

## GHOSTS IN MEDIATION INTERACTIONS

by

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(Submitted for publication - September, 2014)

There are powerful forces at play in mediation, and they can serve either to move the case towards positive resolution or to undermine it and maybe even sink it. This is true for any arena of mediation.

No matter what the issue at hand, behind all of the negotiations there are people either pressing the matter forward or pushing back against it. A key element that contributes to which way it goes is the people factor.

It can be extremely helpful for the mediator to understand that there are both intrapersonal and interpersonal dynamics at play. In the presentation I am offering at the Southern California Mediation Association Conference in November, I will be discussing just these issues and how mediators can be attuned to some of the foundations of impasses that may bring participants into mediation and that may occur during the process of mediation itself.

The particular ingredient that offers profound opportunities for easing the process is an understanding of contemporary approaches to working with issues of transference and countertransference. Traditional concepts of transference involved how therapy patients would interpret the actions of the therapist as if they were coming from the patient's mother or father instead of from the therapist themselves. Similarly, in those situations, the patient attributed to the therapist the thoughts and feelings that they had experienced from their parents. The person of the therapist, for that patient, became lost in their projections onto the therapist of their childhood experiences of their parent. They would, in those moments, or more continuously over the course of treatment, be experiencing and relating to Dr. X as if he/she were channeling their mother or father.

More contemporary conceptualizations have recognized that similar processes occur in *all* relationships, not only in therapy, and that they may involve attributions deriving from *anyone* in the person's life, not only from their parents. They also are not limited to being based on experiences of early childhood but may draw from later childhood, adolescence, or adulthood, as well. This is a normal process, and people in all relationships also experience similar reactions, generically called parataxic distortions, throughout their lifetimes. Accordingly, the mediator may be experienced as if they were the client's opposing party or some other figure that was somehow central to the cause for mediation or to some impasse in the mediation.

The identifications may also be experienced and acted out in relation to companies, organizations, agencies, governments, or institutions of any kind, such as a legal entity that is making a claim against the person or against whatever alternative entity or institution with whom the person identifies. In such cases, those abstract entities become personified and are imbued with whatever projected scenarios, interests, and motivations may have been triggered in the mind of the individual and are therefore the source of their idiosyncratic attribution.

The range of emotions and intentions covers the full spectrum, across the board from positive to negative. It is not only feelings of love and good will that are projected and inferred but also their polar opposites of hate and malice. Significantly, especially for some people, one end of the pole may suddenly, mysteriously, and miraculously jump sides and transform into its opposite. Good can turn into bad, love to hate, benevolence into malevolence, and back and forth, all within the blink of an eye and apparently without observable provocation or merit. This occurs entirely

based on the subjective experience and interpretation of the individual, separate and apart from whether any objective observer may be able to recognize what may have triggered the reaction.

Particularly vulnerable to such distortions and misperceptions are those relationships in which a person feels especially dependent or helpless, as in any scenario in which they experience themselves to be on the down side of some kind of power imbalance. Frequent among such triggering situations are those involving authority figures or interactions with people or institutions that stand as the purveyors and/or arbiters of power and authority, including mediators. This makes dealings with lawyers, the legal system, and mediators extraordinarily rife territory for transference misconstructions and reactions, because people often view their mediators or attorneys to be instruments of the law, and of the legal system itself when it is supposedly acting on behalf of the individual. Therefore, people in such roles are seen as protectors of righteousness and truth, like a good parent. When the client/participant does not feel that protector role being actualized, his/her projection may suddenly switch to that of bad parent and possibly even into persecuting parent.

I addressed how these kinds of distortions and reactions may occur with people who have been subject to traumatic incidents of adulthood, as occurs with people who have been victims of violent crime (Shubs, 2008a, 2008b, 2008c). Other such stressful occurrences, including the process of mediation and whatever prompted people to enter mediation rather than to have resolved the issue on their own, are also vulnerable to similar reactions. Not only may these misperceptions and inferences occur, they may take on certain typical patterns and trauma engineered role relationships (Shubs, 2008b, 2008c) that can thoroughly disrupt and destroy any efforts to be of assistance if they are left unrecognized and unmanaged. In the realm of mediation, they can involve impasse engineered role relationships and impasse-specific distortions (ISDs). I discuss some of these in the SCMA conference presentation.

Among the common roles are victim, perpetrator, persecutor, abuser, co-victim, rescuer, passive and incompetent bystander, and authority figure. There are also variations of those themes. Each of these may be a source of identification for the client or for the mediator, and each may also be projected onto any of the parties in an interaction or a proceeding, leading to a cascade of reactions and counterreactions among and between each of the parties.

Thus far, we have been talking about transference and how it may present itself in mediator-client interactions. The counterpart that is equally vulnerable to intrusion and disruption is countertransference. Traditionally, countertransference was recognized to refer to the thoughts, feelings, and reactions of the therapist, in response to a patient's transference. It was then understood to be the result of the therapist's unresolved issues of childhood, and the remedy was held to be for the therapist to address those issues in his or her own therapy so that they would not intrude on the therapeutic process. More recent thinking (Shubs, 2008c) has broadened the notion of countertransference to be more totalistic and to include any and *all* experiences of the therapist in relationship to a patient. It also recognizes how countertransference occurs in *any* relationship and not only in therapy.

Current thinking has also recognized that countertransference, just like transference, happens in all interactions. It is not limited to therapy. It happens generically in interactions among people. It is the normal counterpart that occurs between one person and another. It also occurs between a person in an organization or institution who identifies with that entity and responds to an interaction from some external person or organization.

Furthermore, current thinking does not limit our understanding of countertransference to be based on unresolved issues. Rather, it opens up our thinking to also include seeing the relationship

as a mutually and reciprocally influencing dynamic between the participating individuals. In other words, if you are treating me in a mean and hostile manner, my feeling hurt, scared, or angry is a normal and appropriate reaction and one that occurs not only because of what may or may not have happened in my childhood. If I find myself to be unusually irritable, antagonistic, cautious, helpful, or educative with you, it is likely that you are doing something that serves to elicit that response in me. If together we can attend to what that might be, it could significantly help remove whatever obstacles may have arisen between us in our reaching our mutual goals together. With this more contemporary point of view, we are able to focus our attention on the mediator-client relationship and to discover that these interactions can be rich and valuable sources of communication, if we are only able to listen carefully and to understand them more closely.

It may even be invaluable to bring in an expert consultant to help recognize and address impasses, obstacles, entanglements, and pitfalls operating within those person dimensions, in the minds of the participants and in their interactions with each other. The expert in this arena is a professional from the mental health arena, especially one who operates from a psychoanalytic perspective, wherein the internal dynamics of the people and the group dynamics of the legal entities and institutions can be understood and appreciated.

Hamel and Davis (2008) have recognized the dangers that lurk for attorneys because "Often transference and countertransference can interfere with completing the legal work at hand, lead to poor legal decision [sic] making, and diminish the quality of the documents produced" (p. 600). They propose, and I thoroughly agree, that "the effectiveness of the lawyer and the law firm could be significantly enhanced (at reasonable net cost) by the regular use of psychoanalytic consultations involving attention to transference and countertransference enactments in dealing with clients" (p. 601).

Collaborative divorce is a process that has recognized the value of this consultation and has therefore included such professionals in the role of Divorce Coaches as integral participants. Some mediators also include mediation coaches as part of their team. When those coaches have an understanding of contemporary approaches to transference and countertransference, they can add even greater value to the team and to the process. When mediators can bring in consultation on a more routine basis with psychologists who can offer this kind of psychoanalytic perspective concerning individual and group dynamics, they will be working proactively to uncloak the ghosts that interfere in the mediator-client relationship and in the successful resolution of the matter at hand.

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- (2008c). Countertransference considerations in the assessment and treatment of trauma recovery with victims of violent crime. *Psychoanalytic Psychology*, 25: 156-180.