

THE TRANSFORMATIVE FRAMEWORK

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“Transformative Mediation has been adopted in a wide array of contexts including organizational, court, community and governmental settings and has been used in family, neighbour, divorce, youth, multi-party disputes. It has also been adapted for conflict interventions that address team development and organizational disputes” (ADRAI training brochure, March 2015).

In May of this year, ADRAI sponsored a 3-day workshop in Halifax, NS, wherein one of the pioneers of transformative mediation (TM) Joe Folger, along with Basia Solarz outlined the basics of the TM process. Folger described TM as “pure mediation”. Having taught interest-based mediation for 15 years, Folger argued that today, mediation has become what it was designed to replace – directive and evaluative. Instead, Folger quantified that TM is valuable and unique because it allows for self-determination of the parties with the humanizing potential of dialogue (2010, p. 8). To that end, he explained that in *The Promise of Mediation*, he and Robert A. Baruch Bush set out to preserve the practice of mediation (Bush & Folger, 2005). During the workshop, Folger and Solarz outlined TM’s view of conflict and its approach to intervention; key skills for the TM process; and its terminology. This article is a summary of key concepts and practices; please visit: www.transformativemediation.org for more detailed information.

The workshop began with an examination of conflict theory and an identification of various theoretical perspectives. Folger reasoned that all mediators begin with the question: “What is conflict, as the parties understand and experience it” (2010, p. 5) He stated that the way in which mediators answer that question will determine their approach and intervention. Folger

stated that “purpose drives practice” and reasoned that there are no theories of mediation; however, there are differing theories/views of conflict:

1. Power Theory: views conflict as a struggle for domination,
2. Rights Theory: views conflict as a contest between competing claims of ‘rights’,
3. Needs and Interests Theory: views conflict as a problem in how to meet incompatible needs with limited resources ((Folger & Solarz, 2010, p. 6).

According to each theory, a different approach and intervention is needed to help. For instance, the parties may need help in organizing and mobilizing; help in argumentation and advocacy; or help in problem solving, respectively (p. 6). Folger described the transformative theory of conflict as part of a larger, relational, worldview (p. 14). He states transformative theory views conflict “as a crisis in human interaction, and the parties need help in overcoming this crisis and restoring constructive interaction” (p. 6).

The transformative approach to mediation is “a way to foster a qualitative transformation of human interaction” (Bush & Folger, 2005, p. 9). Folger has argued that it is an important and necessary distinction that transformational and problem-solving approaches to mediation, amongst others, have different theoretical bases, and further that these differences should be explained to the parties (Folger J. , 2008, p. 825). He has expanded on this and argued that the different approaches should not be combined into a type of hybrid relational approach because “the central purpose of each approach is essentially incompatible with the other - working toward the achievement of one purpose negates the attainment of the other” (p. 855). However, Folger has written that while the improvement of the interactions between the parties is the goal in transformative mediation, this can also result in resolution of more substantive issues, despite the mediator’s non-directive role (2008, p. 844). Folger emphasized that TM is not about

transforming the relationship, but the quality of the interactions in the relationship – this is success in TM.

From a transformative perspective, Folger (2010) stated that conflict destabilizes us, resulting in confusion, anxiety, and indecisiveness. Conflict also makes us more self-absorbed, all of which leaves us in a state of relative weakness. Folger has argued that because of this self-absorption, conflict conversations will be destructive. However, the TM process recognizes that people can recover from this, can change, and make dynamic shifts to increase their self-confidence and responsiveness (p. 8). Two specific shifts are required for transformation to occur while the conflict unfolds.

Specifically, the transformative mediator's role is to support the parties' interactions to assist in making these shifts; to self-empowerment and to recognition (Folger & Solarz, 2010, p. 8). The shift from self-absorption to recognition occurs when the party begins to recognize how they may have contributed to the conflict (p. 10). However, there has to be some empowerment before recognition can take place.

Empowerment shifts occur when disputing parties experience a strengthened awareness of their own self-worth and their own ability to deal with whatever difficulties they face regardless of external constraints... Recognition shifts occur when, given some degree of empowerment, disputing parties experience an expanded willingness to acknowledge and be responsive to other parties' situations and common human qualities... Thus, despite conflict's potentially destructive impacts, people have the capacity to move back into their sense of personal strength or self-confidence (the empowerment shift) and their sense of openness or responsiveness to the other (the recognition shift) (Folger & Solarz, 2010, pp. 8-10).

Folger has indicated that there are three core practices that a transformative mediator must master:

1. **Attend** - The mediator pays close attention to the unfolding conversation, in order to *identify opportunities* for empowerment and recognition as they arise.
2. **Monitor** - The mediator thinks before intervening, in order to *check his or her own intentions* for intervening, ensuring she/he *maintains a transformative purpose* and is not directive or leading.
3. **Respond** - The mediator responds, *when appropriate*, only *to support the parties' own efforts* to make empowerment and recognition *shifts* (Folger & Solarz, 2010, p. 27), emphasis in original.

Folger and Solarz (2010) then outlined four skills necessary to accomplish these practices by utilizing: reflecting, summarizing, checking in, and staying/backing out. *Reflecting* is the mediator repeating back the speaker's comments, using similar language. *Summarizing* is when the mediator reduces what both parties have said into key messages; leaving nothing out, positive or negative. *Checking in* is a way for the mediator to ask questions about the mediation process, subject manner, and commitment to the process. *Staying/Backing out* is when the mediator withdraws from involvement in the conversation, and allows the parties to talk without interruption (p. 41).

By utilizing these skills and keeping core practices in mind, Folger stated that the transformative mediator supports the parties by listening with intent, maintaining a micro focus on the dialogue, and is not directive, leaving all decisions and shifts to the parties (Folger & Solarz, 2010, p. 27). This novel approach and philosophy of TM is also reflected in its unique language or terminology. For example, in TM the parties have views or statements not positions; they make decisions, agreements, or have outcomes but not resolutions or settlements;

transformative mediators use ‘you’ not ‘we’; and, they may have a ‘separate meeting’ if the parties decide they need one, but not a ‘caucus’. In addition, some key differences between TM and IBM are found in the establishment of ground rules for example. In TM, whether the parties wish to have any ground rules is entirely up to them; as is the setting of those rules if the parties decide they need them, including whether to have separate meetings. Nor does TM impose communication preferences or limitations on the parties. As well, there are no stages or phases in TM; instead mediators follow the parties in a bottom-up versus a top-down approach. And the final distinction (for the purpose of this article only), reflection is the opposite of reframing; in TM the mediator’s reflection stays with both the content and the emotional tenor of the communication (p. 41). TM provides the parties with an opportunity to correct or confirm the reflection.

Obviously, there is considerable diversity between TM and other approaches to mediation. And, as with any approach, there are both strengths and risks. I would encourage you to explore the TM approach to mediation more fully by reading any of the references below, or by visiting the website: www.transformativemediation.org.

References

Bush, R. A., & Folger, J. P. (2005). *The promise of mediation: The transformative approach to conflict* (Revised ed.). San Francisco, California: Jossey-Bass.

Folger, J. (2008). Harmony and transformative mediation practice: Sustaining ideological differences in purpose and practice. *North Dakota Law Review*, 84(3), 823.

Folger, J. P., & Solarz, B. (2010). *Mediation: Principles & practice - The transformative framework*. Institute for the Study of Conflict Transformation, Inc. Retrieved from www.transformativemediation.org

Folger, J. P., Bush, R. A., & Della Noce, D. J. (Eds.). (2010). *Transformative mediation: A sourcebook - Resources for conflict intervention practioners and programs*. New York: Institute for the Study of Conflict Transformation.