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Relationships Mediation: A Facilitative Process for People in
Intimate Relationships to Enrich their Togetherness

Mieke Brandon

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PRACTICE NOTE

RELATIONSHIPS MEDIATION: A FACILITATIVE PROCESS FOR PEOPLE IN INTIMATE RELATIONSHIPS TO ENRICH THEIR TOGETHERNESS

MIEKE BRANDON*

Abstract

Constructive conversations between separated or separating people about their future as individuals and/or as co-parents are part of any facilitative family mediation process. However, encouraging people through a facilitated mediation process to see if there is anything to achieve by discussing how they may be able to stay together has, as yet, not been fully explored in our country (although there are many forms of therapeutic counselling and mediation for parties wishing to stay together). Many relationships break down due to blaming and shaming interchanges between partners, creating disputes that are difficult to resolve due to emotional reactions towards each other.

‘Relationships mediation’ (also known as ‘marital mediation’) uses a facilitative mediation approach to focus on the wellbeing of relationships; as well as each partners’ strengths and hopes to be able to enrich their togetherness through exploration of their goals for their individual and joint interests for the future. Relationships mediation is for people in committed relationships who are experiencing difficulties and are willing to work through their issues in a collaborative way. It is potentially appropriate for people, regardless of gender, who wish to remain in intimate ongoing relationships, whether married or not married, with or without children.

Many couples, for a range of diverse reasons, prefer to stay together when faced with relationship difficulties, especially

* This practice note is developed from the author’s presentation of ‘Need More Positivity and Understanding in Intimate Relationships: Mediation Maybe the Answer’ at the National Mediation Conference on 17 April 2019. With thanks to colleagues and friends for their comments and support.

when they have children. For some couples experiencing such relationship challenges, which they want to overcome, mediation can offer a safe environment in which to learn how to resolve conflict in the relationship in a more respectful manner.

In this Practice Note I explore the ways partners in intimate relationships can learn more constructive communication patterns through relationships mediation, enhancing their togetherness and collaboration. In Australia, the opportunity to learn about relationships mediation is a potential additional area of expertise for experienced family mediators and accredited family dispute resolution practitioners.

I INTRODUCTION

All happy families resemble each other, each unhappy family is unhappy in its own way.¹ The purpose of relationships or marital mediation is for couples to find new ways of relating that are meaningful, rewarding and respectful. Skills to relate to each other can be learned. Relationships mediation helps people in intimate committed relationships to understand the sources or triggers for their conflict and assists them to picture a more productive and positive future. The aim of relationships mediation is that participants gain a deeper understanding of their personal and relational issues. The process also teaches intimate partners dispute resolution techniques, constructive communication skills, and it can build an ability in the parties to establish their own solutions to their disputes, even when ultimately the outcome may be for them to go their separate ways.²

When partners decide to separate and/or divorce it is 'one of the most crucial decisions a person can make with consequences that last for years or a lifetime'.³ Derman and Gregson suggest that 'a decision this important requires much greater attention than it is usually given by both couples and professionals',⁴ because 'it is a process in and of itself'.⁵

Experienced family mediators or family dispute resolution practitioners (FDRPs) can work with committed partners to encourage change and growth

¹ From Leo Tolstoy's Book, *Anna Karenina*. See also (Web Page, 2019) <<https://www.goodreads.com/quotes/7142-all-happy-families-are-alike-each-unhappy-family-is-unhappy>>.

² See Angela I Green, 'What is Mediation to Stay Married?' *Mediate.com* (Web Page, August 2009) <<https://www.mediate.com/articles/greenI1.cfm>>. For a full description of relationships mediation also called marital mediation in the USA see Susan K Boardman, John A Fiske, Laurie Israel and Kenneth Neumann, 'Marital Mediation: An Emerging Area of Practice' (Web Page May 2009) <<https://www.mediate.com/articles/maritalmediation1.cfm>>.

³ Bruce Derman and Wendy Gregson, 'Are You Really Ready for Divorce? The 8 Questions You Need to Ask' *Mediate.com* (Web Page, 2019) <<https://www.mediate.com/articles/dermanGregson1.cfm>>.

⁴ Ibid.

⁵ Ibid.

in their existing relationship through mediation. Mediators interested in including relationships mediation into their practice have an opportunity through this process to support partners to cope with challenges in their relationship before they emotionally and/or physically walk out on each other.

Conflict is part of any relationship, and a fundamental part of life, as expectations, attitudes, beliefs, values and morals can be key areas where individuals hold different views. Relationships mediation focuses on enriching the relationship by assisting partners to focus on what is good in the partnership and to learn to create greater closeness through effective communication and problem-solving. The focus of the mediation can be on exploring mutual and individual interests, and on developing skills to be able to use interest-based negotiation, long before the point of no return.

In relationships mediation, space is created for partners to talk and listen to each other, so that initial perspectives and desires that once seemed immovable can grow into mutual understanding, increased tolerance and greater compassion for each other. Relationships mediation therefore has the potential to create more space in each of the partners minds to emotionally connect with the needs of the other, enhancing their bond and attachment to each other. Gordon and Chen's research found that, as a result, partners will start to feel more secure with each other. They state that one key ingredient in relationships is 'that there's high value in trying to understand one's partner — and making sure this is conveyed'.⁶

II ISSUES IN RELATIONSHIPS

When spouses are satisfied that their 'marriage is balanced and thriving, both [partners] acknowledge and appreciate each other's work, or contribution, no matter what form it takes'.⁷ In relationships that are balanced, partners turn towards each other, have positive perspectives, share fondness and admiration, manage conflict and know each other's worlds.⁸ In contrast, relationships that are unbalanced are ones in which partners cannot resolve conflict, instead they use criticism and become defensive, and are unwilling to discuss issues or are not interested in and/or

⁶ Amie M Gordon and Serena Chen, 'Do You Get Where I'm Coming From?: Perceived Understanding Buffers Against the Negative Impact of Conflict on Relationship Satisfaction' (2016) 110(2) *Journal of Personality and Social Psychology* 239. See also Tammy Lenski, 'Can this Key Ingredient Protect Your Marriage from Relationship Conflict?' *Mediate.com* (Web Page, February 2018) <<https://www.mediate.com/articles/lenskitbl20180216.cfm>> based on Gordon and Chen.

⁷ Laurie Israel, 'Underwood Family Values – A Template for a Marriage' *IVKDLaw: Your Family Matters Law Firm* (Web Page, August 2016) <<http://ivkdllaw.com/the-firm/our-articles/marriage-and-mediation-to-stay-married/underwood-family-values-a-template-for-a-marriage/>>.

⁸ Zach Brittle, 'Share Fondness and Admiration' *The Gottman Institute* (Web Page, August 2016) <<https://www.gottman.com/blog/share-fondness-and-admiration/>>.

ignore their partner. In such relationships the self-interests of individuals become the priority.⁹

It seems to be a common issue that partners bring into a mediation that they consider their own contribution to the relationship as having more value than their partners and they each become critical of the other partner, because they consider the other is not pulling their weight. In such circumstances, the relationship dynamics can change and the relationship can get into trouble. Resentment and/or competitiveness between couples can take its toll.¹⁰ When resolving conflict goes badly, partners can feel frustrated; however when it goes well, they may grow closer together as they have gained a lot more understanding of where each is coming from. Couples can negotiate behaviours rather than having conditional expectations of each other, because when partners 'offer love with strings attached' this can create power and control imbalances.¹¹

As noted above, Gordon and Chen have found 'that there's high value in trying to understand one's partner — and making sure this is conveyed'.¹² Gordon and Chen also suggest that to mitigate the impact of conflict on relationships, it is also useful to:

- 'Not confuse acknowledgement with agreement;
- Rethink having the last word;
- Check out your understanding; and
- Cut the other person some slack when they're trying'.¹³

As we know, many couples expect happiness in their relationships and can become disappointed when their partner does not deliver on this expectation, resulting in tensions.¹⁴ However, complete happiness is an impossible wish, as 'no one human being can satisfy all our needs or even come close. It's an unfair and unrealistic pressure to put on any marriage or human being'.¹⁵ Iris Krasnow explains that genuine relationships evolve

⁹ Jon Beatty, 'A Couple's Guide to Complaining' *The Gottman Institute* (Web Page, March 2017) <<https://www.gottman.com/blog/a-couples-guide-to-complaining/>>.

¹⁰ Relationship Rules, '7 Signs That You're in a Competitive Relationship and How to Fix It' *Relationship Rules* (Web Page, November 2017) <<https://www.relrules.com/7-signs-that-youre-in-a-competitive-relationship-and-how-to-fix-it/>>. See also Amy Morin, 'Unhealthy Competition in the Marriage', *The Marriage Counseling Blog* (Web Page, November 2017) <<https://marriagecounselingblog.com/marriage-counseling/unhealthy-competition-in-the-marriage/>>.

¹¹ See Elizabeth Earnshaw, 'Unconditional Love: How To Give It and Know If It's Healthy' *Licensed Marriage and Family Therapist* (Web Page, October 2020) <<https://www.mindbodygreen.com/0-4171/Unconditional-Love-How-to-Give-It-and-How-to-Know-When-Its-Real.html>>

¹² Gordon and Chen (n 6).

¹³ See Gordon and Chen in Lenski (n 6).

¹⁴ See John Gottman, 'The Truth About Expectations in Relationships' (Web Page, 2018) <<https://www.gottman.com/blog/truth-expectations-relationships/>>.

¹⁵ Iris Krasnow quoted in Emuna Braverman, 'Expectations of Marriage: Why So Many Marriages are Doomed' *Aish.com* (Web Page, November 2018) <<https://www.aish.com/f/m/Expectations-of-Marriage-Why-So-Many-Marriages-are-Doomed.html>>.

through 'embracing and growing from the imperfections, challenges, choices, compromises and giving required to build a life with someone else'.¹⁶

Participating in relationships mediation could be of particular value to parents, especially to establish if there are any hopes for their joint future, before seeking the path of separation. Parents might learn to become more tolerant of each other's imperfections, to accept that everyone makes mistakes sometimes, and to let go of unrealistic expectations, judgements and bitterness.¹⁷ Unaddressed feelings of failure can erode self-esteem, or can turn into controlling behaviour. 'Past experiences need not control us or determine our attitudes or outcomes'.¹⁸ By re-engaging with their commitment to the relationship, parents can discover their own contribution to a dispute, move the relationship back on track and cultivate a more positive and optimistic mindset.¹⁹ Laurie states that parents in ongoing relationships express in mediation that they would like to feel that there is a balance in their contributions to the wellbeing of their relationship and would prefer if this could be acknowledged between them.²⁰ Such outcomes can potentially be achieved through relationships mediation.

III THE GOAL OF RELATIONSHIPS MEDIATION

Relationships mediation is 'task oriented and time limited' focussing on the couples' short or longer term goals to improve their relationship.²¹ In relationships mediation, it can be important for partners to understand and acknowledge what is going well, before re-planning their lives as a couple and/or individually. This is particularly important when different expectations of each other emerge due to each person's habitual roles which may have developed within the relationship. Recognition of the areas that typically cause disharmony between the partners is also important.²²

A relationships mediation process is solution-focused,²³ with an emphasis on what is possible to strengthen the alliance between the partners. Focusing on the future can assist participants to plan steps to act and/or re-act differently to avoid repetition of problematic behaviours that have occurred in the past. Many issues and niggles in relationships cannot be resolved and ideally have to be accepted as 'differences'. Differences in

¹⁶ Ibid.

¹⁷ See Judy Ringer, 'We Have to Talk: A Step-By-Step Checklist for Difficult Conversations' (Web Page, 2020) <<https://www.mediate.com/articles/ringerJ1.cfm>>.

¹⁸ Lorraine Segal, 'Managing Conflict with your Inner Critique' *Mediate.com* (Web Page, February 2018) <<https://www.mediate.com/articles/segallbl20180222.cfm>>.

¹⁹ See Emuna Braverman, 'Great Expectations' *Aish.com* (Web Page, March 2003) <<https://www.aish.com/f/m/48954256.html>>.

²⁰ Israel (n 7).

²¹ Susan K Boardman, 'Practice Note: Marital Mediation: A Psychological Perspective' (2013) 31(1) *Conflict Resolution Quarterly* 99, 100-103.

²² Mieke Brandon, "'I love you when, I love you if, I love you because . . .': Relationships Mediation' (2018) 29(2) *Australasian Dispute Resolution Journal* 98, 100.

²³ See Fredrike Bannink, *Handbook of Solution-Focused Conflict Management* (Hogrefe, 2010).

relationships can be considered challenging, but can also make a partnership more interesting! Exploration and acceptance of different perspectives may therefore enrich relationships. 'Respect and affinity are feelings that turn the personality differences into assets in a relationship'.²⁴ Pransky suggests that when couples start having thoughts about their incompatibility it is 'a sign that respect and affinity in the relationship has slipped'.²⁵ Remaining curious about each other's growth within a relationship, to discover these aspects with each other, can be like pretending to be on a date again, which can 'do wonders' to enrich a relationship.

Adopting a solution-focused practice approach in relationships mediation can allow the partners to concentrate on a 'preferred future, as opposed to judgements of the past or present'.²⁶ It encourages partners to be future focused in terms of what they want from their relationship and their lives together. Sharing how each person contributes to the wellbeing of the relationship, and exploring the deeper issues of compatibility and/or concerns about their differences, can be helpful in relationships mediation, particularly if the tone of the discussion can be maintained as positive and future focused. Finding ways to address issues of concern without blame is important, as the past cannot be changed, it is only possible to plan how to do things differently in the future.

Ideally past behaviours can remain in the past, because if partners flood each other with blame this can often result in contempt, withdrawal and/or stonewalling.²⁷ Meyer explains that, 'in relationships, stonewalling is the emotional equivalent to cutting off someone's oxygen. The emotional detachment inherent to stonewalling is a form of abandonment and the effect that it has on a spouse is dramatic'.²⁸ Pipe surmises that 'when someone is stonewalling, they will typically stop responding to their spouse in any meaningful way. They may offer short, one-word responses or they may simply remain silent'.²⁹ Such behaviour is also noticeable in couples' facial and body language. Lesitsa maintains, based on Gottman's Four Horsemen, that these behaviours may ultimately lead to a lack of friendship and intimacy, which in turn can result in negativity and/or hostility and lead to the partners living parallel lives.³⁰

²⁴ George S Pransky, *The Relationships Handbook* (Pransky and Associates, 2nd ed, 2001) 20.

²⁵ Ibid.

²⁶ Fredrike Bannink, 'Solution-focused Family Dispute Resolution' (2017) 28(1) *Australasian Dispute Resolution Journal* 4, 5.

²⁷ Cathy Meyer, 'Stonewalling in Marital Relationships' *liveaboutdotcom* (Web Page, July 2017) <<https://www.liveabout.com/stonewalling-in-marital-relationships-1102887>>.

²⁸ Definition by Jeffrey J Pipe in Meyer (n 27).

²⁹ Jeffrey J Pipe, 'Stonewalling vs Empathy' *Tapestry: Counseling Families. Building Integrity* (Web Page, May 2004) <<http://tapestryassociates.com/stonewalling-vs-empathy>>.

³⁰ Ellie Lisitsa, 'The Four Horsemen: The Antidotes' *The Gottman Institute* (Web Page, April 2013) <<https://www.gottman.com/blog/the-four-horsemen-the-antidotes/>>.

IV THE IMPORTANCE OF PRE-MEDIATION IN THE RELATIONSHIPS MEDIATION PROCESS

A private pre-mediation session with each person intending to participate in relationships mediation is helpful for clients as well as for mediators. Mediators can get an overview of the client's family origin and, where appropriate, can include the children and extended family in a multi-generational genogram or relationship chart.³¹ Relationship charts can help the mediator to establish who is close and who has tension with anyone in the family. The advantage of such a chart is that both the mediator and the clients are able to get an overview of the complexities of the family system and the patterns of behaviour within the family.

Additionally, it can be useful to explore in pre-mediation *how* decisions are made between the partners, *what* typically gets the couple into strife, and *how* their disputes traditionally are managed. This can help to ascertain the level of trust between the partners. It is also often important to counter-balance the identification of existing challenges arising from insecurity, discomfort, misunderstandings and/or competitiveness by assessing existing positive assumptions and expectations, and identifying feelings of security and comfort.³² This is because a couple's ability to problem solve may be significantly influenced by what Ricci calls 'negative intimacy', in contrast to 'positive intimacy'.

The partners' levels of motivation can have an impact on the presence of positivity or negativity in an intimate relationship, and these things can in turn influence individual partners to decide to work co-operatively on their difficulties or not. Any serious concerns held by the mediator for each client's safety, due to aspects of abuse, threats, or emotional/psychological and/or physical violence, must be assessed before relationships mediation can be offered. Safety concerns during relationships mediation can be difficult to monitor, particularly because private sessions (or separate meetings), which are considered confidential, are not commonly used during the process.

The level of self-awareness each partner seems to have in their relationship is important to establish as this is likely to impact on how they can negotiate more or less as equals. How aware are partners about how their 'thoughts of disagreement' can create 'feelings of defensiveness'³³ thus potentially fuelling argumentative behaviour that may be likely to end in a fight between them? Or do they have little awareness about how their fights start?

As a result of a pre-mediation interview with each partner, mediators will have gained some insight into the couple's communication/negotiation patterns, such as positional, competitive, flexible or inflexible ways of

³¹ See Mieke Brandon and Linda Fisher, *Mediating with Families* (Thomson Reuters, 4th ed, 2018) Chapter 3.

³² Adapted from Isolina Ricci, *Mom's House, Dad's House* (Fireside, 1997) Chapter 8.

³³ Pransky (n 24) 131.

thinking and behaving. Additionally, the mediator will have a sense of the couple's individual perspectives and their satisfaction and/or stress levels, their sense of separateness (autonomy) and togetherness (intimacy), as well as the strengths of the relationship.³⁴ The decision by the mediator to accept the matter for relationships mediation is based on their suitability and risk assessment in the pre-mediation.

V THE RELATIONSHIPS MEDIATION PROCESS AND THE ROLE OF THE MEDIATOR

When appropriate, and when both partners have decided to participate in a voluntary and confidential mediation, the mediator must explain how the process is going to be used.³⁵ This includes explaining the mediator's role as an impartial facilitator of the process; that they will listen to what is satisfying in the relationship and the presenting problems brought to the session; that they will identify what can be mediated; and they will encourage the participants to discuss the issues between them.³⁶

Mediators must build rapport with the parties to the process and allow time for preparation for relationships mediation. The details of how this is approached will often depend on a mediator's own individual style. However, being transparent about how the mediation process is going to be conducted, including providing written material, can reassure partners that they can put trust in the mediator as well as the process that is going to be used.³⁷

During a relationships mediation session, mediators must pay attention to the dynamics between the participants while using the usual mediation techniques, including verbal, tonal and non-verbal interaction to identify any potential communication problems. Aspects of triangulation are important to establish, monitor and address.³⁸ Triangulation happens when, due to tensions between two people, which can become emotionally difficult for them, a third person or element (such as other members of the family or friends) are drawn into their dispute.³⁹

Regina considers that the breaking down of a relationship is commonly caused by increased anxiety, over and under functioning, emotional

³⁴ David H Olsen and Dean M Gorall, 'Circumplex Model of Marital and Family Systems' in Froma Walsh (ed), *Normal Family Processes* (Guilford Press, 3rd ed, 2003) 514, 535-538.

³⁵ Some mediators use a facilitative solution-focused approach, a facilitative transformative or narrative, or facilitative and evaluative style of mediation. While mediation may have a therapeutic outcome, the focus in relationships mediation is on creating a safe space to have difficult conversations that lead to outcomes that work for both participants, so their future can be different and more harmonious than their past. The confidentiality aspect of relationships mediation is no different from the obligations and responsibilities of FDR practitioners in relation to their duty of care and ethical decision-making.

³⁶ NMAS accredited and FDR registered practitioners will need some additional training, which will be available in the near future.

³⁷ See Brandon and Fisher (n 31), particularly Chapter 2 for a range of approaches.

³⁸ Ibid 90-92.

³⁹ Ibid 89-92.

reactivity, and a focus on the other instead of one's own goals and hopes – all of which contribute to an attack and defence spiral.⁴⁰ Trying to get the other partner to change minimises responsibility for the 'self' in relationship conflicts, resulting in 'mindless' reactivity, instead of trying to establish what each person in the relationship needs to do to 'increase self-soothing, self-management, and personal responsibility'.⁴¹ Central and interlocking triangulation are commonly created by substance abuse, an affair, and/or emotional and physical abusive behaviours, or familial aspects such as family members and/or friends supporting one partner against the other, or other issues getting caught up in the relationship struggle.⁴²

Emotional triangles are normal and occur frequently in families. Acknowledging triangulation can help the parties and the mediator to understand the impact the conflict is having; and where necessary in mediation, the couple can be helped to de-triangulate from such emotionally intense situations.⁴³

Additionally, disputes over parenting styles, finances, use of credit cards, the balance of activities in a household, substance abuse, physical and mental health issues, personal interests and joint activities, and the division of chores and so on, are commonly aired.

Disharmony is often caused by ineffective communication, hence new communication tools for their future as a couple must be addressed and practised.⁴⁴ Corrosive behaviours such as eye rolling, loud sighing and turning away can be as destructive as words. Fiske states '... that a lack of respect or acknowledgement of the other spouse's actions and views, aside from being usually not fact-based, is a destructive element in a marriage'.⁴⁵

Israel recommends the following 'Useful Mediation Techniques in Mediation to Stay Married':

- 'Communication analysis;
- Powerful non-defensive communication;
- Identifying, testing and understanding assumptions;
- Elevating the positive;
- Clearing up miscommunications;

⁴⁰ Wayne F Regina, *Applying Family Systems Theory to Mediation* (University Press of America, 2011) 122.

⁴¹ Ibid 122-123.

⁴² See Guy Winch, 'Why Guilt Trips Can Be Relationship Killers: Try these 5 steps for a Healthier Conversation' *Psychology Today* (Web Page, March 2014) <<https://www.psychologytoday.com/au/blog/the-squeaky-wheel-201403/why-guilt-trips-can-be-relationship-killers?collection=146356>>.

⁴³ Regina (n 40) cited in Brandon and Fisher (n 31) 91.

⁴⁴ See John M Haynes, Gretchen L Haynes, and Larry Sun Fong, *Positive Conflict Management* (Sunny Press, 2004). See also Sheri Stritof, 'How to Talk to Your Husband or Wife About Difficult Topics' *verywellmind* (Web Page, November 2018) <<https://www.verywellmind.com/tips-when-you-have-to-talk-2302246>>.

⁴⁵ John A Fiske in Laurie Israel, 'Where Does Marital Mediation Fit In?' *Marital Mediation* (Web Page, March 2015) <<http://www.maritalmediation.com/2015/03/marital-mediation-fit/>>.

- Overt and covert messages; and
- Validating both parties'.⁴⁶

Her guidelines for a good relationship include: 'don't give up', 'treat your spouse better than you treat anyone else', 'be your spouse's partner', 'always assume the best of your spouse', 'have separate interests', 'compliment them at least once a day', 'give them a break', 'don't' sweat the little things' and 'forgive each other'.⁴⁷

People in destructive partnerships need to re-focus on listening, being heard and understood, as well as unravelling elements of power and control in a partnership. Mayer identifies many ways power can be used, for example, power with, power over, implied power, ongoing power, time limited power, or power used to influence, provide incentives or rewards.⁴⁸ Many relationships can be greatly helped by changing the influence of perceived elements of the power dynamics.

Fiske believes that all marriages rise and fall on two factors — 'control' and 'acknowledgment'. 'Acknowledgement' means giving your partner the appreciation that they deserve, on a daily basis. It sounds sappy, but it is really important to communicate appreciation in relationships. But when you say 'thank you', she states, say it with a generous and appreciative heart, as partners in relationships do many things that the other partner should appreciate and acknowledge.⁴⁹

Mediators need to also assist participants in relationships mediation to be clearer about their decision making, timeline steps to be taken and the consequences of their decisions. Watson suggests: 'Once the underlying needs/goals are clear, assist the couple in "expanding the pie" and brainstorm new creative ideas for the structure of their relationship'.⁵⁰ While establishing whether to stay together or to eventually separate, participants need to consider the impact on their physical and emotional health as well as how their decisions could affect others.

VI NEGOTIATION TECHNIQUES IN RELATIONSHIPS MEDIATION

To begin a negotiation of the needs and interests for people within a relationship, it is recommended 'to first start with sharing fondness and admiration for each other, second validate each other's contribution to the

⁴⁶ Laurie Israel, 'Marital Mediation: A New Application of Mediation' *Marital Mediation* (Web Page, 2015) <<https://www.maritalmediation.com/wp-content/uploads/2013/11/Marital-Mediation-A-New-Application-of-Mediation-v.3.pdf>>.

⁴⁷ Laurie Israel, '25 Secrets to a Great Marriage' *IVKDLaw: Your Family Matters Law Firm* (Web Page, 2008) <<http://ivkdllaw.com/the-firm/our-articles/marriage-and-mediation-to-stay-married/25-secrets-to-a-great-marriage/>>.

⁴⁸ Bernie Mayer, *Staying with Conflict* (Jossey-Bass, 2009) 159.

⁴⁹ John Finke in Laurie Israel, '7 Phrases Couples in the Strongest Relationships Use Regularly' (Web Page, 2020) <<https://www.maritalmediation.com/2020/01/7-phrases-couples-in-the-strongest-relationships-use-regularly/>>.

⁵⁰ Stuart Watson, 'The Decision to Divorce: A Mediator's Role' *Mediate.com* (Web Page, May 2019) <<https://www.mediate.com/articles/watson-decision-to-divorce.cfm>>.

'we' in relationships, without criticisms',⁵¹ before starting to negotiate what each person needs instead of wants. 'Wanting' something often sounds like a demand, which can be contrasted with expressing 'needs and interests', creating interest-based negotiations. Trust and commitment in relationships is created by taking positive perspectives, 'turning towards' each other, in contrast to 'turning away', when difficulties or arguments arise. Acknowledging a statement from the other partner about how upset he/she is feeling about an issue can foster a positive response. The traditional aspects of the guidelines for 'getting to yes' in negotiations can be drawn from for relationships mediation: 1. Separate the people from the problem; 2. Focus on interests, not positions; 3. Learn to manage emotions; 4. Express appreciation; 5. Put a positive spin on your message; and 6. Escape the cycle of action and reaction.⁵²

The temptation for one person in the relationship to behave as if they are 'right' is '[o]ne of the many attitudes to conflict that derails interpersonal conflicts', according to Noble.⁵³ She goes on to explain when partners try to convince the other that they are wrong and that their own perspective is 'best', 'better than', or 'smarter than' their partner, this is because they are needing to 'win' in an argument.

'The quality of a relationship is not something that just happens.'⁵⁴ If partners learn how they ought to deal with each other, then this can create more 'togetherness' as they take steps to increase their mutual understanding, and build trust and respect to enhance their communication.⁵⁵ By both demonstrating a willingness to listen in relationships mediation, their interactions can soften to create space for sharing points of view.⁵⁶

For couples to be able to effectively negotiate, they must separate relationship issues from potential substantive issues and look for ways to improve their relationship first. The role of the mediator is to help shift the couple 'from the other focused perspective to becoming more self-focused',⁵⁷ concentrating 'on changing self rather than the other'.⁵⁸ Green states that when people 'negotiate from the heart, and make ... the right decisions and the appropriate compromises ... [they] have a positive 'gut

⁵¹ See Alison Poulsen, 'Criticism and Contempt...' *Couples Solutions Better Communication Better Relationships* (Web Page, May 2019) <<https://www.sowhatireallymeant.com/articles/conflict/criticism-and-contempt/>>.

⁵² Katie Shonk, 'Six Guidelines for "Getting to Yes"' *Program on Negotiation Harvard Law School* (Blog Post, 12 September 2019) <<https://www.pon.harvard.edu/daily/negotiation-skills-daily/six-guidelines-for-getting-to-yes/>> based on Roger Fisher, William Ury and Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (Penguin, 3rd ed, 2011).

⁵³ Cinnie Noble, 'The Need to Be Right' *Mediate.com* (Web Page, May 2019) <<https://www.mediate.com/articles/noble-need-to-be-right.cfm>>.

⁵⁴ Roger Fisher and Danny Ertel, *Getting Ready to Negotiate* (Penguin Books, 1995) 86.

⁵⁵ See John Gottman and Julie Gottman, 'The Gottman Method' *The Gottman Institute* (Web Page, 2020) <<https://www.gottman.com/about/the-gottman-method/>>.

⁵⁶ D'Alo and D'Alo (n 11).

⁵⁷ Brandon and Fisher (n 31) 182.

⁵⁸ Regina (n 40) 122-123.

feeling'. Likewise, if [they are] not making the right decision, [they] feel that, too'.⁵⁹

When appropriate and helpful, relationships mediators can use interim agreements between the partners to establish more gratefulness and acknowledgement as well as to 'create specific guidelines involving the behavioural changes to be able to address areas of friction'.⁶⁰ Such an approach can provide partners with a mediated 'template for future behaviour',⁶¹ which commonly contains interventions like 'a series of guided negotiation techniques' to help couples improve their negotiation abilities.⁶² Interim agreements are in relation to 'substantive, procedural and relational aspects' of the relationship.⁶³ The underlying psychology for saying 'yes' to an agreement acknowledges a 'shared reality' to enrich the couple's togetherness.⁶⁴

VII SELF-DETERMINATION

Relationships mediation aims to help married or committed couples to stay together, however, this is not always realistic or possible as one partner or both partners may realise that their goals have become incompatible and/or sometimes may choose to separate as a result of open and frank discussions during mediation.

Facilitative mediation in the form of relationships mediation encourages participants to be self-determined in finding their own solutions regarding what needs to happen to remain together, or how they can separate without fault finding or blame. The dilemmas about staying or leaving and the consequences of such an important decision can be negotiated respectfully. It is especially important to discuss that family and friends may agree or not agree with their decisions; however, partners need to fully understand that people outside the relationship do not have to agree - because it is not their partnership.⁶⁵ This is particularly important for parents having gained some insight and acceptance that their relationship is ending, but not yet realising the relationship as co-parents. In relationships mediation participants can be encouraged to accept responsibility for their self-determination concerning their agreements with each other and to honour their own competence in what they have achieved.

When couples in mediation come to the conclusion themselves that their current relationship is ending and decide to separate, participating in

⁵⁹ Green (n 2).

⁶⁰ Boardman et al (n 2).

⁶¹ Brandon and Fisher (n 31) 181.

⁶² See Boardman et al (n 60).

⁶³ See Christopher Moore, 'The Triangle of Satisfaction' *Vitaconflict* (Web Page, 2013) <<https://viaconflict.wordpress.com/2013/03/31/triangle-of-satisfaction/>>.

⁶⁴ Tammy Lenski, 'The Psychology of Agreement: Start with a Small Yes' *Tammy Lenski* (Web Page, May 2019) <<https://tammylenski.com/psychology-of-agreement/>>.

⁶⁵ Judith Weigle, 'Listen to Your Heart, Not Your Friends and Family' *Mediate.com* (Web Page, April 2018) <<https://www.mediate.com/articles/weiglej1.cfm>>.

relationships mediation offers participants at least some understanding of their background difficulties. The insight into *why* they are breaking up and *how*, as co-parents or former partners, they intend to separate can be most valuable in the process of letting go.

VIII DIVERSITY OF APPROACHES

Relationships mediation 'does not seek to delve deeply into the past or interpersonal, psychological issues of the couple (or its individual members)'⁶⁶ and can be considered different from marital counselling or family therapy.⁶⁷ Effective approaches are those which help in understanding that immature love says: 'I love you because I need you', whereas mature love says: 'I need you because I love you'.⁶⁸ Fromm also suggests that 'the active character of love can be described by stating that love is primarily giving, not receiving'.⁶⁹

Depending on the practitioners' background and expertise there are different ways that relationships mediation can be conducted. Many mediators have developed their own approach, based on their preferred ways of working with a diverse range of clients from multi-ethnic origins in same, similar or intercultural relationships. This means that mediators must maintain their curiosity about traditions and rituals in relationships from case to case.⁷⁰

Generally, relationships mediation offers a 'systemic' overview of the positive and destructive patterns in a relationship,⁷¹ so a more functional dynamic can be created. This includes the dynamics with extended family members, which is particularly important in second or third relationships in which children have parents, step-parents and siblings from different parents. From a systems perspective, it is important to note that the longer a couple keeps talking about 'their problem' the relationship system keeps interacting around 'this problem', hence suspending conversations about 'the problem' is more likely to result in its resolution.⁷²

⁶⁶ Green (n 2).

⁶⁷ Ruth Weinreb, 'Family Therapy vs Family Mediation' *Talking Alternatives: A family Mediation Firm* (Web Page, February 2016) <<https://talkingalternatives.net/family-therapy-vs-family-mediation/>>.

⁶⁸ Erich Fromm, *The Art of Loving* (Harper & Row, 1956) 22, 41. See also Gary D Chapman, *The 5 Love Languages: The Secret to Love That Lasts* (Northfield Publishing Chicago, 2015).

⁶⁹ Ibid 22. See also Brandon (n 22).

⁷⁰ See Raising Children, 'Family Rituals: What are They?' *raisingchildren.net.au* (Web Page, 2017) <<https://raisingchildren.net.au/grown-ups/family-life/routines-rituals-relationships/family-rituals>>. See also Christina Zhou, 'Australian Couples Share the Pros and Cons of Intercultural Relationships' *ABC News* (Web Page, 2018) <<https://www.abc.net.au/news/2018-03-11/intercultural-relationships-pros-and-cons/9181434>> and 'The Cultural Atlas' *Cultural Atlas* (Web Page, 2019) <<https://culturalatlas.sbs.com.au/australian-culture/australian-culture-family>>.

⁷¹ See Regina (n 40) 122-123.

⁷² Dorothy S Becvar and Raphael J Becvar, *Systems Theory and Family Therapy* (University Press of America, 2nd ed, 1998) 92.

*Problems cannot be resolved at the same level that they were created. Similarly, we can't solve those problems at the same level we were at when we created them.*⁷³

IX CONCLUSION

In Australia, relationships mediation is an emerging area of practice and offers a new opportunity for family mediators to expand their practice to assist intimate partners to gain insight into how their relationship is sustaining them, as well as what could positively be changed to create a more shared, rewarding and harmonious life together. Couples who want to maintain their relationship and feel the need to enrich their togetherness can positively benefit from this form of facilitative mediation, which offers them a safe place to work on their future wellbeing together. Learning new ways of managing their differences, exploring their needs, fears and interests which can also lead to suggestions, proposals and options for mutual gain, can be rewarding for a couple's intimacy, togetherness and family functioning. As a result, a negotiated agreement for future behaviour and actions towards each other and nurturing their individual and joint interests can support a more positive relationship.

More satisfaction within relationships has an additional impact on those partners who have children and roles within an extended family. Mediators demonstrating understanding and warmth in respectful problem-solving can support children of parties in mediation to benefit from this in their various relationships as they develop and grow up into young adults.

When, through discussions in relationships mediation, a couple agrees to separate they can choose to do this in an insightful and cooperative manner. When there are children involved, the parents may gain through the process an ability to accept that they are no longer partners, but will be co-parents for a lifetime. Mutual respect for each other in their role as parents of their children will most likely result in a commitment to co-parenting in the future and establishing a parenting arrangement, in the best interests of the developmental needs of the children. Relationships or marital mediation is a valid option for those who are committed to working through their issues and are accepting of their differences in a loving way.

*Mediation to stay married teaches couples long term conflict resolution skills applicable for any conflict, in any situation, at any point in time.*⁷⁴

⁷³ Pete Desrochers, 'Negotiation - Part 3' *Mediate.com* (Web Page, May 2017) <<http://www.mediate.com/articles/DesRochersNegotiation3.cfm#>>.

⁷⁴ Green (n 2).