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# Custody Disputes in Context

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**SUMMARY.** The nature of family and individual dynamics in family dissolution and, especially, families which enter into child custody disputes is beginning to be addressed in the professional literature. This understanding is an essential prerequisite for psychotherapeutic intervention, mediation of these disputes, and appropriate adjudication. In this article, the authors present a synthesis of constructs drawn from object relations, role, and family systems theories which they have found useful in their own practice of mediation of custody disputes. They provide examples of each of these dynamics from their own work. They conclude with an explanation of the possibilities and limitations of court orders and of individual, family, and couple therapy as interventions in aiding the families' resolution of the psycho-social aspects of divorce.

Parents, mediators, attorneys, judges, and evaluators interpret, weigh, and attempt to understand the potential meanings contained in statements made by custody and visitation disputants. Especially problematic are the statements of children regarding their desires, fears, and reasons for decisions in which they participate. It is common for parents to express their (often mutual) concerns that a child makes certain assertions as the result of "brainwashing" by the other parent or a member of his/her social circle. When a parent is confronted by a claim by the other that the child has stated that s/he

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does not want to live with or visit the other, several possible explanations are offered. They often include

1. "the child is afraid of telling you (but not me) the truth,"
2. "s/he is being manipulative of us, playing both ends against the middle," and
3. "you (the other parent) are lying and being manipulative yourself."

This paper is an explication of some of the individual and family dynamics present in custody and visitation conflicts presented in divorce mediation. This synthesis is based upon data gathered through the authors' experiences over the last six years as court mediators in a state-mandated mediation department and as family therapists.

The underlying premise of this paper is that statements made by custody and visitation disputants and their children are usually based in irrationality; that is, unconscious defensive processes are the primary motivating factors in these disputes. Fear of loss of important introjects and disruption of the self-concepts of family members serve to propel them to participate in custody and visitation conflicts. The following is an attempt to explicate several defensive processes and their contextual and psychodynamic origins in order to identify and interpret the meanings of statements made in mediation, evaluation, court hearings, and within the family. Also discussed are possible interventions and their effectiveness in containing and resolving custody disputes.

### ***CHILDREN'S ATTEMPTS TO RE-UNITE THEIR FAMILIES***

"For the children . . . , there are no official rites attending divorce which help give it meaning. In this respect, divorce is like a sudden death. Death, however, has a finality that can often be worked through . . . On the other hand, divorce still carries the possibility or the fantasy of the broken family being restored, especially for the children" (Group for the Advancement of Psychiatry, 1980: 853).

Role theory (Turner, 1962) suggests that one's self concept is the result of internalization of reflections of oneself by others through the enactment of social roles. That is, that we adopt others' responses to us in organized ways, ways made intelligible through the mutual understanding of culturally-based expectations grouped in roles. The most salient of these roles include child, parent, and spouse. According to Turner (1962), we invoke certain roles so as to engage others in or to forestall certain sets or behaviors. Although role theorists hold to differing premises than do object relations theorists, they each address the notion of self-concept in much the same ways.

Object relations theorists observe that persons introject aspects of others, internalizing these parts and integrating the introjects into themselves. Children identify themselves in relation to their parents and siblings, while parents do the same with their spouses and children. In addition, the authors propose that the family itself is an object with which each member identifies in primitive and powerful ways. Self concept is, at its core, inclusive of the family as an introject. In addition to introjection of each family member into the self concept of each other, the family is taken into each person's self as a single unit.

Divorce is a social-psychological process which threatens each member's self-concept to an extreme degree. Every person in the family is faced with the symbolic, physical, economic, emotional, and material losses as a result of the separation. Further, each person is threatened with the loss of that part of his or her self which incorporates his/herself within the family; a symbol which exists both externally and within each individual. It is common for custody disputants to state that they cannot imagine being without their children for even a moment.

The authors have conducted interviews with children whose parents are divorcing or who have divorced. These children invariably report as the first of three wishes that their parents would reconcile, get along, and love one another. This is the case even when children have witnessed great physical and emotional violence. One exception to this fantasy is in the case of children interviewed prior to their parents physical separation. In these cases, children's expressed wishes seldom include reconciliation of their parents. They

have no lost self concept in need of reintegration. Children's reports could easily be confused as utterances describing their desires to maximize time with their parents. They are better understood as an inability to reintegrate their selves in the face of overwhelming loss. The time that may heal this wound is time which allows for the reintegration of the self concept of the member. Weisman (1972: 63) described the process of loss and reintegration of the self as having four almost simultaneous steps. These steps are briefly:

1. acceptance of a primary field of perception [loss of the family introject];
2. repudiation of a portion of the shared meaning of that field [disruption of the self-concept which includes the family as a whole];
3. replacement of the repudiated meaning with a more congenial version [two separate family introjects]; and
4. reorientation of the individual with the scope of the total meaning [being part of a family in which the parents' relationship is largely severed].

Children whose parents have separated, even years later, report that they fantasize about their family's reunification. Some children take extreme, although not necessarily conscious, measures to reunite their parents, even though the reunion may take place in court. Structural and strategic family therapists often view children's "symptoms" as that which serves to deflect their parents from conflicts of which children are fearful. Another related interpretation is that children's symptoms serve to unify their parents in mobilizing their disparate resources in the common service of more appropriate and collaborative parenting.

One dramatic example of this was a family seen by the first author in a series of mediations over the course of several years. The parents' dispute had become increasingly intense and inflamed. Because the child, a ten year old girl, had become unable to walk, to speak in a voice louder than a whisper, and to attend school, her father's attorney had brought a motion to the family law court asking that he be awarded custody. The mother had had custody at that time and the child protective services agency was threatening to place the girl in foster care until her medical condition became sta-

ble. A medical examination revealed no physiological basis for the girl's condition, other than her inability or unwillingness to hold down food. Both parents were, by this point, very frightened by her medical condition (for which they blamed one another) and by the agency's threat to remove her from them both. The mediator, with the cooperation of the agency, persuaded the parents to participate in strategic family therapy at a local institute. Within a few weeks her condition stabilized, and within four months the girl was participating in the school's choir. The custody dispute was over. In this case, as in others which present themselves less dramatically, the child's "acting out" served to engage the parents mutually in addressing the child. This allowed the child to maintain the family as a fantasied, internalized whole.

There are times that children will "have symptoms" or "act out" when their parent(s) have paid too little attention to them. The instances most commonly seen in court settings are those involving custody disputes. However, custody disputes are but a sub-set of more varied occasions in which the child has perceived him/herself as ignored or placed outside the parent's priorities. A new love relationship, sometimes involving step-children or a new baby, may threaten the child's sense of importance in the parent's life.

Often in an attempt to maintain the illusion of normalcy after a divorce, the non-custodial parent will fail to plan child-centered activities during visits. After all, s/he never had to make special efforts to include the child before the separation. Likewise, a child may feel that a parent's inclusion of another adult in the parent-child relationship is an intrusion, and come to believe that it is the child who is the intruder. It is not unusual for children to refuse to see a parent unless there is a promise that they will spend time alone. As the result of the parent's ambivalence about excluding their new lover from their parental relationship or of insensitivity to the child's feelings, parents sometimes break this promise or refuse to make it in the first place. Similarly, a child may perceive a parent's attempt to treat biological and step-children equally as a sign that s/he is not loved or special. Symptoms serve as a way to bring the focus back to the child who feels ignored, although children rarely consciously plan crises which engage their otherwise unavailable parents.

**MANIPULATION, SURVIVAL,  
AND MULTIPLE REALITIES**

Adult members of families are often hard-pressed to explain their children's claims of abusive step-parents, derogatory remarks made by them which they do not recall about the accusing parent, or disputed statements made by their children that they cannot continue to live with the other parent. When faced with these statements reported by the other parent, they frequently perceive them as either meditated lies by their ex-spouse or as manipulations by their children. Custody disputants, who have little or no trust in their fellow-combatant's integrity, perceptiveness, or sanity, are faced with the task of sorting out frightening accounts presented by their children.

Another long-running custody dispute involved two parents and their new spouses, all of whom were well-educated, articulate, powerful people, and their five year old son. The case had been heard in court over the course of several weeks, involving three complete family evaluations by respected psychologists in two counties. In the mediation prior to the trial (but before any of the evaluations), only the biological parents were seen. The child was at that point too young to interview in mediation. Following the trial, the mother was awarded sole physical custody.

The father, several months later, brought a motion to change custody on an emergency basis. The urgency of this motion was perceived by the father and by one of the psychologists, who had been seeing the child therapeutically following the trial at the father's request. The boy claimed that his mother and step-father left him alone, both day and night, in a crime-ridden portion of the city in which they lived; that he was often frightened by threats by other children in the public school which he attended; and that his step-father had taken him wild boar hunting on a nearby island, which sickened him. The father was Jewish and his son reportedly claimed that he himself saw the boar hunt as sacrilegious.

That the father made these claims did not impress this author. He had viewed the father as somewhat histrionic and not an accurate reporter. However, the psychologist's report was seen in a different light. It was akin to a scientist's corroboration of a UFO sighting.



The psychologist was not offering his interpretation of test or interview data. He was merely reporting that the boy himself was quite upset on an ongoing basis. He re-stated the boy's stories, which were very detailed, seemed entirely plausible on their face, and were offered spontaneously. In preparation for the upcoming mediation, the author reviewed each of the psychological evaluations and declarations made by parents and step-parents.

However, the mediator realized an amazing pattern only after he finally was able to interview the child; that was that the boy had two complete sets of accounts, emotions, and stories, recounting only one congruent set depending upon which parent first introduced him to an evaluator. The psychological evaluations done by each evaluator of the adults were not inconsistent in their findings, although each one emphasized different aspects of their personalities. The conclusions as to custody were based primarily upon which presentation was made to them by the boy. Each set was internally consistent and quite believable. The psychological testing did not allow the evaluators to differentiate between the boy's relations with each pair of adults. Rather, the boy's perceptions and reactions were related to his unconscious understanding about the effects of his offering one or another account.

The child was not purposely manipulating the adults around him. He did not set out to turn his parents against one another. He was in an impossible situation, much like those faced by children of alcoholic parents. He actually experienced each set of reactions, clinging to each as a means of survival. It was his way of making the world of adults intelligible. For as long as this boy could remember, his parents, step-parents, and most other powerful adults (including the psychologists, mediator, and attorneys) who spoke to him about himself could be satisfied by his recounting one or another set of feelings and thoughts. His clue as to which to present was which parent introduced the adult into his life. This was a matter of holding two discrete realities and surviving by experiencing and telling one at a time.

Other children whom I have interviewed whose parents were in the midst of custody disputes have had and reported disparate stories in an effort to make their lives predictable and emotionally (and sometimes physically) safe. The case cited above is extreme only in

degree, but reflects a common family dynamic during custody battles. Complementarily, parents react intensely to these stories, thereby reassuring the child of their love and willingness to go to most any means to protect them from the other parent. The adults themselves use the tales as data to confirm their own defensive projections onto the other parent. The stories serve to stabilize the ambiguous meanings of the other parent's behaviors and to reassure the "protective" parent of his/her goodness and the correctness of his/her claim for custody.

### ***DEFENSIVE SPLITTING***

Object relations theorists have described an intra-psychic process of splitting as primary to the primitive resolution of anxiety and ambiguity. Splitting involves projective identification of one's own "badness" onto another person and complementary identification of one's own "goodness" onto a different person, possibly oneself.

The process of divorce greatly disrupts family members' expectations of predictability in one another and may generalize to other relationships. Each member's self-concept is threatened by the divorce, since the self incorporates, at least in part, each person's internalization of the introjected family. Whereas the divorce is a set of processes happening between family members, it also proceeds intra-psychically.

Splitting occurs within family members throughout much of the "psychological divorce," and can last a great deal longer. The family, like other social groups, is a setting in which defensive patterns of interaction take on a life of their own. As the divorce continues over time, conflictual events can become symbols in the micro-culture of the family. Member's irrationality in the past serves as documentation of the correctness of the observer's position. When these events are retold (in court, for example) they cue the interactants to their prior irrationality and feelings of being out of control themselves.

Among the most fear-inducing and painful realizations for divorcing partners is that they no longer have control over the other parent. This is especially difficult when the other's behavior is viewed as unpredictable and therefore, dangerous. Events which

had been taken as commonplace during the course of a marriage, such as drug use or "partying," become exaggerated. Parents' expressions of fear of being out of control of the other parent is better understood as a sense that one is out of control of oneself. The spouse is an introjected part of each custody disputant's self. Realistically, the other is likely to become even less controllable as time passes.

One common projection which the authors have observed in mediation is that a parent will abduct the child in violation of a court order. This is usually a fear experienced by both parents, but the fear is expressed in terms of what the other parent will do. In many cases, each parent has the fantasy and accompanying impulses to steal the child or otherwise deprive the other parent of the child. However, the impulse is rarely acknowledged as within oneself, at least initially. Rather, it is a disowned part of the self and is viewed as contained in the other.

Parents express their fears in arguments, sometimes threatening to take the child and hide him/her. Threats are often so vague as to engage fears which are just below the surface, and usually are stated in conditional terms as attempts to regain control over the threatening parent's self by gaining control of the other. Occasionally, a parent will act out their fantasy and actually steal the child. They righteously believe that they have saved the child from the dangers presented by the other parent; often, they believe that they only struck first, before the other parent had a chance to beat them to the abduction. Parents who act out this fantasy are generally unable to recognize the psychic boundary between themselves and the child's needs. They speak of the child in an unreal, highly narcissistic way, proclaiming magical knowledge about the child which only they hold. These parents identify with their own projections onto their children as if the child were these projections.

In order to manage the anxiety and uncertainty of the dynamics outlined above, there is a psychic split in which each parent comes to see the other as bad and the child and oneself as good. Documentation of irrational behavior is available to persons in any relationship, since irrationality is the stuff of emotions, which themselves bind people to one another. Without disputants' ability to recognize the projective process and to reintegrate disparate parts of them-

selves projected onto others, this process accelerates. The child, too, may suffer from the burden of always having to prove that s/he is worthy of the singular goodness projected onto him/her.

Children may also engage in unconscious splitting by identifying one parent as good and the other as bad. This appears in interviews with children as exaggerated claims that the bad parent has done inappropriate and uncomfortable things to the child, such as sexual inappropriateness, not paying enough attention, physically abusing the child, not paying enough child support, or hurting the good parent's feelings.

The evaluator may be uncertain as to which of these events have actually occurred, and the accuracy of the report is essential to determining the solution and how to intervene. Indeed, a child who has been sexually molested and who subsequently expresses fear of a parent should not be made to see that parent. However, a child who has adopted one parent's projections as his/her own, but who has little or no independent reason through his/her own experience for this expression will not overcome the fears or anger without having direct contact with the "feared" parent in a therapeutic setting.

The constellation of collective projections within and between family members in a divorce often promotes each member's disintegration of self concept. Because families are so primary in one's development of self, projections must be recognized and recovered as one's own so that others may be released to reintegrate their self concepts and function in healthier ways. Ambiguous data related to the interpretation of meanings of interaction must be explored with the family member in question. If this sorting out excludes the object of the projection, misunderstandings are bound to arise and be used to document that person's badness. The irrational rejection of the object person is, to a degree, a rejection of one's self. This is emotionally costly to the person who is projecting badness onto another person.

### ***HIERARCHICAL INVERSION***

A case was filed in court by the mother of a nine year old boy to change the alternating week joint custody order to an order in which she had sole physical custody. She stated that the current order was

not working because her son refused to even visit his father. In fact, the boy had run away from his father during a visit and was found several hours later at a neighbor of the father's who the boy knew to be his mother's friend. In answer to the mediator's inquiry as to the reason for refusing to spend time with his father, the mother claimed to be puzzled, stating she and the father had both agreed to the joint custody schedule. She had had a difficult time disciplining the boy and was ambivalent about the idea that she would have him full time. Neither parent could recall an incident which might have provoked this reaction in their son and appeared to be relatively cooperative with one another in discussing what they saw to be a mutual problem.

Although the father opposed the mother's motion to change custody, he had no suggestions as to how he could alter his son's behavior and entice him to spend his custodial time with his father. Both parents were well spoken, open, and direct with one another and with the mediator. The mediator's questions about possible sexual abuse, physical abuse, or jealousy of the boy were met with a lack of defensiveness and negative replies, as were those about the mother's overt or subtle influence on her son to make the rejecting statements about his father.

The mediator found the boy to be bright, resourceful, articulate, and quite rude; he interrupted the mediator and spoke as if it were he who would be deciding the custody issue. He seemed to have little respect for either his mother or his father, but spoke of their caring and of his own.

The mediator met with the parents and the boy in a joint session. He asked that the parents discuss their problem in front of the child, which they were reluctant to do. They had attempted to discuss the problem on several occasions at exchange times, but their son always interrupted their conversations with the same rudeness which the mediator was seeing in the office. In order to model effective adult behavior in response to the boy's interruptions, the mediator quite authoritatively stopped the boy, ordered him not to interrupt, and directed the parents to converse. Each time the boy would interrupt, the mediator would enjoin the parents to continue and would quiet the boy.

The mediator then re-established the importance of the boy's spending time with both parents and dramatized the parents' di-

lemma. The mediator told the parents to expect that their son would protest loudly and physically, that he might attempt to run away from the father again, and instructed the parents to see to it together that the boy was inside the father's car. The father took the next few days off of work to spend with his son. They were also referred to family therapy.

The case summarized above is an example of a family in which the hierarchy is inverted or "upside-down." There was clearly a gap in the authority structure. According to Luepnitz (1982: 75-97), uncertainty regarding changes in the authority structure in a divorce is likely to present the greatest difficulty for families. In a healthy family, the parents are in charge of making and carrying out managerial decisions for themselves and the children for whom they are responsible. In the family described above, the child's "acting-out" behavior served to organize the family, to direct its actions, decisions, and use of resources. A divorced family is especially susceptible to a hierarchical inversion because

1. it was dysfunctional prior to the separation,
2. the parents have no models on which to base their decision-making structure, and
3. the children are likely to be maneuvering to re-unite the parents, to test the new boundaries and authority structure, and to allay their own anxiety about exactly who (if anyone) is in charge.

### ***DIFFERENTIAL ASSESSMENT OF CHILDREN'S STATEMENTS***

Parents involved in disputes over child custody and visitation are, definitionally, unable to differentiate between their own, the child's, and the other parent's defensive projections onto one another. Before a professional charged with intervention can decide which intervention is most appropriate, s/he must differentially assess the context in which the statements are made. Not everyone in a dispute over custody/visitation acts out of irrationality. Sometimes, a relatively objective parent brings the issue to the court in recognition of the other parent's irrationality and/or unsuitability as a caretaker. Occasionally, both parents respond to a mutual perception that the

child is emotionally vulnerable. They may not know how best to help their child, as in the family cited above whose son's behavior was in charge of an inverted hierarchy.

It is also possible that one parent has done the child serious harm, as in the case of physical abuse or molestation. As if evaluation of custody disputes was not difficult enough, many of the signs of child molestation are the same as those of children caught in a custody dispute. Regressive behavior is the most commonly overlapping sign, which confuses evaluators faced with molestation allegations in a custody dispute.

Although it may appear that the authors are claiming that no statement is to be taken on its face value, this is not the case. Often times, children are very accurate reporters and their statements should be taken as the truth. When a child states that s/he does not want to spend time with a parent because that parent is preoccupied with a step-child, new lover or job, a useful test of the accuracy of the claim is a proposal that the parent spend time alone with the child. Many children are relieved and gladdened by the prospect of spending this kind of time. If the child instead balks at the suggestion, the evaluator must look for less direct and more unconsciously embedded explanations.

Similarly, a child who resists spending time with a parent may be relieved to have an adult authority, such as a judge, remove the choice from him/her. An evaluator can inquire as to how the child would react if "the judge ordered you to visit." Children's loyalty to a parent whom they perceive as weak and vulnerable frequently leads them to make statements which do not portray the extent of their dilemmas. Children who are "parentified" in this way are not always easily dissuaded from their task of "saving" the vulnerable parent who has engaged them in symbiosis.

The line differentiating rational and irrational actions is complex. Events which children witness in their parents' relationships are often frightening, as they would be to anyone. Scenes of physical battering by one parent of the other are especially threatening to someone dependent upon these people in such a complete way. The child's identification with the parent whom s/he sees as the weak one may be an attempt to unconsciously resolve anxiety through splitting and an attempt to ally with the parent who is most in need. A child's identification with the perceived abusive parent can be

seen as an attempt to survive and may also serve to resolve anxiety through splitting. Either way, a child loses a parent, and therefore, part of his/her self.

When neither parent is competent to manage the family, due to either a custody dispute or simply being overwhelmed by single parenthood, a child may behave in ways which organize the family. Cutting school, failing to turn in homework, fighting with siblings, becoming withdrawn and clingy, regression in toileting, and acting out sexual or other seemingly self-destructive impulses may all be ways of developing family boundaries and negotiating roles. They may also function to reunite the parents in common action. These behaviors are pro-active, although not usually pre-meditated. They should not be confused with unconscious defensive processes. The main difference between defensive processes and pro-active behaviors is that defensive processes result in increasing the split between badness and goodness, whereas pro-active behaviors function as unifying forces between the parents. Of course, both can occur at once.

### ***LIMITS OF INTERVENTION***

There are three categories of intervention usually available to the court in attempting to resolve family conflict over the custody and visitation of children; court orders and sanctions, divorce mediation, and post-divorce individual and family therapy.

#### ***Court Orders***

Court orders are socio-legal arrangements which are enforceable through action by agents of the state. Should one parent violate a provision of an order, that parent can be placed on probation, fined, sent to jail, and/or have their access to the child or the other parent restricted. These remedies are usually available only if the wronged parent is willing to return to court and present a convincing case to the judge.

Court orders have other, less direct value, as well. They may serve to set symbolic family boundaries demarcating and limiting parental access to children and contact between adults, defining in-



appropriate and appropriate behavior, and establishing a mutuality of responsibility for child rearing (in the case of joint custody orders). Such orders in and of themselves may be useful in transforming a disorganized divorcing family into a better organized one. They also provide tests of each parent's ability and commitment to sharing in well-defined responsibilities formulated in concrete terms. The orders work well to stabilize a basically healthy family. They are not based in mutual trust between parents; rather, they rely upon the threat of punitive action by the state. They are effective if the parents are people who usually obey the law, even if their obedience is conditioned upon someone else monitoring their behavior.

Orders themselves do little to resolve unconscious defensive processes, although they may serve to contain the parents' projections and/or to limit the dramatization of the conflicts by concretely addressing parents' fears. An order that neither parent remove the children from the counties in which they reside may serve to bolster parents who feel threatened by an anticipated loss through child abduction. A parent who is worried that the other parent's new love interest will replace him or her in a child's life may be reassured by an order that no one besides a parent can physically discipline nor bathe the child. While the orders themselves do not control persons' behavior, they represent an element of control and legitimacy over their former spouse.

## ***Mediation***

In an attempt to resolve parental disputes without involvement in the adversarial process of court, several states have mandated divorce mediation in cases involving disputed custody issues brought before their courts. The lessening of parental acrimony is part of the charge of mediation. This has direct bearing upon the well-being of children of divorce. In studies by Hess and Camara (1979) and Raschke and Raschke (1979), it was found that parental conflict is a better predictor of children's maladjustment than is the marital status of the parents. Where parental conflict was high, children's self-concept scores were significantly lower than other children's, independent of intact, single-parent, or reconstituted family type. Court-ordered mediation is usually practiced by clinically trained

mental health professionals. Most of these court settings provide time-limited interventions, lasting between one hour and a few sessions. The families described earlier were participants in single or double three hour sessions conducted by the first author. Court divorce mediation is focused upon the issues of child custody and visitation but differs from private mediation in that it is mandatory. In certain counties of some states, the mediator may make a recommendation to the court as an expert witness should the parties fail to reach an agreement. This makes more complex the mediator's role and use of power.

Divorce mediators in court settings see parents who are required to attend. These parents are the most combative and irrational of those who are divorcing. Besides focusing upon the issues of custody and visitation, court mediators must perform crisis intervention with often unwilling clients. Through the interweaving of family therapy interventions and the court orders which define and limit parental relationships, court mediators reframe conflict in terms of its effects upon the children. Through their affiliation with and legitimation by the court, these mediators serve as symbols of neutrality and rationality, and may be the only "human" element in an otherwise technical and impersonal setting. At a time just before that which removes parental decision-making and places it with the court, the mediator may be able to empower the parents to make decisions about their children.

Private divorce mediation is dependent upon both parents' willingness to struggle with one another voluntarily. Both parents contract with the mediator, usually a mental health professional, for a series of scheduled or problem-centered sessions. Private mediation can serve to aid parents in devising a custody/visitation plan or to help them resolve conflicts arising out of an existing plan (or court order). Divorce mediators in the private sector report that they combine problem-solving in concretely focused areas with more psychodynamically centered work, addressing underlying fears and anger about personal and interpersonal boundaries. Parents who utilize private divorce mediation are rarely seen in courtrooms. They may become as irrational as their counterparts who bring their conflicts to court, but are able to resolve their conflicts privately and use other, less combative, arenas for their disputes.

The primary task of divorce mediators is to help parents to make decisions which they could have made if they could work rationally. Therefore, mediation is limited by practitioners' abilities to aid parents in setting aside their fears and anger and focus, reframe, and articulate their underlying projections. Mediation is limited by the mediator's skills in doing so and by the parents' abilities to separate out the spousal issues from those directly related to the children and their own needs from their children's. Mediation fails when parents are extremely enmeshed and when they are controlled exclusively by irrationality.

### ***Psychotherapy***

Families in which there are custody disputes are not necessarily good candidates for psychotherapy, much to the frustration of judges, attorneys, mediators, and evaluators. Custody disputants are seldom self-reflective and are often quite defensive about their own behavior and motivation. They are, therefore, usually unable to take on the task of taking a personal inventories, examining their own faults, and taking risks to change.

Therapists must avoid the temptation to view the productions of families in custody disputes as merely that of dysfunctional families with which they are more familiar. These families have entered into a cultural sub-system (the legal process and its ancillary practices) which promotes rigidity, the mythology of uncontrollability of the self, reactivity, and exaggeration of fears and defensiveness. Parts of the self are lost through the emotional process of divorce, as was discussed above. Additionally, parts of the self are also given over to attorneys, judicial officials, and expert evaluators for investigation, analysis and judgement. These may come to feel familiar and reassuring to families involved with custody disputes, over time and with repetition. To cease emotional participation may be terrifying, especially since one's projections are contained in arguments, documents, and the ritual of court proceedings. The therapist must serve as a de-programmer, much as do those who treat former cult members, holocaust survivors, or victims of post-traumatic stress disorders.

Psychotherapy may be attempted either individually with a child

or parent, conjointly (with both parents), with the whole family, or in various combinations of the above. Each has a different set of tasks.

The primary task for a child's therapist is to help the child feel safe and regarded so that s/he may begin to be released from the parents' dispute and its obligations of alliance from the child.

. . . understanding one's feelings about (divorce is) inhibited (and may be informed by) the splits of loyalty it involves. Certain otherwise natural thoughts or communications are thwarted, and to that extent divorce becomes harder to manage. A son who lives with his mother and is forbidden to see his father may be required by her to be loyal to her side of the dispute. He then has to deny his own wish to see and understand his father or risk his relationship with his mother. (Group for the Advancement of Psychiatry, 1980: 853-4)

Children are often in the position of obligation in meeting their parents' dependency needs. As long as children are expected to meet emotional needs of parents, they will fail. They will become depressed, act out, or act in ways which draw attention to themselves in an attempt to be released from this impossible requirement. Asymptomatic children are at least as at risk emotionally as are their acting out counterparts. They carry and contain a great deal of their family's anger and pain, much more than a child could be expected to manage developmentally. They are usually the caretakers of both parents and their siblings. The therapist's job with these children is to provide a neutral and supportive emotional environment which will allow the child to express, have another human being acknowledge, and be released from this pained burden. Unless the family structure is altered, however, the therapist's ability to sustain changes in the child are limited.

The primary task of individual therapy with an adult is to aid the parent in assuming responsibility for his/her actions and feelings, and to begin to become an actor in the world, rather than to a reactor to it. In order to do so, a therapist must encourage the parent to turn to the therapist for emotional support (while not engendering helplessness), to develop coping skills, and to support the development

of adult networks and sources of emotional support and gratification. In doing so, the therapist helps the individual to examine his/her own processes, and to accept and appreciate his/her personal history. Psychotherapy with divorced persons, like therapy with those in other crises, is an opportunity to build anew. To do this, the therapist empowers the client to "own" who they are, supports the person's strengths, thereby enhancing his/her self-esteem and decreasing the need to project badness outward.

Family or couple therapy has as its tasks to right the inverted hierarchy, to help parents to break free from the mythology and reality brought about by the legal/adversarial system that disempowers them as actors upon the world, and to promote collaboration based upon independence from one another. The family therapist must train or re-train parents to use their love and caring for the children to release them from their obligations, to acknowledge the pain which they have imposed upon their children, and to learn new ways of disengaging from one another. In those instances in which one member presents a danger to others, such as those involving violence or sexual abuse, the therapy sessions may provide the only safe, comfortable setting in which re-integration can occur. It may be that the therapy setting between a disenfranchised parent and child may be the only positive experience that a child will ever have of this parent.

Much like the individual therapist who builds on strength rather than dysfunction, so does the family therapist. In family and conjoint sessions, interventions are designed to define and enhance appropriate parental roles. The therapist may find it useful to frame the custody dispute as a shared and common family experience which was survived by the family as a whole, and over which no one had exclusive responsibility or direction. It was something which happened to the family, but over which the family is finally re-gaining control. Individual members' projections and introjections can be located appropriately, as a means of re-integrating the family as a different whole. The family's sense of loss can be made conscious and spoken of, much like grieving is done when a family member dies. The family's strengths can then be identified, as can those of individual members, so that the family can once again use its resources for the purposes of problem-solving and creativity. By

helping a family to accomplish these tasks, the therapy provides those tools necessary for healthy development for each individual and for the family as a whole.

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