

Psychotherapy with Psychotherapists

Divorce Mediation for Therapists and Their Spouses

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DIVORCE MEDIATION FOR THERAPISTS AND THEIR SPOUSES

William G. Neville, ED.D.

Sometimes marriages end in divorce, and sometimes even a therapist's marriage may end in divorce. This chapter examines some of the ways that therapists and their spouses are involved with the phenomenon of divorce, professionally and personally, and ways they may help their clients and themselves when divorce is imminent. It begins with the least threatening philosophical notions about divorce, moves to the more complex and troublesome area about client couples choosing to get a divorce, and then finally considers the most important area—the therapist's own divorce.

Throughout this chapter I *assume* a position of divorce via mediation. At this point, the reader may not know what that is; however, by the end of the chapter you will probably understand why I assume that when today's therapist thinks of the word "divorce," he or she is likely to think of "mediation."

SOME THOUGHTS ABOUT DIVORCE

For years therapists have taken the position that one of the signs of a functional relationship is its elasticity, its ability to change and be flexible as

new demands and stresses come along. The O'Neills wrote nearly ten years ago of the need for *Shifting Gears* (O'Neill & O'Neill, 1974)—the ability of a relationship to be open to the needs of each person in that relationship. Gettleman and Markowitz, in the *Courage to Divorce* (1974), present divorce as a growth phenomenon which, in view of societal pressure to stay in one's rut, calls for real courage to move toward a more viable way of relating. Krantzler (1973) advanced a similar notion in *Creative Divorce* that divorce can provide an opportunity for new understandings of self and hence a new and more real personal presence in relationships. Currently, Carl Whitaker (1981) teaches that keeping the roles in the family flexible and passing them around to different family members, even on a daily basis, is important in assuring that people do not get stuck in positions. Sidney Jourard (1974), in one of his last public addresses, presented the notion that marriage is for the *dynamic* of life rather than the chronological longevity of life, and there is a consequent need for marital partners to develop the skills and abilities to *restructure* their marital relationship to make it viable. During recent years there has been a shift from thinking of divorce as an *ending* to considering it an opportunity for new beginnings for the family, even if not for the marriage.

Divorce is now being seen as a restructuring time rather than an ending, when the family is going through the process of rearranging relationships, responsibilities, and commitments so that its members may

individually and collectively get on with the business of living their lives in the most authentic way, given the new circumstances. Fathers will still be fathers, mothers will still be mothers, the children need both and are important to both. Money still passes from hand to hand, feelings still go on, responsibilities are still present, and commitments still exist but "the way we thought it was supposed to be" will evolve into new forms that may be more freeing and responsive than the old positions permitted. Whitaker (1981) has said that he is not sure that anybody ever really gets a divorce. O. J. Coogler, the founder of structured divorce mediation, saw divorce as a restructuring that could open new doors of opportunity for the family rather than as the ending of the family (1974). Morton and Bernice Hunt (1977) and Gettleman and Markowitz (1974) all clearly expound the view that whereas formerly divorce was commonly viewed as a failure, it has now come to be regarded as a creative solution to a problem.

This is not to say that as therapists we should encourage married couples to divorce. But it is to say that as therapists we would be well advised to see divorce as a legitimate alternative to a conflicted marriage, and that it is not a put-down of therapists, nor of therapy, nor of the couple if they choose to divorce. As therapists, we need to examine our own values and belief systems to see clearly what assumptions we hold about life and health, relationships and families, marriage and divorce. Does divorce mean "failure" for the therapist and/or the couple? If indeed it is not a failure, or

even "not necessarily" a failure, then how can therapists help people to examine and use this option to accomplish this particular restructuring in the most effective way?

Professionals who work in the area of stress report that what happens to a person is not as important as what one makes of the occurrence (Selye, 1956). If divorce is seen as bad, then the whole divorce process will be bad. If people blame each other for their own feelings and predicament, they will then probably be angry and resentful and constantly attacking and trying to change each other. If, however, they own up to their feelings and accept responsibility for their life, then it is highly likely that they will part with respect and will respond positively to opportunities to be cooperative. The interpretation we give to the circumstances of our life is of our own choosing, and the choice we make will impact heavily, either positively or negatively, on our children.

Those who have worked closely with people who are dissolving their marriages are very clear that the key issue is not *whether* a couple divorces but rather *how* they accomplish that shift. Some couples go at their divorce as though they were combatants in a cock fight, and the carnage may—in fact, *will* probably—continue for years. Some attorneys fan the fires of the fight and escalate the "legal" destruction of people who once loved each other dearly and still care deeply about their children.¹

This escalation of the competitive battle is frequently done "in the best interest of the child." All indications are, however, that the best interest of the child is served by a process that escalates not the conflict and competitiveness but the cooperation and communication of the parents. The children are not getting a divorce from their parents, nor are the parents divorcing their children. Roman and Haddad (1974), in *The Disposable Parent: The Case for Joint Custody*, cite a New York-based study of over 2,000 children in which it was clearly shown that "the major factor affecting the children's happiness is the relationship between the parents" (p. 69) and that studies consistently showed that "those children who fared best after the divorce were those who were free to develop loving and full relationships with *both* parents" (p. 71).

Yet it has been estimated that over 100,000 children are kidnapped each year by angry parents (Wiegner, 1979). Conversely, research on mediation (Parker, 1980) has documented that over 90 percent of the mediated clients were satisfied with their settlements and over 93 percent were satisfied with their custody and visitation rights. It was further noted in this Atlanta-based study that most of the mediated couples spoke caringly of their former spouses, whereas the adversarial clients, *if they spoke of their former spouses at all*, tended to do so with hostility and bitterness.

In the public sector, judges are referring couples who are arguing

about the provisions of the divorce agreement for court-based mediation services that usually entail dealing with child custody and visitation issues. In the private sector, some couples decide to mediate rather than litigate all aspects of their divorce—custody, visitation, and division of assets. They want to avoid becoming adversaries and prefer seeking a cooperative pathway to marital dissolution.

There is an increasing number of couples who have restructured their relationships in most creative, caring, and cooperative ways. Although such a reconstituted family is different from what it was, the children often wind up getting the best of both parents and a new sense of responding to life creatively when life does not go the way they want it to go. Instead of being bitter and hostile, these children will probably grow up to be happy, well-adjusted people who flow freely back and forth between parents who care about and respect each other for who they are and who do not continue to resent who they are not. So the way, or the how, of the divorce, rather than the fact of divorce per se, seems to be the key variable.

People who work in the areas of conflict resolution have shown clearly that *cooperative problem solving* approaches will yield quite different results from *competitive problem solving* approaches (Deutsch, 1973). The competitive approach is basically what we have in our adversarial system. It is a win-lose proposition, and nobody likes to be a loser. So, the fight is

usually over what we *don't* want (that is, being a loser) rather than over what we do want (that is, a relationship of marriage or divorce that will work). This competitive approach is much like a poker game, in which one plays one's cards close to the vest, deceiving, distorting, hiding, and the winner takes all (except, that is, what gets paid to the attorneys)!

The cooperative approach is a win-win approach, and one plays with all the cards face up in *full disclosure*. Information is shared, and people find their own interests being served by making sure the other party's needs are taken care of, too—at least to the same extent as their own. The cooperative approach fosters responsibility rather than blame, communication rather than isolation, creativity rather than stagnation, and flexibility rather than rigidity. Clearly, the cooperative approach is better for human beings who live in a democratic society, yet our country seems to be sowing the seeds of its own destruction by encouraging the competitive approach at nearly every *level* from womb to tomb. Unless we learn to do cooperative problem solving, the natural results of the competitive approach may well be our demise.²

Throughout the history of our country, divorce has been seen as "against public policy" and therefore something to which people could not agree. To get a divorce, one person had to file legal suit against the other, immediately creating a plaintiff-defendant, or adversarial, posture between

people who had once chosen to be lifelong partners and who, over the years, had both given to and received from each other; who probably had shared in the creation of children and who had experienced many hurts and disappointments in their unfulfilled expectations of each other and of the relationship. So, at the very time when that couple was most in need of careful, cooperative planning for the future and most in need of shared communication, our legal system, representing societal expectations, was not just urging, it was demanding that this couple become adversaries and competitors over their own children and estate. Property division and support payments were commonly awarded as spoils to the victor, and the loser could then continue to fight by appealing the award, being negligent of the obligations, or just simply leaving the territory. It is no wonder, then, under such a prevailing philosophy, that divorce came to be experienced as destructive and that the results were so devastating to the kind of community and family life our country was espousing. Because of the way divorce was handled, couples with deep, joint emotional histories became bitter enemies, and the "family," instead of becoming the "school of community," became the battleground for the present generation and the "war college" of competitive litigation for the next. Courts are clogged with postdivorce renegotiations, and child support payments are seriously in arrears. Fathers generally pay less than a third of what is due, and over half the fathers do not pay at all (Baldus, 1980). Something about our traditional

way of assisting families at this time of transition and rebuilding is not working.

MEDIATION AS AN ALTERNATIVE

In 1974, O. J. Coogler, a retired attorney turned family therapist, who was experiencing the frustration of the adversarial approach to family restructuring, undertook to provide an alternative process that would be more in keeping with what we know today of families and of the resolution of conflict. Coogler developed a process he called "structured mediation in divorce settlement" (Coogler, 1978) and, while this process has since undergone some changes, it is still essentially a cooperative rather than a competitive approach that builds on full disclosure, shared information, and mutually agreed upon decisions.

This approach is still so new that good long-term research results are just beginning to become available. The implication seems to be, however, that when couples are offered the mediation alternative, about 50 percent will choose it and of those who choose it, approximately 80 percent will complete the process, with most of the others saying that even though they did not finish the process, it was still a very beneficial experience for them (Pearson, 1981). Clearly, the cooperative approach of mediation offers families going through divorce the option of responsible restructuring.

HOW THERAPISTS CAN ASSIST COOPERATIVE PROBLEM SOLVING

The process is so new, however, that many lay people have never heard of mediation. When people are in crisis, the word of the expert they have chosen to shepherd them carries enormous weight. If therapists are knowledgeable about mediation, recommend it to their clients, support their using it, and make good referrals to trained mediators, they will be providing their patient families with the best possible service available at this time. Any written settlement has both a legal and an emotional dimension, and both must be carefully tended to have a "good" settlement—that is, one that works.

Mediation is a new field and new profession that draws upon knowledge and skills from the fields of law and mental health. Just as the mediator does not replace the attorney, neither does he or she replace the therapist during the divorce sequence. The attorney's role is that of a legal information consultant and a drafter of a clear and solid agreement for the couple, and the mediator must be careful not to practice law without a license.

The role of the therapist is to assist the client in interpreting the various parts of the divorce experience. The clients may need therapeutic assistance with moving through the process of grief (including shock, denial, anger, and sadness); developing a good, positive sense of self-worth;

discovering a newly individuated sense of identity; updating appropriate social behaviors; completing and turning loose the past; and sharing the excitement of new beginnings and accomplishments.³ While the mediator may use some of the skills of the therapist in responding to emotional data, *the couple has come to the mediator for a problem-solving task*, and the mediator should refer the couple to their therapist for dealing with such things as anger, grief, or resentment in a constructive way. The mediator may, for example, stop a mediation session if one party is too emotionally upset to make rational decisions. A good approach for the mediator would then be to send the clients back to their therapist before mediation continues. Even the process of deciding whether to divorce or not should be accomplished with the therapist rather than the mediator. But once the decision to divorce has been made, well-intentioned therapists who are poorly informed about the specifics and intricacies of the settlement itself would serve their clients best by referring them to a mediator and letting therapy take an ancillary role for a short while. A competent professional, be he or she therapist, mediator, or attorney, is a well-individuated person—clear about his or her identity and contribution, yet appreciative of the role of others; not into "client stealing" nor so frightened or greedy that the best care is withheld out of fear of losing a client. There are many ways a good therapist can grease the wheels of the mediation process.

One of the first things that a referring therapist can do for the client

couple coming into mediation is to assist them to determine clearly what their intentions are and help them to develop a cooperative problem-solving approach to their dissolution and restructuring. Until people are clear about their intentions, they will flounder from one approach to another, looking for what fits their needs at any given moment. It is important that they understand clearly, are aware that mediation means learning to be cooperative, and adopt cooperative problem-solving behavior. They will then do whatever is necessary to accomplish their task. Instead of saying "I'll be cooperative to a point, but I will reserve the final judgment until I see how the whole thing turns out" or "I'll make a little bit of 'full disclosure' and see what happens" or "I'll see how cooperative my spouse will be and then make my judgment about whether this will work for us" people will literally come in *expecting* to cooperate, to be corrected where they get off the track, and to have the process work for them. And it will! Success and failure tend to be self-reinforcing experiences. So it is with mediation. Some people may not have had much experience in operating on the basis of personal responsibility and choice, and would rather blame circumstances, processes, spouses, mediators, and/or therapists. But taking responsibility for their own contribution to their divorce and choosing how they would prefer the mediation to go are enormously important in the results they obtain. The therapist can therefore perform a valuable service for these clients and the mediator by helping the couple become clear about what their intentions are

and whether they are going to have a cooperative or competitive divorce!

Therapists also can greatly assist this restructuring process by helping the clients forgive—forgive their spouses and themselves. Forgiveness is not the process of "making the other person be right." In our competitive society, we frequently withhold forgiveness because we have no intention of giving more points to our adversary. The therapist, however, can help the client see that *forgiveness is that process by which the client turns loose the past and in so doing is enabled to get on with life in the present*. Anybody who is not forgiving is continuing to live in the past and is missing out on life in the present. They remain stuck and stymied, frustrated and furious, and will very likely be involved in litigation for a long, long time. It is essential for a healthy divorce and a cooperative problem-solving approach that people learn to turn loose the past, to forgive themselves and their partners for things they did and things they failed to do.

As a person begins to let go of or become extricated from the past, he or she can begin to see more clearly the tasks that lie ahead. The client then can focus appropriately on the anxiety of the unknown future and in so doing often finds that the partner whom they have just forgiven for "what they were not" has suddenly become a willing ally and support, for example, on the responsibilities of raising the children they have in common. Mediation *invites* people to share what they are *willing* to do rather than

attempting to command them about what they *have* to do. The cooperative approach of mediation tends to elicit a person's best and most responsible self, and frequently one partner is surprised by the creative expressions of caring that come forth from this apparent competitor. One husband, for example, said to his wife, who was to have custody of their children, that he would be glad to share "sick time" with her since they both worked. There was no reason that she should always take time off from her work to be with the children when they were sick just because she had custody; he would be willing to share "sick time" with her on a fifty-fifty basis.

Another task for which the therapist is most appropriately trained is that of helping the client with the cognitive part of the restructuring process of divorce. How do you let go of your belief in "happily ever after"? When the world has not gone the way you expected it to, dealing with the cognitive dissonance that results becomes very important, yet it is frequently pushed aside for more immediate or seemingly more important matters. This is a problem that will continue to surface for the client throughout the year and a "good" therapist will stay in touch with the client during mediation and in the year that follows to assist at those points. Holidays, for example, evoke nostalgia and memories of "the way it used to be." This may resurface from time to time over a period of several years. The mediation process enables people to experience personal confirmation more easily and thereby tends to reduce the time needed to make a successful transition. A skillful therapist

can reinforce both the mediation process and the successful transition of the client.

Some therapists have found a "divorce ceremony" a helpful tool. At a time when our society has no ritual to mark or acknowledge this change in status and when no one knows quite what to say, reading such a ceremony with a couple can be very healing. The whole process of attaining closure to a relationship means attending to the many aspects that are still unfinished, and the symbolic elements of a ritual may provide a context for the family to accomplish this. The best ceremony I have seen was written by Henry Close, a pastoral counselor and family therapist in Ft. Lauderdale, Florida (1977). The Methodist church and the Jewish faith both have ceremonies in their prayer books, but a good ceremony is hard to find in many faiths, and nondenominational ceremonies are a rarity. It should avoid the gimmicky and speak sensitively to the deepest emotions of the heart. (See Kaslow, 1981, for one such ceremony.)

THE BEST INTEREST OF THE CHILD

A question that frequently comes up is "What is in the best interest of the child?" I believe we would all agree that a good, healthy, functional family is in the best interest of the child. Given the restructuring through divorce, however, it would seem that the child's best interest entails seeing the

parents acting in a cooperative problem-solving mode rather than acting out their bitterness and frustration in a competitive way. Children grow up in all sorts, sizes, and shapes of family life. Wallerstein and Kelly (1975) have carefully documented the different response patterns based on children's ages. Gardner (1970) has emphasized the need for honesty and information with children. Ricci (1981), Lewis (1980), Kaslow (1981) and others have also added to the multiple dimensions of divorce and remarriage. Yet, through it all, the key variable in the well-being of the child seems to be the well-being of the adults. So, rather than getting yet another attorney to represent "the best interest of the child" and thereby even further fragmenting the family, it makes sense for therapists, attorneys, and mediators to work together to support the couple in their best efforts of communication, cooperation, caring, creativity, closure, and consensus.

PERSONAL USE OF MEDIATION BY THE THERAPIST

Sometimes divorce happens for therapists. And when it does, the therapist has his or her own professional training and occupational hazards to contend with. The therapist may be hit with an acute sense of personal failure, especially if he or she has been helpful to others in sorting out and clarifying their couple relationship. When this becomes a therapist's predicament, he or she should do what we teach—stay with the feelings and realize how frequently they want to hide and distort the way it is. We tend to

forget that therapists are first of all *people*—and our working with others will be helpful to the extent that we are willing to be authentic with our clients. When one looks at the different approaches of, say, Rogers (1961), Skinner (1938), and Perls (1973), what is revealed are the differences of each of those *people* being expressed in ways that are authentic for them; but for Fritz to try to be a little Carl would simply not work. It is easy to want to maintain an image one has built up, and to the extent that we are successful at image building, we are also successful at hiding our humanity. "How can I maintain my image in front of you, my colleague, when you see what a failure I am with my own family?"

Using mediation services is an opportunity to put into practice the principles of mental health we have been espousing. It is important for therapists to remember that as people we, too, have emotions and needs; we, too, have sadness and grief; we, too, experience feelings of failure and aloneness; we, too, need to give and receive forgiveness; and we, too, desire closure. And we need to remember in mediation that it is all right for us not to have all the answers, and it's permissible to get angry and "lose our cool." It is also acceptable to be scared and keep sabotaging our intention to be cooperative. It is legitimate to be human.

Mediation really gets embarrassing when we see our spouse coming through with more clear, sure, and cooperative behavior than we: "After all,

I'm the one with all the training in relationships. Self-disclosure and the sharing of feelings is the name of my game. ..." Pogo says, "We have met the enemy, and he is us!" We do have occupational hazards in the helping professions; we must acknowledge them and be open to learning—not only from our colleagues but also from those whom we may consider least likely to teach us anything: our spouses.

Our professional training tends to militate against our being good clients for mediation in that we are too frequently taught to observe the other person's behavior and label it. For example, someone else is being "resistant" when they don't see it our way. In mediation, we are exposed to the reality that many of our labels become coverups for our own unwillingness to be authentic. And when we have diagnosed our own family, it is particularly difficult to be open to a second opinion.

Have we been taught to understand others' feelings and be so sensitive to their needs that *we* don't know how to be assertive and count *ourselves* in? People get *so* cooperative in mediation that in a traditional family where the husband works away from home and the wife works within the home, husbands tend to over-give and wives tend to under-ask. (If there is a pitfall to mediation, this is it.) Mediation is basically a problem-solving task, yet trained and experienced therapists are frequently so concerned with listening and hearing that they may find themselves virtually incapable of

making decisions, especially if they seem a little bit selfish when they are the clients. It is easy for the therapist-client in mediation to feel such a keen sense of guilt that he or she will go to virtually any lengths to atone for his or her past failures. Since we are frequently the ones who "mediate the forgiveness" in society, we may have an overly difficult time receiving it.

Mediation, however, calls for one to come down from the therapist's pedestal and be equal, to ask for what is wanted, and to negotiate for what is to be gotten. One piece of research that is under way seems to be indicating a lack of success in mediation for the "educated" (Thoennes, 1982). Could this mean that education can work both ways and that while it can provide more opportunities, it can also indicate more ways to hide? I remember a presentation that Sidney Jourard (1962) made to a group of ministers on being authentic, and the entire talk, which was very short, seems appropriate for inclusion here. "Well," he said, "we're all phonies. And it seems to me that it is simply a question of whether you are willing to be a real phony or whether you are going to be a phony phony."

TRAINING

Mediation is a first cousin of therapy. But then it is also a first cousin of the practice of law. And it is neither therapy nor law. Mediation is mediation. It is one person assisting two others to find a mutually agreeable solution to

the problems inherent in marital dissolution. There may be a tendency for some therapists to want to plunge in to become mediators—especially if their practice of therapy is not going all that well. They may want to become all things to all people. I caution therapists about attempting to do mediation without first having some good basic training in the field. There are a number of people and groups offering training in mediation; some have lots of experience and some have virtually none. The field is gradually developing standardized training and certification procedures. Until these are adopted, I am concerned lest therapists who are not trained as mediators offer their services to the public as such, only to have certain errors and omissions occur that embarrass the whole field of mediation and short-change the clients. Mediation is a splendid process, and it works for many participants, but because it is still in a fledgling stage, it is subjected to very careful scrutiny. The adversarial approach may create far more havoc in domestic relations than mediation ever could or would, but since it is the time-honored approach, its practitioners seldom get more than a verbal admonition from the bar or the bench for any shortcomings on their part.

Because of the close scrutiny of mediation, however, any miscue on the part of a mediator can have serious repercussions for the whole movement. Therefore, if a therapist is doing "divorce counseling," it should not be labeled "mediation"; and a therapist, who is doing or wants to be doing mediation should first take one of the basic five-day training programs. It

will not equip a novice mediator completely; in fact, it will barely scratch the surface, but this is the minimum beginning preparation that is acceptable.

Generally, people going into mediation training should have at least a master's degree in one of the helping professions. During this prior learning they have covered at least the minimal elements of sensitivity training, communication skills, growth and development, life cycle issues, and it is to be hoped, some introspective work in looking at their own personality dynamics.

If an attorney wants to become a mediator, the same basic five-day training would be an appropriate beginning. Remember that although mediation is a first cousin to the practice of law, it is not the practice of law. It involves a whole range of knowledge of behavior, motivation, learning, family and interpersonal dynamics, skills, and even a theology that would very likely be new to an attorney. Just as a therapist may be wise to take some legal courses in family law, taxation, and family finance, an attorney would be well advised to take some training in family systems, sensitivity training, and communications skills, death and dying, and personality development.

Since an attorney may be used directly in the mediation process as a legal information consultant, it may be redundant to seek to be the mediator,

since then yet another attorney would be needed as the information consultant and to draft the agreement in legal form. In any case, the attorney-mediator and therapist-mediator would need to be quite clear about their roles at any particular time. The skills, training, and practice of mediation are similar to and different from both therapy and law.

I believe that the actual *effectiveness* of the mediator, however, is not a matter of his or her training but of the "gifts" with which that particular person is endowed. Some may be trained to be teachers and still not be effective as a teacher; some may be trained as physicians and still not be effective in healing. In all of our interpersonal professions, the effectiveness of that particular professional is largely a matter of who that *person* is and how he or she expresses personhood through a particular professional stance. We are our own best tool and must learn what that tool does most effectively. Each mediator should manifest what he or she purports to do in how it is done. The field of mediation should be based and built on the principles of cooperative problem solving, and any competitiveness, whether in training or in the development of the field, has no place in this movement. Anything built on such competitiveness will not last.

CONCLUSION

Divorce is a phenomenon of our day. How divorce is handled will make a

difference, literally, for generations yet unborn. Mediation is a cooperative approach to domestic problem solving, and research shows that when this option is made available to the public, the majority choose it and find it helpful (Pearson, 1982).

The family is frequently referred to as "the school of community." A community implies both communication and cooperation. Divorce mediation is the process of assisting the family to continue to fulfill this function even as it seems precariously close to losing it. Cooperative problem solving is participatory democracy, and divorce mediation for therapists is the opportunity for us as therapists to expand our beliefs, to rediscover ourselves, and to offer a more peaceful world to our grandchildren.

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EDITOR'S COMMENTARY

MEDIATION: A NEW APPROACH TO A PAINFUL PARTING PROCESS

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In this chapter, Neville is probably the first one to tackle the knotty problem of mediating a therapist's divorce. Since he is an ordained and practicing clergyman, a trained and well-respected marital therapist, and one of the earliest and best recognized mediators, his contribution was requested because he brings an unusually fine combination of attributes to the task.

Because the theory and technique of divorce mediation are in existence less than a decade, and he assumes that some of our readers might not be familiar with this legitimate alternative method of marital dissolution, Neville begins the chapter with an overview of the major premises of mediation. He writes from the perspective of one who sees divorce as a potentially creative way to end a conflicted, incompatible marriage and highlights the opportunities for growth it affords. With perceptive wisdom he points out that we all ultimately choose both "the interpretation we give to the circumstances of our life," and how we accomplish the shifts that are imperative around marker events. It is how these transitions are made and the interpretation, rather than the actual occurrence, of the event (in this instance, the divorce) that have the greatest impact on the children's'

reactions and state of well-being.

Neville highlights the key precepts of mediation, such as *empowerment* to maximize one's own participation in the decision-making process inherent in divorce and the establishment of a *cooperative* attitude and atmosphere focusing on the best interest of each member of the family. This style and philosophy is in distinct contrast to the competitive struggle mandated by a litigated divorce. The judicial system is predicated on the assumption that in a dispute between two parties one is guilty and so must pay a penalty and the other is innocent and injured and is therefore due recompense. Mediation facilitates recognition of and even concern for the participants' needs in life and sets the groundwork for moving into the present and future and not remaining inextricably stuck in the past.

Mediation's philosophy that divorce is not an ending of a family but rather a *restructuring* of family relationships, alignments, and power distribution concurs with the best current thinking regarding the post-divorce family as articulated by Sager and his colleagues in *Treating the Remarried Family* (Sager et al., 1983). The single most compelling fact is that the children are not divorcing their parents, nor are the adults severing their parental ties with the children. Thus, as the spousal bond is dissolved, new arrangements for being separated parents in a joint venture need to be forged sensibly. And the two parties, in evolving their own agreement, are

likely to be more invested in keeping it or altering it jointly as the passage of time necessitates modifications.

Essential to the successful culmination of the mediation process are: full self-disclosure of all financial assets, authenticity, and integrity in negotiations. The process encourages the participants' optimism about the future through its enhancement of self-esteem and sense of competence in an ability to work out an agreement and reshape their lives. Thus, it would seem natural that therapists, who seek to treat others as humanely as possible and who prefer constructive rather than destructive interpersonal and transactional relationships, would gravitate toward mediation if they have decided to end their marital union. The philosophic assumptions and premises of mediation are congruent with those of all schools of therapy, and should be much more syntonetic with the personal value system of most therapists than are the principles that undergird the adversarial divorce process.

Thus, we felt that inclusion of this chapter in a book on *Psychotherapy with Psychotherapists* was a logical extension of the continuum of marriage, family, and divorce therapy for and with this special professional population and their significant others. Perhaps it may illuminate a much more acceptable passageway to some who have long avoided seeking a divorce because of their aversion to the customary procedures.

References

Sager, C. J., Brown, H. S., Crohn, H., Engel, T., Rodstein, E., & Walker, L. *Treating the remarried family*. N.Y.: Brunner/Mazel, 1983.

1. There are three elements that go into the making of an attorney that cause this negative approach to domestic dispute resolution:

Historically, our legal system has come from English law, which sought to establish guilt and innocence and to lay blame for the "failure" of the marriage. Compare this, for example, with the Japanese system, in which the couple simply goes before the magistrate and signs the appropriate document saying that they now choose to divorce—no legal suit, no blame, yet Japan's divorce rate is about one-third that of the United States.

The adversarial approach is based on the assumption that where the two litigants are represented by advocates (presumed to be equal in power but, in fact, with wide variations of power and skill) who pull out all stops and give no quarter, truth, or a close approximation of it, will emerge. This approach assumes that though at times the process may be destructive, the responsibility for the carnage lies with the "bad" party who caused the divorce. The attorney's job is to control aggression by obtaining a judgment in his or her client's favor as swiftly and totally as possible (Shaffer, 1975). This pits spouses against each other in an adversarial battle, missing totally, for example, the concept of the family-as-client. It promotes winners and losers rather than the restructuring of a family.

An attorney's training teaches him or her not to pay attention to feelings, but to deal only with what the law says (Etheridge, 1983). Feelings are viewed as subjective, changing, and individual, whereas the law deals with behavior—concrete, specific, and objective. The failure to see the connection between these two results in legal decisions being rendered that in fact do not settle the problem because they have not dealt with that which is most personal—the meaning to the individuals of their behavior and relationship.

2. Quite literally, the future continuance or extinction of the human race may depend on how quickly we decide to cooperatively deescalate the insanity of the nuclear arms competition, which in itself is a natural result of a world run by competitive family patterns. There is a growing interest in the development of a National Peace Academy, which would be committed to these same cooperative problem solving approaches at the international level (National Peace Academy Campaign, Suite 409, 110 Maryland Ave., N.E., Washington, D.C. 20002).

3. There are many good books that can be quite helpful in these areas. Three I frequently consult are: Sheila Kessler's *The American Way of Divorce* (1975), Mel Krantzler's *Creative Divorce* (1973), and Gerry Jampolsky's *Love Is Letting Go of Fear* (1979).