Alliance Formation in High Conflict Custody Mediation:

a serial case analysis

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Abstract

Through an in-depth qualitative analysis of five cases of mandatory high-conflict custody mediation, we analyzed interpersonal processes associated with the early formation of a working alliance in a three-way interaction. The analysis showed that the mediator efficiently managed the focus of the conversation and validated the parents' perspectives, but was reticent in addressing interactional issues. Our findings suggest that mediators should take into account three main aspects of the interaction in order to facilitate the formation of an alliance between the parents, as well as between the mediator and the parents: (1) the management of the focus of the conversation; (2) validation of the parties' perspectives; and (3) adapting to the cohesion of the parent dyad.

Key words

Custody mediation; high-conflict mediation; alliance formation; working alliance

Practitioner points

- Mediators support the formation of a collaborative alliance by managing the focus of the conversation and validating parties' perspectives, continuously adapting interventions to the cohesion of the parent dyad.
- Working on concrete items of a parenting plan over time contributes to improving cooperation, even when not resulting in a complete plan.

Conflict interaction being as difficult and aversive as it may be, engaging parties and overcoming obstacles to constructive communication is a main challenge in mediation (Mayer, 2012). Poitras and Raines (2013) identify mediation breakdown as the major threat to successful mediation, the first and foremost obstacle to mediation being “the fact that many parties simply do not want mediation at all” (p. 12). Child custody mediation may be particularly challenging, as it involves not only the exercising of parenthood, but also a renegotiation of the relationship between the parents (Emery, Rowen, & Dinescu, 2014).

Based on the premise that mediation may counteract harmful consequences of parent conflict to children, custody mediation is mandatory for separating parents with children below 16 years of age in Norway (NOU 1998:17). However, approximately 40 percent of high-conflict couples terminate mediation after a single session, without agreeing upon a written plan (Bufdir, 2014; Koch, 2008; Nilsen, Skipstein, & Gustavsson, 2012; Tjersland, Gulbrandsen, & Haavind, 2015; Ådnanes et al., 2011). Appropriately, mediators and policy-makers request improved strategies for working with high-conflict cases (Ådnanes et al., 2011). In accordance with the current development in the psychotherapy field, where research into the working alliance has been a dominant force for the last twenty years (Horvath, et al., 2011; Orlinsky, Rønnestad, & Willutzki, 2004), mediators express a particular interest in the relationship between the mediator and the parents (Nilsen et al., 2012).

The alliance, commonly defined in terms of mutual engagement and collaboration, has proven a robust process variable in psychotherapy research (Castonguay, Constantino, & Holtforth, 2006; Horvath et al., 2011). Following Bordin’s (1979) pan-theoretical definition, the working alliance captures the mutual collaboration about particular tasks towards an agreed-upon goal, within an emotional

climate of respect, caring, liking, and trust. In couple and family therapy, multiple alliances develop simultaneously, between the therapist and each participant, as well as between participants (Friedlander et al, 2011; Knobloch-Fedders, Pinsof, & Mann, 2004; Pinsof, 1994). According to systemic principles, the therapy system in couple therapy consists of several sub-systems – the therapist, the individual participants, and the couple – and these sub-systems interact and influence each other bidirectionally and recursively (Pinsof, 1994). Present research converges on emphasizing the importance of the couples' alliance with each other, particularly as evidenced by a shared sense of purpose within the family (Escudero et al., 2008; Lambert, Skinner, & Friedlander, 2010). Seemingly, successful couple therapy hinges critically on the collaboration between the therapist and the “clients-as-a-couple” (Horvath, Symonds, & Tapia, 2010), that is, the joint couple sub-system.

In contrast to couples- or family therapy, mediation occurs in a situation where the family is facing re-structuring and a re-negotiation of their relationships. In general, the goal of mediation is to facilitate a transition from a love relationship to a more business-like cooperation on issues related to the parenting tasks (Emery, 2012). Thus, the necessity to continue to cooperate across relationship rupture is a distinctive feature of mediation, actualizing conceptualisations from the general conflict resolution field. Though the mediation field has evolved from its judicial roots towards a practice involving psychotherapeutic principles (Emery, 2012), mediation is distinguished from couples' therapy by focusing more on problem solving and decision making (Mayer, 2009; Weitzman & Weitzman, 2006), even when these tasks involve working with the parents' emotional and relational issues (Bush & Folger, 2005). Furthermore, when mediation is mandatory, as in Norway, the couples' participation in mediation does not necessarily imply consent to addressing personal issues. Thus, the juridical framework

necessitates a clarification of the mediator's mandate to employ therapeutic techniques that are, in a sense, preapproved in couple therapy.

Studies of the comparative effect of different mediation models, specific techniques, and other factors in mediation are scarce (Emery, 2012; Lowenstein, 2009; see, however, Ballard et al., 2011; McIntosh et al., 2008). Most mediation models specify procedures for establishing rapport with the parents, mainly through establishing clear "ground rules" (Emery, 2012) or a "contract" (Lebow & Newcombe Rekart, 2007). However, systematic studies of the process of establishing a working alliance, or of the association between an alliance measure and the outcome of mediation, are lacking.

Recent studies of psychotherapy conducted by expert therapists have yielded insights into alliance formation during the initial stages of therapy (Oddli & Rønnestad, 2012; Oddli, McLeod, Reichelt, & Rønnestad, 2014). A similar avenue of identifying "best practices" has been opened in the mediation field (Emery, Rowen, & Dinescu, 2014; Friedlander et al., 2011; Poitras & Raines, 2013). Along the same vein, the present study offers insights into the collaborative aspects in mediation by studying a highly experienced mediators' work with five high-conflict cases. The particular aim of the study was to identify mediator strategies in adapting interventions to the parent conflict communication patterns.

Method

The material for the present study consisted of audio-recordings of "practice as usual" mandatory mediation sessions, collected during 2008 as part of the FORM custody mediation study (Gulbrandsen, 2014; Tjersland, Gulbrandsen, & Haavind, 2015).

Sessions from a total of 154 cases were audio-recorded at five family service centers in Norway. Of these cases, 38 were classified as "high-conflict", as the parents reported a

high degree of disagreement and low expectations of settling in a simple questionnaire completed before the first session (Tjersland, Gulbrandsen, & Haavind, 2015). In order to highlight the management of particular challenges of high-conflict mediation, unaffected by possible differences in the skills or style of mediators, all five high-conflict cases mediated by one of the mediators were selected for the present study (Table 1). The mediator had 25 years of mediation practice, and has authored several empirical and theoretical studies within the family therapy- and mediation fields.

Analysis

A qualitative case study format is well suited for interpreting complex interactions in a way that is informative to practitioners (McLeod, 2003). Our point of departure for the analysis was the collaborative aspects of the interaction in mediation sessions, as investigated in the psychotherapy research literature on the working alliance (Bordin, 1979; Hatcher & Gillaspie, 2006).

As the FORM project protocol did not include standardized working alliance measures, we applied the working alliance concept as a “sensitizing concept” (Blumer, 1954). A sensitizing concept serves as an interpretative framework guiding the analytic process, while at the same time forwarding an exploration and expansion of the concept itself (Blumer, 1954). The use of sensitizing concepts allow an explorative, qualitative analysis that is particularly suited for the study of complex social phenomena where we expect great variation in the material available for analysis.

The analysis was based on conversation analysis principles, focusing on the participants’ concrete observable speech actions (Drew & Heritage, 1992). The authors are clinical psychologists, both with 19 years of experience.

Methodologically, our analysis approached the ideals of naturalistic, explanatory multiple case studies (Willig, 2008). Initially, the five cases were analyzed serially. The analysis of the first case yielded several descriptions of mediator interventions and interactional patterns; these emerging concepts were then revised by comparison to the second case, and so forth. In this fashion, all emerging concepts were refined by a continuous exploration of tentative hypotheses in light of subsequent cases. The final stage of analysis consisted of a validating commentary and expansion on the serial analysis by the mediator.

Results

Two interaction patterns signifying engagement, involving both parents and the mediator, emerged: *managing focus* and *validating perspectives*. Within these two interaction patterns, four types of specific mediator interventions were identified:

1. Managing focus
 - Introducing shifts between long-term and short-term goals
 - Introducing shifts between relational and factual issues
2. Validating perspectives
 - Exploration of perspectives
 - Scientific/clinically based evaluations

All three participants' engagement in these two patterns interacted with a third aspect of the interaction, *the cohesion of the parent dyad*.

In the following, the categories and sub-categories are elaborated and discussed.

Mediator interventions

1. Managing focus

In the total group of 38 high-conflict cases in the FORM material, the orderliness of turn-taking varied greatly (Gulbrandsen, 2013; Kjøs, Tjersland & Roen, 2014). In the five cases analysed for the present study, however, all parents adhered to the mediator's suggested discussion format, allowing him to allocate speaking time efficiently, and to initiate shifts between long-term and short-term goals, and between relational and factual issues.

Shifts between long-term and short-term goals

By asking questions and reformulating the parents' statements, the mediator directed the focus towards concrete, immediate issues. Often, however, engagement in short-term solutions depended on addressing long-term issues concerning the past or the future, as in this excerpt:

Father: You are saying that because of the breastfeeding I must get less time with him.

Mother: I am saying that we must take it into consideration. The reason that you haven't contributed so much at home is that you haven't been at home, you've been on the town, with friends, sleeping over on couches and so on.

Father: I can't see why we should talk about the past, but our problems started when your mother moved in after the birth. I haven't been allowed to be a father,

I have had you and my mother in law throwing yourself over him – I have been pushed out more and more, and when you feel that lonely, you start thinking 'why should I sit at home?' We haven't had any adult life.

Mediator: The way I hear you, you both seem eager to find solutions that are good for him. I suggest we try to look a bit into the future, to when breastfeeding is no longer an issue, in about a year's time. What sort of arrangement would be best for your son by then?

(Case 1)

Here, the mediator oriented to the parties' time frame, formulating a suggested focus within their scope. He avoided openly correcting or dismissing the parties' engagement in discussions, even when these seemed to bear towards an impasse. After this intervention, a discussion of concrete, immediate steps toward a shared custody arrangement ensued. Similar cycles of focus diversions and re-directions occurred frequently in all the five cases.

Shifts between relational and factual issues

In all cases, one of the mediator's main contributions was to regulate the levels of emotional expression and factual argumentation toward a balance point that allowed both factual issues and relational issues to be discussed effectively. This maneuvering was mainly achieved by focusing on concrete aspects of the parents' own future goals.

The balancing of relational and factual issues often proved a challenging aspect of the mediator's work. In Case 5, the mother was highly critical of the father in general,

but her formulations of her objections were lacking in detail. The father was emotionally expressive, alternating between complaints and apologies. The following excerpt is typical:

Father: But you said back in January that there was going to be an overnight stay. I agreed to simply wait, and then there would be an overnight stay. That is six months ago. [The child] has developed a lot during those six months, that is apparent.

Mother: (Sighs)

Father: But, but now – now I am approaching something, in a way, maybe this is a byway now, because - - the fundamental issue here is trust – I mean, [Mother] does not want... Yes. But now... Excuse me.

Mother: Are you going to write down a lot of things I'm not saying, now? That would be really, really nice (Ironical tone).

Father: Right, right... (Short laugh)

Mother: Yes, you are really good at lying, so... (Clearing throat)

Mediator: Yes, there is something about a trust issue here, that is, uh - - uh, that is really, I don't know how to say... How are the two of you going to get past that... Because what you are saying, [Mother], uh, is – well, you have a child who is in

daycare now. Uh, he is staying with a lot of people. Uh, but, uh, [Mother] worry that... Mum is worried about the child staying with his father...

Mother: Well, we are really delayed in establishing sleeping routines, that is not apparent in daycare... Uh, we are training, eh... (Break, 2 seconds) Do you know what, I find it very unpleasant, sitting here having everything I say written down...

(Case 5)

The mediator's intervention had two functions. Firstly, the mediator kept the current issue – overnight stays – in focus, addressing the trust issue that was blocking this discussion. Secondly, the mediator's comment pointed out an inconsistency on the mother's part that offers leverage for change towards a more logically consistent arrangement. The wording of the mediator's intervention suggested that he was aware that a confrontation might provoke a breakdown of the negotiations. The intervention contained multiple aborted sentences, "hedging" ("I don't know how to say..."), a shift from first person to third person ("You have a child who is staying in daycare"; "Mum is worried about the child staying with his father...") and statements addressing both parents, even though the message concerned one of them ("...how you two are going to get past that..."). The mediator clearly oriented to the tension between the parents by approaching topical issues more precautiously than in the other cases.

The conversation in case 5 tended to halt when a shift from concrete issues to meta-discussions occurred. These shifts were not addressed directly by the mediator, as one would expect in the neighbouring field of couple therapy, where meta-comments on

process are common and often considered key to change (e. g. Johnson, 2007). In therapy, such meta-comments are mandated in a firmly rooted relation of trust between the client and the therapist. In the present case, the mediator seemingly assessed the mother's trust in him and considered it too fragile to withstand a more direct reflection on her inconsistency.

Validating perspectives

In all cases, the potential for validating comments to be perceived as expressions of partiality was avoided by exploring perspectives in a supportive fashion, and by basing the very few evaluations that were offered in scientific or clinically based knowledge.

Exploration of perspectives

The mediator opened the first session with each couple by inviting them to state their perspective on the current situation, prompting briefness, typically as follows:

Mediator: Can you give a short telegram, a sketch of what has brought about that the two of you are sitting here now. What are the main keywords? Let me hear your telegram first, father.

(Case 2)

In this way, the couple's history, relation and current concerns were brought to the fore, while discussions of preferred outcomes were suspended. The mediator continually supported this focus on the parents' perspectives, promoting the parents' own

perspective taking. In the following excerpt, the mother was able to resolve a misunderstanding stemming from a previous discussion:

Mother: I said that in affect. [...] When our divorce is a fact, that's when I'll decide what to do, not now. [...] Let me make this very clear, I have no wish, no intention, of going back to my native country. I absolutely have not.

Mediator: Is it clear enough to you, [Father], what she is saying now?

Father: I am glad to hear that.

(Case 3)

In discussions concerning the possible impact that alternative custody arrangements could have on the children's welfare, the mediator prompted parents to elaborate their own perspectives, exploring these in detail. In this way, issues related to practicability and consequences for children were clarified:

Mother: I don't think it will be a problem for the children [to travel by plane to visit the father]. Yes, I think they will have a better life there, they won't have to travel between homes as often as they do now, we will have more time together, to help with homework, to follow up leisure activities, to have those opportunities, I think they will understand [my choice to move]. Yes, [air travel] is the price for all that, but that's how it is.

Mediator: Thank you, [Mother]. Now I'd like to check in with you, [Father], you have had some remarks, but I have chosen to stop you. Now, this arrangement that mother suggests, what are your views on it?

Father: It is just a nightmare, that's all (Clears his throat). I'm not sure whether I can articulate it properly.

Mediator: Now that you hear how [Mother] describes how this could be...

Father: I don't understand how you can think like that. I think - she doesn't understand, we are two parents.

Mother (whispers): Yes, I do!

Father: She doesn't understand how strongly they are attached to me, and how strongly I am attached to them. [...] I have travelled quite a lot, and there are kids sitting with that "I travel alone" sign around their necks... (Clearing his throat) I have been thinking many times that that doesn't look very pleasant...

Mediator: So it feels bad.

Father: Very bad.

(Case 4)

Although the parents in case 4 did not reach an agreement, exploring their perspectives highlighted consequences of a proposed arrangement for the children as well as for the father.

Scientific/clinically based evaluations

In some cases, the parents themselves sought advice from the mediator. The mediator consistently resorted to general statements that most parents agree to, avoiding taking sides, yet validating their concerns and their capacity to make reasonable decisions:

Mediator: I have something general to say about this, as I have worked in the field for many years and done research on this. You see, the common three-year limit [advising against equally shared custody for children under three years] is not very specific. Professionals agree that long separations are unfortunate while breast-feeding, even though it cannot be documented that it is definitely harmful – it is merely reasonable advice. Three years is not a magical limit. Your child is extremely lucky to have two parents that love him and want to be with him. You know, many fathers just disappear. But as to how you should decide – the mother feels this way, the father feels that way, I can't be the judge here. The important thing is how you make a reasonable transition, and you should be able to manage, as you communicate quite well.

(Case 2)

Vague references to scientific evidence and clinical experience were drawn upon to empower the parents in their own decision process, rather than to settle the issue

authoritatively. Further promoting perspective taking and validating the parents' status as decision-makers, the mediator commented on the mediation process itself:

Mediator: To me it sounds like you've been through hard times. And I envision – in a separation like yours, it is never the same for both, both leaving at the same time. Normally, one is ahead in some way, and the other is more reluctant. And if there's a difference, it gets extra difficult when a new partner comes into the picture.

Mother: Yes, I understand his reactions well, I do...

Father: Yes, I suppose I was kind of bitter, in a way – there were many things for me to handle at that time. First, it was the break-up. And that she met him so soon after... That period was really hard to process. It was during that time that those [abusive] sms messages came about – and I misinterpreted things – and maybe I had my defenses extra activated...

(Case 2)

The mediator's normalizing by referring to clinical experience invited the mother to express an understanding and consideration of the fathers' emotional reaction, and at the same time fostered concessions from the father.

Parent dyad cohesion

Although initially focusing on the mediator's interventions, the discussion of practical details in the present cases drew attention to the different interaction patterns of the parent dyads. Even though all five cases were rated as "high-conflict" by the parents themselves, the degree of parent dyad cohesion varied substantially. The degree of cohesion between the parents did not necessarily correspond to the degree of disagreement on tangible issues. The couples in case 1 and 2 managed to cooperate in spite of substantial conflict, while in case 3 and 5 the conflict blocked cooperation on seemingly slight practical problems. Issues of trust and abandonment occurred in all cases, manifesting themselves in discussions concerning events in the couple's history, the parents' actions, and individual personality traits, or their conflicting life projects.

Case 3 may serve as an example of low cohesion barring cooperation and restricting the focus of the sessions. Seven sessions were completed, yet no agreement was reached. The couple spent the bulk of the first session discussing the reason for the break-up, while at the same time discussing whether this issue was relevant to the task of formulating a custody arrangement plan. The mother stated at the outset that "everything must be laid on the table" before an agreement could be discussed, particularly "questions concerning identity" and "betrayal affecting my trust in him". The father rejected these issues as "irrelevant". Both threatened to withdraw from mediation. In terms of practical issues, case 3 seemed comparable to case 1 and case 2, except the economic issue, which was an object of bitter dispute. Yet the most salient aspect of this particular case was the interpersonal tension between the parents. The mediator repeatedly steered the conversation towards the practical matters, but the past and present relational issues continued to take precedence.

The mediator's interventions in case 3 fit into the categories of interventions in case 1 and case 2. Considering the lack of progress, and the apparently painful distance between the parents, these seven long sessions were strikingly devoid of "therapeutic" interventions. For instance, the mediator did not directly comment on the parents' intransigent communication style. The mediator's reluctance to employ therapeutic techniques reflects a restricted mandate; at the very beginning of the first session, the father had stated clearly that he was not interested in discussing personal matters.

In other cases, the mediator commented on personal style and relational patterns. For instance, in case 2, the father's concern about being "replaced as a father" by the mother's new partner became a main focus of the conversation. In the last of the six sessions in this case, the father was upset because the mother and her new partner had bought a house in a different, but near-by neighbourhood:

Mediator: It is quite common, that equally shared custody gets a bit more complicated when new partners are involved, new family constellations...

Father: It is not the practical issues, it is the way this has been done, that I haven't been involved and informed...

Mother: Do you expect us to ask your permission to live in a certain place?

Father: No, of course not. It is just that we agreed to try to stay within the same school district. I think you planned this even before we agreed on that.

Mediator: We talked about this in the last session, but [Mother] said then that she could not commit herself as to where to live. This raises the issue of trust. It is difficult to practice equally shared custody if one party believes that the other is involved in monkey business, that something is kept a secret. You have something to fight there, these thoughts about [Mother] manipulating you. My advice is that you try to fight these thoughts whenever they come. There's nothing wrong in having that kind of fantasies, but they will ruin your cooperation. You start reading thoughts, and then you both start reading thoughts, and it turns out really bad. You have a good cooperation, better than most. You should not destroy it in this way.

Father: I can relate to that.

(Case 2)

As indicated by the father's last comment, a "therapeutic" intervention was supported by the working alliance in this case. Compared to case 3, where the parents disagreed strongly on the degree of intimacy that would be mandated, the parents in case 2 both contributed to a more open discussion format by sharing thoughts and feelings from the outset. Even though the conflict was rated as "high" in both cases, the degree of antagonism and parent dyad cohesion was significantly different, supporting different modes of conversation.

The mediator's reflections

After the analytic process, the mediator validated the analysis and contributed clinical reflections on the mediation processes, as well as further information on communication occurring between sessions.

Between-sessions work

In the mediator's view, the audio recordings and transcripts only partially reflected the importance of the work with agreement drafts. In all cases (except case 4, where only one session was conducted) the mediator summarized topics, suggested agreement outlines, and emailed these to both parents between sessions. For instance, even though the written agreements in cases 3 and 5 were incomplete, the 18-month follow-up showed that the parents used the drafts in a similar way to complete agreements. The written feedback offered opportunities to slow down the discussion, and to clarify the parents' perspectives and concerns. Also, working with the rough drafts entailed that parents could experiment with different arrangements, and revise the plan according to experience. To enhance this effect, sessions were scheduled with ample spacing, normally four weeks. In cases 1, 2 and 5, the mediator had the impression that the passing of time in itself was important, as parents seemed to gradually reconcile themselves with the break-up.

The importance of hope

Entering a working relationship with parties in high conflict is often emotionally and relationally challenging to mediators (Lundberg & Moloney, 2010; Mayer, 2009). In the present cases, the mediator found it challenging to balance the parents' diverging perspectives, highlight their good intentions, and gain the confidence of both parties.

Throughout, the mediator was aware that the parents' consent to enter a "therapeutic" conversation mode varied greatly. Nevertheless, the unusually high number of sessions in all cases except case 4 suggests that the mediator succeeded in engaging the parents in a meaningful working alliance (the mean number of sessions for all 38 high-conflict cases was 2.3; for the mediator in question, the mean was 4.6; excepting case 4, the mean was 5.5 sessions). The mediator assumed that *fostering hope* was an important aspect of the mediation meetings. Receiving agreement drafts shortly after sessions might have suggested to the parents that some steps had been taken towards an agreement.

Communication regulation

Reflecting on the work in the current cases, the mediator placed great importance on the regulation of the parents' turn-taking. The conversations were opened in a mode of "thinking aloud" about the conversation itself, for instance by asking: "What would it be important for each of you to talk about? Whom should I start with?" (Case 3). The ensuing short interviews were conducted in a non-evaluative tone, modelling and supporting the parents' listening to each others' perspectives, rather than entering a combative discussion. Through establishing this conversation format, the mediator prepared to enter the disputed issues in a collaborative fashion: "So, this means we need to be really sure we write this agreement in such a way that we are pretty confident that it is possible to adhere to it..." (Case 5). Throughout, the mediator monitored the process, giving the parents feedback on their progress and inviting them to view the issues "from above".

Discussion

A serial analysis of five custody mediation cases showed how engagement in the process was affected by the mediator's management of the discussion focus and validation of the parents' perspectives, and how these interventions were adapted to the cohesion of the parent dyad. The causal relation between interventions and outcome, as measured by the completion of written custody arrangement plans, is uncertain. However, in four of the five cases, the parents invested twice as much time in the mediation process as the other parents in the 38 available high-conflict cases, suggesting that the process succeeded in instilling hope for a better future cooperation. Bearing on the importance of hope in couples therapy (Friedlander et al., 2011), and as a common factor in effective psychotherapy processes (Constantino, Ametrano, & Greenberg, 2012), the findings warrant the inference that a mediation process focusing on engagement in the process itself may promote parents' hope and investment in their cooperation.

As a standardized measure of the working alliance was not available, any dependent relationship between the mediator's interventions and the alliance between the parents and between the parents and the mediator is unclear. Nevertheless, we find it reasonable to collate our findings to the working alliance model.

In view of Bordin's (1979) conceptualization of the working alliance, the emotional climate and the mutual engagement in the tasks and goals of mediation are intertwined. Our "cohesion" concept underlines the importance of clinically assessing the emotional climate between the parents when intervening in their collaboration on particular goals, and in fostering respect and trust between them.

Considering the patterns of establishing a working alliance, our findings concerning the role of attending to and validating clients' experiences and perspectives

concur with findings in psychotherapy research (Ackerman & Hilsenroth, 2003; Safran, Muran, & Eubanks-Carter, 2011). More specifically, the validation of clients' experiences and perspectives commensurates with the goals aspect of the working alliance (Oddli et al., 2014). Moreover, ensuring personal significance and goal fit is established as a significant process variable in psychotherapy research (Michalak & Grosse Holtforth, 2006). In a three-way communication these adjustments are more challenging due to conflicting goals within the couple dyad (Michalak Grosse Holtforth, 2006; Michalak, Heidenreich, & Hoyer, 2004). The mediator strategies we have identified seemingly contributed to the parents investing in common goals. Our findings concerning the regulation of focus align with studies demonstrating the effect of validation on clients' emotion regulation (Shenk & Fruzzetti, 2011) and capacity to engage in constructive negotiations (Mischel, DeSmet, & Kross, 2006).

Contrary to what is identified as enhancing the alliance in psychotherapy, the work with these couples entailed relatively little meta-communication (Safran, Muran, & Eubanks-Carter, 2011). The mediator's official mandate may have restricted his use of therapeutic technique, as entering mandatory mediation does not entail the same implicit consent to the use of intrusive therapeutic techniques as entering mediation or therapy voluntarily.

As in general psychotherapy research, the question of "effect" or "outcome" in custody mediation is a complex one (Walker, 2010). The common criteria of reaching a written agreement as a "good outcome" is problematic, as agreements can be of little durability and poor quality (Baitar et al., 2012), or may have been imposed on one or both parties through unequal power relations between parents (Bryan, 1992), or undue pressure from mediators (Heeden, 2010). Also, the mediator's impact on the parents'

negotiations and long-term cooperation should be assessed with humility, as the sessions are only one of many factors influencing parents in conflict (Emery, 2012).

Limitations

Generalisations concerning causal relations between interventions, case characteristics and outcome should be drawn with caution. The study offers insights into certain aspects of the mediation process, but does not isolate distinct factors contributing to outcome. Inferences concerning the long-term effects of mediation on the well-being of the children in the analysed cases is precluded, as relevant data is lacking.

Future research should include alliance measures bearing on Bordin's (1979) three component model, such as the SOFTA (Friedlander, Escudero, & Heatherington, 2006), to allow a causal analysis of components contributing to the three-way alliance. Further, in order to assess the bearing of the alliance on mediation outcome, we would recommend the use of clearly defined mediation outcome criteria, as employed by Emery (2012).

Conclusion

A productive mediation process depends on the engagement of the parents in a working alliance. Engagement is influenced by the mediator's management of the focus of the conversation and validation of the parties' perspectives, and how these interventions are accommodated to the cohesion of the parent dyad. The present study offers a deeper understanding of mediator strategies in accommodating general techniques according to the specific characteristics of couples.

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