s activities symbolize one of the paramount missions of the institution, which is the transformation of the society.

The mediators thought that the lessons learned from this experience were related to the transformation of community service. Ironically, many professionals in community programs have not realized that they work for the community and part of their job is to provide better services to the community. More over many social workers have forgotten the human component of their job and unfortunately this

situation has impacted negatively in their treatment the users' of the community programs. The Mediation Center has worried for the promotion and the implementation of new policies in the community service fields. *"It has been part of our compromise not just to offer a high quality service to the community, but mostly to make the community feel comfortable, welcome and heard in the Center that after all has been established for them - the community- and I think that has been the reason the users stayed and worked with us"* (RQ).

From the Director's perspective, the changes the mediation Center has experienced many lessons have been learned and one of them has been *"authenticity"* that has influenced the shaping- process of the Mediation center. *"The most value lesson that we have learned from this process it is to be more authentic. We were the first mediation center in the country, we designed our own data system, training materials and mediation model and I think that is already history. We have been designing a Nicaraguan Mediation Center based on our talks, readings and experiences. We enlarged our vision about the functioning of the mediation center in the resolving of conflict."*(LM)

I consider that the major lesson the UNAN-Leon community learned from Lytton's work was gaining his vision of the future of mediation in Nicaragua. Lytton visited Nicaragua, wanted to help in the country's development and realized that one way of doing it was through mediation. Lytton established the groundwork for the institutionalization and structure of the mediation process in Nicaragua. *"My idea was to adapt to the previous experiences of informal mediations more techniques in order to develop a more systematized process. I introduced new methodology in the*

*teaching of mediation with the purpose to promote mediation at different levels.”*  
(TL)

From the practice of voluntary mediation, the Nicaraguan Supreme Court has acknowledged the necessity to promote ADR methods in the formal system. Nowadays, the process of mediation has been incorporated and practiced in the Nicaragua legal system.

I have learned from this history that the biggest contribution mediation has gave to the community is a space for recognition, tolerance and echo for the social conflicts. Even though when no legal guarantee have been given to the agreement reached in mediation, I guess the community support the process because has found in it the possibility to communicate and vent their concerns that wrongly have been ignored by the formal system.

In addition to the previous comments I would like to end this section citing two reflections that I considered it could describe the compromise for continuing working for the future of the Mediation Process in Nicaragua and hopefully in the Central America Region.

*“I think there is a lot of mediation experience in Nicaragua that could be use to develop a model for the Central American region, a new model that does not need to come from the north to the south”*(TL)

Even though the Mediation Center has overcome many obstacles however there is one aspect that still unresolved and that is the lack of support from the Institution, both The Law Faculty and the University for the integration of the mediation as a new discipline in the academic curriculum. *“The day the authorities*

*from the university and the people responsible for the education of the community recognized the ADR as a scientific discipline and incorporate it the academic curriculum that day I will say mediation center has reached its goal” (LM)*

I wonder myself how much time does the Institution need to realize the importance of the Mediation Process is the community and even more that the Law Faculty has the advantage of having professional mediators willing to compromise and work for the so desired “transformation phase” of the UNAN-Leon and its Faculties?

### **Chapter III** **Results**

The purpose of my conversations with the people involved in the Mediation Center was to uncover their thoughts and feelings about the mediation program. To present the findings of this project I am going to use the framework presented by the National Institute for Dispute Resolution in the establishment of community mediation programs. Although I already established the limitation of this framework in addressing cross-cultural situations that are relevant in the establishment of community mediation programs outside the US, I found this framework to be useful in organizing the stages or phases (from the initial planning to the evaluation of the current activities of the program), all necessary phases for a well developed community programs.

While I was analyzing the data (written documents and the conversations) collected for the writing of this story, I concluded that the Mediation Center was a type of community mediation center. When I say a “type” I am referring to factors such as: the aspect of voluntarisms in the mediators’ work, the process modality of visiting the disputant’s house to inform them about the process and the establishment of public hearing (as in many US community mediation programs) and mainly the aspect of wanting to replace the formal justice for the resolution of the community’s conflict, the mediation program established in the Law Faculty of the UNAN-Leon can not be characterized as a “pure” community program.

The Nicaraguan mediation program was conceived from an outsider’s idea, Lytton, who adapted mediation to the language, culture and environment of

Nicaragua. Lytton went back to the country, specifically, Leon to work in the unrevealed ADR field. During my interview with Lytton he told me he returned to Nicaragua because he wanted to help the country's development, but not by building houses or bridges but working on providing better access to justice to the population, whom access to justice was limited. The article written by Honeyman & Cheldelin relating experiences of American ADR professionals working abroad established a common perception from ADR professionals "to feel obligated to be helpful" (2002: 364) I perceived during my conversation with, Lytton the same exactly feeling of wanting to go back to Nicaragua and make himself useful.

Lytton volunteered to establish a mediation program in a transitional- divided society. It is paramount to remember that the first democratic election in the Nicaraguan history was in 1990. We had a civil war in the country between Nicaraguans (in favor and in opposed (contras) to the Sandinista's regime). In the 90's there were many economic and social problems. The new government (Chamorro) encountered a divided county among: the sandinistas, the contras and the ones whom were neither sandinistas nor contras. There was also tiredness about wars, arm hostilities, division, un-cooperation, lack of communication and consensus among Nicaraguans that impacted in the severe poverty the country faced during those years. I guess Lytton perceived that changes – political, social, economical were on the way and his vision could not have been better. In those circumstances he contributed to the country's changing-period by doing what he knew best: Mediation. Even though, the word and the message of mediation was a novelty back in the 90's; Lytton envisioned

mediation to be in Nicaragua society what the author Douglas Yarn has called “a new world of opportunity suddenl[ing] open[ing] up” (2002: 304)

Lytton initiated his ADR work in Nicaragua through peace-building activities, in which American ADR practitioners are primarily engaged (Lederach, 1997). As it was established in the story narrative section of this study, Lytton established the Mediation Program of Nicaragua and with it a series of workshops in conflict resolution skills, especially mediation. Later on Lytton expanded his activities from the training activities to consultation in different governmental and non-governmental Institutions.

The “*multiplicity of partial problems*” or challenges to those working abroad, are established in literature, for example: funding, establishing relationships with the local players, language barriers and so forth. (Yarn, 2002: 311) I concluded this factors were not obstacles to Lytton since he commented he was comfortable with the local culture, was working in a city where he had lived before and had some contacts in the UNAN-Leon. Furthermore when Prof, Lytton decided to return to Nicaragua and establish the mediation program he did it after having raised funds in the US.

American practitioners whom have had experiences outside the US in the ADR methods have established important distinctions between transferring and structurally adapting ADR methods to a specific community. Lytton commented on this aspect and mentioned that one of the difficulties while working in Nicaragua was precisely the lack of infrastructure he found in the country for the practice of ADR methods, which implied the possibility of adapting or abandoning domestic models. (Yarn, 2002; Honeyman & Cheldelin 2002) Hopefully this situation has changed to

better, allowing the development of mediation in Nicaragua. In 1996 the Supreme Court officially recognized the benefits of using mediation in the resolution of conflicts and introduced it as part of the process in the Legal system.

Lytton did not over-look the aspect of *cultural sensitivity* and smartly followed the rule of thumb of creating alliances with local partners to work in his project. It was under these circumstances that he became involved with the former Dean of the Law Faculty, Xiomara Paguaga. Although it was not until 1994 that the Mediation Center was formally part of the structure of the Law Faculty, Lytton asserted in our conversation that the working relationship between him and the Law Faculty started earlier than 1994. Perhaps this situation could be a vivid example of what Rosita Daskal Albert found to be one relevant cultural characteristic of Latin American countries “*Interpersonal connections*” (1996:335) According to Albert, through this types of connections procedures, general rules are transcended. It is not an imaginable situation in my country! Beside this cultural characteristic could explain why the Chancellor of the UNAN-Leon did not comment about any relationship between the Institution and the Mediation Program of Nicaragua.

From Lytton’s first years of work, it was evident that he was determined to commit to long-term programs. He addressed different institutions (public and private) and trained their personnel in order to establish “*local capacity in the necessary conflict-handling institutions.*” (Yarn, 2002:315) Training local populations is a modality that continues being developed by the new Mediation Center Direction.

It was in the year of 1994 that the Mediation Center was established in the Law Faculty of the UNAN-Leon. I inferred from Lytton that he had considered the benefits of selecting the University as a possible sponsor. This analysis might well have contained thoughts on: reputation, space, relationship, possibilities of grants, credibility, publicity and potential user and case referral undoubtedly the Law Faculty which is the oldest university of the country offered those requisites.

Even though the University is a public university that does not charge fees to the students for tuition or to the community for the social services (legal advice and mediation) offered by the institution, The University is not a non-profit organization because it receives money from the national budget. However the structure of the community mediation programs sponsored by non-profit organization is similar to the structure established in the Mediation Center of the Law Faculty.

Although the Mediation Center of the Law Faculty is not a non-profit organization, there are many similarities between the structure of a non-profit community mediation program and the Mediation Center. I found the initial structure of the Mediation Center was not clearly established between a “*sponsor by a non-profit with an advisory committee and representation on the non-profit board* that acted as an “*Autonomous Non-profit Center with its own board of Directors.*” (Community dispute Resolution Manual, 1991:5-6) According to Lytton’s in the 1994 Center’s structure there were representatives of the Mediation Program of Nicaragua (Program director and Committee board) as well as Law Faculty Board and Center Director. However, it seemed to me that the decision-making process and fiscal control remained on Lytton and Centeno’s hands. The responsibility of fund raising

was mainly Lytton's. Lytton and Centeno acted as the Board of Directors for fund raising of the Mediation Center.

It was evident that there was a misunderstanding not only in the way Lytton, Center Director, Centeno and the Law Faculty Board understood the structure of the Center but also in their understanding of each of ones' role and responsibilities in the Center.

The Center's structure radically shifted in 1998 and became the type of structure that *assimilated with the sponsoring agency's board*, in this case the Law Faculty Board. The Mediation Center functions through the Law Faculty Board. This board is responsible to keep the Center within the Law Faculty budget. Since the Center is structurally under the Law Faculty, the faculty covers the maintenance of the Center: papers, phone and payroll. The role of executive director is delegated to the Center Director, Dr Morales, who was elected by the Law faculty Board. Some of the factors influencing his election were: program expertise (he was trained in mediation by Prof Lytton while Dr Morales was the Director of the Labor Department), mediation experience and consistency in representation as Dr Morales is a Law Professor in the Law Faculty.

Even though Lytton did not acknowledge that the planning was the weak point during the establishment of the Center in the Law Faculty, the rest of the interviewees, especially the UNAN-Leon Chancellor, Dr Medina recognized this situation and lamented this mistake because on behalf of the Institution. Undoubtedly if the University would have done more planning prior the establishment of the Center, many of the logistic inconveniences (vision, priorities, long-range goals,

strategies, etc) that impacted negatively not just in the development of the center but also in the working-relationships could have been prevented.

The Community Dispute Resolution Manual establishes two types of planning: short and long-range. I supposed that the UNAN-Leon's short-range plan (1994) was directed to the establishment of the Center and the promotion of the mediation services. It is just fair to acknowledge the success of the Mediation Center in the promotion of the mediation center activities. Lytton and the Former Center Director, Centeno did a great job in the marketing campaign. They wrote many newspapers and magazine articles in Nicaragua and in the US promoting the services and the activities of the Mediation Center. Undoubtedly they educated the media and called its attention to the newsworthy value of mediation as an alternative method in the resolution of conflicts.

The problem in the short-range plan was that the University was not clear of the goals, activities, staff's functions or the Center's administration policies. I guess that the long-range plan of the University was to clarify the vision of the program and to look for better guidance for the program's development. In 1998 when the Mediation Center's second phase initiated as the new Center Director, mediators and Chancellor pointed out, the short and long range plans shifted: from unclear objectives to clearly defined purposes and goals developed to improve the services of mediation in the community and prioritize the training activities inside the institutions with the Law students. The long-range plan was focused to promote mediation in other communities (different cities of the country) and possibly call the attention of National Institutions in the Mediation Center's activities.

It was interesting to discover that despite all of the changes experienced in the Mediation Center development - from agreement-oriented to communication, from training activities to mediation services in the community- some aspects remained firmly such as the decision to not mediate domestic violence cases as well as the mediators' practice of not making suggestions and using pressure to reach agreements.

An improvement in the second phase of the Mediation Center was the definition of clear administrative goals. In this matter the roles and responsibilities of the staff members and the Law Faculty Board was clearly defined in the ethic code that rules the functioning of the Center. Although the Mediation Center still a small project with limited resources and staff, I found that the major functions established in the framework designed for community mediation programs were covered by the Center staff as follows: executive leadership (delegated by the Center Director), case coordination (mostly done by the Center secretary), training and volunteer coordination (handled by the mediators and the director)

The referral system used in the Mediation Center remains pretty much the same, in the sense that institution like: police, municipal officials, social service department, Family services and a few attorneys continually refer cases to the Center. However, the referral system has dramatically improved in two aspects: self-referral and in the relationship (more independent) with the Law school clinic referral. As it was discussed in the story narrative section of this study, the mediators and the director agreed that awareness, promotion and recognition of the quality of the Center

services have been some of the reasons in the improvement of the services in the community.

The way the Mediation Center develops the mediation process is pretty similar to the processes describe in the community mediation literature. It starts with the “Filter” or intake process. In this phase the mediator caucuses privately with each of the parties. When the first party comes to the Center a mediator meets with him/her, explains the process, collects information about the conflict and gives an invitation to the first party to give to the second party. The first party has the responsibility of contacting the second party and not the Center’s staff.

The filter cycle is repeated with the second party. The mediator meets privately with the party, explains the process and gathers information. It is in this meeting when the mediator finds out if the second party is willing to participate in the process. Since the process is voluntary, both parties need to agree to participate in order for the process to begin.

One of the biggest innovations in the second phase (1998) of the Mediation Center was the establishment of the data system for keeping the records. According to the community mediation programs’ Framework there are two ways of keeping track of the files: *active and inactive*. (1991:39) The mediation center uses the inactive way, in this matter the files are organized by month and after the following up the files are kept separately from the actives files.

Before concluding the finding section it is important to bring to light that despite the practice of mediation initiated in Nicaragua from an adapted foreigner model (US) into a different reality and culture: Nicaraguan, mediators and Lytton did

not spend much time focused on cross-cultural differences. Although they mentioned some relevant differences such as: structure of speech, the lack of infrastructure, the unwillingness from locals to discuss conflict as well as to document the mediation sessions, unfamiliarity of the role-plays in the learning process, the mediator's perception that the practice of mediation by American mediators is less flexible regarding to the process' principles or their less emphasis on communication theories, both mediators and Lytton did not pay a lot of attention to the cross-cultural situations. A statement made from the mediators related to cross-cultural issues was that during their work with the Costa Rican mediators from the University of Peace from United Nations (UPAZ) they felt more familiar with their style. Even though they recognized that the dynamics used by the UPAZ mediators were similar to the ones used by Lytton, the fact they (Nicaraguan and Costa Rican) shared culture and environments contributed to the familiarity feeling.

One of the most impressive aspects discovered by this study was the relevance of mediation to the lives of the mediators. It was clear to me that the practice of mediation was not just a profession for the mediators and Center Director but also an important part of their lives. All of them expressed having understood the real philosophy of mediation. Moreover, they internalized and practiced it in their daily life activities, in their different environments: work, family, etc. When I ask them to define the philosophy of mediation they all answered that it was "a way of life" in which communication, tolerance and respect are essential.

It was obvious to me that the mediators showed great pride the mediators showed in their work, the process and the Institution they represent, the UNAN-Leon.

I found the mediators were highly motivated for the community work. They believe that programs like the Mediation center not only bring the University and the Community closer together, but also offer the possibility of a qualified, individualized, human service. They commented on their responsibility towards the community, a responsibility they described in two directions: offering a professional service and educating the community through training activities.

I perceived from my talks with the mediators and Center director that Although in 1997 the Law Faculty Board claimed more participation in the development and decision-making of the Mediation Center, the involvement of the Law Faculty Board still little influences in the Center activities as well as in the evaluation process regarding the functioning, services and staff's role of the mediation center. The lack of the real presence of the Law Faculty authorities is reflected in their unawareness of being disconnected with the life and the needs of the center.

## **Chapter IV Recommendations**

- In the process of exporting mediation model from one country to another, remember that some assumptions such as: knowledge, expertise, communication and emotions are not always shared across cultures.
- It is important to establish a network system among the different public and private institutions working in dispute resolution, social and legal services. Since resources are essential in the establishment of network systems and taking into consideration the reality of many Latin American countries, internet access is not as common as in the U.S, the network system has to be designed through periodically meetings and another possibility by placing in the offices brochures of the available services the community could use.
- More promotion is needed for mediation to gain widespread acceptance and practice of mediation among: community members, lawyers and formal system.
- It is vital to continue with outreach activities. Promotion and the training activities are great tools to raise the level of awareness of ADR methods, especially mediation.
- The Mediation Center needs to be more pro- active in public relations activities such as: written and oral media.

- Although the social services established in a University setting do not practice the policy of charging fee for the services, maybe it would be a good idea to consider the possibility of applying low fees or the system of soliciting donations for the services. The fee money collected could be used to improve the Center's physical conditions.
- Establish the modality of a feed back system not only to the users but also to the referral agency that way a more precise evaluation could be obtained regarding the service, mediator's actuation and the network system.
- Design researches or studies regarding the impact of mediation on court caseloads as well as user's perception (outcomes and process) of mediation.
- Before establish any program it is paramount to consider carefully the expectations and level of involvement of the Organization is willing to invest in the program. After those considerations develop a plan to avoid ambiguity in the goals, strategies and purposed on the program.
- Define as clearly as possible the term of *partnership*, what does it imply, its impact in the decision-making policies of the program and in the roles and responsibilities of the partners.
- Establish an open- communication channel among the structure working in the program.

- Practice the modality of regular evaluation meetings and the feed back dynamic to have a clear idea of the programs' obstacles, needs and achievement.
- Better promotion of the community mediation programs is needed in order to call the attention and support of National Institutions, especially the Supreme Court and Local Courts.
- Local institutions need to be more involved in the fund raising activities so they are not expected to be an exclusive responsibility for the partners.

## Conclusion

Like any story, this one contains facts and feelings. While chatting with the people involved in this project, it turned out to be impossible to remember and discuss their experiences at the Mediation Center without adding feeling to their thoughts.

I asked each of the people I interviewed for this project to summarize, if they could, the story of the Mediation Center. Even though all of them had different perspectives and they experienced things differently, some with more attachment than the others, at the end most of them realized that the story of the mediation center has been a story of changes, risks, transformations, experiments: a story of ups and downs.

Although the Mediation Center is in many aspects similar to community mediation programs, promoting better access to justice, eliminating delay and cost for conflict resolution and expressing interest in empowering the community members to resolve their conflicts, the Mediation Center also differs in some important ways. There are: not having the purpose of replacing the formal system, but just promoting an alternative method for the resolution of conflicts and that the mediators at the Mediation Center are not volunteers but paid.

As the mediators cleverly pointed out, the transformation process the Mediation Center faced has been at different levels and in the experimental way *“It was through an experimental dynamic. It was a selection process in which some things were kept and others were left out.”* (RQ) The most mentioned aspects the

mediators pointed out in explaining the phase of changes the center has faced were: experience, knowledge and community interaction were the most mentioned aspects the mediators pointed out for the changing-process of the center.

I found that the development and transformation of the Mediation Center has been profoundly impacted by two elements: dedication and responsibility for the mediators to the community and to the process.

I have learned from this story that despite all of the inconvenience, especially not having a clear vision of the goals, strategies and structure of the program, the biggest contribution the mediation center has been giving the community a space where some of the avoided social conflicts of marginalized people can be acknowledged and discussed. In other words the Center is a reflection for some of the community's concerns. I guess Nicaragua community is eager to communicate, to vent concerns and mostly to be heard and recognized in their matters and that is what the mediation center has been for.

With out any doubt, the searching of authenticity in the mediation service and process has been a complex road for the mediators and director to follow. It has been pretty much guided by the community needs as well as the social and cultural reality. Even though the Center has shaped its profile, changes are still taking place and the mediator's disposition to achieve them seems to show the greatest potential of the Mediation Center besides its human resources.











