

# **Transforming News: How Mediation Principles Can Depolarize Public Talk**

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## ABSTRACT

*News media interviews bring opposing voices into the public forum where, ideally, audience members can deliberate and reach democratic compromise. But in today's politically polarized atmosphere, partisans increasingly accuse each other of being a threat to the country, and prospects for compromise have suffered. Journalists have been urged to take a more affirmative role, promoting problem solving and opposing conflict. They have stopped short, citing professional norms that demand a stance of neutral detachment.*

*This article turns to the principles of transformative mediation. Like journalism, it is detached from any goal of settlement. It aims instead at increasing the capacity of participants to clarify their views and respond with generosity to the views of opponents. This is a goal that journalism can embrace and the public forum can use. This article draws on empirical research and offers practical suggestions, using recent news interviews to illustrate both problems and potential directions.*

## I. INTRODUCTION

Journalists are third-party neutrals with a freewheeling ability to seek out conflicts and bring the voices of opposing parties into the public sphere.

Here, the news media are supposed to create a forum for the kind of public compromise<sup>1</sup> considered essential to democracy.<sup>2</sup> But people on both the right and left rank journalists among the lowest occupations in terms of contribution to society,<sup>3</sup> and the public forum has grown so polarized that politically active Americans increasingly see their opponents' policies as, not just wrong, but "so misguided that they threaten the nation's well-being."<sup>4</sup> Ordinary people appear to be tuning out.<sup>5</sup>

This article proposes that mediation insights can help journalists improve and develop their contribution to a functioning public forum. Already, some news anchors have famously employed the moves of

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1. BILL KOVACH & TOM ROSENSTIEL, *THE ELEMENTS OF JOURNALISM: WHAT NEWSPEOPLE SHOULD KNOW AND THE PUBLIC SHOULD EXPECT* 166 (2007) ("This is the sixth principle or duty of the press: Journalism must provide a forum for public criticism and compromise.").

2. Jurgen Habermas, *Political Communication in Media Society: Does Democracy Still Enjoy an Epistemic Dimension? The Impact of Normative Theory on Empirical Research*, 16 COMM. THEORY 411, 412 (2006). "An essential element of a liberal democracy is that the mass media are diverse and independent and give mass audiences access to the consideration of public opinion." *Id.*

3. Pew Research Center, *Public Esteem for Military Still High*, PEW RES. RELIGION & PUB. LIFE PROJECT (July 11, 2013), <http://www.pewforum.org/2013/07/11/public-esteem-for-military-still-high/> (noting that, in a survey ranking ten occupations in public esteem, journalists outranked only business executives and lawyers).

4. PEW RESEARCH CENTER, *POLITICAL POLARIZATION IN THE AMERICAN PUBLIC* 11 (2014), available at <http://www.people-press.org/files/2014/06/6-12-2014-Political-Polarization-Release.pdf>.

5. Markus Prior, *Media and Political Polarization*, 16 ANN. REV. POLIT. SCI 101, 109 (2013).

mediators in on-air interviews; they have brought disputing parties together, used questions to clarify issues, and invited the parties to generate solutions.<sup>6</sup> These steps are among the hallmarks of the most widely used form of mediation, called the interest-based, facilitative, or problem-solving model.<sup>7</sup> For journalists, however, conducting this kind of interview is problematic because it threatens to draw them into the content of the issues and away from their ideal position of neutral detachment. Journalists are ambivalent, at best, about engaging in problem solving, and they are inclined to view such moments in interviews as professional lapses, perhaps even cause for embarrassment.<sup>8</sup>

Therefore, this article directs its attention to a less widely used approach to conflict resolution: transformative mediation and allied relational models for facilitating public disputes. On the surface, transformative mediation has some intriguing similarities to news interviews; both highlight the areas of disagreement in a conflict, and both unabashedly and precisely repeat even the hurt and hostile words of the disputing parties.<sup>9</sup> More importantly, the transformative model maintains a detachment from the issues that are in dispute, and it pointedly makes no attempt to resolve them.<sup>10</sup> Instead its

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6. Eytan Gilboa, *Media-Broker Diplomacy: When Journalists Become Mediators*, 22 CRITICAL STUD. IN MEDIA COMM. 99, 102 (2009) (retracing several examples, including perhaps the best known: CBS News anchor Walter Cronkite's broadcast interviews in 1977 with Egyptian President Anwar Sadat and his enemy, Israeli President Menachem Begin, which led to Sadat's trip to Jerusalem the following week and the peace accord between the two countries); see also Carol Pauli, *News Media as Mediators*, 8 CARDOZO J. CONFLICT RESOL. 717 (2007).

7. See, e.g., CARRIE J. MENKEL-MEADOW ET AL., DISPUTE RESOLUTION: BEYOND THE ADVERSARIAL MODEL 266-67 (2005).

8. Gilboa, *supra* note 6, at 103 (noting that after prompting the dialogue that led to the Camp David accords, "Cronkite refused to take credit for his mediation role").

9. Robert A. Baruch Bush & Joseph P. Folger, *Transformative Mediation: Core Practices*, in TRANSFORMATIVE MEDIATION: A SOURCEBOOK 31, 39 (Joseph P. Folger et al. eds., 2010).

10. ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, THE PROMISE OF MEDIATION: THE TRANSFORMATIVE APPROACH TO CONFLICT 65-66 (2005) ("[D]efinition[s] of mediation itself, and the mediator's role, in the transformative model . . . differ markedly from the normal definitions found in training materials and practice literature—in which mediation is usually defined as a

goal, through incremental moves, is to increase the capacity of the parties to clarify and articulate their own views and to hear each other's perspectives, thus improving their ability to work out their problem on their own.<sup>11</sup>

This goal is consistent with the ideal public forum, in which citizens explain the reasons for their positions and listen to competing ideas.<sup>12</sup> Because mediators in the transformative model do not aim at settlement, their role is also consistent with the detachment of reporters. Still, importing transformative mediation into a news context is difficult; news interviews have a public audience, which is something mediators generally avoid—even when addressing public issues.<sup>13</sup>

The presence of the public audience both limits and expands the potential use of the transformative approach. In front of cameras or microphones, partisan interviewees are unlikely to suddenly discover a new appreciation of each other's perspectives; however, audience members, observing the interview unseen, are not so constrained. They are free to experience small, spontaneous moments of greater personal clarity and deeper understanding. So, while the transformative model, if employed in news interviews, might possibly help partisan interviewees hear each other,

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process in which a neutral third party helps the parties to reach a mutually acceptable resolution . . . . By contrast, in the transformative model . . . [t]he mediator's role is to help the parties make positive interactional shifts . . . . No mediator can "get" parties to shift out of weakness or self-absorption, nor should he [sic] try."); *Institute for the Study of Conflict Transformation, Inc., Mediation: Principles & Practice*, in MEDIATION CENTER OF DUTCHESS COUNTY, BASIC TRANSFORMATIVE MEDIATION MANUAL 23 (2010) ("Settlement is *not* the mediator's goal.").

11. Robert A. Baruch Bush & Joseph P. Folger, *Transformative Mediation: Theoretical Foundations*, in TRANSFORMATIVE MEDIATION: A SOURCEBOOK 15, 25-26 (Joseph P. Folger et al. eds., 2010).

12. DIANA C. MUTZ, HEARING THE OTHER SIDE: DELIBERATIVE V. PARTICIPATORY DEMOCRACY 125 (2006) ("We want the democratic citizen to be . . . aware of all of the rationales for opposing sides of an issue, yet not to be paralyzed by all of this conflicting information and the cross-pressures it brings to bear."). Mutz questions, however, how well both of these qualities can be attained by the same person. *Id.*

13. Richard Chasin et al., *From Diatribe to Dialogue on Divisive Public Issues: Approaches Drawn from Family Therapy*, 13 MEDIATION Q. 323, 334-35 (1996).

it may be more useful if adapted to increase the capacity of audience members to hear alternate perspectives and clarify their own thinking, prerequisites for engaging more fully in the public forum.

Part II of this article provides an overview of the news media's public forum function. It reviews journalism's longtime underlying hope that accurate reporting of facts can prevent and resolve conflicts. Part III illustrates journalism's ideal of neutral detachment by reviewing its resistance to two recent movements that tried to enlist reporters in problem solving. Part IV outlines the hallmarks of the transformative model of conflict resolution and several variations that it has inspired. All of these models maintain a detachment from the issues and focus, instead, on the relationship of the parties. Part V uses the transformative model to look at the problems and possibilities for journalists interviewing opposing parties in front of an audience. Part VI offers ways that journalists can make use of the insights of transformative mediation to develop and improve their role in fostering a functioning public forum. Part VII suggests areas for further exploration.

## II. FAITH IN FACTS

News interviews carry strident voices into the public sphere, where conflicts take shape<sup>14</sup> and people have the opportunity to consider and respond to them. Many Americans learn about the various perspectives that compete for their attention—and their votes—through the voices they encounter in the media. “[M]edia are far more important than interpersonal networks in exposing people to views unlike their own. As a result, the

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14. MANUEL CASTELLS, COMMUNICATION POWER 301 (2009) (“Social movements are formed by communicating messages of rage or hope. The specific structure of communication of a given society largely shapes social movements. In other words, social movements, and politics, insurgent or not, spring up and live in the public space. Public space is *the space of societal, meaningful interaction where ideas and values are formed, conveyed, supported, and resisted; space that ultimately becomes a training ground for action and reaction.*”).

media have the potential to make an extremely important contribution to awareness of diverse political perspectives and thus to national political integration.”<sup>15</sup>

To say “the media” is to evoke a wide assortment of models for gathering and disseminating information and opinions. The term may mean anything from propaganda to entertainment.<sup>16</sup> This article focuses on the news media and uses the terms *news* and *journalism* to refer to the fact-based reporting and writing that is described as “the journalism of verification”<sup>17</sup> by Bill Kovach, founder of the Committee of Concerned Journalists,<sup>18</sup> and Tom Rosenstiel, executive director of the American Press Institute. The journalism of verification first aims to produce accurate information and is, in this way, distinguishable from entertainment, “infotainment,” and propaganda.<sup>19</sup> Within journalism, this article focuses on

15. Diana C. Mutz & Paul S. Martin, *Facilitating Communication Across Lines of Political Difference: The Role of Mass Media*, 95 AM. POL. SCI. REV. 97, 109-10 (2001). “[F]or many Americans [mass media is] the main source of exposure to crosscutting political views. . . . The media send multiple conflicting messages, and in so doing they advance an important aspect of the democratic process.” *Id.* at 110.

16. KOVACH & ROSENSTIEL, *supra* note 1, at 173 (“[T]he new Mixed Media Culture of radio and TV talk shows, websites, chat rooms, blogs, bulletin boards and more that now dominate the communications systems has seen the urge to comment replace the need to verify, sometimes even the need to report.”).

17. KOVACH & ROSENSTIEL, *supra* note 1, at 78; BILL KOVACH & TOM ROSENSTIEL, BLUR: HOW TO KNOW WHAT’S TRUE IN THE AGE OF INFORMATION OVERLOAD 34 (2010).

18. *Id.* at 79. The Committee of Concerned Journalists began with a 1997 gathering in Cambridge, Mass., of twenty-five editors, broadcasters, and other journalists, worried by falling levels of public trust and fearful that the public was right. The Committee ceased operation at the close of 2011. Its work continues at the Donald W. Reynolds Institute at the Missouri School of Journalism, at the University of Missouri, <http://www.rjionline.org/ccj>. Kovach and Rosenstiel continue to write on applying the core values of journalism to the changing media landscape. See, e.g., BILL KOVACH & TOM ROSENSTIEL, WARP SPEED: AMERICA IN THE AGE OF MIXED MEDIA (1999).

19. KOVACH & ROSENSTIEL, *supra* note 1, at 79 (“Entertainment—and its cousin ‘infotainment’—focuses on what is most diverting. Propaganda selects facts or invents them to serve the real purpose: persuasion and manipulation.”).

television and radio news interviews. Although Web-based news delivery is quickly growing,<sup>20</sup> these older, mainstream news platforms still command the largest audiences<sup>21</sup> and supply much of the original news content that is repeated and aggregated by online news sites.

Interviewing has been an essential part of newsgathering since the early 1900s, when journalism began using factual reporting to distinguish itself from an earlier era of opinionated writing.<sup>22</sup> In the 1920s, as journalism began to view itself as a profession, the newly formed American Society of Newspaper Editors adopted “Canons of Journalism,” which included the ideals of truthfulness and unbiased accuracy.<sup>23</sup> By the end of the decade, “every major professional society and most major publications had adopted [a code of ethics].”<sup>24</sup> Under their provisions, journalists are to be neutrals<sup>25</sup> who are alert to conflict<sup>26</sup> but do not take sides.<sup>27</sup>

20. Mark Jurkowitz, *The Growth in Digital Reporting*, PEW RES. JOURNALISM PROJECT, (Mar. 26, 2014), <http://www.journalism.org/2014/03/26/the-growth-in-digital-reporting/>.

21. Pew Research Center, *Key Indicators in Media & News*, PEW RES. JOURNALISM PROJECT, (Mar. 26, 2014), <http://www.journalism.org/2014/03/26/state-of-the-news-media-2014-key-indicators-in-media-and-news/> (finding that on an average evening in 2013, news programs on the three commercial television networks (ABC, CBS, and NBC) had 22.6 million viewers, and the leading cable networks (Fox, CNN, and MSNBC) combined to draw just under 3 million).

22. MICHAEL SCHUDSON, *THE SOCIOLOGY OF NEWS* 81-82 (2003).

23. *Id.* at 82.

24. Joseph A. Mirando, *Lessons on Ethics in News Reporting Textbooks, 1867-1997*, 13 J. MASS MEDIA ETHICS 26, 30 (1998) (“The development of tabloids and prohibition-era reporting brought forth a renewed outcry against sensationalism, a revulsion of partisanship and propaganda among newspapers, and an allegiance to objective reporting.”).

25. *SPJ Code of Ethics*, SOC’Y OF PROF’L JOURNALISTS, <http://www.spj.org/ethicscode.asp> (last updated Sept. 6, 2014) (“Journalists should . . . [t]ake responsibility for the accuracy of their work[;] . . . [s]upport the open and civil exchange of views, even views they find to be repugnant[;] and] . . . [a]void conflicts of interest, real or perceived.”).

26. The “news value” of conflict is pointed out in the opening chapters of many journalism textbooks. See, e.g., MELVIN MENCHER, *MELVIN MENCHER’S NEWS REPORTING AND WRITING* 60 (10th ed. 2006) (“People and their tribes and their countries have been at war with each other, and with themselves, since history has been kept, and the tales that resulted have been the basis of saga, drama, story and news.”); see also ANDREW ARNO, *ALARMING REPORTS: COMMUNICATING*

Kovach and Rosenstiel urge that journalism has a duty to provide a public forum grounded in factual information.<sup>28</sup> In so doing, they reflect a longstanding journalistic hope that shared, verified facts will enable the public to make wise choices among the conflicting views that are inherent in a democracy.<sup>29</sup> Some past leaders in the field have even imagined that factual reporting would lead a worldwide public to global harmony. In the wake of World War I, the general manager of the Associated Press, Kent Cooper, proposed that journalism could rise above politics and nationalism to reveal to the audience a common humanity transcending borders.<sup>30</sup> Cooper argued that “all-inclusive journalism,” reporting the daily simple events that filled people’s lives, would give readers on both sides of the ocean a sympathetic look at each other,<sup>31</sup> and over his next forty years at the *AP*, he continued to develop what became known as “human interest” news.<sup>32</sup>

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CONFLICT IN THE DAILY NEWS 39 (2009) (“[T]he most obvious fact about news is that news is always and only about conflict.”).

27. LARS WILLNAT & DAVID H. WEAVER, *THE AMERICAN JOURNALIST IN THE DIGITAL AGE: KEY FINDINGS* 11 (2014), available at <http://news.indiana.edu/releases/iu/2014/05/2013-american-journalist-key-findings.pdf> (finding, in a survey of more than 1,000 American journalists, that just over 50% identified themselves as political independents, about 38% as Democrats, and about 7% as Republicans). *But see* Matthew A. Baum & Tim Groeling, *New Media and the Polarization of American Discourse*, 25 POL. COMM. 345, 347-49, 357 (2008) (finding an anti-Republican bias in stories of the Associated Press, in contrast to those of the British wire service, Reuters).

28. KOVACH & ROSENSTIEL, *supra* note 1, at 167.

29. For a discussion of conflict in the context of the news media’s role in the public forum, see Richard Reuben, *The Impact of News Coverage on Conflict: Toward Greater Understanding*, 93 MARQ. L. REV. 45, 49-51 (2009).

30. *Journalism in Role for Peace: Institute of Politics Hears of International Project*, L.A. TIMES, Aug. 8, 1926, at 7, available at ProQuest Historical Newspapers: Los Angeles Times (1881-1989).

31. *Id.*

32. Malcolm Stephenson, *Kent Cooper, Former Chief of Associated Press, Dies*, EVENING NEWS (Newburgh, N.Y.), Feb. 1, 1965, at 7A, available at <http://news.google.com/newspapers?nid=1982&dat=19650201&id=hvVfAAAAIBAJ&sjid=1m0NAAAAIBAJ&pg=2661,50397>.



After World War II, the Commission on Freedom of the Press—which came to be known as the Hutchins Commission<sup>33</sup>—also expressed faith that factual journalism could prevent violent conflict. The Commission presented the task with urgency, summoning up the fresh memory of Nazi propaganda and the U.S. atomic bombing of Japan

With the means of self-destruction that are now at their disposal, men must live, if they are to live at all, by self-restraint, moderation, and mutual understanding. They get their picture of one another through the press. The press can be inflammatory, sensational, and irresponsible . . . . On the other hand, the press . . . can help create a world community by giving men everywhere knowledge of the world and of one another.<sup>34</sup>

Even now, in the face of continuing conflict, war reporters still express some fragile faith that accurate reporting can help to end violence. Two years before she was killed in a shelling attack in Homs, Syria,<sup>35</sup> war correspondent Marie Colvin referred to this hope to explain why she risked her life:<sup>36</sup>

[S]omeone has to go there and see what is happening. You can't get that information without going to places where people are being shot at, and others are shooting at you. The real difficulty is having enough faith in humanity to believe that enough people—be

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33. The Commission was initiated by Henry R. Luce, a founder of Time, Inc., and funded by Time, Inc., and Encyclopedia Britannica, Inc. University of Chicago Chancellor Robert M. Hutchins and Harvard Law Professor Zechariah Chaffee, Jr. served as chairman and vice chairman, respectively. COMMISSION ON FREEDOM OF THE PRESS, A FREE AND RESPONSIBLE PRESS, ii, v (1947), available at <http://archive.org/stream/freeandresponsib029216mbp#page/n21/mode/2up> 10/11/13. The Commission's emphasis on the responsible use of communication helped to shape the "social responsibility" theory of the press. FRED S. SIEBERT ET AL., FOUR THEORIES OF THE PRESS 75 (1974).

34. COMMISSION ON FREEDOM OF THE PRESS, *supra* note 33, at 4.

35. John Swain, *Marie Colvin: The Last Assignment*, SUNDAY TIMES (London), Feb. 26, 2012, at 2.

36. M. David Arant & Philip Meyer, *Public and Traditional Journalism: A Shift in Values?* 13 J. MASS MEDIA ETHICS 205, 209-10 (1998).

they government, military or the man on the street—will care when your file reaches the printed page, the website, or the TV screen.<sup>37</sup>

Factual reporting ideally supplies Americans with an information pool that opposing partisans can share as they deliberate.<sup>38</sup> Facts can interrupt the information and reputational cascades that encourage people to shift toward extreme points of view.<sup>39</sup> Yet research in political science, psychology, and media studies finds that, even when verified facts are available, emotions play a large—perhaps controlling—role in civic decision making.<sup>40</sup> Studies have found that angry people are drawn to facts that maintain or exacerbate their anger, and people who feel self-oriented anxiety are drawn to facts related to arousal and self-protection.<sup>41</sup> People choose which news outlets to expose themselves to,<sup>42</sup> and this choice enables them to limit the range of

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37. Marie Colvin, Speech at St. Bride's Church Service in Memory of Journalist Casualties (Nov. 10, 2010), *available at* <http://www.theguardian.com/commentisfree/2012/feb/22/marie-colvin-our-mission-is-to-speak-truth>.

38. BILL KOVACH & TOM ROSENSTIEL, *BLUR: HOW TO KNOW WHAT'S TRUE IN THE AGE OF INFORMATION OVERLOAD* 180 (2010) ("A community's news institutions, new or old, can serve as public squares where we citizens can monitor voices from all sides, not just those in our own ideological affinity group.").

39. See Cass Sunstein, *Essay: Deliberative Trouble? Why Groups Polarize*, 110 *YALE L.J.* 71, 83 (2000).

40. George E. Marcus, *Emotions in Politics*, 3 *ANN. REV. POL. SCI.* 221, 231 (2000) (summarizing research in political science and psychology); Kang Namkoong et al., *The Politics of Emotion: News Media, Attention, Emotional Responses, and Participation During the 2004 U.S. Presidential Election*, 15 *MASS COMM. & SOC'Y* 25, 27 (2012) (referring to research in political science and media studies).

41. Cynthia A. Hoffner et al., *Why We Watch: Factors Affecting Exposure to Tragic Television News*, 12 *MASS COMM. & SOC'Y* 193, 209 (2009) (surveying more than 300 undergraduate students in the wake of the terrorist attack of September 11, 2001, and finding that those who scored higher in personal distress said that they watched news stories less out of empathy than out of curiosity about morbid events—a motive associated with a desire for arousal and maybe self-protection).

42. See, e.g., Shanto Iyengar & Kyu S. Hahn, *Red Media, Blue Media: Evidence of Ideological Selectivity in Media Use*, 59 *J. COMM.* 19, 33-35 (2009).

facts that enter their information worlds.<sup>43</sup> When they encounter identical facts, people with different political leanings tend to make different interpretations.<sup>44</sup> The mere exploration of a public issue can polarize audience members.<sup>45</sup> What is even worse for factual reporters and democratic compromise is that increased news coverage of an issue appears to widen the gap between partisans.<sup>46</sup>

### III. CONFLICT OVER RESOLUTION

Two recent movements have urged journalism to move beyond factual reporting and invest in problem solving. The civic journalism movement has called on journalists to actively help audience members address civic problems together in their communities.<sup>47</sup> The peace journalism movement has urged them to promote peace efforts in violent conflict. In both cases, traditional journalism has stopped short, unable to find a way forward that would not sacrifice dispassionate reporting. A brief recounting of the resistance to these movements illustrates journalism's discomfort with playing a problem-solving role.

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43. Amy Mitchell et al., *Political Polarization & Media Habits*, PEW RES. JOURNALISM PROJECT (Oct. 21, 2014), <http://www.journalism.org/2014/10/21/political-polarization-media-habits/> (finding that people with consistently conservative views overwhelmingly use and trust news outlets different from the ones used and trusted by people with consistently liberal views).

44. Matthew Gentzkow & Jesse M. Shapiro, *Ideological Segregation Online and Offline*, 126 Q. J. ECON. 1799, 1832 (2011); Prior, *supra* note 5, at 109.

45. Sunstein, *supra* note 39, at 80.

46. Jennifer Jerit & Jason Barabas, *Partisan Perceptual Bias and the Information Environment*, 74 J. POL. 672, 682 (2011) ("People are motivated to see the world in a manner that is consistent with their political views. This results in a selective pattern of learning in which partisans have higher levels of knowledge for facts that confirm their world view and lower levels of knowledge for facts that challenge them. This basic pattern is exaggerated on topics receiving extensive news coverage.").

47. Jay Rosen, *Questions and Answers about Public Journalism*, 1 JOURNALISM STUD. 679, 680 (2000).

### A. Civic Journalism

In the late 1980s, New York University Professor Jay Rosen observed that, unlike the public of democratic theory, the real public was inattentive, splintered on most issues, and unable to function.<sup>48</sup> He proposed that journalism should promote civic life by thinking of audience members as citizens and re-engaging them in public discussions.<sup>49</sup> His approach became known as “civic” or “public” journalism.<sup>50</sup>

Rosen first brought his idea to the Associated Press Managing Editors convention.<sup>51</sup> At that time, even before competition from the Internet, newspapers were facing declines in readership that happened to parallel declines in membership in many civic organizations.<sup>52</sup> Rosen’s approach encouraged newspapers to incorporate the views of citizen-readers in their reporting,<sup>53</sup> to link interested citizens to each other,<sup>54</sup> and even to gather citizens for meetings and dialogue.<sup>55</sup>

In 1996, James Fallows, then Washington Editor of the *Atlantic Monthly*, recommended civic journalism practices.<sup>56</sup> He wrote that journalism was failing democracy because it had grown “arrogant, cynical, scandal-minded, and destructive.”<sup>57</sup> The watchdog role of the press, continually criticizing government, he wrote, had led to a public sense of

48. JAY ROSEN, WHAT ARE JOURNALISTS FOR? 19 (1999).

49. Rosen, *supra* note 47, at 679-80.

50. ROSEN, *supra* note 48, at 21.

51. *Id.* at 19.

52. *Id.*

53. Burton St. John III, *Newspapers’ Struggles with Civic Engagement: The U.S. Press and the Rejection of Public Journalism as Propagandistic*, 10 COMM. REV. 249, 256 (2007).

54. Rosen, *supra* note 47, at 680.

55. Albert W. Dzur, *Public Journalism and Deliberative Democracy*, 34 POLITY 313, 316 (citing ARTHUR CHARITY, DOING PUBLIC JOURNALISM 19 (1995)).

56. JAMES FALLOWS, BREAKING THE NEWS: HOW THE MEDIA UNDERMINE AMERICAN DEMOCRACY 247 (1996).

57. *Id.* at 3.

mistrust, hopelessness, and disengagement,<sup>58</sup> not to mention a declining image of the news media.<sup>59</sup> Fallows quoted a study that found that communities with healthy civic engagement understood that issues were entangled with each other.<sup>60</sup> They valued ambivalence on thorny questions, and they had local institutions that helped them connect to each other.<sup>61</sup>

Some newspapers, especially small- to medium-circulation papers, responded to the call of civic journalism. The *Charlotte Observer* interviewed residents of high-crime areas and asked them to suggest solutions.<sup>62</sup> The *Columbus Ledger-Enquirer* surveyed readers and wrote an eight-part series about the future of the Georgia city, including its economy, infrastructure, and schools—and when no public action resulted, the newspaper took the next step.<sup>63</sup> It offered a venue and helped run a meeting, which led to more meetings, discussions, and task forces.<sup>64</sup>

Many other newspapers were critical. The *New York Times*, responding to Fallows's book in an editorial, said it was dangerous to have reporters and editors become "public policy missionaries."<sup>65</sup> Others worried about newspaper involvement in civic projects. "I think what Columbus did was bad," said Howard Schneider, managing editor of *Newsday*.<sup>66</sup> He worried that, by getting involved and making the community agenda its own, the newspaper had weakened its future ability to report on harsh realities.<sup>67</sup> Some critics argued that engagement in the community blurred the line

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58. *Id.* at 240-43.

59. Dzur, *supra* note 55, at 315.

60. FALLOWS, *supra* note 56, at 244-45.

61. *Id.* at 244-46.

62. Dzur, *supra* note 55, at 315.

63. ROSEN, *supra* note 48, at 13.

64. *Id.* at 29-30.

65. Howell Raines, *Editorial Notebook: The Fallows Fallacy: A Plan for Turning Reporters Into Lackeys*, N.Y. TIMES, Feb. 25, 1996, <http://www.nytimes.com/1996/02/25/opinion/editorial-notebook-the-fallows-fallacy-a-plan-for-turning-reporters-into-lackeys.html>.

66. ROSEN, *supra* note 48, at 31.

67. *Id.*

between reporting and advocacy.<sup>68</sup> For journalists, engaging in advocacy was taboo.<sup>69</sup> Others cautioned that public journalism went too far, assuming jobs that belonged to government<sup>70</sup> or force-feeding the public its own concept of citizenship.<sup>71</sup> “Many journalists suspected that the proposed abandonment of objectivity and remoteness for a facilitative role was an attempt to maneuver the public’s attention and action in a way that could benefit privileged interests.”<sup>72</sup>

In 1998, a survey of 375 newspapers found that, while most journalists wanted to help their communities, they did not favor doing so by actively engaging with civic groups or by organizing programs.<sup>73</sup> Instead, and overwhelmingly, they gave the strongest support to their traditional roles of exposing government wrongdoing and providing practical information to the public.<sup>74</sup> By the year 2000, more than 300 newspapers, one-fifth of

68. Tanni Haas & Linda Steiner, *Public Journalism: A Reply to Critics*, 7 JOURNALISM 238, 248 (2006).

69. See, e.g., N.Y. TIMES, ETHICAL JOURNALISM: A HANDBOOK OF VALUES AND PRACTICES FOR THE NEWS AND EDITORIAL DEPARTMENTS (2004) available at [http://nytco.com/pdf/NYT\\_Ethical\\_Journalism\\_0904.pdf](http://nytco.com/pdf/NYT_Ethical_Journalism_0904.pdf) (“Staff members may not serve on government boards or commissions, paid or unpaid. They may not join boards of trustees, advisory committees or similar groups . . . . Normally the restriction will not apply to organizations that are highly unlikely to generate news of interest to the Times and that do not generally seek to shape public policy.”); AP News Values & Principles, ASSOCIATED PRESS, <http://www.ap.org/company/news-values> (last visited Jan. 11, 2015) (“Editorial employees are expected to be scrupulous in avoiding any political activity, whether they cover politics regularly or not.”).

70. Dzur, *supra* note 55, at 315.

71. Will Friedman, *Coming to Public Judgment: Strengthening Impacts, Exploring National Possibilities*, in TOWARD WISER PUBLIC JUDGMENT 141 (Daniel Yankelovich & Will Friedman eds., 2011) (quoting Tom Goldstein, *Good Question* (review of JAY ROSEN, WHAT ARE JOURNALISTS FOR?), N.Y. TIMES, Nov. 14, 1999).

72. St. John, *supra* note 53, at 257.

73. Arant & Meyer, *supra* note 36, at 216.

74. *Id.* at 216-17.

newspapers in the United States, practiced civic journalism in some form,<sup>75</sup> but even among these, more than half specified that their goal was in line with traditional journalism values: to inform and raise awareness.<sup>76</sup> Today, journalists rank the traditional watchdog role as their most important role, with a higher percentage seeing it as “extremely important” than even during the Vietnam era.<sup>77</sup>

### *B. Peace Journalism*

As some journalists were experimenting with civic journalism in their communities, others were recommending a similar affirmative and engaged role on battlefields. After the Persian Gulf War in 1991, correspondents Annabel McGoldrick and Jake Lynch began urging their colleagues to go beyond fact-finding to help society consider non-violent approaches to conflict.<sup>78</sup> Their ideas were based on the work of sociologist Johan Galtung, who had named this approach “peace journalism.”<sup>79</sup> He accused “war and violence journalism”<sup>80</sup> of highlighting the immediacy and drama of battle while ignoring the slower process of negotiation.<sup>81</sup> Rather than focusing on a conflict as a zero-sum game, he advocated covering peace talks, exploring possibilities for win-win solutions, and aiming at preventing violence.<sup>82</sup>

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75. LEWIS A. FRIEDLAND & SANDY NICHOLS, MEASURING CIVIC JOURNALISM’S PROGRESS: A REPORT ACROSS A DECADE OF ACTIVITY 18 (2002), *available at* <https://web.archive.org/web/20130724032934/http://www.pewcenter.org/doingcj/research/measurin-gcj.pdf>

76. *Id.*

77. WILLNAT & WEAVER, *supra* note 27, at 14 (comparing 78.2% in 2013 to 76% in 1971).

78. Thomas Hanitzsh, *Journalists as Peacekeeping Force? Peace Journalism and Mass Communication Theory*, 5 JOURNALISM STUD. 483, 484 (2004).

79. Johan Galtung, *Peace Journalism*, 30 MEDIA ASIA 177, 177 (2003).

80. Johan Galtung, *Peace Journalism: What, Why, Who, How, When, Where?*, in THE PEACE JOURNALISM CONTROVERSY 20 (Wilhelm Kempf ed., 2008).

81. *See id.* at 22.

82. Galtung, *supra* note 79, at 178.

Galtung advised this approach, not only for covering battlefields, but also for reporting on conflicts at all levels, from national strife to domestic violence and child abuse.<sup>83</sup>

Along similar lines, former British Broadcasting Corporation (BBC) foreign affairs correspondent Martin Bell has advocated an ethical duty for journalists to side with the victims of war.<sup>84</sup> He recommends that reporters practice a “journalism of attachment” to the conflicts they cover by engaging in a moral enterprise that “will not stand neutrally between good and evil, right and wrong, the victim and the oppressor.”<sup>85</sup> However, peace journalism and the journalism of attachment, like civic journalism, have been met by skepticism from traditionalists.<sup>86</sup> Among the most vocal opponents of peace journalism, BBC reporter David Loyn has called its prescriptions “dangerous.”<sup>87</sup> Loyn insists that to encourage peacemaking is not the reporter’s business.<sup>88</sup> Peace journalism has been more easily adopted in developing and post-conflict nations than amid the established—and professionally detached—journalism traditions of Washington and London.<sup>89</sup>

Although these two movements did not revolutionize journalism, their emergence reveals some concern and frustration within the field at the

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83. *Id.* at 179.

84. Wilhelm Kempf, *Constructive Conflict Coverage: A Social-Psychological Model*, in THE PEACE JOURNALISM CONTROVERSY 34 (Wilhelm Kempf ed., 2008).

85. Karoline Von Oppen, *Reporting from Bosnia: Reconceptualising the Notion of a ‘Journalism of Attachment,’* 17 J. CONTEMP. EUR. STUD. 21, 24 (quoting Martin Bell, *TV News: How Far Should We Go?*, 8 BRIT. JOURNALISM REV. 7 (1997)).

86. Reuben, *supra* note 29, at 83-84.

87. David Loyn, *Good Journalism or Peace Journalism?*, in THE PEACE JOURNALISM CONTROVERSY 53 (Wilhelm Kempf ed., 2008).

88. *Id.* at 54. For a response to such criticism, see Jake Lynch, *Peace Journalism and its Discontents*, 6 CONFLICT & COMM. ONLINE, no. 2, 2007, available at [http://www.cco.regenerationonline.de/2007\\_2/pdf/lynch.pdf](http://www.cco.regenerationonline.de/2007_2/pdf/lynch.pdf).

89. See Robert A. Hackett, *Journalism for Peace and Justice: Towards a Comparative Analysis of Media Paradigms*, 4 STUD. SOC. JUST. 179, 186 (2010).



results of traditional factual reporting. The movements' failure to win widespread acceptance leaves open the question of how journalists might still further the functioning of the public forum without violating their own professional norms. Transformative mediation suggests a possible approach by offering two propositions: that what participants in a productive forum need, in addition to facts, is the capacity to hear each other and clarify their own ideas<sup>90</sup>—and that third-party neutrals can support growth in that capacity.

#### IV. TRANSFORMATIVE MEDIATION

The transformative model of mediation shares a number of characteristics with other forms of mediation. Similar to problem-solving mediation, the transformative model allows opposing parties to discover and consider issues that might hold the key to resolving their conflict, even when those issues have no legal remedy; it also offers parties an informal, consensual process, unlike the win-lose arena of the courtroom.<sup>91</sup> The transformative model also gives control of the outcome to the parties; they shape the settlement agreement, if there is one, and no authority imposes it.<sup>92</sup>

The transformative model, however, seeks a goal that is different from that of the problem-solving model. Problem-solving mediation aims to help parties move away from their fixed positions in order to discover their

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90. See Hiro Aragaki, *Deliberative Democracy as Dispute Resolution? Conflict, Interests, and Reasons*, 24 OHIO STATE J. ON DISP. RESOL. 406, 431-35 (2009) (detailing how relational conflict undermines the ability of participants in a deliberative democracy to reason with each other over substantive issues); see also Steven A. Rosell & Heidi Gantwerk, *Moving Beyond Polls and Focus Groups*, in TOWARD WISER PUBLIC JUDGMENT 110-15 (Daniel Yankelovich & Will Friedman eds., 2011) (proposing that empathetic listening is essential to working through democratic problem solving), and Carrie Menkel-Meadow, *Deliberative Democracy and Conflict Resolution*, DISP. RESOL. MAG., Winter 2006, at 18, 20 (discussing the role of empathy in both deliberative democracy and conflict resolution).

91. BUSH & FOLGER, *supra* note 10, at 8.

92. *Id.*

underlying interests, and it helps generate creative ways in which both might satisfy those interests.<sup>93</sup> Transformative mediation does not focus on sorting out the parties' problems, discovering their interests, or generating solutions.<sup>94</sup> Instead, it aims at improving the quality of their interaction by changing the way the parties understand themselves and each other.<sup>95</sup>

As formulated by Robert A. Baruch Bush and Joseph P. Folger, scholars in law and communication respectively,<sup>96</sup> transformative mediation holds that people in conflict experience "a loss of personal strength and clarity."<sup>97</sup> In response, they become self-absorbed and accusatory.<sup>98</sup> Behaving in ways that are increasingly hostile, they prompt reciprocal responses from each other, in a continuing downward spiral.<sup>99</sup> Transformative mediation aims to transform individuals from fearful, defensive, or self-centered beings into confident, responsive, and caring ones—who are then quite capable of grappling with the issues by themselves.<sup>100</sup>

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93. See e.g., Lela P. Love & Kimberlee K. Kovach, *ADR: An Eclectic Array of Processes, Rather Than One Eclectic Process*, 2000 J. DISPUTE RESOL. 295, 317 (2000).

94. CARRIE J. MENKEL-MEADOW ET AL., *DISPUTE RESOLUTION: BEYOND THE ADVERSARIAL MODEL* 309 (2005).

95. BUSH & FOLGER, *supra* note 10, at 18.

96. Bush is the Harry H. Rains Distinguished Professor of Arbitration and Alternative Dispute Settlement Law at Hofstra University's Maurice A. Dean School of Law. HOFSTRA LAW, <http://law.hofstra.edu/directory/faculty/fulltime/baruch/> (last visited Jan. 25, 2015). Folger holds a Ph.D. in Communication Sciences and teaches conflict processes and mediation as a professor in the College of Education at Temple University. TEMPLE UNIVERSITY COLLEGE OF EDUCATION, <http://education.temple.edu/faculty/joseph-p-folger-phd> (last visited Jan. 25, 2015).

97. Joseph P. Folger, *Harmony and Transformative Mediation Practice: Sustaining ideological Differences in Purpose and Practice*, 84 N.D. L. Rev. 823, 840 (2008).

98. *Id.* at 841.

99. Dorothy Della Noce & Hugo C. M. Prein, *The Case for Transformation: A Review of Theoretical and Empirical Support*, in *TRANSFORMATIVE MEDIATION: A SOURCEBOOK* 17-18 (Joseph P. Folger et al. eds., 2010).

100. Geoffrey A. Drucker, *The Postal Service's Decision to Use Transformative Mediation*, in *RESOURCE BOOK FOR MANAGING EMPLOYMENT DISPUTES* 5 (2004) (recounting the adoption of transformative mediation by the U.S. Postal Service "REDRESS" program and observing, "While

To achieve this, the transformative mediator tries to support each party in making two changes: first, the mediator supports the parties in clarifying their own needs and strengths, and second, the mediator supports them in empathizing with each other. Transformative mediation calls these twin goals *empowerment* and *recognition*.<sup>101</sup> The meanings of these two key words should be distinguished from their meanings in other contexts. *Empowerment* does not refer to gaining authority, but to gaining personal clarity and strength.<sup>102</sup> *Recognition* does not refer to identifying something that has been seen before, but to “letting go—however briefly or partially—of one’s focus on self and becoming interested in the perspective of the other party as such, concerned about the situation of the other as a fellow human being, not as an instrument for fulfilling one’s own needs.”<sup>103</sup> Recognition is also characterized as “interpersonal understanding and compassion.”<sup>104</sup>

Transformative mediation attempts to support any “shift” in the internal responses of the parties toward empowerment and recognition, and it uses some techniques that are starkly different from those of problem-solving mediation. Where the problem-solving mediator will often highlight areas of agreement between the parties in order to help build momentum toward an overall settlement,<sup>105</sup> the transformative mediator highlights areas of

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the focus of transformative mediation is on the parties’ relationship, settlement of the dispute that brought them to the table is a natural and common outgrowth of the process”).

101. BUSH & FOLGER, *supra* note 10, at 18.

102. *Id.* at 76-77 (“[S]upporting [party] empowerment does not mean adding to the strength of either party by becoming an advocate, adviser or counselor. . . . [It] does not require—or involve at all—the mediator’s taking sides, expressing judgments, or being directive, all of which are central aspects of advice giving and advocacy.”).

103. *Id.* at 77.

104. Joseph P. Folger & Robert A. Baruch Bush, *Transformative Mediation and Third-Party Intervention: Ten Hallmarks of a Transformative Approach to Practice*, 13 *MEDIATION Q.* 263, 275 (1996).

105. Lela P. Love & Joseph B. Stuhlberg, *Targets and Techniques to Generate Movement*, in CARRIE J. MENKEL-MEADOW ET AL., *DISPUTE RESOLUTION: BEYOND THE ADVERSARIAL MODEL* 347, 348 (2005).

disagreement.<sup>106</sup> Where the problem-solving mediator might rephrase inflammatory words from a disputing party in order to turn them into reasonable issues for discussion,<sup>107</sup> the transformative mediator does not.<sup>108</sup> The transformative mediator sees hostile words, sarcasm, and haranguing as signs that a party feels weak.<sup>109</sup> In response, the transformative mediator will echo the troublesome statements immediately and precisely, purposely matching even the excited energy of the speaker.<sup>110</sup> The technique is called “reflection.”<sup>111</sup>

Reflection is thought to work in at least three ways. First, it “allows parties to more deeply consider the implications of their own remarks . . . and to restate and refine comments that they may have previously offered.”<sup>112</sup> Second, an accurate reflection reassures a party that he or she has been heard.<sup>113</sup> This reassurance offers an opportunity for the party to feel an increased sense of empowerment, even if only incrementally.

106. *Institute for the Study of Conflict Transformation*, *supra* note 10, at 70.

107. See, e.g., Lela Love, *Deconstructing Dialogue and Constructing Understanding, Agendas, and Agreements*, 38 FAM. & CONCILIATION COURTS REV. 27, 33 (2000) (“Both recipients of and witnesses to put-downs and insults . . . tend naturally to react with alarm, heightened adrenaline and (especially for the recipient) an attack response. Mediators must hear and, at appropriate points, reframe the feelings that generate such statements.”).

108. Folger & Bush, *supra* note 104, at 272 (“[I]nstead of treating emotion as static to be vented and removed, the transformative mediator considers emotion as a rich form of expression that, when unpacked and understood, can reveal plentiful information about the parties’ views of their situation and each other—information that can then be used to foster both empowerment and recognition.”).

109. Problem-solving mediators also recognize that venting emotions can further a dialogue. See, e.g., Love, *supra* note 107, at 33 (“It is often the case that both parties to a conflict have similar feelings of anger and frustration . . . . [S]ometimes the venting and acknowledgement alone can shift the feelings themselves. Mediators should be trained to hear insults and think ‘this person is/may be upset.’”).

110. Folger, *supra* note 97, at 823; see also *Institute for the Study of Conflict Transformation*, *supra* note 10, at 45.

111. *Institute for the Study of Conflict Resolution*, *supra* note 10, at 42.

112. Folger, *supra* note 97, at 823.

113. *Institute for the Study of Conflict Resolution*, *supra* note 10, at 47.

Finally, reflection may also allow the other party to hear the hostile statement in a new way, now that it has been pronounced in the different, and presumably less threatening, voice of the mediator.<sup>114</sup>

Transformative mediators also offer occasional “summaries,” in which they recount the subjects brought up by the two parties and highlight the topics of disagreement.<sup>115</sup> Transformative mediators do not rephrase, reframe, or prioritize these issues. Instead, they offer the summary as an opportunity for parties to take stock before the parties take their conversation in its next direction.<sup>116</sup> The summary is thought to further empowerment by letting parties see clearly an entire segment of their conversation.<sup>117</sup> It is thought to further recognition by reminding parties of each other’s different views.”<sup>118</sup>

Transformative mediation cites theoretical underpinnings in psychology.<sup>119</sup> The clinical psychologist Carl Rogers used “reflecting” as a tool in nondirective counseling.<sup>120</sup> He described reflection as, ideally, “a clear mirror image of the meanings and perceptions that make up [a client’s] world of the moment—an image that is clarifying and insight producing.”<sup>121</sup> Rogers wrote that even a client’s negative expressions—if accepted and recognized by the therapist—were predictably followed by expressions of love and social connection.<sup>122</sup> Rogers also offered summaries to sharpen and clarify differences.<sup>123</sup> The downward spiral, in which hostility undermines confidence and trust, is also described by social psychologist Morton

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114. *Id.*

115. *Id.* at 48.

116. *Id.* at 48-49.

117. *Id.* at 50.

118. *Id.*

119. Della Noce & Prein, *supra* note 99, at 105-17.

120. *Id.* at 109.

121. *Id.*

122. *Id.* at 107-08.

123. *Id.* at 109-10.

Deutsch<sup>124</sup> who has found that parties in conflict respond to each other reciprocally—or, as very briefly summarized, “cooperation breeds cooperation, while competition breeds competition.”<sup>125</sup>

The transformative model has been employed beyond intimate mediation sessions, and its proponents claim the potential to address ethnic, political,<sup>126</sup> and other large-scale societal problems.<sup>127</sup> Some, including Judith Saul and Scott Sears, have brought transformative principles to broad community discussions of public policy<sup>128</sup> and to multi-party mediations.<sup>129</sup> To maintain their transformative orientation in these larger-scale disputes,

124. *Id.* at 114.

125. MORTON DEUTSCH, *THE RESOLUTION OF CONFLICT* 367 (1973). Deutsch cautions that this phrase is too condensed, after explaining that “the strategy of power and the tactics of coercion, threat, and deception result from, and also result in, a competitive relationship. Similarly, the strategy of mutual problem solving and the tactics of persuasion, openness, and mutual enhancement elicit, and also are elicited by, a cooperative orientation.” *Id.* at 365.

126. Joseph P. Folger & Robert A. Baruch Bush, *Transformative Practice in Ethno-Political Conflict: An Emerging Initiative*, in *TRANSFORMATIVE MEDIATION: A SOURCEBOOK* 417-21 (Joseph P. Folger et al. eds., 2010).

127. ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, *THE PROMISE OF MEDIATION: RESPONDING TO CONFLICT THROUGH EMPOWERMENT AND RECOGNITION* 46-53 (1994). In this first edition of their book, the authors, recalled news coverage of the Rodney King case, and expressed concern that the dispute resolution field had not responded. They asked what it might have done—or might do in the future—to “reduce the sense of alienation and division that . . . probably fueled the riots.” *Id.* at 48. They contrasted this with the optimism of the early mediation movement of the late 1960s, which had expected “to change the conditions that fueled the disorders of that decade, even if only gradually.” *Id.* While, in their view, the problem-solving model had retreated from grappling with societal divisions, they asserted that transformative mediation still had a grander vision. *Id.*; see also Isabelle R. Gunning, *Know Justice, Know Peace: Further Reflections on Justice, Equality and Impartiality in Settlement Oriented and Transformative Mediations*, 5 *CARDOZO J. CONFLICT RESOL.* 87, 87-88 (2004).

128. BUSH & FOLGER, *supra* note 10, at 46.

129. Judith Saul & Scott Sears, *A Relational Perspective on Multi-Party Practice*, in *TRANSFORMATIVE MEDIATION: A SOURCEBOOK* 405 (Joseph P. Folger et al. eds., 2010).

they include diverse views and strive to keep the process transparent,<sup>130</sup> and they define success as giving clarity and voice to the participants.<sup>131</sup>

Although Bush and Folger discourage combining their approach with others,<sup>132</sup> their work has inspired variations on the transformative model. For example, family therapist Richard Chasin and colleagues in the Public Conversations Project in Watertown, Massachusetts, have used the transformative theory but somewhat different practices to address policy conflicts over abortion, land use, and development.<sup>133</sup> They observe, “In polarized controversies, people are inclined to voice only that part of themselves that is consonant with the rhetoric associated with one of the poles. Conversations between opponents become confined to old positional arguments, attacks, defenses, and counterattacks.”<sup>134</sup> To counter this tendency, Chasin and colleagues select the participants, pre-interview them, and set ground rules aimed at eliciting comments that are “authentic but not attacking.”<sup>135</sup> They also use carefully prepared opening questions to urge participants to talk personally at the start, thus disrupting positions and stereotypes.<sup>136</sup> These practices exert more control over the conversation than a transformative mediator would, but the Public Conversations Project still salutes “Bush and Folger’s broad achievement,” a focus on improving the quality of the parties’ relationship rather than on achieving settlement.<sup>137</sup>

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130. *Id.* at 408.

131. *Id.* at 415.

132. Bush & Folger, *supra* note 10, at 228 (“Our experience is that combining models is not possible, because of the incompatible objectives of different models and the conflicting practices that flow from these diverse objectives.”).

133. Chasin et al., *supra* note 13, at 323-25.

134. *Id.* at 334-35.

135. *Id.* at 338. “Feelings conveyed through character attacks, assignment of malicious motives, implied threats, insults to family, religion, race, nationality, and such may be so wounding as to offset any value to be gained by bringing those feelings to the table.” *Id.*

136. *Id.* at 335.

137. *Id.* at 340 (“Nothing could be closer to our hearts than Bush and Folger’s broad achievement: a conscientiously wrought and passionately expressed appeal to give priority to the

The University of Colorado Information Consortium has developed another transformative approach for use in large-scale policy conflicts.<sup>138</sup> It is called “constructive confrontation,”<sup>139</sup> and it aligns itself with the transformative model because it, too, aims at empowerment and recognition, although by different names.<sup>140</sup> It also rejects problem solving in favor of encouraging incremental changes in the parties, themselves.<sup>141</sup>

Mediators (from Bush and Folger’s point of view) or conflict specialists in general (from our point of view) would do better when they confronted difficult or intractable conflicts if they would abandon the search for resolution and pursue empowerment and recognition (in Bush and Folger’s words) or constructive confrontation (in our words) instead.<sup>142</sup>

Like the Public Conversations approach to public conflicts, constructive confrontation’s technique is more structured than Bush and Folger’s.<sup>143</sup> Heidi and Guy Burgess have described the process in medical terms: diagnose a conflict, explore different treatment options, and monitor progress.<sup>144</sup> However, “[n]either constructive confrontation nor transformative mediation has a predetermined structure or step-by-step process beyond the most basic framework. Rather, both have a list of things to look for and respond to,”<sup>145</sup> and both look for incremental change.<sup>146</sup>

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quality of the relational experience, and to the enhancement of the relational skills required when dealing with human beings at impasse. We agree strongly with this priority . . . . Most important, we must detach ourselves from the goal of settlement.”).

138. Heidi Burgess & Guy Burgess, *Constructive Confrontation: A Transformative Approach to Intractable Conflicts*, 12 *MEDIATION Q.* 305, 305 (1996). The project was formerly called the Conflict Research Consortium. *Conflict Information Consortium*, UNIVERSITY OF COLORADO AT BOULDER, <http://conflict.colorado.edu/> (last visited Feb. 6, 2015).

139. Burgess & Burgess, *supra* note 138, at 305.

140. *Id.* at 307.

141. *Id.* at 308.

142. *Id.* at 307.

143. *Id.* at 321.

144. *Id.* at 307-09.

145. Burgess & Burgess, *supra* note 138, at 308.

146. *Id.* at 319-20.



In some other variations on the transformative model, mediators bring fairness and justice values into the process. For example, Isabelle Gunning, while expressing her attraction to the transformative model, urges mediators to actively address power imbalances between parties by asking parties to define “equality” and “justice”<sup>147</sup> and by later checking in to remind the parties of these definitions.<sup>148</sup> Ellen Waldman would proceed differently in cases where disputes involve public resources and public values.<sup>149</sup> She advises transformative mediators to advocate that settlements be guided by societal norms, rather than by norms generated by parties.<sup>150</sup>

These examples illustrate ways in which transformative mediation has been adapted to new situations. Each focuses on empowerment and recognition as the overarching goals and understands those goals to be mutually reinforcing. Some adaptations, in addressing broader public issues, increase their control over selected aspects of the process. Still, none of the adaptations above contend with the overhearing audience that is the norm for a news interview. The next section will take up the problem—and the potential—offered by the presence of the audience.

#### V. NEWS INTERVIEWS THROUGH A TRANSFORMATIVE LENS

One similarity between transformative mediators and news interviewers is their comfort with conflict. Describing the attributes of mediators in the transformative approach, Folger writes:

Mediators are able to be “in the room” with escalating conflict and do not contain parties’ conflict interaction by encouraging parties to avoid conflict, save face, offer forgiveness,

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147. Isabelle R. Gunning, *Know Justice, Know Peace: Further Reflections on Justice, Equality, and Impartiality in Settlement Oriented and Transformative Mediations*, 5 *CARDOZO J. CONFLICT RESOL.* 87, 90-91 (2004).

148. *Id.* at 95.

149. See Ellen A. Waldman, *Identifying the Role of Social Norms in Mediation: A Multiple Model Approach*, 48 *HASTINGS L.J.* 703, 703 (1997).

150. *Id.* at 742.

or move to common ground. Instead, the mediator is comfortable allowing the parties to explore the dimensions of difficult and divisive issues however they want to address them, even if this means that the parties question or end their relationship, fail to reach an agreement, or decide to escalate their conflict by pursuing it through an adversarial process outside of the mediation.<sup>151</sup>

The same description would apply to news reporters, who are often “in the room” with conflict and are professionally oriented not to influence its outcome.

Like the transformative mediator, the reporter takes care to preserve words and repeat them. In news interviews, the repetition of a party’s statements normally follows, not immediately, but soon after the words are uttered, when the news organization quotes and publishes them. At that point, the party does—or at least is able to—see or hear the words again by reading or viewing the report.

In broadcast news, the technique of reflecting a news source’s statements also occurs in other ways. Once a party makes an important statement, a reporter may recall it for the same party in a subsequent interview. A brief look at transcripts of televised news interviews during February and March 2014, as protests arose in Ukraine and as Russia annexed Crimea, easily located examples. In one example, CBS News correspondent Bob Schieffer reflected an earlier comment of Senator John McCain, preserving and not muting it:

**SCHIEFFER:** Senator, I want to ask you about something you said the other day. You said that President Obama was—and I believe these are your words—“the most naive president in history.” Did you mean that literally, or how did you mean that?

**MCCAIN:** I meant it in my—in my time in public life. When you look at the so-called Geneva farce that was just a terrible joke, where we expected for Bashar Assad to come

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151. Folger, *supra* note 97, at 844.

to Geneva and arrange for his own transition from power when he was winning on the ground was ludicrous . . . .<sup>152</sup>

As in transformative mediation, the reflection let the interviewee consider and, if needed, restate or refine, what was said before. In transformative mediation, this kind of reflection would be used in order to help the speaker make an empowerment shift—establishing his presence on the record, letting him hear himself, and letting him modify his comments if desired.<sup>153</sup> In fact, in a news interview, further consideration is not merely allowed, but often requested.

Besides reflecting comments back to the speaker, reporters commonly confront an interviewee with a statement from an opposing party, especially if the statement is strong or provocative—the kind of statement that a transformative mediator might flag as an opportunity for reflection.<sup>154</sup>

**DAVID GREGORY:** Congressman, let me ask about [former White House counsel] Kathy Ruemmler who is here. She worked for the president, tries not to get in all the partisan fights, but as [she] has said, “Look, this potential suit that the House speaker is pursuing has no standing, should be seen as beyond frivolous.” What do you think?

**REP. SEAN DUFFY:** Well, first of all, let’s look at what the president’s doing. He’s taking historic action, never been done before, where he’s waiving and suspending laws.<sup>155</sup>

In a transformative mediation, the reporter’s restatement of an opponent’s view would give the listening party a chance to re-hear the opposing view, possibly with less guardedness and more understanding.

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152. Face the Nation Transcripts, CBS NEWS (Feb. 23, 2014), <http://www.cbsnews.com/news/face-the-nation-transcripts-february-23-2014-mccain-jindal-omalley/>.

153. *Institute for the Study of Conflict Transformation*, *supra* note 10, at 47.

154. *Id.* at 33 (listing samples of statements that present opportunities for empowerment and recognition shifts). These include statements that keep repeating the same point, trivialize the other’s point, or assume the worst motives of the other. *Id.* It is worth noting, however, that transformative mediation would not carry messages between parties. *Id.* at 45.

155. *Meet the Press Transcript*, NBC NEWS (June 29, 2014), <http://www.nbcnews.com/meet-the-press/meet-press-transcript-june-29-2014-n143826>.

It is possible that the accurate repetition of a speaker's statements has the same effect in a news interview as in a transformative mediation. That is, the news source, seeing that he or she has been heard, may feel an incrementally increased sense of clarity, or empowerment. From this position, the source may reconsider and temper an extreme statement. Also, as in a transformative mediation, an opponent who now can see or hear the statement in a different voice, and at a safer remove, may be a bit more able to understand and empathize. Yet disputes are highlighted and summarized, and angry words are reflected in news media interviews every day. If these techniques, in a news context, were enough to prompt a disputant to experience more internal clarity and more empathy toward an opponent, then news interviews would be resolving conflicts routinely, and this is apparently not the case. In fact, in the examples here, the interviewees did not appear to rethink and temper their earlier comments nor did they demonstrate greater sympathy toward the views of others. Instead, they strengthened and defended their positions.

*A. The Audience Problem*

The problem is that news interviews differ fundamentally from personal talk. Even though the broadcast medium requires the appearance of conversational ease, the news interview is highly choreographed<sup>156</sup> and geared to the ever-present but "unseen public."<sup>157</sup> It is "*the production of talk that is targeted for an overhearing audience.*"<sup>158</sup> The interview is a structured question-answer talk, in which journalist and source take turns,<sup>159</sup>

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156. STEVEN CLAYMAN & JOHN HERITAGE, *THE NEWS INTERVIEW: JOURNALISTS AND PUBLIC FIGURES ON THE AIR* 28 (2002).

157. MICHAEL SCHUDSON, *THE POWER OF NEWS* 75 (1995).

158. CLAYMAN & HERITAGE, *supra* note 156, at 119.

159. *Id.* at 95-119.

and the tone is generally civil, although questions may be adversarial or even hostile<sup>160</sup> and appear to have become more challenging in recent decades.<sup>161</sup>

Typically, news interviews engage representatives of institutions, most often political insiders;<sup>162</sup> therefore, the dialogue is goal-oriented.<sup>163</sup> “[M]ost live interviews are less a revelatory encounter than a kind of ceremonial ritual . . . a way for newsmakers to present themselves and deliver messages”<sup>164</sup> and for news organizations to excite audiences with spontaneous drama.<sup>165</sup>

In such circumstances, moments of empowerment and recognition, in the transformative sense, are likely to be rare. The founder of “peace journalism,” Johan Galtung, acknowledged that “good conflict work is rarely done with millions watching and the parties playing to that enormous gallery.”<sup>166</sup> Transformative mediator Judith Saul, who facilitates large group conversations on public issues in Ithaca, New York, points out that the presence of an audience can complicate dialogue by adding a layer of group

160. *Id.* at 188-237.

161. John Heritage & Stephen E. Clayman, *The Changing Tenor of Questioning Over Time*, 7 JOURNALISM PRAC. 481, 498-99 (2013).

162. CLAYMAN & HERITAGE, *supra* note 156, at 36.

163. Jeffrey Craig, *Dialogue and Dissemination in News Media Interviews*, 11 JOURNALISM 75, 79 (2010) (“News media interviews are a form of institutional dialogue, and, as such, distinguished against ordinary conversation or informal talk. Conversation is defined by a range of features (however problematic they may be) such as a greater sense of equal status between participants, equal rights to speak, greater degrees of reciprocity and assumptions about equal contributions to the conversation.”).

164. KOVACH & ROSENSTIEL, *supra* note 38, at 131.

165. Ted Koppel, former anchor of ABC News Nightline, interviewed for the Television Academy Foundation’s Archive of American Television, and recalled his role in pioneering live broadcast interviews with two or more opposing news sources, saying, “Roone [Arledge, then ABC News president] once described it as holding two wires or three wires together and watching the sparks fly.” Videotape: Interview by Don Carleton with Ted Koppel, anchor and managing editor, Nightline, in Washington, D.C., at 18:03 in part four, Ted Koppel, (June 14, 2005) (on file with the Archive of American Television), available at <http://www.emmytvlegends.org/interviews/people/ted-koppel#> (transcribed by author).

166. Galtung, *supra* note 80, at 33 n. 11.

dynamics to the internal and interpersonal dynamics already present.<sup>167</sup> In a hypothetical television interview with allies watching, a spokesperson who suddenly glimpses some value in an opponent's viewpoint will likely worry, "Am I going to have the courage to speak up . . . without being marginalized and seen as a traitor?"<sup>168</sup>

Even in that hypothetical scene, however, Folger points out that empowerment and recognition are occurring, albeit silently, in the moment of that sympathetic glimpse.<sup>169</sup> This incremental change matters, he says, even if it is not publicly acknowledged.<sup>170</sup> "[R]ecognition can happen in thought, even when it is not overtly expressed in words. Careful and intentional interviewing can give interviewees mental pause, even if people do not express shifts in their thinking aloud."<sup>171</sup>

The typical television interview, however, has been offered as a classic example of "destructive debate" rather than dialogue.<sup>172</sup> Television news interviews are distorted, "repetitive, entrenched and rhetorical"<sup>173</sup> events in which interviewees can repeat talking points advised by political marketers.<sup>174</sup> Such stubborn repetition is just the kind of talk that would signal weakness and self-absorption to a transformative mediator. That means that, if viewed through the lens of transformative mediation, what

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167. Telephone interview with Judith Saul, transformative mediator, facilitator, and trainer, Institute for the Study of Conflict Transformation (June 17, 2014).

168. *Id.*

169. E-mail from Joseph P. Folger, Professor, College of Education, Temple University, to author (July 24, 2014) (on file with author).

170. *Id.*

171. *Id.*

172. Chasin et al., *supra* note 13, at 326.

173. *Id.* at 325.

174. KOVACH & ROSENSTIEL, *supra* note 38, at 89-90 ("Talking points are preconfigured phrases and political-marketing buzzwords developed by communication specialists to manipulate public perception . . . . In the assumption that continuous repetition may convert assertion into belief, if not quite fact, the use of talking points has become standard procedure in Washington . . . .").

audiences observe in a contentious news interview is the lowest point on the downward spiral of hostility—the place where both sides keep repeating themselves and appear not to hear each other. In the one-way communication of broadcast and cable transmission, the audience cannot respond. It can only observe powerlessly—or change the channel.

*B. The Audience Potential*

News has been defined as communication that provides a threat to the tranquility of the news consumer.<sup>175</sup> That is, news is news because it is frightening.<sup>176</sup> Sociologist David Altheide charges that the point of the interview—particularly when conducted for cameras—has changed from gathering information to having an emotional impact on the audience, promoting a “discourse of fear.”<sup>177</sup> If that is so, then in transformative terms, journalists work in a field that, by its upsetting nature, would tend to disempower audience members, and journalists conduct interviews in a way that tends to make that worse.

It is in this unnerving context that audience members encounter cross-cutting views from a world outside of their own everyday experience, “an often untidy and uncertain social world”<sup>178</sup> exposing them to “the possible mental crises that may arise when we do not know what is real, or what to think or believe.”<sup>179</sup> This internal experience fits what the transformative model would call a “loss of personal strength and clarity”—the opposite of

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175. ARNO, *supra* note 26, at 8.

176. Gadi Wolfsfeld et al., *News about the Other in Jordan and Israel: Does Peace Make a Difference?*, 19 POL. COMM. 189, 191 (2002).

177. DAVID L. ALTHEIDE, *CREATING FEAR: NEWS AND THE CONSTRUCTION OF CRISIS* 101 (2002).

178. Stephen F. Ostertag, *Processing Culture: Cognition, Ontology, and the News Media*, 25 SOC. F. 824, 824 (2010).

179. *Id.* at 826.

empowerment.<sup>180</sup> Transformative mediation would expect this disempowered position to limit the ability of audience members to form clear points of view, and it would expect them to respond by becoming increasingly impervious to opposing views.<sup>181</sup>

Empirical studies lend support to this interpretation. Ambivalence is uncomfortable,<sup>182</sup> and in experiments, people tend to respond by trying to lessen the inconsistency in their own thinking.<sup>183</sup> They look for new information that will bolster their prior leanings and make them feel better.<sup>184</sup> They tend to avoid thinking about conflicting information.<sup>185</sup> When news audience members do encounter a message that runs counter to their own attitudes, they often resist it or mentally rehearse their reasons against it.<sup>186</sup> To maintain their internal sense of order and security<sup>187</sup> they may protect themselves by using a variety of mechanisms, including

180. BUSH & FOLGER, *supra* note 10, at 49-50.

181. This analysis has support from Gadi Wolfsfeld et al., *supra* note 176, at 191 (“News stories about enemies are based on a common set of cultural assumptions, beliefs, myths, and symbols all of which intensify the level of hostility and suspicion toward the other side. Journalists routinely feed into these fears because they resonate with their audience.”).

182. Jason K. Clark et al., *Attitudinal Ambivalence and Message-Based Persuasion: Motivated Processing of Proattitudinal Information and Avoidance of Counterattitudinal Information*, 34 PERSONALITY & SOC. PSYCHOL. BULL. 565, 566 (2008).

183. *Id.* at 574 (“[A]mbivalent people are likely to process proattitudinal information at high levels but are unlikely to process counterattitudinal information.”).

184. Vanessa Sawicki et al., *Feeling Conflicted and Seeking Information: When Ambivalence Enhances and Diminishes Selective Exposure to Attitude-Consistent Information*, 39 PERSONALITY & SOC. PSYCHOL. BULL. 735, 742 (2013) (“Across two selective exposure studies, weaker, conflicted attitudes yielded strong preferences for proattitudinal information when people lacked knowledge about the issue. . . . Presumably, this seeking of unfamiliar attitude-consistent information was a means to resolve the tension of the ambivalent state (i.e. to bolster the strength of the attitude).”).

185. Clark et al., *supra* note 182, at 574 (“[I]t seems clear from these studies that ambivalent people are likely to process proattitudinal information at high levels but are unlikely to process counterattitudinal information.”).

186. Prior, *supra* note 5, at 120.

187. Ostertag, *supra* note 178, at 826.



discounting the validity of the report.<sup>188</sup> Hearing more news does not seem to promote more receptivity. Instead, studies find that increased news coverage of a political topic increases the level of bias among audience members, prompting them to become still more inclined to favor the facts that support their side and resist those that do not<sup>189</sup> in a downward spiral familiar to transformative mediation.

Fair and factual newscasts alone do not appear to be a remedy. With political leaders more ideologically split than ever,<sup>190</sup> the point-counterpoint interviews that are common on major news broadcasts<sup>191</sup> confront audiences with stark political choices. Increasingly, ordinary Americans in the middle feel disconnected from the forum.<sup>192</sup> Many change the channel,<sup>193</sup> abandoning the news in a continuation of the exodus that alarmed the early advocates of public journalism in the late 1980s. James K. Batten, then-editor of the Knight-Ridder newspaper chain, characterized their flight using language that evokes the self absorption described by transformative mediation. Batten called it “an inclination to withdraw into narrow, personal

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188. *Id.* at 841-45 (listing the audience members’ self-protective mechanisms as follows: engaging news outlets selectively, imagining that they were better informed than the hypothetical “everyday American” of their own cognitive construction, and using lay theories, “informal, common-sense explanations,” that journalism can be discounted because it aims primarily at profit, sacrifices accuracy to audience demands, is influenced by the government, is limited by time constraints, or is distorted by bias).

189. Jerit & Barabas, *supra* note 46, at 682 (“[W]hen a topic has implications for one of the two parties, increasing the level of media coverage heightens partisan perceptual bias. In these instances, there is an even stronger proclivity for learning politically congenial facts and for resisting uncongenial ones. Indeed, our results suggest that extraordinary levels of media coverage may be required for partisans to incorporate information that runs contrary to their political views.”).

190. PEW RESEARCH CENTER, *supra* note 4, at 27.

191. Prior, *supra* note 5, at 103 (“Evening newscasts on the broadcast networks, long the most widely followed news source, are mostly centrist with possibly a minor tilt in the liberal direction.”).

192. *Id.* at 123.

193. *Id.* at 107 (“The culprit turns out to be not Fox News but ESPN, HBO, and other early cable channels that lured moderates away from the news—and away from the polls.”).

concerns and behave with indifference to our neighbors today and our communities tomorrow.”<sup>194</sup>

The disappearing audience may deserve more sympathetic treatment, however. Political Science and Communication Professor Diana Mutz credits these apparently disinterested citizens with having tolerance and open-mindedness,<sup>195</sup> being willing to change their minds on issues,<sup>196</sup> and being willing to downgrade the importance of their political identity for the sake of social harmony.<sup>197</sup> What may be lost when they avoid the public forum is their flexibility and their nuanced sense of things. “The voice of moderation is seldom very loud.”<sup>198</sup>

Can journalism—rather than frightening or disorienting audience members—increase their capacity to clarify their own views while still recognizing the potential virtues of other perspectives? That is, in the transformative sense, can news interviews empower the public that journalists mean to serve? What would such interviews look like? The next section draws on transformative mediation principles to suggest some ideas and offer examples from the comparatively rare times when such interviews occur.

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194. ROSEN, *supra* note 48, at 23.

195. MUTZ, *supra* note 12, at 125.

196. Diana C. Mutz, *The Great Divide: Campaign Media in the American Mind*, 141 DAEDALUS 83, 85 (2012) (“Upon reflection, this pattern is not all that surprising; those most heavily interested and involved in politics in this country are also heavily partisan, highly committed to their choices, and thus unlikely to be dissuaded, regardless of any media to which they are exposed.”).

197. *Id.*

198. *Id.* at 127.

## VI. TRANSFORMING INTERVIEWS

Interviewing is possibly the least studied and taught skill in journalism.<sup>199</sup> Training in broadcast interviewing is typically brief and pragmatic, urging practitioners to prepare as well as possible within time constraints, to keep questions short, and to pay attention to technical details such as distracting background noise.<sup>200</sup> The field has wide room to further develop the study of interviewing and to add techniques that foster a functioning public forum. As a start, it could expand on the work of those relatively few news broadcasters who are creating safe spaces for audiences to consider other viewpoints. It could also offer incentives for more work in this direction.

*A. Safe Spaces for Differing Views*

In the transformative mediation model, third-party neutrals begin by setting a context for the parties' own efforts at deliberation, decision making, communication, and perspective taking.<sup>201</sup> This is in line with Deutsch's ideal of constructive dialogue, which needs skillful facilitators, respected on both sides, who create an environment where opposing parties feel safe from

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199. Bob Steele, *Interviewing: the Ignored Skill*, POYNTER (June 14, 2003), <http://www.poynter.org/latest-news/everyday-ethics/talk-about-ethics/12413/interviewing-the-ignored-skill/>.

200. See, e.g., Casey Frechette, *What Journalists need to Know About Interviewing for Video*, POYNTER (Feb. 6, 2013), <http://www.poynter.org/how-tos/digital-strategies/202713/what-journalists-need-to-know-about-interviewing-for-video/>; see also AV WESTIN, BEST PRACTICES FOR TELEVISION JOURNALISTS (2000) (offering a chapter on interviewing that occupies not quite three of the handbook's ninety-seven pages and focuses primarily on interviewing the bereaved and attending to technical concerns such as camera use and editing).

201. Folger & Bush, *supra* note 104, at 267.

harm and humiliation.<sup>202</sup> Where more parties are involved, the importance of process design increases.<sup>203</sup>

Journalists can design a context for deliberation by establishing some consistent programs that serve as safe spaces for considering new viewpoints, and they can signal their intentions clearly to audiences.<sup>204</sup> Such places would let audiences observe the high point of the communication spiral, where people do hear each other and statements are not entrenched and repetitive—where people have points of view but also recognize each other’s observations and maintain a relationship. This kind of conversation might even respond to what Mutz has characterized as a current need for “instruction, and specific norms, for how political differences should be handled respectfully in informal discourse.”<sup>205</sup> The following suggestions are drawn from transformative mediation and other relational approaches to conflict resolution.

### 1. Post a Sign

Audience members tend to look for news programs they feel they can trust.<sup>206</sup> A few news broadcasts have demonstrated how to create and label program segments as friendly, casual places for encountering unfamiliar ideas. *Barbershop* and *Beauty Shop* were part of National Public Radio’s *Tell Me More*, a news program that aspired to present constructive dialogue

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202. Morton Deutsch, *Mediation and Difficult Conflicts*, in THE BLACKWELL HANDBOOK OF MEDIATION 361-62 (Margaret Herrman ed., 2006).

203. Saul & Sears, *supra* note 129, at 402.

204. Prior, *supra* note 5, at 120 (“News stories are experience goods, as users discover their properties only upon exposure. This feature encourages news producers to create brands which communicate to potential viewers what to expect.”).

205. MUTZ, *supra* note 12, at 150.

206. Yariv Tsfati & Joseph N. Cappella, *Do People Watch What They Do Not Trust?: Exploring the Association Between News Media Skepticism and Exposure*, 30 COMM. RES. 504, 518 (2003).

among diverse views.<sup>207</sup> On each segment, a regular group of commentators engaged in a sociable exchange of views on news, sports, and gossip<sup>208</sup> aimed at broadening and changing the public conversation.<sup>209</sup>

For example, in a July 2014 segment, host Jimi Izrael invited conservative commentator Lenny McAllister to join several regular participants, including international human rights lawyer Arsalan Iftihar and a contributing editor for the online publication *The Root*, Corey Dade.<sup>210</sup> The segment began with a sound bite from MSNBC, in which Texas Representative Henry Cuellar criticized President Obama for socializing in Denver but not going to the Texas-Mexico border, where thousands of unaccompanied children and teenagers had been entering the United States without legal permission.<sup>211</sup>

**IZRAEL:** Lenny [McAllister], some folks are calling this Obama's Katrina moment . . . . Are you one of those folks? I mean, not to put you on the spot or anything, but . . .

(LAUGHTER)

**McCALLISTER:** Well, that's the whole purpose of having me on the *Barbershop*. . . . This is not Katrina . . . .

**IFTIHAR:** This certainly is not Katrina. [T]his might be Republicans . . . trying to goad him into going, only to be used for potential political campaign ads.

**McCALLISTER:** No it's not . . . .

**DADE:** He's deported a record number of people . . . .

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207. *About 'Tell Me More,'* NPR, <http://www.npr.org/templates/story/story.php?storyId=5046> (last visited Jan. 26, 2015).

208. Douglas Hopper, *The Barbershop Revealed*, NPR (May 5, 2008), [http://www.npr.org/blogs/tellmemore/2008/05/meet\\_the\\_guys\\_in\\_the\\_barbersho.html](http://www.npr.org/blogs/tellmemore/2008/05/meet_the_guys_in_the_barbersho.html).

209. *Id.* (click on videotape for comment by Jimi Izrael at 0:08) ("I'm hoping that . . . what we've done here with the *Barbershop* is change . . . the language of how people expect politics to be discussed and change the type of people they expect to see discussing politics.") (transcribed by author).

210. *Tell Me More: Avoiding the Border: Is This Obama's Hurricane Katrina?*, NPR (July 11, 2014), <http://www.npr.org/2014/07/11/330683502/avoiding-the-border-is-this-obamas-hurricane-katrina>.

211. *Id.*

**McCALLISTER:** In 2012, he also allowed people to stay here in order to turn the tide with the election. So there are two sides to that coin . . . . And we continuously want to look at one side or the other. And again to Arsalan's point, at some point in time you're going to get it either way from Republicans. So you have to make a choice. Do you want to do things as a politician, or things as a leader?<sup>212</sup>

It is worth noting that, although from different political viewpoints, the interviewees quickly discarded the obvious potential talking points—whether the President had experienced his “Katrina” moment and whether he was too pro- or too anti-undocumented immigrants. Instead, the question raised was whether the President could rise above politics.

*Barbershop* opened each segment with friendly exchanges and moved easily from politics to sports and other talk. The segment apparently promoted recognition—in the transformative sense of that word—for at least some listeners. One wrote in to an NPR website,

As a 62-year-old white woman in the Deep South, how else could I ever be a fly on the wall in the barbershop? I LOVE those guys, even when I don't agree with a particular statement . . . . [T]his group of highly intelligent, articulate, multifaceted [sic] people has helped me examine my own thoughts in a different light.<sup>213</sup>

Another effort at non-threatening political talk was presented by Al Jazeera America, which described its program, *The Café* as “your chance to listen in and contribute to a lively exchange of ideas—talking—not shouting heads, from around the world.”<sup>214</sup> Before the 2012 election, moderator Mehdi Hasan hosted six American commentators with a range of views and heard a point of agreement between Bruce Fein, who was an advisor to

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212. *Id.*

213. *The End of Tell Me More*, ON THE MEDIA (June 20, 2014), <http://www.onthemedialaw.com/story/end-tell-me-more/> (follow “Show 36 comments” hyperlink). *On the Media* is an NPR media analysis broadcast produced by WNYC. ON THE MEDIA, <http://www.onthemedialaw.com/about/> (last visited Feb. 1, 2015).

214. *About the Café*, AL JAZEERA (last modified July 9, 2012), <http://www.aljazeera.com/programmes/thecafe/2012/05/20125161148521726.html>.

Republican presidential candidate Ron Paul, and Clarence Page, a Chicago Tribune columnist and a supporter of President Obama.<sup>215</sup>

**FEIN:** When the *New York Times* published the piece showing there are assassination plots right in the Oval Office, there's no outside review, there's no due process, the people get targeted are not accused of any crime . . . . If that article was written about what Bush and Cheney did, the left would be falling.

**HASAN:** That's a fair point.

**PAGE:** That, that is a fair point.<sup>216</sup>

To be sure, other political talk shows have their moments of humor and agreement as well, but these occur as deviations from the tone of crisis that is signaled by such names as *Hardball*, *Crossfire*, *Countdown*, and *The Situation Room*.

## 2. Invite Nonpartisan Talk

News broadcasts tend to select interviewees with strong, opposing points of view. The result is that they amplify the voices of the people least likely to have what negotiators would call a zone of possible agreement. Nonpartisan audience members are more likely to find their views reflected by interviewees speaking in nonpartisan ways. For example, Krista Tippett, in her *Civil Conversations Project* on American Public Media, interviewed former Republican Senator Pete Domenici and Democratic economist Alice Rivlin in October 2012, before a live audience at the Brookings Institution.<sup>217</sup>

The two, who had worked together on budget compromise, talked about partisan gridlock in Congress over the federal deficit:

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215. *The Café: U.S. Still #1?*, AL JAZEERA (Oct. 23, 2012), <http://www.aljazeera.com/programmes/thecafe/2012/10/20121022152246208655.html>.

216. *Id.*

217. *On Being: Civil Conversations Project: Political Bridge People*, CIVIL CONVERSATIONS PROJECT (Oct. 25, 2012), <http://www.civilconversationsproject.org/transcript-political-bridge-people-20121025>.

**MS. RIVLIN:** I think the essential thing for people to grasp is that we're on an unsustainable track. The debt is rising faster than our economy can grow. And almost anybody can figure out that's a bad thing. . . .

**MR. DOMENICI:** I don't think what the public has to undertake to help us get this done is as tough as it's being made. We're using words that scare people. "Cuts to Medicare". . . . In fact, within five, six, [ten] years no one will know the difference, the programs will have been impacted that small amount . . . .

**MS. RIVLIN:** [L]et me reinforce Pete's point. Because right now in this political campaign, both sides are trying to scare people into thinking if you vote for this other guy, it's going to be a terrible time. And Medicare is a good example. Both sides are trying to scare seniors that their Medicare will be destroyed. . . . We need to adjust it at the margin, but nobody's going to destroy it.<sup>218</sup>

In addition to finding collegial opponents, journalists can follow the example of Chasin and colleagues, who choose mediation participants precisely because they do not fit into the archetypes or stereotypes. Instead, they look for people "whose own unique experiences differ in some respect from others on their side."<sup>219</sup>

### 3. Welcome Uncertainty

One of the hallmarks of transformative mediation is its comfort with confusion.<sup>220</sup> In posing questions to interviewees, reporters typically feel compelled, as public representatives,<sup>221</sup> to ask aggressive questions,<sup>222</sup> and they would rather been seen as too tough on an interviewee than too soft.<sup>223</sup> But combative questions can prompt defensive responses. To elicit honesty and to create a safe space for uncertainty, reflecting the ambiguities

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218. *Id.*

219. Chasin et al., *supra* note 13, at 326.

220. Folger & Bush, *supra* note 104, at 272.

221. Steven E. Clayman, *Tribune of the People: Maintaining the Legitimacy of Aggressive Journalism*, 24 MEDIA, CULTURE & SOC. 197, 198 (2002).

222. *Id.* at 211.

223. PEOPLE & THE PRESS, NEWS MEDIA DIFFERS WITH PUBLIC AND LEADERS ON WATCHDOG ISSUES 30 (1995), available at <http://www.people-press.org/files/legacy-pdf/19950522.pdf>.



experienced by the overhearing audience, journalists can learn and develop a different kind of question. For example, in another edition of the *Civil Conversations Project*, Tippett asked Christian ethicist David Gushee and reproductive rights activist Frances Kissling to talk about their own areas of ambivalence.<sup>224</sup>

**MS. TIPPETT:** What is it in your own position that gives you trouble? What is it in the position of the other that you're attracted to?

**DR. GUSHEE:** One of the things I'm attracted to and have really learned a lot from in dialogue with Frances and others in the pro-choice community is the sustained knowledgeable commitment to the well-being of women. . . . A concern I have about my own side, and I know we're not going to focus on legalities, but I will say this. What the main activists in the pro-life or anti-abortion community want is an overturn of *Roe vs. Wade*. I am not at all convinced that if that were to actually happen that they would like the world that they would see . . . .

**MS. TIPPETT:** OK. So Frances, what is it in your own position that gives you trouble? What is it in the position of the other that you are attracted to?

**MS. KISSLING:** I'm generally troubled by the one-value approach to the question. That the only value that needs to be considered in both moral decision making and in legality is what the woman wants . . . . [E]ven though I don't think fetuses have an absolute right to life . . . I think fetuses have value. And I don't think you can make the fetus invisible in the abortion decision. . . .

What I like about the position of people who are very strongly opposed to legal abortion, is that side of that movement . . . does have what David [Gushee] calls a consistent ethic of life. . . . I think that notion that there is a holistic need for respecting life and life processes is very attractive. And I think the arguments that are made about wanting to expand our sense [of] who is part of our community is a very attractive argument.<sup>225</sup>

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224. *Pro-Life, Pro-Choice, Pro-Dialogue*, CIVIL CONVERSATIONS PROJECT (July 25, 2013), <http://www.civilconversationsproject.org/transcript-prolife-prochoice-prodialogue-20130725>.

225. *Id.*

#### 4. Communicate Faith in the Audience

Transformative mediation takes an optimistic view of parties' competence and motives, expecting good faith and decency.<sup>226</sup> People in conflict are "only temporarily disabled, weakened, defensive, or self-absorbed."<sup>227</sup> Journalists need not abandon reality or their habitual skepticism in order to also allow for the possibility of decency in interviewees or, certainly, in the audience. On WNYC, a public radio station<sup>228</sup> in New York City, host Brian Lehrer expressed his confidence in his listeners as he began a year-end call-in segment by asking listeners to share some lessons they had learned.<sup>229</sup>

**LEHRER:** What did you change your mind on in 2013? You know we pride ourselves here, at the Brian Lehrer show . . . on being a place where changing your mind is okay, where you don't have to be so ideologically pure all the time in whatever direction, where we ask you simply to bring your open mind with you every day. . . .

**NOAH:** I started the year off as an ardent Obama supporter . . . and while I still agree with a lot of Obama's policies in principle, I find him to be much more incompetent and not up to the job of being President . . . .

**SUE:** Pope Francis made me change my mind. I went back to . . . confession for the first time in, like say, forty years perhaps.

**LEHRER:** Wow. Forty years.

**SUE:** Yeah.<sup>230</sup>

Lehrer often draws on his diverse audience, which enables him to bring unusual voices to the air. In April 2014, for example, an avalanche sent ice

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226. Folger & Bush, *supra* note 104, at 269.

227. *Id.* at 270.

228. Interestingly, WNYC, founded in 1924 by the City of New York, was specifically named in a footnote to the Hutchins Commission report as an example of "what government may do in domestic communications if it regards private service as inadequate." COMMISSION ON FREEDOM OF THE PRESS, *supra* note 33, at 5-6.

229. *Brian Lehrer Show: Open Phones: What Did You Change Your Mind About?*, WNYC (Dec. 18, 2013), <https://www.wnyc.org/radio/#/ondemand/366997>, at 2:15 (transcribed by author).

230. *Id.*

and snow down a slope of Mount Everest, killing sixteen Sherpa guides.<sup>231</sup> As his interviewees and callers discussed the, grueling, high-risk work of the guides accompanying climbers in the Himalayas, the studio telephone rang with calls from two ethnic Sherpas living in Queens, New York, who added their firsthand knowledge.<sup>232</sup> Lehrer said later, “[My] goal for my relationship with the audience is to sort of define everybody as ‘us.’”<sup>233</sup>

### *B. Incentives for Journalists*

Journalists take their professional cues from other journalists, reading each other’s work and rewarding each other’s skills. The field especially honors those who fulfill the traditional watchdog role. A journalist who produces an excellent investigative broadcast news report may receive such honors as the George Polk Award,<sup>234</sup> the IRE Award,<sup>235</sup> the Philip Meyer Award and the Al Neuharth Awards,<sup>236</sup> or an award in any of the special investigative categories of honors bestowed by the Scripps Howard

231. *Brian Lehrer Show: Trouble on Everest*, WNYC (April 29, 2014), <http://www.wnyc.org/story/trouble-everest/>, at 10:09 and 14:10.

232. *Id.*

233. Ben Max, *Brian Lehrer, Interviewee: Iconic Radio Host Discusses His Career as 25<sup>th</sup> WNYC Anniversary Approaches*, GOTHAM GAZETTE (July 1, 2014), <http://www.gothamgazette.com/index.php/government/5129-brian-lehrer-wnyc-interview-25-year-anniversary>, at 2:46 in fifth segment (transcribed by author).

234. LIU GEORGE POLK AWARDS, <http://www.liu.edu/polk> (last visited Jan. 11, 2015). The award was established by Long Island University in honor of a CBS News correspondent killed while covering the Greek civil war. *Id.*

235. *About the IRE Awards*, IRE: INVESTIGATIVE REPORTERS AND EDITORS, <https://www.ire.org/awards/ire-awards/> (last visited Jan. 11, 2015). Award winners are chosen by the Investigative Reporters and Editors organization. *Id.*

236. *Philip Meyer Award*, IRE: INVESTIGATIVE REPORTERS AND EDITORS, <https://www.ire.org/awards/philip-meyer-awards/> (last visited Jan. 11, 2015) (for investigative reporting that uses social science research methods). These awards are also granted by Investigative Reporters and Editors. *Id.*

Foundation;<sup>237</sup> the Radio, Television, Digital News Association; the Gannett Foundation; and the Shorenstein Center at the Harvard University Kennedy School.<sup>238</sup>

Producing a story that promotes empowerment and recognition—that supports greater clarity and greater compassion for others—appears to garner no major award, although the Peabody Awards in broadcast journalism consider this kind of characteristic among other criteria.<sup>239</sup> In 2007, Brian Lehrer’s program won a Peabody Award as “radio that builds community rather than divides,”<sup>240</sup> and an edition of Krista Tippett’s program, then called *Speaking of Faith*, was awarded for a thoughtful exploration of Islam and was credited with “expanding our understanding of ancient and contemporary Islamic religiosity.”<sup>241</sup> In 2009, broadcast producer and host Diane Rehm received a Personal Peabody Award for “thoughtful, civil discourse” on her long-running NPR program.<sup>242</sup> Such commendations appear to be rare, however.

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237. 2013 *Winners*, SCRIPPS HOWARD FOUNDATION, <http://www.shawards.org/winners2013.aspx> (last visited Jan. 11, 2015).

238. *Investigative Reporting Prize*, HARVARD KENNEDY SCHOOL: SHORENSTEIN CENTER, <http://shorensteincenter.org/prizes-lectures/goldsmith-awards-program/investigative-reporting-prize/> (last visited Jan. 11, 2015).

239. *Judging*, PEABODY AWARDS, <http://www.peabodyawards.com/judging> (last visited Jan. 11, 2015) (“[T]he Peabody judges must ask themselves: Does this story matter? Does it inform us as citizens? Does it help us empathize with one another?”).

240. *The Brian Lehrer Show (WNYC Radio)*, PEABODY AWARDS, <http://www.peabodyawards.com/award-profile/the-brian-lehrer-show> (last visited Jan. 11, 2015) (“Talk radio these days is so overwhelmingly polarized—or polarizing—that ‘The Brian Lehrer Show’ can seem more like an artifact than an anomaly. But it’s very much in the present, reuniting the estranged terms ‘civil’ and ‘discourse’ five mornings a week like no other show on the air.”).

241. *Speaking of Faith: The Ecstatic Faith of Rumi (Public Radio Stations Nationwide)*, PEABODY AWARDS, <http://www.peabodyawards.com/award-profile/speaking-of-faith-the-ecstatic-faith-of-rumi> (last visited Jan. 27, 2015).

242. *Personal Award: Diane Rehm*, PEABODY AWARDS, <http://www.peabodyawards.com/award-profile/personal-award-diane-rehm> (last visited Jan. 11, 2015) (noting that her program began in 1995 and continues on the air).

To advance journalism's constructive role in the public forum, journalism schools and organizations should institute annual awards specifically to recognize interviews and programs that promote clarity and compassion—empowerment and recognition in transformative terms—in interviewees, audiences, or both. Such awards would encourage further development of interviewing theories and techniques.

Broadcasters Martin and Tippett are conscious of their role in providing models for audience members and other broadcasters.<sup>243</sup> They discussed the challenge in their own broadcast interview, when Martin was a guest on Tippett's program.<sup>244</sup>

**TIPPETT:** The facts don't tell us the whole truth.

**MARTIN:** I think . . . what you and I do is, in part, we offer a way for people to talk to each other that they might not have in their own lives. . . . I'm hoping what they will do is say to themselves, "I can do that, too." . . . This is not rocket science what we're doing here. . . . All we're really doing is setting an example.

**TIPPETT:** We have so few templates about how you discuss a difficult issue. . . . But you can start it with a different framing question, and you can have a completely different conversation.

**MARTIN:** The relevant aspect of [journalism] is the question and the listening, and anyone can do that.<sup>245</sup>

## VII. AREAS FOR FURTHER EXPLORATION

This article suggests at least three areas for further research. First, adding non-combative, audience-empowering interviews to news programming may have revenue implications for news organizations. These are beyond the scope of this paper but are of considerable concern to the organizations. Some of the interview examples offered in this article reflect

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243. *In the Room with Michel Martin*, ON BEING (Oct. 2, 2014), <http://onbeing.org/program/feature/in-the-room-with-michel-martin/6799>.

244. *Id.*

245. *Id.* (click on audio at 31:20).

successes in drawing and keeping audiences. WNYC, for example, gets top ratings in its news, talk, and information format in the New York City market.<sup>246</sup> But not all of the efforts cited here have enjoyed the same success.

Some of these programs have failed to draw enough interest, at least as determined by their networks. Both *Barbershop* and *Beauty Shop* closed when NPR ceased production of Martin's *Tell Me More* on August 1, 2014.<sup>247</sup> *The Café* is no longer carried by Al Jazeera, and its former moderator now anchors a broadcast with a less congenial title: *Head to Head*.<sup>248</sup> It is billed in combative terms as "a gladiatorial contest tackling some of the big issues of our time."<sup>249</sup> CNN's *Crossfire*—once canceled because of its contentious tone<sup>250</sup>—returned to the air in 2013 with a promise to include a segment called "Cease Fire."<sup>251</sup> That segment did not impress

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246. New York: Radio Ratings for Subscribing Stations, NIELSON, <https://tlr.arbitron.com/tlr/public/market.do?method=loadAllMarket> (choose "New York" from the drop down menu; then click on the "Format" heading link to organize the various stations based on their categories) (rating WNYC behind the two "All News" stations in the New York City market but first in the "News Talk Information" format in June through August 2014).

247. David Folkenflik, *NPR To End 'Tell Me More,' Eliminate 28 Positions*, NPR (May 20, 2014), <http://www.npr.org/blogs/thetwo-way/2014/05/20/314256024/npr-to-end-tell-me-more-lay-off-28-people>.

248. *About Head to Head*, AL JAZEERA (Nov. 2, 2013), <http://www.aljazeera.com/programmes/headtohead/2013/06/201365124941624704.html>.

249. *Id.*

250. See Bill Carter, *CNN Will Cancel 'Crossfire' and Cut Ties to Commentator*, N.Y. TIMES, Jan. 6, 2005, <http://www.nytimes.com/2005/01/06/business/media/06crossfire.html>. Comedian Jon Stewart, in a 2004 appearance on *Crossfire*, said that its arguments were "hurting America." *Id.* In January, 2005, CNN President Joel Klein cancelled the program, saying that he agreed with Stewart "wholeheartedly." *Id.*

251. David Bauder, *Awww . . . CNN's Kinder, Gentler 'Crossfire' Will Look For Ceasefire*, WASH. TIMES, Sept. 6, 2013, <http://www.washingtontimes.com/news/2013/sep/6/awww-cnns-kinder-gentler-crossfire-will-look-cease/> (quoting commentator and former U.S. House Speaker Newt Gingrich as saying, "If we degenerate into shouting and yelling at each other, then we will have failed the country").

the *Washington Post*'s media critic, who called it "forced and forgettable."<sup>252</sup> *Crossfire* fell to network budget cuts in October 2014.<sup>253</sup> There is ample room for scholars and practitioners to explore not only how to create successful, constructive news dialogues but also how to pay for them.

Second, this article has focused on interviews, the format in which news organizations provide the least context for audience members. More often, television news is presented in the form of "packages," and radio news in "wraps," in which reporters introduce topics, select and summarize facts, and write passages that lead audience members through the various brief "sound bites" of sources. Likewise, in written news accounts in print or electronic media, the journalist contextualizes the raw material. Journalists write stories. The way that journalism seeks, gathers, crafts, and amplifies the stories that a society tells itself has implications for conflict and compromise in the public forum. Journalistic storytelling deserves further investigation in this light.

Finally, as journalism rethinks and redefines its business model and itself,<sup>254</sup> researchers should undertake interdisciplinary projects to better understand what kind of news coverage best serves the public forum and how to achieve it in a time of rapid change in information and communication technology. The question is at the intersection of conflict resolution, journalism, communication studies, political science, social psychology, and doubtless other fields as well. Journalists and their audiences can use the help.

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252. Erik Wemple, 'Crossfire's' 'Ceasefire' Segment: So Lame!, WASH. POST, Sept. 13, 2013, <http://www.washingtonpost.com/blogs/erik-wemple/wp/2013/09/13/crossfires-ceasefire-segment-so-lame/>.

253. Brian Steinberg, *CNN Cancels 'Crossfire,' Other Shows in Wake of Turner Cuts*, VARIETY (Oct. 15, 2014), <http://www.variety.com/2014/tv/news/cnn-shutters-select-shows-in-wake-of-turner-cost-cuts-1201331097/>.

254. See, e.g., Donica Mensing, *Rethinking [Again] the Future of Journalism Education*, 11 JOURNALISM STUD. 511, 512 (2010) (recommending a re-examination of journalism practices and a new focus on community needs and relationships).

## VIII. CONCLUSION

Journalism has the potential to introduce news audiences to alien viewpoints in a way that supports a functioning public forum, where people have clear ideas but can still hear and consider the ideas of others. Transformative mediation offers the news media a theory of conflict and a set of practices that can be adapted toward this end without violating the norms and ethics of journalism. The news media can, among other things, create regular interview segments where interviewees can acknowledge areas of agreement, and activists can reveal their own uncertainties. Journalism schools and organizations can reward such projects, and practitioners and academics can join across disciplines in undertaking research into the kind of talk that best promotes a good public forum.

The recommendations offered here are not meant to supplant the important role of the news media in gathering and verifying facts, but rather to supplement that role in ways that make those facts more useful and meaningful to a broader audience. The recommendations are consistent with some of the reforms of civic journalism and peace journalism. Still, they avoid the kinds of practices that have stirred professional and ethical objections to those movements. For example, these recommendations do not involve journalists in such activities as promoting peace settlements, organizing town meetings, or taking sides in a violent conflict. The recommendations do reflect a new thought about the role of journalism in interviewing opposing parties, and they suggest ways to fulfill that role: developing programming that supports audience members in moving toward greater personal clarity and empathy—toward empowerment and recognition—so they can better decide what to do next.