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ABSTRACT

This article explores an aspect of identity that can be particularly challenging for conflict resolution—negative identity. By negative identity, I mean an identity in which a party implicitly or explicitly defines itself in a negative way, specifically, by way of contrast to some other party. This phenomenon occurs in conflicts ranging from small, interpersonal ones to large-scale conflicts between national, ethnic, and religious groups. Negative identities may make conflicts more likely to arise and also make them more difficult to resolve when they do. Fortunately, there are steps that both parties and neutrals can take to foster conflict resolution in the context of negative identity. These include processes that help parties listen to one another with open minds, engage in self-examination of their own identities, and embrace the range of identities that they hold.

I.   INTRODUCTION

There can be little doubt that identity is a factor in many conflicts. In broad conflicts between members of different national, ethnic, and religious groups, this is an all-too-common pattern. As Amartya Sen observes, "The cultivated violence associated with identity conflicts seems to repeat itself around the world with increasing persistence."[1] Identity is also a core element of many microscopic conflicts. Douglas Stone, Bruce Patton, and Sheila Heen have argued that beneath our most difficult conversations with others often lies an internal wrestling with ourselves.[2] Here, I examine a special feature of identity that is particularly challenging for conflict resolution. I call this feature "negative identity." By negative identity, I mean the situation where one party implicitly or explicitly defines itself by way of contrast to the other party. What does it mean to be a Democrat? For some, it means in essence to be against the Republicans rather than for certain policies. What does it mean to be an American? For some, it means to be opposed to "illegal aliens" rather than, say, in favor of a free society. Sometimes negative identities define parties fully, and sometimes they only do so in part. In either case, when negative identities are present, the challenges for conflict resolution are acute. Negative identities may increase the chances of conflicts arising. When conflicts do arise, negative identities may also make those conflicts harder to resolve, for in addition to the many ordinary barriers to conflict resolution,[3] parties may be required to rethink their very sense of self.

This paper works in four stages. First, I begin by defining negative identity. Second, I examine why negative identities may make conflicts more likely to arise and why conflicts involving parties with negative identities may be particularly difficult to resolve. Third, I suggest several approaches to fostering conflict resolution when parties hold negative identities. Fourth, I offer a famous literary example, the biblical narrative of Jacob and Esau, to illustrate the concept of negative identity and the value of identity redefinition to conflict resolution. I end with several concluding observations.

II.   NEGATIVE IDENTITY

Identity is a complex phenomenon. Most of us hold not one identity but many. I, for example, am a human, a man, a parent, a son, a spouse, a

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[1] AMARTYA SEN, IDENTITY AND VIOLENCE: THE ILLUSION OF DESTINY 3 (2006).

[2] DOUGLAS STONE ET AL., DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST 111–28 (1999).

[3] *See* KENNETH ARROW ET AL., BARRIERS TO CONFLICT RESOLUTION (1995) (on common barriers to resolving conflicts).

professor, an American, a Jew, a vegetarian, a Red Sox fan, and a music lover . . . and this is only a partial list. Different identities may become salient depending on the time and context. It may not matter much that I am a parent when I enter a classroom to teach law students, but it may matter a great deal on one of my children's birthdays. Some identities are inherited or externally imposed (e.g., by being born in the United States, I became an American), and some identities we obtain through our actions (e.g., I became a spouse when I got married).[4] Some identities are deeply embedded while others are more malleable. It would be much easier for me to give up being a Red Sox fan than to cease being a vegetarian. Note, too, that identities are not static over the course of our lives. We can reason about what it means to hold a particular identity (e.g., what does it mean for me to be a son now that my father is deceased?) or even whether we wish to hold certain identities. Indeed, choosing who we are to be is one of the deepest human freedoms,[5] a freedom many of us fail to exercise as often as we might. So, too, choosing which identities shall guide us when is an important responsibility. From a conflict resolution perspective, such choice of identity is especially important. As Amartya Sen rightly describes, far too much violence exists in our world because people reduce the complexity of who they are and who others are to single variables.[6] We mistakenly believe unitary identities must lead to certain destinies (e.g., "We must be in conflict because I am a member of group X and you are a member of group Y.") and too often sidestep the deep challenge of wrestling with the complexities of who we are and who we might be.

What is negative identity? Negative identity occurs when a person or group defines themselves by way of contrast to others, either implicitly or explicitly.[7] What does it mean to be a member of religion X? For some, it

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[4] Externally-imposed identities can create distinct challenges, especially in the context of group conflict, for groups, particularly socially-dominant groups, may be invested in preserving such identities as an aspect of preserving social power. On challenges to navigating identity issues in such contexts, see, e.g., Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259 (2000) (examining identity-related challenges racial minorities, especially Blacks, often experience when working in predominantly White institutions).

[5] *See* Harry G. Frankfurt, *Freedom of the Will and the Concept of a Person*, 68 J. PHIL. 5 (1971).

[6] As Sen writes, "[W]e have to draw on the understanding that the force of a bellicose identity can be challenged by the power of *competing* identities. These can, of course, include the broad community of our shared humanity, but also many other identities that everyone simultaneously has." SEN, *supra* note 2, at 4. *See also id*. at 18–39.

[7] My use of the term "negative identity" differs from Nancy Leong's, whose definition focuses on social marginality, viz., "identity marked by indifference or antipathy to something that much of society considers fundamental" such as being "atheist, asexual,

means in part *not* to be a member of religion Y. "Who am I?" asks a teenager. One possible answer, even if never consciously articulated, is "I am *not* my parents." The teenager or religious adherent could of course define their identities positively, e.g., "I follow religion X because I accept its tenets." Yet for many people, who we are *not* is critical to our self-definition. We define ourselves, in whole or in part, negatively against an *anti-self*—the person or group whom we see ourselves as not being. On occasion, this may be valuable. As a step toward individuation, the teenager recognizing that "I am *not* my parents" may be useful. So, too, members of different social groups frequently make in-group versus out-group distinctions in the subconscious pursuit of safety, a process with neurobiological roots.[8] However, as discussed below, as a place to dwell permanently, negative identities come with significant risks.

Having a negative identity is different from simply holding different preferences from another person or group. All the time people disagree because one wants a certain outcome and the other wants a different outcome. One lobbyist hopes that the proposed legislation passes while the other hopes that it fails. Two friends disagree about which movie to see because they have different tastes. Such situations, however, do not necessarily reflect negative identities. While people holding different preferences may have negative identities, and while negative identities may lead people to hold different preferences, neither is a necessary condition for the other. At root, negative identity is not about whether we want different outcomes but rather how one constitutes oneself.

Having a negative identity is also different from simply being members of different groups. Yin may be a diehard Yankees fan, and Dara may be a diehard Dodgers fan, but that does not mean that they define themselves against one another. However, Roger, a diehard Red Sox fan, may despise the Yankees so much that being anti-Yankee is a significant part of his Red Sox fan identity. Imagine that the Yankees are playing a game against a fourth team, say the Cardinals. Dara, the Dodgers fan, may not much care

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single, or childfree." Nancy Leong, *Negative Identity*, 88 S. CAL. L. REV. 1357, 1357 (2015).

   [8] *See* Mina Cikara & Jay J. Van Bavel, *The Neuroscience of Intergroup Relations: An Integrative Review*, 9 PERSP. ON PSYCHOL. SCI. 245, 245–53 (2014) (reviewing psychological and neurobiological research concerning in-group versus out-group relations). In the past decade, the legal dispute resolution literature has paid increasing attention to such findings. *See* Elizabeth E. Bader, *The Psychology and Neurobiology of Mediation*, 17 CARDOZO J. CONFLICT RESOL. 363 (2016); Richard Birke, *Neuroscience and Settlement: An Examination of Scientific Innovations and Practical Applications*, 25 OHIO ST. J. ON DISP. RESOL. 477 (2010); Jeremy Lack & Francois Bogacz, *The Neurophysiology of ADR and Process Design: A New Approach to Conflict Prevention and Resolution?*, 14 CARDOZO J. CONFLICT RESOL. 3 (2012).

whether the Yankees win or lose, but Roger may take great joy if the Yankees lose.[9] Simply being members of distinct groups is not the same as holding negative identities, though it may sometimes lead to such. Rather defining oneself through contrast to another lies at the core of negative identity.

Frequently there is a backward-looking quality to negative identities.[10] Why do I define myself as "not you"? Often it is because of something that has happened in the past, and holding a negative identity helps its holder cling to that past. An adult (rather than a teenager) who regularly defines herself as "I am not my parents" may be nursing old wounds. A divorced person who regularly sees himself as his former spouse's "ex" may be doing the same. Note, too, that negative identities can wax and wane. Initially two parties may simply disagree with one another, but if they have enough disagreements for a long enough time, and especially if a measure of insult is added, they may come to define themselves as adversaries.

Research suggests that over the past two decades members of both major American political parties are increasingly defining themselves in negative ways; to be a Democrat means to be opposed to the Republicans and vice versa.[11] In my view, such polarization goes beyond simply being skeptical about what the other side says[12] or seeing the world through zero-sum lenses,[13] but is rather about seeing them and us fundamentally as adversaries. I note that building a group's negative identity has repeatedly been used throughout history as a winning political formula.[14] "Why should you follow me?" asks the strongman politician, "because I will protect *us* from *them*." Intergroup conflict, of course, makes that message more appealing. Social dislocation can be an important factor in this dynamic as well. In times of significant change when old roles and identities no longer seem to "work," people often seek to

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[9] The taste for another's suffering, though certainly not necessary for negative identity, may well indicate one.

[10] I thank Robin Davis for this insight.

[11] *See* EZRA KLEIN, WHY WE'RE POLARIZED 8–10, 60–64, 75–79 (2020) (on the rise of negative partisanship in America over the past several decades); Alan I. Abramowitz & Steven W. Webster, *Negative Partisanship: Why Americans Dislike Parties But Behave Like Rabid Partisans*, 39 ADVANCES IN POL. PSYCHOL. 119, 119–23 (2018); Thomas B. Edsall, *The Audacity of Hate*, N.Y. TIMES, (Feb. 19, 2020), https://www.nytimes.com/2020/02/19/opinion/trump-anger-fear.html (on the strategic use of negative partisanship for political gain).

[12] Such skepticism relates to what social psychologists call "reactive devaluation," the phenomenon of devaluing a proposal made by the opposing side in a conflict because *they* were the ones to suggest it. ARROW ET AL., *supra* note 4, at 26, 26–42.

[13] *See* Jonathan R. Cohen, *A Genesis of Conflict: The Zero-Sum Mindset*, 17 CARDOZO J. OF CONFLICT RESOL. 427 (2016).

[14] *See generally* PANJAK MISHRA, THE AGE OF ANGER: A HISTORY OF THE PRESENT (2017) (on the rise of nationalistic leaders following periods of social dislocation).

redefine themselves, and defining themselves negatively against some evil "other" can be especially attractive.[15]

III.   SOME PROBLEMS CAUSED BY NEGATIVE IDENTITIES

What is wrong with such negative self-definition? There are many problems. Holding a negative identity can be unnecessarily self-constraining. Imagine, for example, a man who defines what it means to be a man as "not being a woman." Such a man may suppress important human qualities such as compassion, nurturance, and sensitivity because he sees them as "womanly" rather than simply human qualities, and thereby lose out on the joys that such qualities may help produce.

Holding a negative identity may increase the odds that one will adopt hostile views about and actions toward one's anti-self. The teen who defines himself as "not my parents" may be more likely to fight with his parents. Members of group X who define themselves as not being members of group Y may become more likely to fight with members of group Y. The backward-looking focus of certain negative identities may be a piece of this, but there are other factors, too. Prejudice and bias are not uncommon features of such negative self-definition,[16] as are psychological mechanisms such as denial and projection (e.g., ascribing to others qualities that one does not wish to face in oneself),[17] often in the context of shame.[18] Ascribing evil motives or even nefarious practices to one's anti-self can even occur. If they are more successful than we are, then they must be tricksters and liars. On occasion, sentiments of purity and righteousness become linked to negative identities: we are the pure and clean while those that we label as the taboo are dirt/filth/contamination.[19]   For   example,   judges   or   jurors   who   either

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[15] *Id.*

[16] For example, in many historical eras, movements both religious and non-religious have defined themselves in part against a Jewish foil, a practice that has contributed to anti-Semitism. *See* DAVID NIRENBERG, ANTI-JUDAISM: THE WESTERN TRADITION (2014).

[17] On such projection in the context of colonization, *see* Albert Memmi, *Mythical Portrait of the Colonized*, *in* ALBERT MEMMI ET AL., THE COLONIZER AND THE COLONIZED, 79, 79–89 (Beacon Press 1991) (1965).

[18] E-mail from Jennifer Reynolds, Assoc. Professor & Faculty Dir., Univ. of Oregon School of Law ADR Center to Jonathan Cohen (Jan. 31, 2020, 18:43 EST) (on file with author) (Jennifer Reynolds suggests that in some cases negative identities are produced by "shame turned outward," making such conflicts especially difficult. "If negative identity is shame turned outward, then this is another reason why conflicts involving negative identity are difficult to resolve—they may ask people to look at themselves more honestly, which could be very painful.").

[19] *See generally* MARY DOUGLAS, PURITY AND DANGER (2002).

consciously or subconsciously hold the positive identity of being a law-abiding citizen may treat criminal defendants differently from those who, usually subconsciously, hold a negative identity of not being a criminal, an identity that may lead them to want to rid society of criminal filth.[20] Again, these are not all-or-nothing propositions. Many of us hold both such identities; the question is in what measure.

When conflicts occur, negative identities may make them harder to resolve, for, in addition to all of the "usual" problems that arise when parties are in conflict,[21] sometimes the other party will present ideas and information that challenge our sense of self. Rather than listening to such dissonant ideas and information, we may consciously or subconsciously choose to ignore it, protecting our sense of self at the price of possible resolutions. Anyone, of course, can present ideas and information that challenge a person's sense of self, but when a person has a negative identity, the words of the anti-self are likely to be especially threatening to one's identity. Empathy—often a key to conflict resolution—is also likely to be particularly difficult in the context of negative identity. If I have defined myself as "not you," then trying to understand how the world looks from your perspective is likely to be difficult, if not destabilizing to my very sense of self. Put differently, negative identities can act as a psychological blind spot, with the anti-self-standing at the center of that blind spot.

IV. CONFLICT RESOLUTION IN THE CONTEXT OF NEGATIVE IDENTITY

What can be done when conflicts arise in the context of negative identities? Sometimes conflicts can be handled in a limited way, where problems are defined narrowly, and the parties pursue an immediate solution to the instant problem rather than attempting a deeper dialogue. Such narrow solutions are often quite useful. The parties don't need to try to see the world through the other's eyes—through the eyes of their anti-self—but can simply reach an agreement that would serve them better than would no agreement.

But is there not more that can be done beyond finding limited, narrow solutions at times? Might not deeper levels of conflict resolution and even human growth occur in the context of negative identity? And, if so, how is that to come about? Let me begin by addressing those questions from the perspective of the holder of the negative identity, i.e., how a good-willed

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[20] On the judges' tendency to describe criminality in the language of filth, *see* Martha Grace Duncan, *In Slime and Darkness: The Metaphor of Filth in Criminal Justice*, 68 TUL. L. REV. 725 (1993-1994); MARTHA GRACE DUNCAN, ROMANTIC OUTLAWS, BELOVED PRISONS: THE UNCONSCIOUS MEANINGS OF CRIME AND PUNISHMENT (1996).

[21] *See* ARROW, ET AL., *supra* note 4.

holder of a negative identity might choose to act. Admittedly, many holders of negative identities may not choose to take such steps, but considering this idealistic perspective is a valuable intellectual exercise. First, some such negative-identity holders may choose to engage in this work of their own initiative. Second, this perspective provides food-for-thought about how others—most notably third-party neutrals and the anti-self—might engage with holders of negative identities, a subject I will then consider.

For holders of negative identities, a first option is to listen to the other party with an open heart and mind, with a willingness to do the hard work of thinking deeply about what they say and perhaps be changed by that.[22] Listening does not, of course, automatically imply agreement, but if one has no willingness to let one's thoughts and feelings be changed through dialogue, why hold the dialogue? In the context of negative identities, empathetically listening to one's anti-self is especially important. What has their experience been? What does the world look like through their eyes? What would it feel like to stand in their shoes? Likely one's anti-self will see the situation, both current and historical, through a different set of lenses. Hearing their take on things, challenging though that may be, may broaden one's understanding at a deep level.

A second option is for a party to examine or even interrogate their own identity. Why do I define myself this way? Must I define myself this way? It is often asserted that we should study the past so that we do not repeat mistakes that were made in the past. That is certainly an important reason to examine our previous experiences. However, when thinking about negative identity, there is another very important reason to study the past: to better understand who one is.[23] Why do I hold the identities that I do? And if one of those is a

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[22] *See* Jonathan R. Cohen, *Open-Minded Listening*, 5 CHARLOTTE L. REV. 139, 146 (2014). *See also* Carrie Menkel-Meadow, *Why We Can't Just All Get Along: Dysfunction in the Polity and Conflict Resolution and What We Might Do About It*, 2018 J. DISP. RESOL. 5, 7–11 (2018) (arguing that much conflict cannot be "reasoned away" by our brains but that our hearts must be involved for meaningful change to occur).

[23] In this regard, the approach suggested here differs from much conflict resolution analysis that is derived from economic game theory. Neoclassical economic theory generally takes parties' preferences, including their intertemporal preferences, as essentially given. *See* SEN, *supra* note 2 (As with Sen's analysis of identity and violence, the approach suggested here recognizes that preferences and identities may evolve over time, in part from experience, [e.g., bitter, ongoing conflict may produce negative identities and preferences associated with them] but also in part through deliberate choice). *See generally* George J. Stigler & Gary S. Becker, *De Gustibus Non Est Disputandum*, 67 AMER. ECON. REV. 2, 76 (1977); Gary S. Becker & Kevin M. Murphy, *A Theory of Rational Addiction*, 9 J. POL. ECON. 4 (1988); Jonathan R. Cohen, On Reasoned Choice 36–84 (1993) (unpublished Ph.D. dissertation, Harvard University) (on file with the Harvard University Library). Put differently, conflict is not simply a matter of strategic,

negative identity, where did it come from? Is it something I like? Is it something that I want to hold on to? As mentioned above, one of the great human freedoms is choosing who we want to be. Examining one's own identities is critical to such choice. Further, such self-examination can be essential for conflict resolution. If I can understand how I came to define myself as "not you," I may then be able to define myself in a new, positive way. If I can do that, resolving our conflicts may become much easier.

A third option for the holder of the negative identity may be to accept that, yes, I do hold a negative identity vis-à-vis my anti-self, but also recognize that both of us hold multiple identities. Might it be possible for us to focus on what we have in common rather than what drives us apart? "I'm a member of group X and you're a member of group Y, and as members of these groups we disagree deeply about certain things. But I am not only a member of group X and you are not only a member of group Y. Perhaps if we can look at what we have in common we can work out some of our differences."

Are there steps that others, most notably third-party neutrals and the anti-self, can take to promote conflict resolution in the context of negative identity? The brief answer (for exploring this topic at length is beyond my scope here) is "yes." Many already do so to some degree. Most mediations begin by allowing each party to share its version of the dispute with the other party. Where parties hold negative identities, this can be especially valuable, for hearing the other party's experiences and perspective can lead one to rethink many things. Indeed, one school of mediation takes as its central goal promoting the parties' *understanding* of their dispute,[24] an inquiry that conceivably may reach into probing the parties' identities.[25] What identity(ies) do you hold and where did they come from? Consider Carrie Menkel-

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intertemporal interaction, it is also a process through which the parties themselves are constructed—and may choose aspects of their own construction. Critical to this process of identity construction are the stories we tell ourselves. *See* SARA COBB, SPEAKING OF VIOLENCE: THE POLITICS AND POETICS OF NARRATIVE IN CONFLICT RESOLUTION 15 (2013) ("Although the interest-based discourse has certainly contributed to conflict resolution, it has fit, hand-in-glove, to the discourse of rational choice theory, which disattends to the presence and creations of meaning systems and their relation to violence.").

[24] *See, e.g.*, GARY FRIEDMAN & JACK HIMMELSTEIN, CHALLENGING CONFLICT: MEDIATION THROUGH UNDERSTANDING (2009).

[25] I think of the increasing role of Internal Family Systems psychological theory (viz., exploring different parts of a person's psyche and engaging in dialogue with such parts) in mediation. *See* David A. Hoffman, *Mediation, Multiple Minds, and Managing the Negotiation Within*, 16 HARV. NEGOT. L. REV. 297 (2011); Leonard L. Riskin, *Managing Inner and Outer Conflict: Selves, Subpersonalities, and Internal Family Systems*, 18 HARV. NEGOT. L. REV. 1 (2013).

Meadow's description of many successful dialogue processes designed to foster intergroup conflict resolution:

> No matter how large disputing groups may be (though small is almost always better here) beginning with *personal statements* of who a person is, what the *sources of their identity and beliefs* are, what *major experiences* have molded them (in their own views) *and what concerns or "curiosities" or questions* they have about their own views, often opens up the often hidden assumptions or rigid backgrounds of particular views for further exploration.[26]

When third-party neutrals foster conversations that help parties see one another as full people (e.g., people who also have fears, stresses, and vulnerabilities), dialogue can become much easier.[27] In areas of group conflict, good historical education, too, can play an extremely valuable part, helping each side understand not only its own history but its counterpart's history. I emphasize "good" for, especially in the context of group conflict, all too often history is taught in a limited way (e.g., teaching only the history that valorizes our side) rather than in a rich and critical way.

When one party holds a negative identity, are there things the anti-self can do to help promote conflict resolution between them? Briefly, the answer here is "yes" as well, though the task is not simple. In some conflicts, a direct approach of asking questions such as "How did you come to feel this way?" "Why do you see me the way that you do?" or even "How do you understand the past and how it has brought us here?" may be possible. In other conflicts, an indirect approach may yield better results. For example, one may try to act in ways that create cognitive dissonance in the mind of the party who holds a negative identity. Recall the historic, non-violent civil rights protests led by Dr. Martin Luther King, Jr. Many Whites defined themselves (and unfortunately still define themselves) as not Black, including stereotyping Blacks, especially Black men, as criminal and violent.[28] A piece of the brilliance of the non-violent protests was that those protests called attention to

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[26] Menkel-Meadow, *supra* note 23, at 16.

[27] *Id.* at 16–17.

[28] *See, e.g.*, Katheryn K. Russell, *The Racial Hoax as Crime: The Law as Affirmation*, 71 IND. L.J. 593 (1996) (critiquing the prejudicial but influential myth of the "criminalblackman"); KATHERYN RUSSELL-BROWN, THE COLOR OF CRIME (2008).

the racism of segregation in a way that created a cognitive dissonance for Whites: it was the Black protesters who were peaceful and the White police and mobs who were violent. Such dissonance, in my view, was an aspect of why these protests gained wide media coverage.

V.   A LITERARY EXAMPLE – JACOB AND ESAU

Sometimes a story can bring abstract ideas to life. When it comes to interplay between negative identity and conflict, I know of no literary example illustrating this interplay better than the biblical saga of Jacob and Esau.[29] According to the Bible, Jacob and Esau were twins born of their parents Isaac and Rebekah. Even in utero, the brothers struggled against each other, apparently causing Rebekah significant discomfort:

> [T]he children struggled in her womb, and she [Rebekah] said, "If so, why do I exist?" She went to inquire of the Lord, and the Lord answered her, "Two nations are in your womb, two separate peoples shall issue from your body; one people shall be mightier than the other, and the older shall serve the younger."[30]

Jacob's name itself reflects this strife. The Hebrew word for Jacob, *Ya'akov*, is a variant of the word *ekev,* meaning heel. Why is Jacob called *Ya'akov*? The Bible explains that Jacob is so named because he emerged from Rebekah's womb grasping his older brother Esau's heel.[31] Names and identity go hand in

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[29] I write "literary example" for the historicity of these early Biblical narratives is a subject of much dispute, due in part to the absence of archeological evidence confirming such narratives. *See* ISRAEL FINKELSTEIN & NEAL SILBERMAN, THE BIBLE UNEARTHED 35 (2001); THOMAS L. THOMPSON, THE HISTORICITY OF THE PATRIARCHAL NARRATIVES: THE QUEST FOR THE HISTORICAL ABRAHAM 2–3 (1974); THOMAS L. THOMPSON, BIBLICAL NARRATIVE AND PALESTINE'S HISTORY: CHANGING PERSPECTIVES 2, 55 (2013) ("The current standard interpretation of the conflict themes in the Jacob narratives understands the stories as more or less *historiographic* traditions that reflect real historical or sociological conflicts between ancient Israel and neighboring or related groups of people[.]").

[30] *Genesis* 25:22–23. All biblical verses come from the Jewish Publication Society's 1985 translation.

[31] *Genesis* at 25:26.

hand, especially in the Bible,[32] and from his very birth Jacob is defined in contrast to his brother.

This contrast between the twins continues to be a theme as they grow, each serving as a foil to the other. Esau is defined as a "skillful hunter, a man of the outdoors; but Jacob was a mild man who stayed in camp."[33] Their father Isaac prefers Esau while their mother Rebekah favors Jacob.[34] As one might expect, conflict becomes a defining theme of the brothers' lives. First, there is the stew story in which Jacob extracts from a famished Esau his firstborn birthright in exchange for a bowl of red pottage.[35] Next comes the story from the deathbed of their blind, elderly father Isaac,[36] where at Rebekah's behest Jacob masquerades as Esau, donning Esau's clothes and covering his hands and neck in goat skins to feel like the hairy Esau.[37] Further, when Isaac asks Jacob which of his sons he is, Jacob answers, "I am Esau, your first-born,"[38] so as to receive from Isaac Esau's firstborn blessing.[39] Isaac bestows upon Jacob that firstborn blessing and immediately thereafter, Esau arrives, Jacob now departed. [40] Upon discovering that Isaac has bestowed the firstborn blessing upon Jacob, Esau bursts into wild and bitter sobbing and pleads with their father to bless him as well ("Have you but one blessing, Father? Bless me too, Father!").[41] The response he receives is as much a curse as a blessing.[42] Esau becomes enraged and vows to kill Jacob once the days of mourning for

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[32] Names signifying certain meanings or identities are common in the Bible, and this is especially clear in the Hebrew. *See, e.g.*, *Genesis* 2:7 (the first person, *Adam*, is created out of the dust of the Earth [*Adamah*]); *Genesis* 2:10 (Moses [*Moshe*] is so named because Pharoah's daughter drew him out of the water, *M'shiteihu*). This is like calling the first-person Adam "Earthling" and Moses "From Water Drawn." By rough analogy, one might think of the names of modern-day superheroes like "Spiderman" (who is part spider and part person), "Superman" (who possesses superpowers), or "Flash" (who moves in a flash); their names deeply signify their characters. Additionally, as with Jacob's being renamed "Israel," name changes in the Bible carry much meaning. *See, e.g.*, *Genesis* 17:4–5 (on Abram's renaming to "Abraham"); *Genesis* 17:15–16 (on Sarai's renaming to "Sarah").

[33] *Genesis* 25:27.

[34] *Genesis* 25:28.

[35] *Genesis* 25:29–35.

[36] *Genesis* 26:34 (Jacob and Esau are now at least forty).

[37] *Genesis* 27:16.

[38] *Genesis* 27:19.

[39] *Genesis* 27:18–19.

[40] *Genesis* 27:28–29.

[41] *Genesis* 27:34–38.

[42] *Genesis* 27:39–40 ("See, your abode shall enjoy the fat of the earth and the dew of heaven above. Yet by your sword you shall live, and you shall serve your brother; but when you grow restive, you shall break his yoke from your neck.").

their father Isaac have ended.[43] Fearing imminent fratricide, Rebekah advises Jacob to flee, which he does.[44]

The two brothers will not meet again until some twenty years later, years during which Jacob, once the deceiver, now becomes the deceived.[45] What will happen when they meet? As biblical readers may recall, the brothers reconcile,[46] but it is what takes place on the eve of their reconciliation that is most suggestive concerning the value of moving beyond negative identity for conflict resolution.

The setting for their re-encounter is the land of Seir where Esau dwells. As Jacob and his large entourage approach that land, he first sends messengers to announce his peaceful intentions.[47] The messengers return, announcing that Esau is approaching with four hundred men.[48] Fearing a violent encounter, Jacob divides his followers into two camps—if Esau attacks one camp, at least the other may escape.[49] That evening—the evening before Jacob will meet Esau again—we are told of a strange incident:

> [That night] Jacob was left alone. And a man wrestled with him until the break of dawn. When he saw that he had not prevailed against him, he wrenched Jacob's hip at its socket, so that the socket of his hip was strained as he wrestled with him. Then he said, "Let me go, for dawn is breaking." But

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[43] *Genesis* 27:41.

[44] *Genesis* 27:42–44.

[45] *Genesis* 29:14–28. I refer to Jacob's marriages to sisters Rachel and Leah. *Id.* Jacob loved Rachel and worked for her father Laban for seven years believing his reward would be marrying Rachel. *Id.* Yet Laban tricks Jacob into marrying the older sister Leah. *Id.* Jacob is then permitted to marry Rachel one week later, but only if he toils in Laban's service for another seven years, which he does. *Id.* Perhaps in this what-goes-around-comes-around story (Jacob, who once deceived his father Isaac, now becomes deceived by his father-in-law Laban), there is a hint concerning the maturation of Jacob's identity. Might experiencing the pain of having been deceived taught Jacob empathy for his brother Esau, causing Jacob to rethink his own past actions? As with much of the Bible, the text is sparse and the reader can only speculate, but this story too is suggestive of Jacob reexamining his own life, including his own identity.

[46] *Genesis* 33:4 ("And Esau ran to meet him [Jacob], and embraced him, and fell on his neck, and kissed him; and they wept."). I note, however, that the Bible describes later hostility between the Amalekites (descendants of Esau) and the Israelites (descendants of Jacob). *See, e.g.*, *Exodus* 17:8–16.

[47] *Genesis* 32:4–6.

[48] *Genesis* 32:7.

[49] *Genesis* 32:8.

> he answered, "I will not let you go, unless you bless me." Said the other, "What is your name?" He replied, "Jacob." Said he, "Your name shall no longer be Jacob, but Israel, for you have striven with beings divine and human, and have prevailed."[50]

For generations, biblical commentators have wrestled with the question of exactly who or what this mysterious figure was who wrestled with Jacob, in part due to the ambiguity of the final sentence above: "Your name shall no longer be Jacob, but Israel, for you have striven with beings divine and human, and have prevailed."[51] Was this mysterious being a person? Might he have been an angel or perhaps even God? The great 11th century French commentator Rashi saw this mysterious being as Esau's guardian angel.[52] In a similar vein, contemporary Jungian psychologist Esther Spitzer views him as Jacob's own psychological shadow, the parts of his own personality that he would rather not face.[53] Whatever the exact nature of this mysterious wrestler, most noteworthy is the act and timing of the renaming. It is on the eve of Jacob's reconciliation with his lifelong rival, his anti-self Esau, that Jacob receives the new name, and hence new identity, of "Israel."

The Jacob and Esau narrative is suggestive of several ideas concerning the interaction between negative identity and conflict. First and most basically, negative identity may help to produce conflict. The characters Jacob and Esau are essentially anti-selves to one another, and so long as they hold these negative identities, conflict is the dominant theme of their relationship.

Second, the internal work of moving beyond a negative identity may be essential to conflict resolution. Once a party can see itself as more than "not them," working out differences with "them" may become easier. Jacob's reconciliation with his lifelong rival Esau occurs the day after he goes from being Jacob-the-heel-grabber to Israel-the-God-wrestler. Conflict resolution professionals frequently strive to create safe spaces for dialogue between the parties, such as mediation. Where a party holds a negative identity, finding a safe space for that party's *internal* exploration of their negative identity may also be essential. As Jennifer Reynolds writes, "[When people hold strong

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[50] *Genesis* 32:25–30.

[51] *Genesis* 32:25–30.

[52] *See* ABRAHAM BEN ISAIAH & BENJAMIN SHARFMAN, THE PENTATEUCH AND RASHI'S COMMENTARY: A LINEAR TRANSLATION INTO ENGLISH: GENESIS 330 (1976).

[53] Esther Spitzer, *A Jungian Midrash on Jacob's Dream*, in THE RECONSTRUCTIONIST 22–23 (1976), *as quoted in* THE TORAH: A MODERN COMMENTARY 223 (W. Gunther Plaut ed., 1981).

negative identities, it] may be that creating spaces in which people with different views can talk is less important than creating spaces [for] someone to explore what his/her/their negative identity is all about."[54]

Third, seeking to resolve conflict with one's anti-self can serve as a catalyst for reworking one's identity when that identity is, in part, a negative one. Why is it difficult to meet with people with whom we are in conflict? Part of the reason is that such encounters often "stir up stuff" within ourselves. At times, such encounters may force us to face aspects of our negative identity that we usually do not face.[55] Put differently, the interaction between negative identity and conflict resolution may be bi-directional: facing one's negative identity may aid in resolving conflict with one's anti-self, and engaging in constructive dialogue with one's anti-self may lead one to rethink one's negative identity.

VI.   CONCLUSION

Identity is a core piece of the human experience. All too often, conflict is a piece of the human experience, too. Here, I have suggested that a particular form of identity—negative identity—may make conflicts more likely to arise and also make them more difficult to resolve when they do. Fortunately, all is not lost. For example, through open-minded listening, self-examination, and embracing different aspects of our identities we may be better able to resolve conflicts. Third party neutrals and the other party to the conflict (i.e., the anti-self) can also take steps to promote conflict resolution in the context of negative identity, steps that may lead parties to rethink their very sense of self. Such steps may not be easy, but they are possible. When they succeed, conflict resolution becomes not only a process for resolving disputes, but also a means of human growth.

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[54] Reynolds, *supra* note 19.

[55] Note that Jacob's reencounter with Esau appears not to be a matter of choice, but necessity, for tension between Jacob and his father-in-law Laban has led Jacob to depart Laban's home. *Genesis* 25:22–23.