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SOCIAL AND EDUCATIONAL ASPECTS OF FAMILY MEDIATION

Abstract. The authoress focuses her attention on the social and educational consequences of family mediation. Besides the main goal of mediation, to reach the agreement between conflicting parties in family, the authoress points out that there are others benefits for participants of mediation, for the family as a whole and at last for the public where it can restore and keep public peace (Guide to social mediation concerning public space. 2012). Set of skills can be developed which can help individuals to cope with difficult situations in their life within the family and outside as well. They can learn how to communicate more effectively, how to develop mutual understanding among members of family, how to speak about their needs and how to make space for satisfying these needs. The capacity to deepen self-understanding is addressed as well. Mediation process provides a pattern for conflicting parties how to relate to each other in demanding situation in order to reach conclusion acceptable for all. Because of these positive effects of mediation experience the family can be helped by improvement of its climate, relationships and many times can be preserved. Survey done on the sample of social work student brings similar results. Social mediation as a tool for restoring peace in public space enables the same within the local community or region.

Keywords: family mediation, transformative mediation, potential of mediation, educational consequences, mediation and social skills.

Introduction

“Even the worst agreement between the parties is better than the best and precisely elaborated judgment in these matters”.

Association of Family Judges in Slovakia

This statement captures the essentials of mediation, agreement. That means to pass back the right to solve the conflict by its holders. No one has a better solution to their situation than themselves. Give up this right is allowing other people to decide for them. In the case of family conflict for all involved means a loss.

Conflicts or disputes belong to our life. They have valuable functions, individual and social. They provide the impulse for social change and individual psychological development. The question is how to create the conditions at all levels (micro-, meso-, macro-) that enable constructive dealing with conflict (Folberg, Taylor, 1984).
At first it was necessary to understand the substance of the processes which occurs between disputants while resolving their conflict with the presence of the third party. Once we understand these processes it was possible to help people to deal with their conflicts. Conditions for resolving conflicts on micro level are represented by mediation as a tool of help or support.

Conflicts resolved by mediation have interpersonal character, i.e., not only two people can have been involved in it. Outside family it may involve several people, even several groups of people. We can think how to organize that conflicts in community, region, i.e. on meso level, can be handled in constructive way in order to keep or restore public peace.

On nation-wide level mediation is also tool of social prevention and social control by which society regulates the formation, evolution and negative consequences of conflicting situations. This claim is based on an analysis of the functions of mediation in resolving conflicts and criminal its application in criminal proceedings, the status and function of mediation in resolving conflicts of parents of young children as well as the effects of peer mediation among peers at school (Hollá, 2011).

On macro level, national and international level initiatives of the European Union have helped a lot to promotion of alternative dispute resolutions (ADR) in Member States. Since 1998, the Recommendation of the European Council in terms of Family Mediation has tended to promote mediation, by furnishing a homogeneous framework of reference for European countries, and supporting the usefulness of this tool for intervening in family conflicts, underscoring in many instances the need to ensure the protection of the superior interests of the child and the child’s well-being.

The objective of the Directive 2008/52/EC of the European Parliament and of the Council as of 21 May 2008 (Official Journal of the European Union, 2008) is to facilitate access to alternative dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings. Member States should have brought into force the laws, regulations, and administrative provisions necessary to comply with this Directive before 21 May 2011. Besides others these were the most important pan-European regulations governing the institute of Mediation and became the basis of its legal settlement in the European Union.

In civil matters family mediation is a tool that gives families the possibility to solve their own problems, so that the most important thing is preserved. Its importance continues to grow. From among the different part of our life, the mediation is the most often done in family life. In order to address the adverse situation of children
and adolescents due to poor family conditions, Member States of European Union has been cooperating in the implementation of mediation in each country. Foundation „ChildOneEurope“ says the priority in family mediation is to safeguard children’s interests. Although family mediation addresses parents, for it tries to settle their dispute, its final goal is to safeguard children’s well-being by preserving the integrity of their family. (Family mediation in the European Union, 2005).

Mediation

Mediation is an intervention that is intended to resolve the disputes and manage conflicts by facilitatating decision making. For the purpose of this paper we use the concept of transformative mediation by Bush and Folger (1994). It goes together with the thoughts about transformative nature of social work practice (Schwartz, Saleebey, Gold, in Umbreit, Burns, 2002) which not only solve the problem of the client but identifies opportunity for his growth and change as well.

Mediation is the process in which a neutral third party works with parties in conflict to help them change the quality of their conflict interaction from negative and destructive to positive and constructive, as they discuss and explore issues and possibilities for resolution. Within this framework mediation is primarily focused on interpersonal conflicts. But effective mediation may partially influence intrapersonal level and conflicts, as well (Labáth, in Pružinská a kol., 2011).

The transformative approach to mediation does not seek resolution of the immediate problem, but rather, seeks the empowerment and mutual recognition of the parties involved.

In comparison with other mediation models the transformative mediation has the potential to do far more than to reach agreements. Especially dealing with conflicts in family we can aspire to reach more meaningful changes than agreement between family members. This approach allows people to experience sense of their own personal efficacy – empowerment and greater openness to and acceptance of the other person involved in conflict – recognition.

Empowerment, according to Bush and Folger (1994), means enabling the parties to define their own issues and to seek solutions on their own. Recognition means enabling the parties to see and understand the other person’s point of view – to understand how they define the problem and why they seek the solution that they do. Empowerment and recognition pave the way for a mutually agreeable settlement. According the above mentioned authors, this is only a secondary effect. The primary
goal of transformative mediation is to foster the parties‘ empowerment and recognition, thereby enabling them to approach their current problem, as well as later problems, with a stronger, yet more open view. So we can say, even if no agreement is reached, mediation still should be regarded as a success if it brings about empowerment and recognition.

Very important is the way how we understand conflict. Many people see conflict as something negative. Many prejudices occur around conflict, e.g. something must be wrong with people who have conflict! Good relationship doesn’t stand for conflict! From the point of view of transformative mediation conflicts are seen as opportunities for moral growth and personal change, but not as a problem. The focus of transformative mediation approach is on changing conflict interaction between parties. Conflict can be understood as a crisis in human interaction.

**Family mediation**

The term family mediation stands for different conflicting situations in family. In literature we can find it has more than one meaning.

The first is meant for dealing with conflicts within existing family among parents and children, between parents, between siblings. Subject of mediation are all family conflicts due to personal transitions or changes of its members which provokes changes in each family member. Period of adolescence brings about lot of collisions in family due to different expectations, mind, ideas or behavior of teenager and its impossibility to harmonize them with the expectations of other family members, especially parents. Mediation can prevent or solve running away from home, truancy, destructive way of spending leisure time of children (theft, violence against people, things, property…). According Pavelová (2010) lot of conflicts in the family starts with increased consumption of drugs of its members. For these families are typical problems resulting from absence or incapability of sharing their thoughts and feelings. These may include difficulty with expressing feelings, fear of expressing anger or frustration, lack of control of anger, deception for the purpose of disguising unacceptable behavior. There is certainly a place for mediation to help them develop mutual understanding.

Partners’ disagreement on child-rearing, household management, finance, leisure activities, their coexistence can be also helped by mediation in order to improve quality of family life. The aim of this type of mediation is to preserve the family.

The second meaning of mediation indicates divorce mediation (Everret, Everettová, 2000). Its ambition is to lessen negative impact of divorce, especially on children.
Family mediation may involve conflicts of exercise of parental rights and responsibilities for the child care, education, health, nutrition and overall development of the minor, the representation and management of its assets and adjust the exercise of those rights after divorce or separation of parents. It may relate also to the expected behavior (as they treat each other in the future), financial contributions, communication between ex-partners.

From our experience we can say that divorce mediation is more frequent than family mediation. The explanation of this can be related to the fact that divorce mediation is in some countries mandatory, e.g. Norway (Hareide, 2006), Great Britain, Austria (Family Mediation in Europe, 2012). Sometimes we can say about mediation in partners’ relationships (Hollá, 2011). Broader term is family mediation.

Living together brings sooner or later confrontation. The differences start to exist in perceptions, opinions, and dreams of each family member. If these differences are not dealt in constructive way pretty soon there will be conflict among family members. What makes it different is our attitude to conflict and our effort to solve it. Long lasting conflicts often cause the crisis in family which might bring the family to its end.

Social and educational aspects of family mediation

Since the mediation has been introduced into the practice, professionals have started to think how to prepare people in how to support the constructive rather than destructive potential in conflict. These developments may have profound significance for promoting individual and societal well-being (Folberg, Taylor, 1984). Although conflict is part of our life, most people have been insufficient in skills for handling conflict they confront in the course of their lives. This is very much true for conflicts in our personal and family lives.

Regardless the model used for mediation (generic, problem solving model, narrative, humanistic, transformative,) we can see that participation in mediation brings some positive changes to people who mediate.

Besides the main goal of mediation, to reach the agreement between conflicting parties in family, there are others benefits for participants of mediation and for the family as a whole.

We can see the educative impact of family mediation in several areas. Participants of mediation, parties, become aware about the necessity to communicate with each other in order to solve the conflict. During mediation they are guided not only to talk about also to listen. Talking during mediation is focused on self-expression. They are
supported to name their needs which are not satisfied because of the conflict. Ability to listen the other party in the conflict means building understanding of his/her situation. This makes possibility for mutual understanding. This way of communication enables both of them to identify needs, interests which are to be satisfied. They learn that self-expression is prerequisite for looking the solution of the conflicting situation. Gradually they find out that talking about what they need does not threaten them. They learn how to trust each other. For many participants of mediation this is very new positive experience. In family, many times we do not communicate openly as we fear that our interests and needs will be threatened. Participants of mediation learn how to make it possible for both sides to reach what is important for them. They learn to negotiate in cooperative way, which preserves good relationships.

Social impact of family mediation can be seen in building up positive social climate in family. Mutual trust among family members especially helps that each of them feels good about it. Family members start to care about good relationships in family. They don’t take it for granted. The mediation experience itself can contribute to keep good relationships or even to restore them, whether with family members or people outside the family. Transfer of personal experience with mediation from family to wider social environment would be more probable if mediation initiatives become more visible, promoted also on community level. Through outreach work, mediation provided in external surrounding, could be solved a lot of social conflicts within given territory. Mediation consequences can be seen also in ability of individuals to identify potential for new conflict and prevent it or solve it not to allow it to develop into serious one. Social interaction of people with mediation experience is more constructive one and satisfying. Unresolved conflicts can lead to crime. It turns out that social mediation carries out preventive and social control function wherever conflicts can arise.

Personal capacity of each family member to deal with demanding situations increases. The capacity to deepen self-understanding is addressed as well. Mediation process provides a pattern for conflicting parties how to relate to each other in demanding situation in order to reach conclusion acceptable for all.

**Divorce mediation**

Family is a place for satisfying need of love, personal autonomy, and value of oneself. Theories of family interaction postulate that the way how people relate to each other is more important than their upbringing style. This is topical for the situation when marriage or cohabiting partnership comes to its end and there are children
who need their parents. Social and educational consequences of divorce mediation are worthwhile to child but parents as well.

Parents learn about social-psychological consequences of divorce on child. Both of them preserve the consciousness of parenthood. They feel responsibility of each parent for further development of child. Parents learn about needs of their child. They understand why not to change satisfaction of psychological needs of child by material ones.

Divorced parents are able to change hostile attitude to more friendly towards the other party. They preserve positive perception of the other parent when talking to child. They become more aware of their responsibility for decisions which influence their children. The needs of child are priority. They stop to use child as a mean of battle between them.

The positive effects of divorce mediation appreciate social workers in the position of the custody at collision, who monitor divorce proceedings for protecting the rights and interests of the child. In recent years, when the court may accepted sharing parental care after divorce, is respectably negotiated parental agreement about all aspects of parenthood and child care substantial (Ondrušková, 2012).

**What parties appreciate most?** Research done by Bush (1996) showed that people who mediated their case, most valued process of mediation. Mediation enabled them to deal with the issues they themselves felt important. Nobody decided for them what must be done. Mediation allowed them to present their views fully and gave them a sense of being heard. Mediation helped them to understand each other and to have the greater deal of participation in decision-making. Also they can more openly to express themselves and communicate their views. What they valued most is connected with the process of mediation. They were satisfied even if agreement was not reached.

**Surveys**

For the purpose of this paper we present the results of two surveys made on the sample of Slovak people. The aim of the first one was to find out what type of their interpersonal conflict they would mediate. This survey was based on the premise often mentioned in literature. According this claim the family conflicts are the most open to mediation. We tried to test this statement on the sample N = 700 random passersby in different parts of Slovakia. Survey was done during the years 2008–2012. The age range was from 18 years to retirement age. They were asked the question: “Which conflicts would you be willing to mediate?” Table 1 shows the results. Their answers
in descendent order were: family disputes (not specified), divorce, family property, childcare, and inheritance dispute, and neighborough disputes, labour disputes. These results show that there is a big chance for family mediation to become desired service for family.

Table 1

Willingness to mediate interpersonal conflicts (N = 700)

<table>
<thead>
<tr>
<th>Descending order of conflict</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family disputes (not specified)</td>
<td>215</td>
<td>30,71</td>
</tr>
<tr>
<td>Divorce</td>
<td>199</td>
<td>28,43</td>
</tr>
<tr>
<td>Family property disputes</td>
<td>75</td>
<td>10,72</td>
</tr>
<tr>
<td>Childcare</td>
<td>68</td>
<td>9,71</td>
</tr>
<tr>
<td>Inheritance disputes</td>
<td>29</td>
<td>4,15</td>
</tr>
<tr>
<td>Neighborough disputes</td>
<td>25</td>
<td>3,57</td>
</tr>
<tr>
<td>Labour disputes</td>
<td>15</td>
<td>2,14</td>
</tr>
<tr>
<td>None</td>
<td>74</td>
<td>10,57</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>700</strong></td>
<td><strong>100,00</strong></td>
</tr>
</tbody>
</table>

The second survey was focused purely on family mediation. We tried to identify side effects of family mediation which can be seen as positive ones. The participants of the survey were the students of social work in their first year of bachelor study. The size of this sample was 43 students (33 women and 10 males). The average age of women was 29 years; average age of the males was 30 years. Nearly all of them live in city; only 2 women live in the country. This information is important to us because of familiarity with mediation. Our earlier research has shown that people in cities are more informed about mediation.

The data were collected by questionnaire constructed for this survey. There were two questions to be answered: Which conflicts in your family would you mediate? What would you expect from that? In order to stimulate the answers of participants we offered them 9 areas of family life which are prone to conflicts. There was also item “others”, which should enable to participant express also other type of family conflicts.

All participants have known what mediation is. Two women have mediated their case. Regarding the suitability of mediation to resolve conflicts within the family, 38 participants answered YES, and 3 could not answer it and 2 answered NO. According these 2 participants – males, the work with family belongs exclusively to psychologists.
Results

As we can see from the Table 2 on the first place participants put conflicts between partners. Beside the agreement participants would expect that after mediation their communication would be better, more open. Understanding interests of the partners and mutual understanding. They can realize their priorities and to be more skillful in resolving future conflicts.

<table>
<thead>
<tr>
<th>Which conflicts in your family would you mediate?</th>
<th>What would you expect from that?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflicts between partners</td>
<td>Improvement of communication, more open communication; understanding partner’s interests; mutual understanding; develop skills in resolving conflicts; learn to listen; being aware of personal priorities; make clear about the reality of partner’s demands</td>
</tr>
<tr>
<td>Conflicts between parents and their adolescent children</td>
<td>Improvement of mutual understanding; preserve good relationships; make communication more clear and open; floating the hidden problems to the surface; prevention of truancy and run away from family.</td>
</tr>
<tr>
<td>Child care</td>
<td>Parents would be much more aware of negative impact of their quarrels on their children; appreciation of keeping good relationships between partners because of well-being of children; providing space for both parents to give children what is according his view best for children; unified upbringing of children in the family; parental cooperation in child care; satisfaction; home for children; love for child from both parents; mutual respect and recognition for partners.</td>
</tr>
<tr>
<td>Divorce</td>
<td>Lessening the harm to the child; sense of love for the child from both parents; appropriate communication between ex-partners because of their children; reduction of conflicts; peaceful divorce; greater calmness and tranquility of the divorcing; no hurt; opportunity to save marriage.</td>
</tr>
<tr>
<td>Child custody</td>
<td>Elimination of negative impact on the psyche of the child; good access to the both parents; no stress because of alimony; parents will be helpful to each other; everything for the well-being of child; openness to modify custody if there are new circumstances; understanding what is important for a child.</td>
</tr>
</tbody>
</table>
The second place belongs to conflicts between parents and their adolescent children. Mediation could bring improved mutual understanding between them. Preserve good relationships. Make communication more clear and open. Hidden problems could float to the surface. Prevent of truancy and run away from family.

On the third place they put conflicting situation regarding child care. The expectation is that after mediation parents would be much more aware of negative impact of their quarrels on their children. They would appreciate keeping good relationships between partners because of children. To make space for both parents provide to children what is according his view best for children. Another side effect of mediation could be unified upbringing of children in the family. Parents would cooperate in child care. This would bring satisfaction, a home for children, feeling the love from both parents. Partners would develop mutual respect through mediation.

Divorce is placed in fourth place. Resolve it without harm to the child; maintain a sense of love for the child from both parents. Partners would maintain appropriate communication because of their children. Reduce conflicts. That means they will have peaceful divorce. This can bring greater calmness and tranquility of the divorcing. Not to hurt each other, husband and wife, or children. There is also opportunity to save marriage.

The fifth is the conflict over child custody. Positive effects of mediation in this can be elimination of negative impact on the psyche of the child. Good access to the other parent to the child. There will be no stress because of alimony. Parents will be helpful to each other, to do everything for the good of the child. Be open to modification in custody if there are new circumstances. Understanding what is important for a child.
Sixth in the order they were *conflicts between adult siblings*. Caring for aging parents participants see as potential for conflict. Side effects of mediation they see as follows. Do not disturb the relations between them. Better communication and mutual understanding. Not losing contact with family. For parents, not feeling they might be the burden for children.

*Child support* was ranking seventh in the order. Participants would welcome not to go to the court and keep good relationships between parents. They think it would be possible to adapt to the opportunities a parent who pays. They would also cooperate on child nutrition and protect the child from family conflicts.

The eight in the order are *inheritance disputes*. Besides solving the main problem they would expect to have unbroken relations with family and good family communication. Also awareness of the values might be of interest, the preference relations versus inheritance.

Ninth ranking belongs to settlement property *matters* relating to divorce. Consequences of solving this matter through mediation are as follows. Satisfaction of each partner, everyone got things necessary for his life after divorce. Partners would keep a good relationship because of the children. Take into account the interests of the child.

Based on our results we can make conclusion that regardless the type of conflict there are common positive side effects of mediation. That is improved communication between the parties, mutual understanding, good relationships, and cooperation on shared interests. Some indicated educative aspect of mediation in the form of conflict resolution skills. Preventive impact of misbehaviour, e.g. truancy, runs away from home. Interesting finding was that mediation can draw attention to hidden problems. Positive consequences of mediation experience relate not only its participants but also other people, children, parents, neighbours. Mediation has protective impact on them.

In the nineties of the last century Lim and Carnevale (in Duffy, Grosch, Olczak, 1991) did survey about research on mediation. They identified three types of outcomes. The first one was related to mediation agreement. Especially the one that was mutually beneficial and lasting. The second was associated with mediator. It has to do with feelings of trust towards the mediator, satisfaction of the mediator’s needs, and the party’s satisfaction with mediation. The third related to parties. It involved improved relationship and better communication between the parties. The last one was least represented.
Conclusion and recommendations

The benefits associated with the mediation will affect all who are interested in the stability of the family, good relationships and create favorable conditions for raising children. It is the state itself, divorcing couples, separated spouses, parents, who used mediation services.

We can conclude that from among different conflicts the family conflicts are the most open to mediation. Family mediation is most often used during marital separation and divorce. Findings show that parties most value good relationships and communication, better self-understanding and understanding of the other party. There is more research work done on mediation process and mediators but less on participants of mediation.

It would be useful to research the side effects of mediation on participants of mediation. There is ethical dilemma in research of mediation as the mediation is confidential. Not all European countries have established mediation.

From our experience we can say that if mediation is proposed by judge the likelihood of reaching an agreement between the parents significantly increases. We can understand this fact in such a way that neither partner did not have to prove a “weak”. If authority that both respect suggests mediation it is an acceptable way of dealing with their situation.

On national level we recommend to introduce mediation scheme into all areas of life. To support providing mediation services both in public and private sector as well. To organize appropriate preparation of mediators and continuing supervision to guarantee quality of mediation services.

On the level of professionals we recommend a close cooperation of all who might help with resolving conflicts, especially between judges, mediators and social workers.

References


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ŠEIMOS MEDIACIJOS SOCIOEDUKACINIAI ASPEKTAI


Esminiai žodžiai: šeimos mediacija (tarpininkavimas), transformuojamosios tarpininkavimas, tarpininkavimo potencialas, švietimo pasekmės, tarpininkavimas ir socialiniai įgūdžiai.

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