

# An Introduction to Transformative Mediation

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# Overview and Introduction

# Overview

Today we're going to:

- Learn about the values and practice of Transformative Mediation (and Alternative Dispute Resolution in general)
- Talk about how to integrate some of its values and practices into your operations

# A few things to keep in mind for our session

Content advisory: this workshop will mention and discuss the criminal justice system in Canada, and crimes such as assault and sexual assault

Questions are welcome and encouraged if and when you have them, but there will also be structured moments for questions

A lot of this work is about “un-learning” assumptions - give yourself space and patience to sit with that

# Who am I?

An actor and musician who has appeared in over 35 Equity productions, (seven Dora nominations, two wins)

Reputation as a “good guy to have in the room”

B.A. in Political Science from UBC, International Program at Sciences Po Paris

B.F.A. in Acting, U of A, Soulpepper Academy (2013-2015)

Equity Councillor for four years (2019-2023)

Former organizer and bylaw creator for CUPW

Protest Marshall specializing in de-escalations

Certificate in Conflict Management and Mediation from University of Waterloo (2024)

Member of ADRIO and ADRIC

Co-CEO of Ground Floor

The actual story of why I'm here

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We are not disposable.

# What is Transformative Mediation?



# What is Transformative Mediation?

Transformative Mediation is a process for dispute resolution that centers the experiences of the parties involved in a conflict. It brings the parties together to collaboratively understand the conflict that has occurred and attempts to find a path forward for resolution.

It is an organic process that tailors many elements of its expression to the unique needs of each situation. However, it is characterized by being voluntary, collaborative, transparent, and outcome-focused.

# The Elephant in the Room

## **Transformative Mediation**

- Not tied to existing modes of justice
- Can be used in cases with no discrete incident
- No relationship dynamic assumed among parties
- “Transformation” as the goal

## **Restorative Justice**

- Tied to criminal justice system
- Assumes a discrete wrong has occurred
- Victim/offender dynamic
- “Restoration” as a goal

What is Justice?

# Exercise

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Write out a short description of what “Justice” means to you, today

# What is Justice?

- A response to some kind of wrong that has been committed, that has resulted in a social or community imbalance
- We as humans often have a moral impulse that "something must be done" in response to this perceived wrong
- The question is, what?
- Your theory of justice, conscious or not, determines your answer to this question

# Current Justice Modes

## **Restitutive Justice**

- A gain or benefit wrongly obtained should be returned
- Involves a material transfer (fine) from offender to victim, either direct or abstract

## **Corrective Justice**

- Non-material harms may arise as a result of crimes, so the solution is to interfere with the offender's rights
- eg. Driver's license suspension, expulsion from PACT

## **Retributive Justice**

- Crimes cause harm to society at large, which can be rectified through punishment (traditionally reserved by the state)
- jail, capital punishment
- Punishments act as a deterrent, and also as a corrective measure through negative reinforcement
- Emotional appeal: people get their "just desserts"

# Justice System Weaknesses

- Prioritizes reacting to crimes without doing anything to improve the context in which it takes place
- Ignores the experience of victims and what needs they may have for resolution, the state is abstracted as the victim
- Process-focused, as opposed to outcome-focused

# Specific Weaknesses of Justice Modes

## **Restitutive Justice**

- can only account for material concerns
- can't account for the emotional, psychological, or social effects of the offense, and it cannot restore those things

## **Corrective Justice**

- makes the offender worse off without altering the state of the victim, and calls that "justice"

## **Retributive Justice**

- effectiveness basically completely disproven by data
- remains a powerful emotional narrative in society
- can be justified by saying that punishments are not harsh enough



# Spectrum of Alternative Dispute Resolution

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“Just talk  
it out”

Facilitated  
Conversation

Transformative  
Mediation

Mediated  
Settlement

Binding  
Arbitration

# What is Transformative Mediation? (Reprise)

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# Traits of Transformative Mediation

- Centres the relationships and parties affected by the situation
- Looks for solutions in the entire context of the situation, not just the parties themselves
- Involves some element of encounter (bringing parties together to witness each other's storytelling)
- Is voluntary and transparent
- Values the agency of the participants, including with regards to confidentiality
- Does not need to ascribe blame or punish anyone
- Develops a plan for resolution out of negotiation and mutual agreement
- Evaluated on its results

What does a  
sample  
Transformative  
Mediation look  
like?



# Strengths of Transformative Mediation

- Centres the experiences of all parties in a situation
- Able to address material, emotional, and psychological concerns
- Even when resolution is not reached, move forward with more clarity
- Addresses the larger context of the conflict and seeks solutions at all possible levels
- Outcome focused as opposed to process focused

# Weaknesses of Transformative Mediation

- Requires time and patience
- Requires skilled facilitation
- Requires consent and buy-in from participants
- Might not end in resolution

# Any questions or comments?



Definition of Transformative Mediation

Transformative Mediation vs. Restorative Justice

Modes of Justice - Strengths and Weaknesses

Traits of Transformative Mediation

Transformative Mediation - Strengths and Weaknesses

# Operationalizing Transformative Mediation



# Systemic Approach

## **Policies and Practices**

- Make a plan or policy for Alternative Dispute Resolution mechanisms within your organization
- Know when to seek help, normalize seeking help
- Internal and external training
- Coaching

## **Develop a Support Network**

- Have a relationship with your friendly neighbourhood transformative mediation practitioners, or people who can help you uphold similar values
- Lean on them when you need them!

# Values Approach

## Transparency

- share agendas or structures for challenging conversations in advance
- create timelines and communicate them

## Consent and Agency

- allowing people to make decisions and control details, when possible
- obtain consent before moving forward
- actively give a platform to all parties in a situation

## Outcome-Focused

- allow processes to be flexible, design process with outcomes in mind
- think transformatively: where does transformative potential exist in this situation?

## Patience

- be prepared to break out of the constant scramble of deadlines (respond, don't react)
- take more time than you need, work to mitigate time pressure

# PART 1 – UNDERSTANDING CONFLICT

## FIVE STAGES OF CONFLICT

### STAGE 1: DISAGREEMENT

*“The problem is the problem”*

### STAGE 2: CONFLICT (US vs THEM)

*“The person is the problem”*

### STAGE 3: TRIANGULATION

*“You agree with me right? They are the problem”*

### STAGE 4: TIPPING POINT

*“Being right is more important than solving the problem”*

### STAGE 5: ENTRENCHMENT

*“Losing is not an option; we will never find a resolution”*

# PART 1 – UNDERSTANDING CONFLICT

## FIVE CORE NEEDS

### 1. SECURITY

*Our need for physical safety and well-being.*

### 2. RECOGNITION

*Our need to have our skills, contributions, and accomplishments recognized.*

### 3. BELONGING

*Our need to feel that we are part of a group and welcome in it.*

### 4. SELF-DETERMINATION

*Our need to feel that we have agency in our lives.*

### 5. MEANING

*Our need to engage in pursuits that feel meaningful and purposeful.*

# Potential Situations for Transformative Mediation

## **On-going Interpersonal Conflict/ Incidents of Discrete Harm**

- Engage the parties
- Set an agenda
- Facilitated discussion
- Follow-up

## **Public Call-Out**

- Determine individuals or communities involved
- Act transparently, engage agency
- Determine core issues
- Build a process to create trust/address core issues
- Facilitate an encounter between parties/communities

## **Polarized Thinking/Reality Consensus Crisis**

- Engage in compassionate active listening
- Address deficits in the five needs
- Build trust before challenging

We are not disposable.

# Questions?

Contact us:

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