The Need for Culturally Responsive Mediation Practices to Enhance the Process and Outcomes of Mediation for Unmarried Fathers

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Abstract

The past decade has shown significant progress in family mediation services in South Africa, following the implementation of the amended Children's Act of 2005, which has not fully considered issues relating to customary law and culture pertaining to mediation with unmarried fathers. A broader qualitative explorative study was undertaken to understand the experiences and perceptions of unmarried fathers, unmarried mothers and mediators regarding mediation. This article focuses on factors influencing the process and outcomes of mediation for unmarried fathers. Semi-structured interviews were conducted with a sample of seven unmarried fathers and eight mediators. Factors were identified that influence the process and outcomes of family mediation, of which culture, customary law and family dynamics are the focus of this article. Findings from Xhosa and Zulu participants in the study highlight the need for the inclusion of culturally responsive approaches to family mediation services by foregrounding issues relating to customary law, culture, and unmarried fathers.

Keywords: mediation, unmarried father, culturally responsive, family

Introduction

A significant change brought about by the amended Children's Act of 2005 (RSA 2005) of South Africa relates to the status of unmarried fathers. Parental rights of unmarried fathers have evolved in South Africa, especially since the said Act now recognises that unmarried fathers have an inherent right to contact, guardianship and care. However, these rights are not conferred automatically on the unmarried father as with the biological mother or the married father. According to Section 21(1) of the said Act, the biological father of a child who does not have parental responsibilities and rights in respect of the child in terms of Section 20 of the said Act, acquires full parental responsibilities and rights in respect of the child if he complies with certain criteria. These criteria include, for example, if he lives with the mother at the time of the child's birth, or accepts being identified as the child's father, and has contributed (financially and otherwise) to the rearing of the child.

Section 21(3) of the said Act states that when there is a dispute between the parents regarding parental responsibilities and the rights of the father, the parties should first seek mediation. Mediation has become mandatory for parents in all matters of dispute regarding the care of their children (RSA 2005). Thus, there has been significant development in the field of family mediation services in South Africa over the past decade because it is part of the law (Patelia 2016).

A current limitation of the family law system is the lack of adequate alternative dispute resolution tools for family disputes (SALRC 2015). The judicial system or policy does not reflect or relate to South Africa's cultural diversity. Religious marriages are not fully recognised in the law, and in African cultures the unmarried father does not have parental rights, whereas the law has now granted rights to unmarried fathers. The payment of inhlawulo[1] is significant in African cultures for the father to be acknowledged as the child's father, at the very least. Cultural practices, such as the payment of inhlawulo and lobola[2], are impediments in the process (Makusha and Richter 2016). They contend that cultural gatekeeping has an impact on father involvement whereas non-payment of inhlawulo regulates father–child involvement (Makusha and Richter 2016). This process might be used prejudicially to effect father involvement. Stalford (2010) argues that the "cultural baggage" of parties can have a decisive impact on the process, approach, and outcome of mediation.

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1   "In Zulu culture, *inhlawulo* refers to damages paid to the family of the woman who became pregnant out of wedlock by the father of the future child" (https://en.wikipedia.org/wiki/Inhlawulo).
2   Lobola is "a bride price, traditionally one paid with cattle" (https://premium.oxforddictionaries.com/definition/english/lobola).

The aim of this article is to elucidate factors that have an impact on the mediation process for unmarried fathers in South Africa and the way in which they can inform the development of responsive practices pertaining to mediation.

The Status of Unmarried Fathers in South Africa

The rate of non-marital childbearing in South Africa is high, especially among the African and Coloured groups (RSA 2012). Consequently, the phenomenon of unmarried fathers affects families; with South Africa having the highest rate of father absence in the world and the second highest rate in Africa after Namibia (Posel and Devey 2006; StatsSA 2012; Swartz et al. 2013; Swartz and Soudien 2015). Most young children live with their biological mothers only, and fathers appear to be more absent from the household than mothers (StatsSA 2012). Meintjes, Hall and Sambu (2015) report that in South Africa, children living with their fathers constitute about 3.3 per cent in comparison to about 39.5 per cent who live with their mothers, whereas 34.7 per cent live with both parents. Nevertheless, South African fathers have embraced the "new fatherhood", calling for greater father involvement (Makusha and Richter 2014) with new policies and programmes introduced that promote the involvement of fathers.

Unmarried fathers are faced with unique challenges regarding their parental involvement after separation from the mother, often requiring them to negotiate their involvement with the mother after separation. In African culture, the biological father does not acquire parental rights to a child merely by following the steps set out in the Children's Act of 2005 (RSA 2005). Eddy, Thomson-de Boor and Mphaka (2013, 5) explain that some African cultures prescribe the payment of compensation for "damages" to repair insult experienced by the out-of-wedlock pregnancy. If this payment is ignored, the father is not acknowledged as the biological parent. In customary law, parental responsibilities and rights do not follow automatically once damages have been paid (Bekker 2008) as the child "belongs" to the maternal family. Only following the marriage of the parents, will this legitimate the child, and give the father rights to the child because the child then "belongs to him".

Mediation in the South African Context

The family law system in South Africa is primarily based on Western values and principles following British and American practice models (Boniface 2012a; De Jong 2005; 2008; Van Zyl 1997). Given its ethnic, cultural, and linguistic diversity, South Africa has implemented a dual legal system applying common law to all individuals but also applying indigenous customary law to African people (Bekker 2008). Section 211(3) of the Constitution states: "The court must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law" (RSA 1996). In South Africa, there has always been a distinction

between common law and customary law in terms of children born in and out of wedlock (Sloth-Nielsen and Gallinetti 2011).

Thus, the SALRC (2015) suggests that customary law and culture be considered when dealing with African dispute resolutions. Although the change in legislation pertaining to the parental responsibilities and rights of unmarried fathers aims to facilitate parental involvement of fathers by theoretically affirming their rights in accordance with Section 21 of the Children's Act of 2005 (RSA 2005), there are still many unmarried fathers who remain challenged in this regard.

Consequently, affected fathers are forced to take the matter further through court processes (RSA 2013; SALRC 2015). This has been substantiated by previous studies (Louw 2010; Scheepers 2011). Unmarried fathers continue to be denied access to their children, as is evident in the high percentage of failed mediations (statistics from the Children's Court in Port Elizabeth in 2014). Sheldon (2009) argues that fatherhood of unmarried men has been seen as a challenge that needs to be dealt with by government through enforcing men's financial responsibilities, supporting and encouraging father involvement, and strengthening relationships of fathers with their children.

This sentiment resonates with a strategic priority of the White Paper on Families in South Africa (RSA 2012) that encourages responsible co-parenting and the involvement of fathers in the upbringing of their children. The Children's Act of 2005 introduced a new discourse regarding parental responsibilities and rights and the way that care and contact arrangements are constituted and determined (SALRC 2015). These amendments shifted the focus from adversarial inquiry or investigation to mediation and agreement between parties. Traditionally, disputes concerning children were decided in a state-sanctioned adversarial legal system. The legislated family mediation marks a fundamental policy shift regarding the way in which the best interests of children might be protected.

Problem Statement

Since the inception of the Children's Act of 2005 (RSA 2005), there have been several studies involving unmarried fathers and their parental involvement. These include the study by Lesch and Kelapile (2015) on fatherhood experiences of unmarried fathers in Pretoria. Similarly, Ratele, Shefer and Clowes (2012) conducted a study on men's constructions and experiences of fatherhood and fatherlessness in the Western Cape, and Makhanya (2016) a study on young unmarried fathers' perceptions of fatherhood in KwaZulu-Natal. Makusha and Richter (2014) have called for further research involving Black fathers in South Africa, with specific reference to non-resident father involvement beyond mere financial support. The authors contend that such research would help to inform policy and to understand the challenges faced by fathers regarding their parental involvement. Given that mediation involving unmarried parents is in its infancy in South Africa, there is a scarcity of literature on mediation models or guidelines involving

unmarried parents. The focus of most studies has been on divorced couples (Makhanya 2016; Robinson 2010; Smit 2009), and literature indicates that the dynamics between unmarried parents and married parents are different. It is therefore important to understand the mediation process pertaining to unmarried fathers after separation from the mothers and the way in which these experiences influence the parental involvement of unmarried fathers.

This study proposes that, to enhance parental involvement of unmarried fathers, it is important to understand the perspectives of all parties regarding the mediation process. The research question for this study was: What are the factors that influence the process and outcomes of mediation for unmarried fathers?

Theoretical Framework

This study was underpinned by the family systems theory. The family is viewed as a hierarchically organised system with numerous subsystems, including the interparental, and parent–child subsystems, sibling relationships, and relationships with the extended family. According to the family systems theory, the healthy functioning of the family requires the parent subsystem to form a united front in the co-parenting relationship (Bornstein 2019). The focus on the parental dyad as a subsystem within the family systems theory is particularly relevant to this study since the primary focus is on the unmarried father seeking to establish a functional co-parental relationship through a mediated parenting plan with the biological mother after separation (Sullivan 2013). The value of the study is that its objective is to explore factors that influence the process and outcomes of mediation for unmarried fathers.

Methodology

Research Approach

This article is based on a qualitative study, which allowed for an in-depth exploration of the mediation process for unmarried fathers and mediators. Qualitative methods allow researchers to study selected issues in depth, with openness, and in detail as they identify and attempt to understand categories of information that emerge from the data (Polit and Beck 2011). In the current study, we intended to explore the factors that influence the process and outcomes of mediation for unmarried fathers in depth by obtaining a detailed account of their experiences of mediation.

Research Design

A case study design was employed, allowing for an in-depth understanding of the phenomenon of family mediation (Saldaña 2011; Stake 2005). Creswell (2013, 97) describes case studies as research which "explores a real-life, contemporary bounded system (a case) or multiple bounded systems (cases) over time, through detailed, in-

depth data collection involving multiple sources of information, and reports a case description and case themes". Utilising an instrumental case study design allowed for the exploration, understanding and description of the phenomenon of mediation from numerous perspectives using data sources, namely unmarried fathers, and mediators.

Population and Sampling

Non-probability purposive sampling and maximum variation sampling techniques were used. Maximum variation sampling involves the purposeful selection of participants (or settings) with diverse perspectives and backgrounds, allowing the researcher to determine criteria in advance and to select participants based on the criteria (Wagner, Kawulich, and Garner 2012; Smith, Flowers, and Larkin 2009). Unmarried fathers were selected based on their diverse backgrounds (culture, religion and race), and mediators were selected based on their diverse professional backgrounds (social worker, advocate), and their diverse race and cultural backgrounds. The purposeful selection of participants with diverse perspectives and backgrounds allowed for diversity in the sample (Creswell 2013; Polit and Beck 2011; Wagner, Kawulich, and Garner 2012). The sample was drawn from the case files of the Children's Court in Port Elizabeth and from Families South Africa (FAMSA) in Port Elizabeth. A total of seven fathers and eight mediators participated in the study. Data saturation was a guiding principle in the data collection process (Gray, Grove, and Sutherland 2017).

Data Collection

Data were collected through individual semi-structured interviews with the participants. An interview schedule was used to guide the data collection process. The interviews were audio-recorded and transcribed verbatim. Semi-structured interviews with unmarried fathers focused on four main questions about their perspectives, experiences, and challenges regarding mediation and their suggestions and recommendations for improvement of the process. The semi-structured interviews with the mediators also focused on four questions about their experiences, challenges, factors influencing the process of mediation, and their suggestions to enhance and deal with the process of mediation.

Data Analysis

As the researcher was using a case study design, within-case analysis was selected for analysing the data in this study, allowing for a detailed description of the case and themes in the case. A primary goal of within-case analysis is "to describe, understand, and explain what has happened in a single, bounded context – the 'case' or site" (Miles, Huberman, and Saldaña 2014, 100). The three processes proposed by Miles and Huberman (1994) were implemented in this study, namely data condensation, data display, and conclusion drawing and verification. An independent coder was used to verify the themes.

Ethical Considerations

In this study, several ethical considerations were adhered to. Permission to undertake the research study was provided in 2015 by the Faculty of Health Sciences and the Research Ethics Committee – Human of the Nelson Mandela University, for academic and ethics approval, respectively. The ethics clearance number is H15-HEA-SDP-002. The voluntary participation of the participants was ensured by explaining the purpose of the research to the participants upfront for informed consent to be provided by them. The participants' permission was sought for the audio-recording of the interviews. The principles of confidentiality and anonymity were adhered to throughout the study. The names of the participants did not appear on any of the data collected or analysed, and no names were used in the discussion of the findings.

Trustworthiness

The credibility of the findings was ensured through triangulation in and across diverse sample groups through the data collection and data analysis technique of cross-case synthesis. Dependability was ensured through employing the services of an independent coder to ensure that the data coding was consistently undertaken. Confirmability was ensured through the researcher keeping detailed field notes and personal reflective notes to guard against any personal biases interfering with the study. Criteria for transferability were fulfilled as this research provided a detailed outline of the research methodology, which was followed, and thick descriptions of the findings and their context (Creswell 2014; Guba 1981; Lincoln 1995).

Findings and Discussion

The participants in this study were from the Port Elizabeth/Uitenhage/Despatch geographical area. Seven fathers were interviewed, two of whom were Muslim and five were Christian. One father was from Pakistan, whereas the other six were all from South Africa. The fathers were representative of diverse racial groups in South Africa with three Coloured, one White, one Indian and two Black fathers. Four participants experienced mediation as successful (57%). The mediators were also representative of the South African racial groupings with three Black, four White and one Coloured mediator. Five of the participants in this group were social workers and one was a social auxiliary worker. The remaining two participants were attorneys.

The discussion of the findings for the purpose of this article will be in relation to the two main themes that emerged. The referencing of direct quotes is as follows: UF (unmarried fathers), M (mediators).

Factors that have an Impact on the Process of Mediation for Unmarried Fathers since the Implementation of the Amended Children's Act of 2005

The participants perceived certain factors that influenced the mediation process negatively, and from their experiences, these factors were often associated with an unsuccessful mediation outcome. Two of these factors are discussed as subthemes below.

Cultural Beliefs and Practices Pertaining to Unmarried Fathers

A view that emerged in this study is that customs and traditional practices of the African culture affect the mediation process for unmarried fathers in particular. These customs and practices have an impact on decisions made in mediation as there are specific cultural nuances pertaining to the rights of unmarried fathers. A participant had the following to say:

> I almost didn't see my child. In African culture it is believed that if you have not paid damages, you are not allowed to see the child. (UF1)

The narrative of UF1 confirms the difficulties he experienced when trying to have access to his child born out of marriage. A Xhosa-speaking mediator (M1) related her experience of mediation to be personally challenging when it came to cultural issues, as she perceived that there were tensions between culture and the law in mediation. This conflicted with her personal and professional values, affecting the mediation process as it was a challenge to mediate knowing that cultural practices needed to be adhered to. The participant mentioned that several sessions which she mediated were unsuccessful because of cultural issues arising during the mediation process. The following quotation conveys the mediator's experiences:

> It was difficult, that is why I've stopped mediation, because for me it felt like it doesn't respect our culture and it is kind of breaking that. Because in our culture, it is important to do things in a certain way. So now the law is kind of discouraging that as if it is not important. And if it is like that, it means that even the next generation won't see that as that important. But for it to be there, there was a reason for that. And if we are now taking that away, then culturally what is happening? (M1)

Bekker (2008, 405) argues that, in practice, the dividing line between the application of common and customary law is often obscure, giving rise to "conflict of laws". The author further states that the Children's Act of 2005 has not taken account of "customary law and issues relating to custom and culture" (Bekker 2008, 405). This may result in challenges when implementing certain provisions of the said Act as there are definite indications of a clash between mediation principles and the law versus cultural practices, and the professional and personal values of the parties involved in mediation. Although Section 211(3) of the Constitution (RSA 1996) states that customary law must be applied in courts, the findings in this study were contrary to this and revealed that customary law is not being routinely applied in family mediation processes in the South

African context. Mediators have the perception that many Xhosa mothers are placed in awkward positions in mediation as their cultural beliefs are often in conflict with the process and goals of mediation. This has a negative impact on mediation, resulting in unsuccessful outcomes. A mediator reflects these sentiments:

> For instance, in our culture for a black person, that perception that a child born out of wedlock belongs to the maternal family. The biological mother is put in a position where she must agree with the father, who for instance has not paid damages. And she is still staying at her home and it is difficult for her to make a decision, because Mommy and Daddy are at home or they are helping me and looking after the child. So sometimes they struggle to reach an agreement in those circumstances. (M2)

This statement confirms the importance of acknowledging culture as vital for positive outcomes in mediation. It supports that being aware of the culture of the parents implies understanding the prescriptions and proscriptions associated with the role of unmarried fathers and the co-parenting relationship in the broader context of the family. Stalford (2010) contends that cultural practices and social norms have a profound impact on the dynamics of interpersonal relationships and often dictate the balance of power between the parties, shape perspectives of the respective roles of mother and father, influence perceptions of the rights and capacities of any children in the family, and even have an impact on the way in which individuals engage in dispute resolution. Rendering culturally responsive mediation based on this awareness implies respect for parents' cultural needs and values and the provision of mediation services with which both parents and families are comfortable.

Influence of Maternal Family on the Mediation Process

The influence of the maternal family is linked to the cultural beliefs and practices of parents, influencing the construction of the unmarried father's role. In this study, the maternal family was often perceived as a barrier to father involvement and mediation. This is because of the traditional roles of family in African culture, extending beyond the traditional notions of the nuclear family. It is then considered the cultural right of the family to be a part of the mediation process.

Sometimes grandparents feel they have the right to be included in the mediation and they often accompany the parents to the mediation. This presents a challenge for the mediator because, in some cultures, a child born out of wedlock belongs to the grandparents and not to the parents, which contrasts with the provisions of the Children's Act. The grandparents influence the mediation even if they are not physically present in the session as the unmarried mother is unable to make decisions without first obtaining her parents' approval. This was previously established where the maternal family was identified as a key role player in terms of father involvement. The experiences of a mediator in this regard are encapsulated as follows:

And sometimes you know when there is a very strong extended family influence. And sometimes you will agree in mediation on very specific things, but you are going to have to allow the parent to get back to their family and say, "this is what we've agreed on, and what do you think about that?" And then come back again. Because you can't also separate those things completely. (M3)

Three fathers had the following to say:

Because what I knew, I did not know then, was parental alienation, but I have come to learn about those terms maternal and paternal alienation. But I know it goes deeper than that, because I feel the maternal aunt, and the maternal grandmother, they are going to reinforce those attitudes, the alienation. (UF2)

Honestly speaking, I don't envy young mothers and young fathers, because in every decision they make it is an influence of family, because they are so young . . . I believe that no mother does not want their child to see their father. But sometimes it can be the influence of the family that can be influential on the decision. (UF1)

And then in 2015 when I got married, and my child was not allowed to come here without his mother, her parents also doesn't want to allow her to give him to me, like alone (UF3).

The fathers' experiences reveal that the maternal family exerts influence when determining the father's relationship and access to his children after separation from the mother. A common denominator of these narratives is that the separation affects the extended family system and not only the parents. The family system, then, influences the co-parenting relationship, which was experienced as unhelpful in the mediation process by the unmarried fathers in this study.

There are implications for the implementation of the parenting plan because the extended family will not support the plan if they were not included in the decision-making process. Several studies concur that the extended family has a key gatekeeping role regarding father involvement after the separation (Lesch and Kelapile 2015; Lu et al. 2010; Makusha and Richter 2016). A study by Lu et al. (2010) found the mother and the maternal grandmother to be the most important role players influencing father involvement.

The following was shared by a mediator:

I think another thing that was missing from this process or somehow needed to be addressed more was the whole area of family involvement. Although family members were not allowed into that room, I often feel like I was dealing with 10 people there. There was a lot of family interference that would come into that relationship and that was also a barrier. Because remember children are raised by the village, by the family and you could very well come up with a beautiful plan with a partner, but if that woman

goes home and her family who are maybe supporting her financially and she is living with them, they don't agree, they wouldn't necessary back that parenting plan. (M4)

From the above extracts about the experiences of unmarried fathers and mediators regarding the process of mediation, what emerges is that the maternal family was perceived to play a significant role in the nature of the co-parenting relationship between the parents after their separation. Bekker (2008, 396) argues that in family law, conflicts are exacerbated. Common law has its roots in notions of the Western nuclear family system, and as many Africans are part of extended families, African children "belong" to the extended family as a group or "village", whereas in Western culture the biological parents are key role players in the lives of their children.

The participants' views emphasise that it is the cultural right of the family to participate in the mediation process. However, a different picture emerged from their experiences, which excluded the extended family from the mediation process. This has implications for the outcomes of mediation as the extended family will not support the plan if they were not included in the decision-making process. De Jong's (2008) views support the involvement of family in mediation, and she proposes a "multi-generational model of mediation" involving the extended family. During mediation in African societies, there is an opportunity for everyone to "tell their story" (Boniface 2012a, 116). The findings also highlighted the significance of relationships in the family system and the way in which these relationships influence the mediation process and the father's involvement after separation from the mother. When there is a change in the system, such as separation, it affects the functioning of the parent–child dyad and the parent subsystem, often leading to challenges for fathers who wish to be involved with their children.

Culturally Responsive Approaches to Enhance Mediation Outcomes for Unmarried Fathers

There was strong agreement that cultural beliefs of the parents pose a barrier in mediation and are often in conflict with the law. Conflict exists, not only between parents, but also between systems in society such as family systems, cultural systems and the legal system. These tensions often make it challenging to mediate outcomes that will facilitate the parental involvement of unmarried fathers after separation from the mother. These findings are supported by various studies that found culture to be a barrier influencing the role of Xhosa unmarried fathers (Eddy, Thomson-de Boor, and Mphaka 2013; Makusha, Richter, and Bhana 2012; Nathane-Taulela and Nduna 2014; Swartz and Bhana 2009).

Parents with diverse cultural beliefs and practices often grapple to reach mutually agreed-upon outcomes in mediation, frequently leaving one party unsatisfied with the outcome. A Muslim father in this study who had a child by a Christian woman, experienced challenges in mediation, which he perceived to be because of his cultural beliefs. These challenges left him very unsatisfied with the outcome of the mediation process. His story is illustrated below:

> I didn't like it . . . maybe because of my beliefs . . . I feel like she treated me differently. Because I don't have experience with different mediators that I can say how it works. The first time I met them somebody was giving favours to one Christian woman, from another Christian woman. (UF4)

The experiences of this father are corroborated by mediators who have mediated between parties from diverse cultural backgrounds. Their perceptions attest to this:

> Another challenge is the cultural difference. This is challenging especially when it is Muslim/Christian. They only see right and wrong, there is no in between. There is no room for religious differences. There is not much success in these cases because the complexity of cultural and religious differences is too challenging. (M5)

> I mean in the past, from a Muslim perspective, I had to involve the religious leader to assist and to help, because in the end you want a solution, you want to work it out. So, if they feel they trust their leaders, and we would consult together about what would be acceptable, we try to work within those time frames. (M6)

Dealing with cultural diversity is important when it comes to mediating between parents from diverse backgrounds to facilitate successful mediation outcomes for the parties, especially when the parents have to make decisions based on their belief systems.

The mediators in this study suggested the use of culturally responsive approaches to mediation in order to facilitate more successful mediation outcomes. Mediators shared the following views in this regard:

> I wonder if maybe mediation in some situations, needed to take a different form that was more culturally relevant. What I really am just saying is that cultural issues shouldn't be seen as a barrier; they should be something that we try and address with our clients within their context. (M4)

> I think to be aware of the culture that you have to work with. It might be something with English speaking people, that they might not know, with the Xhosa background in terms of culture, so if we are talking about damages, what it entails, just so that you know. (M5)

The findings further focused on the necessity for culturally responsive approaches to meet the diversity of families in the South African context. Cultural contexts of the parties should be taken into consideration during mediation, allowing for a holistic, culturally relevant approach to working with families. Moyo (2014) contends that religious and cultural values are important in providing worldviews held by individuals and groups through which conceptions of childhood and parenting are defined. The SALRC (2015) recommends co-mediation, depending on the circumstances of each case. For example, if the mediator feels the need for additional expertise on issues such as religion or culture, co-mediation should be allowed or encouraged.

The need to provide culturally responsive services is driven by the demographics of South Africa. A guiding principle of the White Paper for Families in South Africa (RSA 2012) is family diversity. The findings of the SALRC (2015) highlighted the need for the development of more dispute resolution processes that are culturally responsive but posed the question about the way in which this should be done.

African dispute resolution is relevant to the discussion about the resolution of all family disputes taking into account issues relating to customary law and culture. Boniface (2012b) emphasises the importance of culture in the context of African mediation, in which conflicts are seen in their social context, not as isolated events. Consequences of decisions are looked at in respect of larger family system. Family ties and community networks are respected, maintained, and strengthened. The traditional objectives of African mediation are to soothe hurt feelings and to reach a compromise that can improve future relationships. In African mediation African humanistic values are upheld (Boniface 2012a).

A core factor in ensuring procedural and substantive justice in mediation is the appropriateness of the process based on the needs of the parties, such as their characteristics and the nature of their problem (Ojelabi and Noone 2017). This is an indication that failing to conduct appropriate dispute resolution processes is regarded as an ethical issue for the parties involved, which fails to provide justice in the process. A study by Armstrong (2011) supports the sentiment that mediators need to be aware of cultural influences on mediation. In his study, focusing on the perspectives of mediators in developing a culturally responsive service to practice, participants highlighted the need for cultural self-awareness and the way in which this influences the parties in mediation.

In a reflection on the effectiveness of "Western-style" mediation and whether it can be improved with "African-style" group mediation, Boniface (2012b, 392) suggests that South African mediators need to demonstrate a caring and non-judgemental acceptance of the person's humanity and culture. The participants in this study indicated that although they felt confident and culturally responsive when assisting families from different cultural backgrounds, they still needed support in developing greater understanding of matters pertaining to cultural nuances and in enhancing their professional capacity to do so.

Furthermore, the SALRC (2015) in their review of mediation practices, suggests that customary law and culture be taken into account when discussing African dispute resolution. Boniface (2012b, 123–124) proposed the development of an "intra-cultural model" of mediation in South Africa in which mediators use a multigenerational approach and in which storytelling takes place.

Clearly, evidence supports the call to improve on Western-style mediation by incorporating culturally responsive approaches to dispute resolution in order to enhance

the mediation process and outcomes. However, an ongoing debate remains about the way in which this should be done for optimal outcomes in mediation.

Implications and Recommendations

The study's findings indicated that the extended family and cultural beliefs have a significant influence on the mediation process and consequently on the outcomes for father involvement, and alluded to more culturally responsive approaches to mediation in order to enhance the process and outcomes of mediation for unmarried fathers. Recognising that cultural beliefs are inseparable from other dynamics affecting families is important to the success of mediation. In order to meet the diverse needs of South African families in mediation, the following steps are recommended in the context of family mediation:

- There is a need for a holistic, family-centred approach to mediation, inclusive of the extended family system, in which the needs of the family system are taken into consideration to facilitate culturally responsive mediation.

- Mediators should view the family system in its totality, recognising the dynamics of the larger system rather than confining mediation to the stereotypical notion of the nuclear family.

- Mediation should focus on strengthening families and enhancing parental involvement of unmarried fathers that will support effective co-parenting after separation.

- Awareness should be created about the importance of the role of the father and father involvement for children and families, to enhance the parental involvement of unmarried fathers in the development and care of their children and in building and strengthening families.

- Culturally responsive strategies and techniques should be used by the mediator if culture has been identified as significant to either of the parties.

- Respect for the rich diversity, backgrounds, and cultures of parties to mediation should be demonstrated by all mediators.

- Current Western models being practised should be reviewed, and culturally responsive approaches to mediation should be developed. Indigenous knowledge systems should be explored and integrated with relevant approaches in current Western models to enhance efficiency and effectiveness in mediation.

Conclusion

Given the diverse population of South Africa, it is not surprising that the contexts of the family and culture have been identified as core influences on the processes and outcomes in mediation. Although father involvement contributes to the well-being of families, and of children specifically, culture is an important factor that has an impact on father involvement. Mediators need to be culturally responsive in their approaches to mediation in order to enhance the process of mediation and the parental involvement of unmarried fathers. Furthermore, this study confirms that the family law system as it pertains to mediation in South Africa needs to be developed to be inclusive of cultural knowledge and approaches in order to deal with the diversity of families across the cultural spectrum of South Africa.

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