



ADR

NEWS

A publication of the Tennessee Alternative Dispute Resolution Commission

VOLUME 11, ISSUE 3

SUMMER 2011

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Don't Forget to Register!

The Ninth Annual Advanced Mediation Techniques Workshop is scheduled for October 21, 2011, at Lipscomb University from 8:00 a.m. until 4:00 p.m. CST. The program title is "Reflective Practice for Mediators: Critical Assessment of Thoughts and Actions."

Registration materials were emailed to all Rule 31 listed mediators on August 15th. You may also find the materials on the AOC webpage at the following link:

<http://www.tncourts.gov/programs/mediation/resources-mediators/continuing-mediation-education>

The workshop will offer six hours of Continuing Mediation Education (CME) and will satisfy the CME requirements for family and civil listed mediators.

Please note that space is limited so register soon. If you do not wish to attend at Lipscomb, the workshop will be available online via live feed on October 21 only and will not be available for viewing at a later date.

Mediation as Terror Management: Implications for Mediation Training and Practice

By Kenneth M. Jackson¹

Introduction

The counseling role of mediators is explicitly disclaimed in mediation ethics rules.² Though mediators are not counselors when acting as mediators, and mediation is not therapy, this article contends that mediators need skills that are part of a counselor's repertoire and a theoretical base that grounds mediators in an understanding of human nature. I will nominate and explain a theoretical base called Terror Management Theory that can be helpful to mediators. I will also briefly discuss other useful theories. Throughout I will draw implications for mediation training and practice, and conclude with a counseling model of mediation.

Terror Management Theory

Terror Management Theory suggests the need for greater psychological and counseling training for mediators, as well as revisions in mediation practices and training generally. This does not mean that non-attorney mediators do not need more legal and paralegal training. Terror Management Theory proposes that, because humans are presumptively unique in their self-consciousness of their mortality, the instinct for self-preservation responds to reminders of mortality (mortality salience) with fears of death, decay, and worthlessness.³ This bundle of fears, which is universal, is managed by the adoption and maintenance of a personal cultural worldview,⁴ and by creating ways to maintain the *status quo* and to enhance one's self-esteem. Fear management is achieved largely through extrinsic signs such as wealth, power, and fame, but also through identification with others like ourselves. Self-esteem serves to buffer to our anxieties associated with awareness of mortality, and it is made possible by the development of cultural worldviews... which provide a stable and meaningful conception of the universe, social roles with specific prescriptions for behaviors that are deemed valuable, and the promise of safety and immortality to those who satisfy those prescriptions.⁵

In a conflict when one's self-esteem is challenged by another person, one will create a variety of worldview defensive strategies to minimize, counteract, or compensate for the perceived threat. Worldview defense is experiential, not rational.⁶ Individuals criticize, disaffiliate from, and even become aggressive towards those whose worldviews differ, while valuing those who support their worldviews.

What Terror Management Theory is telling mediators is that more fundamental processes are involved in conflict resolution than needs and interests, monetary or otherwise. It provides us with a way to understand the fear of conflict, and the inappropriate

¹ I am indebted to Dr. David McMillan, Ph. D., who generously reviewed drafts of this paper, and offered not only his critical eye but also formulations of points I have adopted *verbatim*. Leigh Ann Roberts, Esq., also provided helpful comments. The responsibility for any faults is entirely mine.

² For example, Tenn. Sup. Ct. Rule 31, App. A, § 6 (b) (4).

³ There are well over 200 articles reporting on TMT experiments and they will not be cited here. The initial article by Greenberg, Pyszczynski, and Solomon was "The Causes and Consequences of a Need for Self-Esteem," pp. 189-212, in R. F. Baumeister, Ed., *Public Self and Private Self*. (New York: Springer-Verlag, 1986). Their work is based on Ernest Becker's *Denial of Death* (New York: Free Press, 1973) and his *Escape from Evil* (New York: Free Press, 1975). Becker's basic idea is that awareness of death is a uniquely human phenomena and the mainspring of human activities – activities largely designed to avoid or deny death, literally and symbolically. Over time humans created cultural worldviews that offered order, predictability, meaning, and permanence. The thrust of *Escape from Evil* is the principle of prosperity: anything that threatens our access to what we need, from food and water to material and emotional goods is bad.

⁴ A "worldview" is the collection of beliefs and attitudes about life held by a person or a group, a set of assumptions about physical and social reality, the "most basic and comprehensive concepts, values, and unstated assumptions about the nature of reality." *Dictionary of Pastoral Care and Counseling*, Expanded Ed., Rodney J. Hunter, Ed. (Nashville: Abingdon Press, 2005), p. 1338. See also Mark E. Koltka-Rivera, "The Psychology of Worldviews," *Review of General Psychology*, Vol. 8, No. 1, (2004) pp. 3-58.

⁵ Solomon, S.; Greenberg, J.; and Pyszczynski, T., "Terror Management Theory of Self-Esteem," Chapter 2 in C. R. Snyder and Donelson R. Forsyth, *Handbook of Social and Clinical Psychology*, (New York: Pergamon Press, 1991), pp. 21-40, 24-25.

⁶ Solomon, S.; Greenberg, J.; and Pyszczynski, T., "Tales from the Crypt: On the Role of Death in Life," in *Zygon*, Vol. 33, No. 1 (1998), pp. 9-41, 35.

responses to conflict, that are endemic in society.

Proximal and Distal Defenses

In mediation we see both proximal and distal defenses.⁷ Death-related thought first activates direct defenses (proximal defenses) to minimize the threat and then later triggers symbolic worldview defenses (distal defenses).⁸ Proximal or direct defenses include: separating from threatening persons, stereotyping the other person, using derogatory terms, exaggerating differences, stigmatizing the other, displaying disapproval, making self-serving projections, and creating social distance. In mediation, we see problem-avoidance, altered perceptions of the severity of problems, distractions, and denial of vulnerability to problems. Sometimes we see actions to delay or defer paying attention to, or taking action on critical problems in situations where early resolution would be beneficial.

Distal defenses (worldview defenses) include increasing self-esteem by winning, by material acquisitions, and by lifestyle. These more abstract intellectual defenses “provide security by making one’s life seem meaningful, valuable, and enduring.”⁹ Positive reactions are given to those who support one’s worldview, negative to those who do not. In mediation, when worldviews collide, the mediator must not only maintain neutrality between them, but also must help to translate apparent differences into superordinate commonalities. Mediators do this by demonstrating that they have listened to each participant through such techniques as active listening, summarizing, reframing, and appropriate questioning.¹⁰ Commonalities perceived by the mediator can be tested.

Both types of defenses are fragile. We have daily reminders of mortality in the normal flow of life, and in profound tragedies such as the recent 9.0 earthquake, the ensuing tsunami, and the nuclear threat in Japan. To the extent that people need to believe that one and only one conception of reality is ultimately correct, the existence of conceptions at variance with their own implies that someone must be mistaken . . . the existence of others with different worldviews therefore increases the individual’s need for validation of his or her own worldview.¹¹ Inducing mortality reminders “increases the positivity of evaluations of those who bolster the cultural worldview and the negativity of evaluations of those who threaten it.”¹²

Received Wisdom About Mediation

Acknowledging differences in practice among mediators, there remains a body of received wisdom that is commonly utilized in the training and practice of mediation. Textbooks and training manuals, for the most part, present conformed models of mediation practice. Variations are co-opted – facilitative, evaluative, and transformative styles of mediation, sole mediators or co-mediators, family or business cases, separate or joint sessions, and ways of facilitating communication – all different approaches that are described for use in appropriate cases. The question I am raising is whether or not our broad assumptions about sound mediation techniques need re-examination. I conclude that they do with regard to the existential psychological dynamics we can now, because of Terror Management Theory, understand to be present and active, if unconsciously, in conflict communications, and end with a recommended model for a mediator who can employ counseling skills and theory.

Why We Need What We Need

Getting to the real needs and interests of parties is the seam of gold the mediator prospects for, because it offers multiple, often elegant, possible solutions. When mediators understand why parties have the needs they do, mediators can devise new, or employ familiar mediation techniques to respond to those needs and interests. The better mediators can understand the psychological underpinnings, or lack thereof, of the wide variety of received principles and techniques in which they are trained, and which they perpetuate by applying them in particular cases, the better they can improve the way they conduct, and influence the outcomes of, their mediations. As their skills are developed in practice, mediators have the potential for greater creative use of those abilities. But they also may become rote and stagnant. Understanding human motivation in mediation situations provides an opportunity to infuse meaning into their mediation practice.

⁷ Although cast in polar terms, there may be degrees of each in defensiveness.

⁸ Greenberg, J.; Arndt, J.; Simon, L.; Pyszczynski, T.; and Solomon, S., “Abstract,” *Personality and Social Psychology Bulletin*, Vol. 26, No.1, pp. 91-99 (January 2000).

⁹ Pyszczynski, T.; Greenberg, J.; Solomon, S., “A Dual-Process Model of Defense Against Conscious and Unconscious Death-Related Thoughts: An Extension of Terror Management Theory,” *Psychological Review*, Vol. 106, No. 4 (1999), pp. 835-845, 839.

¹⁰ For a good exploration of appropriate communication techniques, see Chapter 5, “Assisting the Communication Process,” in Laurence J. Boulle, Michael T. Colatrella, Jr., and Anthony P. Picchioni, *Mediation Skills and Techniques*, (Newark, NJ: Lexis Nexis, 2008), pp. 115-140.

¹¹ Greenberg, Jeff; Pyszczynski, Tom; Solomon, Sheldon; Rosenblatt, Abram; Veeder, Mitchell; Kirkland, Shari; and Lyon, Deborah, “Evidence for Terror Management Theory II: Reactions to Those Who Threaten or Bolster the Cultural Worldview,” *Journal of Personality and Social Psychology*, Vol. 58(2), February 1990, pp. 318-318, 309.

¹² *Id.*

The Need for Self-Esteem

It is important for mediators to recognize the dynamic role self-esteem plays in any mediation or negotiation. The human need for self-esteem has two threat dimensions: public and private. We privately defend our self-esteem when it is privately threatened. When publicly threatened, “. . . individuals are particularly likely to engage in private self-esteem maintenance strategies.”¹³ For example, failures may be attributed to external factors, an individual’s own capabilities over-valued, and one’s performance over-estimated in comparison to others.

Self-esteem serves as a buffer to the deep feelings of anxiety over death (literal or symbolic), decay (as in aging), and worthlessness (as in losing in a conflict). We minimize our terror of death, decay and worthlessness by denying our impotence, vulnerability, and mortality, and by seeing ourselves as significant and our worldview as valid. Anything that suggests that our worldview is wrong – the opposing position in a conflict, for example – threatens our self-esteem and raises our fear and anxiety levels.

For example, in an employment conflict, in-group members, such as management, may engage in negative behaviors toward out-group members, such as employees, to defuse the threat to their worldview – that power should reside in management. Thus we often see a claim of retaliation by an employee in employment mediation. Negative reactions on either side are more likely and are stronger when the alternative conception of reality is compelling and attracts a strong commitment from the out-group. One thinks of the recent demonstrations in Wisconsin related to government action to eliminate collective bargaining for teachers, though they are part of ages of labor-management strife. Conflict is primarily ideological. One person’s worldview is pitted against the worldview of another. This diminishes the self-esteem of parties on both sides by raising the possibility that their personal value is no different from, and no better than the other party’s. The parties instinctively understand that their assumptions and presumptions, and their positions in a conflict are not unquestionably valid. This apparent equality of values and worldviews is unsettling and threatening. Often both parties deny this potential path toward mutual respect and instead convince themselves that their position is the superior one, the only right one.

A noteworthy corollary of this dynamic is that the more dissimilar the worldviews, attitudes, beliefs, and values of the parties in mediation, the less likely they will be willing to work together toward a resolution of their problems. Dissimilar worldviews often require that the mediator can best serve the process by discovering commonalities and by normalizing differences. For example, in employment mediation one might reverse roles by evoking a manager’s past experience as a non-managerial worker. Or the mediator might aid in the search for common values and worldviews that overarch the dissimilar worldviews, by exploring why each came to work at their company.

Self-Esteem and Social Behaviors

Many social behaviors are influenced by our need to protect self-esteem. We tend to like and trust the similar and familiar, and dislike and distrust the dissimilar and unfamiliar. The similar and familiar validate our beliefs and attitudes, thereby affirming our self-esteem. We react negatively to deviance and perceived deviance from norms we and those in our in-group maintain. Research has shown that attitudes of in-group members toward out-group members are influenced by the positions they take on issues, while counter-attitudinal positions taken by in-group members are viewed less critically.¹⁴ Mediators, too, . . . build and maintain self-esteem by being helpful to others, particularly others who have been deemed by the culture to be particularly worthy of help. Helping imparts a sense of value both because of the approval it generates from others and because of one’s private sense of living up to cultural standards of goodness.¹⁵

As a mediator practicing in, among other areas, faith community disputes, I see a common source of disputes to be the prejudice and hostility that can come from different religious views, even within a single, denominational church. Reminders of mortality have been shown experimentally to increase liking for a member of one’s own religious group and decrease liking for a member of a religious out-group.¹⁶

A second experiment showed that awareness of mortality encourages those with high authoritarian personalities (individuals with a high level of respect for authority, rigid and dogmatic views, and negative attitudes toward those who are different) to increase their

¹³ Greenberg, Pyszczynski, and Solomon, “The Causes and Consequences of a Need for Self-Esteem,” *supra*, pp. 196-197.

¹⁴ See, Y. H. M., and Petty, R. E., “Effects of Mortality Salience on Evaluation of In-group and Out-group Sources: The Impact of Pro- Versus Counter-attitudinal Positions,” *Personality and Social Psychology Bulletin*, Vol. 32, No. 3 (March 2006), pp. 405-416, 414.

¹⁵ Greenberg, Pyszczynski, and Solomon, “The Causes and Consequences of a Need for Self-Esteem,” *supra*, pp. 202-203.

¹⁶ Greenberg, et al, “Evidence for Terror Management Theory II” *supra*, pp. 311-317. They also refer to a study by Struch and Swartz which found that aggression toward ultraorthodox Jews by other Israeli Jews was correlated with perceived conflicts of interest and differences in basic values between the groups. Struch, N. and Swartz, S. H., “Intergroup Aggression: Its Predictors and Distinctness from In-group Bias,” *Journal of Personality and Social Psychology*, 56, 364-373. (1989)

tendency to reject dissimilar others.¹⁷ In mediation it may frequently be the case that one party is an authoritarian personality who is seeking to impose controls on the process, to over-emphasize standards they perceive to be unmet by the other party, and otherwise to dominate the other party. In that event, mediators employ a number of techniques to address the authoritarian personality, particularly if that personality is representing a power imbalance. These mediation techniques may include empowering the weaker party, creating doubt and reality testing for the stronger party, neutrally introducing counter-balancing standards, and urging tolerance of differences. Another experiment indicated that “those with worldviews that encourage tolerance of differences may actually respond to [fears of mortality] by reacting less negatively to those who are different.”¹⁸

A third experiment indicated that terror management plays a role in the censorship and persecution of those courageous or foolhardy enough to challenge central aspects of a popular worldview.¹⁹ The trial of Socrates is a classical example.²⁰ The authors of this third experiment used the then-current example of the Ayatollah Khomeini’s call for the death of an author critical of Islam, Salmon Rushdie, to demonstrate that terror management can call forth potentially lethal consequences. More prosaically, mediators in disputes involving professional firms may see an individual practitioner being rejected because he or she raises questions about, or points to faults in established practices in the firm, or is overbearing in dealing with others. The one who is perceived as being out-of-bounds threatens the in-group’s faith in the validity of their worldview. The mediator may help by challenging the in-group to be open to dissenting opinions.

When viewed as an intervention, mediation is effective when it facilitates the acquisition and maintenance of meaning and value for all parties. The mediator promotes “values, roles, and behaviors that will provide compelling, consistent social validation of the parties’ self-worth.”²¹ This means that mediators must be careful when they challenge one of the parties to reconsider their perceived reality. Reality testing, if carelessly done, can undermine efforts to help a party envision a meaningful post-dispute view of reality from which a sense of personal value can be derived. Terror management research suggests that reality testing is best done in private sessions, because public evaluation settings create more anxiety than private evaluation settings, and because public awareness of a failure, *i.e.*, a challenge to one’s understanding of reality, increases insecurity and defensiveness.²² This brings into question the model of mediation that attempts to keep the parties together in joint session all of the time.

In domestic violence cases, where a victim is more concerned about hiding the physical or emotional abuse than with seeking relief from the abuse, we see the extent to which one reacts to threats to self-esteem and the emphasis placed on what other people think, despite pain and degradation.²³ When the mediator attempts to help the abuse victim test reality, the victim may view the mediator’s attempt as an attack on the victim’s worldview that it is her or his duty to keep the abuse secret. In such cases, the mediator must be both skillful and careful.

Otto Rank, a psychotherapist and existential philosopher who broke away from Freud, and influenced Ernest Becker, contended that fear is not the only human motivation as Freud had suggested. He argues that people are also motivated to grow and develop their strengths, character, and skills. Terror Management theorists have followed Rank’s lead, and have also explored the role of growth and enrichment motives in human behavior as well as defensive concerns.²⁴ For example, promoting the conflict management skills of mediation participants in an intra-office conflict between administrative and technical staff members after resolution of the presenting issues can lead to enhanced self-esteem on both sides, and higher levels of collaboration, creativity, and self-actualization.

While we want the parties to seek creative solutions in mediation, Maslow reminds us that “deficiencies in basic needs must be satisfied before the individual will pursue self-actualization.”²⁵ When defensive motives can be satisfied, it is possible for people to cope with mortality awareness in a positive way – a change in values, an expansion of the self, a clarification of one’s priorities, and bring a more authentic meaning to life.²⁶

¹⁷ *Ibid.*, pp. 318-321, 321.

¹⁸ Solomon, S.; Greenberg, J.; and Pyszczynski, T., “A Terror Management Theory of Social Behavior: The Psychological Functions of Self-Esteem and Cultural Worldviews,” in Mark P. Zanna, Ed., *Advances in Experimental Psychology*, Vol. 24, (New York: Academic Press: 1991), pp. 93-159,141.

¹⁹ Greenberg, et al, “Evidence for Terror Management Theory II” *supra*, pp. 317-324, 324.

²⁰ I recommend Bettany Hughes, *The Hemlock Cup: Socrates, Athens, and the Search for the Good Life*, (New York: Knopf, 2010).

²¹ Solomon, et al, “Terror Management Theory of Self-Esteem,” *supra*, p. 31.

²² Solomon, et al, “A Terror Management Theory of Social Behavior,” p. 112.

²³ Solomon, et al, “A Terror Management Theory of Social Behavior,” *supra*, p. 123.

²⁴ Greenberg, J.; Pyszczynski, T.; and Solomon, S., “Toward a Dual-Motive Depth Psychology of Self and Social Behavior,” Chapter 4 in Michael H. Kernis, Ed., *Efficacy, Agency, and Self-Esteem*, (New York: Plenum Press, 1995), pp.73-99, 89.

²⁵ *Ibid.*, p. 92, citing Maslow, A., “Deficiency Motivation and Growth Motivation,” in M. R. Jones, Ed., *Nebraska Symposium on Motivation*, (Lincoln: University of Nebraska Press, 1955).

²⁶ Mikulincer, M; and Florian, V., “Do We Really Know What We Need? A Commentary on Pyszczynski, Greenberg, and Solomon,” in *Psychological Inquiry*, Vol. 8, No. 1 (1997), p. 34. They rely on Victor Frankl’s *Man’s Search for Meaning*, (Boston: Beacon Press, 1959, 1963).

Helpful Strategies

Positive, intrinsic motivations are integrated within Self-Determination Theory, such as Barbara L. Fredrickson's interest-based theory. While not as urgent or fundamental as negative motivations, intrinsic positive motivators help people create physical, intellectual, social, and psychological resources.²⁷ "Interest," in this usage, is akin to curiosity, and the mediator can help to generate engaged involvement in the mediation process by offering possibilities. By inducing positive emotions, the thought-action repertoire of mediation participants can be increased and stimulate growth, integration, and positive motivation.²⁸ Goal-setting and goal-pursuit in a mediation can instigate activities that produce feelings of competence, and create a future-oriented perspective that avoids blaming and promotes reciprocity.²⁹

Cognitive Dissonance Theory offers another helpful direction for mediators. It asserts that a person attempting to hold two mutually exclusive cognitions "produces an aversive tension state that people are motivated to reduce."³⁰ Mortality reminders intensify dissonance reduction efforts.³¹ The way this works is that information inconsistent with one's worldview is avoided or explained away, because "inconsistency undermines the very foundation of the individual's potentially fragile psychological equanimity."³² Therefore, when the mediator challenges one party's worldview, they must be ready to offer another worldview that will both serve the party's self-esteem needs and help buffer the party's fears. This other worldview may be the third position discussed below. Also, a mediator might suggest that the parties agree to a trial period for a proposed solution to their conflict to verify that it is not opposed to their worldview, but consistent with it.

Just World Theory is another theory that can offer guidance to mediators. It is based on the fact that people attempt to provide a sense of security in a world in which bad things happen to good people. They are "motivated to believe that the world is a fair and just place where people deserve what they get and get what they deserve."³³ Encounters with injustice motivate people to do something to restore justice. While this speaks to likely motivation for mediators to engage in the profession, the point here is that a cognitive dissonance arises when one's view of justice in a particular case cannot be achieved. A party's belief that the good will be rewarded must mean that the other party's "unjust" position is evil. We see this effect in quantitative disputes in mediation when parties insist on larger rewards for themselves (the good) and harsher monetary punishment for the other party (the evil). We also see cases where parties "will incur considerable costs in terms of generally desired resources to maintain their claims to being virtuous . . ."³⁴

While acknowledging that people have other motives along with terror management needs, such as experiencing pleasure, avoiding pain, desiring consistency, justice, and social approval, and achieving growth, these needs are derived in significant part from the need to address the problem of mortality symbolically.³⁵ "The core need to control this deeply rooted anxiety [the anxiety that results from our awareness of our ultimate vulnerability and mortality] in turn gives rise to other more specific needs and psychological mechanisms (e.g., self-esteem, social approval, and justice)."³⁶ Terror Management Theory asserts that to control our fear of insignificance, we invest in social roles and relationships that give our lives meaning and value. To control our fear of not being able to fulfill the requirements of these roles or losing these relationships, we distort our perceptions and attempt to undermine anything that stands between us and these life-sustaining commitments.³⁷

Further Lessons from Terror Management Theory

Terror Management Theory is particularly relevant in multi-cultural mediation settings, because prejudice against, intolerance of, and maladaptive responses to those outside one's own culture is a buffer against anxiety about the validity of one's own culture and worldview. Xenophobia is evident in the responses to immigrants in state legislation. In an experiment, under conditions of mortality

²⁷ Pyszczynski, T.; Greenberg, J.; Goldenberg, J. L., "Freedom versus Fear: On the Defense, Growth, and Expansion of the Self," in Mark R. Leary and June Price Tangney, Eds., *Handbook of Self and Identity*, (New York: Guilford Press, 2003), pp. 314-343, 323.

²⁸ *Id.*

²⁹ *Ibid.*, p. 325.

³⁰ Pyszczynski, T.; Greenberg, J.; and Solomon, S., "Why Do We Need What We Need? A Terror Management Theory on the Roots of Human Social Motivation," *Psychological Inquiry*, Vol. 8, No. 1 (1997), pp. 1-20, 8.

³¹ Friedman, R. S.; Arndt, J., "Reexploring the Connection Between Terror Management Theory and Dissonance Theory," *Personality and Social Psychology Bulletin*, Vol. 31, No. 9 (September 2005), pp. 1217-1225, 1219.

³² Pyszczynski, T., *et al.*, "Why Do We Need What We Need? A Terror Management Theory on the Roots of Human Social Motivation," *supra*, p. 9.

³³ *Id.*

³⁴ Lerner, M. J., "What Does the Belief in a Just World Protect Us From: The Dread of Death or the Fear of Undeserved Suffering?" in *Psychological Inquiry*, Vol. 8, No. 1 (1997), p. 31.

³⁵ Solomon, S.; Greenberg, J.; Pyszczynski, T., "Return of the Living Dead," in *Psychological Inquiry*, Vol. 8, No. 1 (1997), pp. 59-71, 60.

³⁶ *Id.*

³⁷ Solomon, S., *et al.*, "Return of the Living Dead," *supra*, p. 61.

reminders, American subjects assessed greater attributions of responsibility and larger damage awards when the cars in a described automobile accident were Japanese than when they were American.³⁸ In a German experiment, mortality salience led subjects to sit closer to a German confederate and further away from a Turkish confederate, and to report less favorable general attitudes toward foreigners. It appears that “it is not differences per se that matter, but differences that implicitly or explicitly challenge the individual’s worldview.”³⁹ The fear of mortality is more or less salient in cultures depending on whether or not it is an individualistic culture or a collectivist culture. These differences create a built-in in-group/out-group conflict.⁴⁰

Relevant to criminal misdemeanor mediations, TMT has shown that harsher penalties would be insisted upon for transgressors who violate one’s standard of value. In an experiment, municipal judges in mortality salient conditions would set higher bonds for violations than would municipal judges in a control group.⁴¹

Terror Management Theory provides helpful strategies in mediating divorce or other conflicts involving older persons.⁴² Some have argued that attachments -- close personal relationships -- serve an important terror management function in addition to worldview and self-esteem.⁴³ Divorce and family mediation obviously involves threats to personal attachments, worldview (e.g., marriage as normative), and self-esteem, and so our mediation protocols should be reviewed to assure that, as mediators, we are attending to those threats.

Sometimes mediators hear one party challenge the ethics of the other party. This is a direct affront to a person’s sense of self-worth. Sometimes a party will persist in its views to the point that the other party will attempt to assimilate or accommodate those views to its own. While the mediator should be alert to those signals, because they may offer a way to settlement, caution should be used when such signals occur in domestic abuse cases. They may indicate an attempt to romance the victim.

Terror Management Theory posits that people are highly sensitive to environmental cues associated with threats to continued existence, which should emphasize to mediators the importance of a welcoming, comfortable setting for the mediation settings, and maintenance of ground rules.

Uncertainty manipulation is a standard tool for the mediator; however, uncertainty may engender negative attitudes toward others at the very time when the aim is to bring parties to agreement.⁴⁴ Uncertainty tends to raise fear. People are likely to be less open in the midst of uncertainty. Often, uncertainty encourages rigid conformity. In conditions of uncertainty, conforming to others relieves anxiety.⁴⁵ We see this in employment mediations, for example, when a group of employees have conformed their narratives in complaints against management, or *vice versa*.

Threats to the person, (i.e., economic, existential, personal character threats) push people away from intrinsic goals they generally endorse toward materialistic defenses (i.e., money, appearance, popularity), whether or not such materialistic goals nurture their well being.⁴⁶ Mediators can nurture and protect the mediation process by reassuring the parties that the mediators are searching for solutions that will honor and strengthen all parties, and that the parties retain control of their agreement.

Implications for Mediation Training and Practice

The view that mediation is simply assisted negotiation is problematic in light of Terror Management Theory. Without practicing formal therapeutic counseling, mediators need to understand and manage the psychological challenges their clients face. In light of

³⁸ Greenberg, J.; Solomon, S.; Pyszczynski, T., “Terror Management Theory of Self-Esteem and Cultural Worldviews: Empirical Assessments and Conceptual Refinements,”

In Mark Zanna, Ed., *Advances in Experimental Social Psychology*, Vol. 29, pp. 61-139, 81. (1997)

³⁹ *Ibid.*, 82.

⁴⁰ *Ibid.*, 124.

⁴¹ *Ibid.*, 79-80.

⁴² McCoy, S. K.; Pyszczynski, T.; Solomon, S.; Greenberg, J., “Transcending the Self: A Terror Management Perspective on Successful Aging,” in Adrian Tomer, Ed., *Death Attitudes and the Older Adult: Theories, Concepts, and Applications*, (Philadelphia: Brunner-Routledge, 2000), pp. 37-63.

⁴³ Pyszczynski, T.; Greenberg, J.; Solomon, S., “The Machine in the Ghost,” in J. P. Forgas, K. D. Williams, and S. M. Laham, Eds., *Social Motivation: Conscious and Unconscious Processes*, (New York: Cambridge University Press, 2005), pp. 40-54, 43.

⁴⁴ Van den Bos, K.; Euwema, M.; Poortvliet, P. M., Maas, M., “Uncertainty Management and Social Issues: Uncertainty as an Important Determinant of Reactions to Socially Deviant People,” *Journal of Applied Social Psychology*, Vol. 37, No. 8 (2007), pp. 1726-1756, 1748-1749.

⁴⁵ Renkema, L. J.; Stapel, D. A.; van Yperen, N. W., “Go With the Flow: Conforming to Others in the Face of Existential Threat,” *European Journal of Social Psychology*, Vol. 38 (2008), pp. 747-756.

⁴⁶ Sheldon, K. M.; Kasser, T., “Psychological Threat and Extrinsic Goal Striving,” *Motivation and Emotion* (2008) Vol. 32, pp. 37-45.

these findings, more emphasis in training should be placed on the transformative mediation model than is currently done.⁴⁷ Materials on the nature of conflict and strategies for resolving conflict should be expanded in light of Terror Management Theory. Methods for reducing defensiveness should be emphasized. Repetitive practice in facilitating communication between persons with different worldviews would enable better situational responses by mediators to blocked understandings. Given the tenacity of worldview defense, mediation trainers are right to insist on not rushing to solutions. Mediators are well advised to acknowledge elements of likeness between the parties, and to reframe issues so that neither side is disadvantaged. Mediators should be aware of cultural differences, even if the differences appear to be minimal.

In addition to communication with each party during intake, a preliminary conference, “convening,” may be helpful in acculturating the parties and their counsel to each other. Gathering information about the dispute is secondary to gathering information about the parties. Getting to know them on a personal level humanizes the process and the mediator. It helps the mediator to gauge the emotional states of the parties, and to assess the possible effects of differences. The mediator can promote his or her trustworthiness, as well as that of the process, while managing expectations. Concerns can be acknowledged and normalized and even explained how they might be mutual. Proximal direct defenses often are asserted early in mediation and, if the proximal defense is not in the form of withdrawal, strong emotions are often expressed.

I have suggested also the use of more private sessions to avoid public threats to one’s self-esteem and worldview, particularly in reality testing. Evoking commonalities was another suggestion. Counseling training should include practice in dealing with various types of personalities such as authoritarian and idiosyncratic personalities. Helping the parties to envision a good post-mediation reality – getting the dispute behind them – can complement their distal defenses. We need to watch for either party’s efforts to assimilate or accommodate the views of the other party in their worldview. If time and circumstance permit, teaching conflict management skills is an important service mediators can provide for cases in which there will be a continuing relationship between the parties. Inducing positive emotions and engaging in joint activities such as brainstorming can stimulate feelings of competence and mutuality. Using care in manipulating uncertainty can avoid adverse reactions.

A Counseling Model of Mediation

J. R. Newbrough and David McMillan’s concept of mediating from the third position, in effect, provides a mediator’s proposal at early stages in the process.⁴⁸ As I understand it, the third position begins with two guidelines in addition to the usual rules of communication: (1) the promise to be curious, and (2) respect for a worthy opponent. The promise to be curious entails a commitment to the idea that there may be options for a solution that the parties have not considered, and a promise to be open to the possibility that there are such options. Respect for a worthy opponent is based on the democratic idea of checks and balances and on the fact that when our ideas are opposed, we can develop better ideas and more creative interest-inclusive solutions. With tentative buy-in to these guidelines, the mediator listens to the parties and positively frames each party’s position outside the party’s personal interest and inside a good moral value that serves the community or system. The mediator then frames the debate as a conflict of values, not of persons.⁴⁹ Traditional training regimens in my experience do not engage value-based issues, but instead either advise avoidance by attending to interest-based bargaining or assert that they are not amenable to solution. In the interest-based model of mediation, a party may be asked to prioritize his or her values. Or the parties’ disputed values are split such that each can exercise their value in their personal spheres of influence. Any of these may exacerbate the effects of worldview defense. Newbrough and McMillan contend that using values offers mediators another opportunity to honor the parties and ennoble the discourse.

For example, the traditional interest-based approach in a dispute over the religious upbringing of a child might resolve the dispute by using time to separate the parents’ interests. A parenting plan might allow the child to be raised in one faith tradition when with the father, and another when with the mother. Each parent then has a personal sphere of influence over the child. Their interests have been

⁴⁷ “Transformative mediation theory posits that parties in conflict are in a ‘vicious circle of disempowerment, disconnection, and demonization’.” Laurence J. Boulle, Michael T. Colatrella, Jr., and Anthony P. Picchioni, *Mediation Skills and Techniques*, (Danvers, MA:Lexis/Nexis, (2008), p. 13, quoting Robert A. Baruch Bush and Joseph P. Folger, *The Promise of Mediation* (San Francisco: Jossey-Bass, 1994), p. 52. These characteristics are present in worldview defense and are best approached by engaging the parties in creative building of a working relationship in mediation.

⁴⁸ As discussed in his Father John series, available at: <http://www.drdauidmcmillan.com/> (Visited 3-24-2011). This section is also based on notes provided to me by Dr. McMillan and recollections of a training program he conducted on mediating from the third position. References include: Newbrough, J. R., “Toward Community: A Third Position,” *American Journal of Community Psychology*, Vol. 23 (1995), pp. 9-37, and Newbrough, J. R.; McMillan, D. W.; and Lorion, R. P., “A Commentary on Newbrough’s Third Position,” *Journal of Community Psychology*, Vol. 36, No. 4 (May 2008).

⁴⁹ Contrast this approach with the textbook advice to avoid defining problems in terms of value when there are value conflicts. Christopher W. Moore, *The Mediation Process: Practical Strategies for Resolving Conflict*, 3rd Ed. (San Francisco: Jossey-Bass, 2003), p. 64. To his credit, Moore does suggest searching for a superordinate goal that all parties share, which is consistent with a proposal I derive from Terror Management Theory. He also devotes a section to defining and providing a typology of values at pp. 400-426, and does offer some suggestions for mediating value conflicts.

served, but that may have no relation to the child’s interests, particularly because the parents may become more encapsulated in their personal worldviews and disdainful of that of the other parent, which, of course, the child perceives. This puts the child in the center of a potentially nasty, confusing, and long-lasting conflict.

Continuing with the Newbrough-McMillan approach, the parties are honored for taking on the role of advocate for their respective “good,” and it is expected that by being so appreciated and honored that the parties’ anger and fears they had at the outset will begin to recede. They will begin to use more of their brains as they consider options. Their self-esteem will be enhanced. Then the mediator, in order to open the neo-cortex further, engages the parties as well as himself or herself in a playful manner to nominate values to serve as a third voting value that might break the impasse.

After each party agrees to serve a third value as well as their original value, the mediator allows time for the parties on their own to generate new solutions that will serve their original value and the third value. Initially, because of the new common third position, common elements in the parties’ proposed solutions emerge. The mediator notes these new common elements and a momentum of shared problem-solving emerges, leading to solutions that had never before been considered. This process creates no losers and no compromises. It generates new solutions that are potentially useful to all parties.

While this is a straightforward process, it does require adaptation for conventionally trained mediators to use it productively. This is one of those “try it, you’ll like it” things. It embodies some important psychological principles. Coupled with an understanding of Terror Management Theory and how it plays out in conflicts and mediation, a mediator can recognize the psychological interests underlying both substantive and procedural interests.

Conclusion

The psychodynamics of the fear of death are brought into every mediation in various forms. Defensive responses, direct and indirect, have been illustrated. Traditional mediation methods are shown as not meeting unconscious psychological needs. Suggestions have been offered for the implications of Terror Management Theory for mediators and the mediation process. The third position approach has been offered as a way to developing a mutually agreeable worldview, while promoting the self-esteem of the participants. Concerns about some accepted practices and training methods have been expressed.

Nevertheless, it is clear to me that further work needs to be done to explore the dimensions of Terror Management Theory as an intellectually sound and practical bedrock of mediation practice and conflict resolution. For example, I have not explored the effects of Terror Management Theory on the mediator as a person, or on his or her performance as a mediator. To the extent it would be useful, the integration of relevant insights from cognitive and other theories would help to complement the unconscious processes of terror management with conscious processes.

Important ADRC Dates

September 9, 2011..... Rule 31 Mediator application deadline for ADRC review on November 3, 2011

October 21, 2011..... Annual ADR Workshop - Lipscomb University

November 3, 2011.....ADR Commission Meeting, Administrative Office of the Courts, Nashville

2012 ADR Commission Meeting Dates

January 24	July 24
April 24	October 23

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