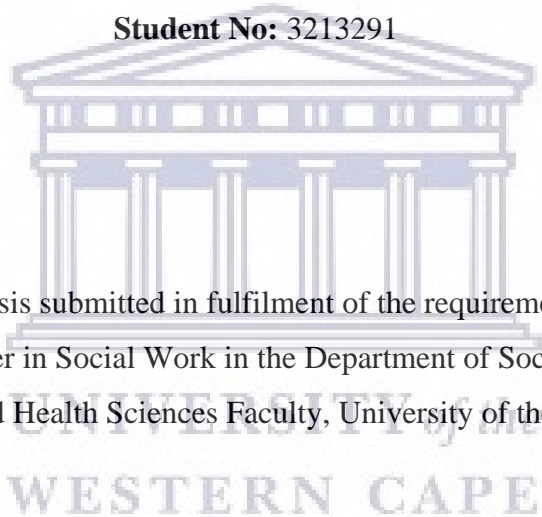# THE ROLE OF SOCIAL WORK PRACTICE AND INTERVENTION IN DIVORCE MEDIATION

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A full thesis submitted in fulfilment of the requirements for the degree of Master in Social Work in the Department of Social Work, Community and Health Sciences Faculty, University of the Western Cape.

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ABSTRACT

Marriage is one of the oldest institutions of mankind. It is the coming together of a man and woman for the purpose of procreation and society. In our society marriage is a social institution in which a male individual marries a female individual, provided both have attained their respective adulthood as specified by the law of the state. Although the definition of marriage varies with culture it can, in a nutshell, be defined as a social union or legal contract between spouses that establishes rights and obligations between the two of them, between them and their children and between them and their in-laws. It therefore falls within the ambit of those who are specifically trained in psycho-socio counselling to minimise the damaging consequences of a failed marriage.

Divorce can take its toll on the economic, mental and social wellbeing of a couple; moreover, the problems created by custody and division of property can also open an ugly episode in the matrimonial war. While marriages may be discontinued, families, especially those in which there are children, continue after marital disruption. They do so with the focus on the two ex-spouse parents now located in separate households. Two nuclei to which children and parents as well as others must relate. Research on divorce has demonstrated that the dissolution of a marriage at any point in the life course of a person can have negative outcomes for divorced persons. Compared with their married counterparts, divorced persons experience increased levels of unhappiness, greater physical and psychological distress, more substance abuse problems, less dense and supportive social support systems, and lower levels of life satisfaction

The main aim of this study was to explore practices and interventions used by Social Workers tasked with mediation obligations when a separation or divorce between the parents is in progress. Furthermore, it was to contribute to the improvement of the mediation process and, in doing so, facilitate a better dispensation for children in divorce and a more child-orientated mediation practice.

This study used a qualitative approach with purposive sampling to select ten social workers from the Cape Metropole to participate in the study. These participants were social workers who practice mediation. Data was collected by conducting interviews with open ended questions. A thematic analysis was used to analyse themes in order to understand the data collected.

Ethics clearance was obtained from the relevant ethics committees at the university of the western cape. Participation was voluntary and no one was coerced into participating in the study. All participants were informed of their right to withdraw from the study at any point without negative consequences to them. The researcher was aware of possible disclosures by participants and all participants were provided with access to counsellors. The interviews were conducted by the researcher who is a registered social worker with experience in clinical settings, and permission for audiotaping the interviews was requested from the participants and then kept in a secure space. The main findings of this study revealed that mediation efforts require resources, time, energy, and emotional fortitude. Another finding was the challenge of dealing with the manipulation of acrimonious parents, and pressure and interferences of the family system to take positions regarding custody and access issues. Further concerns emerging from the findings of this study evidenced a need for training interventions for social workers in their roles as mediators in divorce mediation.

KEY WORDS

Mediation

Alternative Dispute Resolution

Child Protection

Family Mediation Practices

Divorce

Social work intervention

LIST OF ACRONYMS

ADR   -   Alternative Dispute Resolution

FAMSA   -   Families South Africa

DSD   -   Department of Social Development

CCMA   -   Commission for Conciliation Mediation and Arbitration

CPS   -   Child Protection Services

USA   -   United States of America

CPM   -   Child Protection Mediator

SAAM   -   South African Association of Mediators

NABFAM   -   National Accreditation Board of Family Mediators

ODR   -   Online Dispute Resolution

DECLARATION

I hereby declare that 'The role of Social Work practice and intervention in divorce mediation' is my own work, has not been submitted for any degree or examination in any other university, and that all the sources used or quoted have been indicated and acknowledged by complete references.

Name: Sharon Muller

Date: December 2020

Signature: ....

ACKNOWLEDGEMENTS

I wish to extend my sincere gratitude and appreciation to my supervisors, Dr M Londt and Dr N Henderson, for their guidance, patience, and belief in me, to complete this project. You were most influential in this process. May you continue to spread knowledge, give guidance and mentorship to many out there, and may God continue to bless you richly!

DEDICATION

This work is dedicated to my Father in Heaven, God Almighty, for the strength and wisdom He has granted me to complete this research. To my family, my husband, son and daughter, thank you for always understanding and supporting me throughout the process. Also, to my dearly departed mother, whom I continue to miss so much because, despite our circumstances, she always encouraged and motivated me to do better.

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CHAPTER ONE

BACKGROUND AND RATIONALE

1.1. Introduction

Divorce mediation, where an impartial third party facilitates the negotiations between divorcing parties, is a multi-disciplinary process which synthesises behavioural sciences and law to the benefit of parties and children. It is a flexible, informal and private process which gives parties greater autonomy regarding the consequences of their divorce and which focuses on the best interests of children. Mediation is an alternative dispute resolution where a neutral third party, a mediator, works with the parents to reach a settlement agreement. It is neither therapy nor arbitration (De Jong, 2010). Mediation allows the parents to be directly involved in the decisionmaking process (De Jong, 2010). The settlement is tailored to their needs, with the best interests of the child in mind (Marnewick, 2015). The parents can enter into mediation regardless of whether children are engaged in the process (Cohen, 2010). The word mediation is used in the Children's Act, 38 of 2005 however, the Act contains no definition of mediation, and neither does the Mediation in Certain Divorce Matters Act 24 of 1987 (Paleker, 2008). Divorce is a reality in South Africa. Statistics South Africa (2012) indicates an average of 34 145 divorces per annum during the past decade and, by the end of September 2014, 21 998 divorce forms had been received affecting 29 173 children.

In 2009 one in every three marriages was dissolved because of divorce, affecting 28 295 children (Statistics South Africa, 2012). These figures do not take into account parents who were not legally married and simply terminated the relationship. The numerous challenges associated with divorce usually upset the rest of the family in a negative manner (Association of Family and Conciliation Courts, 2006, 2011, 2012; Austen, Pruett, Kirkpatrick, Flens & Gould, 2013; Bojuwoye & Akpan, 2009; De Jong, 2013; Emery & Rowen, 2013; Mahlobogwane, 2008; McIntosch, 2011; Mayer, 2013; Robinson, 2010; Solomon & George, 2011; Stahl & Martin, 2013; Sullivan, 2013; Tornello). Prilleltensky and Prilleltensky (2006) assert that effective parenting, family harmony and the satisfaction of material, physical, affective and psychological needs are essential for the wellbeing of the family, and particularly for children. One of the primary risk factors of stressful life events that impacts negatively on children's wellbeing is

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divorce and separation (Prilleltensky, 2005; Prilleltensky & Prilleltensky, 2006; Van Schalkwyk & Wissing, 2010).

Dealing with divorce cases where children are involved therefore requires insight and understanding from those professionals (lawyers, social workers, and psychologists) who assist the parents to dissolve the family unit with due consideration for the children's needs. Baris et al. (2001) argue that the most powerful determining factor for ensuring a good outcome for the child is the lack of intensity of the conflict. The higher the levels of conflict, the more parents sacrifice their children's wellbeing (Meyer, 2000). Boyan and Termini (2009) note a decrease in the level of happiness and loss of self-esteem in children who were exposed to extensive conflict during the divorce process. Wallerstein and Blakeslee (2003, p. 34) state that where parents fight bitterly, the children's terror is boundless.

Many children caught up in the experience of divorce exhibit difficulties in functioning, including frequent behaviour problems and deficiencies in academic performance, even years after the event (Amato, 2001, 2010; Amato & Keith, 1991; Lansford et al., 2006; Wood, Repute, & Rosh, 2004). Parental divorce does not affect all children to the same extent, however. Some children ride out the dissolution of their family relatively unscathed, whereas others continue to show difficulties in behavioural and psychological adjustment (Amato, 1994, 2000, 2001; Hetherington, 1989, 1999; Kelly & Emery, 2003; Lansford, 2009)
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In this system, resolving divorce-related or other family disputes becomes a contest between two opposing parties who are forced to set out their claims and positions in the best possible way and to criticise and attack the other party's arguments, or risk losing their case (De Jong, M. 2017:298319). It is pointed out that the adversarial atmosphere in which care and contact disputes are currently determined, both in and out of court, tends to exacerbate the already problematic family situation. Each parent has to try to prove that he or she is the better parent, usually by making the other parent look bad, wrong or unfit (De Jong, M. 2017:298-319). A significant number of divorcing or separating parties therefore become locked in bitter and occasionally violent family disputes, both before, during and after divorce or separation (De Jong, M. 2017:298-319).

In my experience as a social worker in the Department of Social Development conducting cases related to Care & Contact and Parenting Agreements, it appears that social workers often lack the

required skills to conduct effective mediation between families and couples who are in conflict. Although these observations are based on the writer's anecdotal experiences it seems as some of those who apply these interventions are ill equipped to deal with mediation and may cause more harm in an environment where the mental, physical, emotional and psychological well-being of the child and family is important. An important question is whether social workers lack mediation training or whether there are other factors that influence their efficacy in conducting mediation. These factors could pertain to hostile and unwilling parents and lack of resources or support. This dichotomy demands that clarification is needed on the roles that social workers occupy during the process of mediation and whether it is the mediator function or the interventionist role. The focus of this study was to explore and describe interventions and practices utilised by social workers in the public and private sector regarding delivering effective mediation services to couples during the process of divorce and separation. The aim, objectives, research question, research design, research approach, research setting, methodology and ethical obligations of the research study are described. Subsequently, the definitions of terms are explained, concluding with the thesis outline. A description of different mediation practices and views follows below.

South African judges have noted that the coldness of a courtroom and an ensuing court order is neither the best venue nor the best vehicle to resolve matters affecting children, who are often relegated to being innocent bystanders between two warring factions (De Jong, M. 2017:298319). Also, it appears that the formalism of the adversarial family law system is so foreign to people with Afrocentric backgrounds that, despite the provisions of the Recognition of Customary Marriages Act 120 of 1998, they still turn to traditional, informal dispute resolution procedures at community level in the case of family breakdown rather than relying on the formal family law system. It also appears that the socio-economic circumstances of the majority of the South African population put the adversarial system of litigation beyond their reach. It is, therefore, an unfortunate fact that today the average South African simply cannot afford to make use of the official family law system or would not choose to do so (De Jong, M. 2017:298-319).

In Croatia, recent findings in the area of divorce and international law relating to children's rights have strongly influenced the reform of divorce (Eekelaar, 2016, 110-120). The first aim of the Croatian legislator was to help parents reach an agreement in all matters related to their children, as it was believed that this approach could help reduce parental conflict and improve the exercise of joint parental responsibility, contact with the child, and child maintenance compliance. The

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second aim of the Croatian legislator was to strengthen children's procedural rights in divorce proceedings.

If the agreement on parental responsibility fails, parents have to face court proceeding which have become more complex due to the response of the Croatian legislator to recent international requirements and guidelines aimed at effective legal protection of children's procedural rights. The child is explicitly recognised as a party in divorce proceeding, the exercise of the right of the child to be heard is clearly regulated, and the child is accompanied by a special guardian who is obliged to represent a child's interests in divorce proceedings (Eekelaar, 2016, 110-120*).*

African-style mediation conflicts are seen in their social context and not as isolated events. In African culture negotiations between the parties' families are mandatory upon family breakdown and family ties and community networks must be respected, maintained, and strengthened (De Jong, M. 2017:298-319). Mediator neutrality is not an absolute requirement because an uncle, a respected family member or an elder in the community may be called upon to fulfil the role and function of a mediator in family disputes. Mediation is not regarded as an alternative dispute resolution method; together with arbitration in community forums or the chiefs' courts, it is in fact the primary method of dispute resolution for the majority of the South African population (De Jong, M. 2017:298-319).

FAMSA (Families South Africa), a non-profit organisation, has more than thirty offices across the country. They provide family mediation and commit to rendering services to all persons irrespective of race, culture, gender, social-economic background, religion, education, social or political affiliation. These services can be obtained via referrals from non-governmental agencies as well as government agencies such as DSD and the Family Advocates Office. DSD and the Family Advocates Office also render family mediation services whereby care and contact agreements are mediated upon including post-divorce agreements regarding the care of children. Mediation has emerged as an important process in assisting families during the breakdown of a marriage. In South Africa this has contributed to the practice of mediation by formal organisations and individuals outside of the governmental and or non-profit organisation sectors.

The alternative dispute-resolution processes referred to above developed in an unstructured and piecemeal manner as required, with little specific provision to cater for these processes in our family law system. Tensions regarding the adversarial versus a collaborative approach creates

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confusion as to when alternative dispute-resolution processes should be used. Constant debates are held about how these processes may complement the court system and what role these processes play in divorce proceedings or family separation (De Jong, M. 2017:298-319). It is also apparent that this dilemma is not unique to South Africa but that it is a global issue when marriages fail, and important decisions are required regarding care and contact of minor children. (De Jong, M. 2017:298-319).

1.2. South African legal perspective

The Children's Act includes mediation as a method of dispute resolution. Section 21(1) provides for directives when there is a dispute to determine whether an unmarried father has fulfilled the conditions specified in section 21(1). This section then imposes a referral to mediation. Section 21(3) stipulates that such mediation must be done by a family advocate, social service professional, or other suitably qualified person. Section 33(2) of the Act states that where such co-holders of parental rights and responsibilities 'are experiencing difficulties in exercising their responsibilities and rights, those parents must, before seeking the intervention of a court, first seek to agree on a parenting plan determining the exercise of their respective rights and responsibilities.'

This section does not compel parties to agree on a parenting plan but does instruct parties to at least try to agree by first going to mediation before seeking the intervention of the court. Section 33(5) provides that parties must first seek the assistance of a family advocate, social worker or psychologist in preparing the parenting plan. The regulations of the Children's Act contain a certificate of non-attendance of mediation, or of an attempt to reach an agreement in a parenting plan. The Children's Act also provides for non-compulsory mediation. Section 33(5) states that parties may seek mediation when preparing a parenting plan.

In view of the above it becomes evident that the process of divorce mediation is processed differently by different professionals and that divorcing couples also experience challenges when attempting to reach mutually accepted agreements by professionals who may or may not be qualified mediators. The writer herself has witnessed this where couples refuse further interventions by social workers who they feel are not properly trained or qualified to conduct their mediation to subsequently achieve mutually accepted agreements or where they feel that legal professionals are just doing this to get as much financial rewards from their clients with no regard for their wellbeing or the protection of the children involved.

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1.3. Problem statement

Important questions in respect of both family mediation and court-annexed mediation are whether this should be mandatory, and, if so, whether it should be privately or publicly funded. Other relevant questions about family mediation are in what legislation mediation provisions should be framed; what process should be used when mediation fails; should cases in which domestic violence is suspected be mediated, and, if so, what measures should be implemented to ensure the safety of spouses and children in the mediation process.

It appears that mediation and the role of a mediator can take many formats. Mediators work in the best interest of families, have a wealth of experience, can have multiple roles, and come from a wide variety of backgrounds. Of utmost concern and more importantly is, do they have the required skills and qualifications to conduct divorce mediation?

1.4. Research question

The main question for this study was: *what are the current practices and strategies that social workers use to conduct mediation between diverse parents and families to resolve conflicts and disputes?*

1.5. Aims and Objectives

The aim of this study was to explore and describe the social work practice of mediation in the Child Protection Unit in the Cape Metropole. This research aim was underpinned by the following specific objectives.

1. To explore and describe social work practice of mediation in Child Protection in the Cape Metropole, in order to equip them with tools to deliver effective services to divorcing couples

2. To explore and describe cultural factors influencing mediation practices in the Child Protection unit in the Cape Metropole

3. To explore and describe social work interventions that would be suitable to address challenges with mediation practices in the Child Protection Unit in the Cape Metropole

1.6. Significance of the study

The significance of this study was to highlight the importance of the role of social work practice and intervention in the mediation process. There are specific obligations required from social workers to improve the mediation outcome and process for families and their children. This study was conducted to raise awareness of those issues that will contribute to the development of the required skills, competencies, and knowledge to improve the outcomes for families.

1.7. Limitations of the study

The study was conducted with a selection of ten social workers in the Southern Suburbs area of Cape Town who work for the Department of Social Development, CAFDA, Child Welfare and Badisa. The findings of the study can therefore not be generalised to other provinces where mediation may be operational.

1.8 Definitions of terms

- **Mediation**

  Mediation is one of the forms of alternative dispute resolution, where a neutral third party (the mediator) facilitates discussions around areas of conflict between disputing parties in order to reach a mutually acceptable agreement, which may become a settlement and made an order of court (Boniface, 2013: 379). The Children's Act includes mediation as a method of dispute resolution. According to section 21(1), if there is a dispute as to whether an unmarried father has fulfilled the conditions specified in section 21(1), then the matter must be referred to mediation. Section 21(3) stipulates that such mediation must be done by a family advocate, social service professional, or other suitably qualified person.

- **Alternative Dispute Resolution**

  Alternative Dispute Resolution (ADR) consists of various methods i.e. arbitration, conciliation, mediation, and negotiation. It is a concept of conflict management and conflict resolution which is non-adversarial (Moss, 2012). Alternative dispute resolution (ADR) includes dispute resolution processes and techniques that act as a means for disagreeing parties to come to an agreement short of litigation. It is a collective term for the ways that parties can settle disputes, with (or without) the help of a third party. They fall on a continuum from simple negotiations between the parents at one end of the spectrum (i.e., parents sort out a parenting plan together) to negotiating with the assistance

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of lawyers and social workers, to appearing before a judge and litigating the dispute at the other.

- **Child protection**

UNICEF uses the term 'child protection' to refer to the prevention and response to violence, exploitation, and abuse against children including commercial sexual exploitation, trafficking, child labour and harmful traditional practices such as female genital mutilation/cutting and child marriage. UNICEF's child protection programmes also target children who are uniquely vulnerable to these abuses, such as those living without parental care, in conflict with the law and in armed conflict. Violations of the child's right to protection take place in every country and are massive, under-recognised and under-reported barriers to child survival and development, in addition to being human rights violations. Children subjected to violence, exploitation, abuse, and neglect are at risk of death, poor physical and mental health, HIV/AIDS infection, educational problems, displacement, homelessness, vagrancy, and poor parenting skills later in life.

- **Family mediation practices-**

Family mediation takes place where there is a disagreement between family members; it may include divorce and post-divorce matters, but is not limited to these (Boniface, 2013; Moss, 2012). Family mediation is where an independent, professionally trained mediator helps couples to work out agreements about issues such as:

- Parenting arrangements for children

- Child maintenance payments

- Other finances (for example house, savings, pension, or debts)

- **Divorce**

In general, divorce is a worldwide phenomenon and different countries across the globe have different laws that regulate the formalisation and dissolution of marriages (Vincent & Howell 2014:473). By 2014, almost every country in the world had laws regulating the dissolution of marriages (Gonzalez 2015:4). It is worth noting that the 43 laws that regulate divorce across the globe differ from one country to the other. Nonetheless, there is a general understanding globally that divorce is the termination of a marriage contract (Duzbakar 2016:118).

- **Social Work Intervention: Global definition of social work:**

Social work is the professional activity of helping individuals, groups, or communities to enhance or restore their capacity for social functioning and create societal conditions favourable to their goals (Zastrow 2014:5). In the same way, Ambrosino et al. (2012:23) suggest that social work is an activity that seeks to help individuals, families, organisations, groups, and communities make use of resources that will alleviate their problems. The profession of social work promotes social change, problem solving in human relationships, and the empowerment and liberation of people to enhance wellbeing (Arora 2013:1). Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility, and respect for diversities are central to social work.

1.9 Chapter outline

Chapter 1: Background and rationale for the study

In this chapter, the background and contextual information; problem statement; aims and objectives; research question, design, approach and setting; methodology; ethics of research; definitions of terms, are presented. An outline of the thesis is also provided.

Chapter 2: Literature review

The focus of this chapter is on the definitions, prevalence, and incidence of mediation, both globally and locally. In addition, the main legislations and policies relating to mediation in Africa and the Republic of South Africa are unpacked. The main threads of the literature are compared and contrasted as well. Thereafter, the main theories of mediation are presented, to elucidate the main threads in literature. The theories of mediation provide the theoretical lens for this current study and these are incorporated within the literature review.

Chapter 3: Theoretical framework and Research Methodology

In this chapter the theoretical framework, research setting, approach, and design of the study, as well as the research methodology, which includes the data collection, data analyses, trust worthiness, ethical considerations, and self–reflexivity, are presented.

Chapter 4: Findings

In this chapter, the researcher presents the demographic data of the participants and reports on the main findings of the data analysis. The main themes and sub-themes that emerged are presented in an objective and scholarly fashion.

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Chapter 5: Discussions

Discussions of the main findings of this current study are provided in this chapter, as well as links to existing literature, as pertaining to legislation and policies.

Chapter 6: Conclusion and recommendations

The significance of the study, limitations, conclusion, and summary of the study are presented in this chapter. In addition, the researcher offers recommendations for law and policy makers, institutions of higher learning, health and social services professionals, as well as future research.

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CHAPTER TWO

LITERATURE REVIEW

2.1. Introduction

In this chapter definitions will be explained, and international and local views on mediation and the theoretical framework used for the study will be explained and presented. The current legislative framework will be used as a lens to describe the roles that social workers have when conducting mediation with parents and families.

2.2. Definitional dilemma

The rising divorce rates in Europe are no longer regarded as a novelty. Similar statistical indicators characterise Croatia, although its divorce rate is lower. Taking relevant statistical data and global divorce trends into account, most sociologists agree that the decline in marriage can be attributed to the so-called secondary demographic transition, linking such changes in society with their economic development. In recent years' international law and other scientific disciplines such as psychology, sociology, and economics have had a strong influence on national systems and Croatian family law has been no exception (Schwenzer & Aeschlimann, 2005, p. 178–85; Lowe & Douglas, 2015, p. 14). Indeed, scientific findings in the area of divorce psychology and international law have been a major influence on the new divorce regulation in Croatia.

In the Netherlands divorce rates increased between the 1950s and 1990s and, although they have stabilised in recent decades, they remain high (CBS, 2017). Each year about 33,000 Dutch children experience parental divorce; if cohabiting parents are included in this group, the number of children rises to between 50,000 and 60,000 (De Graaf, 2011). The Dutch government's attempts to mitigate the adverse consequences of divorce for children can be traced back to the 1990s. In 1995, the government amended the divorce law so that it focused primarily on joint parental authority after divorce. The amended law stipulated that after divorce, parents could retain joint parental authority, but only when parental agreement was provided (Jeppesen de Boer, 2008). The court could deny their joint request if there was reason to believe that joint parental authority would not be in the child's best interests. In 1998, the law was once again amended, changing the way parental authority was regulated. This time the law stipulated that joint parental

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authority would continue automatically (Nikolina, 2015) unless this was not in the child's best interests.

Additionally, the Dutch government advised parents to cover additional points in the parenting plan (Rijksoverheid, 2013) and to keep their parenting plan up to date (Rijksoverheid, 2013). Besides the above-mentioned points, parents also have to explain how their child was involved in drafting the parenting plan. Overall, the Dutch government believed that implementing the parenting plan would encourage parents to consider and think carefully about post-divorce arrangements and to draw up more concrete agreements (Tomassen-van der Lans, 2015). It also aimed to reduce or prevent parental conflict regarding child-related arrangements after divorce (Tomassen-van der Lans, 2015) and, ultimately, to serve the child's best interests.

Potentially, many of the adverse consequences of divorce can be reduced during the divorce process itself. For instance, parents who are able to communicate with each other and reach qualitative agreements at an early stage of their divorce may be able to prevent harmful effects on their children (Baracs & Vreeburg-van der Laan, 2014). In the Netherlands, divorcing parents of minor children are obliged to lay down post-divorce arrangements regarding their children in a written document known as the parenting plan. Because previous research was unable to demonstrate the positive effects of this system as anticipated by the Dutch government (Tomassen-van der Lans, 2015; Spruijt & Kormos, 2014), researchers are suggesting a growing number of constructive alternatives. Among these, the one most frequently mentioned is that divorcing parents with minor children should (be obliged to) consult a divorce mediator.

The most recent example is a 2013 parliamentary bill that aimed to promote the use of divorce mediation (Kamerstukken, 2014), although this bill was ultimately withdrawn. While divorce mediation so far has not been formally implemented in Dutch law, it has been advocated as a potentially successful means of mitigating the adverse consequences of divorce because it is thought to make dispute resolution more efficient and family friendly (Emery, Sbarra & Grover, 2005). Additionally, divorce mediation mostly results in better parent-child and parent-parent relations than litigation (Schepard, 2001). Divorce mediation in the Netherlands is of special interest because the country has one of the highest numbers of accredited mediators in Europe (European Commission for the Efficiency of Justice, 2014), meaning that most people can probably find and thus consult a divorce mediator.

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In the last 20 years alternative conflict resolution systems in Nordic countries have become more common. Mediation has increased strongly in the Nordic countries especially in the 2000s. New mediation systems have been developed and also the mediation caseload has increased (Nylund 2010; Vindeløv, 2012; Adrian & Mykland, 2014; Ervasti and Nylund, 2014; Ervasti & Salminen, 2017). Finland, Norway and Denmark, for example, have introduced new court connected systems (see Bernt, 2011; Mykland, 2011; Adrian, 2012; Ervasti, 2014; Ervasti & Nylund, 2014; Ervo & Nylund, 2014). There is also a lot of interaction amongst researchers in these countries. However, Sweden and Iceland have not been as active in this area and similar court-connected mediation systems do not exist in Sweden and Iceland, unlike other Nordic countries.

There are many kinds of theoretical models of mediation and many kinds of theoretical discussions concerning mediation in Nordic countries like theoretical models of mediation and taxonomy of them (Ervasti & Nylund, 2014), Vindeløv's 'reflexive mediation' (Vindeløv, 2012), creativity of mediation agreements (Adrian & Mykland, 2014), mediation in the light of understanding of identity (Asmussen, 2018) and meaning of restorative approach in mediation (Rasmussen, 2018).

Also, there is a variety of different applications, programmes, or practical systems of mediation in context. In Nordic countries there is community mediation, school mediation, neighbourhood mediation, multicultural mediation, court connected mediation, workplace mediation, commercial mediation and international peace mediation. In the European Union, there has been discussion of the possibilities of alternative dispute resolution (ADR) and mediation in administrative law (Dragos & Neamtu, 2014). Nordic countries do not yet have institutionalised mediation systems in the field of administrative law. There are thousands of mediators in all Nordic countries who work as professional mediators or as laymen within different kinds of practical mediation systems; these mediators have undergone theoretical and practical training in the relevant systems. Moreover, there is a great variety in mediator activities and behaviour.

Often mediation has been understood as an assisted negotiation or facilitation of negotiation. The 'purest' form of mediation is facilitative mediation where a mediator helps the parties to find their own solution. The facilitative model of mediation is the most common model of mediation in civil cases in Nordic countries, as in other Western countries. School mediation started in Finland in 2000. The theoretical basis of that system is a restorative approach. The objective is to resolve

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conflicts directly with the help of a trained pupil or teacher. During mediation young pupils face each other, take responsibility for their actions and are invited to contribute to creating a better atmosphere in the school. For example, cases of bullying and name-calling have been successfully handled via mediation (Gellin, 2018). In Finland, there are over 10,000 mediated cases each year. Developers of communal mediation and school mediation have a background in victim offender mediation. In Norway, there is also a comprehensive school mediation programme. The first school mediation project was in Norway in the mid-1990s. There have been some school mediation projects in Sweden as well. During this time, over 100 schools used mediation as a tool in conflict situations (Norman & Öhman, 2011).

Therefore, the primary aim of mediation is to protect the best interests of children. Family mediation is mainly the responsibility of municipal social welfare authorities who typically have a universitylevel education. They help the parties of divorce cases to agree on the custody of the children and right of access (Haavisto, 2018). Sweden has the same system (Norman & Öhman, 2011). Family cases can be mediated in court-connected mediation (Salminen, 2018) and in Norway this is also done during the court process (Bernt, 2018).

2.3. Mediation styles

Mediation, according to O'Leary (2014), is the management of other people's negotiations. The mediator uses conflict positively where the mediator is in a relationship with each party and with each party's legal representative (De la Harpe, 2014). Mediation is a multifaceted negotiation process where the process is to achieve goals (Marnewick, 2015). The mediator should have the ability to listen and should be able to change the process from confrontation to cooperation (Boniface, 2008; De La Harpe, 2014). Negotiation is mainly about listening, not talking, and the mediator should be respectful at all times (Marnewick, 2015). The mediator should have the ability to reframe a particular situation and thereby change the process from confrontation to cooperation (Boniface, 2008; De la Harpe, 2014; O'Leary, 2014). De la Harpe (2014) asserts that the mediator should know his personal strengths and weaknesses.

A mediator has various styles of negotiation in mediation include the competitor, the problem-solver, the compromiser (seeks solution for conflict), the accommodator (over-accommodates for the other side) and the conflict avoider. De la Harpe (2014) reasons that it is possible for the mediator to have an influence over the mediation. However, other factors may also influence mediation such as potential loss of a child which consequently leads to heightened levels of

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emotion, fear and anxiety (Hoffman & Wolman, 2013). De la Harpe (2014) proposes the following four negotiation strategies for use in mediation:

1. Co-operative negotiation, where an agreement can be reached that is fair and acceptable.

2. Competitive strategy, where there is a seek-to-win strategy and a desire to obtain the best results.

3. Collaborative or problem-solving strategy, where parties work together to reach an agreement.

4. Pragmatic strategy, where the strategy is adapted to meet the needs of the negotiation and principled negotiation, where people look for opportunities to solve the problem and focus on the underlying problem and opportunities to benefit both sides.

De la Harpe (2014) emphasises further that although many mediators are not natural negotiators, preparation is key for successful negotiation and mediation. The essential elements of mediation are firstly a process with a dynamic of its own and secondly management. Mediation is also a voluntary process and the mediator needs to remain neutral and impartial (De la Harpe, 2014). Mediation can be either directive, where a directive approach is followed, for instance when an independent person (who is assisting the parents to limit the issues) refers the disputes for an insight, or indirective, where the mediator places the emphasis on the facilitation of the process (O'Leary, 2014). Voluntary mediation occurs when the parents choose mediation on a voluntary basis and mandatory mediation occurs when regulations are introduced to give practical effect to the Children's Act 38 of 2005, or rules of court require that mediation be used (O'Leary, 2014).

Given the high divorce rates (Amato, 2001; Kelly, 2004; Nelson, 2013) and the negative impact this has on children, it is imperative that the mediation process promotes positive engagement of both parents and children. Professional boundaries are set in mediation and it can be an ongoing process in families, as families change over time (Emery, 2004). The child's basic awareness of the divorce should be assessed, as well as the child's age, stage of development and level of maturity before the child is included in the mediation process (Emery, 2004; Nelson, 2013). The mediator has to be trained and qualified to hear the child's voice, by having a sound knowledge base about the child's development and family dynamics (Marnewick, 2015). Where children are included, the model of having two mediators, a mental health professional and a lawyer is beneficial (Emery, 2004).

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In view of the above, mediation can be seen as an attempt to help vulnerable children where families are in disagreements to hear one another and to prevent any harm that can come to children as a result of family disagreements. During mediation with a social worker, any family disagreements are minimised to avoid harm to vulnerable children. In South Africa, mediation can be viewed as one of several 'alternative dispute resolution options' (ADR) referred to in the South African Children's Act 38 of 2005.

Currently there are many experienced people practicing mediation, including a wide range of professionals including lawyers, conflict resolution professionals and community volunteers. Mediation is becoming a permanent fixture in a social worker's 'toolbox' of interventions. These include divorce and custody mediation, mediating intercultural conflicts, mediating community conflicts and crime victim-offender mediation. Divorce and custody mediation are perhaps the most widely practiced type of mediation by social workers.

2.4. Theoretical Framework

A theoretical framework enables the researcher to hypothesise for purposes as well as to test the relationship between the variables involved in order to expand the understanding of the related research area of study. An ecosystemic framework connects independent and confidential mediation for families with systems that have statutory powers to approve or overrule decisions taken by family members themselves. Social workers may refer parents to mediation for work that the social workers may be unable to undertake because parents are in dispute with them as well with as each other. Mediators are an independent and impartial participant in a mediation and also act as a go-between for families and statutory services. An ecosystemic framework extends perspectives and can open new windows on family systems, interdisciplinary connections, and links, between past, present, and future that shape decisions. Parkinson, L. (2019) *40*(1), 62-73.

While displaying some similarities to family therapy, ecosystemic family mediation is a discrete process with clearly defined principles and boundaries. In practice, it needs to be tailored to the needs of the particular family, with special attention to the importance of listening and talking with the children who are experiencing parental separation and major changes in their lives. Parkinson, L. (2019) *40*(1), 62-73. This framework highlights the importance of respecting children, parents and even extended families during the process of mediation and accepting cultural diversity too.

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Mediators need to broaden their approach in practical ways that still adhere to core principles. There can be a number of objectives in developing different models: to enable mediation to take place in situations that might be considered unsuitable for mediation, e.g. involving domestic abuse and/or child welfare issues; to give parents and children opportunities for child-inclusive mediation; to include family members who share parental responsibility and/or day-to-day care of children; to facilitate consent orders on child arrangements; and to involve other professionals in a team approach incorporating legal and/or therapeutic expertise (Brown, 2015, p. 317).

Guide-lines and skills are needed to assess whether, when and how to invite children, young people and other adults to participate in mediation, how to explain and agree the terms of their involvement, and how to manage the complex dynamics that arise. There may be cross-cultural issues. In some cultures, religious or community leaders may need to support the couple's decisions. Mediators can use their own navigation system to assess the suitability of mediation and to design a structure that takes account of concerns and any need for third party involvement. (Parkinson, 2014, pp. 62–73).

The theoretical and practical framework for this model of mediation needs to encompass both macro and micro aspects of family disputes and their resolution. Such a framework may be termed 'ecosystemic' (Parkinson, 2014, pp. 62–73.). Rather than focusing on quick settlements without considering external influences that may undermine agreement, 'ecosystemic' mediation makes connections between family members (not only couples and other professionals), mapping viable pathways through the family justice system. In the family justice system, the ecosystem consists of the separating and divorcing couples and their children, family members with child law issues (private and public), family lawyers, social workers and other professionals. (Parkinson, 2014, pp. 62–73).

In both the United States and Canada, the rate of separation and divorce among married couples with children is estimated to be over 40%, with an even higher rate attributed to subsequent marriages (Ambert, 2009; Kennedy & Ruggles, 2014). In addition, these figures are further inflated by a growing number of couples living in common law relationships, whose rate of separation is even higher. It should be noted, however, that although the majority of parents and children are able to eventually adapt and normalise their life situations with minimal assistance, a growing percentage become entangled in chronic conflict and are constantly in disagreement

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over the care and support of their children. Intervening with these parents is a daunting task and a challenge for most professionals who often lack the necessary understanding and training as to how to proceed and, consequently, end up becoming part of the problem and entangled in the very conflicts they had hoped to de-escalate.

These disadvantages appear to persist into adulthood. In particular, individuals who experienced parental divorce, when compared with individuals who grew up with continuously married parents, obtain less education, earn less income, are more likely to have non-marital births, are at greater risk of becoming depressed, and have poorer physical health. In addition, individuals who experienced parental divorce while growing up report more problems in their own marriages and are more likely to see their marriages end in disruption (Druistra Zagreb GOD, 2014).

Internationally, child protection mediation, a more specialised form of Alternative Dispute Resolution (ADR), can be described as a collaborative problem-solving process in which an impartial and neutral person facilitates a constructive negotiation and communication between parents, lawyers and child protection professionals in an effort to reach agreement regarding resolution of conflict and issues of concern when children are alleged to be abused, neglected or abandoned. (Canadian Association of Family and Conciliation Courts Guidelines, 2012; Matthias 2014).

This description may seem similar to mediation in the context of private custody disputes in care and protection cases, but a major difference is that the social worker representing a child welfare agency deals with the matter on behalf of the state, and will thus become an additional party (South African Children's Act 38 of 2005).

2.5. Global Context

In the United States the percentage of families experiencing divorce has dramatically increased in the last fifty years and currently one million children are affected on an annual basis. Divorce mediation is helpful and beneficial for families when resolving emotional and familial conflict, which could decrease the negative effects divorce can have on families. Furthermore, family mediation can now also be seen as the predominant intervention used in Australia for the resolution of post-separation family disputes This process has benefits, including its informality, flexibility and less confrontational nature and ability to promote party self-determination and its

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focus on the parties' mutual needs and interests, along with the best interests of the children. (Field & Crowe, 2017).

2.6. National Perspectives

In South Africa, in terms of Section 33 of the Children's Act 38 of 2005, social workers or legal professionals such as lawyers from the Family Advocate's office or private attorneys are authorised to appear before the Children's Courts in their roles as 'mediators' to secure the 'best interests' for children, when mediating disputing families and parties that apply for social services in terms of the Children's Act. The ADR options mentioned in the Act thus include mediation, prehearing conferences and family group conferences for which social workers take responsibility in facilitating the hearings.

There are a number of non-profit organisations like FAMSA who are engaged in family mediation and are committed to "rendering services to all persons irrespective of race, culture, gender, social-economic background, religion, education, social, or political affiliation. These services can be obtained via referrals from non-governmental agencies as well as government agencies including DSD and the Office of the Family Advocate (OFA). DSD and the OFA also render family mediation services whereby care and contact agreements are mediated upon including post-divorce agreements regarding the care of children. The researcher also conducts mediation in terms of parenting plans at the Wynberg Children's Court, to couples who are in the process of divorce.

Alternative dispute resolution has become more commonly practiced in South Africa since the 1980s and 1990s. Private family mediators are mainly attorneys, psychologists or social workers who have at least forty hours of training in family mediation. These mediators charge professional fees for the services they offer and may work either individually or in a team.

The OFA in Cape Town offers mediation services in conjunction with the Family Mediator's Association of the Cape (FAMAC). There are also community mediation services, such as Family Life and FAMSA, that offer mediation services either for free or at minimal cost for the poorer sections of the population.

2.7. Mediation: An African perspective

In African culture negotiations between the parties' families are mandatory upon family breakdown and family ties and community networks must be respected, maintained and strengthened. Mediator neutrality is not an absolute requirement as an uncle, a respected family member or an elder in the community may be called upon to fulfil the role and function of a mediator in family disputes. Mediation is not regarded as an alternative dispute resolution method together with arbitration in community forums or the chiefs' courts, it is in fact the primary method of dispute resolution for the majority of the South African population. (De Jong., 2017)

2.8. Mediation: The Legal perspective

In South Africa, the Children's Act 38 of 2005 makes provision for the use of different forms of alternative dispute resolutions (ADR) that are considered to be in the best interests of children (Section 33(2)(5)(a)(b) in the Children's Act 38 of 2005 of South Africa). In terms of Section 33 of this Act, social workers or legal professionals such as lawyers from the OFA or private attorneys are requested to appear before the Children's Courts in their role as 'mediators' to secure the best interests of the children when mediating with disputing families and parties that apply for social services in terms of the Children's Act 38 of 2005.

The ADR options mentioned in the Act thus include mediation, prehearing conferences and family group conferences for which social workers take responsibility in facilitating the hearings for families and children. The South African Law Commission provided legislation in 2002 to ensure that all legislative instruments regarding children be contained in a single statute and be codified accordingly. This development was decided upon and implemented to ensure that South Africa was compliant with and in adherence to all the existing international obligations, to safeguard the best interests and protection of children.

The Children's Act 38 of 2005 contains provisions that imply that mediation should take place while the Child Justice Act 2008 also provides for mediation and, although the context is that of criminal justice (and child justice and restorative justice in mediation in particular), it can be situated and utilised within a far broader context. Family group conferencing in particular can be used within the sphere of divorce and family mediation in South Arica. There is a need for a gradual phasing in of mediation centres in South Africa and pilot projects should be launched. Robinson has emphatically stated that mediation that is court-ordered or court annexed "'still places lawyers and courts in the centre of the process of determining issues about post-separation

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parenting"", whereas Family Relationship Centres shift the focus away from the law as being the first line of remedy. (Boniface, 2015). To aid this process of establishing mediation centres and to make it accessible, family mediation centres could be established at centres such as universities and legal aid clinics. The provisions of the Children's Act 38 of 2005, in particular sections 60(3) and 69 to 72, could be used for the introduction of Family Relationship Centres. These centres could also have offices or helpdesks situated at or near the courts. Professionals from various fields, including lawyers, psychologists, social workers and mediators need to be involved at these centres. (Boniface, 2015). This could take place in the form of voluntary work for a few hours a month, or on a full- or parttime basis. Such staff would need to have a family law and mediation background and be able to make contact with other role players to assist with mediation as necessary, such as mediators with a psychology or social work background. Family Relationship Centres offer possibilities conducive to empowering families to heal themselves or to deal with their disputes in a peaceable manner. These centres could provide an ideal training environment for future mediators and practical training at these centres could form part of the accreditation criteria for future mediators in South Africa. (Boniface, 2015).

Furthermore, these centres could fulfil the following roles: a training centre for new mediators, with real clients referred by the courts or law clinics; a free or very affordable mediation centre for lower income groups; a mediation centre for higher income groups who decide to go to the centre instead of a private mediator: in such an instance a fee can be charged on a sliding scale; and a learning and volunteer centre for existing mediators. (Boniface, 2015).

Mayer (2013:2) maintains that mediation is the natural outgrowth of social work practice as its goal is to empower people in conflict to solve their own problems, and it builds on core social work theory and skills such as problem analysis, communication, and systems intervention. Whilst the researcher worked as a Social Worker in the Department of Social Development and conducting several mediation cases related to Care & Contact and Parenting Agreements, it appeared that there was a lack of social workers with the proper skills to conduct effective mediation between families and couples who are in conflict.

Although these observations are based on the writer 's anecdotal experiences, it seemed as if those who apply these interventions are not adequately equipped to deal with mediation and may cause more harm in an environment where the mental and emotional as well as psychological wellbeing

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of children and families are important. The question was thus whether social workers, experienced or not, are lacking in mediation training or could there be cultural factors that are impinging on their ability to mediate impartially?

An important focus of this study was to explore and describe interventions and practices utilised by social workers in the public and private sector for delivering effective mediation services to couples during the process of divorce and separation.

2.9. Summary

In this chapter the main challenges such as the skills of social workers in divorce mediation were explained as well as the need for further training and development in this field. The literature provides a bird's eye view of what one should consider in achieving the best outcomes gaps social workers have when practicing mediation in divorces and also to explore what type of social work interventions can assist social workers in dealing with their challenges and so provide effective services as part of their daily work to the couples who are divorced or who are in the process of getting divorced.
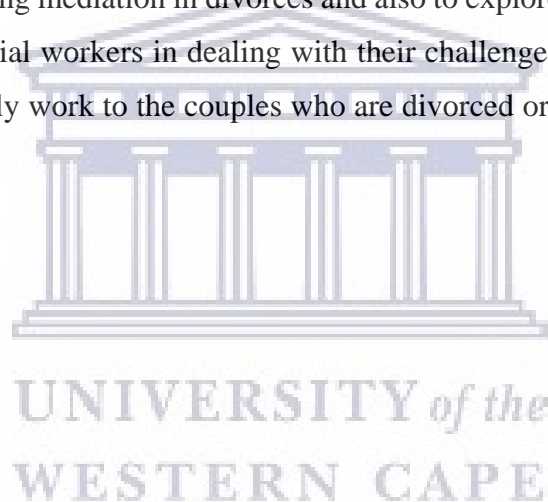
CHAPTER THREE

RESEARCH METHODOLOGY AND PROCESS

3.1. Introduction

The research design and the methodology are discussed and presented in this chapter. The data collection method, and data analysis are also provided in this section of the thesis. An analysis of the ethical obligations is presented, and the researcher demonstrates how the ethical obligations were integrated into the research process.

3.2. Research Approach

Qualitative research deals with meanings implying that for this current study, the researcher had to capture the social and psychological aspects related to the subject of divorce mediation interventions, which could be challenging, and place a framework around it in order to interpret it in some way (Braun & Clarke, 2013b). As participants were from a variety of different age groups and qualifications, a dearth of information and knowledge is therefore available.

Furthermore, qualitative research does not provide a single answer. The researcher, having conducted a thorough literature review, was aware that there were diverse opinions from various people. This therefore justified a qualitative research approach for this current study as there is no single answer to any phenomenon. This research approach, as correctly predicted by Braun and Clarke (2013b), told one story among many in the data that emanated from the process.

Qualitative research treats context as an important factor in the research process. The researcher has been conducting divorce mediations while in the employ of the Department of Social Development for a period of 10 years and was familiar with the context and the research setting; therefore, it was easier to understand the context of the participants. This approach also allowed the researcher to be reflective of personal subjective experiences in the data that was produced, as well as its analysis. This means that the researcher acknowledged personal involvement in the research process from the start and realised the importance of reflexivity. Hence qualitative research can be experiential or critical; however, for this study an experiential stance was adopted *(telling it as it is)*, and the participants were made central to the process of interpreting data.

Lastly, as the researcher conducted a study about mediation conducted by social workers she was interacting actively and face to face with them which gave her the platform to receive information that is more in-depth. Qualitative research is mostly done in the form of interviews, so this helped the researcher more in getting valid information

3.3. Research Design

The study is exploratory and descriptive in nature. In this current study the perception and understanding of divorce mediation by social workers was explored; therefore, the design was explorative as it sought to study the role of social work interventions in divorce mediations. These designs were suitable for understanding the challenges and cultural factors influencing mediation with couples and families. The 'how' and 'why' questions are central to descriptive research which gives a detailed depiction of a situation, public setting or connection.

3.4. Research Methodology

3.4.1. Population

The main population for this study were qualified social workers from the public and private sector who engage in mediation interventions and practice. Ritchie et al. (2014) emphasise the importance of clarifying the study population from which the sample is to be drawn, as it may be from dwellings, journeys, or environments. It is crucial to highlight that the study population does not necessarily reflect the status quo, but instead it reflects the knowledge and experience which the social workers embrace as a part of their daily mediation work.

3.4.2. Sampling

The type of sampling was purposive sampling as the researcher had to adhere to a strict criterion in selecting the participants to conduct the study. Individuals were selected based on the assumption that they possessed knowledge of and experience with the phenomenon of interest and thus were able to provide information that was both detailed (depth) and generalisable (breadth). They were selected from the larger sample because they met the same criteria; in this case, they were qualified social workers who conducted mediation in divorce matters. From the perspective of qualitative methodology, participants who met or exceeded a specific criterion or criteria possessed intimate (or, at the very least, greater) knowledge of the phenomenon of interest by virtue of their experience, making them information-rich cases. The criteria for the sampling were ten qualified Social Workers who

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conduct mediation from the Public Sector at the Department of Social Development in Wynberg as well as social workers based at non-governmental organisations (in Cape Town) serving the Southern Suburbs of Cape Town, Western Cape such as Parkwood, Capricorn, Ottery and Sea Winds. During the process of sampling there were no challenges as all the participants were very keen to participate, as mediation is an integral part of their daily work which they felt needed to be improved through further training and development.

3.4.3. Data collection method

Ritchie (2014:178) states that 'in qualitative in-depth interviewing researchers talk to those who have the knowledge of or experience with the problem of interest'. The type of interview selected for the proposed study was open-ended interviews where the researcher intended to have in-depth conversations with the selected social workers for data collection. An audio recorder was used to record the interviews by the researcher who has professional training as a social worker and experience in clinical settings. The interviews were conducted in a private space to protect the identity of the participants and were conducted individually, in a private location, to ensure that the participants were free from any victimisation, or fear of being identified during the research. An interview schedule with sequenced questions was used to guide the interviews while the researcher interjected probing questions when additional information was necessary (Appendix 1). During the interviews, the participants played a crucial role in clarifying the opinions while responding to probes by the researcher. Interviews were conducted by the researcher, who has professional training as a social worker and is experienced in clinical settings. Throughout the interviews the researcher paused to check whether the participants were still coping. In most cases, the participants indicated their willingness to continue.

3.4.4. Data collection procedure

The researcher approached ten qualified social workers individually and informed them about the study. Those who expressed interest were provided with an information sheet (Appendix 1) to read, and a consent form (Appendix 3) to sign. Mutually suitable dates and times for the interview were arranged with the voluntary participants. The response was positive, as all those who were approached arrived for their respective interviews; this response was attributed solely to the manner in which the researcher promoted the need for the study.

After conducting the interviews, the researcher summarised the information and explained to the participants how their contributions were understood. An audiotape recorder was used to record all the interviews, after permission was obtained from the participants. The interviews lasted a maximum of an hour (60 minutes) each. The participants were informed about the way the data would be stored for a period of five years, as well as when it would be disposed of to protect their privacy. The interviews were transcribed verbatim by the researcher, and the transcripts were stored in a password-encoded computer to which only the researcher had access. The transcriptions were coded and given a password to ensure that the identities of participants were kept confidential.

3.4.5. Data analysis

All transcribed data from the interviews were analysed using thematic analysis. Thematic analysis is used to classify and organise data according to key themes, concepts, and emerging categories. The first phase is to become familiar with the data; this is a process that can begin during data collection. The second phase involves generating codes to immerse the researcher more deeply in the data and create the building blocks of analysis. It is likely that as coding progresses, the researcher will start to see similarities and notice patterns across the data.

However, it is important to stay focused on coding the entire dataset before moving from coding to constructing themes in the third phase. The themes the researcher develops at this point are like draft versions of a piece of writing – not fixed, and flexibly open to change – with the fourth phase involving reviewing of potential themes. There are a number of techniques and questions to guide progress of defining and naming themes. Finally, developing the entire analysis during the sixth and final phase, producing the report. Writing the report offers the final opportunity to make changes that strengthen the analysis and effectively communicate the analyst's story of the data.

3.4.5.1. Phase 1: Familiarising oneself with the data

The analysis of qualitative data generally begins once all the data have been collected. The first important phase of data analysis is *immersion* in the data (Braun & Clarke, 2013a). At this stage, the researcher read and re-read all the transcribed data that emanated from the interviews, and after transcription listened to the audiotape recordings once more, to become totally familiar with the data. Braun and Clarke

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(2013a) stress that familiarisation with the data is not a passive process of just understanding the words; instead, it is reading the data as real data, not simply absorbing the surface meaning of the words, but the real meaning in the context of the research topic. The researcher did this, with several questions in mind, to explore the real meaning of data how the participants understood divorce mediation, and what their perceptions were. This process required active reading of, and listening to, the data, as the researcher had to *identify* the patterns and meanings transmitted by the data. During this process, the researcher used a separate journal to record those emerging factors from the data. As the researcher transcribed the data personally, it was easier to become familiar with the data.

3.4.5.2. Phase 2: Generating initial codes

This phase commenced after the researcher had read, re-read and became familiar with the data, having made notes in a separate journal regarding points of interest in the data. According to Braun and Clarke (2013a), this phase is a process of identifying aspects in the data that relate to the research question. The researcher started with complete coding, as opposed to selective coding, to reduce the irrelevant codes at a later stage of the analysis. Coding was conducted manually, and rigorously so, to highlight the repeated themes, by moving from one transcribed data to the next. The researcher had to bear in mind the warning of Braun and Clarke (2013a) that the individuality of the participants' voices could easily be lost in the process, as different people are naturally unique to one another; therefore, the researcher had to retain all accounts of the individually transcribed data in the themes.

3.4.5.3. Phase 3: Searching for themes

After the researcher had worked through all the individual transcripts and coded thoroughly, the process of searching for themes relevant to the research question commenced, linking themes across all transcripts. The researcher searched for themes in each individual participant's account. Thereafter, the themes were grouped into main themes and sub-themes. This process required a lengthy interaction between the researcher and the transcribed text, with complete immersion in the data. The researcher was able to identify themes, sub-themes and patterns in the data that related to the research question. Braun and Clarke (2013a) termed this process as *the active role played by the researcher* in searching for themes in the data.

3.4.5.4. Phase 4: Reviewing themes

This phase was concerned with a process referred to as *refinement of themes* (Braun & Clarke, 2013a). It involved collapsing themes into each other and merging those that were of related significance to the research question. In the event of the researcher not being sufficiently satisfied with the candidate themes captured in the coded data, the same process of refinement of themes would be restarted in relation to the data set, to confirm the originality or validity of the individual themes. This phase provided an overall view and account of which themes were projected by the data.

3.4.5.5. Phase 5: Defining and naming themes

Braun and Clarke (2013a) note that this phase starts once the researcher is satisfied with the thematic outline of the coded data. By naming the themes and defining them relative to the research question, as well as the meaning they conveyed in relation to the existing data, the researcher was able to see how individual themes fitted into the overall account of what was intended to be communicated through the data. At this stage, the researcher started to consider names for the themes and sub-themes in a final effort to provide the reader with a clear idea of what themes were about. It was important for the researcher that the themes would be clearly identified and understood by the end of this phase.

3.4.5.6. Phase 6: Producing the report

This phase commenced once the researcher had all the themes and sub-themes fully structured (Braun & Clarke, 2013a). This process was the final stage of analysis, namely, writing up the research report. It is important to observe the flexibility of thematic analysis, as the onus is on the researcher to apply a specific question to the data or search the data for any unique pattern. This has reportedly been perceived as the weakness and strength of this approach (Braun & Clarke 2006). In this current study the researcher aimed to explore the data with a particular question in mind.

3.5. Limitations of the study

The study was conducted with a selection of ten social workers who work for the Department of Social Development, CAFDA, Child Welfare, and Badisa in the Southern Suburbs area of Cape Town. The findings of the study can therefore not be generalised to other provinces where mediation may be operational. Limitations and assumptions required the researcher to do an

extensive investigation of the limited available literature to ensure a successful study. Regarding the participants, literature and the responses from the participants revealed that divorce mediation is an important topic for research. This therefore required the researcher to be clear about the intentions of the study, as well as the procedures, in order to encourage maximum participation from the participants.

3.6. Reflexivity

Creswell (2014:187) state that 'the inquirer is typically involved in a sustained and intensive experience with participants. This introduces a range of strategic, ethical, and personal issues into qualitative research'. While conducting research with the participants, it became evident that they shared the view of the researcher that further training is needed to conduct effective mediation while working with couples in the process of divorce. The challenges that the participants experienced were synonymous with the researcher's challenges and the researcher was aware of these at all times. A reflexive journal was kept to allow the researcher to engage with her own perspectives.

3.7. Ethics Statement

Ethical considerations can be specified as one of the most important parts of research. Voluntary participation of respondents in research is important. Moreover, participants have the right to withdraw from the study at any stage if they wish to do so. Respondents should participate on the basis of informed consent. The principle of informed consent involves researchers providing sufficient information and assurances about taking part to allow individuals to understand the implications of participation and to reach a fully informed, considered and freely given decision about whether or not to do so, without the exercise of any pressure or coercion. Privacy and anonymity of respondents is of paramount importance. The participants were informed that they had the right to withdraw at any stage of the study without any consequences.

Ethics clearance was a challenge as documents were mislaid but approval from the HSSREC UWC was eventually granted. Once the participants were selected, those who agreed to participate were given the information sheets and consent forms to sign. The researcher then arranged a convenient time and place to interview the individual participants. All interviews were audio recorded and permission for this was obtained from the participants. All ethical obligations were complied with, as stipulated by the professional and research boards. Braun and Clarke

(2016) state that research, unequivocally, should be of highest ethical standards, as the principle of ethics embraces the researcher's relationships with the participants and academic communities, as well as the settings in which the research is conducted. As a trained social worker, the researcher professionally observed salient values such as respect and dignity for people, self-determination, and maintained a non-judgmental attitude throughout.

3.7.1. Informed consent

Informed consent means that research participation must be voluntary and that no one should be forced to participate. Prior to the interviews, a consent form (Appendix 3) was supplied to, and signed by, all the participants who had agreed to participate in this study to ensure that none of them were coerced into participation by the researcher. Their participation was completely voluntary as they were free to withdraw from the study at any time without threat of victimisation or prejudice.

3.7.2. Minimising risk

Dealing with risk means that research should never injure the people being studied, regardless of whether they volunteer for the study or not.

3.7.3. Withdrawal at any time without a negative consequence

Participants were able to withdraw at any stage if they felt that they did not want to be part of the study. None of the selected participants showed any intention of withdrawing. This study is significant as it highlights the experiences as well as emotions of social workers rendering mediation interventions to couples who are in conflict during the process of divorce.

3.7.4. Anonymity and confidentiality:

Information that was shared remained confidential and participant's names were not disclosed. Audio recordings of the participants were stored in a safe place and destroyed at the end of the research project. The participants' information was stored in locked cupboards to safeguard the participants' personal details and to shield them from any form of victimisation or judgement.

3.7.5 **Principle of non-maleficence:** According to Ritchie *et al.* (2014: p. 94), 'there are some studies where the topic means that the potential for adverse consequences can be predicted in advance and management strategies be implemented before, during and after the study'. To ensure that the participants were not negatively affected by their participation in this current study, the researcher compiled and explained referral procedures for professional assistance should it be required.

3.8. Trustworthiness

Trustworthiness or rigor of a study refers to the degree of confidence in data, interpretation, and methods used to ensure the quality of a study (Pilot & Beck, 2014). In each study, researchers should establish the protocols and procedures necessary for a study to be considered worthy of consideration by readers (Amankwaa, 2016). Characteristics of truth value, applicability, consistency, and neutrality will be used to assess trustworthiness. Connelly, L. M. (2016). *25*(6), 435-437.

- **Credibility**

   The researcher applied truth value by spending sufficient time with each participant during interviews and only reflecting findings from information obtained from the participant's perspective. This aided credibility. Since the researcher's findings will only reflect information obtained from participants, the aspect of neutrality was applied. In order to prove data credibility, the researcher examined whether or not participants' realities had been represented appropriately.

- **Transferability**

   Data was verified on the basis of transferability i.e. the extent to which knowledge generated could be generalised in similar contexts. To prove that the data gathered was transferrable to similar contexts, the researcher ensured that a group of social workers from different organisations were used to gain a broader perspective of the experiences of social workers who conduct mediation. Transferability was ensured by providing a thick description of the participants, the study setting, as well as the relevant direct quotations.

- **Dependability**

   To prove that the research is dependable, the researcher used the same interview schedule, research approach and methodology while working with each participant. To ensure that

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the problem formulation remained similar, the researcher employed the same methods so that the data gathered could be correlated.

- **Confirmability**

  The researcher ensured data confirmability by taking ethical considerations into account. While it was impossible for the researcher to totally remove herself from the research and thus be completely objective, the researcher consulted the participants regarding the information they gave to ensure that the inferences, deductions and conclusions drawn within the data analysis and coding of data had conveyed their intended meanings and thus interpreted accurately.

- *Truth value*: The researcher has applied truth value by spending sufficient time with each participant during the interview and reflecting findings only from information obtained from the participant's perspective. This aided credibility.

- *Neutrality:* Since the researcher's findings only reflect information obtained from participants, the aspect of neutrality was applied.

3.9. Summary

The research process and methodology were presented in this chapter and included sampling, data collection and data analysis. In addition, the limitations and assumptions, reflexivity, ethic obligations and trustworthiness of the study were explained in detail. In the following chapter, the researcher reports on the findings of the study.

CHAPTER FOUR

FINDINGS

4.1. Introduction

In this chapter the demographic data, themes and sub themes that emerged from the data analysis are presented. The main focus in this chapter highlights the voices of the participants in the form of direct extracts from the data. As stipulated in the previous chapters, the goal was to obtain the knowledge and experience possessed by the individual participants, and the meanings they attached to their understanding and execution of divorce mediation.

4.2. Demographic data of participants

In this current study, the views and experiences of one male and nine female social workers were explored. The participants, mainly, were coloured and mostly employed as social workers, who conduct mediation in their organisations. Their levels of experience in divorce mediation ranged from 1 year to 15 years, and they were aged between 28 and 46 years. The researcher chose to interview the participants, who were fairly new to divorce mediation, rather than social workers with extensive experience in divorce mediation. It was anticipated that this would provide a better understanding of the way they perceived divorce mediation.

Table 4.1: Demographic data of participants

Participant No	Age	Ethnicity	Home Language	Years of Experience
1	28	Coloured	English	3yrs
2	29	Coloured	English	3yrs
3	30	Coloured	English	2yrs
4	32	Coloured	English	5yrs
5	35	Coloured	English & Afrikaans	4yrs
6	35	Coloured	English	8yrs
7	40	Coloured	English	11yrs
8	41	Coloured	English	10yrs
9	43	Coloured	English & Afrikaans	14yrs
10	46	Coloured	English	15yrs

4.3. Presentation of themes

The information that the researcher drew from the data was presented in the form of themes and sub-themes. In this section, the researcher ensured that the participants' voices were not lost, by presenting the exact words of their responses.

Table 4.2: Table of themes

Main themes	Sub-themes
1. What is Divorce Mediation for Social Workers	1.1. Is divorce mediation about reaching agreements? 1.2. Who benefits from divorce mediation?
2. Cultural diversity	2.1. Mediation practices in different cultures 2.2. Cultural challenges in divorce mediation
3. Social Workers experience challenges in the practice of divorce mediation	3.1. What types of challenges are there in divorce mediation? 3.2. Social Workers experience these challenges 3.3. How can it be resolved and with what type of interventions?

The different themes emerging from the data collection are evidenced in this table and will be discussed in detail below.

4.3.1. Theme 1: What is divorce mediation for Social Workers

One of the primary objectives of the current research was to explore the role of social work practice and intervention in divorce mediation. Social workers are helpful in assisting divorced persons who present psychological concerns and, as a result, divorced persons are more likely to reach out to them for assistance (Jackson, 2015). This means that social workers should be well equipped to work with divorced persons in order to bring about changes in their lives (Sommers-Flanagan & Barr, 2005). Furthermore, they should be able to provide appropriate and needs-based social work services to divorced persons so as to promote positive changes in the lives of these divorced persons. Participants were asked to explain their understanding of divorce mediation and what it meant to them, or what they understood by the terms, as it appears from some of their responses below that there was a lack of enthusiasm about the concept divorce mediation which could be due to a lack of inexperience and apathy which is further explained later. These questions were important as most of the social workers appeared to have an interest about divorce mediation so it was important to repeat the statement, the question were significant as it set the tone for the interviews, as well as the nature of the study.

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4.3.1.1. Sub-theme 1.1: Is divorce mediation about reaching agreements?

There appeared to be a degree of confusion amongst participants' responses to this question as some responded by stating that couples have a lot of disagreements when they plan to get divorced. They claimed that extended families very often become involved in the separation which leads to a lot of conflict and negative family environments hence there hardly being any agreements. Consequently, this phase of mediation included creating rapport, building confidence, identifying and organising topics, positive reinforcement and venting of emotions to promote improved conflict management. (Boniface, 2013; Katz, 2006; Stringer & Lusardo, 2001; Vanderkool & Pearson, 1983b).

Some of the other participants responded by stating that couples who seek professional assistance for mediation become involved in a process where professionals who assist in mediating a suitable and amicable agreement between the two of them when they are on their own, are unable to do so due to conflict and negative family environments. In the first phase it is imperative to identify power imbalances. The balancing techniques which could be incorporated by a mediator include increased sensitivity and the ability to regulate communication and to read body language through attentiveness. There is continued emphasis on power imbalances and balancing techniques used in conducting cross-cultural mediation (Gramatikov & Klaming, 2012; Agustí-Panareda, 2004; Leng & Regan, 2003; Kozan & Ergin, 1998; Callister & Wall, 1997; Cohen, 1997; Sweeney & McFarlin, 1997; Patai, 1977; Cohen, 1996; Singh & Singh, 1992; Lederach, 1991; Ting-Toomey, Gao, Trubinsky, Yang, Kim, Lin & Nishida, 1991; Wall & Blum, 1991). This can be concluded from the following extracts:

> **Participant 1**
> *"I think that there are a lot of couples who file for divorce but do not understand the processes involved nor do they appear interested in sorting out their differences towards reaching a mutually acceptable agreement."*

Participant 6

"I think divorce mediation means that couples need someone to mediate between the two of them as they cannot agree to anything nor are they interested in getting help from their respective families."

Participant 10

"Divorce mediation is when a social worker mediates a mutually acceptable agreement between two parties as they cannot seem to reach an agreement about anything and especially when it concerns their children."

Participant 7

"Divorce is not a good time for couples as they always fight, argue and involve their families who tend to take each sides and become abusive hence I think mediation would be a good way to have everything sorted between the couple."

4.3.1.2. Sub-theme 1.2: What are the benefits of divorce mediation?

Researchers such as Boniface (2013) and Vanderkool and Pearson (1983) advance that divorce mediation expedites court processes burdened by a backlog of cases; reduces the alienation clients experience through the judicial system; inspires durable consensual agreements; and helps couples resume workable relationships to jointly rear their children. A comparison of mediation and adjudication revealed that mediation encourages settlement, generates a high degree of user satisfaction, and improves communication and understanding between clients. A professional family mediator recognises that mediation is based upon the principle of self-determination by the participants and shall acquire and maintain professional competence in mediation at all times. The family mediator conducts the mediation process in an impartial manner to give each party a chance to be heard. This ensured that even if clients become involved in acrimonious divorces that a mediator with the relevant training and skills will ensure a fair outcome for all parties.

In view of this, participants responded to the above question by stating that being competent in divorce mediation is necessary to alleviate time, stress, and conflicting environments and, more importantly, to reach agreement:

Participant 3

"*I think that divorce mediation is a vital component in a divorce as sometimes couples do not always know what to do and how to do it. Hence many fights arise and the extended families become involved.*"

Participant 4

"*I think the reason why people need divorce mediation is simply to let a 3ʳᵈ person make sure that there is an equal representation of parties involved and everything gets done in the correct manner.*"

Participant 7

"*As a professional conducting divorce mediations on a regular basis, there are many couples with children who do not know how to reach consensus on what party gets what or who gets primary care of the children and sometimes grandparents also become involved and then the situation becomes very ugly.*"

Participant 6

"*The reason why couples approach courts or social workers to mediate between them is because very often one party is not interested in any of the proceedings, care and contact or parenting agreements and shows no interest in anything related to their child or children.*"

Participant 1

"*Divorce mediation can be done through having office interviews and also family group conferences where the voices of everyone is heard.*"

Participant 9

"*Depending on the nature of the divorce mediation requirement, I generally like to conduct mediation in an office environment where I include counselling, and family group conferencing too as it is*

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sometimes very useful to hear from the rest of the family before informed decisions and agreements can be reached."

4.3.2. Theme 2: Cultural Diversity

Culture is a particular and stable way of acting, behaving, doing, knowing, mediating things, and communicating with other people (Matusov & Marjanovic-Shane 2016). A study conducted by Buunk and Dijkstra (2017:17) reveals that both men and women showed an overall preference for a marital partner from their own cultural and ethnic group. "*People want to be treated with respect and dignity*" (Gramatikov & Klaming, 2012). With the multitudes of cultural groupings and various generations each attributing different values to their cultural association, this has become a challenge in the South African context. What may be perceived as fair for one person could be different for others. Left unrecognised, cultural differences can profoundly affect a mediation's outcome and potentially lead towards failure from the outset. As a result, mediating without some cultural diversity competence may result in substandard mediation services or can even a lack of cultural diversity competence which borders on the unethical. On the other hand, once the mediator recognises cultural differences and learns how to address them, a completely new and bigger toolbox becomes available to the mediator.

4.3.2.1. Sub-theme 2.1: Mediation practices in different cultures:

Within the South African context, research addressing influences of culture on mediation and techniques used to facilitate the process is not readily available. International research on cross-cultural divorce mediation and the effectiveness of cross-cultural mediation is also minimal. 'The principles of African group mediation is under scribed by legislation' (Boniface, 2013). Farris (2011), supported by Boniface (2013), argues that Western knowledge systems are dominant and that neither Western knowledge nor African knowledge should be rejected; instead a complimentary relationship between the two is required (Boniface, 2013; Faris, 2011). 'Narrative mediation and transformative mediation, found in both African and Western mediation, provides for healing and not just settlements' (Boniface, 2013). Boniface suggests that: 'South African mediators must demonstrate unconditional positive regard for a person's humanity, creating a safe space to communicate, acknowledge the damages done and share the

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journey to healing. […] that the mediator should also consider including elders of the family or extended family'. Research findings demonstrate that different cultures and religions assign different roles to mediation as can be seen from the participants' responses. This clearly elaborates on the client's experience, which translates into a more challenging process for the mediator.

The participants continues to advocate for the rights of the clients to be treated in their mother tongue for more effective service delivery. However, the participant also acknowledges that there is a shortage of not only mediators but also social workers in South Africa and because of English as a medium, a lot of participation and meaning has the potential of being lost in the process.

Informal mediation takes place in various settings and is performed by people with an indigenous knowledge of the community. However, they may or may not be qualified mediators. African mediation would belong in this category. Participants' views and responses to traditional forms of mediation are:

Participant 8

"Most of my clients first approached their priests at their churches to see if they could help them solve some of their problems before considering divorce."

Participant 7

"I think most of the time the parties are uninformed hence their request for assistance from any elders in their families and also members of their respective churches."

Participant 9

"In my opinion professionals who conduct mediation should always respect the client's religious affiliations as this plays an important part in their behaviour and responses during the mediation session. In some cultures, priests also conduct mediation between couples and they have different rules for conducting mediation."

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Participant 10

"Lack of trust and confidence in the justice system and social workers/mediators leads clients to approach their religious leaders or elders in the community."

Participant 3

"Dynamics of the divorce and level of conflict between couples has some of my clients in doubt as to how I can assist them in mediating between them especially as some of them consider me too young to mediate."

Participant 5

"There is extended family interference most of the time especially from their elders."

Participant 1

"My clients often lack financial resources and, in some cases, one of the parties are unemployed and do not have the finances to request professional assistance. So for many of my clients they go to the leaders in their communities."

Participant 6

"There is definitely a cultural influence in divorce factors yes and I think that each culture contributes to how a divorce should be conducted or mediated as they have different views on this process."

Participant 2

"You get the half who would be all in favour of you getting divorced and then you get the half who will try and prevent you from getting divorced. So there is a fine line between the two. So some accept divorce and there is plenty of people out there. Some say you can make it work, and ask you did your parents do that?"

Participant 10

"Family have a big influence on couples and more so when members of their families are experiencing divorce and there are complications that need to be resolved. In most of my cases with clients I like to call in the family and have family conferences to do a holistic assessment of the couple's environment and the impact it has on them and determine the way forward with the family and especially if there are children involved."

4.3.2.2. Sub-Theme: 2.2 Cultural challenges in divorce mediation

South Africa consists of a multilingual, multi-cultural society, where each person is afforded equal rights in terms of the South African Constitution. With the multitudes of cultural groupings and various generations attributing different values to their cultural association, this has become a challenge in the South African context. What may be perceived as fair for one person could be different for another. Participants who participated in this research were all coloured and indicated that their clients were mostly white and coloured and that there are always challenges regarding their different cultures. Below are some of their responses to cultural diversity:

Participant 1

"The couples I see are mostly coloured and come with different challenges even before I can start mediation. This happens especially if they do not have respect for each other's religions, families and cultures as some of them are Christian or Muslim."

Participant 2

"Sometimes couples want to dwell on unresolved issues and talk about the past all the time not realising that it will not help the situation or to reach agreements at all. They further undermine each other especially when one party thinks that they are more educated about their rights and responsibilities and that the other party is illiterate."

Participant 5

"*A very important aspect as you as the mediator need to be conscious of the diversity and the culture of your clients when mediating as this shows clients that you are respectful of where they come from and who they are.*"

Participant 3

"*I have found that when the one party is more educated than the other then they think that they are more advanced in knowledge and then they don't give the other party the respect they deserve.*"

Participant 8

"*Ethnicity must also be considered because you need to take that into account when doing mediation as it can influence the process. Religion – an important factor to take into account especially when the couples have different practice different religions.*"

Participant 9

"*Imbalance of power between couples causes a huge amount of conflict and stress and can have lasting effects on the family as a whole which can be damaging especially to the children of divorced couples as this tends to affect their relationship with either parent.*"

Participant 7

"*A big challenge is the in-laws the second one is children. A lot of damage is made. Sometimes a woman can't get a chance to even express her feelings. They will say you have done this, you must go back to your family, you must slaughter a cow, whereas they do not know what is happening in the bedroom with you and your husband.*"

4.3.3. Theme 3: Social Workers experience challenges in the practice of divorce mediation

Social workers continually work in areas where conflict is prevalent on a daily basis yet there is little research regarding the benefits, challenges, and practitioner improvements associated with social workers being trained in mediation/conflict resolution. Conflict between divorced persons and couples who are divorcing can thwart efforts to arrive at the decisions and agreements needed, and this can adversely affect children. The disputes related to the rights and responsibilities of divorced parents over their children are inevitable and therefore social work mediation services may be vital in this regard. Six of the participants informed the researcher of the types of challenges they experienced while conducting mediation.

4.3.3.1. Sub-theme 3.1: What types of challenges are there in divorce mediation for Social Workers?

Social workers can diagnose, advise, guide, direct, protect and also assist in conflict management. It is hence necessary to clarify when social workers are acting as such and when they are acting as mediators.

Participant 1

"The biggest challenge is lack of communication, lack of reality, lack of common sense, a lot of selfishness and a lot of vindictiveness, because people did not plan for negative eventualities."

Participant 10

"There is always a reluctance of some parties to attend mediation especially when they have not made the application themselves and feel threatened by the other party or the process."

Participant 2

"I become somewhat irritated and frustrated when the one party attends and the other one do not or cannot attend which means that the mediation cannot take place.

Participant 5

"When there are Protection Orders taken out against each other they think that contact cannot take place and will be in contravention of the law which mean there will be more delays, phone calls and rescheduling of appointments."

Participant 7

"Maintenance issues can affect the mediation process as the parties fight with each other, their families and children become negatively affected as they are in the middle of their parents' fights."

Participant 9

"I have been witness to power imbalances while conducting mediation as one party always intimidates and dominates the other party. There have been times when I had to end the mediation sessions as the situation was becoming unbearable and embarrassing for the other party."

4.3.3.2. Sub-theme 3.2: Social Workers can experience challenges

Social workers continually work in areas where conflict is prevalent on a daily basis. Yet there is little research regarding the benefits, challenges, and practitioner improvements associated with social workers being trained in mediation/conflict resolution. It would also be beneficial if the role of the mediator, who should afford impartiality, could be clarified in terms of an understanding of awareness, empathy, trust, and respect, supplemented by self-acceptance on the part of the mediators to promote and ensure that clients understand their roles and functions and prevents unrealistic expectations. Below are responses from some of the participants:

Participant 4

"In my opinion and experience, we as social workers are expected to conduct mediation with all of these difficult clients but do not always have the experience or expertise to do it."

Participant 1

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"Newly qualified social workers are given mediation cases but do not have the training or qualifications to do this."

Participant 5

"When there are Protection Orders taken out against each other they think that contact cannot take place and will be in contravention of the law which mean there will be more delays, phone calls and rescheduling of appointments."

Participant 7

"Maintenance issues can affect the mediation process as the parties fight with each other, their families and children become negatively affected as they are in the middle of their parent's fights."

Participant 9

"I have been witness to power imbalances while conducting mediation as one party always intimidates and dominates the other party. There have been times when I had to end the mediation sessions as the situation was becoming unbearable and embarrassing for the other party."

Participant 8

"I think if we as social workers are to do mediation, then this should be included in our university training."

Participant 2

"My organisation deals with many different types of cases and mediation cases are a part of them. I get to do most of the mediation cases as I am one of the more senior social workers in the organisation. This results in me having very high caseloads and not always the time to conduct successful mediation sessions as there are only so many hours in the day which means that I am not always delivering an effective mediation service to my clients."

Participant 10

"I have to admit that I do not always know how or what do especially when I have difficult clients who always want to fight with each other."

Participant 6

"I try my best to get both parties together for mediation but always seem to struggle and when they do finally agree to attend mediation they bring their families with and sometimes even their lawyers as they feel that they will be unfairly treated either by myself, the social worker, or the other party."

Participant 3

"In my opinion, there is insufficient knowledge about relevant legislation and inability to effectively interpret and apply legislative provisions. For example, to harmonise the provisions of the Children's Act, the SA Constitution and others. Lack of endurance with the mediation process and complex divorce matters. In some cases, not all minor children's views are obtained during mediations."

4.3.3.3. Sub-theme 3.3: How can it be resolved and with what type of interventions

The participants were all in agreement that if they receive the proper training then the ADR provisions in the South African Children's Act can only be utilised on a significant scale if they are sufficiently and appropriately trained to conduct ADR. To date, little attention has so far been devoted to update child protection ADR training for professionals dealing with childcare protection cases and mediation, as it is not receiving the priority policy attention it deserves.

Participants in this study cited a number of shortcomings with mediation training within a South African context.

Participant 1

"*I am glad that there is a question that bring the shortcomings we as mediators have in this profession because it doesn't help that we are*

given cases for mediation but are not fully qualified or equipped to conduct mediation.

Participant 2

"I am stating that all social workers and other professionals who are dealing with mediation and child protection cases should definitely have adequate training in this field."

Participant 7

"There is a definite need for me to have further training on an ongoing basis to deliver effective services in my work as a mediator."

Participant 8

"I also feel strongly about service delivery to clients and families as we are dealing with human beings who have various needs and emotions. If we are to be successful, we have to have the necessary tools to be successful."

Participant 4

"Universities do not necessarily equip us to deal with mediation cases and I feel that we, as social workers, require adequate training in this field."

Participant 5

"Not all of us can mediate or remedy conflict situations while mediating and I think this would benefit me greatly and maybe some of the others will agree because I sometimes get some very very difficult clients who want to belittle each other and do not care who witnesses this."

Participant 6

"Ongoing mediation training would be beneficial as well as information regarding any new developments in this field for professionals."

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4.4. Summary

From the above it can be seen that challenges for social workers do exist to define their roles and identity in the interventions to be applied especially since they have been criticized for failing to deliver adequate support for children exposed to high levels of conflict and for not investigating concerns about abuse, neglect, or inadequate care (Rød, 2010; Rød, Iversen, &Underlid, 2013). Another challenge for social workers is conducting risk assessments of parental conflict and the expected consequences for the child. In diagnosing conflict, studies report that social workers seek to avoid drawing families unnecessarily into the child protection system and to avoid being caught up in one parent's false claims about the other parent (Jevne & Ulvik, 2012). These are challenges for social workers in many countries. For example, Saini et al. (2012, 2018) found that Canadian social workers requested a clearer mandate for child protection and training to become more skilled in mediation and conflict resolution. However, few studies have focused on how social workers themselves talk about experience and reason about the issue of high conflict levels between parents and how they intervene to help them and their children. Therefore, the research questions guiding this study were how do social workers experience working with high-conflict families and what are their main challenges and dilemmas and also what type of interventions are used.

The purpose of the above interviews was to highlight the importance of mediation, which is a form of conflict resolution, as a tool of social work with the beneficiary in the case of divorce and the need to protect children's wellbeing. Mediation can be seen as a form of extrajudicial conflict resolution allowing the participants to present arguments, work out a satisfying solution and protect and stabilise a child's situation.

Understanding child protection practices as products of the interplay between social workers' experience and knowledge framed by the organization they work in is pivotal (Munro, 2018). The purpose of the above interviews was to highlight the importance of mediation, which is a form of conflict resolution, as a tool of social work with the beneficiary in the case of divorce and the need to protect children's wellbeing. Mediation

can be seen as a form of extrajudicial conflict resolution allowing the participants to present arguments, work out a satisfying solution and protect and stabilise a child's situation.

Furthermore, in this chapter, the experiences of participants were presented. Three broad themes were identified, and sub-themes were extracted, based on the words of the participants. The themes and sub-themes highlighted that there is a clear need for training in divorce mediation as these participants expressed their anxiety about doing more harm and damage to the children and families during the process of divorce mediation than good. The following chapter will link the findings of the study to the trends depicted in the literature review.

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CHAPTER FIVE

DISCUSSION

5.1. Introduction

In this chapter, the researcher presents the discussions of the findings, as it emerged from the data analysis in this study. Several themes and sub-themes, as identified in the previous chapter, are discussed, in relation to current literature and existing knowledge on divorce mediation also known as alternative dispute resolution.

5.2. Main theme 1: Social Workers experience challenges in the practice of divorce mediation

Divorce mediation is a preferable alternative to the adversarial process for settling disputes relating to separation, divorce, child custody, parenting, and marital properties (Kelly, 2016). Mediators are seen as facilitators and they frequently experience the general ethical dilemma of third-party interventionists (Kelly, 2016). In the role of facilitator, divorce mediators may not use leadership behaviours during the mediation process due to the fear of violating the ethical standards of neutrality and self-determination (Haas, 2012; Kelly, 2016). The phrase 'divorce mediation' (rather than 'family mediation') emphasises the application of this process to the crisis of the couple that takes place with the breakdown of marriage. Despite the negative effects of divorce on the well-being of divorced persons, as documented in research literature, social work services to divorced persons remains a neglected research topic (Perrig-Chiello et al., 2015; Bowen & Jensen 2017).

Although several studies have been conducted on the topic of divorce, the researcher could not locate research articles that directly discussed and explored the provision of social work services for divorced persons. However, it is evident how mediation differs from other forms of social work interventions. It is maintained that mediation relies on the willingness and cooperation of the participants to change their positions regarding a specific dispute. This differs vastly from group work, counselling, and community work, where a therapeutic relationship and empowering relationship respectively exists between client and counsellor. Researchers have defined the adversarial approach as the best approach for resolving

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deepseated disagreement where there is little trust between the divorcing parties (Moore, 2017).

Divorce mediation should enhance problem-solving skills among the divorcing parties and should promote collaboration and communication among the stakeholders of the dispute (Doskow, 2016). Researchers have suggested that the general public has viewed mediation, rather than litigation or an adversarial approach, as a more empowering means of conflict resolution, and that it is more likely to produce a better adjustment of the stakeholders in divorce compared to that offered by litigation or an adversarial approach (Mirzaie, 2016). Mediators are regarded as facilitators and they frequently find themselves in the practical ethical dilemma of third-party interventionists (Kelly, 2016). Divorce mediators should navigate through and operate under the framework in which ethical standards of neutrality and self-determination are followed (Haas, 2012).

The Department of Social Development introduced the Framework for Mediation in 2012. References in legislation that impact or influence divorce mediation or that may benefit from divorce mediation include the Children's Act 38 of 2005. There are various role-players that impact on the divorce mediation process. These include:

1. Social workers rendering social welfare services to the family: Social worker/family mediator OR with the assistance of another social worker/family comediator (co-mediation team);

2. Office of the Family Advocate: Family Advocate/family mediator. Family counsellor/family mediator (multi-disciplinary mediation team);

3. Private Mediation: Legal representative representative/social service professional (as multi-professional mediation team);

4. Attorney/s of one or both parties and

5. Divorce court/ Family court.

According to the theories of mediation, the mediator remains impartial or neutral. The mediation approach is more structured, and not as free flowing as with counselling, and is maintained to be more formalised and guided by legislation. Since the mediation field is unregulated, there are no general restrictions as to who a mediator can be or who can provide

mediation services, and no requirements for what one has to do to become a mediator. To make things murkier, there is no established career path for becoming a mediator.

As a result, people typically come to mediation as a secondary profession after being educated and employed in another field. This is because their substantive knowledge in particular field(s) helps the mediators appear competent and qualified to do their job. For example, divorce mediators come to the field from a variety of backgrounds relating to domestic relations, including psychology, mental health, social work, and counselling as well as law. It has been found that a large number of mediators come from the ranks of lawyers and judges, two careers focused on disputes and disputing, but one need not be a lawyer to succeed as a mediator. This is evident from the researcher's experiences and witnessing how newly graduated colleagues are expected to conduct mediation without any knowledge or experience of mediation.

In this study, the researcher aimed to explore the understanding of, and perceptions held by the participants regarding divorce mediation interventions. The participants shared their experiences and their understanding of divorce mediations as well as the challenges they faced in their professions as divorce mediators. This leads to the next question.

5.2.1. Sub-theme 1.1: Is divorce mediation about reaching agreements?

Many social workers within child protection services find their work with children who live in families with a high level of conflict between separated parents difficult, exhausting, and frustrating (Jevne & Ulvik, 2012; Saini et al., 2012, 2018). One phenomenon that is found in various forms of divorce and family mediation is conflict which leads to many disagreements. Conflict refers to voiced dissimilarities between individuals or groups. High conflict between parents who have moved apart is characterised by a high degree of anger, hostility, and distrust and by ongoing difficulty between the parents in communicating about the care of their children (Cashmore & Parkinson, 2011). Part of what keeps parents in a state of high conflict is their failure to reach a compromise or resolution about the child's residence, financial support, and daily routines, or about methods of child rearing (Cashmore & Parkinson, 2011; Gulbrandsen, 2013; Weingarten & Leas, 1987). In Norway, when parents are in the process of divorcing, disagreements regarding parental responsibility and the child's place of residence and contact with each parent are initially handled via mandatory mediation at a local family counselling office, which is part of the country's welfare

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services (Gulbrandsen & Tjersland, 2017). In predivorce situations, spouses with children under the age of 16 must attend mediation before the separation or divorce can be completed.

The researcher has found that another phenomenon commonly found in divorce mediation is that of power imbalances, due to various reasons such as financial control, gender inequality and cultural influences and these lead to many disagreements. All divorce mediation involves conflict, more specifically family conflict. Hence participants' responses that the families were always getting involved and sometimes get in the way of mediation. In attempting to balance power, people use coercive force (physical, social, financial, or legal interventions), and accommodation of disputes by parties to the dispute on non-coercive interventions result in mediation.

Furthermore, families who are more complex in nature, particularly where some family members may be dependent on others and cannot withdraw at any time (for example, children or the elderly), require a fair and equitable agreement. The major psychological consequence of a mediated approach is the empowerment of the parties. Control which would ordinarily be surrendered in the litigation process is returned to the clients. The ability of the parties to respect each other for the manner in which they are negotiating can become a significant cornerstone for their ongoing relationship. The establishment of a successful communication model provides a more optimistic outlook for their future contact. The benefits to any children of the marriage when their parents choose this type of conflict resolution process can only be seen as a positive and hopeful development during a period of time when little else seems positive.

In view of the above it is a reality that during mediation, there could be a power imbalance in the relationship as some participants reported. This happens if there are long-standing dynamics in the relationship that leaves one or both parties feeling at a distinct disadvantage in conversations about difficult subjects. It also sometimes happens that one party has a tendency to 'take over' in conversations and it would be helpful to have a mediator there to steer the couple into respectful silence when necessary. When obtaining responses from the participants, they stated that the most challenging factors which causes couples and/or families to go for mediation is conflict, many arguments, stress, time management, culture, ethnicity, religion and unresolved

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issues. It also appears that families tend to interfere and especially grandparents as their wish is to have closer bonds with their grandchildren but because of an impending divorce, their time with their grandchildren will be limited hence their panic, anxiety and interferences. This bears reference to what participants stated in their responses regarding their understanding of divorce mediation. Also, that there are many people out there who do not understand what the process entails and how it is concluded but think that having disagreements will solve their problems.

5.2.2. Sub-theme 1.2: Who benefits from divorce mediation

Following on from the above paragraph one needs to determine who actually benefits from divorce mediation. Almost all researchers have reported a high (60%–80%) level of satisfaction among clients using a family mediation service, and this concerns both involvement in the process of mediation and the achieved outcome (Golann & Folberg, 2006; Kelly, 1989, 1991; Kressel, 2005, 2007; Pearson & Thoennes, 1985). It appears that both the satisfaction of clients and the success measured by reaching a consensus are interrelated.

Results of other studies have confirmed these observations. Satisfaction with mediation was more likely to be declared by couples that had reached a consensus (Johnson, Levine & Richard, 2003; Pearson & Thoennes, 1985). Kelly (1991) found that couples who ended the divorce mediation process by signing an agreement (total or partial) were more satisfied than those who ended the process without reaching a written consensus (this applies to both spouses ending mediation by oral agreement, as well as spouses ending mediation without a consensus).

In Poland, a study conducted by Przybyla-Basista (2015) revealed that the vast majority of divorcing spouses expressed satisfaction about their participation in mediation. Of participants in mediation which ended by reaching a consensus, about 90% were very satisfied or satisfied. Considering those cases that did not end with a consensus, 55.2% of respondents expressed satisfaction with participating in mediation.

Analysis of feedback provided by the spouses showed that, for many of them, the feeling of being understood and heard was important. This group also included many individuals who appreciated the positive role of mediation for their children (60.9%)

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and the fact that the assisting mediator was able to empathise with the situation of children (78.3%). Mediation in these cases could be an opportunity to achieve a certain balance when communicating with the spouse. Many participants in the mediation process appreciated the advantages of being able to have a conversation in circumstances controlled by the mediator. However, they realistically separated these advantages from the fact that reaching a consensus was impossible due to the muchadvanced stage of conflict.

Hence, if the goal of mediation is to facilitate the process of divorce in a way that can ensure continued and effective nurturing and sustenance of a child, then mediation must be integrated into a wider spectrum of educational, psychological, legal, and community services for the divorcing family. Family mediation has outgrown its origins and emerged as a social intervention that takes us to a new threshold in conflict resolution. The participants added their voices to this statement as mediation is vital for any family to ensure a smooth outcome from the process of mediation and also for them, as mediators to grow and develop continuously.

Furthermore, the mediator must help the parties in dispute to understand the strengths and weakness of their positions and interests better and, if requested, predict the possible scenarios if the parties do not reach an agreement. One of the aims of mediation is to change the quality of the parties' interaction, i.e. to transform hostility and bitterness between the parties into constructive interaction. If the parties are parents, the breakdown of their personal relationship as a couple will not lead to an end of their relationship as parents.

The best interests of their children will be met when the best possible relationship between the parents is preserved for the future and, because social workers are trained in areas such as identifying and analysing underlying interests, developing resources, and generating options, they would be well suited to handle issues related to mediation/conflict resolution. Mayer (2013:2) indicates that 'mediation is the natural outgrowth of social work practice because its goal is to help empower people in conflict to solve their own problems, and because it builds on core social work theory and skills such as problem analysis, communication, and systems intervention.' It is thus important to note that the participants' responses are indicative of the fact that having a

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structured environment and the proper 'tools' to conduct mediation is of utmost importance as this lends itself to successful processes and outcomes Mayer (2013).

5.3. Main theme 2: Cultural Diversity

Burman (2003) argues that South Africa is a third world country, and the best interests of the child are often difficult to implement in a divorce. Due to the high rate of 90% unemployment, lack of housing and the low level of women's earnings, African women are often in no position to contest care (Burman, 2003). In South Africa the high rates of alcoholism and drug abuse pose a further hurdle in determining the child's best interests. Often both parents are unsuitable, where one parent is in jail and/or both parents are alcoholics or drug addicts. However, the child's wellbeing rarely considers contextual factors that may affect the child negatively (Sandler et al., 2013). Contextual factors such as environmental stress, social isolation, and lack of resources available to parents have a definite influence on their parenting. Three contextual factors are important and of special interests to the Courts, namely, the level of conflict between the parents, the quality of parenting provided and the amount of time the parents spend with the child. Interparental conflict is of interest to the Courts as the conflict has a negative influence on the child (Meyer, 2015).

Hence, cultural diversity can be defined as the existence of a variety of cultural or ethnic groups within a society. South Africa consists of a multilingual, multi-cultural society where each person is afforded equal rights in terms of the South African constitution. Cultural diversity is important because our country, workplaces, and schools increasingly consist of various cultural, racial, and ethnic groups. We can learn from one another, but first we must have a level of understanding about each other in order to facilitate collaboration and cooperation. Many of the participants indicated that they experienced challenges when mediating with couples from different cultures and ethnicities.

Because there are different cultures in South Africa, there are also various types of marriages that are legally recognised in South Africa. Firstly, civil marriages are governed by the Marriage Act, 1961 (Act No. 25 of 1961) as amended. Secondly, customary marriages are administered by the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998) which came into effect on 15 November 2000. Thirdly, the Civil Union Act, 2006 (Act No. 17 of 2006) which governs civil unions came into operation on 30 November 2006. Divorces and dissolutions of marriages are mandated through:

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- The Divorce Act, 1979 (Act No.70 of 1979), as amended;

- Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987) and

- The Jurisdiction of Regional Courts Amendment Act, 2008 (Act No. 31 of 2008), as amended, which came into effect on 9 August 2010.

The following sub-theme highlights how mediation is conducted in different cultures.

5.3.1. Sub-theme 2.1: Mediation practices in different cultures

- **Informal mediation**

  Informal mediation, according to Islam (n.d.), 'includes social processes, referrals to non-formal authorities and intercession, thus the possession or lack of formal structure for the application process' (Islam). Islamic courts now have to undertake mediation as a compulsory part of divorce proceedings, in a process dictated by the Supreme Court and standardised for all disputes. Mediation is seen as a method of resolving disputes by means of a negotiation process intended to obtain both clients' agreement with the assistance of the mediator. All mediators must be trained with professional certificates. Boniface (2013) describes informal mediation as 'social network mediators, who do have existing relationships with the parties and who are respected community members' (Boniface, 2013). Informal mediation takes place in various settings and is performed by people with an indigenous knowledge of the community; however, they may or may not be qualified mediators. African mediation would belong in this category.

- **On-line Dispute Resolution or Mediation**

  On-line dispute resolution (ODR) is based on the same principles as the conventional Alternative Dispute Resolution method (ADR). The only distinction is that all communication takes place on-line.

- **Western mediation**

  Western mediation is a more formalised or structured form of mediation and can be accessed via various routes, i.e. accountants, lawyers, social workers and psychologists. It normally focuses on two parties who are in dispute, and these disputes should be understood from a constructivist approach, where communication is facilitated in order for the mediator to obtain an improved

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understanding of the dispute and the individualised positions of the parties involved.

- **African mediation**

  According to Malan as cited by Boniface (2013) 'This form of mediation is traditional and involves family or neighbourhood mediation, which is facilitated by elders in an attitude of togetherness, showing a commitment to the community and comprehensive view of life'. African mediation views conflict in their social contexts where all background information is covered. It is maintained that agreements do not only look at outcomes and consequences for the parties involved, but also how it affects other family members. In African mediation, conflicts are seen in their social contexts. They are not seen as isolated events and all relevant background information is covered during mediation.

  During mediation not only are the consequences for the parties looked at but also the consequences for others in their families. The traditional objectives of African mediation are to soothe hurt feelings and to reach a compromise that can improve future relationships. Many of the other cultural forms of mediation, as is found in the Muslim and Hindu cultures, could also be grouped under Africanstyle mediation as there are numerous similarities. Some differences in approach are noted, depending on who exactly is involved in the mediation. In Muslim mediation the people who were present as witnesses at the wedding will attempt to mediate first. In a Hindu mediation the extended family may be involved. Family members would then be incorporated or enlisted to facilitate the mediation process.

- **Alternative Dispute Resolution (ADR)**

  Mediation, arbitration, and ADR ('alternative dispute resolution') are processes used to resolve disputes, either within or outside the formal legal system, without adjudication or decision by a judge. (Menkel-Meadow, 2015)

5.3.2. Sub-theme 2.2: Cultural challenges in divorce mediation

Participants have indicated how they struggle to understand or comprehend what the cultures of their clients are as they do not wish to show disrespect or cause any harm. In

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South Africa we are faced with a culturally diverse client population that represents both individualistic and collectivist cultures. It is essential, therefore, to be mindful of the different emphasis placed on mediation by each cultural group when engaging in the analysis. It is imperative within mediation to understand the expectations of the client. These circumstances also place a strain on the South African mediator as they are expected to be knowledgeable about cultural issues and how this influences the approach and process of mediation.

- **Cultural backgrounds**

    Culture is an evolving and fluid living experience. There are intergenerational gaps that need to be considered when considering culture and a cultural background. In line with a social constructivist approach, identification of cultural background allows for a better understanding of how people create their realities and life experiences. Two people from the same cultural background, even from the same home, relate differently to experiences and for each experience, unique identification is created. Therefore, people respond differently to similar situations. This would include aspects of racial groupings and social standing in a specific community, religious orientations, and selfbeliefs. When people are exposed to more options and alternatives this also creates an evolution of culture.

- **Cross-cultural mediation**

    Cross-cultural mediation can be defined as mediation between two parties who may or may not be from the same cultural background, and a mediator who is from a different cultural background. This could include people from the same race and culture i.e. an Indian Hindu mediator and Indian Christian couple, or a Zulu mediator mediating with a Xhosa couple.

5.4. Main theme 3: Challenges Social Workers experience in the practice of divorce mediation

One challenge for social workers is to define their roles and identify the interventions to be applied. They have been criticised for failing to deliver adequate support for children exposed to high levels of conflict and for not investigating concerns about abuse, neglect, or inadequate care (Rød, 2010; Rød, Iversen, & Underlid, 2013). Another challenge for social workers is conducting risk assessments of parental conflict and the expected consequences for the child. In diagnosing conflict, studies report that social workers seek to avoid drawing families

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unnecessarily into the child protection system and to avoid being caught up in one parent's false claims about the other parent (Jevne & Ulvik, 2012).

These are challenges for social workers in many countries. For example, Saini et al. (2012, 2018) found that Canadian social workers requested a clearer mandate for the child protection system along with training to become more skilled in conflict resolution. However, few studies have focussed on how social workers themselves talk about experience and reason for the high conflict levels between parents and how they intervene to help them and their children.

As mentioned earlier, the ADR provisions in the Act can only be utilised on a significant scale if sufficient and properly trained persons are available to conduct appropriate ADR. Domestic mediation training programmes have been available in South Africa for many years. However, they are mainly designed to assist with private parental disputes, such as those concerning child custody (Family Life Centre, 2014; National Accreditation Board for Family Mediators, 2011). In contrast, little attention has so far been devoted to ADR requirements and training for childcare and protection cases. This is unfortunate as many South African social workers are potentially ideal candidates for training because of their extensive involvement with care and protection matters and their familiarity with non-confrontational problem-solving.

5.4.1. Sub-Theme 3.1: What types of challenges are there in divorce mediation

Many social workers within child protection services find their work with children living in families with a high level of conflict between separated parents difficult, exhausting, and frustrating (Jevne & Ulvik, 2012; Saini et al., 2012, 2018). High conflict between parents who have moved apart is characterised by a high degree of anger, hostility, and distrust and by ongoing difficulty between the parents in communicating about the care of their children (Cashmore & Parkinson, 2011). Part of what keeps parents in a state of high conflict is their failure to reach a compromise or resolution about the child's residence, financial support, and daily routines or about methods of child rearing (Cashmore & Parkinson, 2011; Gulbrandsen, 2013; Weingarten & Leas, 1987).

Boniface explains that mediation, as practiced in South Africa, is a service profession and she elaborates on accreditation and the formal setting of mediation, 'where the parties normally are not known to one another' (Boniface, 2013). 'African style mediation occurs in the family or neighbourhood and the underlying principle of Ubuntu

plays an important role' (Boniface, 2013). 'In African cultures mediation requires compulsory participation, even in family matters' (Boniface, 2013). 'In African mediation conflict is treated in its social context, including not only individuals but also the families.

It also includes the consequences families will face, in order to reach a compromise that improves relationships and assists in dealing with hurt feelings. This is underpinned by African humanistic values' (Boniface, 2013: 382; Malan, 1997: 27; 87).

5.4.2. Sub-theme 3.2: Social Workers experience challenges in divorce mediation

When parents are in the process of divorcing in Norway, disagreements regarding parental responsibility and the child's place of residence and contact with each parent are initially handled via mandatory mediation at a local family counselling office which is part of the country's welfare services (Gulbrandsen & Tjersland, 2017). In predivorce situations, spouses with children under the age of 16 must attend mediation before the separation or divorce can be completed. The family counselling office offers 1 hour of obligatory mediation and, in the most difficult cases, up to 7 hours of voluntary statutory mediation at no cost to parents. It also provides couples' therapy and individual counselling sessions. Through mediation, parents can negotiate and come to agreements on parental responsibility, custody, and visitation, as well as practical issues in the best interests of the child (Ådnanes, Haugen, Jensberg, Husum, & Rantalaiho, 2011).

The purpose of the Norwegian social work profession is to help families who face difficulties in life. Ideally, this is implemented through empowering interventions and collaboration with families, prior to deciding how to pursue social casework (Levin, 2004; NOU, 2009). Social workers are expected to begin with an analysis of the situation they are faced with (Perlman, 1957). However, studies of the Norwegian CPS as well as similar organisations in other countries show that systemic pressures of the organisation influence social workers' understanding of their professional roles and the way they view client problems (Munro, 2011). Systemic pressures also limit the time available to develop the closeness to the families that is necessary to keep children safe (Ferguson, 2017).

The work of social workers is known to be especially complex (Jansen, 2017). The guidelines state that social workers must be skilled in many different areas. This includes their communication skills and knowledge about how parents react to stressful situations (NOU, 2009). According to child protection guidelines, a social worker's ability to work ethically, use empathy, and act professionally in conflict situations is essential. However, the guidelines do not define what communication skills are, and several methods exist side by side within child protection systems (Jansen, 2017). This means, as Forrester, Kershaw, Moss, and Hughes (2008) point out, that it is up to social workers and educators to define approaches to achieve effective working partnerships with clients.

When mediation is properly conducted it has considerable potential for generating 'a greater sense of teamwork and a greater understanding and ownership of resulting agreements by all involved' in care and protection cases: in terms of process, a care and protection mediator 'identifies the disputed issues, develops options, considers alternatives and endeavours to reach an agreement. The skill of the mediators, rather than their specific approach (e.g. transformative, facilitative, etc.), is seen as critical.' In view of this, participants' responses reflected their desire and need for regular training and development in this field as they feel this will enhance their mediation skills towards a better service delivery with clients.

5.4.3. Sub-theme 3.3: How can it be corrected and with what type of interventions

Numerous professions address disputes. Judges, lawyers, psychologists, negotiators, experts, arbitrators and, of course, social workers all use intervention in situations of conflict as the basis for their activities. However, each one of these professions analyses conflict differently in terms of the approach, the function of the professional, the methodology employed, and even the objectives of the intervention. When mediation became part of the professional landscape, many professionals argued that mediation was not a new action or technique for social work.

However, the mediation boom has required both professions to establish the limits of mediation. The wide range of regional and national regulation as regards mediation, as seen in the foregoing section, the inclusion of mediation in academic social work curricula, and the wide availability of mediation training in vocational colleges all

provide social workers with a new niche of work, increasing their expectations of employment through specialisation. But this boom also requires a reassessment of their work as mediators and its distinction, if any exists, from the profession of social work.

An important question exists whether mediation is a new profession in itself; however, there is no easy answer to be found. The professional world is constantly changing as it responds to new and evermore complex needs. Added to this are the different types of professions: it is possible to distinguish regulated professions, unregulated and open ones, professions requiring an academic degree (a subspecies of regulated professions), professions requiring a degree but without a professional association, those with a professional association but without an official academic degree, closed professions, and so forth.

Mediation presents the main aspects that should be satisfied for it to be considered a profession:

- It is a discipline with a specialised body of knowledge and practical skills.

- The acquisition of these theoretical and practical skills occurs in a specific and authorised manner.

- It is a regulated and self-regulating activity.

- It plays an important social role.

- It may constitute the permanent activity of a professional and act as their source of remuneration.

- It has professional associations that determine its professional profile, establish its regulations and promote its development.

- Finally, it has its own professional ethics. Within social work, we can distinguish two kinds of mediation intervention:

    1) As an intermediary between those finding themselves in a situation of difficulty and social institutions or organisations, and between organisations and institutions offering support to individuals with particular needs.

2) As a social worker who, as part of the intervention, uses techniques from other disciplines, including psychology, law and mediation, without this implying a professional intrusion.

The mediation carried out by social workers within their own sphere of activities is located within the colloquially accepted meaning of the term, rather than adhering to its technical specialist meaning in the context of conflict resolution.

We may conclude, therefore, that social workers will only be carrying out professional mediation when:

- Their sole purpose in intervening is to negotiate in a conflict.

- They have a professional qualification in that regard.

- Their intervention is neutral, impartial and confidential, in accordance with the code of ethics of mediators and not of social workers.

It is possible to practise the profession of mediator within very different backgrounds. One may have trained in law, psychology, social work, or in any other discipline forming part of the social or even natural sciences. There are specific areas in which complementary training is also required in order to be able to practise mediation, as such, the training required of a mediator is not regulated. Some training in humanities tends to be considered necessary – but there is no provision for where the training must be obtained or the number of hours to be completed. However, in terms of this research, participants have indicated their need for further training and development.

5.5. Summary

The data presented in this chapter showed the links with current literature, and the essence of the practice of mediation was confirmed as a specialised form of negotiation between divorcing couples, families and extended families. The next chapter will provide the main conclusions and recommendations that emerged from this study.

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

6.1. Introduction

In this chapter, the researcher presents the conclusions and recommendations of this current study. The study was a qualitative one, using interviews with nine female participants and one male participant, all of whom are qualified social workers. The researcher anticipates that the results of this current study could contribute towards enhancing and capacitating the role of social work interventions in divorce mediation.

The main conclusions drawn from the study were that mediators displayed high levels of selfawareness and were aware of cross-cultural issues. Participants reported that their voices were heard and that power imbalances were addressed in mediation. Two interrelated challenges were experienced by mediators, namely inadequate cross-cultural training, and the need for participants to have more information on mediatory roles and responsibilities as well as a need for further training and development.

Consequently, social workers who conduct divorce mediation exploring their knowledge and understanding in this current research, policy makers, as well as the relevant educational bodies and authorities, would be better positioned to develop and design content that is accurate and significant for interventions to assist, support and effectively deliver mediation services of a professional nature. It is widely accepted that, in most cases, social workers are prepared through their training to act as mediators. However, it is also widely accepted that mediators who are social workers are not prepared through their training to address crosscultural dilemmas.

These may relate to ethnicity due to the diverse cultural mix in South Africa. For social workers to become effective mediators in their role so as to conduct divorce mediation, it is imperative that continuous, ongoing education and training takes place in this field. The

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participants in this study have indicated both a need for this and their wish for further professional developmental training that offers holistic, empathic and positive intervention strategies to enhance the client's experience.

The participants were all in agreement that if they receive the proper training, then the ADR provisions in the South African Children's Act can only be utilised on a significant scale if they are sufficiently and appropriately trained to conduct ADR that is culturally sensitive (Matthias, 2014) and effective, with the necessary risk assessments and follow-up services. To date, little attention has been devoted to update child protection ADR training for professionals who deal with childcare protection cases and mediation, and it is not receiving the priority policy attention it deserves. The following is an outline of necessary qualifications and registrations for mediators.

6.2. Registered and Accredited Mediator Qualifications

In South Africa, to become accredited as a mediator by the South African Association of Mediators (SAAM), a person has to be in possession of a four-year degree and attend a 40hour workshop. Currently there is no specification of which degrees. It has been observed that the majority of mediators are lawyers, accountants, social service professionals (mainly social workers) and psychologists.

It is compulsory for mediators to be registered with SAAM. According to SAAM, there are 3 criteria for accreditation. In all cases, the following apply: The applicant must be a paid-up member of a National Accreditation Board of Family Mediators (NABFAM) member organisation, for example SAAM or KAFAM. The applicant must submit an affidavit of no criminal offences and provide an acknowledgement of a member organisation that adheres to its Code of Ethics and/or Constitution. The applicant should also submit proof of the following:

- 3 supervised mediations

- 2 written case study discussions

- 8 Continuing Professional Development (CPD) points attained and any Academic achievement or registration (http://www.saam.org.za/saamtraining.php?catid=2).

There are three methods of accreditation:

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a) Standard accreditation: The applicant must submit proof of successful completion of an accredited 40-hour training course that is deemed competent by way of assessment (theory and practical) and submit proof of additional training requirements (Law for Psychologists or Psychology for Lawyers, or both if the applicant is not professionally trained in Family Law or Psychology fields).

b) Recognition of Prior Learning (RPL): In cases where the applicant has not completed an accredited training course, proof must be submitted of other training completed together with a description of course content; provide proof of additional training (Law for Psychologists or Psychology for Lawyers, or both if applicant not trained in Law or Psychology); submit proof of successful assessment by a member organisationnominated accredited assessor (written assessment of theory, practical assessment of skills in role play or actual mediation), and provide proof of any additional training requirements as determined by the Accreditation committee.

c) Recognition of Prior Experience (RPE): In cases where the applicant has extensive experience, accreditation may be considered upon submission of full details and proof of experience. This can be subjected to a successful assessment by NABFAM (http://www.saam.org.za/saamtraining.php?catid=2). SAAM is the statutory body for all mediators whereas NABFAM is the body for all family mediators.

Further to this, the applicant should provide proof of having met the following practice requirements: Participation in a minimum of three supervised mediation sessions; the discussion of two written case summaries (of matters in which he/she participated) with the supervisor; and to be an accredited and paid up member with one or more member organisations of NABFAM.

Regulatory boards exist to enhance the quality of service. In addition, participants in mediation benefit from the adherence by mediators of the prescribed continuous professional code of ethics. This is to ensure service enhancement and client satisfaction. The tariff of fees chargeable by mediators is yet to be published.

6.3. Some international training considerations

After perusing the accreditation requirements of a number of countries, among them Germany, the UK, and the USA, it was evident that there is no consensus on mediation training. In the UK, family mediators must complete a Family Mediation Council approved mediation

training; they must undertake CPD, gaining 10 points per annum, of which 5 should be obtained from direct training from an approved training provider.

(http://www.familymediationcouncil.org.uk/mediator-area/good-practice/.)

In Germany mediation was formalised in 2012 when the country introduced the title of a 'certified mediator'; this person has to complete at least 120 hours of intensive training. Prior to the Mediation Act, German mediators were not required by law to meet any specific educational standards.

In the USA there are few requirements and mediators may practice without being registered, according to a report produced by the Institute of Government, College of Professional Studies at the University of Arkansas, Little Rock. 'Although many states recommend qualifications for mediators, no state has requirements for the practice of mediation.' However, to be recognised as a mediator, such persons are still required to complete a 40-hour training course. (http://www.mediationworks.com/medcert3/staterequirements.htm).

6.4. Limitations of the study

The nature of the study was qualitative and therefore the data shared by the participants was analysed. To date, there is not much literature which could be linked to this study, and it has become clear that further research into this phenomenon is required as this will aid social workers to become cognisant of their role, limitations and input as divorce mediators.

6.5. Recommendations

The experiences elsewhere, as discussed above, provide useful inspiration for designing a South African training programme. Although many South African social workers gain extensive experience in care and protection matters, it is clearly essential that they receive specialised training if they are to work effectively as child protection mediation facilitators. It has been shown that ADR requires very different role functions from normal care and protection work. It is, in fact, unfair to expect social workers to undertake care and protection mediations without relevant training.

Challenges in South Africa include the setting of realistic eligibility criteria and developing a spread of ADR programmes across the country. It is recommended that eligibility of social workers as candidates for care and protection ADR should be based on the following prerequisites:

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- A Bachelor of Social Work Degree, with at least 2 years' experience in statutory work with children and families. As has been shown, most programmes in other countries require a professional degree. Prior training and experience in family mediation, FGCs or other forms of ADR should also be considered as positive for eligibility. This suggests that other eligibility criteria are also important. As has been shown, personal characteristics and abilities are also important eligibility criteria, and standards for these will need to be developed for the South African context.

- Training in care and protection for ADR must provide candidates with relevant knowledge of process, substantive knowledge and skills. Accreditation guidelines must specify the length and content of training.

- It is particularly important that eligibility and training requirements are clearly set out and easy to administer. Processes that are too complicated to administer could result in unnecessary bureaucracy and thus stifle implementation.

These guidelines further indicate that in order to obtain appropriate candidates for training, it is essential to have eligibility criteria. In a review of the literature, three broad categories of eligibility criteria emerged. Firstly, there are those which help discern individual personality/ability characteristics of candidates; secondly, criteria requiring educational qualifications; and thirdly, practice requirements which demand real experience in working with children and/or prior ADR experience.

As noted above, a second category of eligibility criteria which typically appears in training programme frameworks is the requirement of a formal qualification. Most ADR training programmes require applicants to have a Bachelor's degree in a relevant professional qualification. The Ontario Ministry of Children and Youth Services more leniently requires either a professional degree or diploma in 'the social services or children's services' (Ontario Association for Family Mediation, 2014: roster eligibility). However, the California Rules of Court (2014) require that social workers intending to serve as child welfare mediators must have at least a Master's degree (rule 5.518 (e) (1)).

In addition to eligibility criteria pertaining to individual characteristics and educational background of candidates, the third category of practical experience in working with children and families, having culturally relevant experience and prior experience in conducting ADR

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are also seen as important in some systems. The Ontario care and protection mediation training course referred to above provides a useful example of practice-based eligibility criteria. Candidates must have successfully completed at least 60 hours training in general family mediation. This general training must include at least 20 hours of skill-based training, 15 hours of domestic violence training, and completion of at least 10 family law mediation cases to the point of agreement amongst the parties (evidenced by a memorandum of understanding). Once they have fulfilled these criteria the candidates are permitted to apply for the training course in child protection mediation. A screening committee decides who will be eligible to attend the course (Ontario Association for Family Mediation, 2014). Successful completion of a general family mediation programme, as required in Ontario, has the advantage of indicating that candidates have at least some of the ability characteristics needed to undertake the more specialised child protection mediation training.

6.6. Recommendations for institutions of higher learning

As mentioned above, mediation should be included as part of the undergraduate curriculum for Psychology, Law, and Commercial disciplines, as a requirement to become a mediator, as this would allow for further accreditation for potential mediators which is also mentioned above in terms of becoming a registered and accredited mediator.

Furthermore, role plays, simulation exercises and current case studies cognisant of the pervasive SA concerns, specifically on issues of cultural diversity etc, should be used extensively in the training to sensitise and trainees and expose them to the reality of mediation in the South African environment. One of each of the role plays, simulation exercises and case studies should focus and address cross-cultural divorce mediation scenarios. There should also be more public information available on mediation and mediation services, specifically in public spaces e.g. court, libraries etc.

6.7. Recommendations for future research

- Research should be carried out on the impact of education as well as continuous research and evaluation on the role and practice in which divorce mediation should be conducted. It is recommended that any further standardisation of training manuals for mediation in a South African context should include extensive sections on the

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dominant cultures that are found in the nine population groups, in order for mediators to possess generic understanding and be acquainted with basic tenets.

- Deliberate collaboration between the Department of Justice and mediators (in private practice and those employed at organisations) and the Family Advocates office should be encouraged in order to create more meaningful awareness of mediation. Mediator support groups exist in several provinces and should be develop in other provinces and work in consultative collaboration with each other.

Based on the analysis, the recommendations include introspection and reflection by mediators in cross-cultural mediations. Training on cross-cultural work is emphasised for better service delivery to clients. The need for access to information and services are pivotal and requires collaboration between various stakeholders. There continues to be a need for mediator support networks. The use of a well-designed preamble is of essence, to clarify and maintain distinct roles and responsibilities during the process of cross-cultural divorce mediation.

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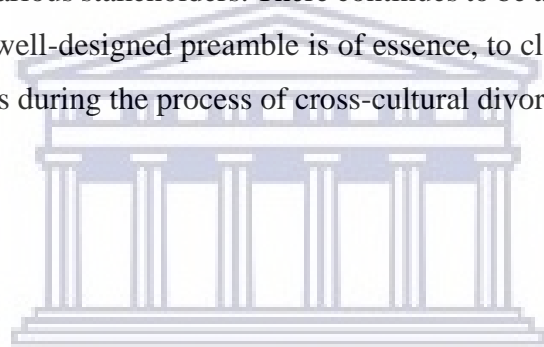
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APPENDICES

APPENDIX 1: Ethics approval letter

UNIVERSITY *of the* **WESTERN CAPE**

YEARS *of hope, action & knowledge*

06 June 2020

Ms S Muller
Social Work
Faculty of Community and Health Sciences

Ethics Reference Number: HS19/5/36

Project Title: The role of Social Work practice and intervention in divorce mediation in the Cape Metropole.

Approval Period: 04 June 2019 – 4 June 2020

I hereby certify that the Humanities and Social Science Research Ethics Committee of the University of the Western Cape approved the methodology and ethics of the above mentioned research project.

Any amendments, extension or other modifications to the protocol must be submitted to the Ethics Committee for approval.

Please remember to submit a progress report in good time for annual renewal.

The Committee must be informed of any serious adverse event and/or termination of the study.

Ms Patricia Josias
Research Ethics Committee Officer
University of the Western Cape

NHREC Registration Number: HSSREC-130416-049

FROM HOPE TO ACTION THROUGH KNOWLEDGE.

APPENDIX 2: Information Sheet (English)

UNIVERSITY OF THE WESTERN CAPE

Private Bag X 17, Bellville 7535, South Africa

Tel: +27 21-9593710 Fax: 27 21-2845 **E-mail:**

sharonmuller6@gmail.com

INFORMATION SHEET

Project Title: The role of Social Work practice and intervention in divorce mediation

What is this study about?

This is a research project being conducted by Sharon Muller at the University of the Western Cape. We are inviting you to participate in this research project because you as a Social Worker conduct mediation with families as part of your daily work. The purpose of this research project is to explore interventions used during mediation with biological parents during the process of divorce.

The research study is being conducted to investigate the use of interventions by Social Workers who have not undergone mediation training as they could cause more harm to the mediation process and families requiring mediation.

What will I be asked to do if I agree to participate?

You will be asked to participate in interviews in the language of your choice, English, Afrikaans at a non-governmental agency for approximately 1 hour.

These are a list of the questions you will be requested to answer:

INTERVIEW GUIDE

English:

- Please explain the duration of your mediation experience.

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- How long you have participated in this practice?
- Explain what the main source of your referrals are in other words who refers these couples to you. If you encounter clients with specific challenges are your interventions or responses different?
- Describe your interventions with these couples.
- Does your organisation provide you with the necessary support to conduct mediation.
- Are you aware of any gaps or challenges social workers experience in the practice of mediation with divorcing couples?
- Can you identify some of these challenges.
- Are you able to identify specific factors that influence mediation intervention.
- Which of the following factors could influence mediation interventions: Culture, Education, Ethnicity, Religion.
- Explain how these factors influence mediation.
- How would you describe your approach to mediation.
- What approach has provided you in achieving best outcomes.

Would my participation in this study be kept confidential?

The researcher undertakes to protect your identity and the nature of your contribution. To ensure your anonymity, 'the surveys are anonymous and will not contain information that may personally identify you.' For coded identifiable information, if applicable:

- your name will not be included on the surveys and other collected data;
- a code will be placed on the survey and other collected data;
- through the use of an identification key, the researcher will be able to link your survey to your identity; and
- only the researcher will have access to the identification key.

To ensure your confidentiality:

- Information that is shared will be kept confidential and participant's names will not be disclosed.
- Recordings of the participants will be destroyed at the end of the research project.
- The type of interview selected for the proposed study is the open-ended interview where the researcher intends to have in-depth conversations with the selected Social Workers for data collection.
- An audio recorder will be used to record the interviews that will last a minimum of an hour by the researcher who has professional training as a Social Worker and experience in clinical settings.

- The interviews will be conducted in a private space or venue to protect the identity of the participants.
- If we write a report or article about this research project, your identity will be protected.

During this study purposive sampling will be used to select a total of 10-15 Social Workers from Social Workers based at Non-Governmental Organisations (in Cape Town). Data will be collected through in-depth interviews with open-ended questions.

What are the risks of this research?

There may be some risks from participating in this research study. All human interactions and talking about self or others carry some amount of risks. We will nevertheless minimise such risks and act promptly to assist you if you experience any discomfort, psychological or otherwise during the process of your participation in this study. Where necessary, an appropriate referral will be made to a suitable professional for further assistance or intervention.

What are the benefits of this research?

This research is not designed to help you personally, but the results may help the investigator learn more about exploring mediation interventions during divorce and separation applied by Social Workers in the hope that, in the future, other people might benefit from this study through improved understanding of effective mediation interventions.

Describe the anticipated benefits to science or society expected from the research, if any

Do I have to be in this research and may I stop participating at any time? Your participation in this research is completely voluntary. You may choose not to take part at all. If you decide to participate in this research, you may stop participating at any time. If you decide not to participate in this study or if you stop participating at any time, you will not be penalised or lose any benefits to which you otherwise qualify.

What if I have questions?

This research is being conducted by *Sharon Muller* at the University of the Western Cape. If you have any questions about the research study itself, please contact Sharon Muller at:

0791660316 or <u>sharonmuller6@gmail.com</u>. Should you have any questions regarding this study and your rights as a research participant or if you wish to report any problems you have experienced related to the study, please contact:

Dr Londt
Head of Department: Community Health Sciences
University of the Western Cape
Private Bag X17
Bellville 7535

Prof Anthea Rhoda
Dean of the Faculty of Community and Health Sciences
University of the Western Cape
Private Bag X17 Bellville
7535
<u>chs-deansoffice@uwc.ac.za</u>

This research has been approved by the University of the Western Cape's Humanities and Social Science
Research Ethics Committee
(REFERENCE NUMBER)

UNIVERSITEIT VAN WES KAAPLAND

Private Bag X 17, Bellville 7535, South Africa
Tel: +27 21-9593710 Fax: 27 21-2845

E-mail: sharonmuller6@gmail.com

INLIGTING BLADSY

Projek Title: Die rol van Maatskaplike Strategies gedurende egskeiding mediasies

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Wat behels die studie?

Dit is navorsing wat gedoen word deur Sharon Muller by die Universiteit van Wes Kaapland. Ons nooi u uit om deel te neem aan die navorsing projek want us is n maatskaplike werker wat mediasie met families doen as deel van jou daaglikse werk. Die rede vir die navorsing is om strategies te ondersoek wat gebruik word gedurende mediasies met biologiese ouers tydens die proses van egskeiding.

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Die navorsing word gedoen om ondersoek in te stel oor die strategies wat maatskaplike werkers gebruik tydens mediasie wat nie opleiding ontvang het nie want dit kan meer skade doen tydens die mediasie proses met families wat mediasie benodig.

Wat sal ek gevra word indien ek besluit om deel te neem?

U sal gevra word om die onderhoud te beantwoord in die taal van Afrikaans by die kantoor van n Nie-Regerings Organisasie vir ongeveer 1 uur. Hier is n lys van vrae wat jy moet antwoord:

ONDERHOUD GIDS:

Afrikaans:

- Wat is die huidige strategies beskikbaar om Mediasie te doen?
- Hoe kry jy moeilike ouers saam om Mediasie te doen?
- Wat was sukkesvol mediasie sessies vir jou?
- Watter tipe assessering gereedskap is beskikbaar vir jou om mediasie te doen?
- Hoeveel sessies benodig jy om suksesvol te wees in mediasie?
- Wat is suksesvol mediasie?
- Wat dink jy is suksesvol tegnieke?
- Is risk assessering and kinder beskerming ook deel daarvan? En hoe?
- Is daar tans terugvoering om moontlike risikos te hanteer om seker temaak dat mediasies suksesvol is?
- Hoe word die hele proses gehanteer?

Sal my deelname in die studie vertroulik gehou word?

Die navorser onderneem om u identiteit en natuur van u deelname te beskerm. Die navorsing is anoniem en u identiteit sal nie bloot gestel word nie. Vir bloot gestelde inligting, indien nodig:

(1)   u naam sal nie in die navorsing of ander data ingesluit word nie;

(2)   n kode sal geplaas word op die navorsing en enige data wat ingesamel word;

(3)   deur die gebruik van n identiteits sleutel sal die navorser u identiteit met die navorsing saam stel;

(4)   net die navorser sal toegang tot die identiteit's sleutel het.

Om u identiteit te beskerm sal enige inligting vertroubaar gehoud word en niemand se naam sal bloot gestel word nie. Opname van u deelname sal vernietig word sodra die navorsing voltooi is. Die tipe onderhoud vir die projek sal oop onderhoude wees waar die navorser diep gesprekke met die verkose maatskaplike werkers gehou word vir data doeleindes.

Die navorser, wat n opgeleide maatskaplike werker is, sal opnames vir ongeveer een uur doen. Die onderhoude sal in n privaat plek gedoen word om die identiteite van die deelnemers te beskerm. Indien daar n verslag or artikel oor die navorsings projek geskryf word sal jou identiteit beskerm word.Gedurende die studies sal voorgestelde stelproef gebruik word met ongeveer 15 maatskaplike werkers van Nie-Regering Organisasies. Data sal deur in-diepe onderhoude gedoen word met oop-einde vrae.

Wat is die risikos van die navorsing?

Daar kan dalk risikos wees tydens die navorsing. Alle menslike gesprekke oor hulself dra risikos maar ons sal ons beste probeer om dit te verminder en verwys vir sielkundige hulp indien dit dalk nodig is.

Wat is die voordele van hierdie navorsing?

Die navorsing is nie gesteld om jou persoonlik te help nie maar sodat die navorser meer kan leer oor eksplorende mediasie tydens egskeiding en paartjies wat skei sodat daar in die toekoms mense gehelp kan word met n bevorderde verstandhouding oor effektiewe mediasie.

Besksryf die verwagde voordele wat wetenskap en die samelewing kan verwag van die navorsing:

Moet ek in die navorsing deelneem en kan ek ophou enige tyd? U deelname in die navorsing is heeltemal vrywilliglik. U kan verkies om glad nie deel te neem nie. As jy besluit om deel te neem in die navorsing kan jy ontrek enige tyd. As jy dalk besluit om te ontrek sal jy nie gepenalisser word nie.

Wat as ek vrae het?

Die navorsing is gedoen deur Sharon Muller **by die** Universiteit van Wes Kaapland. As jy enige vrae het oor die navorsing self, kontak asseblief Sharon Muller at: 0791660316 or sharonmuller6@gmail.com.

As jy dalk enige vrae oor die navorsing en jou regte as n deelnemer of as jy dalk enige iets wil raporteer kontak asseblief:

Dr Londt

Head of Department: Community Health Sciences

University of the Western Cape

Private Bag X17

Bellville 7535

Prof Anthea Rhoda

Dean of the Faculty of Community and Health Sciences

University of the Western Cape

Private Bag X17 Bellville

7535

chs-deansoffice@uwc.ac.za

Die navorsing is goedgekeur deur die Universiteit van Wes Kaapland Humanities and Social Sciences Research Ethics Kommittee)

(VERWYSINGS NOMMER)

APPENDIX 4: Consent Form

UNIVERSITY OF THE WESTERN CAPE

Private Bag X 17, Bellville 7535, South Africa
Tel: +27 21-9593710 Fax: 27 21-2845

E-mail: sharonmuller6@gmail.com

CONSENT FORM

Title of Research Project:

The role of Social Work practice and intervention in divorce mediation

The study has been described to me in language that I understand. My questions about the study have been answered. I understand what my participation will involve and I agree to participate of my own choice and free will. I understand that my identity will not be disclosed to anyone. I understand that I may withdraw from the study at any time without giving a reason and without fear of negative consequences or loss of benefits. I agree that the interview may be audio recorded.

Participant's name……………………………………………….

Participant's signature……………………………….

Date………………………

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Brenda Burgess, Editor.

Searching for just the right words – writing what is upright and true.

Brenda Burgess   Durbanville

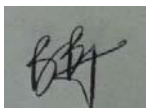   South Africa   082 7799389

bjburgess7@gmail.com

16/10/2020

Professional Editing Statement

I confirm that I, Brenda Burgess, am a professional editor with thirteen years' experience in the field of editing.

During the period 08 October to 16 October 2020, I edited Sharon Muller's thesis, **the role of social work practice and intervention in divorce mediation**, presented for the degree of Master in Social Work in the Department of Social Work, Faculty of Community and Health Sciences, University of the Western Cape.

Although this thesis has been edited to improve grammar, typographical errors and formatting, it remains the work of Sharon Muller and she has approved of the changes.

Kind regards

Brenda Burgess

BA Creative Writing, UNISA
Post-grad. editing course, University of Stellenbosch www.brendaburgesseditor.com

APPENDIX 6: Editorial Certificate 2

05 November 2020

To whom it may concern

Dear Sir/Madam

RE: Editorial certificate

This letter serves to prove that **only the overall layout, style, and formatting** of the thesis listed below was modified by myself, publisher/proprietor of Aquarian Publications.

Thesis title

THE ROLE OF SOCIAL WORK PRACTICE AND INTERVENTION IN DIVORCE MEDIATION
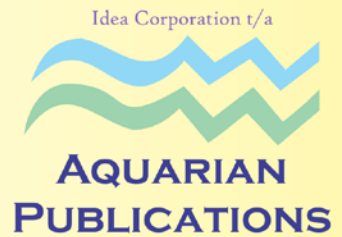
Author

Sharon Muller

The research content, or the author's intentions, were not altered in any way during the formatting process, and the author has the authority to accept, or reject, my suggestions and changes.

Should you have any questions or concerns about this modified document, I can be contacted at the listed telephone and fax numbers or e-mail addresses.

Yours truly

E H Londt
Publisher/Proprietor

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