Mandatory Mediation in Family Disputes: Limitations and Future Foresight in Kosovo

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Abstract

The aim of this paper relies on defining the dimension of mandatory mediation in Kosovo in family disputes in the aspects of the advantages and limitations. The resolution of a family dispute is a complex process as it carries the legal aspects of the dispute with the emotional and psychological matters. Mediation is considered to be a great fit for family disputes as it is interest-based and it focuses mainly on the future, both of which directly impact the on-going relationships between the family members. Mediation has been supported and encouraged over the last decades, yet its utilization remains scarce. Many countries have regulated mandatory mediation in accordance with the Directive 2008/52/EC in order to increase the use of mediation. Mandatory mediation in family disputes has been debated by many authors, with one side advocating it as proper and beneficial while the other side questions its reliability in the face of power imbalance and domestic violence. Mandatory mediation in Kosovo is used in specific matters in family law and it aims to offer the parties a chance to benefit from mediation as it provides a faster and cheaper alternative to the courts. The usage of mediation in Kosovo remains low which is believed to be due to the lack of recognition and understanding by the parties, lawyers and court professionals.

Keywords: Mandatory, Mediation, Family Disputes, Domestic Violence, Children's Interests.

Introduction

The increasing rates of divorce and the deriving disputes as the matters of child custody and the contact of the parents with the child after divorce are pressing challenges in most modern societies (Nylund, 2018). Family disputes have their unique characteristics as they carry both the legal aspects and emotional attachments of a dispute, considering that the parties in dispute remain linked through their children even after the dispute reaches finality (McFarlane, 2012).A contemporary problem of the judicial system is the overload of the courts with cases which has led many European countries to seek the utilization of alternative dispute resolution mechanisms in order to tackle this situation (Esplugues & Marquis, 2015).

The use of mediation as an alternative dispute resolution mechanism has been on the raise over the last decades and it has been found in different areas such as labor disputes, community, family and interpersonal conflict (Bush & Folger, 2005). Recently there has been a shift in the way family disputes are approached in the judicial system as there is an increased focus on applying informal justice rather than formal alternatives which are considered slower, more expensive and less likely to benefit the best interest of the child (Lynch, 2016).

Mediation is defined as a facultative process in which the parties disputing engage the assistance of an impartial third party, whose role is to help the parties into reaching

an agreement by themselves while remaining neutral and with no coercive authority over the parties (Brown & Marriott, 1999), (Steffek , 2012).Mediation has been considered a paradox on the basis that while universally promoted, the utilization of this process as the dispute resolution mechanism in civil and commercial cases in EU is concerningly low (De Palo, 2018).The introduction of mandatory mediation in specific matters has been acknowledged as a main factor contributing to the increase in the utilization of mediation in Europe (De Palo & Canessa, 2014).As many other European countries, Kosovo has adapted the law in force in accordance with the European Directive 2008/52/EC(Directive)which foresees specific matters that are subjected to mandatory mediation such as the family matters of custody, alimony, visit, child support and division of marital property (Law on Mediation , 2018).While Kosovo is rapidly developing in the economic and technological aspects, the social and cultural norms seem to be slower in shifting their paradigm and as such they could be considered a factor that highly impacts the low utilization of mediation with an emphasis on family law matters.

Mediation in Family Disputes

Family disputes that demand a solution provided by the court or other alternative dispute resolution mechanisms arise from the breakdown of a family be it married or not. The unit of the family is not a static one (Widmer, 2016), and it differentiates due to changing conditions and social circumstances (McCarthy, Hooper, & Gillies, 2014),as it can be seen in the recent shifting of the rates of marriages and divorce ,with the former constantly declining and the latter increasing over the last decades (Stevenson & Wolfers, 2007).On the face of the breakup of a family, which represented a safe environment for the parents as well as the children, a crises arises creating uncertainty and fears for the possibilities of losing the children, legal expenses, public embarrassment and other social issues (Emery, 2012).

Recently there has been an emerging of mediation as an established pathway towards the dispute resolution of family matters due to the recognized benefits as the opportunity to resolve disputes more quickly and less expensively than the traditional litigation (Roberts, 2008).Mediation due to its nature of informal justice carries the values of self-determination, flexibility, and party focus(Abel, 1982), that have a determinative role to the potential this process has in the resolution of family disputes and conflicts considering the fact that the involved parties have on-going relationships that require mending and reorientation towards each other (Fuller, 1971).

The role of mediation in a family dispute, comes across in the legal goals of this process such as the negotiation of an agreeable legal binding settlement, as well as the emotional and psychological goals in helping all parties involved in preserving and resolving the relationships between the partners or those between parents and children (Emery, 2012).The growing rates of mediation in the resolution of family dispute are considered to be due to a cumulative process of various causes as the demise of traditional forms of dispute resolution that comes from the consequences of failing to meet the optimal requirements (Menkel-Meadow, 2004), and as the result

of the transformation of the legal systems and their approach to dispute resolution (Roberts, 2008).Considering the legal aspects of mediation it is important to point the equivalency of this process to other dispute resolution mechanisms as stated on the Mediation Directive as it concludes that "*mediation is not to be regarded as a poorer alternative to judicial proceedings in the sense that compliance with agreements resulting from mediation would depend on the good will of the parties*", thus allowing other characteristics of dispute resolution mechanisms to be decisive in the area of benefits that mediation provides without the fear of it being a non-equal legal alternative(Directive, 2008).

Time and Cost Effectiveness of Mediation in Family Disputes

Family mediation has been considered as a time and cost-effective method compared to other dispute resolution mechanisms (Steffek , 2012).The effectiveness of mediation in the aspect of time has been shown into multiple studies that have compared the days required to resolve the dispute in mediation or other methods, one of which has concluded that while it took a mean of 110 days to resolve a family conflict through mediation, the disputes resolved using litigation had a mean of 435 days to reach a resolution (Lingard, Raraty, & McCathy, 2007). Another study has analyzed the time required to resolve the children custody as a factor of family disputes, and it has shown similar results with mediation being a much faster mechanism to litigation, considering the former required a mean of 64 days, while the latter required a mean of 191 days (Peeples, Reynolds, & Harris, 2008).
The cost effectiveness of mediation in family disputes can be considering by multiple factors such as the correlation of time and the cost in a family dispute, which relies on the logic that the shorter the time needed to resolve a dispute it will lead to lower fees of lawyers, mediators or other required expenses (De Palo, Feasley, & Orecchini, 2011), (Veen, 2014); the difference of the required fees by different dispute resolution mechanisms with mediation resulting as significantly cheaper than litigation (Paetsch, Bertrand, & Boyd , 2017); and the consideration of reduced expenses for social services as they are less likely to be needed when the disputants select mediation due to better psychosocial outcomes (Veen, 2014).

Children and Family Mediation

In the face of a family breakdown there is a presence of prolonged parental conflict that is a potential risk factor for the well-being of the children (Nylund, 2018), as it involves emotional issues such as anger, anxiety or sadness which if left unsolved can risk the future well-being of the parents and children (Cleak, Schofield, & Bickerdike, 2014).The well-being of the children could be considered as endangered due to the perception that children are usually helpless and powerless in any decision that affects them as well as the possibility of the fear children emit in the aspect of being in the middle of the parental conflict (Emery, 2012).While both parents caught in this process face emotional and psychological challenges that transmit through sadness, depression and anxiety, they can also see the breakdown of the family as a possible new advantageous change for them that brings them new opportunities, a benefit that

does not exist on the children's end whom experience feelings of neglect, confusion and betrayal (Clarke-Stewart & Brentano, 2006).

Child custody mediation is a process that aims to resolve the issue of children custody by the help of a neutral third party -mediator, whom is tasked with providing help to the parents in overcoming barriers and differences between them, as well as helping them recognize and act up to the best interest of their children (Nylund, 2018), (Schepard, 2004). Considering that mediation is a process that tends to have a superior focus on the future possibilities compared to the past dimensions of the dispute, it can be argued that this process is fit to resolve children custody and other issues that derive from a family dispute as it helps direct communication, reduces misunderstandings between the parties and helps preserve on-going relationships (Roberts, 2008). The communication and cooperation of divorced parents has been shown to be a positive factor in the overall wellbeing of the child (Carlson, McLanahan, & Brooks-Gunn, 2008), (McHale, et al., 2002).

Multiple studies have approached this statement in different ways and have reached similar conclusions be it by considering mediation as a better alternative in the aspect of hearing the voice of the children (Simpson, 1989), the short and long termed benefits of using mediation in children custody(Kelly & Emery, 2003), as well as the improved emotional and psychological health of the children (Sauer, 2007). One of the studies aimed to determine the difference of mediation with other alternatives and their impact on the future, considering the parent and child communication, involvement of the parents in the life of the child and the relationships between the parents in a 12 year follow up (Emery, Laumann-Billings, Waldron, Sbarra, & Dillon, 2001).This study had some major findings that showed a significant difference between the factors analyzed considering that 30 % of the parents who had resolved the dispute through mediation remained present in their children's lives compared to the 9% of the other group of parents who chose different mechanisms; as well as the consideration of the communication between parents and children that were far better for the former group with 54% of parents communicating on a weekly basis with their children compared to the latter group with only 13% of the parents having this level of communication (Emery, Laumann-Billings, Waldron, Sbarra, & Dillon, 2001).

The shortcomings of litigation: A strong advocate for mediation

Litigation as the dispute resolution process in family disputes is considered to cause irreparable damage to the family relationships (Radford, 2001), a statement supported by the argument that the court is not the right place to assist a dysfunctional family into better functioning (Firestone & Weinstein, 2004). There are different approaches to this statement starting with the adversary opinions on "the child's best interest" argument, which some authors have considered at risk in the litigation process as it challenges the parents' capability to know what is best for their children, pushes the parents in adversary behavior towards each other, and it puts limitations on the interest of the children by generalizing the children's needs based on past experiences and expectations (Emery, 2012). This argument has also been debated by the prospect

of disempowerment of parents in the decision-making for their own children and the dehumanization of the process considering the negative experience a child faces in the courtroom as the parents wage war upon one another (Firestone & Weinstein, 2004).

During a family breakdown and after the finality of the process, parents are more dependent on each other in the concerns of arrangements they have to decide upon such as the children custody, the future decisions upon the children's lives as education and upbringing, and multiple other concerns that need to meet the approval of both parents, that can be challenging considering that in the aftermath of the divorce both parties present with feelings of resentment and anger (Clarke-Stewart & Brentano, 2006).In the process of litigation parents find themselves being treated as adversaries (Emery, 2012),an approach that creates a toxic environment for parents and children leading towards further damage to existing relationships and preventing future healthy family interactions and communication (Firestone & Weinstein, 2004).

Mandatory mediation and its criticism

The term mandatory mediation is used to describe the process of mediation as approached by mandatory basis be it as a referral order by the judges or other court officials whom have authority to order the parties to participate in the mediation process; or as a legislative mandate that specific categories of cases must first undergo mediation to try and resolve the dispute before going to court, with the former being considered as a discretionary referral and the latter as a categorical approach (Sander, 2007). The process of mandatory mediation has been challenged as a contradiction or an oxymoron by multiple authors due to considerations that mediation is a process that has self- determination and volunteerism as core values and such values are contradicted with a mandatory approach to mediation (Quek, 2010), (Sander, H.William, & Hensler, 1996), (Winston, 1996).

There exist different arguments concerning such statement where in one side the critics of mandatory mediation consider that with the loss of informality, the values in which mediation thrives are lost and displaced and as such the coercion to mediate risks evolving into coercion to settle(Katz, 1993), (Wissler, 1997), (Grillo, 1991).Many authors have argued against this approach due to the belief that there is a distinction between coercion within the mediation process and coercion into the mediation process (Quek, 2010), (Sander, H.William, & Hensler, 1996).

This belief is explained through the argument that demanding a party to partake in mediation with the goal of trying to solve their dispute by no means concludes that the parties are forced to achieve an agreement through mediation (Quek, 2010), (Bullock & Gallagher , 1997), and as such as long as the parties can exercise their right to decline settlement, it is concluded that voluntariness and fairness are preserved in mediation (Winston, 1996), (Goldberg, Sander, & Rogers, 1992).

Another criticism of mandatory mediation is the perception that demanding mediation is an obstacle to justice in four main manners: as a prevention in the right to litigation, in the cases when the parties have no interest undergoing mediation (Wissler, 1997), (Eislee, 1991),(Streeter-Schaefer, 2001), as a delay in time to reach a

resolution in the dispute, considering that the parties might be determined not to settle in mediation (Katz, 1988),(Kuhn, 1984), (Alfini, 1991); as an increase in costs in the litigation process as the expenses double when using both processes to solve the dispute (Shavell, 1995), (Alfini, 1991),and as the risk of potential disbalance in power between the parties that might lead to an unfair resolution of the dispute as it allows the opportunity of the higher-power party to exploit the process for their own benefit(Reuben, 2007).

The advantages of mandatory mediation

Mediation is considered to have a low rate of utilization that has been recognized by author *Wissler*(1997) to be caused by a number of factors such as the unfamiliarity of the parties or their attorneys with this process(Pearson & Thoennes, 1988) , the fear of expressing weakness when requesting or agreeing upon mediation (Siemer, 1991), and the potential disinterest of the parties to solve their dispute by mediation while opting for a court resolution instead(Goldberg, Sander, & Rogers, 1992).The number of cases reaching mediation in voluntary basis is significantly lower than the number of cases that are encouraged by the courts to use mediation and as such it has been argued that the benefits of mediation are not achieved fully when the parties are left to decide on voluntary basis to use mediation (Quek, 2010).
Mandatory mediation accelerates the settlement process (Winston, 1996), as it shifts the mindset of the parties to achieve a settlement in the early stages of the dispute resolution process (Edwards H. T., 1986),as well as the impact a trained mediator has on leading the discussion towards a potential agreement between parties (1990).A study has supported this argument by analyzing mandatory mediation in custody cases in California which resulted in 46 % of the cases reaching an agreement within a 2-week period (Kelly, 1996), (Depner, Cannata, & Simon, 1992).
There is evidence that parties who undergo mediation with reluctance still participate effectively on the process (Hanks, 2012), and as such that will lead to high rates of reaching settlements and benefiting from using mediation even if it is not on voluntary basis (Quek, 2010).

Power Imbalance as a concern on mandatory mediation

Among the most concerning issues that have been continuously debated in mediation are the ability this process has dealing with power imbalance (Gewurz, 2001) and the potential for dangers in the cases of domestic violence (Zylstra, 2001). The power imbalance has been noted to be present due to multiple factors and it is considered as such only when one of the parties has used this advantage of power to influence the outcome of the dispute and not as the potential of power without acting upon it (Kelly, 1995). The imbalance between the parties has been traced down to resources which have been concluded to be either "*tangible*" resources such as education and income or "*intangible*" resources such as status, dominance, depression, self-esteem and other individual characteristics (Walther, 2000).
The argument on power imbalance has been raised through the perception that men

and women are not equal in the process of mediation and in these circumstance women are disadvantaged and at risk (Grillo, 1991),(Bruch, 1988), (Fineman, 1991), (Hart, 1990), (Crounch, 1982).Author *Semple* (2012)has explained the possible arguments that support this theory on the fact that men have more access to both of the aforementioned resources as they have higher incomes and possess more property (Lahey, 2010),they are more likely to bring status, dominance and self-esteem into mediation (Regehr, 1994),as well as the recognized factors that the women might settle for less if they have immediate need for resolution such as the in the cases when child or spousal support is needed or in question of the children custody (Bryan, 1992).

Multiple authors over the years have conducted studies that reject this theory as they have resulted in high rates of satisfaction in both genders in mediation (Depner, Cannata, & Simon, 1992), (Kelly & Gigy, 1989), (Emery, 1994), (Kelly & Duryee, 1992),(Wissler, 1997),(Emery, Sbarra, & Grover, 2005).A study that questioned the concerns of the critics that mandatory mediation gave disadvantage to women, due to the fear that women trade custody for money in order to avoid litigation as they are seen as more risk averse than their husbands (Ellis J. W., 1992), (Mnookin & Kornhauser, 1979), resulted being without base as it was concluded that women were not more risk adverse, they did not trade money for more custody time and they were not more altruistic than their husbands (Brinig, 1995). Another fact that dissolves these concerns is the report that women feel that mediation enables them to have their voice heard in the dispute resolution as well as it offers them an equal influence to agreements (Kelly & Duryee, 1992),(Herrnstein, 1996).A study of three years that compared the effect of resources and the history of violence as possible disadvantages in mediation concluded that these factors were irrelevant as women were not less likely to achieve their goals in mediation (Ellis & Wight, 1998).

Mandatory mediation and Domestic Violence

Domestic violence is a common recurrence which affects women more than men, with 1 in 4 women experiencing it at some point in their life (TNS Opinion & Social, 2010). Women and children are the most affected categories that are subjected to domestic violence with an estimated 20% to 50% of all women worldwide experiencing physical violence by an intimate partner or family member (Garcia-Moreno, Jansen, Ellsberg, Heise, & Watts , 2005),and a concerning level varying from 10% to 50% of children being exposed to domestic violence (Cleak, Schofield, & Bickerdike, 2014).

The breakdown of a family by no means represents the end of violence as the separation phase is a high risk phase for violence against women (Cleak, Schofield, & Bickerdike, 2014), (Logan & Walker, 2004).It has been reported that around half of the couples who go through separation or divorce experienced physical violence at some point during their relationships and over 75% of them report emotional abuse (Ellis D. , 2008).A study reported that both genders showed fear of abuse during and after separation but of different natures whereas most of the women feared of physical, sexual ,emotional and psychological abuse, men on the other hand feared harassment and psychological abuse (Bagshaw, et al., 2011). The presence of domestic violence

in mediation has been a concern of multiple authors and practitioners as it has raised implications of power imbalance that damages the integrity of the mediation process (Muhlhauser & Knowlton, 1994), (Hart, 1990),and not only does it not offer a safe environment but it can be intimidating, dangerous or life threatening for the victim (Reuben, 2007).The use of mediation in the face of domestic violence has been criticized by practitioners and women's advocates as they raised multiple concerns such as the decriminalization of domestic violence and abuse in mediation (Stallone, 1984), (Pearson, 1997), (Learman, 1984), (Cobb, 1997), the inability of the abused party to use self-determination and the limitation on the negotiation ability as they are afraid and feel helpless when facing their abusing partner (Dunning, 2003), (Baily & Danny, 2003), (Lowe & Abrams, 2011).Other concerns include the privatization of domestic violence (Dunning, 2003), (Faget, 2004), (Sitarz, Bek, & Jaworska-Wieloch, 2018), the aim of mediation to achieve joint custody as it may not always be the best solution (Johnson, Saccuzzo, & Koen, 2005), (Germane, Johnson, & Leman, 1985), the argument that mediators are not properly trained to recognize domestic violence or are uncomfortable addressing it (Drew, 2005), and the high level of non-disclosure of domestic violence to the mediator (Bagshaw, et al., 2011).

On the other hand there are many proponents that support the use of mediation in domestic violence as they argue that family disputes that present with domestic violence are not all the same pattern where there is power imbalance between the parties or inability to partake effectively in mediation and there are parties that are fully capable to mediate safely in the presence of specific safeguards (Kelly & Johnson, 2008), (Edwards & Sharpe, 2004).Mediation advocates support the statement that mediation can be a tool to empower the victims of domestic abuse (Maxwell, 1999),(Edwards, Baron, & Ferrick, 2008), (Schechter & Edleson , 1999),(Landrum, 2011) as it enables them to speak their own voice and express their own interests (Zaher, 1998).

Another argument that supports the choice of mediation in the cases of domestic violence is the consideration that this process is far more suitable than adversarial processes as the former tend to exacerbate the existing conflict and reinforce factors that caused the abuse (Corcoran & Melamed, 1990), (Rimelspach, 2001), they put an emphasis on the winning and losing which damages the family relationship (Edwards, Baron, & Ferrick, 2008),as well as the perception that mediators are trained to recognize and deal with abuse better than judges and attorneys (Rimelspach, 2001). It has been reported by a study that mediation agreements helped reduce the risk of future violence (Putz, Ballard, Arany, Applegate, & Holtzworth-Munroe, 2012). In order to set appropriate measures and safeguards in mediation during a dispute that contains domestic violence, it is important to apply screening tools and criteria of eligibility that make it possible to identify domestic violence, distinguish the form, intensity and severity of the abuse and potentially select cases that need to be excluded from mediation as they are unsafe and dangerous for the victim (Edwards, Baron, & Ferrick, 2008), (Clemants & Gross, 2007), (Kelly & Johnson, 2008), (Ellis & Stuckless, 2006), (Zylstra, 2001).

Mandatory Mediation in Family Disputes in Kosovo

Mediation in Kosovo is regulated by the Mediation Law No 06/L-009 that is in compliance with Directive 2008/52/EC and it is applied only as court-connected mediation. Mandatory mediation by this law is defined as *"the procedure of mediation that is initiated by a judge that obligates the parties to try and resolve their dispute in mediation* " (Law on Mediation , 2018). Mandatory mediation is applied for the family disputes of alimony, custody, contact, child support and the separation of common marital property where in the preparatory hearing and after analyzing the lawsuit the judge informs and obligates the parties in mediation (Law on Mediation , 2018).
Art.9.3 of the Mediation Law No 06/L-009 states that the parties are obligated into meeting the mediator and they have thirty (30) days to try mediation with the countdown starting from the moment the judge obligates the parties into mediation. The Mediation Law in Kosovo foresees that the parties can decide to not continue with mediation and to return to court proceedings within 30 days as stated in Art.9.4. In order for the parties to continue with the court proceedings after being obligated into mediation they must present a written evidence signed by the parties and the mediator that they have tried mediation as anticipated by Art.9.5 of this law. As ofArt.9.6 it is stated that mandatory mediation does not deny the parties the right to access the courts or arbitration if the mediation procedure fails to bring to an agreement and the parties are not obligated to reach an agreement through mediation without their free will as foreseen by Art.9.7.

The significance of mandatory mediation in Kosovo

The justice system in Kosovo has a significant overload of unsolved cases as well as inherited cases from previous years that totaled up to 425.914 cases in 2018 (Council, 2018). The situation is similar on civil cases with 60.398 cases in 2019 ,73% of which are inherited from previous years (Council, 2019). Another concerning issue that Kosovo's justice system faces is the prolongation of cases whereas the average time civil cases require into completion is between 1.4-4.6 years (National Audit Office, 2017). Under these circumstances with a heavy case load that risks blockage and the long duration of time required per case on the courts of Kosovo it can be expected that the efficiency of the justice system will be directly affected (Hauser, 2017).
A report on the family disputes matters in the courts in Kosovo has considered them to be unable to adequately resolve cases that involve divorce, custody of the children or children's visit matters (OSCE Mission in Kosovo, 2011). According to the report this conclusion derives from an inappropriate management of the cases that is caused by the chronic delays in the process, the lack of witnesses and evidence, the failure to include the Center for Social Works as foreseen by the Family Law, the incomplete and incorrect court records as well as the lack or shortcomings of properly resonated decisions by the judges (OSCE Mission in Kosovo, 2011).
A decade later after the Mediation Law came into force, the utilization of mediation is considered to be lacking due to the low number of cases that reach mediation as it has been reported that over a period of six years between 2012-2018 there have been a total

of 6600 cases both of civil and penal nature that were refereed to mediation in Kosovo without a significant change in the number of cases per year (Ministry of Justice, 2020).Comparing the number of cases in mediation with the average number of the total cases in the courts in Kosovo it concludes that the cases referred to mediation are around 1%.Another concerning issue is that the disputing parties in the courts of Kosovo seem to have little information towards the possibility of mediation and it's benefits or are shown to be distrustful or sceptic about the process as indicated by the data as it shows that only 151 of these cases were initiated by the parties themselves which rounds at 2% of the total cases in mediation (Ministry of Justice, 2020).

The concerns and limitations of mandatory mediation in Kosovo

Mandatory mediation in Kosovo still carries outlets and potential risks that require further research. Domestic violence in Kosovo is not a recent phenomenon as it has been historically hidden and ignored due to social and cultural traditions or expectations (UNICEF Kosova, 2014). Aiming to track the dimensions of domestic violence has given new light to the seriousness this issue represents as it has been reported that 62 % of the Kosovars have suffered one or more forms of domestic violence in their lifetime (Farnsworth, Qosaj-Mustafa, Banjska, Berisha, & Morina, 2015). Another pressing issue is that victims of domestic violence rarely report the abuse due to multiple causes such as fear, stigma, financial dependency, lack of support, the normalization of violence, lack of awareness or trust into protection services (UNICEF Kosova, 2014).

The presence of domestic violence in mandatory mediation for family disputes has been considered to be extensive as it has accounted for 50-80% of the cases (Maxwell, 1999). In accordance with the Law of Mediation No6/L-009, family disputes with a history of domestic violence are excluded from mandatory mediation. The utilization of this Article is in question considering that up to date there has not been any established screening device that aims to detect domestic violence in family disputes in Kosovo and the existence of it relies mainly in the potential previous records of domestic violence or on the victim's report. As such mandatory mediation in family disputes without the presence of a screening device could lead to judges obligating parties into mediation unaware of the presence of abuse which could potentially create the opportunity of an unsafe and dangerous environment for the victim (Kelly & Johnson, 2008).

Other issues regarding mandatory mediation in family disputes in Kosovo are the concerns in the matters of custody and alimony. The situation in Kosovo could be considered as disadvantageous for women when facing such matters considering the low percentage of women in the work market with only 13.7% of women working during 2019 (Kosovo Agency of Statistics, 2019),the low rates of inheritance of family property compared to their male family members (Vuniqi & Halimi, 2011),and the low rates of property on their names (Uka, et al., 2016).Taking into consideration all these factors women can be presumed to face a potential power imbalance in mandatory mediation in Kosovo in the matters of custody and alimony as their partners are reported to follow one of the patterns of either demanding custody of the children or

not fulfilling their alimony obligations (Aliu, et al., 2019).

Another reported problem that is considered to be present into mandatory mediation in Kosovo seems to rely on the cause that while accessory issues such as custody, alimony and child's visitation are mandated to go in mediation, divorce is solved only in courts as a full adjudicative process and as such this leads to confusion in both, the parties and the judges (Kosovo Judicial Council, 2020).This is projected to lead into the unwillingness of the parties to separately resolve their issues by different mechanisms that are completely contradictory to each other in one end and the pressure on the judges to immediately continue with the court proceedings without firstly trying mediation as foreseen by the law in the other end.

Future Foresights and suggestions for mediation in Kosovo

Kosovo represents a fast-growing country with ever changing social and cultural norms that creating a shift in traditional expectations. The number of cases reaching the courts is at its peak and the capacity on resolving them adequately and in a timely manner is growing more inefficient. The need of the application of alternative mechanisms in order to prevent the blockage of the courts is no longer a suggestion but a must. Due to the lack of screening devices for power imbalance and domestic violence, it can be considered that mandatory mediation does not reach its full potential in Kosovo. In order to actively support and utilize mediation in Kosovo, a number of actions should be undertaken that are summarized as the following suggestions:

1. The approaches that aim to raise awareness and promote mediation should be directed to both, the professionals and the general population, as it will educate and inform them about the advantages and benefits that mediation provides. Awareness and information of the general population could be achieved by mediatic aid in the form of ads, the implementation of online judicial advice and the designation of a mediation corner on the official websites of Kosovo Judicial Council and Kosovo Prosecutorial Council. Promoting mediation to the professionals such as the judges, prosecutors and lawyers could improve with an increased number of trainings and seminars, developing and publishing e-books, books and manuals that are of informative nature about mediation.
2. Composition of non-ambiguous instructions on the use of mediation specifically of mandatory mediation, in order to aid the professionals such as judges, lawyers and mediators so misinterpretations of the Law of Mediation in Kosovo are evaded or reduced.
3. Development of screening mechanisms in mandatory mediation with an emphasis on family law disputes to be able to properly exclude inappropriate cases from mediation.
4. Further research should be conducted on the aim to measure the utilization of mediation, the dimensions of adequate mandatory mediation in Kosovo and its limitations when facing traditional norms and cultural expectations, and the expansion of collected data as the cotemporary data is insufficient and lacking for proper conclusions.

References

06/L-009, N. (2018). *Law on Mediation* . Kosovo: Assembly of Republic of Kosovo.
Abel, R. L. (1982). *The Politics of Informal Justice.* Los Angeles, California: Academic Press ,Inc.
Alfini, J. J. (1991). Trashing ,Bashing and Hashing It Out: Is this the End of "Good Mediation" ? *Florida State University Law Review, 19*(1), 62-63.
Aliu, L., Shala, M., Nrecaj, A., Kurteshi, S., Sylejmani, E., Xhambazi, V., & Kurti, E. (2019). *Pasuria e Përbashkët dhe Mbajtja FInanciare : Ligji dhe Praktika.* Initiative for Justice and Equality (INJECT).
Bagshaw, D., Brown, T., Wendt, S., Campbell, A., McInnes, E., Tinning, B., . . . Arias, P. F. (2011). Family Violence and family law in Australia: the experiences and views of children and adults from families who separated post-1995 and post-2006. *Family Matters*, 49-61. Retrieved from https//aifs.gov.au/sites/default/files/fml86f.pdf
Baily, A. M., & Danny, C. K. (2003). Attorneys Comment on Mediation & Domestic Violence. *Alaska Bar Rag, 27*(4).
Brinig, M. F. (1995). Does Mediation Systematically Disadvantage Women? *William and Mary Journal of Women and the Law, 2*(1), 1-34. Retrieved from https://works.bepress.com/margaret_brinig/79/
Brown, H. J., & Marriott, A. L. (1999). *ADR Principles and Practice.* Sweet & Maxwell.
Bruch, C. S. (1988). And how are the children ? The effects of ideaology and mediation on child custody law and children's well being in the United States. *International Journal of Law and the Family, 2*(1), 106-126. doi:10.1093/lawfam/2.1.106
Bryan, P. E. (1992). Killing Us Softly : Divorce Mediation and the Politics of Power . *40 Buffalo Law Review* , 441-456.
Bullock, S. G., & Gallagher , L. R. (1997). Surveying the State of the Mediative Art: A Guide to Institutionalizing Mediation in Lousiana. *Louisiana Law Review, 57*(3), 885-948.
Bush, R. A., & Folger, J. P. (2005). *The Promise of Mediation: The transformative approach to conflict.* San-Francisco: Jossey-Bass.
Carlson, M. J., McLanahan, S. S., & Brooks-Gunn, J. (2008). Coparenting and nonresident father's involvement with young children after a nonmarital birth. *Demography*, 461-488.
Clarke-Stewart, A., & Brentano, C. (2006). *Divorce,Causes and Consequences.* New Haven and London: Yale University Press.
Cleak, H., Schofield, M., & Bickerdike, A. (2014). Efficacy of family mediation and the role of family violence: study protocol. *BMC Public Health*.
Clemants, E., & Gross, A. (2007). "Why aren't we screening ?" A survey examining domestic violence screeining procedures and training protocol in community mediation centers. *Conflict Resolution Quarterly, 24*(4), 413-431. doi:10.1002/crq.182
Cobb, S. (1997). The domestication of Violence in mediation. *Law & Society Review Vol 31 No 3, 31*(3), 397-440.
Corcoran, K. O., & Melamed, J. C. (1990). From Coercion to Empowerment: Spousal Abuse and Mediation. *Mediation Quarterly, 7*(4), 303-12. doi:10.1002/crq.3900070404
Council, K. J. (2018). *Statistics from General Annual Reports*. Retrieved from Këshilli Gjyqësor I Kosovës: www.gjyqesori-rks.org/statistics/?lang=en
Council, K. J. (2019). *Raporti Statistikor I Gjykatave Nëntëmujori -2019.* Prishtina.
Crounch, R. E. (1982). The Dark Side is Still Unexplored. *Family Advocate, 4*(3), 27-35.
De Palo, G. (2018). *A Ten-Year-Long "EU Mediation Paradox" When an EU Directive Needs To Be More...Directive.* European Parliaments.
De Palo, G., & Canessa, R. (2014). Sleeping? Comatose? Only Mandatory Consideration of Mediation Can Awake Sleeping Beauty in The European Union. *Cardozo Journal of Conflict*

Resolution 16, 713-730.
De Palo, G., Feasley, A., & Orecchini, F. (2011). *Quantifying the cost of not using mediation- a data analysis.* Brussels: European Parilament.
Depner, C. E., Cannata, K. V., & Simon, M. B. (1992). Building a uniform statistical reporting system: A snapshot of California Family Court Services. *Family and Conciliation Courts Review 30, 30*(2), 169-184. doi:10.1111/j.174-1617.1992.tb01045.xDirective, 2. (2008). Of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commerical matters.
Drew, M. B. (2005). Lawyer Malpractice and Domestic Violence : Are we revictimizing our clients ? *Family Law Quarterly, 39*(7).
Dunning, A. (2003). Restoring Power to The Powerless : The need to Reform California's Mandatory Mediation for Victims for domestic violence. *University of San Francisco Review*, 1031-1064.
Edwards, A., & Sharpe, S. (2004). *Restorative Justice in the Context of Domestic Violence: A Literature Review.* Alberta ,Canada: Mediation and Restorative Justice Center.
Edwards, H. T. (1986). Alternative Dispute Resolution : Panacea or Anathema ? *Harvard Law Review*, 668-673.
Edwards, L., Baron, S., & Ferrick, G. (2008). A Comment on William J .Howe and Hugh McIsaac's Article "Finding Balance" Published in the January 2008. *Family Court Review, 46*(4), 586-591.
Eislee, T. G. (1991). The Case Against Mandatory Court-Annexed ADR Programs. *Judicature*, 34-40.
Ellis, D. (2008). Divorce and the family Court: What can be done about domestic violence? *Family Court Review Vol 46 No 3, 46*(3), 531-536. doi:10.1111/j.1744-1617.2008.00218.x
Ellis, D., & Stuckless, N. (2006). Separation,Domestic Violence and Divorce Mediation. *Conflict Resolution Quarterly vol 23 no 4, 23*(4), 461-485. doi:10.1002/crq.150
Ellis, D., & Wight, L. (1998). Theorizing Power in Divorce Negotiations: Implications for Practice. *Mediation Quarterly, 15*(3), 227-244. doi:10.1002/crq.3890150307
Ellis, J. W. (1992). Surveying the Terrain: A review Essay on Divorce Reform on Crossroads. *Stanford Law Review, 44*(2), 471-508.
Emery, R. E. (1994). *Renegotiating Family Relationships :Divorce ,Child Custody and Mediation.* New York: The Guilford Press.
Emery, R. E. (2012). *Renegotiating Family Relationships: Divorce, Child Custody and Mediation.* New York: The Guildford Press.
Emery, R. E., Laumann-Billings, L., Waldron, M. C., Sbarra, D. A., & Dillon, P. (2001). Child custody mediation and litigation :custody,contact and coparenting 12 years after initial dispute resolution. *Journal of Consulting and Clinical Psyschology*, 323-332. doi:10.1037//0022-006X.69.2.323
Emery, R. E., Sbarra, D., & Grover, T. (2005). Divorce Mediation :Research and Reflections. *Family Court Review, 43*(1), 22-37. doi:10.1111/j.1744-1617.2005.00005.x
Esplugues, C., & Marquis, L. (2015). *New Developments in Civil and Commercial Mediation.* Springer International Publishing Switzerland.
Faget, J. (2004). Mediation and Domestic Violence. *Champ Pénal/Penal Field*.
Farnsworth, N., Qosaj-Mustafa, A., Banjska, I., Berisha, A., & Morina, D. (2015). *Mjaftë më me arsyetime: Analizë e qëndrimeve ,incidencës dhe reagimeve institucionale ndaj dhunës në familje në Kosovë.* Prishtina,Kosovo: Rrjeti i Grupeve të Grave Të Kosovës.
Fineman, M. A. (1991). *The Illusion of Equality: The Rhetoric and Reality of Divorce Reform.* Chicago: The University of Chicago Press.
Firestone, G., & Weinstein, J. (2004). In the best interest of children: A proposal to transform the adversial system. *Family Court Review ,Vol 42, No 2, 42*(2), 203-215.

Fuller, L. L. (1971). Mediation :Its Forms and Functions. *Sourthern California Law Review*, 305-339.

Garcia-Moreno, C., Jansen, H. A., Ellsberg, M., Heise, L., & Watts , C. (2005). *WHO Multi-country Study on Women's Health and Domestic Violence against Women.* World Health Organization.

Germane, C., Johnson, M., & Leman, N. (1985). Mandatory Custody Mediation and Joint Custody Orders in California: The Dangers for Victims of Domestic Violence. *Berkeley Women's Law Journal*, 175-200.

Gewurz, I. G. (2001). (Re)Designing Mediation to Adress to Nuances of Power Imbalance. *Conflict Resolution Quarterly , 19*(2), 135-162.

Goldberg, S. B., Sander, F. E., & Rogers, N. H. (1992). *Dispute Resolution: Negotiation, Mediation and other processes.* Aspen Pub.

Grillo, T. (1991). The Mediation Alternative :Process Dangers for Women. *The Yale Law Journal*, 1547-1560.

Hanks, M. (2012). Perspectives on Mandatory Mediation. *UNSW Law Journal, 35*(3), 929-952. Retrieved from www.austlii.edu.au/journals/UNSWLawJI/2012/39.pdf

Hart, B. J. (1990). Gentle Jeopardy : The further endangerment of battered women and children in custody mediation. *Mediation Quarterly, 7*(4), 317-330. doi:10.1002/crq.3900070405

Hauser, F. (2017). *The Quality of Public Administration "Toolbox".* Luxemburg: European Commision.

Herrnstein, B. H. (1996). Women and Mediation: A chance to Speak and to be Heard. *Mediation Quarterly, 13*(3), 229-241. doi:10.1002/crq.3900130308

Johnson, N. E., Saccuzzo, D. P., & Koen, W. J. (2005). Child Custody Mediation in Cases of Domestic Violence ,Empirical Evidence of a Failure to Protect. *Violence Against Women, 11*(8), 1022-1053.

Katz, L. V. (1988). Enforcing an ADR clause- Are Good Intentions all you have ? *American Buisness Law Journal, 26*, 575-583. doi:10.1111/j.1744-1714.1988.tb01156.x

Katz, L. V. (1993). Compulsory Alternative Dispute Resolution and Vounetarism :Two Headed Monster or Two sides of the coin. *Journal of Dispute Resolution*, 1-56.

Kelly, J. B. (1995). Power Imbalance in Divorce and Interpersonal Mediation: Assessment and Intervention. *Mediation Quarterly, 13*(2), 85-98.

Kelly, J. B. (1996). A decade of divorce mediation research :Some Answers and Questions. *Family And Conciliation Courts Review, 34*(3), 373-385.

Kelly, J. B., & Duryee, M. A. (1992). Women's and men's views of mediation in voluntary and mandatory mediation settings. *Family and Concilation Courts Review, 30*(1), 34-49. doi:10.1111/j.174-1617.1992.tb01267.x

Kelly, J. B., & Emery, R. E. (2003). Children's Adjustment Following Divorce: Risk and Resilience Perspectives. *Family Relations*, 352-362.

Kelly, J. B., & Gigy, L. (1989). Divorce Mediation :Characteristics of Clients and Outcomes. In K. Kressel, & D. Pruitt, *Mediation Research: The Process and Effectivness of Third-Party Intervantion* . San Francisco: Jossey-Bass.

Kelly, J. B., & Johnson, M. P. (2008). Differentiation Among Types of Intimate Partner Violence: Research Update and Implications for Intervention. *Family Court Review, 46*(3), 476-499.

Kosovo Agency of Statistics. (2019). *Statistikat Sociale: Anketa e Fuqisë Punëtore.* Republic of Kosovo.

Kosovo Judicial Council. (2020). Udhëzues për lëndët e gjykatave të përshtatshme për Ndërmjetësim. *Lansimi i Udhëzuesit për lëndët e gjykatave të përshtatshme për Ndërmjetësim.* Prishtina: Kosovo Judicial Council.

Kuhn, S. C. (1984). Mandatory Mediation :California Civil Code Section 4607. *Emory Law Journal, 33*, 733-758.

Lahey, K. A. (2010). Women ,Substantive Equality ,and Fiscal Policy : Gender-Based analysis of

Taxes ,Benefits and Budgets. *Canadian Journal of Women and the Law, 22*(1), 27-106. doi:10.3138/cjwl.22.1.027

Landrum, S. (2011). The Ongoing Debate about Mediation in the Context of Domestic Violence : A call for Empirical Studies of Mediation Effectiveness. *Cardozo Journal of Conflict Resolution, 12*, 425-430.

Learman, L. G. (1984). Mediation of Wife Abuse Cases: The adverse Impact of Informal Dispute Resolution on Women. *Harvard Women's Law Journal, 7*, 57-113.

Lingard, S., Raraty, D., & McCathy, V. (2007). *Legal Aid and mediation for people involved in family breakdown.* London: National Audit Office.

Logan, T., & Walker, R. (2004). Separation as a Rsk Factor for Victims of Intimate Partner Violence :Beyond Lethality and Injury, a Response to Campbell. *Journal of Interpersonal Violence, 19*(12), 1478-1486. doi:10.1177/0886260504269699

Lowe, A. E., & Abrams, N. D. (2011). Should we Mediate Cases Involving Domestic Violence? *Ooakland Contry Bar Association*, 9.

Lynch, K. (2016). Reform of Family Justice:Children's Dispute Resolution in Hong Kong. *Cardozo J.of Conflict Resolution* , 909-936.

Mandatory Mediation and Summer Jury Trial: Guidelines for Ensuring Fair and Effective Processes. (1990). *Harvard Law Review, 103*(5), 1086-1091. doi:10.2307/1341456

Maxwell, J. P. (1999). Mandatory Mediation of Custody in the Face of Domestic Violence : A suggestion for Courts and Mediators. *Family and Concilation Courts Review, 37*(3), 335-337.

McCarthy, J. R., Hooper, C.-A., & Gillies, V. (2014). *Family troubles? Exploring changes and challenges in the family lives of children and young people.* Bristol, UK: Policy Press.

McFarlane, T. (2012). Mediation : The Future of Dispute Resolution in Contemporary Scots Family Law. *Aberdeen Student Law Review* , 28-53.

McHale, J., Khazan, I., Erera, P., Tamir, R., DeCourcey, W., & McConnell, M. (2002). Coparenting in diverese family systems. In M. H. Bornstein, *Handbook of Parenting: Being and Becoming a Parent* (pp. 75-107). New Jersey: Lawrence Erlbaum Associates.

Menkel-Meadow, C. J. (2004). "Rememberance of things past? The relationship of past to future in pursuing justice in mediation? *Cardoza Journal of Conflict Resolution, 97*(5), 97-115.

Ministry of Justice. (2020, February 15). *Statistikat*. Retrieved from Ministria e Drejtësis: https://md.rks-gov.net/page.aspx?id=2,155

Mnookin, R. H., & Kornhauser, L. (1979). Bargaining in the Shadow of Law:The Case of Divorce. *Yale Law Journal*, 950-997.

Muhlhauser, T. L., & Knowlton, D. D. (1994). "Mediation in the Presence of Domestic Violence: Is it light at the End of the Tunnel or Is a Train on the Track?". *North Dakota Law Review, 70*(2), 255-267.

National Audit Office. (2017). *Raporti i Auditimit: Efikasiteti I Menaxhimit Të Lëndëve Civile në Gjykatat Themelore.* Prishtina.

Nylund, A. (2018). A Dispute Systems Design Perspective on Norwegian Child Custody Mediation. In A. Nylund, K. Ervasti, & L. Adrian, *Nordic Mediation Research* (p. 10). Springer, Cham.

OSCE Mission in Kosovo. (2011). *Adjudication of family law cases in Kosovo: Case management issues.* Organization for Security and Co-operation in Europe.

Paetsch, J. J., Bertrand, L. D., & Boyd , J.-P. E. (2017). *An evaluation of the cost of family law disputes : Measuring the cost implication of various dispute resolution methods.* Toronto, Canada: Canadian Forum On Civil Justice.

Pearson, J. (1997). Mediating when Domestic Violence is a factor: Policies and Practices in Court Bases Divorce Mediation Programs. *Mediation Quarterly vol 14 no 4*, 319-335.

Pearson, J., & Thoennes, N. (1988). Divorce mediation research results. In J. Folberg, & A. Milne, *Divorce mediation: Theory and practice* (pp. 429-452). The Guilford Press.

Peeples, R. A., Reynolds, S., & Harris, C. T. (2008). It's the Conflict,Stupid : An Empirical Study of Factors that Inhibit Sucessful Mediation in High-Conflict Custody Cases. *Wake Forest Law Review*, 505.

Putz, J. W., Ballard, R. H., Arany, J. G., Applegate, A. G., & Holtzworth-Munroe, A. (2012). Comparing the Mediation Agreements of Families With and WIthout a History of Intimate Partner Violence. *Family Court Review, 50*(3), 413-428.

Quek, D. (2010). Mandatory Mediation :An Oxymoron? Examining the Feasibility of Implementing a Court-Mandated Mediation Program. *Cardozo Journal Of Conflict Resolution*, 479-510.

Radford, M. F. (2001). Advantages and Disadvantages of Mediation in Probate,Trust, and Guardianship Matters. *Pepperdine Dispute Resolution Law Journal*, 241-254.

Regehr, C. (1994). The use of empowerment in child custody Mediation: A Feminist Critique. *Mediation Quartely, 11*(4), 361-364. doi:10.1002/crq.3900110408

Reuben, R. C. (2007). Tort Reform Renews Debate Over Mandatory Mediation. *Dispute Resolution Magazine* , 13-15.

Rimelspach, R. L. (2001). Mediating Family Disputes in a World with Domestic Violence : How to Devise a Safe and Effective Court-Connected Mediation Program. *Ohio State Journal on Dispute Resolution, 17*(1), 95-112.

Roberts, M. (2008). *Mediation in Family Disputes: Principles of Practice.* England: Ashgate Publishing Limited.

Sander , F. E. (2007). Another view of Mandatory Mediation. *Dispute Resolution Magazine*, 16.

Sander, F. E., H.William, A., & Hensler, D. (1996). Judical (Mis)Use of ADR? A Debate. *University of Toledo Law Review*.

Sauer, J. J. (2007). Mediating Child Custody Disputes for High Conflict Couples:Structuring Mediation to Accomodate the Needs &Desires of Litigious Parents. *Pepperdine Dispute Resolution Law Journal*, 500-533.

Schechter, S., & Edleson , J. L. (1999). *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidlines for Policy and Practice.* Reno,Nevada: National Council of Juvenile and Family Court Judges.

Schepard, A. I. (2004). *Children, courts, and custody : Interdisciplinary models for divorcing families.* Cambridge University Press.

Semple, N. (2012). Mandatory Family Mediation and the Settlement Mission: A Feminist Critique . *Canadian Journal of Women and the Law* , 207-239.

Shavell, S. (1995). Alternative Dispute Resolution :Panacea or Anathema? *Harvard Law Review, 99*, 668-673.

Siemer, D. C. (1991). Perspectives of Advocates and Clients on Court-Sponsored ADR. *Emerging ADR Issues in State and Federal Courts*.

Simpson, B. (1989). Giving children a voice in divorce: The role of family Concilation. *Children & Society* , 261-274.

Sitarz, O., Bek, D., & Jaworska-Wieloch, A. (2018). Mediation and Domestic Violence: Theoritical Reflection on the Polish Background. *International Journal of Crimiinal Justice Sciences*, 356-369.

Stallone, D. R. (1984). Decriminalization of violence in the home mediation in Wife Battering Cases. *Law and Inequality: A journal of Theory and Practice* , 493-519.

Steffek , F. (2012). *Mediation in the European Union :An Introduction.* Cambridge: European Commission.

Stevenson, B., & Wolfers, J. (2007). Marriage and Divorce :Changes and their Driving Forces. *PSC Working Paper Series*, 1-30.

Streeter-Schaefer, H. A. (2001). A Look at Court Mandated Civil Mediation. *Drake Law Review, 49*(2), 367-388.

TNS Opinion & Social. (2010). *Special Eurobarometer 344 : Domestic Violence against women.*

Brussels,Belgium: European Commision.
Uka, S., Hajrizi, B., Deliu, E., Ismaili, S., Sojeva, A., Tahiri, E., . . . Navakazi, V. (2016). *Women and Men in Kosovo 2014-2015.* Prishtina: Kosovo Agency of Statistics (KAS).
UNICEF Kosova. (2014). *Study on Dimensions of Domestic Violence :Gender-Based Violence in Kosovo Municipalities: Dragash/Dragaš,Gjakovë/Djakovica and Gjilan/Gnjilane.* UNICEF Kosovo.
Veen, S. V. (2014). *A Case for Mediation ,The Cost-Effectiveness of Civil,Family, and Workplace Mediation.* Vander Veen Reserach & Evaluation.
Vuniqi, L., & Halimi, S. (2011). *Women's Property InherItance Rights in Kosovo.* Prishtina: Kosovar for Gender Studies Center.
Walther, G. M. (2000). Power Imbalance in Divorce Mediation. *American Journal of Family Law , 14*(2), 93-101.
Widmer, E. D. (2016). *Family Configurations : A Structural Approach to Family Diversity.* New York: Routledge ,Taylor & Francis Group.
Winston, D. S. (1996). Participation Standards in Mandatory Mediation Statutes : You can Lead a Horse to water... *Ohio State Journal on Dispute Resolution*, 187-206.
Wissler, R. L. (1997). The Effects of Mandatory Mediation : Empirical Research of the Experience of small claims and common pleas courts. *Willamette Law Review, 33*, 565-604.
Zaher, S. (1998). The Feminization of Family Mediation. *Dispute Resolution Journal*, *53*(2).
Zylstra, A. (2001). Mediation and Domestic Violence: A Practical Screening Method for Mediatiors and Mediation Program Administrators. *Dispute Resolution Journal, 2001*(1), 253-260.
Zylstra, A. (2001). The Road from Voluntary Mediation to Mandatory Good Faith Requirments : A Road Best Left Untraveled. *Journal of the American Academy of Matrimonial Lawyers*, 69-103.