Transformative Mediation and Third-Party Intervention: Ten Hallmarks of a Transformative Approach to Practice

Joseph P. Folger, Robert A. Baruch Bush

The transformative approach to mediation and third-party intervention is seen as attractive by many practitioners, but they are still somewhat unsure of its precise contours in practice. To clarify these contours, the authors describe ten major patterns of practice that they believe characterize the work of intervenors who follow this approach. These “hallmarks” of transformative practice range from the content of mediators' opening statements, to their attitudes about party competence and motivation, to their willingness to deal with emotion and conflict history. Together, the hallmarks paint a clearer picture of this approach to intervention. They also help clarify some misunderstandings that have arisen about the approach.

This special issue of Mediation Quarterly is dedicated to a discussion of the possibilities for implementing what we have called a transformative approach to mediation practice (Bush and Folger, 1994)—emphasizing the concrete steps that this involves and offering several illustrations of how mediators and other intervenors are currently putting this approach into practice. In this lead article, we offer ideas about the key elements or commitments that characterize a transformative approach to mediation practice—that is, an approach centered on mediation’s transformative dimensions: empowerment and recognition. Articulating these key elements will, we think, concretize the kinds of specific practices involved in a transformative approach and clarify its basic principles and characteristics.

Transformative Framework: Moving from Theory to Practice

In programs offering training in the transformative approach to mediation, we often begin by asking practicing mediators to describe one of their most highly
successful mediation sessions. Almost without exception, the mediators find this an easy task—and the stories they tell share a common theme. Almost all the mediators describe sessions in which something happened that produced visible changes in the way the parties related to their own situations and to each other. For example, “One of the parties, who was hopelessly confused at the outset, gradually became crystal clear about what she needed and how she might get it. The change was astonishing.” “One party, who had obviously never been able to speak up to the other party before, seemed to ‘find his voice’ and made some very effective statements and arguments that opened everyone’s eyes.” “The parties came in as ‘sworn enemies,’ reluctant even to talk to one another. Then at some point they began to relate differently to each other, and then started talking freely and even joking with each other. By the end of the session, there was an amazing difference.” These and other stories offer vivid illustrations of difficult situations where the parties clarified what was at issue for them and what they wanted to do about it and, at the same time, reached a greater understanding of the other’s perspective or life situation. In effect, the success stories that they tell attest that, for many mediators, the transformative effects of the process are what make it most meaningful and successful.

At a conceptual level, the transformative approach to third-party practice is based on certain premises about both the effects and the dynamics of intervention. One major premise of the approach is that processes like mediation have the potential to generate transformative effects, and that these effects are highly valuable for the parties and for society (Bush and Folger, 1994). Specifically, mediation’s potential transformative effects are that it can strengthen people’s capacity to analyze situations and make effective decisions for themselves, and it can strengthen people’s capacity to see and consider the perspectives of others. In short, mediation is a process that enables people in conflict to develop a greater degree of both self-determination and responsiveness to others, while they explore solutions to specific issues. However—and this is the second major premise of the approach—mediation is likely to have these transformative effects only to the extent that mediators develop a mindset and habits of practice that concentrate on the opportunities that arise during the process for party empowerment and interparty recognition.

A focus on empowerment means that the mediator watches for the points in the process where parties have opportunities to gain greater clarity about their goals, resources, options, and preferences, and then the mediator works with these opportunities to support the parties’ own process of making clear and deliberate decisions. A focus on recognition means that the third party watches for those points where each disputant faces the choice of how much consideration to give the perspective, views, or experiences of the other, and then the third party works to support the parties’ own decision-making and perspective-taking efforts at these points. It is in this sense that mediation is potentially transformative: It offers individuals the opportunity to strengthen and integrate their capacities for self-determination and responsiveness to oth-
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ers. If these effects are seen as valuable, the transformative approach to prac-
tice will make sense at the conceptual level.

The key question that arises in implementing the transformative approach is how to move from this theoretical and conceptual framework to the practice level. For example, in training programs we have presented, mediators often express great interest in the transformative model, but they are unsure whether what they typically do in practice is consistent with, or fully expresses, a non-settlement-driven, transformative approach. When we ask them what they did as mediators that contributed to their successful mediations (in con-
tinuing the “illustrations of success” exercise), their responses are very reveal-
ing. Most mediators say that the parties did it themselves: The disputants were simply “ready,” and that they, as mediators, did very little to contribute to the successes they had described. However, when we begin to ask the mediators specific follow-up questions about their moves—questions designed to find out whether they had done the kinds of things that a mediator committed to the transformative approach might do—the mediators’ responses change. They indicate that they actually made many of the transformative moves that we asked about. And they realize that they had more to do with the direction and results of these successful sessions than they had first thought.

The lesson that emerges is that even when mediators are attracted to the transformative approach conceptually and intuitively, they may not be able to identify the specific strategies that implement this approach at the practice level, or even to recognize these strategies at work in their own practice. In looking for ways to translate the transformative framework more completely into the vocabulary of practice, we started asking experienced mediators (includ-
ing ourselves) questions such as the following: “If you were observing yourselves—on videotape, for example—in the sessions that turned out to have transformative effects, what kinds of patterns would you expect to see in your own mediator behaviors?” “If you wanted to assess whether mediators in a program you administered were committed to a transformative approach to practice, how would you assess this?” “What would you be looking for in observing their interventions, and what questions might you ask them about their commitments to practice?”

This practice-centered inquiry helped to identify a set of indicators, or hallmarks, of a transformative approach to practice. These hallmarks constitute key habits or patterns of practice that, when evident in a mediator’s work, signal his or her commitment to a transformative approach to intervention. While not reaching the level of detail that direct coaching in the transforma-
tive approach might provide, they certainly advance the effort to translate the transformative framework into practice terms. They do so by describing the typical responses that flow from this framework to a number of practice issues that mediators face on a regular basis.

In this article, we first identify and discuss ten hallmarks of a transforma-
tive approach to practice. We then explain how an awareness of these practice
habits or commitments can be useful in advancing a clear understanding of the transformative vision of practice. Finally, we suggest that there are a number of conflict intervention arenas where forms of third-party practice are emerging that are consistent with this approach.

Ten Hallmarks of Transformative Practice

When mediators are effectively putting the transformative approach into practice, the ten patterns or habits of practice discussed below are evident in their work. In the terms used above, these kinds of practices are some of the hallmarks of the transformative approach to mediation. Each of the ten points describes, in part, what the work of a mediator implementing the transformative framework looks like, and what attitudes and mindset she or he carries into practice. In considering each of these points, mediators interested in the transformative approach can ask themselves, "If I watched myself practicing, would I see myself consistently following these habits of practice? If asked about the mindset and premises that my practice is based on, would I respond with the kind of statements that introduce (and summarize) the points described below?"

HALLMARK 1. "The opening statement says it all": Describing the mediator's role and objectives in terms based on empowerment and recognition.

Mediators and other third parties following a transformative approach begin their interventions with a clear statement that their objective is to create a context that allows and helps the parties to (1) clarify their own goals, resources, options, and preferences and make clear decisions for themselves about their situation; and (2) consider and better understand the perspective of the other party, if they decide they want to do so.

The mediator devotes significant time and effort to explaining this third-party role, not assuming that it will be understood automatically. The mediator emphasizes that he or she is not there to make decisions for the parties, or to pressure them to come to a conclusion or agreement if they are not ready. In one form or another, the mediator conveys to the parties that the goal of the process is to allow them to understand the situation—and each other—better and to help them decide what, if anything, they want to do about the issue or problem that they face.

In orienting the parties about what a successful session might achieve, the intervenor frames formal agreement or settlement as one possible outcome of the process. However, instead of adopting a one-dimensional focus on settlement as the only aim of the process, the intervenor, in an opening statement, describes other outcomes or can be equally important. He or she emphasizes that the session can be successful if new insights are reached, if choices are clarified, or if new understandings of each other's views are achieved. The par-
ties are encouraged to see any of these as positive outcomes and important accomplishments of the process, as significant as specific terms of agreement or action plans that may be reached.

As a rough test of whether an intervenor's work includes this habit of practice, the following questions might be asked: Do the opening statements regularly include reference to anything other than agreement (on some or all issues) as the goal of the process and definition of success? If so, are non-agreement goals and potential outcomes of mediation described with clarity, and placed on a par with settlement, in a way that gives the parties a sense of their real value? Positive answers suggest that the transformative framework is being carried through into practice.

**HALLMARK 2.** "It's ultimately the parties' choice": Leaving responsibility for outcomes with the parties.

If third parties have a sense of responsibility for producing certain outcomes in their interventions, they are unlikely to be practicing within the transformative framework. An important hallmark of the transformative approach is that its practitioners consciously reject feelings of responsibility for generating agreements, solving the parties' problem, healing the parties, or bringing about reconciliation between them. Instead, third parties following a transformative framework sensitize themselves to feeling responsible for setting a context for, and supporting, the parties' own efforts at deliberation, decision making, communication, and perspective taking.

Thus, the mediator feels a keen sense of responsibility for recognizing and calling attention to opportunities for empowerment and recognition that might be missed by the parties themselves, and for helping the parties to take advantage of these opportunities as they see fit. In practice, calling attention to these opportunities means inviting the parties to slow down and consider the implications or questions that follow from a statement one of them has made. For example, to frame and help capture an opportunity for empowerment, the mediator may follow up an unclear statement from one party about goals or options by saying, "I'm not sure I understand fully what you've said; can you talk a bit more about that?" The party's ensuing restatement, and perhaps further questions, may produce a greater level of clarity and empowerment. Likewise, to frame and capture an opportunity for recognition, the mediator might call one party's attention to a statement the other has offered to explain their past conduct and then ask the listening party whether the information contained in the statement might alter his or her view of the other disputant or the conflict in general.

However, in identifying and working with opportunities for empowerment and recognition, the mediator remains clear that all decisions about how to respond to these opportunities are the parties' own, and the mediator rejects any feeling of responsibility for the decisions thus made. When mediators
begin to feel that they are responsible for ensuring a certain outcome—whether achieving an agreement among the parties, altering their views of one another, or creating change of any kind in the parties or their situation—this feeling will in all likelihood lead the mediators into directive and disempowering steps that negate the transformative dimensions of the process.

When mediators firmly grasp the transformative framework, they recognize and feel strongly that only the choices or changes that the parties freely make, regarding what to do about their situation or how they see each other, will be of real or lasting value. This strong conviction allows, and actually impels, the intervenor to refuse to take over responsibility from the parties for the key decisions to be made about how their conflict interaction unfolds and what its outcome will be. This commitment to place and keep responsibility for the conflict firmly in the parties' hands is a hallmark of transformative practice.

HALLMARK 3. "The parties know best": Consciously refusing to be judgmental about the parties' views and decisions.

Another commitment of transformative practice, related to but distinct from Hallmark 2, involves the refusal to be judgmental about the parties' views on and decisions about their situation and each other. The value placed on empowerment within the transformative framework motivates third parties who follow this approach to consciously avoid exercising judgment about the parties' views, options, and choices.

This does not (and cannot) mean that mediators somehow do away with personal values or viewpoints. Rather, the mediators develop the ability both to recognize their own judgmental feelings when they arise and then to pull back and suspend judgment instead of exercising it. Thus, the mediators quickly catch themselves if they begin to feel, "I understand the parties' problem better than they do," or "I know what would be the best thing for the parties to do here." Moreover, having caught these judgmental feelings, the mediators then consciously step away from their own judgments and refuse to influence the parties' views and choices.

Awareness, control, and suspension of judgment thus constitute a clear hallmark of transformative practice. The mediator is helped in this habit of practice by another kind of awareness that also flows from the transformative framework. That is, the mediators constantly remain aware that, no matter how much information is revealed, they actually know very little for sure about the parties, their situations, and their lives as a whole—and immeasurably less than the parties themselves. This awareness of relative "ignorance" creates a sense of humility, which makes it easier to refrain from exercising judgment, and especially from overriding the parties' judgment.

One important test of a mediator's commitment to this hallmark of practice is the way the mediator responds when there seems to be a clear power advantage on one side. In this situation, it is easy for a third party to feel a need
to defend and assist the apparently weaker party. However, this feeling involves judgments and assumptions on several levels: that the power balance is in fact what it seems to be, though power relations are often complex and multilayered; that the “powerful” party is being strategic or conniving, though he or she may actually be uncertain of how to act and relying on power patterns that he or she would prefer to change; or that the “weaker” party wants a shift in the power balance, though he or she may prefer the current situation for reasons unknown to the intervenor. Any or all of these judgments, and the power-balancing strategies that they justify, lead to third-party moves that quickly negate empowerment in the transformative sense.

A commitment to transformative practice leads mediators to a different kind of response to apparent power imbalances. The mediators understand that shifts in power can certainly occur within a transformative approach, but they do not presume to prompt such shifts. Instead of exercising independent judgment about the power balance, the mediators are guided by the parties’ judgments. The mediator looks for, and inquires about, signals from a disputant that he or she is troubled by an imbalance or is unable to sustain a viable position without some change in the power balance. If and when such dissatisfaction is expressed, the mediator helps the disputant to clarify exactly what he or she wants, to convey what he or she wants to express to the other party, and to make the decisions that are then called for. However, if a seemingly weaker party gives no signals of need when he or she appears to be overrun by a stronger disputant, then the mediator who pushes the imbalance issue substitutes his or her own judgment for the party’s and moves toward a highly directive intervenor role that is inconsistent with the transformative approach.

The sign of transformative practice is that the third party’s actions are responsive to the disputants’ moves. A shift of power is not an outcome prompted or justified by third-party judgment; rather, it is one possible result of a series of moves that the parties themselves initiate, based on their own judgments.

**Hallmark 4.** “The parties have what it takes”: Taking an optimistic view of parties’ competence and motives.

The previous hallmark involves not being judgmental about the parties’ views on and decisions about their situation and each other. Hallmark 4 involves not being judgmental about the parties themselves and their character. How a third party thinks about the disputants—in particular, whether the mediator is basically optimistic or pessimistic about the parties’ abilities and motives—is a strong indicator of whether or not the mediator is carrying the transformative framework into actual practice. Third parties who successfully implement a transformative approach are consistently positive in their view of the disputants’ fundamental competence, their ability to deal with their own situation on their own terms. Likewise, the third parties take a positive view of the disputants’ motives, of the good faith and decency that underlie their
behavior in the conflict situation, whatever the appearances may be. In short, taking an optimistic view of the parties' competence and motives is a hallmark of transformative practice.

To frame the point differently, the mediator does not base his or her view of the disputants on immediate appearances. The mediator sees the disputants, even in their worst moments, as being only temporarily disabled, weakened, defensive, or self-absorbed. The mediator is convinced that while the conflict may be causing the parties to be alienated from themselves and each other, it has not destroyed their fundamental ability to move—with assistance, but of their own volition—from weakness to strength or from self-absorption to recognition of others. In social psychological terms, third parties who follow a transformative approach to practice avoid the "fundamental attribution error" (Jones and Davis, 1965; Kelley, 1971): They do not attribute the parties' difficulty in finding their way through the conflict to their "bad character" as inherently weak, hateful, or uncaring people. Rather, they attribute the parties' ineffective behavior to the circumstantial effects of the experience of conflict itself.

This commitment to assuming the disputants' underlying competence and decency is actually quite critical to a transformative approach because it directly affects the steps the mediator will and will not take in practice. If a mediator believes that the parties are incapable of making good decisions about how to deal with their situation, the mediator will take over responsibility and act directly, instead of supporting the parties' own decision making. Likewise, if a mediator believes that the parties are driven by purely selfish motives, there is little reason to invite them to consider each other's perspectives, since neither will want to (and if they did, it would confirm their worst suspicions!). The assumption of competence motivates the mediators to reject the feeling that disputants are essentially dependent on them and instead allow the disputants to determine their own outcome. The assumption of decency motivates the mediators to show the disputants opportunities for recognition that the mediators would otherwise think it pointless to bring up.

Maintaining an optimistic view of the parties' capabilities does not mean that transformative mediators are oblivious to behavior that might be labeled destructive or in bad faith. However, the salient question is, What does a mediator do when a disputant engages in behavior that the mediator feels is ill-intentioned and destructive? Like the response outlined earlier in our description of how mediators can respond to perceived power imbalances, transformative practitioners take their lead here from the reactions of the parties themselves. When one partly states or implies that the other may be acting in bad faith or undermining the process, the mediator allows, encourages, and helps the concerned party to safely pursue this concern to his or her own satisfaction. If and when that party is satisfied, the process can continue; or, if this concern cannot be worked out, the party may choose to leave the media-
tion. However, the mediator does not step forward with his or her own judgment of bad faith, or decision to terminate, without some prompting expression of concern from a disputant. Making unprompted judgment calls and decisions about the bad motives or effects of a disputant's moves or reactions is a clear departure from the nondirective and empowering role to which transformative mediators are committed.

To test for this hallmark of transformative practice (beyond examining their responses to the type of situation discussed above), intervenors can simply focus on their own attitudes and assumptions about the parties in cases they are handling—at the beginning of, during, and after the intervention. If honestly done, this very private test of attitudes and assumptions about clients can lead to quite surprising insights.

**HALLMARK 5. “There are facts in the feelings”: Allowing and being responsive to parties' expression of emotions.**

In transformative practice, third parties view the expression of emotions—anger, hurt, frustration, and so on—as an integral part of the conflict process. Intervenors therefore expect and allow the parties to express emotions, and they are prepared to work with these expressions of emotion as the conflict unfolds.

This practice grows not out of an attempt to serve therapeutic goals but out of an attempt to reach transformative goals, since the expression of emotions often indicates important opportunities for empowerment and recognition. Frustration, for example, is often the emotional expression of troubling uncertainty about what, if anything, will be a workable course of action, or about what choices are available to a party. In other words, frustration often signals an opportunity for empowerment. Anger often stems from a party's lack of understanding of the other's personal experience, resource constraints, or cultural disposition. In such instances, the expression of anger may signal an opportunity for greater recognition of another's point of view. To ignore, sidestep, or stifle expressions of emotion is thus to squander the opportunities for empowerment and recognition that these expressions present, and to negate the objectives of a transformative approach to practice.

It is surprising how many texts and training materials directly advise mediators to steer the parties away from emotional expressions and to control them tightly when they occur (Grillo, 1991). The only value attached to emotional expression is the “venting” effect, that is, getting rid of the emotional static in order to deal more clearly with the “real issues.” The transformative practitioner allows and encourages the parties to express their feelings, not to eliminate or rechannel them or to delve into their sources but rather to uncover what lies behind so as to enhance empowerment or recognition, as discussed in brief above. Therefore, when parties express emotions, the mediator does
not just wait until it is over and then go on with issue discussion. Instead, the mediator asks the parties both to describe their feelings and, perhaps more important, to describe the situations and events that gave rise to them. These descriptions of the facts behind the feelings very often reveal specific points that the parties are struggling to deal with, both to gain control over their situation and to understand and be understood by the other party. When these points are revealed, the mediator can help the parties deal with them as they choose, directly and clearly.

Thus, instead of treating emotion as static to be vented and removed, the transformative mediator considers emotion as a rich form of expression that, when unpacked and understood, can reveal plentiful information about the parties' views of their situation and each other—information that can then be used to foster both empowerment and recognition.

HALLMARK 6. *"Clarity emerges from confusion": Allowing for and exploring parties' uncertainty.*

Intervenors who understand the transformative framework expect that disputants will frequently be unclear and uncertain about the issues underlying their conflict, what they want from each other, and what would be the "right" choices for them. Indeed, the intervenors recognize that such unclarity presents important opportunities for empowerment. Therefore, another hallmark of transformative practice is allowing, and sometimes even encouraging, the parties to explore the sources of their confusion and uncertainty.

In practical terms, this means that the intervenor is willing to follow the disputants as they talk through and discover for themselves what is at stake, how they see the situation, what each believes the other party is up to, and what they see as viable options. The mediator is comfortable with having the parties take considerable time to sort through the conflict, and the mediator can accept the lack of closure if the disputants cannot reach a clear understanding of what the past has been about or what the future should be.

In thinking through what this means for practice, one experienced mediator made a somewhat paradoxical observation. She suggested that it is not always helpful to assume that one understands a dispute too soon in an intervention. As she has gained experience in the third-party role, she has come to believe that she is probably doing well during a mediation when "she is not sure what the dispute is about after an hour or so into a session." Rather than feeling a sense of panic about this ambiguity, she now feels comfortable with it and sees it, in some ways, as a sign of her ability to keep control in the parties' hands. Her comfort with ambiguity allows her to remain open, well into a session, to the parties' need to clarify the issues for themselves and what they want to do about them. It allows her to give the parties time to clarify for themselves what the conflict is about.
HALLMARK 7. "The action is ‘in the room’": Remaining focused on the here and now of the conflict interaction.

In the transformative approach to practice, third parties remain closely focused on the here and now, on the stream of individual comments and moves that parties make throughout the session. That is, the intervenors attend to the discussion that is going on “in the room,” to each statement made by the disputants and to what is going on between them, rather than “backing up” to a broader view on the identification and solution of the problem facing the parties. The third party avoids looking at the unfolding conflict interaction through a problem-solution lens because doing so would make it hard to spot and capture opportunities for empowerment and recognition.

Instead, the mediator focuses on the specific statements (verbal and non-verbal) of the parties in the session about how they want to be seen, what is important to them, why these issues matter, what choices they want to make, and so on. The mediator uses this focus to spot precisely the points where parties are unclear, where choices are presented, where parties feel misunderstood, where each may have misunderstood the other—that is, the points where there is potential for empowerment or recognition. When the mediator spots such points, he or she attempts to slow down the discussion and to take time to work with the parties, together or separately, on clarification, decision making, communication, and perspective taking, that is, the processes of empowerment and recognition.

This pattern of focusing on the disputants’ conflict interaction during the here and now of the intervention is a clear hallmark of transformative practice. It shows that the mediator is taking a responsive rather than a directive role in the intervention. And it shows that the mediator is concentrating on the goals of empowerment and recognition, allowing the problem definition and solutions to emerge from the parties’ own perceptions and decisions. To put it differently, the transformative practitioner realizes that, while the parties work on defining and solving the problem “out there,” the intervenor should be trying to enrich the working process—the disputants’ decision making and perspective taking—in the room.

HALLMARK 8. “Discussing the past has value to the present”: Being responsive to parties’ statements about past events.

When they are following a transformative approach to practice, third parties not only allow but even encourage disputants to talk about past events—the history of the conflict—because doing so is often a very good way to achieve the goals of empowerment and recognition. Parties’ comments about the past can be highly relevant to the present, in the unfolding conflict interaction. In talking about what happened, each disputer reveals important points about
how he or she sees, and wants to be seen by, the other party. That is, statements about who did what to whom, rather than useless recyclings of history, reflect the parties' characterizations of both self and other in the present. In these statements, the parties are saying who they are, and who each thinks the other party is, today.

These kinds of statements lay a crucial foundation for whatever recognition the parties may choose to give one another—for example, for reconsidering and revising their views of each other's motives, conduct, or character. Without the foundation laid by discussion of the past, exchanges of recognition in the present are unlikely, if not impossible. The transformative practitioner pursues discussion of the past in order to build foundations for exchanges of recognition in the present; the mediator then invites and helps parties, without in any way pressuring them, to reconsider their views of the past, if they wish, and to see if each wants to extend recognition to the other party.

Similarly, when parties review the past, they frequently reveal to themselves (and each other) their choices at various points along the way. They become aware of key turning points, as well as resources and options that were available to them but went unnoticed. When this awareness is achieved, disputants often take a new look at the resources, choices, and abilities currently available to them, which is a step toward empowerment.

Just as they advise against encouraging expression of emotions (contrary to Hallmark 5), many how-to manuals advise third parties to focus on the future, not the past, and to encourage parties to keep their discussion of past events to a minimum. However, if third parties view the history of a conflict as an evil, as something that the session quickly must move beyond, then important opportunities for empowerment and recognition will almost certainly be missed. An important hallmark of transformative practice is a willingness to mine the past for its value to the present—in particular, for the opportunities such review offers parties to help clarify their choices and reconsider their views of one another.

**Hallmark 9.** “Conflict can be a long-term affair”: Viewing an intervention as one point in a larger sequence of conflict interaction.

Intervenors who understand the transformative framework are aware that their work involves stepping into a stream of interaction that began before the intervention and, in most cases, will continue in some form after the intervention is finished. In practical terms, this means that the mediators view the intervention as one point within a longer time frame. They do not view the intervention as resolution of the entire conflict. This long-term view of conflict, and the attitude of acceptance of and calmness about the limits and vicissitudes of intervention, is another hallmark of transformative practice.

Thus, third parties following the transformative approach are more likely to believe that no single intervention can address all the dimensions of a con-
flict in their entirety. They realize that, in many cases, not all the work the parties need to accomplish can be done during the intervention. They recognize that even agreeing to terms of a settlement is not the same as carrying them out. Instead, their attitude is that it is a valuable (and a more realistic) accomplishment of an intervention if the parties can establish a firmer footing, based on greater empowerment and recognition, as their interaction continues beyond the session. Sometimes this footing takes the form of concrete terms of settlement and other times it may not get that far. This outlook is crucial in enabling the intervenor to avoid a directive stance aimed at only one measure of success: settlement.

Seeing the intervention as one point in a stream of conflict interaction also gives third parties an awareness of the cycles that conflict interaction is likely to go through. Third parties following a transformative approach expect disputants to move toward and away from each other (and a possible agreement) as the conflict, and the intervention, unfolds. This means that mediators do not fear failure when progress toward reaching an agreement stalls or deteriorates. They do not panic when parties come close to committing themselves to an agreement and then back away quickly or unexpectedly, even near the end of an intervention. Rather, intervenors expect cycles of moving toward and away from agreements as parties wrestle with feelings of commitment and feelings of doubt and indecision. Transformative practitioners allow these cycles to happen and even welcome them as moments of deliberation and party empowerment. In short, they see such cycles as part of the natural cadence of intervention work. Another good test of a mediator’s operative commitment to transformative practice is thus the way he or she feels about and reacts to the kinds of limits and cycles typically encountered in conflict intervention.

HALLMARK 10. “Small steps count”: Feeling a sense of success when empowerment and recognition occur, even in small degrees.

As any seasoned conflict intervenor knows, third-party work is always challenging and often difficult. Feeling a sense of success is important in sustaining the energy and motivation necessary for practice. This hallmark of transformative practice lies in what it is that brings the intervenor that sense of success.

Transformative practitioners derive a sense of professional satisfaction when opportunities for empowerment and recognition are revealed during sessions, and when the parties are helped to respond to these opportunities, if they choose to do so, in ways that advance personal strength and interpersonal understanding and compassion. Third parties committed to this approach are careful to mark for themselves (as well as the parties) the micro- as well as the macro-accomplishments of sessions, and they do not define success solely in terms of the final agreements reached. Instead, they see and value the links between parties’ micro-accomplishments and their macrocommitments. They
realize that without discernible steps of empowerment and recognition, the value of any settlement may be illusory, since it is probably built on the shaky sands of third-party directiveness. At the same time, they are convinced that, at the microlevel of empowerment and recognition, even small steps count, and they notice, and attach importance to, each step the parties have made along these two dimensions. Finally, when no agreement is reached, the intervenor realizes that actionable commitments can be—and often are—made by the parties even after the intervention if real steps toward empowerment and recognition have occurred during the process.

In short, what identifies intervenors who are genuinely committed to transformative practice is what they say, and feel, when asked, after a case, "How did it go?" As with the first hallmark, it is the view of success that distinguishes the transformative approach to practice.

**Uses of the Hallmarks of Practice: Strengthening Practice, Clarifying Theory, and Expanding Horizons**

The hallmarks of practice described above are useful on a number of different levels.

First, these hallmarks help to provide a more concrete guide for third-party practice within a transformative framework. They provide a language and way of thinking about third-party practice that is familiar and attractive to many intervenors but often underrepresented in the way practice is taught or evaluated. These articulated patterns of the transformative approach help form the basis for designing training, establishing new process groundrules, and defining outcomes measures that are rooted in a transformative view of conflict intervention.

For example, with the field now beginning to define performance criteria for assessing third-party intervenors and trainees, hallmarks like the ones discussed here can help us construct alternatives to more settlement-oriented assessment standards (Test Design Project, 1995; Bush, 1993). Performance criteria can be defined in ways suggested by these key indicators of transformative practice, allowing mediators and students to evaluate themselves—and be evaluated—on the basis of standards that reflect the aims and values of a transformative framework, instead of adopting settlement production as the sole guiding value.

Practitioners and program administrators can also take a fresh look at the process groundrules around which intervention is structured and assess whether these groundrules allow and support a form of practice that includes the hallmarks of the transformative approach. In addition, the hallmarks can help program administrators to design evaluation instruments that allow both disputants and intervenors to assess whether transformative objectives were met and how the third party assisted in reaching those objectives (Bingham, n.d.).
At the same time, the hallmarks of practice can also help, at a different level, to clarify the framework itself, the transformative vision of conflict and conflict intervention. The details of the above discussion of these key patterns or habits of practice should help to dispel a common but serious misunderstanding of the approach. Some take the view that the transformative theory of mediation, because of its emphasis on mediation's transformative effects, asks and encourages mediators or other intervenors to actively engage in efforts to “transform people's characters” (Menkel-Meadow, 1995). This misinterpretation confuses and conflates transformative theory's claims about mediation's potential effects with the theory's suggestions about how the mediation process can and should be conducted.

The discussion here of the hallmarks of practice makes clear that furthering party empowerment is one of the cornerstones of this approach to practice. If third parties were to try to “transform” disputants, or pursue any agenda beyond the parties' own wishes, this would directly negate the goal of empowerment. Attempting to change or transform the parties would be as directive as attempting to construct settlements for them. Clearly, this cannot be (and is not) what transformative theory suggests for practice.

The hallmarks of practice outlined here clarify this distinction between the possible effects of mediation and the concrete goals and processes of a transformative approach to practice. According to transformative theory, parties' participation in mediation can help them develop increased capacity for self-determination and responsiveness to others, in the instant case and beyond. These are mediation's potential transformative effects. At the level of practice, however, the transformative mediator's goals are concrete and limited to support (but not supplant) the parties' deliberation and decision making efforts at every opportunity and to invite, encourage, and support (but not force) the parties' willing efforts at mutual perspective-taking at every opportunity for doing so. This is what we call the practice of fostering empowerment and recognition. In short, the focus of practice is on establishing and sustaining a context that allows parties to make clear and deliberate choices and to give consideration to other disputants' perspectives if they decide to do so. The third party is not there to insist on transformation but rather to assist in identifying opportunities for empowerment and recognition, and to help the parties respond to those opportunities as they wish.

As clarified by the description of the hallmarks, the kinds of measures that transformative mediators take to foster empowerment and recognition are concrete—and limited—steps that are always dependent on and responsive to the parties' views and preferences. These steps ensure that neither party-defined solutions nor possible transformative effects are lost, as outcomes, as a result of a directive, settlement-oriented approach to practice. In sum, the point of transformative theory is that when mediators focus on empowerment and recognition, the mediation process itself can give parties the chance not only to define and solve problems on their own terms but also to choose, without mediators'
moralizing or other directive pressure, to act with autonomy and consideration for others and to strengthen their capacities for doing both.

Finally, the hallmarks of transformative practice reveal important connections among many diverse forms of third-party work currently being conducted, and they show that these diverse forms are all rooted in a similar, underlying transformative orientation to conflict and intervention. The patterns of practice discussed above are found in the work of intervenors using diverse processes in diverse conflict contexts, including environmental and public policy interventions, team-building efforts in organizational and corporate settings, and international and interethnic conflict-handling processes. Thus, the identification and description of the hallmarks of transformative practice reveal the extent to which this form of practice is already being employed.

The articles in this special issue support this sense of an underlying common framework and emerging network of intervenors. They certainly contain important and useful insights on the ways in which elements of the transformative framework are being carried into the world of conflict intervention practice.

References


Joseph P. Folger is professor of communication and associate dean for research and graduate study at the School of Communications and Theater, Temple University.

Robert A. Baruch Bush is Rains Distinguished Professor of Alternative Dispute Resolution Law at Hofstra University School of Law.