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Why Conflict Transformation Matters: Three Cases

Abstract

This essay begins with an examination of the importance of conflict *transformation*. The failings of an *ideology of management* currently dominating the conflict resolution field are contrasted with components of a transformative practice. I then offer three cases from my own experience and draw lessons from them to illustrate the potential of conflict resolution in three distinct areas: fostering community, building a responsive governance, and resolving public conflict. The examples are the following:

- A school redistricting dispute, where a return to the sense of common purpose and community was the primary goal of the convenors;
- A tri-jurisdiction community visioning process, illustrating ways of strengthening the nexus between citizenry and government;
- The Virginia Mental Health Insurance Parity process, where mediation helped end continuing legislative stalemate and address key health and economic issues.

Keywords: *capacity building, conflict transformation, democratic and community renewal, dispute resolution, ideology of management, Jim Laue*

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Why Conflict Transformation Matters: Three Cases

by E. Franklin Dukes

ABSTRACT

This essay begins with an examination of the importance of conflict *transformation*. The failings of an *ideology of management* currently dominating the conflict resolution field are contrasted with components of a *transformative* practice. I then offer three cases from my own experience and draw lessons from them to illustrate the potential of conflict resolution in three distinct areas: fostering community, building a responsive governance, and resolving public conflict. The examples are the following:

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INTRODUCTION: THE MEANING OF CONFLICT TRANSFORMATION

Upon successfully advocating for the development of a doctoral program in conflict analysis and resolution at George Mason University, Jim Laue enjoyed envisioning a long procession of dissertations emanating from the doctoral candidates, all following the same format. These would be titled something like “The Application of Conflict Analysis and Resolution Procedures to ... (whatever the case might be).” Alas, we who entered the doctoral program must have sorely disappointed him. Our interests were much too varied, our ambitions too bold, for us to be satisfied with mere case studies. No, we wanted to prescribe how to save the world, or various portions of the world.

My own first research proposal--to examine the entire range of conflict resolution practice, from interpersonal to international, and prescribe the way things ought to be--Jim gently but firmly discarded. It was replaced by a task only somewhat less immodest: proposing ways the public conflict resolution field¹ could address fundamental problems of the public domain and democratic governance.

I thus bring to this chapter the results of that broad examination. I also bring the perspective of a mediator of community and public disputes, an advocate for community involvement in governance, and a facilitator of public dialogue. And while perhaps I bring somewhat more humility now than I did as a student, I continue to enjoy considerable hope that the field of conflict resolution has much to offer. While even a vibrant and effective conflict resolution field will not ensure the creation and sustenance of life-affirming relationships, institutions, and structures, it is certainly the case that these ends cannot be met without the capacity to constructively engage different views, resolve difficult conflicts and reconcile broken relationships.

The reader may assume by the title I have offered this chapter, “Why Conflict Transformation Matters,” that there is a definitive conception of “conflict transformation” and a clear distinction between that term and the other terms used to describe modes of addressing conflict, primarily “settlement,” “management,” and “resolution.” However, that is not the case at all. It is true that the concept of conflict transformation has emerged as a powerful ideal in many areas of conflict intervention. In such recent works as *The Promise of Mediation: Transforming Conflict Through Empowerment and Recognition* (Bush and Folger, 1994); *Preparing for Peace: Conflict Transformation Across Cultures* (Lederach, 1995); *Mediation, Citizen Empowerment, and Transformational Politics* (Schwerin, 1995); *Negotiation, Conflict Resolution, and Human Needs: Social Transformation for a Sustainable Future in South Africa* (Visser and Bremner, 1996); and my own *Resolving Public Conflict: Transforming Community and Governance* (Dukes, 1996) the term has accrued a number of meanings, including transformation of individuals, transformation of relationships, and transformation of social systems large and small.

Some if not all of these meanings are controversial. Much of the conflict resolution world still draws on the legacy of labor-management mediation, where neutrality and the quest for agreement predominate and the identification of broader goals, whether they be moral growth of disputants (Bush and Folger, 1994), development of the mediators (Dukes, 1990; Schwerin, 1995), or the kind of social change advocated by many (e.g., Dukes, 1993, 1996; Lederach, 1995) is viewed with suspicion or outright hostility.

Let me suggest the distinction between “transformation” generically and those other terms used to describe how conflict is addressed. While the many conceptions of conflict transformation vary considerably by author, they do share one critical element in common. That is, each of the works listed above recognizes *the impact of the conflict resolution process on parties, relationships, and institutions beyond the immediate issues under dispute*. Each of these works argues for consideration of that impact in the purposes, goals, and evaluation of conflict resolution processes. Whether the process is termed mediation, consensus building, peacemaking, or something else, the intervention of a third party is not and cannot be *only* about the settlement, management, or resolution of a dispute.

Rather than delineate the often substantial differences among the various advocates for conflict transformation, I will offer my own vision of a transformative field and practice of conflict resolution. I will then draw upon three cases from my own experience to give some flavor of what that transformative practice really means.

Why make this effort now? The conflict resolution field is being pulled in very different directions by market pressures, divergent ideologies of the members of the field, and competing needs and demands for services. This tension has been the case since conflict resolution’s inception as a field of study and practice, but there are several current circumstances which make this an opportune, and important, time for such reflection. I offer here four elements of the broad field of conflict resolution worth noting as it begins its entry into the twenty-first century:

1) *Growth of conflict resolution practice.* From beginnings as efforts just two decades ago to apply processes which had achieved success in the labor-management arena to neighborhood, family, and public disputes over racial and environmental issues, the conflict resolution field now is a much larger organism encompassing activities such as court-referred arbitration and mediation, policy dialogues and negotiated rulemaking at all levels of governance, school violence prevention programs, state offices of dispute resolution, innumerable non-profit and for-profit organizations, expansion overseas, publications, university programs, and other indicators of establishment and growth.

2) *A search for purpose.* Much of this expansion is happening independent of intention, a response to market conditions: existing goods (e.g., judicial, legislative and administrative processes) don’t satisfy

consumer demand. The processes of conflict resolution, in many cases, do. Many of those who came into the conflict resolution field seeking answers to questions about social justice are concerned about where this growth is heading, and they seek to establish purpose and direction and an answer to the question: *what is conflict resolution for?*

3) *Spread of roots.* Like a tree whose roots extend underground as its limbs branch outward, conflict resolution is growing in depth as well as breadth. The history of conflict resolution is not static. That is, as the field moves into new arenas, develops new procedures, takes on new meanings, and seeks new outlets, it pursues and discovers complementary historical dimensions as well.

4) *The movement for democratic and community renewal.*

Before the question, what is conflict resolution for, may be answered, another, prior question, must be raised: *what are people for?*

It is easy for every generation to forget the problems which beset earlier generations. Yet the tendency to exaggerate the problems of our own time cannot hide the uncommon concerns about these problems. For we not only know that we have many problems, things seem only to be getting worse, as is evidenced by the growing gap between rich and poor, the segregation of race and culture, and the promiscuous cult of violence, among other indicators. There is little expectation that there are solutions to these problems, and even less hope that our institutions of governance might be able to implement what solutions there are.

This despair, and the accompanying cynicism, manipulation, partisanship, polarization, and disengagement from civic life, has prompted considerable reconsideration of the foundations of community life and democratic governance. This reconsideration involves the reconception of who we are, how we relate to one another, and how we govern ourselves. These are some of the key themes found in this new thinking:

1) Individuals as social beings

We are not independent entities whose primary interest lies in maximizing individual gains. This view of human nature is incapable of explaining behavior inconsistent with its premises, such as affection, altruism, and cooperation (Gould, 1988). We are neither innately competitive nor fundamentally good; rather, we have the potential for both cooperation and competition, for good and for evil. Furthermore, we are social beings, who do not develop our autonomy without bondedness (Clark, Haworth).

2) Search for a human(e), life-affirming society

The types of nurture required by social human beings include the following:

- Individual and societal respect for the needs and, indeed, inherent worth, of each individual;
- A focus on the responsibilities of individuals to all levels of community, from the family to the globe;
- A stress on partnership and cooperation;
- The acceptance of differences (the celebration of "diversity"), and the attending search for means of productively dealing with those differences. (Dukes, 1996)

3) Dual ethics of needs and caring

Underlying these more specific values are the twin foundational ethics of *needs* and *caring*. Building upon the work of Fromm and Maslow, who identified such basic human needs as identity, security, and relatedness, conflict theorist Burton (1989 50) has argued that we have certain needs which cannot be suppressed and which must be satisfied for individual and social development. If this is true, then the health of a society could then be assessed based upon its ability to satisfy these needs (Lerner, 1990 101; Fromm, 1955).

What is missing from needs theory, and what has been provided particularly by communitarian feminism, is a focus on caring as a foundational principle of social ethics. Gilligan and others have stressed an ethic of care, where conflict is resolved by relationships of caring rather than assertion of rights. The individualist, rights-based ideal of citizenship which implies competition as the key to social life is superseded by a model of citizenship which promotes commitment to relationships, love, and caring for others (Kathleen Jones, 1989, 108). Conflict is resolved by accommodating the needs of one's self as well as of others, by balancing competition and cooperation, and by maintaining one's social web of relations. (Tronto, 1987, 62)

4) *Linking public life and governance.*

This effort, chronicled by many authors², seeks to connect the needs of citizens and communities to political action and structures. Despite apparent apathy, citizens care deeply about public life. They will become involved when they have a sense of belonging and they see that their voices can make a difference ("Citizens and Politics," 1991). We need more than good institutions of governance to transform the private interests of individuals into the public concerns of citizens. Public life must offer individuals the affiliation they seek as well as the responsibility to offer the same for others. People need accessible places to engage one another productively and safely, to learn the concerns of their neighbors and to speak their own concerns.

THE STATE OF THE FIELD: *THE IDEOLOGY OF MANAGEMENT VS. THE VISION OF TRANSFORMATION*

What does this new thinking mean for the conflict resolution field? For one thing, it means challenging existing views about what conflict resolution is for. The field is currently dominated by what I term an *ideology of management* (Dukes 1993, 1996).

This ideology, common to popular American culture as well disciplines such as public administration, law, and planning, is found most strongly within the arena of public conflict resolution; however, its elements are found in virtually all other areas of conflict resolution as well. The main problem of this ideology is the frustration of authorities' ability to govern. Among the explanations for this failure are:

- The proliferation of powerful single-interest groups and a resultant paralyzing diffusion of power;
- Overregulation by the growing bureaucracy of an inefficient state administrative apparatus;
- A glut of costly and untimely litigation;
- An apathetic citizenry; and,
- The resultant general moral, economic, and political decline of democratic nations. (Dukes, 1996)

This ideology of management is less the result of individual intentions and actions than it is a creation of structural factors, including in particular the field's dependence on public sponsorship and funding. Within the practice of conflict resolution, efficiency, productivity, and dispute settlement are the main goals; third party neutrality, processes of power and interest-based bargaining, and compromise are the means of enactment.

I have offered elsewhere (Dukes 1993, 1996) in some detail the reasons why the ideology of management offers such an unsatisfactory future for the conflict resolution field. Conflict resolution has much more to offer our society than what is suggested by the ideology of management, and our society has many greater needs than the management ideology can satisfy. Conflict resolution can and must be a way to help transform in positive ways individuals, relationships, communities, and the shape of governance itself. What I term a *transformative* conflict resolution practice is rooted, not in a fight against gridlock or managerial problems, but in a challenge to three fundamental problems of contemporary life:

- Disintegration of community, and the relationships and meaning found in community life;
- Alienation from the institutions and practices of governance;
- Inability to solve problems and resolve conflict.

Consistent with these problems, then, are the three goals of a transformative conflict resolution practice and field:

- Inspiring, nurturing, and sustaining a vital communal life: *an engaged community*;
- Invigorating the institutions and practices of governance: *a responsive governance*;
- Enhancing society's ability to solve problems and resolve conflicts: *a capacity for problem solving and conflict resolution*.

I have previously articulated these goals as follows (Dukes, 1996):

The Engaged Community

A transformative practice seeks to nurture a strong democracy by helping constitute and support communities of dialogic relations at local, state, regional, and national levels. It seeks to establish and sustain a standard of public discourse that empowers people to articulate their needs freely and to explore their differences fairly. It moderates powerlessness and alienation by insisting on inclusion and participation. It opposes the polarization and demonizing which too often accompany conflict by offering recognition of shared humanity and purpose.

A transformative practice educates for a civic consciousness. It recognizes that individuals, through their participation in the public realm, are capable of transcending pressures of self-interest in search of common goals. And it encourages productive, realistic relationships both within and among communities of all kinds that recognize and affirm their interdependence - their relatedness - within this shared public domain.

A Responsive Governance

While not ignoring the need for improved capabilities of public management, the transformative practice conceives of these desired capabilities as responsive to, rather than directive of, the public. A transformative practice acknowledges the importance of well-functioning administrative, legislative, and legal institutions. It recognizes their expanding role in a society whose problems are rapidly increasing in complexity and in scope. It views these institutions as potential channels of participation by an engaged citizenry. It wishes to enhance their capabilities by sensitizing them to public needs and by facilitating appropriate responses to public demands. And it strives to strengthen these public institutions by encouraging active, lasting and meaningful public participation in decisions made on that public's behalf.

A Capacity for Solving Problems and Resolving Conflicts

A transformative practice addresses a wide range of problems, including pivotal issues of race, ethnicity, class, and gender. It recognizes that underlying many disputes are struggles over power, status, and human needs such as identity, recognition, and security. It also recognizes that ordinary disputes are often the manifestation of these deeper societal divisions. It acknowledges the disparities of power that favor relations of dominance along these divisions, and embraces the opportunities for revealing injustice and mobilizing concern presented by the inevitable conflicts that accompany and uncover these relations. It assists in efforts to equalize and even transcend power, by acknowledging these disparities in public forums open to previously unseen faces and unheard voices. It recognizes that movements for justice are also capable of harm. It intervenes in the demonizing and polarization which pervade these disputes by advocating for openness, inclusion, fairness, and understanding.

A transformative practice also recognizes that site-specific disputes are the manifestation of larger social conflicts. The struggles over these many disputes define the ground of these larger conflicts. Thus, in some fashion, the battles over such issues as siting of waste facilities, commercial development in historical districts, AIDS policy for a school district, and thousands of similar disputes also have at stake matters such as the bounds of privatism and public life; the responsibility of a generation to its inheritors; an ethic of care competing with an ethic of rights; domination counterposed against partnership; corporatism (including nationality) opposed by appropriateness of scale; and continued economic growth relative to sustainability and quality of life. It is in the resolution of these individual disputes that these larger conflicts will be transformed.

Such broad ambitions require an understanding of conflict resolution as more than a set of processes. I offer a six-point agenda for development of a transformative field and practice of conflict resolution consistent with these three goals.³ These are:

1) *The Conception of Disputes and Dispute Resolution* - A transformative practice begins with a conception of disputes as dynamic struggles to satisfy human needs of identity, security, and recognition, as well as other tangible and intangible resources. Dispute resolution is the search not just for common ground or mutual satisfaction of interests, but *higher ground of relatedness* (Dukes, 1993, 1996), an arena in which integrity, creativity, and engagement are both demanded and rewarded, and in which these needs may be satisfied in ways that are fair, efficient, and sustaining;

2) *The Responsible and Independent Third Party* - A transformative practice includes a third party role of *independence* and *responsibility* which embraces such values as inclusion, engagement, shared knowledge, and openness, rather than an impossible neutrality which reinforces the status quo;

3) *The Types of Problems Addressed in Cases* - A transformative practice has a caseload which moves beyond the market imperatives to include issues of concern for those ignored or abandoned by existing institutions, projects and processes;

4) *Evaluation of Success and Failure* - A transformative practice accepts that agreement is only one component, and not always an essential one, of the valuation of success and failure. Other components may include empowerment and recognition (Bush and Folger, 1995), improved relationships, and institutional change;

5) *Research Agenda* - A transformative field of conflict resolution has a research agenda devoted to understanding and dissemination of that understanding, an agenda which would balance innovation, evaluation, and education, both within and outside of the conflict resolution field itself;

6) *Development of the Conflict Resolution Field* - A transformative field seeks continuous development of this field, including practitioner self-assessment, linkage with the broader conflict resolution community and other allied movements, outreach and education, cultural sensitivity, and resistance to the perils of professionalism.

THREE CASES

I offer the following three cases as indicative of my own effort to develop a practice consistent with a transformative vision of conflict resolution. With some overlap, they reflect respectively the three goals of community, governance, and conflict resolution capacity identified earlier. An overview of each of the three cases, including lessons appropriate to the context, will be followed by analysis of how these interventions reflect a transformative practice.

A School Divided: A Case of Community

The Scenario

In 1993, Virginia's Albemarle County was making plans to open a new middle school (grades 6-8). Opening this school required shifting feeder patterns from several elementary schools. Many parents, concerned about whether and how their children would be affected, took an intense interest in the redistricting process.

One elementary school in particular, whose children had previously all moved up upon graduation to a single middle school, faced significant changes. Two proposals for how that school should be handled quickly surfaced. One proposal (Proposal A) had the majority of the graduating fifth graders continuing to attend the same middle school (School H) as those preceding them attended, while a significant minority would attend another existing middle school (School J). Neither proposal involved sending any children to the newly built middle school, which was several miles further away than the other two middle schools. The other proposal (Proposal B) suggested that either of those two middle schools would be satisfactory, but that all students ought to go to the same middle school. In the eyes of some, but not all, parents, School J was considered a less attractive school than School H. School H drew from a significant portion of the most affluent part of the county, and is almost entirely white, while School J had a more diverse population.

The County School Board, which was responsible for any redistricting decisions, put out a map prepared by the transportation division showing how possible redistricting options would affect transportation patterns and costs. The least costly option was Proposal A, where graduating fifth graders would attend different middle schools depending upon where they were located. Some parents interpreted this map as a final statement of how the redistricting would occur.

At this point, the school community became rapidly polarized. Parents whose children would continue to attend the same middle school as before pronounced themselves satisfied with Proposal A. Some parents whose children would attend the different middle school were extremely upset. Among those parents, some merely wanted the new boundary line adjusted so that their own children would join the majority at the School H. Others favored Proposal B. Parents lobbied School Board members, the elementary school

principal, and each other. Disputing behavior included rumors of individual political influence and accusations of racism among parents who did not want their children going to School J. A public hearing on the redistricting proposal held a month before the decision was to be made degraded into a shouting match and personal insults.

The Process

At this point, the president of the school Parent-Teacher Organization (PTO) called the director of the Community Mediation Center of Charlottesville-Albemarle to see what might be done to help. Robert Garrity, a local mediator, and I were invited by Rosamond Dingleline, Director of the Center, to help design and facilitate a forum for parents and other interested community members before the redistricting decision was to be announced, with the possibility of another to occur immediately following the decision if parents wanted to do so. Initially, the PTO president thought that a consensus among the parents might be possible to achieve and take to the School Board. However, she soon realized that not only was agreement not possible, many parents would refuse to attend any meeting where a vote would be taken. These forums thus were not intended to find a solution agreeable to all parties; rather, they were designed to dispel the rumors and myths accompanying the redistricting process and to begin to heal the wounds which had damaged the school community.

In consultation with school and parent representatives, we determined three main goals for the initial meeting:

1. *To create a common understanding of the facts of redistricting (e.g., School Board decision deadlines, opportunities for public comment, options under consideration) and the issues and concerns;*
2. *To generate new ideas to address those issues and concerns; and,*
3. *To enhance the sense of school community.*

The design was straightforward: introduction of the mediators by school leaders, presentation of our understanding of the meeting purpose, basic groundrules consistent with that purpose, proposed agenda and opportunity to modify that agenda, review of the school redistricting decision-making process, discussion of concerns, opportunity to raise new ideas, and discussion of what should happen following the meeting. When about a hundred parents showed up, we decided to discuss concerns and ideas in small groups, with time allotted to report back to the whole group. Participants were asked to form groups with those they did not know well, or with whom they disagreed, so as to avoid having only like-minded discussion in each group.

Not surprisingly, participants discovered considerable misunderstanding about the redistricting process, including responsibility for decisions and the options under consideration. They also discovered near unanimity in their condemnation of the redistricting process. Discussion was lively, with many groups continuing to talk well after the meeting convened, but civil. While no formal assessment of the meeting was conducted, the feedback from the school principal, the chair of the parent-teachers' organization, and many participants (including some of the principle players in the dispute), was overwhelmingly favorable.

A second meeting was held the week following the School Board's redistricting decision, which was a modified version of Proposal A (splitting the school). About half the parents who came to the first meeting also attended the second, and discussion (held in a large circle format) focused on healing the wounds and bringing closure to the issue.

Lessons

This dispute, localized as it was, does provide many lessons in public participation, in how public institutions can operate fairly and efficiently and gain public confidence, and in how public disputes are resolved. There are certain principles which are useful in understanding how the redistricting became so contentious, despite the best intentions of those involved, and in averting the same (or worse!) problems in similar situations.

Doubtless, from the point of view of the school administration, they did everything possible to make the redistricting as fair as possible for both students and parents. They announced the prospective redistricting early (at least six months before the final decision was to be made, they tried to use objective criteria (such as transportation costs) as much as possible, they held lengthy public hearings, and individual School Board members as well as staff undoubtedly spent considerable time answering many telephone calls from concerned parents.

However, the perspective of many parents was quite different. Some did not know about the redistricting plans because they did not hear the announcements. Others were not aware of when the final decision would be made and how their children might actually be affected until specific options were announced. Such uncertainty heightens defensiveness and exacerbates any existing tensions.

Many parents objected to the absence of any clear criteria for redistricting. The objective criteria that were used, in particular transportation costs, were considered by many parents to be much less important than more significant values, such as keeping friends and school communities together.

When there are no clear criteria for important decisions, it is easy for suspicion to develop about the motivations of individual parents and officials. Many parents believed that other parents wielded private influence over some Board members. This suspicion was not helped by the inevitable contradictory information and rumors passed among parents who had spoken to different Board members. And of course rumor and uncertainty only serve to heighten the anxiety of parents about the future of their children.

The concern over where their children would be sent was matched by uncertainty of how the decision would be made. Even at the initial meeting I facilitated at Meriwether Lewis, which occurred after the first public hearing and well into the decision-making process, there was considerable confusion over which options would be considered when, whether additional options might be proposed, and when the final decision would be made.

Finally, for controversial issues the public hearing format is almost guaranteed to produce acrimony and conflict. Many parents wanted a public forum for learning about the issues and discussing their concerns; the public hearing gives them neither. The intimidation of spotlights, podiums, microphones, and formal setting keeps many parents from talking at all. Furthermore, the format allows for no discussion, no response, no rebuttal, no opportunity for clarification, no dialogue.

Life goes on after redistricting. Many parents are quite happy with their children's schools, and children adjust to changes. But the effects of the redistricting continue in many ways - in children transferred to private schools, in parents so hurt by the acrimony that they no longer volunteer, in lingering public perception of inefficiency and inequity in how decisions get made. I expect that the pain continues among some of the School Board members and County staff who were most involved.

Public schools face much controversy. It is important for many reasons that schools be fair, open, effective, and cost-efficient, and that they be seen that way by parents and other citizens. There are certain principles which, if observed, can serve to avoid the unnecessary anxiety and controversy which accompanied that redistricting. These include the following:

1) Recognize the role schools and other local institutions play in individual and community identity

At the second school forum, one parent who had recently moved from a school system which was growing rapidly and whose children had shifted schools more than once urged the other parents to realize that children are quite resilient, and that there are many worse things which can happen to them than needing to make new friends. In effect, she was saying “get a life,” as another parent ruefully acknowledged.

While such advice may be accurate and helpful in some ways, it also ignores the importance community schools play in individual and community identity. Through school festivals, athletics, plays, musical performances, adult classes, volunteer activities, and many other small but significant ways, community schools provide opportunities for personal investment and community focus. In an era in which public and mediating institutions which allow for productive community identity are sorely lacking, schools are a shining exception.

2) Provide full access to accurate information

From the perspective of most parents whose children were subject to redistricting, information was late coming, limited, and subject to rumor and uncertainty. When information is limited or slow to be revealed, the assumption of the public is not that officials know best, but that they are hiding something they don't want others to know. An organization which becomes known for prompt responses to requests for information and for encouragement of public access to its records and meetings will have a reserve of legitimacy when it makes mistakes or deals with confidential issues.

Providing access to information means more than merely having open meetings. It may mean targeting special groups for mailings or other forms of publicity, bringing meetings to where the public is, and repeated efforts to encourage public participation. What this means is much greater effort in finding ways to get information to parents and others. Newspaper announcements and letters to parents are useful, but inadequate. A variety of other ways for getting information out must be found.

It is particularly important to clarify how decisions get made - who is doing what, how issues will be addressed, what opportunities for public involvement exist, and when decisions will be made and implemented.

3) Improve understanding of, and access to, the decision-making process

The ways parents and other citizens can give their input on school-wide policy decisions are currently very limited: public hearings, bothering Board members at home or at work, or venting in a letter to the editor. Exclusion of individuals or groups from decision-making processes not only gives an impression of secrecy and fosters a sense of victimization, it wastes the potential ideas and support those excluded might bring.

The small (five-members) size of the redistricting committee reinforced in some parents' eyes the impression that a small group of people were to decide the issues. It is worth noting that two years later, the opening of a new high school prompted a reconsideration of school districts county-wide. In order to

avoid a duplication of the earlier redistricting brouhaha, this time multiplied throughout the county, and in response to suggestions from a number of interested parties, the county formed a much more representative advisory group which would allow full discussion of redistricting issues.

Any such advisory group ought to be inclusive and representative of the many stakeholders affected by the forthcoming redistricting. It ought to have staff support and a budget which will allow it to get the information it needs and keep interested parties informed of its activities. And its meetings ought to be open and well-publicized, with time made available for public input at each session.

A facilitator to oversee the process can provide invaluable assistance in designing the overall process, keeping the meetings moving forward, overcoming personal antagonisms and frustration, encouraging public participation, and bringing the group to consensus. The use of an advisory group or facilitator does not mean removing accountability from the School Board, which ultimately would make the final decisions concerning redistricting. But it is important to realize that the failure to adopt any consensus reached by such a group after many months of hard work and intense public involvement would de-legitimize the whole process.

4) Offer adequate time to address issues

Too often organizations wishing to avoid controversy delay opportunities for involvement until those affected by proposed plans have little recourse other than protest. Early deadlines and time limits can heighten uncertainty and increase suspicion about the motivations of parties responsible for those time constraints. Such suspicion is heightened when an issue is controversial.

When deadlines are necessary they should be announced and publicized as far in advance as possible, and at any rate as soon as they are decided. The reasons for those deadlines should be made clear. Concerns about timing should not be dismissed out of hand, and when possible they should be addressed in ways satisfactory to the complaining parties. And above all, begin involving those who will be affected by changes immediately.

5) Begin with the values and criteria to be served by redistricting before considering solutions

When the past redistricting controversy first came to the attention of many parents, there already were a limited number of options presented for consideration. A public presented with a single solution or a limited range of options often assumes that their input is not wanted or valued, or that the process is "wired." By beginning with discussions of needs, values and criteria for redistricting, issues are less likely to become prematurely polarized into "yes/no, either/or" situations. Clear criteria developed with real public input will reduce unnecessary controversy.

6) Recognize that special attention may need to be offered to allow for productive dialogue to occur

The two forums did not seek, and did not find, any solution to the redistricting question which would satisfy the various disputants. They did provide an opportunity for concerned individuals to air their concerns, to hear the concerns of others, and to discuss difficult issues face-to-face in a protective environment.

Legitimate public involvement which both educates and seeks input will take a good deal of time and will cost money and human resources to be done right. How much time and resources are spent in picking up the pieces after controversies of this sort? An up-front investment may be less expensive in the long run.

No process will avoid controversy and conflict; some stakeholders will undoubtedly be unhappy with whatever decisions are ultimately made. But a process which readily provides information, which allows real participation, which has the time and resources necessary to do a good job, and which produces decisions made on the basis of equitable criteria, will allow attention to be focused where it should be: on what is best for the children and the schools as a whole.

Community Vision: A Case of Governance

The Scenario

The Charlottesville/Albemarle region of Virginia is a special place for most of its residents. They enjoy the benefits of a relatively small town (30,000 city residents, 70,000 county) life, the amenities of the University of Virginia, and the beauty of rural open space and mountains. But the area is not immune to problems facing other jurisdictions, including rapid development, urban sprawl, and racial and class separation. And it is not uncommon for three separate entities--the City of Charlottesville, Albemarle County, and the University of Virginia--to have substantial differences over how to address those problems.

As part of an ongoing effort for the three jurisdictions to improve coordination of their planning, they agreed to attempt to create a common vision statement which would be used in future revisions of the Charlottesville and Albemarle Comprehensive Plans and the University's Master Plan. The Institute for Environmental Negotiation was asked to assist in designing and facilitating this visioning process and drafting the vision statement. Bruce Dotson, Assistant Director at that time, and I led a team of graduate students and community volunteers in facilitating the process.

The Process

The desired outcomes for a particular visioning process will vary by jurisdiction and needs of the community, sponsors, and participating organizations and individuals. I wrote the following (rather ambitious!) goals for our efforts at beginning of this process:

- Inform and educate citizens about the planning process, including legal requirements and constraints, administrative capabilities, and fiscal considerations: in short, to develop public planning expertise;
- Afford an opportunity for the many public-spirited citizens to serve their community;
- Develop a sense of community and shared future within and between communities despite fragmentation by boundary, racial and class disparities, and origin (the population is considerably transient);
- Bring the City, County, and University communities together (the University in particular is viewed as both a focus of and detriment to community life);
- Identify shared values which are often lost in debates over contentious issues;
- Identify areas of shared concern;
- Help clarify where values and concerns differ;
- Develop concrete ideas for dealing with issues;
- Develop ideas for appropriate processes for planning, including particularly community involvement;
- Help legitimize decisions about the process and outcome of the development of the comprehensive plans;
- Help build support and prepare the community for difficult change;

- Help educate participants--including elected and administrative leadership--about what makes a successful community;
- Empower citizens to imagine a better world and ways of creating that world;
- Set the precedent, or tone, for continued planning: inclusive, thoughtful, comprehensive, responsive, clear;
- Provide benchmarks to assess progress in meeting goals;
- Provide a core of participants who will demand accountability for the goals.

Chattanooga, Tennessee, Austin, Texas, Savannah, Georgia, and Phoenix, Arizona, are among many communities which have conducted massive visioning processes involving thousands of participants and hundreds of thousands of dollars. The budget for this effort was somewhat less: \$3,000 to design and conduct a process which would create a community vision statement supported by three jurisdictions with a deadline some four months away. As I once joked when describing this visioning effort, the first step for those who initiated this project was to find consultants smart enough to know something about effective public participation but too ignorant to have any business sense about costs. Naturally, they turned towards academia.

The planning directors of Charlottesville and Albemarle and the Landscape Architect for the University oversaw the whole process. A Visioning Advisory Committee was formed with those three individuals and representatives from the city and county planning commissions, neighborhood associations, business leaders, the League of Women Voters, and the NAACP. This Committee made recommendations and offered final approval for everything from the format of visioning forums to speakers to the text of the draft and final vision statement.

The initial solicitation of public input came through a questionnaire mailed to about 200 community leaders. Two public meetings were held, the first to generate ideas and the second to offer feedback for a draft vision. At the first meeting the questionnaires were distributed to all participants.

The initial public forum, attended by about 225 people despite near-zero temperatures, began with brief presentations by elected officials, two views by prominent community members on what is important in communities, a narrated slide show which traced changes over the past several decades, and a lengthy sheet of newsprint taped to a wall inviting written comments. Facilitated small group discussions then focused on three themes: expectations of change; what people value (“which changes ought to be encouraged, and which ought to be preserved?”); and concerns (“what needs to be discouraged?”). The comments were recorded on flip charts, and participants prioritized by pasting colored stickies on key items. The entire group reassembled for brief report backs.

After this first forum we collected the reports from small group discussions and questionnaire responses and put them in intelligible form. After discussion with the Advisory Committee, five topics emerged to serve as the themes of the second public forum. These topics were:

- 1) Built and core environments;
- 2) Social sustainability;
- 3) Economics;
- 4) Education;
- 5) Governance.

More time was saved for small group discussion at this forum, which attracted about 150 people. These small groups focused on two or three of their highest priority topics, and facilitators offered discussion questions for each topic. More time was allocated when the groups reconvened as a whole for feedback and discussion.

We then took the results of these discussions and drafted a complete vision statement of about five pages, with objectives and benchmarks for each of the five areas. Two more meetings with the Advisory Committee resulted in a final statement which was submitted to the three jurisdictions for their own approval. The respective governing bodies approved the language as written.

Lessons

Creating a five-page statement which members of three different communities can look at and say, and more importantly *feel*, “this really *is* my vision for our community,” is not easy. Neither is it easy to convert the input from three hundred or so people and the fifteen-member Advisory Committee into a document specific enough to avoid banality and broad enough to reflect a true consensus. And doing this with such a limited budget and time frame provides severe restrictions on outreach and participation. There were some concerns that minority considerations were not adequately reflected, that problems with rapid growth were not confronted directly enough, and that the process was too closed and did not follow traditional rules of notice and opportunity to comment.

Our effort to transcend those problems included the following strategies:

- Whenever possible, we captured the original language of participants in the vision statement. Each of the five theme statements in the final vision document included several representative quotes from discussions or questionnaires;
- Arguments and ideas which were not supported by several individuals were recorded as part of the final record of the process, but were not included in the statement;
- Included with broad statements of values and concerns were a considerable number of strategic questions to be used as benchmarks for assessing how well the vision was achieved;
- In a process which was being initiated by almost exclusively white elected officials and administrators, we explicitly sought the participation of African-American community members. Specific strategies included adding the NAACP to the Advisory Committee, having an African-American as one of the two keynote speakers, moving the second forum into a predominantly African-American neighborhood, and extending personal invitations to specific African-American community leaders.

Like mediation, “visioning” has taken on somewhat of a faddish aura. Some visioning efforts have used rather conventional criteria for success (e.g., increased consumer spending and stronger tax base) which can shove goals more reflective of social justice achievements to the side. Nonetheless, the visioning process, when done well, can improve the traditional planning process in several ways:

- Visioning enhances public participation, both in numbers of citizens and in the quality of involvement;
- Visioning invites new ways of thinking by getting people out of the immediacy of today's issues;
- Visioning encourages holistic thinking and planning for the whole community;
- Visioning focuses on interests and desired results, rather than positions taken about ways of getting there;
- Visioning affords citizens an opportunity to start with a blank slate;
- Visioning emphasizes community members and their visions rather than professionals and their plans.

Virginia Mental Health Insurance Parity Task Force: A Case of Conflict Resolution

The Scenario

The mental health community of activists, advocates and service providers has long viewed the differences in insurance coverage for treatment of physical and mental illness as discriminatory. A coalition of mental health advocacy organizations and health service providers has been working for years to achieve what is termed "parity" of insurance benefits between behavioral (or mental health) disorders and what are commonly thought of as "physical" illnesses. Such efforts have met with opposition by many members of the business community and insurance industry, as well as public officials, all of whom are wary of adding additional costs on top of an already burgeoning health care expenses.

A bill was introduced in 1994 in the Virginia General Assembly which would have mandated parity between mental and physical health for most group insurance benefits. Because the bill involved an insurance mandate, it was deferred for consideration in the 1994 legislative session and referred to an ongoing Advisory Commission on Mandated Health Benefits. This Commission, which is made up of two state senators, two delegates, and gubernatorial appointees representing business and health interests, was to make recommendations to the General Assembly for the 1995 legislative session.

The Process

A lobbyist for the mental health advocates had recently become trained as a mediator, and even more recently joined the Advisory Commission for Virginia's Office of Dispute Resolution Services. He proposed to the chairman of the Commission the creation of a task force - the Virginia Mental Health Insurance Parity Task Force - representing the various stakeholders, and he suggested that the task force be facilitated by a mediator. The Commission chair was intrigued by this proposal and offered his endorsement and approval to delay consideration of the parity legislation until the 1996 legislative session. There was enough uncertainty about how the bill would be treated by this Commission and the legislature to get the agreement of stakeholders to participate in the Task Force. However, there remained considerable suspicion within the business and insurance industries about the lobbyist's motives. As I was repeatedly warned by various stakeholders, there was a substantial history of inter- as well as intra-party fighting, on the parity issue and other issues as well. Several Task Force appointees admitted that the legacy of mistrust was well-founded, being based on less than admirable behavior of both main sides.

Despite my rather substantial ignorance of mental health, health and insurance policy, and related issues, I was asked to lead the facilitation of the Task Force. The Director of Virginia's Office of Dispute Resolution Services, Barbara Hulburt, served as co-facilitator. Membership included representatives from insurance companies, the business community, mental health advocacy organizations, and mental health service providers, as well as state legislators and agency representatives. Funding was arranged by Task Force members.

At the first meeting in December of 1994, Ms. Hulburt and I offered a set of recommended protocols for the Task Force. We particularly emphasized the meaning of consensus as the basis of decision-making. A total of eight meetings were held, along with numerous telephone and in-person discussions among various parties and three task force sub-committees. Despite several periods in which it appeared that negotiations would break down, consensus was reached on a set of eight "areas of agreement," with specific recommendations made to mandate outpatient treatment coverage for individual insurance policies and to seek funding to improve the mental health education of primary care physicians. The

Advisory Commission was pleased to pass along these recommendations, and legislation was passed adding the outpatient treatment insurance mandate and studying the issue of mental health education for primary care physicians.

Lessons

This case provides a rich field for assessment of policy conflict and its mediation. I will focus on just two of many key issues whose lessons merit analysis: 1) the convening stage, including the links with policymakers and the role played by a mental health advocate; 2) the role of consensus as the basis for decision making.

Convening the Task Force

Virginia, unlike many other states has no state agency or office dedicated to promoting and using mediated, consensual procedures to address public and public policy disputes. The use of such procedures has occurred on an irregular, ad hoc basis. Consensus-based policy task forces, or what is sometimes termed "roundtables," are formed to allow parties in conflict on matters of public policy to study, discuss, and negotiate among themselves in search of a consensus for action on public policy. Because of the depth and complexity of the types of issues under consideration, these roundtables last a half a year or more. IEN has convened roundtables in Virginia for such issues as Chesapeake Bay regional land use, coal mining's effects on water supplies, and agricultural diversification and economic development in tobacco-growing communities.

In public disputes, it is rare to be offered such a tidy mediation package as this Task Force. Convening a mediation generally takes considerable pre-negotiation work "getting to the table" on the part of the mediator. Other than an initial discussion with each Task Force member by phone (during which), and review of relevant materials, most of the convening work was conducted by those who initiated the Task Force.

The advantages of having so much groundwork laid in place are considerable. Foremost among them is the tie to the policymaking mechanism, in this case the Advisory Commission on Mandated Health Benefits. Task Force members knew how their recommendations would be considered and implemented. They also knew that their work needed to be completed in time for the Commission to consider their recommendations before the 1996 legislative session, a deadline which helped impel negotiations. The legitimacy of the Commission link helped attract a Task Force membership of key legislators, agency heads, business and insurance executives, and mental health service providers and advocates that was representative of the stakeholders in the dispute.

There are potential disadvantages to a "pre-packaged" mediation. While in this instance there proved to be no problem, I prefer to be involved early enough to ensure sufficient legitimate representation of the constituencies affected by the disputed issues and appropriate links to any vehicles for implementation. Also, the mediator's convening process generally allows for considerable education of both mediator and disputants, the former learning of the desires and concerns of the parties, the latter learning about the mediation process. In this case, Task Force members were appointed without them knowing anything about the mediation process and protocols beforehand, including logistics, ground rules, and decision-making procedures.

The Implications of Consensus

Different conceptions of how the Task Force would operate caused some initial difficulty. A number of interested observers “shadowed” the negotiations, attending each meeting and holding discussions with their particular representatives in between meetings. I spent some considerable amount of time talking with many of these observers, primarily to ensure an understanding of the dynamics of the dispute. We heard through more than one informal channel that some Task Force members found our first-meeting emphasis on groundrules and consensus overbearing and even patronizing. This assessment reflected in part different understandings among Task Force members about how the group would make decisions. The facilitators’ understanding had always been that a full consensus, involving agreement among all members, would be required to report any recommendations.

Consensus-based processes are used increasingly for decision-making for public policy issues, from informal meetings within organizations to lengthy, formal, multi-party negotiations. Despite the prominence these processes have achieved, there is still wide misunderstanding about the uses and purposes of consensual decision-making, and even about what the term "consensus" means.

In one sense, any agreement reached about any issue--whether it is a group of friends deciding where to go for lunch or a 25-member task force compiling hundreds of pages of recommendations about a multi-million dollar project--may be termed a "consensus." And for everyday use, such a broad definition is to be expected.

But if consensus is to be a useful concept for group decision making, individuals within the group must have a shared understanding of what the term means to that particular group. This understanding must include the purposes and benefits of consensus, when it is (and is not) appropriate, and what it takes to reach consensus.

For purposes of the Task Force, we defined consensus by the following characteristics:

- Everyone can live with the final agreements without compromising issues of fundamental importance;
- Individual portions of the agreement may be less than ideal for some members, but the overall package is worthy of support;
- Individuals will work to support the full agreement and not just the parts they like the best.

Our reasons for using consensus included the following:

- Individual participants who might be skeptical of working with opponents or those they don't know are reassured by having veto power over any decisions;
- Group members know that they need to attempt to satisfy the needs of all participants;
- Minority views which may have been summarily dismissed are given real consideration;
- A norm of responsibility for the group may be enhanced;
- As a practical matter, decisions with broad-based support are more likely to be implemented. In this instance, any one of the parties could have derailed recommendations made by the rest of the group.

A first prerequisite for reaching consensus is the commitment of group members to the process. We noted that a consensus-based decision process requires patience, listening, active participation, and a good bit of faith in the participants as well as the process. It means coming to meetings prepared for the meetings. It also means accepting and sharing responsibility for the process and the outcome.

As it turned out, our early emphasis on consensus played a vital contribution to the eventual agreement of the Task Force. The last meeting ended with endorsement of eight “areas of agreement,” three policy recommendations, and many pages of supporting rationale. Our enthusiasm for these results was quickly dampened, however, when the single member who was absent from that last meeting raised substantial objections to the language of one of the areas of agreement. Unfortunately, that language had been the subject of intense discussion at the last meeting, and the compromise which had been reached had exhausted the patience of several members. The objecting member made clear his intention to withhold support from the report, and those representing different interests refused to consider any changes. In fact, they viewed this objection as an indication of previously disguised opposition, if not outright betrayal.

This objection and its repercussions reflected the importance of consensus. One member argued with me that we should not let a single member destroy the consensus of the rest of the group, and that the report should be released without the objecting member’s participation. I refused, pointing out not only the violation of Task Force policy such an action would entail, but the likely impact on implementation that a key figure’s active opposition would cause.

The advocate for releasing the report then went directly to the objector, inviting him to explain his opposition and explore whether new language might be crafted which would satisfy everybody’s interests. To his presumptive opponents’ surprise, and delight, the changes he wanted in fact not only made clearer what had been somewhat (deliberately) ambiguous, they reflected a view closer to their own than the original language.

LESSONS FOR A TRANSFORMATIVE PRACTICE OF CONFLICT RESOLUTION

These cases do not represent exceptional interventions or extraordinary outcomes; there are no miracles of forgiveness, no heart-warming reconciliations, no last-minute agreements. While the stakes were important to those involved in these situations, these cases did not involve violence or massive financial matters; indeed, had these interventions not occurred, it is likely that no great harm would have occurred to the stakeholders.

But it does not take high-stakes conflict and extraordinary effort to achieve conflict transformation. I argue that these cases represent significant contributions to conflict transformation’s goals of community, of governance, and of conflict resolution capacity in the following ways:

- In the application of conflict resolution processes to each of these situations, where the principles of inclusion, openness, listening and understanding, empowerment, and third party facilitation had not been tried before. Extending the reach of conflict resolution requires both institutional and personal commitment: in the school case I donated my time; for the visioning process we provided our support at a greatly reduced fee; and for the mental health parity task force we had the combination of a low fee for my services, donated time on the part of my co-mediator, and for both of us a willingness to risk adventure into an arena outside of our normal work.
- In the new understandings of disputes and disputants evoked by facilitated dialogue. The dialogue focuses not only on discovering the interests of opponents, and creating ways of satisfying those interests, but in understanding each others’ values, wants, concerns, and fears, and how they are shaped by processes which do or do not allow their expression in positive ways. These understandings carry over into other settings; for example, a participant in the mental health parity effort forwarded the results to a key national legislator for consideration during the debate over national health care reform.

- In the types of processes advocated by the third parties, which included the following key elements: attention to representation of minority interests; inclusion of the agendas of social justice concerns (most particularly in the visioning and mental health parity work) and opportunity for institutional change; in the *facilitative* (focusing on empowerment of participants through understanding of choices) rather than *directive* (focusing on identifying solutions and pushing parties towards agreement) approach of the mediators and facilitators; and in the opportunities sought for developing relatedness.
- In the education of public officials of responsive governance; for instance, in Albemarle County, officials faced with a county-wide redistricting issue used a consensus-based, representative task force combined with considerable opportunity for public input to articulate values and goals and make recommendations for redistricting boundaries.
- In the solutions and agreements reached through extensive inclusive, educational, dialogue and careful consideration of values, needs, and choices.
- In the understandings developed during these cases through reflective practice, and the dissemination of those understandings among conflict researchers, practitioners, and consumers, through publications such as this chapter, through presentations at national, regional, and statewide conferences, and through graduate classes.

1By *public conflict resolution* is meant the wide array of mediated or facilitated dialogic, consensual processes addressing public issues, including policy dialogues, regulatory negotiations, and ad-hoc mediation of public disputes (see Dukes, 1996).

2See, for a small but varied sample, Putnam (1994), Gould (1988), Barber (1984), West (1993), Lappé and Moore (1994), and Bellah et al. (1984).

3For a more thorough outline of these six point see Dukes (1996).