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FAMILY AND CONCILIATION COURTS REVIEW

Volume 30, Number 1 / January 1992

This special issue is devoted to:
GENDER

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WOMEN'S AND MEN'S VIEWS OF MEDIATION IN VOLUNTARY AND MANDATORY MEDIATION SETTINGS

Joan B. Kelly
Mary A. Duryee

This article reports findings regarding women in mediation from a combined group of 184 persons who received mediation services from the Alameda County Superior Court Family Court Services or the Northern California Mediation Center. This empirical study refutes many of the criticisms of mediation by some feminist critics of the process.

In an essential way, gender differences lie at the heart of most divorce conflict. Divorce not only forces a personal, painful confrontation between "what we wish we had been" and "what we actually became" but involves a struggle to reorganize one's sense of self. Among the tasks of this reorganization is the need to examine the gender roles undertaken during the marriage and the applicability of these roles in the postdivorce lives of the family. What contributions will each now make in raising the children? Who will be obligated to support whom and in what ways?

At the same time, the most heated array of questions surrounding the mediation process also stem from gender-related concerns: Do men and women come to the divorce process with different expectations? Do men and women perceive the process differently? To what extent are their expectations met? Are there hidden biases in the process of mediation which result in unfair outcomes for men or women? How should socially defined values about gender affect court custody decisions?

The shift in emphasis in the past decade to resolving separation and divorce disputes in mediation rather than through adversary procedures has

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been accompanied by voices of optimism, praise, caution, and criticism. Despite the increased use of divorce and custody mediation in court and private sector settings, empirical research investigating the effectiveness of mediation and its outcomes remains limited but growing (Kressel, Pruitt, & Associates, 1989). Research comparing custody mediation to custody litigation has produced modest, positive results favoring mediation. In those few studies using an experimental or quasi-experimental design, mediation was observed to reduce the need for court hearings, reduce the time to settlement of the disputes, and produce greater satisfaction among users (Emery & Wyer, 1987; Pearson & Thoennes, 1989). Compared to the customary adversarial divorce proceeding, divorce mediation encompassing all issues of property, support, and custody was found to be less expensive, more satisfactory for both men and women, and produced higher levels of cooperation and reduced conflict in the first year after final divorce (Kelly, 1989, 1990, 1991a, in press). Neither the mediation of custody disputes nor comprehensive mediation of all divorce issues were found to lead to improved psychological adjustment among the adults (Emery & Wyer, 1987; Kelly, 1990; Pearson & Thoennes, 1984) or the children (Kelly, 1991b).

A research project of Emery and Wyer (1987) heightened interest in gender differences when their data seemed to indicate that the litigation women felt that they had won more and lost less relative to the mothers in mediation, while the mediation fathers seemed to report greater benefits from mediation. Some saw this finding as evidence that mediation does not serve women's needs (Bruch, 1988). However, a subsequent report from the same project, after analyzing the data in greater depth, concluded that

the gender difference [was] not a result of the women's dissatisfaction with mediation. Rather, the source of the gender difference lies in the litigation group. Women were quite satisfied with their experiences in litigation, whereas men were very unhappy. Mediation could not produce *more* satisfaction for mothers, because women were very satisfied with their experience in court. This stands in contrast to fathers, who were extremely unhappy with their experience in litigation but who were rather satisfied with mediation. (Emery & Jackson, 1989, p. 15, emphasis added)

In other words, it was the dissatisfaction of men with their experiences in court which accounted for the differences between the men and the women rather than dissatisfaction with mediation on the part of women. These latter conclusions were supported in a replication study with a larger sample (Emery, Matthews, & Wyer, in press).

Feminist theoretical thinking has contributed a richness and complexity to the dimensions of gender differences, including postulated differences

between men and women in negotiation settings. Feminist developmental theorists posited that women have been inappropriately charted along the developmental lines of men, while in fact both the path and the outcome seem to be different for men and women (Chodorow, 1978; Gilligan, 1982; Miller, 1976). Discussions have focused on differences between how men and women handle conflict (Miller, 1982), relationships (Miller, 1982), and moral decision making (Gilligan, 1982).

Empirical studies, describing the disparate views of men and women regarding their marriages, have suggested that there are "his" and "hers" relationships within the same marriage (Cowan et al., 1985). These discrepant views between men and women about the same relationship have been found as well in their perceptions of parental roles during the marriage and in the reasons given for divorce (Gigy & Kelly, in press; Kelly, 1991b).

Other differences, arising from a greater focus on individuation and autonomy for young boys and a greater emphasis on affiliation and relationship for young girls (Chodorow, 1978; Gilligan, 1982), have been identified in language style (Kolb & Coolidge, 1988), comfort with the use of power, the tendency to suppress conflict, and the preservation of harmony (Miller, 1976, 1982), and the greater tendency in women to experience empathy (Ford, 1982).

It has been pointed out, additionally, that those values, styles, and developmental trends identified as feminine are devalued, invalidated, or ignored in Western culture (Kolb & Coolidge, 1988). Based on these assumptions and observations, women have been presumed to be unable to bring a sufficient sense of entitlement which would permit them to ask for all of what they want, a factor distinct and separate from either the inclination or the ability to negotiate.

This observation has led some women's advocates to claim that women would view mediation less favorably and would obtain less favorable results because they would not be able to participate as powerfully as men in the process. Because women have historically had less access to wealth, positions of power, and other resources than men, the belief has been that women would be less capable of advancing and protecting their own interests in a negotiation and would defer more appropriate settlement to relational considerations. The greater competitiveness and focus on a justice based on rights more characteristic of men, contrasted with a justice based on empathy and relational care, would disadvantage women in mediation.

Criticism of mediation based on anecdotal information has suggested that regardless of the theoretical underpinnings of mediation, the actual implementation, in context, may transform it into another expression of "ortho-

doxy" and patriarchy (Bruch, 1988; Grillo, 1991). To date, missing from these lengthy criticisms of custody mediation is systematic data gathering from participants which would allow some progress beyond speculation.

A competing prediction might be that because of the greater relational focus, mediation would be a more comfortable and easy forum for women than litigation, that it would allow women to find their own voice in the process, that it would obviate the problem of the attorney relationship recreating a dependent role, that is, a "passive recipient of a lawyer's advice and decision-making" (Grillo, 1991, p. 1581), and that women would be more adept at talking things out in a relational medium. Based on feminist theory which emphasizes women's focus of cooperation, mutuality of interaction, preference for problem-solving dialogue over formal strategies, and affiliative concerns, family mediation ought to be a process that women prefer and at which they excel. The question is, do they?

This article focuses on gender differences and similarities found in two different Northern California settings offering mediation services for the resolution of custody and divorce disputes and issues. A smaller segment of data, gathered during the course of two separate, larger studies conducted independently in each setting, are compared with respect to men and women's views of the mediators' functioning and qualities, satisfaction with the process, including ability to express one's viewpoint and perceived influence over the process and agreement, and satisfaction with the outcomes. This report is unique in that the responses of disputants in the court and in the private sector are compared using the same objective measure, thus providing not only the opportunity to compare gender differences across settings but to compare perceptions of mediation clients in a voluntary and a mandatory mediation service.

METHOD AND SAMPLE

Responses to 17 items from an objective questionnaire assessing client perceptions of their mediator, the mediation process, and mediation outcomes were obtained and compared with responses of subjects who participated in a voluntary, private mediation research project at the Northern California Mediation Center (NMC) and those of a second group of respondents from a court-based mandatory mediation program. The 17 questions were from the 54-item Client Assessment of Mediation Services (CAMS; Kelly & Gigy, 1988), developed at NMC as part of a larger longitudinal study of the effectiveness of a comprehensive divorce mediation intervention. All ques-

tions were rated using the same 7-point scale, ranging from *very dissatisfied* (1) to *very satisfied* (7). The full CAMS, the principal dimensions of satisfaction derived through factor analysis, statistical properties of the CAMS for the NCMC sample, and findings comparing mediated and adversarial respondents' CAMS responses can be found elsewhere (Kelly & Gigy, 1988; Kelly, 1989).

The 17 items selected for comparison and reported in this article were those which were appropriate to the custody mediation focus of the court-based mediation setting, and which had high loadings on the CAMS factor analyses. In addition, two questions from the initial Time 1 NCMC questionnaire measuring respondents' anger at spouse and amount of cooperation between parents regarding children were included in the court-based questionnaire to assess comparability of the two samples on two important dimensions. Data on these 19 questions were analyzed separately for each setting and then combined into one data set. Frequencies and two-way analyses of variance were conducted to test for differences between the two samples and between men and women across samples.

THE NORTHERN CALIFORNIA MEDIATION CENTER (NCMC) RESEARCH

The Divorce and Mediation Project at NCMC compared the effectiveness of an integrated, comprehensive divorce mediation encompassing all divorce-related issues with an adversarial divorce process parallel in scope. Two samples of divorcing men and women were compared at five points in time: from the beginning of divorce (Time 1) to 2 years postdivorce (Time 5). Using objective questionnaires and standardized measures, the longitudinal study assessed a broad number of marital, psychological, interactional, sociolegal, parent-child, and conflict resolution variables.

The data reported in this article were obtained from the mediation sample at the completion or termination of the mediation process (Time 2). Mediation respondents who completed mediation were mailed questionnaires which included the 54-item CAMS, a general satisfaction question, whether they would recommend mediation to a friend, and repeated psychological measures. Clients who terminated mediation without reaching written agreement on their substantive issues were given an abbreviated version of the CAMS which focused on process issues rather than outcomes (Kelly & Gigy, 1989).

The initial Time 1 mediation sample of 212 respondents came to the nonprofit Northern California Mediation Center for a voluntary and compre-

hensive mediation service and agreed to participate in a study of divorce and the mediation process. Couples married for less than 1 year were excluded from the study. The mean age of the men was 40.5 years and the women, 37.8 years. The mediation sample was primarily White and well educated (74% of the men and 56% of the women had attained a college degree). Respondents had been married an average of 12.5 years at Time 1, and 83% had children under the age of 18 years. The median combined household income was \$57,000. One quarter (25%) of the women were not employed outside the home.

Of the couples, 59% reached final, written divorce agreements, 15% negotiated and resolved one or more critical issues related to their separation or temporary support but did not continue in mediation to reach final written agreements, and 26% were unable to reach agreement on anything of substance. These latter two groups were labeled terminators for research purposes and are described in greater detail elsewhere (Kelly & Gigy, 1989).

The NCMC mediation sample which forms the basis of this article consisted of 120 respondents who returned Time 2 questionnaires: 88 men and women who completed mediation and 32 men and women who terminated mediation prior to reaching final written agreement.

THE FAMILY COURT SERVICES (FCS) RESEARCH

Questionnaires were sent to 1,020 court clients (510 couples) whose mediation had been completed for at least 6 months. The clients selected were all those whose cases were closed during a 5-month period in 1989 ($n = 685$) and all those whose cases were opened during 2 months of 1988 ($n = 335$). A stamped, addressed envelope was provided for use in returning the questionnaire. Those who did not initially return the form were sent reminder postcards 1 month after the questionnaire mailing date. Of the 1,020 questionnaires sent, 209 (20%) were returned completed, 139 (14%) were returned by the post office as undeliverable, and 672 questionnaires (66%) were not returned. Sixty of the 209 respondents returned an abbreviated questionnaire which did not contain CAMS questions and hence were excluded from this analysis.

The court mediation sample comprised 47% men and 53% women. Median age was 35 years. Among the 68% of the sample who answered the marital status question, 82% reported having been married and 18% reported a live-in relationship. The court sample was less well educated than the NCMC sample, with 48% of the court sample reporting a high school diploma or less and 43% reporting some college education; only 9% had graduate education.

The court sample was quite diverse racially, with 2% Asian, 12% Black, 52% Caucasian, 8% Hispanic, 6% interracial, and 19% unknown. Over half (58%) of the respondents had an annual income lower than \$25,000.

The court mediation sample which formed the basis for this article included 74 respondents. To minimize the differences between the samples with respect to experience with mediation, the combined analyses included only those respondents who were coming on their first referral to mediation. This criterion excluded 75 respondents who had had prior contact with Family Court Services.

Respondents reported that the custody mediation resulted in agreement on all issues 28% of the time, agreement on some of the issues 53% of the time, and agreement on none of the issues 19% of the time.

MEDIATION PROCESSES COMPARED: FCS AND NCMC

There has been much interest in the difference that context makes in the effectiveness and meaning of the mediation process. These two samples represented participants of mediation in very different contexts: private, voluntary, comprehensive divorce mediation, and custody-only, court-based, mandatory mediation. The State of California, since 1981, has required that all separating or divorcing parents disputing custody or caretaking arrangements of their children attempt to settle their differences first in mediation prior to litigating them (Cal. Civil Code 4607). Court-based mediation services were developed as a part of that requirement. A smaller number of couples choose to mediate comprehensively all of their divorce issues in the private sector. A description of the differences in process between the two settings is important in understanding and assessing the results reported in this article.

Family court respondents were referred to mediation by the court prior to their first hearing when parents indicated at the time of filing that there were disagreements concerning the children. For the majority of clients, there was a period of about a month from the point of filing to this hearing, and during this interval, parents met with a mediator several times. The average number of sessions for this sample was 2.5, each averaging 3.2 hours. While most mediations reached agreement during that period, the mediator and the family had the option of continuing past the hearing or asking for a continuance to continue negotiating. In the event that the parents did not agree on all the issues, local court rules required a meeting between the mediator and the attorneys prior to the court hearing in which further negotiations were attempted. The Alameda Family Court requires a recommendation from the

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mediator at the conclusion of that process if the parents had not reached agreement. The mediation was restricted to issues concerning the children (excluding financial issues) and was free for the first 5 hours. Thereafter, a sliding scale fee was assessed. The FCS mediations took place in professionals' offices in the courthouse in one location and in a county building adjacent to the court house in another location.

NCMC mediation respondents came voluntarily to the nonprofit private office setting on the referral of lawyers (21%), mental health professionals (17%), friends or prior clients (16%), their own or their spouse's initiative (35%), or other sources (11%). Once the clients signed an agreement to mediate, they were asked to participate (voluntarily) in a research project, and 96% agreed. The explicit goal of the comprehensive mediation service was to assist divorcing couples to reach divorce agreement on all relevant issues. A few of the respondents had mediated parenting agreements at the Marin County Family Court Services and came to NCMC for mediation of property and support issues, but the great majority had no prior mediation experience and no agreements. Parents coming to NCMC after divorce to modify child custody or child support issues were excluded from the study. Mediation respondents who completed the process took an average of 10 sessions (15 hours) over a period of 3 to 6 months, were assessed a fee on a sliding scale, and agreed not to be concurrently involved in litigation regarding their divorce issues.

Respondents in both settings therefore included those who reached complete agreement on all issues, those who agreed on some of the issues, and those who came to no agreements. The proportion of couples unable to reach agreement in both settings was remarkably similar.

The findings reported here were all statistically significant at the .05 level or better, unless otherwise indicated.

RESULTS

CLIENT REACTIONS TO MEDIATOR AND PROCESS DIMENSIONS

Mediator Qualities

In the combined group of Family Court Service and NCMC respondents ($n = 184$), there were no gender differences with respect to perceptions of the mediator along a number of dimensions. Both men and women rated their

mediators fairly highly on the mediators' warmth and on sensitivity to client feelings, with no significant sex difference on either measure. Further, men and women were just as likely to report that their mediators were mostly helpful in proposing options for resolving disputes and in identifying useful ways to arrange custody and visitation.

With respect to respondents' views of the impartiality and/or neutrality of the mediator, neither the women or men believed that the mediators had imposed their own viewpoints on them. Nor was there a gender difference with respect to whether men and women perceived that the mediators favored their spouse: The majority of men and women disagreed with the statement that the mediators favored their spouses in the mediation process.

There were two mediator dimensions along which there were significant gender differences. While both men and women rated fairly positively the mediators' skill, women were significantly more likely to agree that the mediators were skillful. Similarly, women rated the mediators' ability to keep the mediation focused on important issues in the session significantly more highly than did the men.

Process and Empowerment Issues

Men and women in the combined analyses appeared to view their mediation processes as efficient, reporting that the mediation discussions focused on the most important issues rather than wasting time on peripheral or unrelated issues.

There was no significant gender difference with respect to respondents' view of their influence over the agreement; both men and women reported having equal influence. Inspection of the means indicated that the NCMC sample most often agreed with the statement that they had equal influence over the terms of the agreements, whereas FCS men and women more often disagreed with the statement, suggesting that they both viewed the other as having more influence.

Also of note was the finding that women reported significantly greater confidence in their ability to stand up for themselves with their ex-spouses as a result of the mediation, compared to the men. This was true both for the combined samples and for each research project's independent comparison of the women compared to the men.

On two additional questions, given only to the FCS sample, there were significant gender differences. Women were significantly more likely than the men to report that (a) mediation gave them an opportunity to express their

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own view and (b) the mediation process helped them put aside their anger and focus on the children.

Reasons for Termination

Within the NCMC sample, clients who failed to reach final divorce agreements in mediation completed an abbreviated CAMS questionnaire which assessed their views about the mediator and the mediation process. Significant gender differences were found on five separate CAMS items, four of which indicated that women, more so than men, quit the mediation process because they lacked sufficient understanding or information regarding financial issues and/or were feeling confused in mediation. In addition, women who terminated mediation were significantly more likely than the men to report that their spouse had an advantage over them during the negotiations.

Additional information from the Reasons for Termination Checklist sent to terminators after they quit the process sheds further light on gender differences (Kelly, Gigy, & Hausman, 1988). On the Lack of Empowerment Scale, significant differences emerged between men and women, with women who terminated mediation more likely to say that (a) issues were too complex, (b) they lacked financial knowledge, and (c) they felt emotionally drained, unprotected, and unable to have their say. On the second scale encompassing negative valuations about one's spouse (unreasonable, untrustworthy, too angry, and one's inability to tolerate being in the session with the spouse), there was no gender difference.

Although terminators were significantly less satisfied than completers with the overall mediation process, there was no significant difference between men and women on this question. Over half of the terminators were either satisfied with or neutral about the process.

CLIENT RATINGS OF OUTCOMES OF MEDIATION

Satisfaction With the Result

There were no gender differences in satisfaction with the mediation *process* within the FCS sample, with more than half of the men and two thirds of the women reporting that they were mostly to very satisfied. However, in their ratings of satisfaction with the outcome or results of the court-based mediation, men were significantly less satisfied than women. While 67% of all the women expressed satisfaction (17% were dissatisfied), 48% of the

men reported being satisfied, compared to 43% that were dissatisfied. The majority of the men and women said they would call the court program to help solve disagreements in the future, but again, the women were significantly more likely to say so. It is important to note that these data include those clients reaching agreements as well as those men and women unable to conclude any agreements in mediation.

Within the NCMC sample, there was no gender difference on a combined measure of overall satisfaction with both the mediation process and result. As might be expected, those who completed the mediation process were significantly more satisfied than those who terminated before reaching final resolutions. Among those completing mediation, 78% of the men and 72% of the women indicated being somewhat to very satisfied. Fourteen percent of the men and 26% of the women expressed some dissatisfaction; the remainder were neither satisfied nor dissatisfied. Following a parallel pattern, 74% of men and women said they would recommend mediation to a friend, 13% thought they "probably" would, and 18% indicated that they would do so only reluctantly or not at all. There was no gender difference.

Among those terminating mediation at NCMC prior to reaching final resolution of all issues, there was again no gender difference in level of satisfaction. However, 76% of the women compared to 41% of the men said they would recommend mediation to a friend, while 12% of the women and 29% of the men would do so reluctantly or not at all, a difference that was significant. The women in the terminator group seemed more forgiving of the failed mediation than the men, reporting such things as "Even though it didn't work for us, I would still recommend it to others. It's a good thing."

Although the men in the court-connected sample were less satisfied than the women with the result or final agreements, there was no gender difference on two different questions which addressed whether the custody/visiting agreements reached would be (a) best for everyone in the family and (b) the best possible for the children, given the circumstances.

Anger and Cooperation

Interestingly, there were no significant differences between men and women, or overall between the samples of the two mediation settings, in the level of self-reported anger toward the spouse, as measured after mediation. Respondents reported mild to moderate levels of anger at the postmediation data collection. Additionally, there were no significant differences between men and women in their reports of the degree of cooperation regarding the children, in either the court-based sample or the private NCMC sample.

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DISCUSSION

The findings of research in two different settings addressing custody and divorce disputes and issues indicated that there were few significant differences between the men and women in their perceptions of the mediators' functioning, the process of mediation, and the outcomes of the mediation process. Where significant gender differences appeared, the women rated the mediation experience more favorably than did the men.

These data suggest some of the reasons why women find the mediation process a satisfactory process. First, an important element of the mediation process is the opportunity to express one's views—a place in which women have a voice. Critics of mediation have condemned the process because they believe that women's voices are not heard and integrated into the final resolutions. However, empirical data obtained from women in two very different mediation settings contradict that theoretical position.

It would appear as well that the mediation process may have benefit for women beyond being given the opportunity to have a voice. Women in both settings reported that they gained confidence in their ability to stand up to their spouse as a result of the mediation. Women not only found a voice but appeared to feel that their voices were heard and legitimated enough to provide them with greater strength or resolve in relation to their former spouse. This greater sense of empowerment may be related to the structure of mediation, which insists that the interests and views of each disputant be articulated and treated with respect. Given the concerns raised that mandatory mediation inherently disempowers people, it was an important finding that women in both voluntary and mandatory mediation settings reported this increased confidence.

Further, women appeared to place value on the opportunity that mediation provided for them to set aside (even if temporarily) some of their anger at their spouse and focus on their children's needs. This experience in mediation is in contrast to the experience of litigating custody and visiting issues, which encourages and consolidates angry parental perceptions and positions, even those which may not be reality-based nor in the children's best interests.

In other ways as well, the data do not support the notion that women feel disadvantaged in the mediation process. Women, including those who did not reach full agreement, still believe in the process and would recommend it to their friends. They prefer it to litigation.

Women appear to be capable of terminating a voluntary mediation process for the "right" reasons, that is, when they feel overwhelmed and/or unempowered or when they perceive their spouses to be too angry or demanding

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to negotiate a reasonable or fair agreement. Within the court sample, a quarter of the couples formed a comparable group of mediation terminators — those who were unable to reach agreement on any issues — suggesting that in court-based mandatory mediation, women and men also do not feel compelled to reach agreement when there are strongly held and antagonistic positions.

While these data did not support the concerns raised about the mediation process for women, at least one finding raises a question about custody mediation for men. Men in the Family Court Services setting, while not less satisfied with the process, were significantly less satisfied with the outcome or result of the custody mediation: 43% of the men expressed dissatisfaction with the outcome, compared to 17% of the women.

This dissatisfaction with the outcome paralleled the greater dissatisfaction of men, compared to women, reported by Emery et al. (in press) in both the mediation and litigation groups. The authors speculated that the differences they found between men and women may have been a reflection of a judicial preference for mothers as physical custodians of children in the jurisdiction in which their project took place. They underscored the necessity of recognizing the continuing influence of the “tender years” doctrine in understanding their results and, by implication, men’s dissatisfaction with their encounters with the court.

While California has a statutory “gender neutrality” (Cal. Civil Code 4600[b] [1]), nearly half of the men expressed dissatisfaction with the mediation outcomes in the court. There is an additional element in the contextual backdrop for the bargaining activities regarding custody. Since 1980, California has had (a) statutory law which permits the courts to award joint legal and physical custody to both parents and (b) a public policy statement that “frequent and continuing contact” between children and parents after divorce is to be encouraged. Whether or not this neutrality is maintained by the courts or by the litigants, the expectations of men created by the joint custody standard may not be perceived as being fulfilled and may be in competition with the expectations of women.

In the court population, 37% of the families emerged with joint physical custody. However, less than one third of this group shared the time equally; the remaining children of this group spent more time with their mothers. Adding the sole-custody families, three fourths of the children spent substantially more than half the time with their mothers (Duryee, 1991). And in a study of 284 divorcing parents, 39% of the men indicated on a questionnaire at the beginning of divorce that they wanted to have their children half the time, and 20% wanted primary father custody. The outcomes of agreements did not parallel the initially expressed desires for men but did reflect more

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the mothers' desires, with women having significantly more time with their children than the men (Kelly, 1991b). These data and those of the Stanford Child Custody Project (Mnookin, Maccoby, Albiston, & Depner, 1990) indicate that although "policies concerning standards for custody decisions may be gender-neutral, social realities still produce gender differentiation between parents" (Mnookin et al., 1990, p. 74). Thus legal and social standards are not always consonant, even though presumably legal standards reflect social norms, and men and women's responses to legal and social standards may be confounding the questions of satisfaction with dispute resolution processes.

Kolb and Coolidge (1988) suggested that research into the negotiation processes of women should move beyond simple descriptions of behavior and focus on the experience of the process for men and women: "We want to know not just what they do, but how they think and feel about what they do; how this is related to outcomes; and how those involved think about and feel about the outcomes and the process they used to get there" (p. 27).

The findings reported in this article are important for several reasons. First, they rely on the participants' reports of the experience of the mediation process and outcomes and thus provide some data for comparison with the more theoretical speculation about mediation. Second, the information was obtained from two very different divorce mediation settings, using the same questions from a previously validated, objective questionnaire, and thus begins to address questions about participants' views of divorce mediation in different contexts. And finally, the use of an empirical evaluation is a step in the direction of distinguishing problems that may be inherent in the mediation process itself from those problems that may arise from the misguided or inept application of the process.

Although the findings reported in this article are supportive of the positive functioning and experience of women in mediation, as with all research, the results should be viewed with some caution. Unlike other jurisdictions, the clients in both settings were given a sufficient number of sessions to resolve their dispute (or to agree that no resolution was possible and turn to a different settlement path). Further, the mediators in both settings were familiar with the California law germane to the issues of their setting and were trained and experienced in mediation. Each setting offered peer review and consultation.

The two groups were comparison rather than matched groups, and the data were gathered at different points of time in different projects. Participation in the research was voluntary in both settings, and the mailed questionnaire format was similar. The respondents in the two settings varied in income, ethnicity, and level of education. The mediation offered by the court-based

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service focused only on custody and visiting disputes, mandatory for divorcing men and women unable to settle their own disputes about their children (or go to private mediators), and was free for the first five sessions. The mediation service at NCMC was voluntary, comprehensive of all divorce-related disputes, and clients paid for their services on a sliding scale. Further, the research was conducted in California, which has divorce laws, traditions, and proceedings which may limit the generalizability of these data to other jurisdictions. Nevertheless, these findings provide additional empirical evidence that the majority of women and men do not perceive the mediation process as unfair, weighted against them, or resulting in agreements which they believe to be contrary to their interests.

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