

# Living with No: Political Polarization and Transformative Dialogue

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## I. INTRODUCTION

Political polarization is a fact in the United States and has been for some time.<sup>1</sup> Voters are more ideological and political parties are less open to compromise and bipartisanship. This has led to government shutdowns and legislative stalemate in Washington, and increasing difficulty for people to have productive conversations about politics. Political communication on television and online is less civil than face to face communication.<sup>2</sup> In many cases people withdraw from political participation as a result of polarization, exercise self-censorship and experience stress and even trauma. Political polarization also narrows individuals' understanding of themselves and their relationships with others. It makes it difficult to live with difference and diversity.<sup>3</sup>

This gives rise to the question of whether dispute resolution processes can help address the challenges political polarization raise. We argue that dispute resolution processes should not be seen as a substitute for the political process, but rather a complement that can help strengthen it. Based on this view, and on the authors' experience with dialogue work in the former Yugoslavia, as well as in urban and rural settings in the United States, we argue that transformative processes, specifically an approach we call *Transformative Dialogue*, are best suited to addressing the challenges of political polarization both in the United States and internationally. This is because the primary goal of transformative processes is not to reach agreement or find common ground, but rather to change the quality of conflict interactions from negative and destructive to positive and constructive. Transformative dialogue is about helping people gain their voice and choose identities and interactions that otherwise would be closed to them. It does so by supporting participants

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1. Many, but not all scholars would support the claim that America is politically polarized. For an alternative view see Morris P. Fiorina, Samuel A. Abrams, and Jeremy C. Pope, *Polarization in the American Public: Misconceptions and Misreading*, 70 J. POL. 556 (2008). For an overview of the debate between these scholars and critics, see *id.* at 556. Several of those claiming that America is polarized also make the point that this polarization has a long history, so if the question is whether polarization is new, there might be more agreement. See, e.g., JAMES E. CAMPBELL, *POLARIZED: MAKING SENSE OF A DIVIDED AMERICA* (2016); ANDREW HARTMAN, *A WAR FOR THE SOUL OF AMERICA: A HISTORY OF THE CULTURE WARS* (2015).

2. DIANA C. MUTZ, *IN-YOUR-FACE POLITICS: THE CONSEQUENCES OF UNCIVIL MEDIA 2* (2016).

3. In many other parts of the world, ethnic divisions also polarize politics, with conflict not just over political ideology, but even basic constitutional questions and therefore control of the state. DONALD L. HOROWITZ, *ETHNIC GROUPS IN CONFLICT* 187-88 (1985).

in gaining clarity about themselves and their interaction with others, and in considering the perspectives of others while maintaining their otherness.

## II. POLITICAL POLARIZATION

The polarization of American politics is often identified by commentators as a serious challenge for American democracy.<sup>4</sup> In fact, politics in America have been polarized for some time. This is the case for voters, politicians, and political parties. There are significant differences among voters, with fewer moderates overall as well as fewer liberals in the Republican Party and fewer conservatives in the Democratic Party.<sup>5</sup> Ratings of Republican and Democratic politicians by interest groups like the NRA or Planned Parenthood overlap less and less over time.<sup>6</sup> These developments have taken place at the same time that membership in civic associations has declined, accompanied by a decrease in generalized trust,<sup>7</sup> while online communication is increasing. When people talk face to face they follow norms of politeness and civility; online communication not only facilitates uncivil political discourse, but gives those discourses a large audience.<sup>8</sup> The term “culture wars” also signals that views on cultural issues increasingly correlate with political identity.<sup>9</sup> This makes communication more challenging because there is less agreement about basic principles or outcomes. The other side becomes more “other,” more alien, and understanding the other side is harder to imagine.<sup>10</sup>

Political polarization has serious consequences which challenge the functioning of democracies. In a polarized environment, people self-censor themselves and participate less because they fear the reactions of others who hold different opinions than their own.<sup>11</sup> The natural tendency of individuals to socialize with others like themselves is strengthened. While this can have positive effects, like promoting participation because of the in-group trust generated, it also lowers tolerance of others because individuals are not exposed to others with differing viewpoints.<sup>12</sup> These tendencies reinforce and lead to more polarization. After the 2016 elections many

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4. Matthew Levendusky and Neil Malhotra, *The Media Makes Us Think We Are More Polarized Than We Really Are*, POLITICAL POLARIZATION IN AMERICAN POLITICS 106 (John Sides & Daniel J. Hopkins, eds., 2015).

5. CAMPBELL, *supra* note 1, at 2.

6. NOLAN M. MCCARTY, KEITH T. POOLE, & HOWARD ROSENTHAL, POLARIZED AMERICA: THE DANCE OF IDEOLOGY AND UNEQUAL RICHES 5 (2016).

<sup>7</sup> See ROBERT D. PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY 49 (2000).

8. MUTZ, *supra* note 2.

9. HARTMAN, *supra* note 1, at 15.

10. In the United States this polarization exists against a backdrop of overall consensus on constitutional issues. Political conflict centers on hot issues like abortion, same-sex marriage, and the role of government in people’s lives. In other countries conflict is about constitutional issues and the very nature of the state. In Kosovo, for example, Serbs are resisting inclusion into what is fundamentally an Albanian state. See Oison Tansey, *Kosovo: Independence and Tutelage*, J. DEMOCRACY 153, 154 (2009). Minorities in ethnically divided countries face the constant threat of a “tyranny of the majority”. See ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 250 (1988). In some cases, fear of this tyranny can lead to violence and ethnic cleansing.

11. See Andrew F. Hayes, Dietram A. Scheufele, & Michael E. Hoge, *Nonparticipation as Self-Censorship: Publicly Observable Political Activity In A Polarized Opinion Climate*, 28 POL. BEHAVIOR 259 (2006).

12. See DIANA CAROLE MUTZ, HEARING THE OTHER SIDE: DELIBERATIVE VERSES PARTICIPATORY DEMOCRACY 77 (2006).

people expressed strong emotional reactions including uneasiness, fear, and anger.<sup>13</sup> Indeed, CNN ran a headline using the term “post-election stress disorder.”<sup>14</sup>

Political polarization and the state of American politics today clearly have serious consequences and there is reason to be concerned about how this will affect American democracy in the long run. Lowered participation and trust, self-censorship, the erosion of civility in political discourse and stalemate in Washington not only weaken the current functioning of democracy, but also ultimately can weaken citizens’ very belief in democracy as a legitimate political system.

All this raises the question of whether dispute resolution processes can contribute to addressing these serious challenges. We argue that the right kind of dispute resolution process can do so. It must give people a voice and allow them to choose how to understand themselves and their relation to others and, especially, to live with difference. To do this, a dispute resolution process must not promise to “solve” problems or focus on “getting to yes.” Rather it must allow people to disagree while still acknowledging the fundamental humanity of those on the other side. If the process can create more positive conflict interactions, people can disagree yet still live and work together. In short, these processes can help address political polarization if, rather than focusing on “getting to yes,” they help us to learn to “live with no.”<sup>15</sup>

We argue that transformative approaches to conflict,<sup>16</sup> particularly transformative dialogue,<sup>17</sup> are best suited to addressing these challenges because they do not seek to establish common ground but instead focus on the quality of conflict interaction, whatever the outcome of the process and the frequency or infrequency of future interaction.

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13. A Pew Research Center survey found that while 51% of voters were hopeful after Trump’s victory, 53% felt uneasy, 41% sad, and 31% angry. Pew Research Center, *Low Marks for Major Players in 2016 Election—Including the Winner*, Nov. 2016, at 2. When broken down by vote choice it is clear that among Clinton voters 91% felt uneasy (for Trump voters the figure is just 13%), 76% felt scared (5% for Trump voters) and only 7% felt hopeful (96% for Trump voters). *Id.* at 11. Clinton voters used words like shocked, disappointed and disgusted most often to describe how they felt after Trump’s election with words like horrified, sad and devastated also frequently mentioned. *Id.* at 7. Nonetheless, 60% of Republicans expressed a wish for the GOP to be more conservative and 49% of Democrats expressed a wish for the Democratic Party to be more liberal, results suggesting that polarization may get worse, not better. *Id.* at 24. The authors’ experience working with dialogue confirms this tendency toward differing perceptions of political reality and lack of desire to understand the other. When we have told some people that we are facilitating dialogue between liberals and conservatives, some people have expressed an aversion to the very idea of speaking to someone from “the other side.” Some people express fatigue and exhaustion at having to constantly think about politics and race relations. However, we also find people longing for meaningful conversation and listening across the political divide. This attests to people’s desire for moral connection to others. See *infra* notes 18-22, 38 and accompanying text.

14. Jenny Gold, ‘Post-election stress disorder’ strikes on both sides, CNN (Feb. 20, 2017, 6:23 AM), <http://www.cnn.com/2017/02/20/health/post-election-stress-partner/index.html>.

15. ROGER FISHER, WILLIAM URY, & BRUCE PATTON, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN* (1991). In this classic book, the authors argue that principled or “win-win” bargaining is the best approach to disputes of all kinds, and helps parties “get to yes”. The authors of this article argue that in a polarized polity, “living with no” is a valid goal and important achievement.

16. See ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, *THE PROMISE OF MEDIATION: THE TRANSFORMATIVE APPROACH TO CONFLICT* (2nd Ed., 2005).

17. See ERIK CLEVEN, *WHO NEEDS TO TALK TO WHOM ABOUT WHAT AND HOW?: TRANSFORMATIVE DIALOGUE IN SETTINGS OF ETHNOPOLITICAL CONFLICT* (2011).

### III. TRANSFORMATIVE DIALOGUE

#### A. *The Transformative Approach to Conflict*

The foundation for the transformative approach to conflict was laid with the publication of the first edition of *The Promise of Mediation* in 1994.<sup>18</sup> The book challenged the outcome-oriented nature of standard mediation processes and argued that even though many mediators tried to let solutions come from disputing parties themselves, the pressures to show the success of mediation, and the measurement of success primarily by the number of agreements reached, meant that in reality most mediation was outcome-oriented and mediator driven rather than party driven.<sup>19</sup> The transformative approach was based on several core premises that led to the unique nature of transformative practice.

The first of these premises is that human identity is defined by a balance between concern for self and concern for others. Human beings have a need for self-expression and independent agency. At the same time, individuals value connection to and understanding of others.<sup>20</sup> When conflicts occur this balance is disturbed and human identity is threatened; the transformative approach therefore claims that conflict is best understood as a crisis in human interaction.<sup>21</sup>

In addition to this, the transformative approach is based on the idea that people have the inherent *capacity* for self-determined choice and responsiveness to others.<sup>22</sup> However, the experience of conflict diminishes this capacity. Therefore, third party processes that focus on empowerment -- gaining more clarity about one's situation and the choices one faces -- and recognition -- the ability to take the perspective of others -- are best suited to helping individuals regain the capacity for choice and responsiveness to others.

Operating from these premises means that transformative processes are genuinely party driven.<sup>23</sup> The key question an intervener first asks of the parties is, "[w]ho needs to talk to whom, about what, and how?"<sup>24</sup> This question acknowledges that people themselves are best positioned to decide who needs to be part of a conversation, what the conversation needs to be about and how they can best have that conversation. By contrast, most mediation approaches are outcome driven and

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18. ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, *THE PROMISE OF MEDIATION: RESPONDING TO CONFLICT THROUGH EMPOWERMENT AND RECOGNITION* (1994).

19. See Robert A. Baruch Bush, *Staying in Orbit or Breaking Free: The Relationship of Mediation to the Courts Over Four Decades*, 84 N.D. L. REV. 705, 727-32, 735-38 (2008); Robert A. Baruch Bush & Joseph P. Folger, *Mediation and Social Justice: Risks and Opportunities*, 27 OHIO STATE J. ON DISP. RESOL. 1, 22-28 (2012) (both articles referencing and summarizing research that documents the tendencies stated in the text).

20. BUSH & FOLGER, *supra* note 16, at 59-62 (arguing that this view of human identity is reflective of a "relational worldview" emerging in many fields and disciplines).

21. *Id.* at 45-62 (contrasting the transformative view with rights-based and problem-solving views of conflict).

22. *Id.* at 54-58.

23. See Bush and Folger, *supra* note 19, at 37-45 (describing the thoroughly party-driven character of transformative intervention practices).

24. See CLEVEN, *supra* note 17.

founded either on a human needs approach<sup>25</sup> or a narrative approach.<sup>26</sup> Processes based on both of these approaches tend to control and limit party interaction, even if they are intended to liberate participants from “zero-sum” biases and oppressive “dominant discourses.”<sup>27</sup>

### *B. Approaches to Multiparty Dialogue*

Most dialogue models claim to be less outcome driven than standard mediation and are defined as more open ended. For example, one definition of dialogue states that it is “a communication process that aims to build relationships between people as they share experiences, ideas, and information about a common concern.”<sup>28</sup>

Saunders defines dialogue as

...a process of genuine *interaction* through which human beings listen to each other deeply enough to be changed by what they learn. Each makes a serious effort to take others’ concerns into her or his own picture, even when disagreement persists. No participant gives up her or his identity, but each recognizes enough of the others’ valid human claims that he or she will act differently toward the other.<sup>29</sup> [italics in original]

The problem with this definition is that it requires that participants listen to each other deeply and presumes that acting differently towards one another after the dialogue must be an outcome. In both of the definitions of dialogue cited above, the kind of speech allowed by the definition is limited. This requires that facilitators control the kind of speech taking place, and this can inhibit transformation because conflict is not fully expressed, and what is difficult is not confronted.<sup>30</sup>

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25. See, e.g., JOHN WEAR BURTON, *CONFLICT: RESOLUTION AND PREVENTION* (1993); FISHER, URY & PATTON, *supra* note 15.

26. See, e.g., JOHN WINSLADE & GERALD MONK, *NARRATIVE MEDIATION: A NEW APPROACH TO CONFLICT RESOLUTION* (2001); Sara Cobb, *Empowerment and Mediation: A Narrative Perspective*, 9 *NEG. J.* 245 (1993).

27. In human needs approaches the third party translates what parties are saying into needs and interests language, which at best implicitly signals that the words the parties have chosen are inadequate or inappropriate, and at worst is patronizing, shutting people down unless they adopt the mediator’s language. This is done in the interest of finding agreement. In narrative approaches, mediators “deconstruct” party narratives, only to reconstruct them in ways that the mediator has deemed is liberating and free of oppressive dominant discourses.

28. LISA SCHIRCH AND DAVID W. CAMPT, *THE LITTLE BOOK OF DIALOGUE FOR DIFFICULT SUBJECTS: A PRACTICAL, HANDS-ON GUIDE 6* (2007).

29. HAROLD H. SAUNDERS, *A PUBLIC PEACE PROCESS: SUSTAINED DIALOGUE TO TRANSFORM RACIAL AND ETHNIC CONFLICTS* 82 (2001). One reason that even Saunder’s “*sustained dialogue*” is defined this way is that it, like most dialogue models, is based on ideas that resemble Martin Buber’s idea of the I-Thou relationship. In an I-Thou relationship people do not see one another as separate, individual entities, but rather as a new whole. A more useful approach to dialogue could be based on the work of philosopher Emmanuel Levinas, who argues that the other person is radically Other and transcendent. But rather than seeing this difference as negative, Levinas shows that it is also the basis of freedom and moral choice. See EMMANUEL LEVINAS, *TOTALITY AND INFINITY: AN ESSAY ON EXTERIORITY* (1969) [trans. Alphonso Lingis].

30. There is an argument to be made for limiting speech in dialogue. Mutz argues that cross-cutting interactions can lead to violence and that a certain level of civility or politeness is needed to reap the benefits of dialogue with those of differing views. See MUTZ, *supra* note 12, at 62. However, Transformative Dialogue is a facilitated process, where participants are not left to themselves but supported by a facilitator who makes it possible for strong confrontations to be potentially beneficial.

We suggest that dialogue can be successful even when no direct communication occurs – i.e., if third parties only speak to potential participants one-on-one, or if dialogue only takes place with members of one group, i.e. *intragroup* dialogue, rather than between members of different groups (*intergroup* dialogue).<sup>31</sup> We suggest further that the role of dialogue facilitators is not to direct the kind of interaction allowed, defining it from the start as listening to one another or acting differently to one another, nor is their role to insist on particular forms of speech – all of which are controlling, outcome-oriented practices. Rather, the intervener’s role is to support parties in reclaiming their capacity for moral choice, in deciding on how to see themselves and on how and whether to recognize the other’s perspective. This approach is what we call *transformative dialogue*.<sup>32</sup> We turn now to how this can be done in practice and how it can address the challenges of political polarization we outlined above.

### C. Transformative Dialogue

Transformative dialogue is a process in which a third party works with different members of a community in conflict to change the quality of interactions between them in such a way as to increase the amount of pro-social interaction. The process may include individuals as members of groups, social networks, organizations or institutions. Pro-social interaction occurs when, regardless of how often or seldom they interact, parties act from a position of clarity and strength and are open and responsive to others whether they agree or have deep disagreements.<sup>33</sup>

Transformative dialogue is a multiparty process, like other dialogue approaches, and in multiparty processes identity plays a central and complex role.<sup>34</sup> People participate both as individuals and as members of groups. But individuals have many identities and these can be religious, ethnic, political, or social. A person may be African-American, Jewish, Republican, and a father all at once. Each individual has a unique understanding of their identity which is connected to their unique history and life experience, but people also have elements of their identities

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31. It is important to understand that the value of dialogue can be realized whether or not people meet across group boundaries (*intergroup* dialogue). Even *intragroup* dialogue has value. No matter how much we have a tendency to see groups as unified – the African-American community, the Jewish community, the Serb community – each of these groups consists of individuals and a plethora of views and understandings. Often people cannot effectively come together for dialogue, at least as members of groups, until those groups have had a chance to come together to consider how they wish to interact with the other side. One of the authors was told this in no uncertain terms in Northern Kosovo by Serbs there. Serbs were not ready for interethnic dialogue with Albanians because they hardly knew who they were as a group and up until that point only the loudest, and therefore sometimes the most radical, had had a chance to be part of the discussion. Meanwhile, conflict resolution intervenors were only inviting members of the Serb community who agreed with the international agenda to seminars, in order to avoid “spoilers” and so-called difficult people.

32. See CLEVEN, *supra* note 17.

33. The definition in the text is the authors’ own usage based on transformative conflict theory. See BUSH & FOLGER, *supra* note 16. Broader definitions are found, especially in the literature on social psychology, see, e.g., C. DANIEL BATSON & ADAM A. POWELL, *Altruism and Prosocial Behavior*, HANDBOOK OF PSYCHOLOGY 463 (2003). However, the definition here is generally consistent with those broader ones. The point of the text is not that a facilitator *directs* the parties toward pro-social interaction, but that such interaction is the *result* of the process.

34. See AMIN MAALOUF, IN THE NAME OF IDENTITY: VIOLENCE AND THE NEED TO BELONG 12-15 (2003); CHARLES TILLY, IDENTITIES, BOUNDARIES AND SOCIAL TIES 8-9 (2005).

that are shared with other members of their groups. Furthermore, individuals' understanding of their own and others' identities changes as they interact.<sup>35</sup>

When people experience conflict, the transformative model suggests, they become weak and self-absorbed.<sup>36</sup> One important element of the weakness that occurs in conflict is the narrowing of identities: one particular part of who a person is may become most important, even though that person has many other identities. And the part of identity that is shared with other group members becomes all important, at the expense of the others.<sup>37</sup> Self-absorption at the group level is basically polarization, as was already explored in the discussion of political polarization above. People also feel that their group has been uniquely victimized. Sometimes this is of course the case, but often this ignores the reality that victims and aggressors exist on both sides of conflicts.

Dialogue facilitators in other approaches strive for “balance” – working to get similar numbers of people from pre-determined “sides” or groups to participate.<sup>38</sup> Facilitators of transformative dialogue also consider individuals' group membership. But rather than defining who the groups and individuals are in advance, a transformative facilitator will allow those categories and identities to emerge in party-driven fashion, through conversations with members of the community.<sup>39</sup> Our current transformative dialogue work in two communities in the United States provides good examples of the different ways people choose to identify themselves. One community is urban and the other rural.<sup>40</sup> In both, as discussed below, the first steps toward dialogue were initiated by community members themselves, who had heard about transformative dialogue practice, and reached out to transformative facilitators for support.

In the urban community, people themselves define communities in the city in terms of race and ethnicity, and in part according to religion. African-Americans, Hispanics, and various religious denominations define some of the most important groups that people said needed to be involved. This may be because in the urban environment, policing and the interaction between authorities and citizens, to give one example, plays out differently for racial minorities than others. In the rural setting we are working in, political identity is foremost. People contacted us primarily because of a concern about the effects of political polarization on their community. “Trump supporters,” “conservatives,” and “liberals” are the terms most

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35. JAMES A. HOLSTEIN & JABER F. GUBRIUM, *THE SELF WE LIVE BY: NARRATIVE IDENTITY IN A POSTMODERN WORLD* (2000).

36. That is, they lose the clarity they need to make decisions about what they want to do and how they want to relate to others, and they lose the capacity to connect constructively with others and see their perspective. See BUSH & FOLGER, *supra* note 16, at 49-53.

37. See MAALOUF, *supra* note 34.

38. See, e.g., Margaret Herzig, *Moving from polarized polemic to constructive conversation—A report from the Public Conversations Project*, 7 J. PUB. PARTICIPATION 1 (2001) (describing the “structured dialogue” process used by one prominent organization, including preplanning of invitations and other “structured” elements described in the text below, see *infra* notes 39-42 and accompanying text); SCHIRCH & CAMPT, *supra* note 28.

39. See CLEVEN, *supra* note 17, at 13.

40. The dialogues in these two communities are current and ongoing, and the participants prefer that their work not be cited for publication by name or location, for privacy reasons. Other recent examples of transformative dialogue facilitation include a multi-session dialogue on “passive racism” between white and black residents in a southern Maryland community. See Richard “Dusty” Rhoades, *Journey into Self and Other*, in *TRANSFORMING CONFLICT FROM THE INSIDE OUT* 23 (Robert A. Baruch Bush & Joseph P. Folger eds., 2016).

often used to describe different people in this community in spite of the fact that, like their urban counterparts, they also differ in terms of ethnicity and religion. In both urban and rural engagements, the participants self-identified the groups that needed to be involved.

Another practice of transformative dialogue is that the facilitator does not push a particular content or goal for the dialogue. The facilitator does not come in with an agenda to engage participants about a pre-determined topic, but trusts that people know what they want to talk about and what they want to achieve; they also know when they want to change the topic of discussion for some reason. In the rural community we are working in, the concern with political polarization already determines that some topics are of more interest to people than others. In the urban community where we are working, participants requested a meeting several days after the August 2017, Charlottesville incident and its aftermath.<sup>41</sup> Though racism and white nationalism had not been the main focus of earlier sessions, the participants decided to change the topic, the facilitators responded quickly, and people were able to talk about the event's impact on them as individuals and on their community. By contrast, most dialogue processes involve the facilitator in shaping the agenda, either in advance or as the process unfolds, or both. This is another example of the way in which transformative dialogue is genuinely party-driven.

Finally, while most dialogue models give the facilitator the responsibility to set and enforce rules that are supposed to ensure civil exchange, transformative dialogue leaves responsibility for this to the participants themselves – so that heated exchanges and conflict within the dialogue are possible. From such unconstrained exchanges, participants can make lasting changes in their views of themselves and each other.<sup>42</sup> They are free to express their own “truth” and hear others doing the same. In a facilitated face to face exchange individuals have a chance to hear themselves speaking out loud. This often leads people to rethink what they are saying and how they are saying it, and when people do this on their own it leads to real change. Dialogues that have strict rules about how people interact may promote civility while the facilitator is enforcing the rules, but may have little or no long-term effect on interactions. In summary, allowing conversations to go to the heart of the participants' differences allows them to confront what is difficult, to take responsibility themselves for the exchange, and to hear each other's voices in a new way. All of these factors help contribute to real transformation, not simply the polite suppression of difference controlled by a third party.

#### *D. How Transformative Dialogue Can Address the Challenges of Political Polarization*

As mentioned earlier, dialogue in a democracy is not a substitute for the political process, nor should it be. In a democratic country, the political process can be

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41. See Aaron C. Davis, Joe Heim and Laura Vozella, *How Charlottesville Lost Control*, WASHINGTON POST (Aug. 26, 2017), [https://www.washingtonpost.com/investigations/how-charlottesville-lost-control-amid-deadly-protest/2017/08/26/288ffd4a-88f7-11e7-a94f-3139abce39f5\\_story.html?utm\\_term=.e932283554d6](https://www.washingtonpost.com/investigations/how-charlottesville-lost-control-amid-deadly-protest/2017/08/26/288ffd4a-88f7-11e7-a94f-3139abce39f5_story.html?utm_term=.e932283554d6).

42. See Judith A. Saul & Scott Sears, *A Relational Perspective on Multi-Party Practice*, in TRANSFORMATIVE MEDIATION: A SOURCEBOOK 397, 407 (Joseph Folger, Robert Bush & Dorothy Della Noce, eds., 2010) (arguing that “Conflict is a prevalent and potentially constructive element of group interaction.”).

seen as a form of conflict resolution.<sup>43</sup> Many different opinions and preferences exist with regard to public policy questions, and a country's constitution sets out rules by which people deliberate, debate, advocate and lobby, and finally vote for a particular political representative or policy.

Dispute resolution processes, in order to effectively address the challenges of political polarization, must not supplant this fundamental process. However, they can support and strengthen the political process so that it becomes more constructive in the face of divisions and conflict, even when these conflicts seem intractable.<sup>44</sup> This is true whether or not people reach agreement or reconcile. Transformative processes are uniquely situated to contribute in this way because they do not push people to seek common ground. When conflicts are complex and closely related to identity, a more appropriate goal is to support people in finding ways to interact and relate in spite of their deep disagreements.

There is therefore value and impact in dialogue even when common ground is not sought – in fact we might even say *especially* where common ground is not sought. Transformative facilitators do not define people or their identities in advance. Instead, they follow Levinas in respecting people's radical difference.<sup>45</sup> They allow people to explore their identities, individually or as members or groups. The first main impact of transformative dialogue is that it allows people to choose the identity they wish to emphasize. However, this happens not in an isolated room, but in the real context of that person's community. Through dialogue, people gain clarity and strength to decide how they want to understand and live out their identity. And by interacting with others face to face, the complexity and multi-faceted nature of identity is shaped and constructed more fully.

For example, in one of the community dialogues mentioned above a participant remarked that after talking to a member of the sheriff's department directly, she changed her view of law enforcement officers. As the participant put it, "getting to know someone can change assumptions." Another person remarked that through the dialogue they realized they were more judgmental and angry than they thought they were. These examples attest to the greater clarity in understanding of self and other that emerges in transformative dialogue.

The second potential impact of transformative dialogue is that based on the strength and clarity gained through the process, people can make better decisions going forward as individuals and/or as members of groups. Hearing from others in their own group or from those in other groups often reveals that seemingly simple situations are more complex. And this complexity often opens possibilities that had seemed closed earlier. Sometimes participants may decide not to move forward with certain options because they realize the time is not right. This too is a positive result of a dialogue. Moreover, as mentioned above, a transformative dialogue usually starts through having conversations with individuals as well as small groups to determine who needs to talk to whom, about what, and how.<sup>46</sup> This naturally leads to a focus on local networks. Working with and through local networks rather than bringing individuals together in a pre-determined or random fashion increases the

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43. See Lon L. Fuller, *The Forms and Limits of Adjudication*, 92 HARV. L. REV. 353, 363-65 (1978).

44. See Heidi Burgess & Guy Burgess, *Constructive Confrontation: A Transformative Approach to Intractable Conflicts*, 13 MEDIATION Q. 305 (1996).

45. See LEVINAS, *supra* note 29 and accompanying text.

46. See *supra* note 24 and accompanying text; CLEVEN, *supra* note 17.

possibility of post-dialogue impact, since people are already connected in ways that will continue.

The third potential of transformative dialogue is that it gives people the freedom to recognize the humanity of others.<sup>47</sup> By meeting the other face to face and seeing that they too are not just members of the other group, but unique individuals, and hearing their unique voice and perhaps the voices of other members of their own group in the room, it may be easier to recognize the other's humanity, all the while also recognizing that this does not require agreement or sameness.<sup>48</sup> A dialogue participant can choose to remain "civilly distant" from another.<sup>49</sup> That is still a large step forward from antipathy and hate.<sup>50</sup>

#### IV. CONCLUSION: TRANSFORMATIVE DIALOGUE AND POLITICAL POLARIZATION

Based on the above discussion, we argue that transformative dialogue can address the challenges of political polarization. First, it does not require common ground. Instead it recognizes that differences exist and that it is all right to "live with no." This makes dialogue more attractive to many because they do not feel threatened by it but see dialogue as a way to establish more constructive interactions across boundaries of definite difference. However, at the same time, the increased clarity and willingness to consider the perspective of others that are hallmarks of this process may sometimes lead to participants finding common ground.

Second, transformative dialogue can alleviate stress and fear because it contributes to recognition of others and their perspectives. As people gain more clarity through the dialogue process, and get to know the other, they also develop strength and confidence. Processes that drive participants towards reconciliation or that emphasize commonalities do not achieve this as effectively, because they are forced, and they often require participants to suppress the way they really want to talk about divisions. Instead, transformative processes confront what is difficult head on and help people deal with it.

Third, transformative dialogue supports people both in finding their voice and what they want to say, and also in being clear about what they do not want to say. The latter is very different from the kind of self-censorship described in the literature on political polarization.<sup>51</sup> If people are self-censoring themselves then they are holding back when they really have things they want to say. Choosing not to speak, from a position of clarity or strength, is different. Still, it may be that in a

47. We recognize that other approaches are also aimed at participants recognizing the humanity of others. Our point is simply that controlling the speech that is allowed in a dialogue runs counter to that goal.

48. In fact, as Levinas points out, acknowledgement of this otherness is also an acknowledgement of the freedom we have as human beings.

49. See CLEVEN, *supra* note 17, at 10-11 (citing this example: "When interethnic riots broke out, a man [who] was a local nationalist leader among his ethnic group ... went out in front of a group of his own people and persuaded them not to commit acts of violence against the other group. He later stated that not only would he not have done that had he not participated in the dialogue process, he would also not even have thought of it. He was not an advocate for reconciliation, but his relationship to members of his own group and members of the other ethnic group had changed [even though] he still had conflict with members of the other group...").

50. See AARON T. BECK, PRISONERS OF HATE: THE COGNITIVE BASIS OF ANGER, HOSTILITY AND VIOLENCE (2000) (describing the alienation typical of destructive conflict as a prison).

51. See *supra* text accompanying notes 10-12.

face to face dialogue people find the words they *do* want to say, because as the process progresses it moves from negative and destructive to positive and constructive.

For all of these reasons, discourse has the potential to become more civil in a transformative dialogue and to remain more civil outside the context of the dialogue. Because it allows people to move at their own pace, to speak honestly and in their own words, the changes that occur during a transformative dialogue are more likely to continue when people interact in the future.<sup>52</sup>

Political polarization is a reality in the United States and elsewhere in the world; it has serious consequences that can threaten the way democracy works and therefore also its very legitimacy. The transformative dialogue process can address these challenges. It can help people deal with issues that matter to them and support more constructive conflict interactions, regardless of whether or not people find common ground. In this way, it can create the basis for democratic deliberation within and across group boundaries that can lead to greater tolerance and a better functioning political process – so that even when we cannot get to yes, we can nevertheless live civilly with no.

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52. See *supra* text accompanying notes 45-46.