

Transformative and Narrative Approaches in General Mediation

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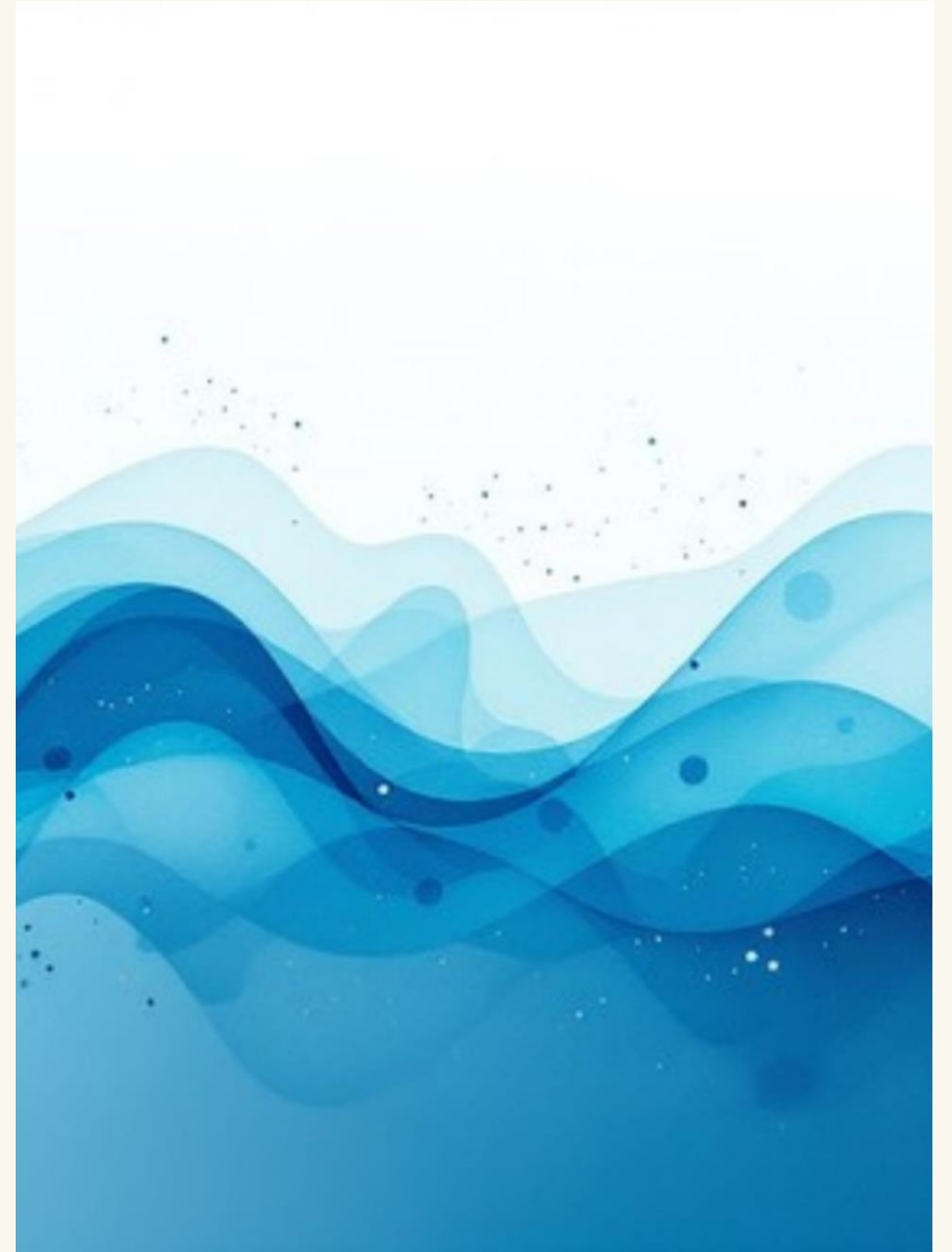
MSSJ THERAPEUTIC MEDIATION

Transformative Mediation

Beyond Settlement

THE CORE PHILOSOPHY

Transformative mediation shifts the paradigm from traditional problem-solving to profound human transformation. It views conflict not merely as a hurdle to overcome, but as a valuable opportunity for moral growth and improved interpersonal dynamics.



TRANSFORMATIVE MEDIATION

A Paradigm Shift

Conflict as a crisis in interaction

Theoretical Origins: Developed by Baruch Bush and Joseph Folger in their 1994 seminal work, *The Promise of Mediation*.

Reframing Conflict: Views conflict as a crisis in human interaction, emphasizing potential for growth rather than a transactional dispute.

Relational Focus: Prioritizes improving the interaction and underlying relationship between disputing parties over forcing an immediate settlement.

True Success: Success is defined exclusively by internal, interpersonal shifts, even if a formal agreement is not reached.

Transformative Mediation – The Twin Pillars



EMPOWERMENT

The restoration to individuals of a sense of their own value and strength, and their capacity to handle life's problems independently.

It enables parties to clarify their options, thoroughly understand their preferences, and make their own informed decisions without any mediator coercion.



RECOGNITION

The evocation in individuals of genuine acknowledgment and empathy for the situation, context, and problems of the other party.

It strengthens the capacity to see and consider differing perspectives. Crucially, recognition is something one gives voluntarily, focusing on mutual understanding.

Comparing Mediation Models

DIMENSION	PROBLEM-SOLVING MODEL	TRANSFORMATIVE MODEL
Primary Goal	Settlement of the immediate dispute	Parties' empowerment and recognition
View of Conflict	A short-term problem needing a solution	A long-term opportunity for moral growth
Mediator's Role	Directs process, suggests options, evaluates	Follows the parties, supports their decisions
Definition of Success	Reaching a signed agreement	Improved communication and understanding

THE BOUNDARY: FACILITATIVE BASELINE, AND NOT THERAPY

1. Settlement is the goal, and the mediator is a facilitator.

HKMAAL's family mediation guidelines describe the mediator's role as "that of a facilitator with the primary responsibility being to assist the parties to reach an informed and voluntary settlement" — while adding that the goal is a "durable" resolution, "not a settlement at any cost."

2. It is not therapy, and you do not advise.

The same guidelines require the mediator at the outset to "distinguish it from therapy, counselling, custody evaluation and advocacy," and provide that a counsellor- or therapist-mediator "shall not offer counselling or therapy" during the process. The Hong Kong Mediation Code: the mediator will not... give legal or other professional advice, impose a result, or make decisions for any Party.

THE RULE THAT GOVERNS:

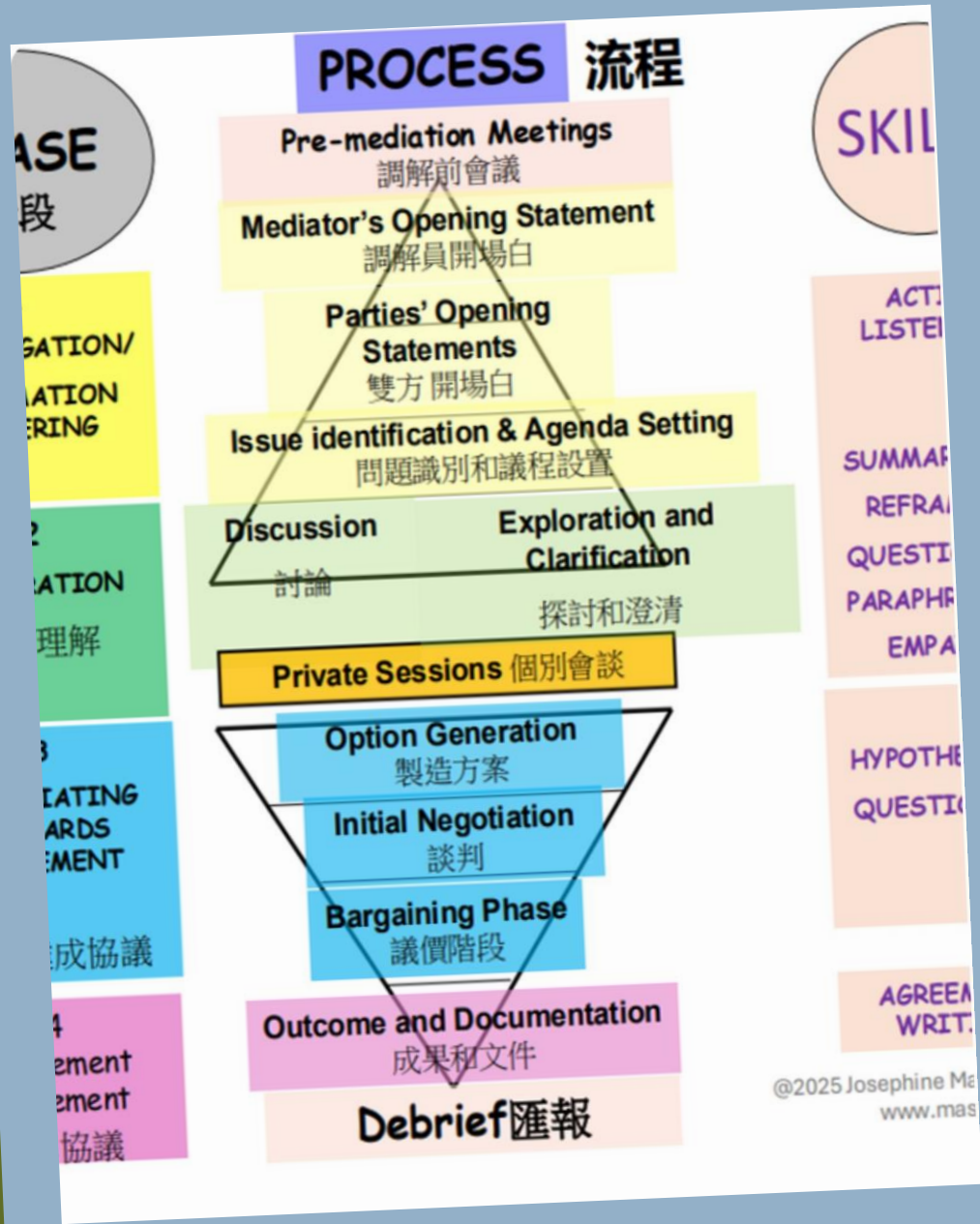
Borrow the skill. Never import the purpose.

Transformative Mediation is not counselling. Externalizing is not narrative therapy. When the need is treatment, you refer — you do not treat.

MSSJ THERAPEUTIC MEDIATION

Transformative Approach





Case Study

APPLYING
THERAPEUTIC APPROACH
TO
FACILITATIVE MEDIATION MODEL

Inheritance Dispute

Years of misunderstanding and limited communication.

Empowerment and recognition were used.

Greater understanding and lower animosity were reported.

Settlement was achieved.

Empowerment: Greater Clarity and Choice

TRANSFORMATIVE APPROACH

Empowerment may involve:

Clarifying

Clarifying what matters.

Considering

Considering options.

Expressing

Expressing a position.

Choosing

Choosing the next step.

Not

Not: The mediator deciding what is best.

Recognition: Understanding Without Requiring Forgiveness

RECOGNITION

Voluntary openness
to another's
perspective.

May be tentative or
partial.

RECOGNITION DOES NOT REQUIRE

Does not require
agreement.

Does not require
apology or
forgiveness.

Does not waive a
claim.

Dialogue

SPEAKER	DIALOGUE		
Party B	"I did not know that was how you understood it."		
Party A	"That is what I had believed for years."		
Party B	"I still disagree, but I understand your reaction better."		

From Understanding to Settlement:

1

Greater understanding.

2

Empathy and lower animosity.

3

Settlement.

MSSJ MEDIATION · PART 2

Externalization – Narrative Approach



EXTERNALIZATION – NARRATIVE APPROACH

Externalizing conversations rest on a proposition commonly summarized as:

"The person is not the problem —
the problem is the problem."

(White & Epston, 1990; White, 2007)

In therapy: separate the client from the problem.

In mediation: harder —

Separate both parties from the problem — at the same time, in the same room, without either one feeling you have gone easy on the other.



Case Sharing – Litigation as “瘟神”

EXTERNALIZATION

**Externalize the
litigation burden.**

SHARED AIM

**Explore the
shared aim: “送瘟
神”.**

Externalization: Separate Identity From the Problem

01

Avoid

Avoid reducing a person to the conflict.

02

Name

Name the problem collaboratively.

03

Explore

Explore its influence.

04

Retain

Retain responsibility for actions.



Send it away

1

Litigation was externalized as “瘟神”.

2

The common goal became “送瘟神”.

3

The focus shifted toward ending the legal dispute.

4

The metaphor must fit both parties.

Invite the Metaphor; Do Not Impose It

ASK FIRST

**“Would this
description fit your
experience?”**

CHECK BOTH SIDES

**“Does it fit for you as
well?”**

INVITE AUTHORSHIP

**“What would you call
the problem?”**

KEEP CHOICE OPEN

**“We can use ordinary
language instead.”**



CASE SHARING

Transformative and Narrative Approaches in General Mediation – Case Sharing

EMPOWERMENT · RECOGNITION ·

NARRATIVE APPROACH - EXTERNALIZATION



MEDIATOR'S ROLE IS TO BE AN IMPARTIAL PROCESS MANAGER

Mediation is not Therapy or Counseling

Goal: Facilitate parties to communicate, identify issues, consider options, and reach their own informed agreements.



Three Commitments to Take Into Practice

COMMITMENT 1

Externalize the problem—not responsibility.



COMMITMENT 2

Support understanding—do not demand forgiveness.



COMMITMENT 3

Protect choice—do not make settlement the test of every intervention.



Thank you!

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