

ACR-GNY & John Jay Roundtable Breakfast | March 2, 2023

ZOOM MEETING PUBLIC CHAT TRANSCRIPT

08:30:00 Niki Borofsky | Paris: Welcome to everyone just joining. This is the informal chat portion of our meeting, the official program will start at 8:30 ET. A recording of today's program will be posted by next week on the ACR-GNY and John Jay Dispute Resolution Center websites including a transcript of the public chat.

<https://acrgny.org/RTB-Videos>

<http://www.jjay.cuny.edu/disputeresolution>

Please feel free to introduce yourselves in the chat. Add your LinkedIn information or other ways to stay in contact offline.

08:30:44 Dan Rowe, Savannah Mediation Center: Dan Rowe,
drowe@mediationsavannah.com, <https://www.linkedin.com/in/rowed67/>

08:30:57 Dan Simon, Saint Paul, Minnesota: Dan Simon, transformativemediation.com,
Dan@transformativemediation.com

08:31:04 Kishor Dere: Dr. Kishor Dere kishoredere@yahoo.com New Delhi, India

08:31:19 Ramona Buck: Ramona Buck

08:31:25 Ramona Buck: ramonabuck@gmail.com

08:31:26 Stephanie Niehaus - CT: Stephanie Niehaus

stephanie.niehaus@nelson.legal

<https://www.linkedin.com/in/stephanie-e-niehaus/>

08:31:45 Emily Skinner she/her NJ: Emily Skinner

<https://www.linkedin.com/in/emily-skinner-phd/>

08:31:47 Ed Watt: Ed Watt NYC Ed@WAttADR.com <https://www.linkedin.com/in/ed-watt-06b8a811/>

08:32:09 Ariel: Ariel Lublin CenterforLeadershipandDialogue.com. Also on linked in. Hello all. 😊

08:32:29 Niki Borofsky | Paris: Welcome to everyone!

08:32:34 Ariel: Reacted to "Dr. Kishor Dere ki..." with ❤️

08:33:15 Niki Borofsky | Paris: A recording of today's program will be posted by next week on the ACR-GNY and John Jay Dispute Resolution Center websites including a transcript of the public chat.

ACR-GNY | <https://acrgny.org/RTB-Videos>
CUNY | <http://www.jjay.cuny.edu/disputeresolution>

08:33:16 Clymer Bardsley | Phila: Clymer@bardsleygroup.com. Member of ACR of Greater Philadelphia. Trying to keep the chapter going.

08:34:35 Elena A. Tisnovsky: Elena A. Tisnovsky, Esq. 212.641.0464, elena@tisnovskylaw.com, divorce and family mediation, New York and Florida.

08:34:38 Claudia Frankel Grosman - Brazil: Claudia Frankel Grosman from Brazil - www.linkedin.com/in/claudia-frankel-grosman-cfg

08:34:48 Niki Borofsky | Paris: Welcome to Emily Skinner, ACR-GNY President!

08:35:49 Niki Borofsky | Paris: Save the Date! ACR-GNY Annual Conference, May 30 - June 2, 2023. <https://acrgny.org/2023-Annual-Conference>

08:36:03 Jess Kent - New York: Delighted to be here after a winter hiatus: Jess Kent here. Happy to connect on LinkedIn or by email: JKENT@LKORN-LAW.COM

08:36:31 Maria R. Volpe - NYC: For anyone who would like to be added to the NYC DR listserv, please send me your name and email and I will add you Maria Volpe mvolpe@jjay.cuny.edu

08:37:56 Niki Borofsky | Paris: Welcome to Dan Simon and Tara West!

Dan Simon | <https://transformativemediation.com/>
Tara West | <https://tarawestmediation.com/>

08:38:03 David Thaler (FMCS): Excellent book!s

08:38:16 Niki Borofsky | Paris: Self-Determination in Mediation | The Art and Science of Mirrors and Lights (link to the book) | <https://rowman.com/ISBN/9781538153857/Self-Determination-in-Mediation-The-Art-and-Science-of-Mirrors-and-Lights>

08:38:17 Niki Borofsky | Paris: Re-Focusing on Party Self-Determination, by Baruch Bush and Joseph Folger [Adapted from CARDOZO J. OF CONFLICT RESOLUTION (2015)] | <https://www.linkedin.com/pulse/re-focusing-party-self-determination-baruch-bush-joseph-baruch-bush/>

08:46:32 tsiporadimant: In my practice I found that victims of domestic violence will agree to mediation for a number of reasons that seem to be self determination, but are not.

08:47:53 Harvey Newman West Palm Beach, FL: Is self-determination synonymous with autonomy?

08:48:36 Jess Kent - New York: How does the mediation value of self determination conflict with the mediator's ethical obligation?

08:53:30 Harvey Newman West Palm Beach, FL: Altruism is hardwired.

08:54:50 Niki Borofsky | Paris: About Self-Determination Theory | https://en.wikipedia.org/wiki/Self-determination_theory

08:55:30 Harvey Newman West Palm Beach, FL: This suggests that gamification is a valuable tool for transformation.

08:55:51 Niki Borofsky | Paris: Please feel free to post any questions in the chat. Tara and Dan will answer questions after their presentation.

08:55:55 Lexi Wolfe (Ombuds): Very interesting that these overlap with David Rock's SCARF model.

08:56:39 margo cates, nyc: I had to step away: what are the 3 basic needs again: autonomy, ?, competence. thx

08:56:56 Ariel: Relatedness

08:56:57 Krista Barron: relatedness

08:57:16 margo cates, nyc: thanks, I did have it afterall. thx again.

08:57:18 Margot Post | Toronto, Canada: There is an overlap here with Alfred Adler's work and Adlerian psychology

08:57:41 David Thaler (FMCS): Limbi hijack. Feeling out of control. Later being ashamed.

08:57:42 Ariel: Total loss of relatedness

08:58:04 John Green: I hurt someone

08:58:17 Jess Kent - New York: Is this true across cultures or for American-born individuals specifically?

08:59:00 Niki Borofsky | Paris: The Promise of Mediation: The Transformative Approach to Conflict, Revised Edition | By Robert A. Baruch Bush, Joseph P. Folger | <https://www.wiley.com/en-us/The+Promise+of+Mediation:+The+Transformative+Approach+to+Conflict,+Revised+Edition-p-9780787974831>

08:59:27 Margot Post | Toronto, Canada: Adler said we need belonging and significance and that behaviour is purposeful- based in the need for recognition, power/control, justice and fairness and competence

09:03:41 Nora F.: Reacted to "Adler said we need b..." with ❤️

09:03:48 Niki Borofsky | Paris: The three needs that form self-determination theory: AUTONOMY, COMPETENCE, RELATEDNESS

09:43:51 Astrid: Love that role play!

08:48:25 Ariel: Reacted to "Adler said we need b..." with 🙌

09:18:49 Michael Starr -- NYC: Relate this please to the possibility that "Ben" has unconscious bias against women and is not recognizing that that affected his decisions.

09:19:44 Mike Lampert: Self determination is a value greater than standing by one's word? In one of the introductory examples someone agreed to a process; yet your take on self determination says they should be able to reassess in the presence. Why is that the greater value than keeping one's promises?

09:20:20 Michael Starr -- NYC: More generally, does the mediator has a role is showing a participant that their perceptions are skewed in a certain way.

09:22:11 Diane: QUESTION: How do you determine if someone is acting "in good faith"? Thanks

09:22:35 Harvey Newman West Palm Beach, FL: I like the word and concept of facilitating.

09:22:36 Adam Spiewak: Empowering and facilitating self-determination

09:22:43 Claudia Frankel Grosman - Brazil: Those skills make all the difference in self determination and outcomes. I Feel like a very Lucky person. I was trained by Folger and changed completely my Mediation Mode. Thank you soo much Dan and Tara for sharing in a very easy way

09:22:55 Margot Post | Toronto, Canada: Mike- my thoughts are that I think values and needs are not the same thing. Our needs are different than values and when our needs do not get met we have trouble staying aligned with our values

09:22:56 Adam Spiewak: Reacted to "More generally, does..." with 👍

09:23:05 Niki Borofsky | Paris: Additional info on Giuseppe Leone:

Mediation Gym & Lab | <https://www.mediationskills.online/>

LinkedIn | <https://www.linkedin.com/in/mediationskills/>

09:23:05 Adam Spiewak: Reacted to "QUESTION: How do yo..." with 👍

09:25:55 Margot Post | Toronto, Canada: Is it possible that through the lens of self determination and mirrors and lights - we can illuminate the “skewed” perceptions and clients can uncover for themselves the discrepancies in their thinking or at the very least - we facilitate enough space for understanding between the parties that they are able to understand new things about their perceptions?

09:29:59 Kira Nurieli: There’s a need to quantify the value of mediations that don’t lead to settlement, since “settlement” is often the metric for “successful mediation” especially in court.

09:30:28 Niki Borofsky | Paris: Institute for the Study of Conflict Transformation | <https://transformativemediation.org/>

09:30:39 Andrew Larratt-Smith: How does reinforcing party self-determination intersect with holding and managing the process as the mediator, and focusing the parties on practical steps forward? I'm wondering in particular about options. They provide practical directions forward, and also honor the self-determination of the parties. How do you think about discussing options? When are options too narrow? When are there too many options that overwhelm the parties and bog them down?

09:30:40 Claudia Frankel Grosman - Brazil: 🙌

09:31:28 margo cates, nyc: NO hurling. Just kudos. Great presentation, so far. Await some interesting questions from others.

09:32:24 Michael Starr -- NYC: Would you please share the slides after this presentation

09:34:21 Lexi Wolfe (Ombuds): That's so helpful!

09:35:15 Maryann, GA: I'm curious if you can speak to how self-determination ie. selecting your mediator is important when there are entities that use a small panel of mediators that are

selected by a particular criteria that some times inadvertently exclude ADR professionals from underrepresented populations.

09:35:17 Niki Borofsky | Paris: Please feel free to raise your hands to ask a question live.

09:35:34 Nicholas Rigby: In commercial dispute negotiation, totally support self determination, but also expect to see some challenge from mediators. ie ok so you say that a productivity of 1unit/ day is appropriate are you convinced having heard an expert say that is a tenth of what it should be that a court will accept that. Are such challenges unrealistic?

09:35:54 O Gigliotti: Going back to original ex if someone says they will participate but feel coerced, how would you handle

09:36:03 Kira Nurieli: Wondering how self-determination plays out in collectivist environments/societies?

09:36:09 Barbara Odwak, NYC: after you summarize are you then seeking how they feel about what has been said?

09:37:23 Will Sawma - Dispute Resolution Center: Reacted to "Wondering how self-d..." with 👍

09:39:00 Michael Starr -- NYC: Really great presentation. Thanks so much.

09:41:09 Niki Borofsky | Paris: Background for Harvey's comment about Carl Rogers | https://en.wikipedia.org/wiki/Carl_Rogers

09:42:16 Astrid: I mediate purely transformatively but in Special ed mediations I am more likely to play the "dumb" mediator with some questions but immediately step back if the parent does not want to go in that direction. I've talked to other special ed transformative mediators who do the same.

09:42:46 Adam Berner - NYC/NJ: What about the role of law where you are mediating where there is a legal context and how that imposes on self-determination, such as divorce law? Would you exclude that information about the law?

09:43:23 Ariel: I am wonder if your thoughts about using this model in a court process where one party has been taken to court, if an agreement is not reached they do have to go back to the judge, and (I see this more and more lately) neither party may actually have good info or understanding about the very legal / court process they are in the midst of.

So there IS pressure to reach agreement, they may not have full information, and one has more option to leave the process (the court process I mean) than the other does.

09:44:50 Astrid: New York.

09:45:10 Ariel: Reacted to "There's a need to qu..." with 🙌

09:48:24 Maryann, GA: I believe one of the focuses of collective culture is when you do not make a decision that is best for you, but is best for your collective community so autonomy is not the basis on which one makes decisions.

09:48:33 Kira Nurieli: Reacted to "I believe one of the..." with 🙌

09:49:01 Astrid: Yes, I believe so, but it's a strange process where they've contracted out the training. Each Community Dispute Mediation Center for the county handles that county's sped mediations.

09:49:15 Kira Nurieli: +Maryann's point. There's a lot of social psychological research on how individual agency is different in collectivist societies (and cults).

09:50:01 Ellen Deason: Reacted to "I believe one of the..." with 👍

09:50:21 Heather Fogg (she/hers): And there are considerations about how psychological study has also itself been impacted by colonization: <https://www.apa.org/international/global-insights/decolonial-psychology>

09:50:41 Harvey Newman West Palm Beach, FL: I noticed that you both are using a lot of hand gestures while you are talking with us. Do you watch your hand gestures during your mediations?

09:51:31 Cheryl Agris: Actually, even in court mandated mediations, parties generally have the option of choosing their own mediator-it might just cost them more.

09:52:32 Ariel: In nyc family court they have zero choice of mediator. The mediator is just assigned from the (not very diverse) panel.

09:53:15 Margot Post | Toronto, Canada: I think you honour self determination within your process - no matter how they came to us.

09:53:28 Ariel: Have you found big differences in using this model online vs in person?

09:57:33 Ed Watt: Great presentation!!! Thank you both.

09:57:43 Margot Post | Toronto, Canada: 100 percent Maryann - thank you for sharing

09:57:51 Barbara Odwak, NYC: Thank you

- 09:58:04 Maryann, GA: Reacted to "100 percent Maryann ..." with ❤️
- 09:58:22 ELLYN Rabinowitz, Nyack, NY: Very illuminating, thank you. Will have to get your book!
- 09:58:35 hzeffert: Thank you so much Tara and Dan, and everyone organising the breakfast. Such valuable work - and so helpful to hear you speak about the book and offer a rubric for thinking through and implementing SD in practice. Much of the beauty of your book is giving structure and theory to what many of us intuitively feel but might not know how to implement strategically. I am in UK/Ireland - we lack such a vibrant space for talking about issues in mediation. Thanks everyone!
- 09:58:38 Astrid: Yes, Maryann, sounds like white supremacy culture at work.
- 09:58:42 Lewellyne C Blanchard: Thank you for giving us something to mull over.
- 09:58:51 Margot Post | Toronto, Canada: Thank you for this - very informative and helpful!
- 09:58:51 Lydia Carbone: Thought provoking and useful!
- 09:58:52 Maryann, GA: Reacted to "+Maryann's point. Th..." with ❤️
- 09:59:18 Will Sawma - Dispute Resolution Center: Reacted to "I think you honour s..." with ❤️
- 09:59:22 Maryann, GA: Reacted to "And there are consid..." with ❤️
- 09:59:25 Bathabile Mthombeni (she/her): Sometimes White co-conspirators who notice this kind of bias will withdraw their names from consideration and overtly address the situation with the organization. That is a revolutionary, paradigm shifting action from my perspective.
- 09:59:37 Andrew Larratt-Smith: I think this discussion raises a challenging question about what happens if the choices of parties are influenced by implicit bias? For example if parties are choosing mediators and that leads to less frequent selection of mediators from more marginalized communities.
- 09:59:41 Michael Cassandra: Thank you, Dan and Tara, for this talk. I am looking forward to reading the book for more detail. I am still a bit befuddled by the notion of mediator self-determination.
- 09:59:56 Deborah Somme, Jamaica NYC: Have to exit a little early. It was a great discussion today. Very informative as usual. Looking forward to next month. Everyone have a great day.

- 10:00:25 Niki Borofsky | Paris: Link to book:
<https://rowman.com/ISBN/9781538153857/Self-Determination-in-Mediation-The-Art-and-Science-of-Mirrors-and-Lights>
- 10:01:07 Heather Fogg (she/hers): Reacted to "Sometimes White co-c..." with ❤️
- 10:01:12 Cheryl Prewitt: This was great. Thank you.
- 10:01:13 Nora F.: Thanks for a great presentation! very illuminating...
- 10:01:22 Lee Kramer - Harbor Springs, Michigan: Thank you.
- 10:01:27 Karen Davis - Chile: In gratitude . . .
- 10:01:30 Shai Naides, NYC: Thanks everyone - really thought provoking!
- 10:01:32 David Thaler (FMCS): Excellent Job, Tara and Dan! Thank you!
- 10:01:35 Bathabile Mthombeni (she/her): @Andrew excellent questions! Honestly, I would stand by allowing parties to exercise their bias. We want diversity so that underrepresented people can choose mediators that are part of their own communities. I think it would be hypocritical to deny well or overrepresented groups that choice.]
- 10:01:36 Jennifer-Center for Resolution and Justice: Thank you so much!

Videos of ACR-GNY & John Jay Roundtable Breakfasts are available here:

ACR-GNY website | <https://www.acrgny.org/RTB-Videos>

John Jay College of Criminal Justice Dispute Resolution website | <https://www.jjay.cuny.edu/DRC/EVENTS>

Started in the aftermath of 9/11 by Professor Maria R. Volpe, the NYC-DR Monthly Roundtable Breakfasts are co-sponsored by the [Association for Conflict Resolution of Greater New York](#) and the [CUNY Dispute Resolution Center at John Jay College](#). The Breakfasts are organized and facilitated by Julie Denny, Matthew Lattimer, Niki Borofsky, Emily Skinner, and Maria Volpe and occur the first Thursday of each month from 8:30 – 10:00 am (New York Time).

Please note, the views and opinions expressed at Breakfast Roundtables and in the Chat Transcript are those of the speakers and participants and do not necessarily reflect the beliefs or position of ACR-GNY or John Jay College.