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# Solution-focused Family Dispute Resolution

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*Building solutions is different from solving problems or conflicts. The focus of solution-focused (SF) mediators is on the participants' preferred future instead of their undesired past or present and to help them become better instead of bitter. Participants are invited to describe their best hopes and devise solutions to make them happen. The expertise of SF mediators lies in asking SF questions and in inviting participants to change. The concept and methodology of SF mediation differ significantly from other types of mediation. Mediation becomes more positive and shorter, ensuring that it is cost-effective and that there is less burnout amongst mediators. This article includes an introduction of the benefits of applying a future focus, followed by a description of the basics of SF mediation and includes a successful example of SF mediation at work in a family dispute case.*

## INTRODUCTION

The new millennium brings to light several social evolutions, visible in different fields. In mental health care, for example, there is the evolution from lengthy to shorter forms of treatment. Due to the growing emancipation of clients, the model in which professionals are the only experts is increasingly being questioned. The SF model is replacing the cause-and-effect "medical model", where therapists or doctors first need to analyse the problem. The same shift from the focus on what is wrong to what is right is seen in education, management, leadership, coaching, and sports.<sup>1</sup>

Within the administration of justice, another evolution is taking place: rather than visiting a judge, who makes a decision for parties, this evolution involves a mediator, acting as a facilitator in finding solutions originating from the competence of the participants. The difference between a judicial procedure and the mediation process is that within the judicial procedure, the arrows are aimed at facts in the past, at the legal consequences of these facts, and at the positions participants can adopt in relation to them. In mediation, these facts and points of view do not take centre stage, but rather the wishes and goals of the participants. Using mediation, conflicts can often be resolved more rapidly, more economically and with a more satisfying outcome.

Taking together the evolution from problem-solving to solutions-building, and the evolution from the often adversarial legal system to mediation, which is often more satisfying for participants, there is much to say in favour of SF mediation.

## WHAT IS SF MEDIATION?

Four models can be applied in mediation. Both the problem-solving model and the transformative model are variations of the cause-and-effect model. The narrative model stands between the SF model and the other two. These four models differ from one another with regard to the mediators' role and competencies. Behind these differences lie hidden fundamental ideas about human nature, social interaction, and conflict, in short, differences in ideology. Baruch Bush and Folger state, and I concur,

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<sup>1</sup> DL Cooperrider and D Whitney, *Appreciative Inquiry: A Positive Revolution to Change* (Berrett-Koehler, 2005).



that models can exist side by side and can help participants, as long as there is sufficient transparency about the model employed by the mediator, so that participants are able to choose.<sup>2</sup>

In SF mediation the focus is on the preferred future, as opposed to judgements about the past or present. The crucial question is: “How do you see your preferred future?” From this perspective there are many more solutions than conflicts.

I have previously compared SF mediation with other models.<sup>3</sup> Major differences are summarised in the table below.

**TABLE 1 Differences between Models in Mediation**

Other Models	Solution-focused Model
Past- and present-oriented	Future-oriented
Use of past- or present tense	Use of future tense
Conversations about what participants do not want	Conversations about what participants do want
Analysing the conflict	Analysing the goal, exceptions and successes
Conversations about the status quo and impossibilities	Conversations about change (positive differences) and possibilities
Conversations for insight and working though	Conversations about accountability and action; Insight may come during or after mediation but is not an essential part of mediation
Conversations about blame and invalidation	No invitations to blame and invalidation
Participants sometimes seen as not motivated (resistance)	Participants seen as motivated (although their goal may be different from the goal of the mediator)
Participants sometimes viewed as incompetent (deficit model)	Participants viewed as competent, having strengths and abilities (resource model)
Mediators give advice: they are experts	Mediators ask SF questions: participants are co-experts
Mediator’s theory of change	Participants’ theory of change
Expression of affect is important (catharsis model)	Goals are individualised and do not necessarily involve expression of affect
Recognition and empowerment are goals	Recognition and empowerment can be means to reach preferred future but are not goals
Interpretation and hypothesising	No hypothesising, instead acknowledgment and validation

<sup>2</sup> RA Baruch Bush and JP Folger, *The Promise of Mediation: The Transformative Approach to Conflict* (Jossey-Bass, rev ed, 2005).

<sup>3</sup> FP Bannink, “Solution-focused Mediation: The Future with a Difference” (2007) 25 *Conflict Resolution Quarterly* 163; FP Bannink, *1001 Solution-focused Questions: Handbook for Solution-focused Interviewing* (WW Norton, 2010); FP Bannink, *Handbook of Solution-focused Conflict Management* (Hogrefe Publishers, 2010); FP Bannink, *101 Solution-focused Questions for Help with Anxiety* (WW Norton, 2015); FP Bannink, *101 Solution-focused Questions for Help with Depression* (WW Norton, 2015); FP Bannink, *101 Solution-focused Questions for Help with Trauma* (WW Norton, 2015).

TABLE 1 *continued*

Other Models	Solution-focused Model
Big changes are needed	Small useful changes are often enough and can be amplified
New skills must be learned	Participants are competent and have made changes before
Mediator indicates end of mediation	Participants indicate end of mediation
Success defined as resolution of the conflict	Success defined as reaching preferred future, which may be different from (or better than) the resolution of conflict
(Sometimes) feedback from participants at end of mediation	Feedback from participants at end of every session

### The Future Focus

De Shazer developed solution-focused brief therapy.<sup>4</sup> He expanded upon the work of Watzlawick, Weakland, and Fish who found that the attempted solution often perpetuated the problem, and that an understanding of the origins of the problem was not (always) necessary.<sup>5</sup> Assumptions of the general SF model are:

- The development of a solution is not necessarily related to the problem. Analysis of the problem is not useful in finding solutions, whereas analysis of exceptions to the problem is.
- Clients are the experts. They determine the goal and the road to achieving this.
- If it is not broken, do not fix it. Leave alone what is positive in the clients' perception.
- If something works, do more of it. Even though it may be different from what was expected.
- If something doesn't work, do something else. More of the same leads nowhere.

De Bono distinguishes four dimensions in conflict thinking: fighting, negotiating, problem-solving, and designing.<sup>6</sup> Fighting revolves around tactics, strategy, and vulnerabilities. This is the language of the courtroom, where winning is the goal. Negotiating suggests a compromise, whereby possibilities are limited to what already exists, rather than envisaging something new. Problem-solving concerns the analysis of the conflict along with its causes. One of the disadvantages is that when the conflict is defined, the type of solution expected is also defined. With these three ways of conflict thinking one looks backward at what already exists.

The fourth and best way, according to De Bono, designing, looks *forward* at what might be created. The preferred future is determined, and then participants find out what solutions may get them there. Another approach is to simply jump to the end and conceive a dream solution - circumstances in which the conflict no longer exists: "*Imagine* the conflict solved, what would you be doing differently?" Hypothetical questions are useful, because they refer to alterations in the condition of the conflict. In conflictual situations, participants' perceptions and thinking often make it impossible to build solutions. The introduction of some instability is often necessary to open up their thinking. The mediators' goal is to convert a two-dimensional fight into a three-dimensional exploration, leading to the design of a desirable outcome. "Conflict thinking should not be a fight but a design exercise."<sup>7</sup>

<sup>4</sup> S De Shazer, *Keys to Solution in Brief Therapy* (WW Norton, 1985).

<sup>5</sup> P Watzlawick, J Weakland and R Fish, *Change: Principles of Problem Formation and Problem Resolution* (WW Norton, 1974).

<sup>6</sup> E De Bono, *Conflicts: A Better Way to Resolve Them* (Penguin, 1985).

<sup>7</sup> De Bono, n 6, 124.

Salacuse also discusses the importance of having a vision of the end result.<sup>8</sup> What participants seek is not just help but help with their future: “Whether an advisor is a doctor, a lawyer, a financial consultant or a psychotherapist, his or her mission is to help the client make a better future”.<sup>9</sup> Covey describes this same future focus in the second habit of highly effective people: to begin with the end in mind.<sup>10</sup>

In a recent study Huynh, Yang and Grossman examined how adopting a future (versus present) oriented focus when reflecting on a relationship conflict impacts the process of reasoning and relationship well-being.<sup>11</sup> Participants who were instructed to think about how they would feel in the future (versus present) in one year’s time expressed more adaptive reasoning over a relationship conflict – low partner blame, greater insight, and greater forgiveness, associated with greater relationship well-being – for example, more positive versus negative emotions about the relationship and expectations that the relationship will grow. These findings were driven by a decrease in person-centred language when reflecting on the conflict.

However, participants are often preoccupied by the past: the causes of the conflict and mutual blame often distract them from focusing on the future. They are so focused on wanting to be in the right that they tend to overlook solutions possibly lying outside the field of the original conflict. Frequently, these solutions have nothing to do with the conflict, and an agreement made in mediation may be in a form that could never be envisaged in a courtroom, let alone achieved.

Although all aforementioned authors argue that mediation should focus on the future, it is surprising that so much attention and time in mediation is still being spent on past and present issues. Haynes, Haynes, and Fong state that mediators should use the future focus and should mediate in the future tense only:

Most clients are highly articulate about what they do not want and equally reticent about what they do want. However, the mediator is only useful to the clients in helping them to determine what they do want in the future and then helping them decide how they can get what they want. It is difficult for the mediator to help clients not get what they do not want, which is what clients expect if the mediator dwells with them on the past.<sup>12</sup>

## Research

The SF model has proved to be successful in many contexts, such as psychotherapy,<sup>13</sup> coaching, mediation and conflict management,<sup>14</sup> leadership, education, supervision<sup>15</sup> and sports. Meta-analytic reviews of the outcome research<sup>16</sup> have shown that SF psychotherapy is equivalent to other evidence-based approaches, producing results in substantially less time and at less cost. The effectiveness of SF mediation has not yet been studied, but the same outcomes are expected. Medina

<sup>8</sup> JW Salacuse, *The Wise Advisor: What Every Professional Should Know About Consulting and Counseling* (Praeger, 2000).

<sup>9</sup> Salacuse, n 8, 44.

<sup>10</sup> SR Covey, *The Seven Habits of Highly Effective People* (Simon & Schuster, 1989).

<sup>11</sup> AC Huynh, DY Yang and I Grossman, “The Value of Prospective Reasoning for Close Relationships” (2016) 7 *Social Psychological and Personality Science* 893.

<sup>12</sup> JM Haynes, GL Haynes, and LS Fong, *Mediation: Positive Conflict Management* (State University of New York Press, 2004) 7.

<sup>13</sup> FP Bannink, *Practicing Positive CBT: From Reducing Distress to Building Success* (Wiley, 2012); FP Bannink, *Post-Traumatic Success: Positive Psychology & Solution-Focused Strategies to Help Clients Survive and Thrive* (WW Norton, 2014); see also n 3 and the sources cited there.

<sup>14</sup> FP Bannink, *Handbook of Solution-Focused Conflict Management* (Hogrefe Publishers, 2010); Bannink, “Solution-focused Mediation: The Future with a Difference”, n 3.

<sup>15</sup> Bannink, *Handbook of Positive Supervision for Supervisors, Facilitators and Peer Groups* (Hogrefe Publishers, 2015).

<sup>16</sup> C Franklin et al (eds), *Solution-focused Brief Therapy: A Handbook of Evidence Based Practice* (Oxford University Press, 2012); WJ Gingerich and LT Peterson, “Effectiveness of Solution-focused Brief Therapy: A Systematic Qualitative Review of Controlled Outcome Studies” (2013) 23 *Research on Social Work Practice* 266.

and Beyebach found that therapists using a focus on solutions and strengths suffer less from burnout than those using a focus on problems and deficits.<sup>17</sup>

Grant and O'Connor found different effects resulting from problem-focused and SF questions in a coaching context.<sup>18</sup> Problem-focused questions (eg, "What is bothering you?") reduce negative affect and increase self-efficacy, but don't increase positive affect or the understanding of the nature of the issue. SF questions also reduce negative affect and increase self-efficacy, but in addition they increase positive affect and the understanding of the nature of the issue.

The SF model in mediation can be used in personal conflicts, such as conflicts between neighbours, in schools and hospitals, in family disputes, between parents and children, between perpetrators and victims (restorative justice)<sup>19</sup> personal injury mediation, conflicts between people and companies or organisations or within companies or organisations, such as conflicts at work, conflicts about business succession, team-related conflicts and within governments.

### **The Practice of SF Mediation**

Following building rapport with both parents – a positive attachment, as well as active and collaborative engagement of all involved, and a presentation of the structure and ground rules of mediation, the first question is about the desired outcome: "What will be the best result of this mediation?" or, "What are your best hopes?" Participants may react with a description of the conflict, to which mediators listen respectfully, but they do not ask any details, thus not reinforcing "conflict-talk", or participants may indicate their hoped for outcome, and mediators may reinforce "solutions-talk" right away. It is important to acknowledge the impact the conflict has on participants and to help them change their situation. It may be helpful to give participants "one opportunity to say what definitely needs to be said" at the start of the mediation. This reduces the possible reverberating of accusations, and blaming of the other's wrongdoing and being responsible for the conflict.<sup>20</sup>

### **Basic SF Techniques**

It would be nice if participants and mediators could begin with the assumption that the mediation process is being used as intended: to find solutions, to re-establish dialogue, to settle a case, to put something behind them, or to become a good parenting-team. For this, personal changes in behaviour are often required. Based on the fact that we cannot assume that parents are attending voluntarily, mediators as agents of change invite participants to change using SF techniques. SF questions lie at the heart of SF mediation. These questions invite participants to think differently, to notice positive differences, and to help make desired changes. Mediators can use one or more of the following basic SF techniques:

- *Setting a well-defined goal.* In problem-solving models it is assumed that the conflict is blocking participants from being able to move forward. It is assumed that once the problem or conflict is solved, they can move forward in a more productive direction. The way that participants and mediators typically agree to know that the conflict is solved is when it is reduced or gone. However, if they solely focus on the reduction of the undesired situation, participants may not yet have replaced it with their preferred situation. Finishing mediation at a point where something is not happening rather than at a point where the preferred future is happening has a greater risk of relapse<sup>21</sup> Therefore, a well-defined goal should be phrased as a positive representation, in a process form, in the here-and-now (which means participants can start the solution(s) immediately), as specifically as possible, as being within their control, and in their language.

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<sup>17</sup> A Medina and M Beyebach, "The Impact of Solution-focused Training on Professionals' Beliefs, Practices and Burnout of Child Protection Workers in Tenerife Island" (2014) 20 *Child Care in Practice* 7.

<sup>18</sup> AM Grant and SA O'Connor, "The Differential Effects of Solution-focused and Problem-focused Coaching Questions: A Pilot Study with Implications for Practice" (2010) 42 *Industrial and Commercial Training* 102.

<sup>19</sup> FP Bannink and L Walker, *Solution-focused Conflict Management and Restoration Circles* (2014, rev 2015) <<http://www.fredrikebannink.com/bannink/wp-content/uploads/2015/08/SF-Conflict-Management-Restoration-Circles- June-2015.pdf>>.

<sup>20</sup> Bannink, *Handbook of Solution-focused Conflict Management*, n 3.

<sup>21</sup> Bannink, *Handbook of Solution-focused Conflict Management*, n 3; Bannink, *Handbook of Positive Supervision for Supervisors, Facilitators and Peer Groups*, n 15.

Cloke states that every conflict leads to two different crossroads. First there is a choice between fighting or problem solving. Later, there is a subtler, more arduous and far-reaching choice between merely settling conflicts or conflict transformation: seeking to learn from them, correcting behaviours, and moving toward forgiveness and reconciliation.<sup>22</sup>

Participants are invited to give a detailed description of what will be different when (note: not “if”) they have reached their preferred future (in which the conflict is solved – or perhaps not solved). Mediators may ask the miracle question: “Imagine tonight after you have gone to sleep, a miracle occurs – and the conflict that brought you here has disappeared...But you were unaware of the miracle, as you were asleep. What would be the first thing you would notice tomorrow morning that will tell you that this miracle has taken place? What would be different between you?” “How would this manifest itself during the day?” as such comparable to De Bono’s dream solution.<sup>23</sup> Examples of outcome designs are: a good co-operation on parenting issues (a good team as co-parents), or the ending of a relationship as well as possible. If, in the end, participants, with the help of the mediator, are not able to find a mutual description of their preferred future, mediation is probably not indicated. Litigation may then be a good alternative.

- *Exploring exceptions.* Questions are asked regarding the moments when the conflict is or was less serious (or even gone for a while), and who does or did what to bring these exceptions about; mediators may also ask about moments that already meet (to a degree) the preferred future.
- *Asking competence questions and giving compliments.* Mediators look for the participants’ competencies through questions such as: “How did you do that?”, “How did you decide to do that?” or, “How did you manage to do that?” The answers foster empowerment and may reveal whether something, which has helped at an earlier stage, can be done again.
- *Utilizing scaling questions* (10 = *very good*, 0 = *very bad*). Scaling questions help participants to express complex, intuitive observations about their experiences and estimates of future possibilities. They help mediators in assessing improvements between the moment the appointment was made and the first session (pre-mediation change).<sup>24</sup> These questions also serve to measure and speed up progress, to measure and stimulate motivation, cooperation, hope and confidence of the participants that they will achieve their goal.
- *Asking for feedback.* At the end of the session mediators invite participants to give feedback relating to the alliance, goals and topics, and approach or method. Mediators also ask what they as a mediator can do differently or better in a follow-up session, if there is any.
- *Evaluating progress.* There is regular evaluation of how far participants have come in achieving their goal. They evaluate progress on a scale of 10 to 0, with 10 = the ideal situation and 0 = the opposite. Participants often are happy with a 7 or 8. The session continues to explore what is yet to be done before participants consider their preferred future (sufficiently) reached and deem the mediation complete. Each session is considered the final one and in many cases is a once only opportunity. If affordable and possible, mediators ask at the end of the session whether they deem another session necessary or useful. If so, participants determine the scheduling of the next session.
- *Adopting the attitude of not knowing (asking questions) and leading from one step behind.*<sup>25</sup> Participants are seen as co-experts. In a sense mediators stand one step behind the participants and invite them by asking SF questions to look at their preferred future and take steps to reach it.

The metaphor of the solution-focused taxi story offers a constructive vision of what SF mediation looks like.<sup>26</sup> Deciding to take a taxi, finding the right one, determining the destination (“Where to?”

<sup>22</sup> K Cloke, *The Crossroads of Conflict: A Journey into the Heart of Dispute Resolution* (Janis Publications, 2006).

<sup>23</sup> De Bono, n 6.

<sup>24</sup> Bannink, *1001 Solution-focused Questions: Handbook for Solution-focused Interviewing; Handbook of Solution-focused Conflict Management*, n 3.

<sup>25</sup> Bannink, *101 Solution-focused Questions for Help with Anxiety; 101 Solution-focused Questions for Help with Depression; 101 Solution-focused Questions for Help with Trauma; Handbook of Solution-focused Conflict Management*, n 3.

<sup>26</sup> FP Bannink and J McCarthy, “The Solution-focused Taxi” (2014) 5 *Counseling Today* 1.

instead of “Where from?”), making progress and ending the ride are all parts of the metaphor that makes it easy to utilize. This metaphor may serve to change the focus of mediation and how mediators work in helping people change.

The four basic SF questions follow the same sequence:

1. “What are your best hopes?”
2. “What difference will that make?”
3. “What works?”
4. “What will be next signs of progress?” Or: “What will be your next step?”

### ***Family Dispute Resolution Case***

The Court refers Ann and Ben<sup>27</sup> to the mediator: they have to come up with a parenting plan for their children, aged 8 and 10. At the start the mediator builds a positive alliance: “I would like to compliment you both for showing up and for demonstrating your willingness to find out how mediation may help you to find a better future.”

They had seen another mediator earlier on, but they had not been happy with the process and the outcome. Ann said: “I signed the agreement too soon; I felt put under pressure by Ben and the mediator.” Later they discovered that the implementation of the parenting plan was not working, because the details were not concrete enough. The mediator asks: “Given your experience with the previous mediation, what are the do’s and don’ts for me, that will make this mediation a successful one?” Ann replied that she wants to take it more slowly and Ben concurs, admitting he has been somewhat pushy.

The next question to both is, “What are your best hopes?” They hope that a better co-operation will emerge than is currently the case. This would be particularly beneficial for their children; they would do better in school, since they suffer from the tense atmosphere between their parents. Also for Ann and Ben many positive differences would emerge: their life would be much calmer as finally a satisfactory parenting plan would be agreed and both would honor it. They would be able to finally carry on with their separate lives (Ben has a new partner), as well as functioning as a good parenting-team together.

The mediator then asks scaling questions, “How important is it for you to become a good parenting-team, where 10 equals extremely important and 0 equals not important at all?” Both indicate that it is very important (Ann says 9, Ben says 8). Both are pleased to notice that the other gives such a high mark on the scale. The mediator asks, “What mark would you like to reach as a good parenting team?” Ann thinks a 7 would be a great result; Ben would be satisfied with a 6. The next question is, “Where are you now on the scale as a good parenting team, where 10 equals co-operation is optimal and 0 equals only conflict?”<sup>28</sup> Ann says 2; Ben says 3. The mediator asks, “How come you give your cooperation a 2 and you a 3, and not lower?” They explain that they are again on speaking terms, which has not been the case for some time. The mediator asks them a competence question: “How did you achieve that?” It turns out that the sister of Ann who, worried about the children, ensured that both had met on neutral ground (with the sister present) to talk about the wellbeing of the children. Also the fact that they had decided to start another mediation was, according to them, a step in the right direction.

The mediator asks, “What will be your next step forward?” Ben indicates that their mutual trust has dropped enormously. The mediator asks, “What difference will it make when your mutual trust is (somewhat) restored?” The next question is how they may improve their mutual trust. Ben says he would consider it a sign of trust when Ann would give him her mobile phone number. But given their history Ann is not willing to do so at this point in time.

The mediator then asks Ben a hypothetical question, “Suppose Ann were to give you her phone number, what will you do differently?” Ben says he would then send a birthday card to his daughter

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<sup>27</sup> Names have been changed.

<sup>28</sup> Schelling in his description of the game theory uses the terms “pure collaboration” and “pure conflict” to indicate the two opposite marks on a scale from 10–0: TC Schelling, *The Strategy of Conflict* (Harvard University Press, 1960).

(no mediator can come up with this!) and realises he can send the card anyway. Because of this, a small change takes place in the contact between him and his children. Ann values his positive gesture and a small positive change takes place between the two. The first session ends with the question of whether both think it useful to schedule another session and when they like to return. They both give positive feedback to the mediator. As a homework suggestion the mediator invites them to observe the moments when they are already working as a good (enough) parenting team.

After three weeks the second session takes place. Prior to the session they have an argument in front of the mediator's office. The usual SF opening question about progress, "What is better", is therefore postponed. When asked where they are on the scale as a parenting team, they report that they are now back to 1 or even 0. In the previous weeks they had gone up the scale to 5 and 6 (as their homework showed). Their initial hope and confidence that they can work things out together is now almost back to zero. The mediator acknowledges their disappointment and asks, "What would be the smallest thing you could do now to make a minimal positive difference?" Ben and Ann both think long and hard. Subsequently, Ben proposes to forget about the quarrel and pretend it did not happen, since their cooperation in the previous weeks had been better. Ann thinks this is a very strange proposal, but finally complies. The mediator compliments them on their creative ideas.

Attention is again paid to what works and which steps can take them further. They discuss what Ann and Ben can do themselves and how they can help each other move forward. After the second session both deem further mediation no longer necessary. A parental plan is drafted with clear agreements on the parental access and the distribution of means, the latter consisting of a monthly amount and payment of additional expenses for both children.

Also a relationship question with a future focus makes a difference. During the second session the mediator asks, "Suppose I come across your children in about ten years' time and I were to ask them how you cooperated as a good parenting team and managed to settle this issue in a good way, what would you like your children to say on how you accomplished that?" A long silence follows and tears appear in Ann's eyes. This question from the perspective of the children makes them realise that the mediation is not only about themselves, but first and foremost about the best interest of the children.

The mediator compliments Ann for taking the time and effort to reach this agreement and Ben for his co-operation and not wanting to rush things, as Ann had perceived he had done before. The mediation is concluded after Ann and Ben have given feedback and a copy of the written agreement is sent to the Court.

### **CONCLUDING REMARKS**

Brief, goal-oriented interventions are popular, in (mental) health care, education, leadership, and coaching, as well as in the administration of justice. Reducing the negative, ie, solving or diminishing the problem or conflict, is still pursued too often by many clients, doctors and mediators, resulting in a limited frame of reference from which to generate options. The SF model focuses not on analysing what is wrong and repairing the worst, but on building what is right and creating the best. I suggest all mediators be trained in applying the future focus and in mediating in the future tense to help participants lead better instead of bitter lives.