Uganda Family Justice Catalogue

Recommendations and best practices for resolving and preventing family issues

Professional Version (Prototype)

HiiL

Uganda Family Justice Catalogue

Professional Version

Preface

The Uganda Family Justice Catalogue presents a solution guideline that combines identifiable best practices based on evidence about what works. It provides actionable ways for users and professionals to reach solutions of resolving family problems. Research shows that these problems have increasingly become a key concern especially for poor and marginalised persons. In many instances, land disputes are often at the centre of these problems leading to occasions of violence, assaults and murder. This interplay has a direct impact on the livelihood of those affected.

The Justice Needs and Satisfaction Survey conducted by the Hague Institute for Innovation of Law (HiiL) in 2015 showed that many prevalent justice problems in Uganda were related to families. Almost 40% of the population declared having experienced a family justice problem in the previous four years. 28% of the female respondents declared to have a family problem, compared to just 10% of their male counterparts. The study further indicated that domestic violence poses a huge problem, especially for women who are almost three times more likely than men to suffer from its proliferation. Family issues were also reported to arise with higher frequency among young people. It is estimated that in a four year period between 4.6 and 4.8 million family problems occur in Uganda. Unfortunately, both the families and practitioners often lack access to effective tools to help them reach agreements when these conflicts arise.

There is a need for innovative solutions to address many day-to-day problems that arise in communities. Such solutions should particularly enhance access to justice services for vulnerable persons. The focus in this new direction has been reiterated by the 4th Strategic Development Plan of the Justice Law and Order Sector (JLOS) so as to remove bottlenecks in delivery and access to JLOS services in line with the National Development Plan II and the Vision 2040. It recognises that the peoples' needs and expectations of the justice system are also closely intertwined with their livelihood opportunities. They seek for appropriate tools and services to deliver user friendly justice as well as alternative remedies to conventional solutions.

Most family justice is provided by people relying primarily on their own experiences and those in the group where they live such as peers in their social network, volunteers, Local Council Courts and elders or leaders in the village. To help people more effectively, they might be interested in knowing what works best in mediation, negotiation and decision-making processes. Police, courts and other organizations already use guidelines for handling issues such as domestic violence.

The catalogue will be continually updated with recommendations for improved diagnosis and management of family justice problems. Such a living guidelines model will enable both service providers and users to make informed decisions.

I would like to thank all of the individuals and organisations who have given their time and expertise in developing this catalogue. I also call upon Government, the people of Uganda, development partners, and all JLOS stakeholders to support the implementation of these guidelines so as to shape clearer paths to family justice in Uganda.

Table of Contents

1. Executive Summary

This catalogue provides recommendations for practitioners to help families (both Ugandan citizens and refugees in Uganda) to reach agreements in times of conflict within the family. This is the first evidence-based guideline dedicated to family justice in Uganda or elsewhere. This version is developed for practitioners and helpers in the formal and informal systems, with a decent command of the English language. To meet the needs of different users in different contexts and the needs of people with disabilities, several versions will be released for testing with different types of urban and rural catalogue users. These will include audio-visuals and web-based materials that can be shared through different channels such as social media and radio broadcasts.

In chapter 2 of the catalogue you will find a glossary of words used in the catalogue. Chapter 3 provides suggestions on how to use this catalogue and chapter 4 provides an overview of all the recommendations listed. Chapter 5 contains all the recommendations and best practices developed by experts. The chapter is divided into sub-sections that each deal with specific topics related to resolving and preventing family disputes. The evidence base for all the recommendations in the catalogue can be found in chapter 6. Information of on the core group of experts involved in developing the catalogue can be found in chapter 7 and finally a list of all the references used can be found in chapter 8.

A Core Group of Experts in Uganda has overseen the catalogue development process to ensure the needs of Ugandan users of this catalogue are addressed. A multidisciplinary research team gathered experiences from local professionals of informal and formal systems and collected evidence from international literature.

They assessed the quality of the evidence using a methodology that is applied globally to develop guidelines in the health care sector.

The Family Justice Catalogue is a 'living document'. Recommendations are to be improved, changed and added. Evidence-based practices are continuously developing and new practices are proving to work. The following topics are considered to be included in next versions of the catalogue:

- Communication with family and friends
- Duties and responsibilities of children
- Education arrangements
- Financial arrangements for housing
- Land
- Inheritance
- Monetary assets
- Debts
- Complications (such as domestic violence)

The Family Justice Catalogue is developed as part of the Justice Innovation Uganda project, which is executed by HiiL in partnership with the Justice Law & Order Sector (JLOS) and financed by the Swedish International Development Agency (SIDA). It follows on data they have been collecting since 2016, including the reports Justice Needs in Uganda and Family Justice in Uganda, which identify key areas for improvement in the domain of family justice.

Feel free to contact us and to be involved in the movement to develop sustainable financing models for more evidence-based tools for practitioners and users. This catalogue will be released in several versions and we hope to work with you in the dissemination and testing process.

2. Glossary of terms used in this catalogue

General Terms

Extended household. This broadly refers to situations where co-habitation is shared with other family members which could include grand-parents, siblings, cousins etc.

Family. A family relation is when there is a direct connection through by birth, by marriage, or by co-residence. Members of the immediate family may include spouses, parents, brothers, sisters, sons, and daughters. Members of the extended family may include grandparents, aunts, uncles, cousins, nephews, nieces, and siblings-in-law.

Household. The physical living space that a family shares and the members of the family together are referred to as a household.

Local leader. We use the word local leader broadly to refer to individuals who have a significant influence in a specific community or group of people. This could include religious leaders, elders, clan leaders or others who can be very helpful in helping families to resolve their conflicts in a fair way.

Marriage. In Uganda any formally recognized union between a man and a woman is a marriage. This includes all kinds of customary as well as civil marriages.

Matrimonial home. The matrimonial home refers to the shared home (and land) between spouses.

Parent. We refer to the caretaker of a child as a parent. This can include biological parents, step-parents or other types of guardians who are responsible for the well-being and upbringing of the child.

Party. Often when there is a conflict between people they are referred to as parties.

Practitioner. In the Catalogue we use the word practitioner to refer to all those who are helping families to resolve their conflict. This includes professionals as well as informal helpers

Separation. When couples no longer live together in the same household, this is referred to as separation.

Single parent household. When one parent is raising one or more children it is referred to as a single parent household.

Spouse. Women and men who are married are known as spouses.

Key words

Balance of outcomes. Based on a comparison of the desirable and undesirable outcomes, we can try to make an assessment.

Best practice. A best practice refers to an intervention that is shown by practitioners in the field to provide a specific solution to a problem.

Desirable outcomes. An intervention in a family conflict will affect each member in different ways. When there is a positive effect on the well-being of the family, we call it a desirable outcome.

GRADE. Acronym for: Grading of Recommendations, Assessment, Development and Evaluation. It is a method that is used to rate the quality of the best available evidence in developing health care recommendations.

Intervention. In this catalogue we use the word intervention to describe any action or activity that is taken with the aim of resolving or preventing a conflict in the family.

PICO. Acronym for: Patient, Intervention, Comparison, Outcome. It is a method used in the medical sector to compare different interventions.

Recommendation. A recommendation is an evidence-based call for action for a specific treatment that should be applied by practitioners and users.

Undesirable outcomes. Sometimes there are (unintended) negative outcomes when trying to solve the problem. This we refer to as an undesirable outcome.

Process to reach agreements

Problem solving approach. The problem-solving approach is the name given to the way of dealing with personal conflicts that focuses on finding solutions for the parties' underlying needs and objectives. It includes the steps taken to resolve the conflict and also includes the monitoring process to ensure agreements are still working.

Intake. The process where the needs of the parties in a conflict are identified and recorded by a third party.

Diagnosis. The process where the practitioner makes an assessment about the most appropriate interventions, based on an intake.

Mediation. An intervention in a (family) dispute by an independent third party in order to resolve it. The aim for conflicting parties is to promote reconciliation, settlement, or compromise.

Adjudication. The process of decision-making by an independent and neutral third party (most commonly a judge)

Terms related to specific issues

Active measures to increase income. Measures that generate more income.

Adolescents. Children between the ages of 10 and 18.

Authoritarian parenting. Authoritarian parenting is a parenting style characterized by high demands and low responsiveness. Parents with an authoritarian style have very high expectations of their children, yet provide very little in the way of feedback and nurturance. Mistakes tend to be punished harshly.

Authoritative parenting. Authoritative Parenting is a parenting style that is child-centered, in that parents closely interact with their children, while maintaining high expectations for behavior and performance, as well as a firm adherence to schedules and discipline.

Child support. A financial or non-financial contribution from a parent for the well-being and upbringing of a child.

Expenditure. The action of spending money or funds.

Infants and children. Children up to 4 years of age.

Mutual avoidance of communication. Mutual avoidance is typified by both partners avoiding communicating as much as possible

Mutual constructive communication. Mutual constructive communication is interactive, involves constructive problem-solving and focuses on avoiding conflict. Both parties try to engage in a mutual adaptive discussion.

Non-permanent spousal maintenance. The agreement is set for a specific period of time or until both spouses are self-sufficient.

Passive measures to increase income. Measures that do not actively generate more income, but may reduce expenses.

Permanent spousal maintenance. The agreement is permanent so one spouse is expected to continue provide (financial) support indefinitely.

Permissive parenting. Permissive parenting is a type of parenting style characterized by low demands with high responsiveness. Permissive parents tend to be very loving, yet provide few guidelines and rules. These parents do not expect mature behavior from their children and often seem more like a friend than a parental figure.

Shared residency (also known as dual residency). An arrangement following a separation where a child has a home in both parent's respective households.

Sole custody. An agreement following a separation where one parent is recognized formally as the only caretaker for that child.

Spousal maintenance. A formal agreement between spouses during or after a separation where one spouse provides (financial) support to the other spouse.

Young children. Children between the ages of 5 and 9.

Self-sufficient. Able to generate the income and resources needed to cover all expenses and living costs.

3. How to use the Family Justice Catalogue

This catalogue provides a foundation for evidence-based care for people dealing with family-related conflicts. The Family Justice Catalogue contains 21 recommendations, 76 best practices and 36 suggested practices that support practitioners in their efforts to help people. The catalogue follows the process from problem to solution and suggests ways for families to reach agreements.

As a local leader, lawyer, paralegal, mediator, family therapist or any other practitioner, you are required to follow the law. You should always rely on your own expertise and experience and act according to the circumstances of each individual case. All recommendations in the catalogue are generalized and do not take into account specific situations that require exceptions. Therefore, your professional assessment on a case-by-case basis is essential in order to make the best decisions possible.

The recommendations listed in the Family Justice Catalogue are established according to a method that is widely applied in medical practice (PICO/GRADE). It combines local practice from both formal and informal systems and research on 'what works'. This distinguishes the catalogue from existing legal guidelines.

Recommendations are categorized into four groups:

|	
Strongly Recommended ★ ★ ★ ★ ★	The intervention is desirable and the quality of evidence is high. *Apply recommendation and advise parties accordingly.*
Recommended ★ ★ ★	The intervention is desirable and the quality of evidence is moderate or low. *Apply recommendation and advise parties accordingly.*
Context-specific Recommendation ★ ★ ★	The intervention is desirable in a specific context and the quality of evidence is high, moderate or low. *Apply recommendation only in the right circumstances and advise parties accordingly.*
Beware: not recommended ⚠	The intervention is not desirable and the quality of evidence is high. *Beware of non-recommended practice.*

Suggestions on how JLOS members can relate to the recommendations

Name of JLOS Member Institution	Who can the recommendations help?	Which chapters of this catalogue could be particularly useful?
The Judiciary	*Judges, Magistrates, Registrars etc.*	**5.2** (especially section on adjudication), **5.3 - 5.9** (to inform decisions on family arrangements), **6** (for supporting research)
Uganda Police Force	*Police officers (Child and Family Protection)*	**5.2** (especially section on intake and diagnosis)
Uganda Law Society	*Lawyers*	**5.2** (for process) **5.3 - 5.9** (to help users with family arrangements), **6** (for supporting research)
Ministry of Local Government	*Local leaders, LCCs*	**5.1** (helping to maintain harmony in the community) **5.2** (to help harmonize the process) **5.3 - 5.9** (to help users with family arrangements)
Law Development Centre	*Professors, Curriculum developers*	**5.2** (empowering the future legal professionals with knowledge on outcome-focused procedures) **5.3 - 5.9** (to inform civic education curricula) **6** (for supporting research)
Uganda Registration Services Bureau (URSB)	*All*	**5.4** and **5.8** (highlighting importance of registering marriages and land to be able to make fair arrangements)
Uganda Law Reform Commission	*Policy makers*	**All** (exploring alignment between laws and best practices)
Judicial Service Commission	*Commission members*	**5.2** (encouraging people working in judicial services to use evidence-based working) **6** (for supporting research)
Ministry of Internal Affairs	*All*	**All** (ensure that interventions and procedures are also accessible to refugees)
Uganda Human Rights Commission	*All*	**All** (ensure that human rights of all groups are guaranteed; interventions and procedures are accessible to all, particularly vulnerable groups)
Ministry of Gender, Labor & Social Development	*All*	**5.1** (help promote inclusive and respecful communication) **5.2** (promote access to fair procedures for all)

4. Summary of all recommendations in this catalogue

Care Option	Recommendation	Classification	Page
Communication patterns, principles and timing			
Communication between parents	1. Parents should use mutual constructive communication in their interactions	**Strongly recommended** ★★★★★	**13**
Communication between parents	2. Parents should not use mutual avoidance communication in their interactions	**Beware** ⚠	**13**
Communication between parents	3. Parents should be supportive, cooperative and interactive when they communicate about their children	**Strongly recommended** ★★★★★	**13**
Process for families in conflict to reach understandings			
Overall approach	4. Families should use a 'problem-solving approach' that focuses on agreeing and finding solutions for their underlying needs	**Strongly recommended** ★★★★★	**15**
Intake	5. Families should do an intake with a practitioner who will assess the most effective intervention, irrespective of what that practitioner can offer himself	**Strongly recommended** ★★★★★	**17**
Intake	6. Families should not seek help from a practitioner without conducting an intake first	**Beware** ⚠	**17**
Diagnosis	7. The practitioner should diagnose and advise on the most appropriate intervention based on an intake	**Strongly recommended** ★★★★★	**17**
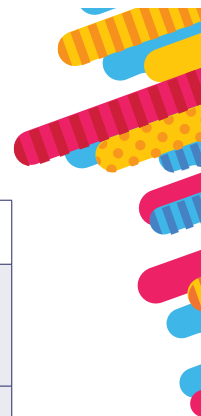
Care Option	Recommendation	Classification	Page
Mediation	8. Families should try mediation before considering litigation	**Strongly recommended** ★★★★★	**19**
Adjudication (decision-making)	9. Families and involved practitioners should apply a "therapeutic approach" to decision-making	**Strongly recommended** ★★★★★	**21**
Communication with children and their exposure to communication between parents			
Disclosure of information to children	10. Parents should limit the disclosure of inappropriate information to children.	**Recommended** ★★★	**23**
Exposure of children to conflicts	11. Parents should avoid exposing children to parental conflicts	**Strongly recommended** ★★★★★	**23**
Property and housing arrangements			
Family housing	12. Both parents and the children should live in safe homes (for instance in extended households temporarily)	**Recommended** ★★★	**25**
Fair living arrangements for children			
Infants and toddlers (0-4 years old)	13. If the situation allows, infants and toddlers should have a home at both their parents' houses	**Context-specific recommendation** ★★★	**28**
Young children (5-9 years old)	14. If the situation allows, young children should stay at both their parents' houses during school week (Monday to Friday)	**Context-specific recommendation** ★★★	**28**
Adolescents (10-18 years old)	15. If the situation allows, parents should consider shared residency for their adolescents	**Context specific recommendation** ★★★	**28**

Care Option	Recommendation	Classification	Page
Upbringing and education arrangements			
Parenting styles	16. Parents should be responsive to their children's emotional needs, at the same time be demanding and in control (authoritative parenting)	**Strongly recommended** ★★★★★	**30**
Parenting styles	17. Parents should be demanding and in control, but they should not ignore their children's needs (authoritarian parenting)	**Beware** ⚠️	**30**
Parenting styles	18. Parents should nurture their children but not allow children to get away with bad behaviour (permissive parenting)	**Beware** ⚠️	**30**
Sharing the costs of upbringing	19. Parents should agree to provide child support, financially and in kind on an agreed basis and when it is becoming necessary	**Strongly recommended** ★★★★★	**31**
Family maintenance			
Spousal maintenance	20. Parents should provide non-permanent spousal maintenance until both become self-sufficient	**Recommended** ★★★	**33**
Measures to increase income			
Measures	21. Separated parents should take active measures to increase their income, such as generating more working hours, becoming self-employed and seeking better employment opportunities	**Recommended** ★★★	**35**

5. Recommendations and Best Practices

5.1. Communication patterns, principles, and timing

Parents should communicate and cooperate with each other

They should try to interact, communicate and cooperate with each other. Communication is essential in order to transform and adapt to a new situation.

Parents should decide together on how often they interact or communicate about their children's needs. Parents can discuss child-related issues in person on arranged times.

Examples of items to be discussed are:

- The children's medical needs and educational needs;
- The children's academic accomplishments and progress;
- The children's personal problems;
- Special events;
- Personal problems that the children experience;
- Major decisions affecting children
- Finances in regard to children;
- Problems in parenting;
- Decisions regarding children's lives;
- Children's adjustment.

Communication Between Parents

1. Parents should use mutual constructive communication in their interactions ⭐⭐⭐⭐☆ *Strongly recommended*

2. Parents should not use mutual avoidance communication in their interactions *Beware* ⚠️

3. Parents should be supportive, cooperative and interactive when they communicate about their children ⭐⭐⭐⭐☆ *Strongly recommended*

The evidence base for recommendations 1, 2 and 3 can be found on pages 37 to 43

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Communicate at agreed moments.** Parents should make a plan to speak about their problems face-to-face at specific moments, rather than reacting emotionally to things as they happen.

- **Use positive (body) language.** Parents should not be aggressive or defensive in the way they communicate. They should be open and honest about their emotions but do it in a constructive way.

- **Show respect**. The parties should make each other feel respected in order to be able to effectively communicate.

Other suggested practices:

- **Where appropriate, make sure there is eye-contact** - In some cultures, eye-contact encourages truth and understanding.
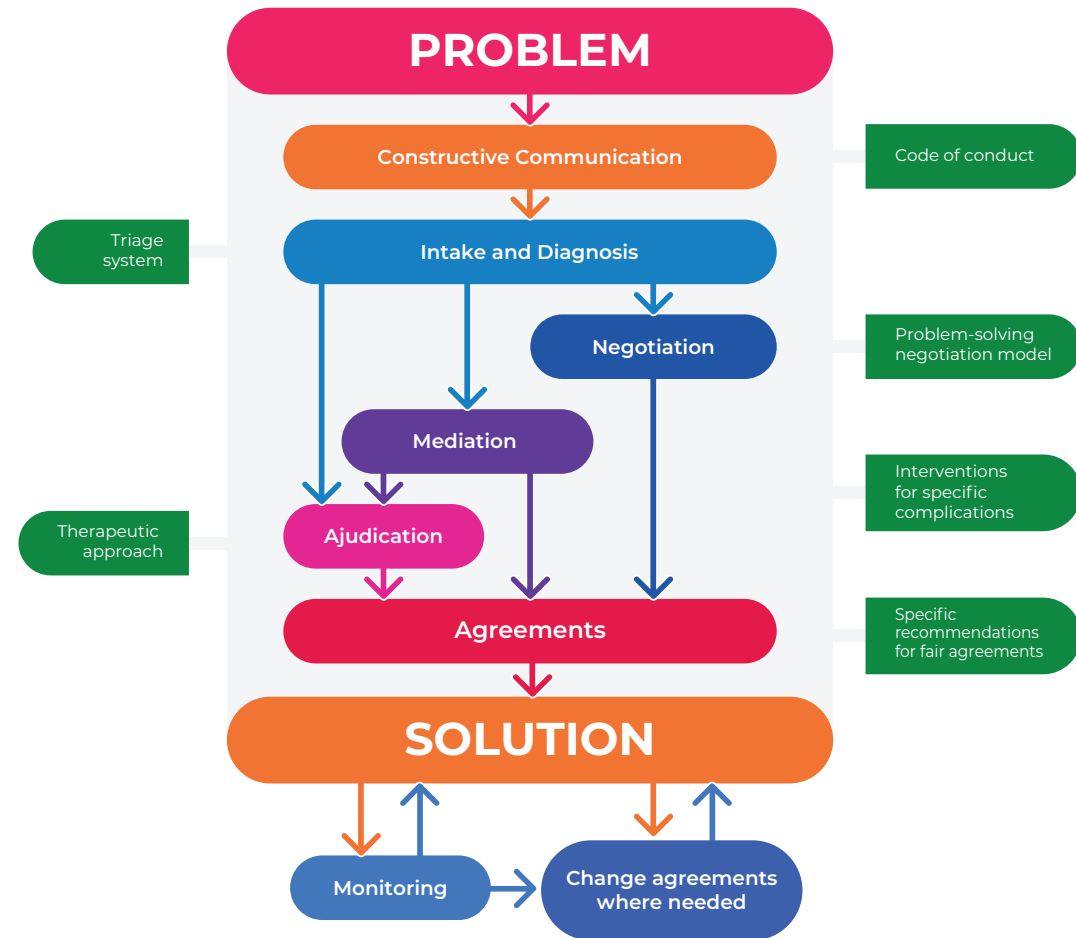
5.2. Process for families in conflict to reach understandings

Apply the Problem-Solving Approach

For a practitioner, it can be difficult to encourage families to work together and find solutions. Family conflicts often lead to tense and emotional situations. But there are effective methods to reach agreements.

The problem-solving approach focuses on finding solutions for the parties' underlying needs and objectives. The first step for the parties and their helpers is to assess these needs and objectives. Then, the most appropriate interventions are identified, followed by negotiation. Remaining issues are solved by mediation, and if necessary, by adjudication. Compliance and effectiveness of the agreed upon solutions are monitored.

International research shows that taking the problem-solving approach contributes to reaching fair solutions.

PROBLEM

Constructive Communication — Code of conduct

Triage system — Intake and Diagnosis

Negotiation — Problem-solving negotiation model

Mediation — Interventions for specific complications

Therapeutic approach — Ajudication

Agreements — Specific recommendations for fair agreements

SOLUTION

Monitoring → Change agreements where needed

4. Families should use a 'problem-solving approach' that focuses on agreeing and finding solutions for their underlying needs
⭐ ⭐ ⭐ ⭐ ⭐ *Strongly recommended*

The evidence base for recommendation 4 can be found on pages 44 to 47

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Work towards building agreements based on shared understandings.** All family members and their helpers should feel a shared responsibility to focus on finding a solution together.

- **Listen to needs of the other person.** Parties should try to listen and understand the other person. They should ask questions if there is unclarity about what the other person needs. When responding, try to contribute towards a solution and not just focus on the problem.

- **Identify the needs of each family member**. What does each family member need in order to be able to move on?

- **Actively listen to what is being said.** As a party, be a good and active listener who seeks to have a good understanding. Ask follow up questions. As practitioner, ensure both parties are actively listening to each other positions.

- **Reframe stories into needs**. Let family members share what they want to share, but summarize and reframe the stories into needs. Blame about the past can be transformed into needs for the future.

- **Remember that you are not alone.** Parties can try to ask for help from family members, friends, neighbours, clan members, Local Council Court, religious leaders etc. where you cannot reach agreements.

- **Involve neutral helpers.** Family members should all feel confident that their helpers in the process are impartial and supporting fair solutions. As practitioner, give equal time and attention to each family member.

- **Take your time.** It is important that all family members are given the time and space to share their underlying needs. Invest time in communicating. Summarize needs and acknowledge them before moving on.

- **Evaluate agreements.** Families should ask each other about how they each feel about arrangements and make adjustments where necessary. All family members should be supportive of agreements.

- **Involve other providers/experts when needed.** As a practitioner, assess the situation and your capacity and expertise. Engage other service providers or experts who can complement your services and help support the process.

Other suggested practices:

- **Consider the context of the conflict.** Are there existing (clan) structures that can be used? Is there a need for a gender-specific helper? Are there any local norms that need to be considered?

- **Ensure there is privacy and confidentiality for all.** Family members should feel safe in their privacy and confidentiality during the process.

- **Include all the affected family members.** All family members, including children, could play a role in solving the problem as it affects them all.

- **Involve the community if helpful.** Involve close family/community members who understand the situation and can help to solve the problem.

- **Encourage timely interventions.** Ensure that interventions begin at an early stage in the conflict. Do not wait for the conflict to escalate.

5.2.1. Intake & Diagnosis

The family first conducts an intake with the practitioner to find out what their needs are

Parties cannot always find solutions themselves.

They need help from a third party. In order to reach agreements, the parties start by conducting an intake. Together with the practitioner they find out what their needs are.

The practitioner provides a diagnosis, based on the intake

Based on the intake outcomes, the parties receive a diagnosis from a trained professional. The practitioner prescribes the most appropriate intervention, for example mediation or adjudication.

According to research, the intake and diagnosis are essential for the parties to receive the best help possible.
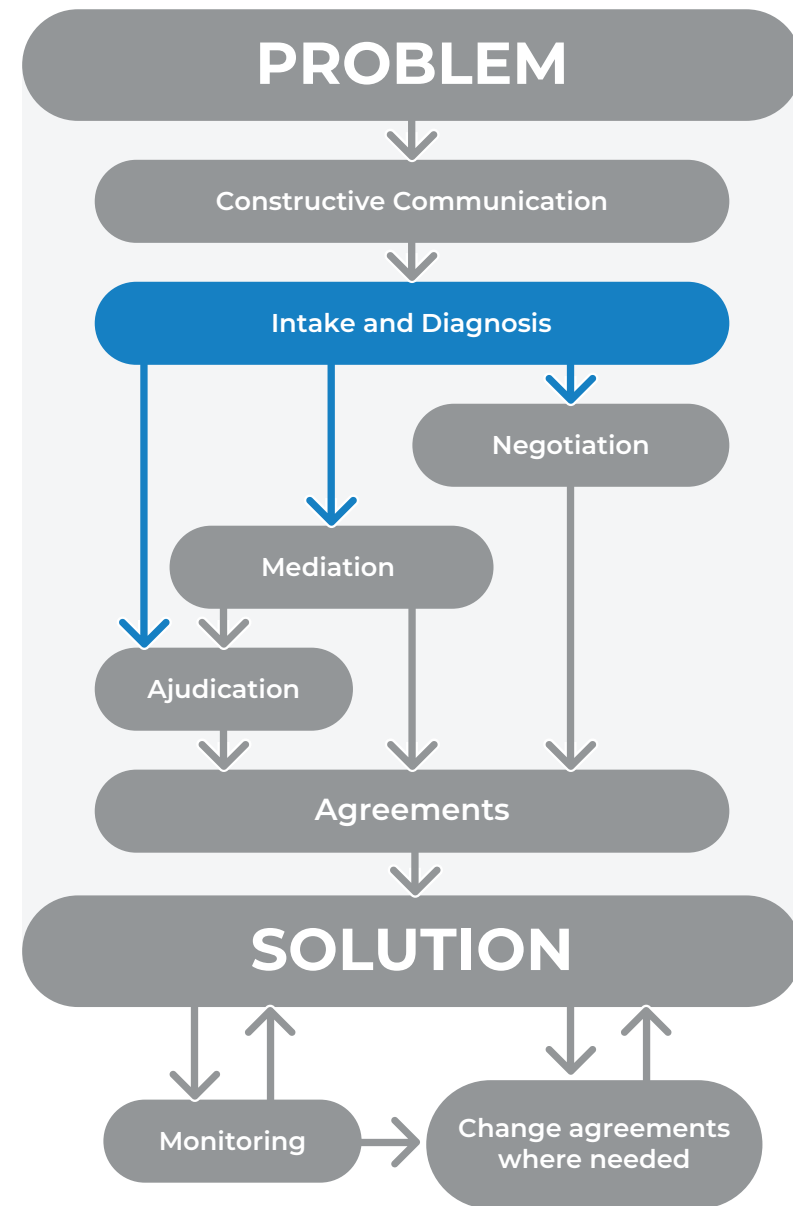
Intake

5. Families should do an intake with a practitioner who will assess the most effective intervention, irrespective of what that practitioner can offer himself ⭐⭐⭐⭐☆ *Strongly recommended*

6. Families should not seek help from a practitioner without conducting an intake first *Beware* ⚠️

Diagnosis

7. The practitioner should diagnose and advise on the most appropriate intervention based on an intake ⭐⭐⭐⭐⭐ *Strongly recommended*

The evidence base for recommendations 5, 6 and 7 can be found on pages 48 to 50

PROBLEM

Constructive Communication

Intake and Diagnosis

Negotiation

Mediation

Ajudication

Agreements

SOLUTION

Monitoring

Change agreements where needed

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Keep records.** As practitioner, make sure intakes, diagnoses and further steps are recorded. This will make it easier to ensure agreements are respected and evaluated.

- **Equal participation.** As practitioner, let both parties participate actively in the diagnosis. Both sides should get equal attention and be equally involved in the process.

- **Keep the end in mind.** Both parties should create a list of desired outcomes and then work backwards.

Other suggested practices:

- **Define clearly what the conflict is about.** The parties should clearly define what the grievance is about before the intake process.

5.2.2. Mediation

Mediate if the parties cannot agree themselves

From the intake and diagnosis it becomes clear whether mediation is possible. A prerequisite is that both parties must be willing to meet together in one room.
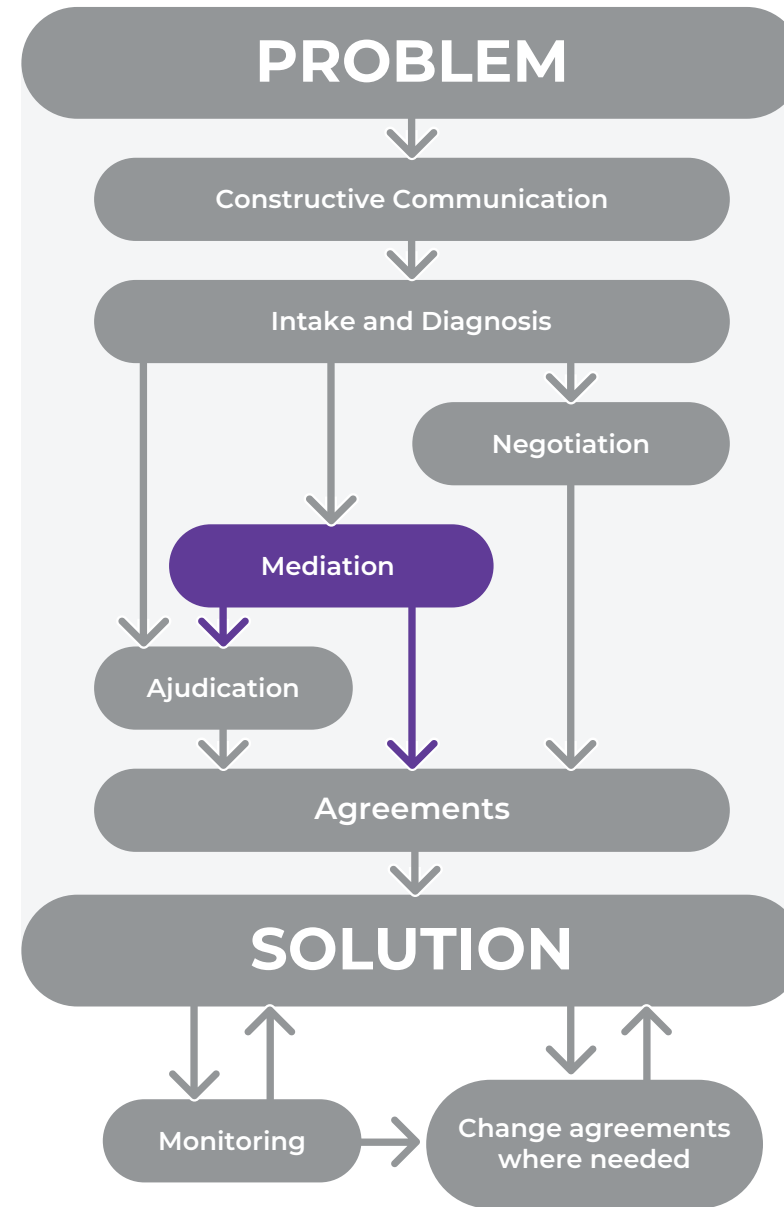
During mediation two parties meet together with an impartial third party (a mediator). Together the parties identify, discuss and make agreements. The mediator provides support, but does not make decisions for them.

International research points out that mediation process and outcome are perceived to be fairer compared to litigation.

Mediation

8. Families should try mediation before considering litigation ⭐ ⭐ ⭐ ⭐ ⭐
   Strongly recommended

The evidence base for recommendation 8 can be found on pages 51 to 54

PROBLEM

Constructive Communication

Intake and Diagnosis

Negotiation

Mediation

Ajudication

Agreements

SOLUTION

Monitoring → Change agreements where needed

Best practices suggested by practitioners in Uganda

Consistent with literature research:

How to get parties to mediate

- **Caucusing.** As mediator, have separate talks with each party first. Explore their needs, with active listening and make them feel comfortable with the process.

Before starting mediation

- **Send invitations to both parties.** Invitation letters should be given to both sides, clearly stating the goals, expectations and general overview of the mediation process. Since usually one of the parties brings the justice problem, there should be a clear message to invite the other party to come to the mediation.

- **Find a suitable mediator.** The mediator should be impartial and promote a problem-solving approach. Both parties should feel comfortable with them. Factors such as age and gender should be considered if it affects the outcome of the process. Mediators should have sufficient training and experience, also in counseling.

- **Find a suitable location.** Make sure the chosen venue is a welcoming and in a neutral setting that makes both sides feel comfortable.

- **Ensure accessibility.** Both parties should be able to conduct the mediation in their own language and time, at an accessible location.

- **Ensure confidentiality.** The mediator should ensure confidentiality of mediation.

During mediation

- **Explain the process.** The mediator should take the time to clearly explain how the mediation will be conducted and what to expect.

- **Comfort.** The mediator should make the parties feel comfortable with the mediator. The parties should trust the mediator.

- **Respectful communication.** Ensure there is mutual respect between the parties and towards the mediator. Both parties should always speak calmly, not raising voices or making accusations.

- **Promote active listening.** The mediator should ensure that both parties are listening to the other's views.

- **Focus on needs/interests.** Bring the focus of the conversation towards what are the needs, not on blaming others.

- **Give it time and space.** The mediator should ensure that both parties are able to present their own needs and views at their own pace. Do not leave anything unsaid.

After mediation

- **Let the parties own the decision.** Mediators should not impose a decision. The family members should be in full agreement.

- **Formalize agreement.** An agreement should be clearly written and signed by both parties. Both parties should understand that this is a binding agreement and that there are certain consequences attached to that.

Other suggested practices:

- **Make the parties feel welcome.** As mediator, politely welcome both parties and make them feel at ease. The mediator should provide a "homely" environment.

- **Always look for win-win situations.** Work towards agreements that make all parties happy.

- **Involvement of children.** The views and needs of children should be taken into consideration. Sensitive topics, such as bedroom issues between the couple should be handled away from the presence of children.

5.2.3. Adjudication

**A neutral decision-maker can help making decisions where needed**

It is possible that the parties cannot reach agreement on all matters after negotiation and mediation. In that case, they need a neutral third party to get there. A problem-solving judge attempts to understand and address the underlying problem. The judge facilitates and creates the best environment for the parties to decide on agreements.

Such therapeutic approach to adjudication ensures a more comprehensive solution tailored to the legal, personal, emotional and social needs of the family members.

Adjudication (decision-making)

9. Families and involved practitioners should apply a "therapeutic approach" to decision-making ☆ ☆ ☆ ☆ ☆ *Strongly recommended*

The evidence base for recommendation 9 can be found on pages 55 to 59
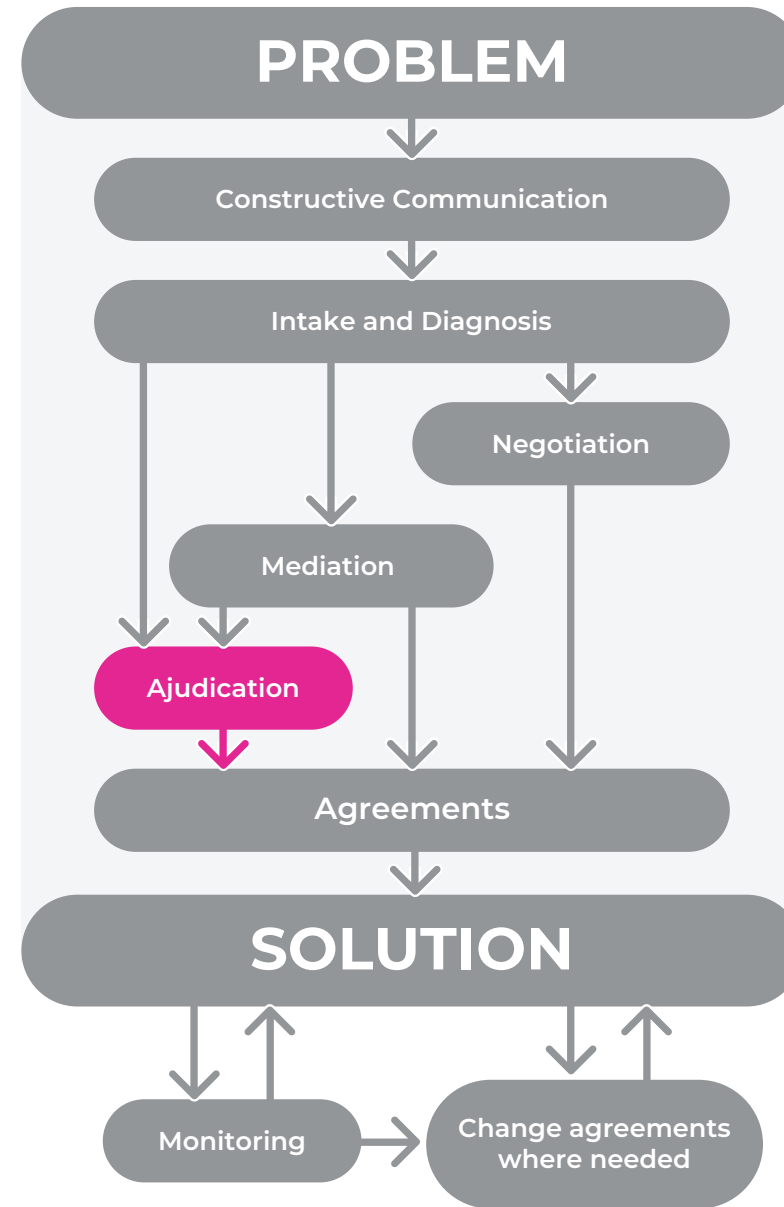
Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Ensure neutrality.** The decision-maker should be a neutral third party.

- **Explain the process.** The decision-maker should take the time to clearly explain how the decision-making process works.

- **Communicate respectfully.** Parties should ensure there is mutual respect towards each other and the decision-maker. Both parties should always speak calmly, not raising voices or making accusations.

- **Focus on needs/interests.** Bring the focus of the decision towards the needs, not blaming others.

- **Formalize agreements.** An agreement should be clearly written and signed by both parties. Both parties should understand that this is a binding agreement and that there are certain consequences attached to that

5.3. Communication with children and their exposure to conflict

Parents should be careful about the information that they share and how they deal with conflict in front of their children

When parents are facing a family conflict, they should always think about the best interests of their children. The family situation can be very difficult and emotionally challenging. Therefore, parents should know how to communicate.

The information that parents share with their children should be appropriate and constructive. Parents should not share negative information about the other parent, such as complaints on lack of child-support. Parents should not share sensitive information such as on financial issues, the reason for divorce and personal concerns. Sharing such inappropriate information with children negatively affect their well-being.

Children should be able to make sense of their parent's dispute. At the same time, parents should limit the exposure of their conflict. Children's exposure to marital conflict can place them in an uncomfortable position as mediators, which negatively influences their wellbeing.

Disclosure of information to children

10. Parents should limit the disclosure of inappropriate information to children ✩ ✩ ✩ *Recommended*

Exposure of children to conflicts

11. Parents should avoid exposing children to parental conflicts ✩ ✩ ✩ ✩ ✩ *Strongly recommended*

The evidence base for recommendations 10 and 11 can be found on pages 60 to 64

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Use constructive communication.** Rather than use hurtful or insulting words about the other partner, be positive in communication with children. Try to give children confidence. Show them that the changes will be in their best interest.

- **Beware of sharing information about emotions.** Avoid sharing information about frustration with specific actions of other family members.

- **Ensure that children know they are not responsible in any way.** Let children know that the issues between parents are between parents only. Explain that both parents love their children.

- **Give children room to ask about the new family situation.** Give children the space to ask follow-up questions. Ask them to summarize what you have communicated to ensure it is well understood. Avoid dismissing 'tricky' questions. Follow-up on communication regularly to make sure children are processing the information well.

- **Take the time to explain the situation.** Make sure children understand the changing family situation and the effect it may have on the family structure.

- **Avoid involving the child in the disagreements.** Be open about the misunderstandings or disagreements in a friendly manner. Do not ask them to take sides in the conflict. Do not use them in bargaining situations.

- **Avoid involving children in sensitive conversations.** Children should not be present in conversations of sensitive nature, this goes for any dialogue, negotiation, mediation or court hearing.

- **Keep children away from sensitive conversations between parents.** Children should not be present in conversations of sensitive nature, this might include conversations during dialogue/ negotiation, mediation or court hearings.

- **Do not share sensitive information about children in their presence.** Children should not be present when sensitive information is shared between parents.

- **Do not use or manipulate children in a conflict.** Conflicts between parents should not influence the ability of both parents to be a part of their children's lives. Don't ask them to choose sides.

- **Assess the communication levels of the child**. Depending on age and maturity of children, they may need different communication styles. Make sure that communication is tailored to the age and situation of the children.

- **Focus on what is important and what is in the best interest of the child.** Think in terms of providing solutions for children.

- **Seek help before the conflict affects children's health.** If a child is showing signs of (mental) health problems as a consequence of the conflict, seek professional help on time.

- **Encourage children to build a strong relationship with both parents.** Enable the child to build him/her own relationship with the other parent without influencing that relationship.

Other suggested best practices:

- **Ensure the children are informed and their voices are heard.** Give the child a voice. Listen to them and inform them. Use language that children understand.

- **There should be no gender bias in dealing with children**. Both parents should be involved with both their son and daughter. No parent can give preference to any of the genders.

- **Make sure children's emotional needs are well addressed.** For example during puberty children may need extra support.

- **Be mindful of privacy of children (especially teenagers).** Do not freely share sensitive information about children to other members outside of the family.

5.4. Property and housing arrangements

After changes in the family structure, parents and children should all be ensured of housing

In case of a change in the family structure, one or both parents are likely to move out of the matrimonial home. Parents may experience economic insecurity and conflicts about property and housing.

The main aim is to secure safe housing for both parents and children. In order to ensure this, parents can temporarily move into their relative's households. For example, the house of their parents, siblings or other extended family members. The extended family can provide support until both parents are able to stand on their own feet again.
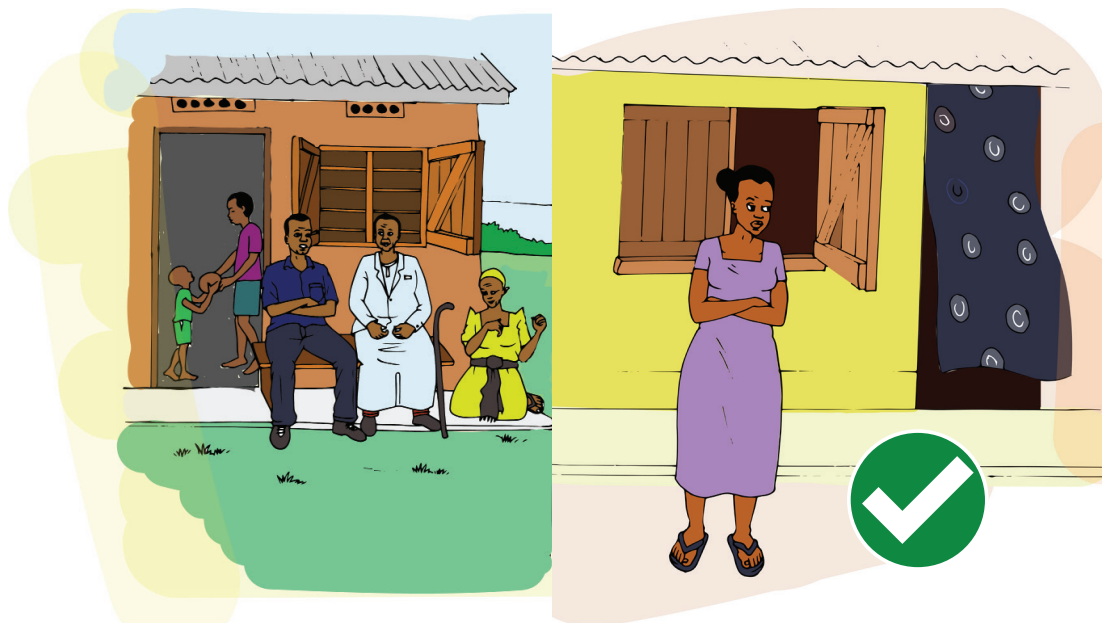
Family housing

12. Both parents and the children should live in safe homes (for instance in extended households temporarily)
    ⭐ ⭐ ⭐ *recommended*

The evidence base for recommendation 12 can be found on pages 65 to 68

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **All family members should have suitable housing.** In cases where families are separating, it is very important to ensure that parents and children both have a safe house to live in.

- **Try to arrange both new homes close to each other.** If possible, parents should live close to each other so that children can have frequent contact with both parents.

- **Siblings should stay together**. Do not split up siblings in cases of separation into different households.

- **Follow up on new housing arrangements.** Ensure agreements are working for all family members and make changes if necessary.

Other suggested practices:

- **Plan your housing finance together.** Have a clear and transparent financing plan from the beginning of owning or renting a property.

- **Both spouses should share the responsibility for housing.** Both parents should contribute to the house whether financially or in-kind. From maintenance and construction to household chores, both the man and the woman should be involved.

- **Make sure children are safe.** In cases of domestic abuse remove the children from the abusive parent. Ensure that both houses are comfortable and safe environment for children.

- **Married couples should be encouraged to co-own the matrimonial home.** A matrimonial home is a shared home for both parents and children. Therefore joint-ownership is encouraged.

- **Agree on how to handle housing arrangements.** Housing arrangements should be mutually agreed upon. Prenuptial arrangements should be encouraged to specify who owns what property before marriage.

- **In cases of separation, jointly decide on fair compensation for jointly owned property.** The value of the house should be estimated by someone with expertise in valuation. One party could then buy the house against this price or it can be jointly decided to sell the property.

- **Both the women and the man should access land in order to support themselves.** When both men and women and children are dependent on their land for food and living, they should both have access to this. The family and community should ensure that all family members have access to land and suitable housing.

> **Ugandan law does not regulate prenuptial agreements**
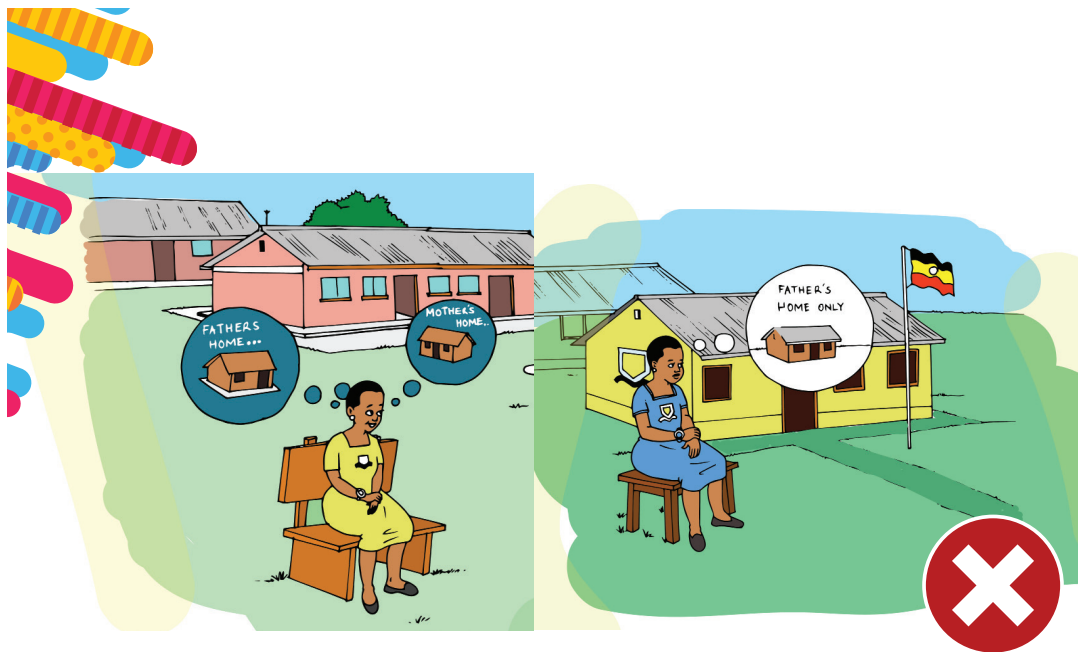
5.5. Fair living arrangements for children

This section provides recommendations on fair living arrangements for children. They are intended to provide better social development and academic achievements. The recommendations are divided into 3 separate age categories, reflecting the different needs of the age groups.

- **Infants and toddlers (0-4 years old).** For children it is important to be able to stay at both their parents' houses. This enhances emotional involvement of parents with their children, which benefits the parent-child relationship. Close family relationships are essential to the wellbeing of the entire family.

- **Young children (5-9 years old).** Both parents should support and have contact with their children during school week (Monday to Friday). This is beneficial to children's academic achievements and wellbeing.

- **Adolescents (10-18 years old).** Children should have a home at both their parent's houses. International research suggests that shared residency adolescents are better off academically, emotionally and psychologically compared to sole residence children.

It must be ensured there is no indication or history of violence. If there is a risk of violence or abuse, this intervention is not recommended.

There should be a suitable housing situation and willingness from both parents to engage in such an arrangement.

Infants and toddlers (0-4 years old)

13. If the situation allows, infants and toddlers should have a home at both their parents' houses ⭐ ⭐ ⭐ *Context-specific recommendation*

Young children (5-9 years old)

14. If the situation allows, young children should stay at both their parents' houses during school week (Monday to Friday) ⭐ ⭐ ⭐ *Context-specific recommendation*

Adolescents (10-18 years old)

15. If the situation allows, parents should consider shared residency for their adolescents ⭐ ⭐ ⭐ *Context specific recommendation*

The evidence base for recommendations 13, 14 and 15 an be found on pages 69 to 77

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Encourage active (emotional) involvement.** Both parents should be encouraged to play an active role in the lives of the children. This includes attending school, emotional support and help with homework.

- **Both parents should agree on visitations.** Both parents should be well-informed about any visitations when they are happening.

- **Parents should provide oversight.** Parents should have control over their children and be aware of where their children are and what is happening in their lives.

- **Involve a neutral decision-maker.** In case parents cannot agree together in mediation, they should involve a neutral third party to make a decision for them.

- **Ongoing follow-up and after-care.** Ensure that arrangements are working and that agreements are being respected.

Other suggested practices:

- **Ensure both homes are safe and child-friendly.** In cases where there is a risk of domestic abuse towards children by parents or new spouses, children should be removed until it is safe again.

- **Involve role models where needed.** For example, in cases where one parent is unwilling to play a significant role, a respected role model can intervene.

- **Ensure there is close contact with both parents.** Young children should not necessarily be in boarding schools. They should stay in the family home until a reasonable age. If they are in boarding school then both parents should visit regularly and be involved.

- **Involve children's needs in decisions.** Children's wishes on living and visiting arrangements should be considered.

5.6. Upbringing and education arrangements: Parenting Styles

Parents should love and nurture their child, at the same time they are demanding and in control

Parents should have high levels of control and maturity demands over their children, combined with high levels of nurturance. This means that they show warmth, support, effective monitoring, control, discipline, positive discussion and responsiveness to their children's needs. Parents rely on positive sanctions to gain their child's compliance and encourage their child to express himself when he disagrees. This is referred to as 'authoritative parenting'. According to international research, authoritative parenting plays an important role in children's academic performance.

There are 3 types of parenting that have been shown to have different effects on the wellbeing of children:

- **Authoritative parenting -** Where parents have high demands from their children but are also loving and nurturing their emotional needs. This is seen as the most effective type of parenting.

- **Permissive parenting -** Where parents show love and care towards their children, but not give enough direction and guidance.

- **Authoritarian parenting -** Parents are strict and demanding but are not supportive enough of the children's emotional needs.

Parenting styles

16. Parents should be responsive to their children's emotional needs, at the same time be demanding and in control (authoritative parenting) ⭐ ⭐ ⭐ ⭐ ⭐
Strongly recommended

17. Parents should be demanding and in control, but they should not ignore their children's needs (authoritarian parenting)
Beware ⚠️

18. Parents should nurture their children but not allow children to get away with bad behaviour (permissive parenting)
Beware ⚠️

The evidence base for recommendations 16, 17 and 18 can be found on pages 78 to 81

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Ensure child-friendly disciplining.** Offer the child appropriate measures in disciplining actions. Avoid abusive actions that can harm a child.

- **Both parents should participate in education.** Both parents should be involved with the school education of the child. They should both be aware of their situation at school and have contact with teachers, provide support with homework etc.

- **Parents shouldn't favour children.** Both girls and boys should be equally loved and supported by both parents.

- **Make sure that girls and boys are treated equally.** There should be no discrimination in assigning resources and responsibilities to them, or in reprimanding them.

- **Take time to understand the needs of children.** Parents should make sure they understand their children's needs and provide for them.

Other suggested practices:

- **Make sure children are consulted about their education.** Make sure they are safe and comfortable in their schools.

- **Try to learn more about parenting skills.** Ask others to find out if there are resources that can help you to learn about good parenting. These could include radio broadcasts, books or gatherings.

Sharing the costs of upbringing

19. Parents should agree to provide child support, financially and in kind on an agreed basis and when it is becoming necessary ⭐ ⭐ ⭐ ⭐ ⭐ *Strongly recommended*

The evidence base for recommendation 19 can be found on pages 82 to 85

5.7. Upbringing and education arrangements

Parents should make agreements on child support and, for the best interest of the child, support the other parent where needed

Both parents remain responsible for costs of upbringing the child such as school fees, food, clothing and other expenses.

It is important for parents to agree on child support. Parents should also be willing to support their children outside these agreements. Occasionally, children might need more food, clothing or other items than expected. Research shows that providing formal and informal child support benefits the wellbeing of children. Formal child support includes mutually agreed arrangements on financial contributions towards the costs of children. Informal child support may include other things from providing food, shelter, clothing, emotional support etc.

Legal base

Uganda Constitution, Article 32 Clause 4

Both parents are responsible for the upbringing of children and the costs related to this.

Best practices suggested by practitioners in Uganda

Consistent with literature research:

- **Consider all options.** Non-monetary contributions should be considered, not just financial agreements. These may include spending time with house chores, support with homework, moral upbringing or other forms of support for children.

- **Both parents should be involved in the moral education of children.** Both parents each play an important role in children's development, even after separation or re-marriage.

- **Parents should together decide and agree on the school for the child.** Parents should take the best interests of the child into account together and make a joint decision on the best schooling arrangement.

- **Both parents should contribute to upbringing of children.** Besides contributing to educational and other financial costs, the moral support and education of children should continue from both parents.

Other suggested practices:

- **Children might need a guardian.** There may be cases where a parent is not in the picture. A guardian could be responsible for the upbringing arrangements for children.

5.8. Family maintenance

Parents provide support to the other spouse until both become self-sufficient and independent, for example in case of separation

Spousal maintenance are agreements where one of the parties provide financial support. Agreements that provide financial support for limited time until both sides are able to support themselves are recommended. This type of maintenance is known as non-permanent and it can help both parents to become more empowered. Permanent spousal maintenance is where the agreement is to continue providing financial support indefinitely, which can cause dependency.

Becoming self-sufficient and financially independent of the former spouse is important, as long as it does not negatively affect the children.
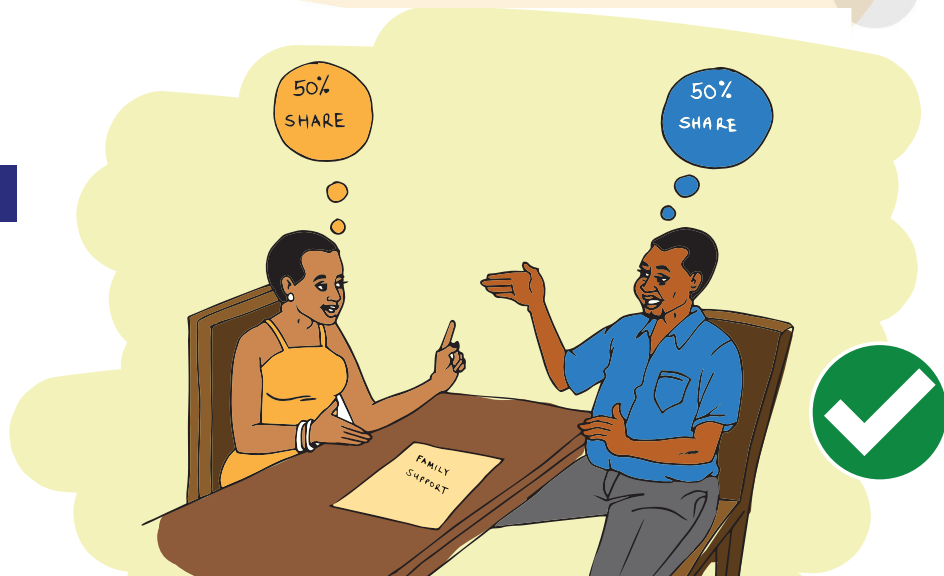
Spousal maintenance

20. Parents should provide non-permanent spousal maintenance until both become self-sufficient
    ☆ ☆ ☆ *Recommended*

The evidence base for recommendation 20 can be found on pages 86 to 89

Best practices suggested by practitioners in Uganda

Consistent with literature search:

- **Quantify income levels.** Make sure to create an inventory of the declared income levels, assets and contributions of the man and woman in order to be able to reach fair agreements.

- **Consider non-monetary contributions.** For calculating spousal maintenance, consider non-monetary as well as monetary contributions.

- **Involve a neutral third party.** A neutral practitioner can help to assess the income support level that is needed.

- **Parties should help each other financially.** The party with better financial standing should support the other - taking the interest of the child into consideration.

Other suggested practices:

- **Involve others who know the situation.** Involve extended family, local leaders or other appropriate community members to provide insight.

- **Local leaders can help enforce agreements.** Local leaders such as religious leaders and elders can help to enforce agreements, especially if there's a breach.

5.9. Measures to increase income

Both parents should secure independent and sustainable income

Both parents are responsible for taking care of their children. This requires financial support for things like school fees, clothing, food, shelter etc. After separation, people's financial situation changes. They might struggle to generate enough income. It is therefore recommended that both sides should generate income by starting a small side business or to seek better employment opportunities. The goal is to provide a stable situation for the whole family.

Legal base

Uganda Constitution, Article 32 Clause 4

Both parents are responsible for taking care of their children.

Measures

21. Separated parents should take active measures to increase their income, such as generating more working hours, becoming self-employed and seeking better employment opportunities ☆ ☆ ☆ *Recommended*

The evidence base for recommendation 21 can be found on pages 90 to 92

Best practices suggested by practitioners in Uganda

Consistent with literature search:

- **Both parties should contribute financially.** Both parents should contribute financially to the family. This can build a sense of responsibility and ownership.

- **Try to generate new sources of income.** People can start a business.

- **Support each other.** Both parents may struggle at times with their work or businesses. They should feel responsible for each other and their children's well being.

- **Make sure agreements benefit the whole family.** Parents should be encouraged to agree on the family business or other sources of income in ways that benefit the entire family.

- **Specify sources of income** - such as livestock, vegetable and fruit businesses, retail shops etc.

Other suggested practices:

- **Manage finances together.** Both parents should be involved in the planning, budgeting, management and evaluation of finances during the marriage.

- **Set up a family fund.** Families should set up funds that they manage together. They should take a planned and strategic approach to manage housing, education etc.

- **Save and invest.** Create a culture of saving and investing in the family and have a shared responsibility.

- **Create women support groups.** Groups that focus on helping rural women to generate side income can help families to have more stable finances.

6. Evidence Base
(Recommendations 1 and 2)

First literature search: most plausible interventions

During the orientation process of the available literature, we were able to identify the following interventions:

- Mutual constructive communication

- Demand/withdraw communication

- Mutual avoidance

Mutual constructive communication is interactive, involves constructive problem-solving and focuses on avoiding conflict (Handbook, p. 203). Both parties try to engage in a mutual adaptive discussion (Diamond, p. 202). Demand/withdraw communication involves a pattern where one partner pursues more closeness and contact, while the other partner desires more distance and responds by withdrawing and avoiding (Handbook, p. 203). Mutual avoidance is typified by both partners avoiding communicating as much as possible (Handbook, p. 203). For the purpose of this topic, 'mutual constructive communication' will be compared with both 'mutual avoidance' and 'demand/withdraw communication' simultaneously.

PICO question

For the parents and children, is mutual constructive communication between parents more effective than mutual avoidance for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

For this PICO question, keywords used in the search strategy are: communication, spouses, patterns, rules, timing, divorce, children, relationship, parent.

Assessment and grading of evidence

- The main source used for this particular subject is The Handbook of Family Communication, edited by Anita L. Vangelisi. Three chapters have been used in particular, these being:

  Chapter 9, Communication in Divorced and Single-Parent Families, Julia M. Lewis, Judith S. Wallerstein and Linda Johnson-Reitz

  Chapter 13, Mothers and Fathers Parenting Together, William J. Doherty and John M. Beaton

  Chapter 19, Communication, 'Conflict and the Quality of Family Relationships', Alan Sillars, Daniel J. Canary and Melissa Tafoya

- Other sources used:

  Diamond and Brimhall, Communication During Conflict: Differences Between Individuals in First and Second Marriages (2013)

  Guy Bodemann, Andrea Kaiser, Kurt Hahlweg and Gabriele Fehm-Wolfsdorf, Communication patterns during marital conflict: A cross-cultural replication (1998)

The Handbook of Family Communication presents an analysis of cutting-edge research and theory on family interaction. It integrates perspectives of researchers and practitioners. Chapter 9 is mostly based on large-scale observational studies, and a few meta-analyses that help to understand what happens when families separate. Chapter 13 and 19 mostly rely on observational studies. Evidence can be regarded as being low to moderate.

Recommendation

Desirable outcomes

Communication between parents becomes more difficult and energy consuming after separation. Unexpected and overwhelming demands after separation results in less communication by the parents. Parents will need to communicate more often and effectively, so that the parenting styles of both parents are consistent (Handbook, p. 204). Research shows that mutual constructive communication is generally designated as the healthiest, most functional interactive pattern. Separated parents must be willing to interact, communicate and cooperate with each other regarding child-related issues, despite any feelings of rejection, remorse, bitterness, or anger. This is because parental responsibilities after separation continue to exist, and communication is essential to transform and adapt to accommodate to parents' new roles (Handbook, p. 204).

The ability of separated parents to co-parent together, communicate about their children, to cooperate to set limits, to problem solve effectively and to provide consistent positive affective messages has a major influence on the ability of children to adjust after separation (Handbook, p. 205).

Undesirable outcomes

Mutual avoidance communication prevents the airing of thoughts and feelings surrounding relationship problems and impedes movement towards resolution (Diamond, p. 199).

Both avoidance and demand/withdrawal communication are correlated with lower relationship satisfaction (Bodenmann, p. 354).

Balance of outcomes

In determining whether mutual constructive communication between parents is more effective than mutual avoidance, for their well-being, the desirable and undesirable outcomes of both interventions must be considered.

The literature suggests that mutual constructive communication between parents is in the interest of the child. On the other hand, mutual avoidance and demand/withdrawal communication are correlated with lower relationship satisfaction and a lack of ability to move towards a resolution.

The balance is clearly towards the desired outcomes of mutual constructive communication.

Recommendation

Taking into account the balance towards the desired outcomes, the effect on children's well-being and the strength of the evidence, we make the following recommendation: For the parents and children, mutual constructive communication between parents is effective than mutual avoidance, for their well-being.

Evidence Base
(Recommendation 3)

First literature search: most plausible interventions

The continuing relationship between divorced parents is a critical factor in the child's post divorce adjustment (Ahrons, p. 415). According to the literature, co-parental communication [sometimes referred to as co-parenting communication] requires parents to behave mutually supportive, cooperative and interactive. Parents interact quite frequently (Ahrons, p. 424-425). Co-parental communication is essential for a successful co-parental relationship. Elements of this intervention are (i) frequency of co-parental interaction, (ii) content of co-parental interaction and (iii) quality of co-parental communication (Ahrons, p. 417-418). We found this to be an important intervention to be tested.

First, co-parental communication requires both parents to decide how often they will interact or communicate about their children's needs.

Second, co-parental communication also requires parents to decide the content of the co-parental interaction, in other words relevant topics for discussion. The topics which may be discussed include, medical needs, educational needs, children's accomplishments and progress, child-rearing problems, special events for the children, personal problems children may be experiencing, major decisions regarding the children's lives, finances in regard to children, problems in co-parenting, daily decisions regarding children's lives, children's adjustment to the divorce etc (Ahrons, p. 419).

The third element requires that both parents assess the quality of their interaction, in other words whether arguments arise, whether the atmosphere is one of hostility or anger or whether the conversations are stressful or tense etc. (Ahrons, p. 417-418).

For purpose of the PICO question we compare having a co-parental communication plan with not having one.

PICO question

For divorced or separated parents, is having a co-parental communication plan more effective than not having one, for their and their children's well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis, Peace Palace Library.

For this PICO question, keywords and/or phrases used in the search strategy are: shared-parenting, non-custodial parent, children's well-being, co-parenting, child-rearing,

Assessment and grading of evidence

The main sources used for this particular subject are:

- Constance R. Ahrons, The Continuing Coparental Relationship Between Divorced Spouses (1981)

- Kathleen A. Camara and Gary Resnick, Styles of Conflict Resolution and Cooperation Between Divorced Parents: Effects on Child Behavior and Adjustment (1989)

- Eleanor E. Maccoby, Charlene E. Depner & Robert H. Mnookin, Coparenting in the Second Year after Divorce (1990)

The article by Ahrons reports findings from an empirical investigation of the relationship between divorced spouses one year following their divorce. Camara and Resnick's article reports findings from a study of family functioning following separation. The study suggests ways in which the parents' ongoing relationship, both as former spouse and as co-parents may moderate the effects of divorce on their children. Their analysis is part of a larger research. Maccoby et al, describe the kind and degree of co-parenting being maintained by a group of divorcing families approximately 18 months after parental separation. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'moderate'.

Recommendation

Desirable outcomes

Non-custodial parents who have a cooperative relationship with their former spouses have contact with their children more frequently and have longer visits with their children compared to those with less cooperative relationships with former spouses (Camara & Resnick, p. 571).

Parents having a mutually supportive and cooperative co-parenting relationship interact quite frequently and share much more besides child-rearing. For example they discuss their children as well as their extended families and mutual friends. Occasionally, some divorced parents spend time together, for example when celebrating significant events such as birthdays or school plays and some holidays (Ahrons, p. 424-425).

Separated parents who cooperate with each other around issues of visitation, discipline, family routines, and celebrations, and in meeting the child's developmental needs, and who use negotiation and compromise when disagreements occur, are more likely to have children who are social with other children, who engage in more positive play behaviour with other children, and who have higher self-esteem. Children's exposure to positive methods of conflict resolution provides them with information regarding how conflicts can be handled (Camara & Resnick, p. 572).

A continued, cooperative and mutually supportive relationship between separated parents reduces the crisis-potentiating stress associated with divorce (Ahrons, p. 416).

Undesirable outcomes

Parents who very rarely or never share child-rearing decisions are more conflictual and significantly less supportive of each other (Ahrons, p. 423-424).

Strategies used by parents to manage conflict which involve verbal attacks or physically violent behavior toward the other parent, or avoidance of the other parent, are associated with poorer child adjustment. Parents who use these negative strategies in response to disagreements with each other are also less likely to develop a cooperative coparental relationship (Camara & Resnick, p. 572).

Children exposed to angry, hostile or avoidant responses between parents who disagree may receive different messages about the handling of conflict situations. That is, these children may learn (directly or indirectly) that the way to resolve a disagreement with a peer is to be verbally or physically aggressive, or to avoid a possible conflict by walking away from the other child, or to withdraw completely from any social situation in which conflict may arise (Camara & Resnick, p. 572).

If parents do not communicate cooperatively, there may be increased opportunities for children to 'play-off' one parent against the other, the result being a weakening of effective parental supervision (Maccoby et al, p. 142).

Balance of outcomes

In determining whether co-parental communication is more effective than not applying it, for divorced or separated parents' (and their children's) well-being, the desirable and undesirable outcomes of both interventions must be considered.

A co-parental relationship may benefit separated spouses because they may support each other in ensuring that their child or children's interests are upheld. Co-parental communication requires parents to come up with an agreement or plan of what, when and how they will attend to their children's needs. It thus requires compromise and mutual respect from both parties in order to be effective. Conversely, not having a co-parental relationship may hamper a child's development because the needs of the child will not be adequately addressed by both parents.

Recommendation

Taking into account the balance towards the desired outcomes, and the strength of the evidence, we make the following recommendation: Having a co-parental communication plan is more effective than not.

Evidence Base (Recommendation 4)

First literature search: most plausible interventions

The common approach to resolving post-separation conflict is adversarial in nature (Menkel-Meadow 1999, p. 764-765). Needs of the parties are reframed in claims. The parties confront each other and use defenses and counterclaims. Between the parties, there is a debate about the validity of evidence and requirements of the law. The process concludes a judgment or settlement. The parties in conflict are presumed to focus on maximizing gains (Menkel- Meadow 1984, p. 764-765).

The problem-solving approach rather focuses on agreeing and finding solutions to the parties' underlying needs and objectives (Menkel-Meadow 1999, p. 794 & Nolan-Haley, p. 246). The approach includes the joint search for solutions by reaching agreements and a decision in accordance with objective criteria if no agreement can be reached.

Problem-solving courts are characterized by active judicial involvement, the explicit use of judicial authority to motivate individuals to accept needed services [such as mediation and adjudication] and to monitor their compliance and progress (Babb and Moran, p. 1060).

The problem-solving approach includes the following elements:

- An assessment of the needs and objectives of both parties;
- An identification of the most appropriate interventions for the parties;
- Mediation;
- Arbitration, adjudication or another form of decision-making where mediation is not successful;
- Monitoring compliance and progress.

PICO question

For people separating, is taking a problem-solving approach more effective than an adversarial approach for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR, Taylor & Francis, Peace Palace Library, ResearchGate, Bloomberg Law and LexisNexis Academic.

For this PICO question, keywords used in the search strategy are: mediation, litigation, fairness, process, outcome, agreement, divorce, family.

Assessment and grading of evidence

The main sources of evidence used for this particular subject are:

- Carrie Menkel-Meadow, Toward Another View of Legal Negotiation: The Structure of Problem Solving (1984)

- Carrie Menkel-Meadow The Lawyer as Problem Solver and Third-Party Neutral: Creativity and Nonpartisanship in Lawyering (1999)

- Jacqueline M. Nolan-Haley, Lawyers, Non-Lawyers and Mediation: Rethinking the Professional Monopoly from a Problem-Solving Perspective (2002)

- Jane C. Murphy, Revitalizing the Adversary System in Family Law (2010)

- Linda D. Elrod, Reforming the System to Protect Children in High Conflict Custody Cases (2001)

- Robert E. Emery et al., Child Custody Mediation and Litigation: Custody, Contact, and Coparenting 12 Years After Initial Dispute Resolution (2001)

- Peter Salem, The Emergence of Triage in Family Court Services: The Beginning of the End for Mandatory Mediation? (2009)

- Barbara A. Babb and Judith D. Moran, Substance Abuse, Families and Unified Family Courts: the Creation of a Caring Justice System (1999)

Some findings used for this PICO question are based on empirical studies. However, most of the evidence is derived from expert opinions. This classifies the strength of evidence as low, according to the HiiL Methodology: Assessment of Evidence and Recommendations.

Recommendation

Desirable outcomes

A problem-solving approach with a simple inventory of needs, interests, wants and goals of all parties will help develop (fair) solutions (Menkel-Meadow 1999, p. 797).

The problem-solving approach moves away from a positional articulation of problems to an interest-based articulation of problems. This approach opens up greater possibilities for developing broadened options and solutions that directly respond more to the parties' underlying needs (Nolan-Haley, p. 249).

A distinction in low, medium or high conflict cases should be made, particularly in regard to custody cases. This way, appropriate time tracks can be created for different cases depending on complexity, need for services, and other factors (Elrod, p. 522). 'Low conflict' couples can avoid adversarial procedures.

In high conflict cases, couples should have access to mediation and arbitration [or another form of decision-making]. During this process, the parties attempt mediation. If they cannot reach an agreement, then a decision can be made [by a neutral third party] on their behalf (Elrod, p. 522). This way, fast solutions can be found to problematic matters where mediation is not effective.

In all cases, parenting plans should be monitored by a neutral third party, such as a therapist or mediator (Elrod, p. 533). These parenting plans should take into account the developmental needs of children (Elrod, p. 529).

Undesirable outcomes

A monitoring system of a final parenting plan is expensive and time-consuming (Elrod, p. 529). Problem-solving skills require an ability to identify and analyse underlying needs, expand resources, generate options, and help clients arrive at solutions that are truly responsive to their needs (Nolan-Haley, p. 249). Taking the problem-solving approach requires investment and training.

Adversarial procedures in separation cases have been criticised for being expensive, time-consuming and divisive (Emery, p. 323). The adversarial system cuts all parties off from useful information such as facts, needs, interests, preferences and values. This can limit access to the crucial information that motivates people to resolve disputes (Menkel-Meadow 1999, p. 789).

The adversarial system may exacerbate negative behaviours of parents who possess the financial resources for extended litigation and who believe the court will eventually prove them right (Elrod, p. 511).

According to social science research, children's well-being following parental breakup depends on their parents' (conflict) behaviour during and after the separation process. An adversarial approach creates more conflict (Elrod, p. 500), resulting in negative effects on children's wellbeing.

Furthermore, in the context of custody issues, the adversarial system has proven to be poorly equipped to handle the complexities of interpersonal relations. It drives parents to find fault rather than cooperate (Elrod, p. 501). Accordingly, research shows that the adversarial approach is ill-suited to resolve disputes involving children (C. Murphy, p. 894).

Balance of outcomes

In determining whether taking a problem-solving approach is better than an adversarial approach for the well-being of parents and children during a separation process, the desirable and undesirable outcomes of both interventions must be considered.

Evidence suggests that taking the problem-solving approach helps to develop fair solutions, and opens greater possibilities to establish the parties' underlying needs. On the other hand, investment and training might be needed.

Taking the adversarial approach might lead to more conflict behaviour and subsequently to negative effects on children's well-being.

Accordingly, taking the problem-solving approach is recommended.

Recommendation

Taking into account the strength of evidence and the balance towards the desirable outcomes of the problem-solving approach, the following recommendation can be made: For people separating, the problem-solving approach is better than the adversarial approach for their well-being.

Evidence Base
(Recommendations 5, 6 and 7)

First literature search: most plausible interventions

The role of family courts is shifting from one of only adjudicating cases, to planning and managing them (Lande, p. 432). In particular, there has been a movement towards a single judge and [interdisciplinary] professional team that would deal with all issues affecting a particular family, including separation (Lande, p. 432). [Integrated] family courts that actively manage referrals to various services use two alternative systems: the 'tiered' and 'triage' system (Lande, p. 432).

A tiered system of solving family disputes starts with the least intrusive and least time consuming service and, if the dispute is not resolved, proceeds to the next available process. The next steps are more intrusive and directive than the preceding one. Typically, parents therefore start mediation before adjudication (Salem, p. 371).

In a triage system, the most appropriate services are identified at the beginning (Salem, p. 372). Parents may complete an initial interview, and agency representatives help them to identify the service they believe will best meet the needs of the family (Salem, p. 380). The process may involve screening, development of a plan for family services, appointment of a case manager, development of a parenting plan and periodic court review (Lande, p. 432).

We compare the triage system with the tiered system.

PICO question

For people separating, is a triage system more effective than a tiered system for their well-being?

Assessment and grading of evidence

- Peter Salem, The Emergence of Triage in Family Court Services: The Beginning of the End For Mandatory Mediation (2009)

- John Lande, The Revolution in Family Law Dispute Resolution (2012)

- Nancy Ver Steegh, Family Court Reform and ADR: Shifting Values and Expectations Transform the Divorce Process (2008)

Recommendation

Desirable outcomes

Prior to participating in the adversarial litigation process, parents should have the opportunity to participate in mediation, so that they may collaborate with one another and create their own agreement (Salem, p. 274). If mediation does not result in an agreement, other processes remain available (Salem, p. 276).

Some courts in the US have adopted the Differentiated Case management system as a way to more efficiently match families with processes and services. A case goes through triage and a service plan is created for the family. Unlike linear service delivery models [i.e. a tiered system], high-conflict families proceed directly to the programs and services most likely to be successful for them in developing a parenting plan or having parenting arrangements decided for them. Court systems have expanded their role to include activities such as screening, assessment, creation of service plans and referral to community resources (Ver Steegh, p. 668-669). A system that identifies the best match between a family and available service, will provide the most appropriate services, resulting in more efficient use of resources and reducing the burden on families (Salem, p. 381).

Undesirable outcomes

If parents are referred to mediation and do not settle, they are often required to participate in additional, and increasingly intrusive processes [such as adjudication] until matters are resolved. When more services are necessary, more money and time is demanded of the parties. This raises frustration, as expressed by members of a focus group in Wisconsin, United States (Salem, p. 382).

Some argue that triage will result in some disputing parents missing out on mediation and its important benefits.

They say that there is no evidence that one can accurately predict who will succeed in mediation and who won't, and so suggest that mediation should be mandatory for virtually all parents disputing child custody matters (Salem, p. 372).

Balance of outcomes

In determining whether a triage approach to separation is better than the tiered approach for the well-being of parents and children during a separation process, the desirable and undesirable outcomes of both interventions must be considered.

From the above evidence, the benefits of a triage approach outweigh those of a tiered approach. In particular because the triage system limits frustration of the people compared to the tiered system. Unlike the tiered model, the triage system ensures that the parties make use of the most appropriate intervention.

Recommendation

Taking into account the strength of evidence and the clear balance towards the desirable outcomes of a triage model, the following recommendation can be made: For people separating, the triage model is better than the tiered model for their well-being.

Evidence Base (Recommendation 8)

First literature search: most plausible interventions

Mediation is a commonly used intervention to resolve family disputes (Emery, p. 472 and Shaw, p. 447). Typically, the parties meet together with an impartial third party in order to identify, discuss and resolve their disputes (Emery, p. 472). The third party merely facilitates the process and does not make a binding decision for the disputants; unlike in a litigation process. In essence, the disputants negotiate their own agreement.

There is evidence available regarding user satisfaction with mediation and litigation processes and outcomes, children's wellbeing and other factors (such as costs and time benefits).

Mediation is only considered an option for disputants who are willing to meet together. Mediation is most effective if there is a possibility to receive quick decisions from a third party.

PICO question

For people divorcing, is mediation more effective than litigation for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR, Taylor & Francis, Peace Palace Library, ResearchGate, Bloomberg Law and LexisNexis Academic.

For this PICO question, keywords used in the search strategy are: mediation, litigation, fairness, process, outcome, agreement, divorce, family.

Assessment and grading of evidence

The main sources of evidence used for this particular subject are:

- Lori Anne Shaw, Divorce Mediation Outcome Research: A Meta-Analysis (2006)

- Robert Emery, Divorce Mediation (1986)

- Linda D. Elrod, Reforming the System to Protect Children in High Conflict Custody Cases (2001)

- Joan B. Kelly, Family Mediation Research: Is There Empirical Support for the Field? (An Update) (2014)

The article by Shaw is a meta-analysis of various empirical separation mediation and litigation outcome studies. These studies deal with process satisfaction, outcome satisfaction, emotional satisfaction and understanding of children's needs. Emery focuses on the court and consumer satisfaction with mediation, based on several empirical studies. Kelly's article reviews multiple custody mediation studies, studies of comprehensive separation mediation projects and studies of child protection mediation.

The biggest source used for the evidence is the meta-analysis study, which falls within the highest category of evidence. The other sources rely on multiple empirical studies. The strength of evidence is graded as 'high' according to the HiiL Methodology: Assessment of Evidence and Recommendations.

Recommendation

Desirable outcomes

Generally, people are more satisfied with the mediation process compared to the litigation process and perceive mediation to be fairer (Shaw, p. 448 and Emery, p. 474). Mediation helps people to understand the point of view of their ex-spouse. The mediation process is perceived to be less biased, and more beneficial to the spousal relationship (Shaw, p. 450 and Emery, p. 474). It provides people with an opportunity to air their grievances and to understand underlying issues (Shaw, p. 449).

In terms of fairness of the outcomes, mediation agreements (for example, spousal support and property agreements) are perceived to be fairer than litigation agreements (Shaw, p. 449). For example, mediation empowers both parties to decide themselves the level of fairness within their own separation agreement, which results in a more satisfying outcome. This increases the chances of compliance with the agreements made, by both parties (Shaw, p. 465). Furthermore, parents consider the custody and visitation plans negotiated in mediation to be more desirable (Shaw, p. 449).

It has also been reported that mediation helps both parties to focus on the needs of their children. In the mediation process, parents understand children's psychological needs and reactions better than in the litigation process (Shaw, p. 448). Parents feel that agreements made in mediation are good for their children (Kelly, p. 4).

Mediation participants are generally more emotionally satisfied than litigation participants. Resolving a dispute through mediation increases the long-term welfare of divorcing spouses and it minimises conflict (Shaw, p. 464 and Kelly, p. 5).

Undesirable outcomes

Parties in mediation may misunderstand the aim of this process. For example, there are instances where one party thinks that the goal of mediation is to save their marriage, while the other party's view is on finalising the separation (Shaw, p. 449-450).

Furthermore, some mediation participants feel rushed and pressured to enter into an agreement (Shaw, p. 450).

Although most parents are satisfied with the outcome of mediation, around 15-20% of people are dissatisfied with the outcomes (Kelly, p. 5). There is a notable difference between mothers and fathers. Mothers tend to be less satisfied with the final agreement in mediation than in litigation (Shaw, p. 448).

It is worth mentioning that mediation can be inappropriate in high-conflict cases, especially for the female party. One of the parties might get harmed where the imbalance of power is too great, for example in cases of domestic violence (Elrod, p. 528). Mediation is not recommended for parental alienation cases, because of deceptive and manipulative tactics and the lack of mediator's training for recognizing the undercurrents that occur when one parent's interferes with the child's relationship with the other party (Elrod, p. 528).

Balance of outcomes

In determining whether opting for mediation is better than litigation for the well-being of parents and children during a separation process, the desirable and undesirable outcomes of both interventions must be considered.

From the above evidence, the benefits of mediation outweigh those of litigation in most circumstances. Mediation is preferable as it helps parents to better understand the needs of their children. Moreover, the mediation process and outcome is generally perceived to be fairer compared to litigation.

Recommendation

Taking into account the strength of evidence and the clear balance towards the desirable outcomes of mediation, the following recommendation can be made: For families separating, mediation is better than litigation for their well-being.

Evidence Base
(Recommendation 9)

First literature search: most plausible interventions

According to the available literature, there is a distinction between two approaches to adjudication in cases of separation:

An adversarial (or traditional) approach in a family context (where the judge only focuses on the parties and their legal dispute)

A therapeutic approach in a family context, such as unified family courts (where the judge focuses on the family as a social system), characterized by a problem-solving judge

The adversarial approach is formal and only takes place within court. The main aim of taking an adversarial approach is truth-finding. It is a monopoly approach (instead of multidisciplinary) and its basic premises are post-conflict solutions, conflict and dispute resolution (Freiberg, p. 3). Taking an adversarial approach generally results in more claims of the parties (Miller and Sarat, p. 542) compared to a non-adversarial approach.

The goal of the therapeutic approach is to maximize the positive effects of legal interventions on the social, emotional and psychological functioning of individual families. The problem-solving judge is a critical actor in this endeavor. Rather than solving discrete legal issues [such as in the adversarial approach], the problem-solving judge attempts to understand and address the underlying problem and emotional issues and helps participants to effectively deal with the problem (Boldt and Singer, p. 91 and 95-96). The problem-solving judge embraces collaborative and interdisciplinary approaches. He motivates individuals to accept needed services (Boldt and Singer, p. 96). All legal actors involved in the therapeutic approach to separation are therapeutic agents, considering the mental health and psychological well-being of the people they encounter in the legal setting (Babb and Moran, p. 1063).

In some jurisdictions the primary role of family courts has shifted from [adversarial] adjudication of disputes to therapeutic approach (Lande, p. 431). For example, the unified family court system in the United States.

Unified family court systems are characterized by a holistic approach to family legal problems, an emphasis on problem-solving and alternative dispute resolution and the provision and coordination of a comprehensive range of court-connected family services (Boldt and Singer, p. 91). All matters involving the same family should be handled by one single judge (or judicial team) (Boldt and Singer, p. 96).

PICO question

For people separating, is a therapeutic approach to adjudication more effective than the adversarial approach to adjudication for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR, Taylor & Francis, Peace Palace Library, ResearchGate, Bloomberg Law and LexisNexis Academic.

For this PICO question, keywords used in the search strategy are: mediation, litigation, judicial, court-annexed, judge, decision, adjudication, needs-based, problem-solving,

Assessment and grading of evidence

The main sources of evidence used for this particular subject are:

- Richard E. Miller and Austin Sarat, Grievances, Claims and Disputes: assessing the Adversary Culture (1980)

- Nancy Ver Steegh, Yes, No and Maybe: Informed Decision Making About Divorce Mediation in the Presence of Domestic Violence (2003)

- Barbara A. Babb and Judith D. Moran, Substance Abuse, Families and Unified Family Courts: the Creation of a Caring Justice System (1999)

- Jana B. Singer, Dispute Resolution and the Post-divorce Family: Implications of a Paradigm Shift (2009)

- Andrew Schepard, Parental Conflict Prevention Programs and the Unified Family Court: A Public Health Perspective (1998)

- Peter Salem, The Emergence of Triage in Family Court Services: The Beginning of the End For Mandatory Mediation (2009)

- John Lande, The Revolution in Family Law Dispute Resolution (2012)

- Richard Boldt and Jana Singer, Juristocracy in the Trenches: Problem-solving Judges and Therapeutic Jurisprudence in Drug Treatment Courts and Unified Family Courts (2006)

- Bruce J. Winick, Therapeutic Jurisprudence and Problem Solving Courts (2003)

- Arie Freiberg, Non-adversarial approaches to criminal justice (2007)

Most sources used for the evidence are expert opinions. Some other sources rely on multiple observational studies. The strength of evidence is categorised as 'low' according to the HiiL Methodology: Assessment of Evidence and Recommendations.

Recommendation

Desirable outcomes

Based on its study on the unmet legal needs of children and their families, the American Bar Association has recommended the establishment of unified family courts in all jurisdictions.

The problem-solving judge addresses the legal and accompanying emotional and social issues challenging each family. Informal court processes [such as mediation] and social service agencies are coordinated to produce a comprehensive resolution tailored to the individual family's legal, personal, emotional and social needs. The result is a one-judge system that is more efficient and more compassionate towards families in crisis (Babb and Moran, p. 4).

Regarding unified family courts in particular:

Survey respondents report that their unified family courts (UFC) are organized with broad-based subject matter jurisdiction over virtually all family-related disputes. Survey respondents report favourably on the use of the one-judge, one-family assignment system. Reasons given fall into two broad groupings; efficiency and therapeutic justice [or approach] (Schepard and Bozzomo, p. 336).

The Supervisory Judge of the Grafton County Family Division in New Hampshire expressed her belief that one judge per family affords consistency, accountability and ensures adequate and fair time for all concerned parties. An Administrative Office of the Court in North Carolina stated that the UFC model resulted in better case management, which ultimately led to speedy case resolution. The Senior Deputy Court Administrator for Family Court in the 20th District in Florida, stated that one of the greatest indicators of success of a UFC was empowerment of families by therapeutic justice, which enables families to be better off at the end of the process than they were when they entered the system (Schepard and Bozzomo, p. 336-337).

Undesirable outcomes

Evidence suggests that the 'traditional' adversarial approach to separation drives parents further apart, rather than encouraging them to work together for the benefit of their child (Schepard, p. 95).

Separating couples express overwhelming dissatisfaction with the adversarial approach to separation. According to a prominent study, 50% to 70% of litigants thought that the legal system was "impersonal, intimidating and intrusive" (Ver Steegh, p. 163). Another study states that 71% of parents report that the [adversarial] court process escalated the level of conflict and distrust to a further extreme. Separating couples were also dissatisfied because the process was too lengthy, costly, inefficient and not sufficiently tailored to their needs (Ver Steegh, p. 163).

Social science evidence suggests that, particularly for children, separation was not a one-time legal event but an ongoing emotional psychological process. Research also shows that the higher the level of parental conflict to which children were exposed, the more negative the effects of family dissolution (Boldt and Singer, p. 93-94).

Therefore, it is argued that, in order to serve children's interests, family courts should abandon the adversarial paradigm in favor of approaches that would help parents manage their conflict and encourage them to develop positive relationships (Boldt and Singer, p. 94).

Regarding Unified Family Courts in particular:

UFCs promote therapeutic approach for families because they create a single forum to develop a plan for family rehabilitation without the specter of conflicting orders and proceedings. The Colorado court system recently has reported that as a result of a court structure that fragments family disputes between different courts. In a non-unified court system, different family members can end up in different courtrooms (Schepard and Bozzomo, p. 341).

Balance of outcomes

In determining whether taking a therapeutic approach to adjudication is better than taking the adversarial approach for the well-being of parents and children during a separation process, the desirable and undesirable outcomes of both interventions must be considered.

From the above evidence, the benefits of a therapeutic approach outweigh those of an adversarial approach. The adversarial approach to adjudication is not satisfying the needs of people. Despite that the evidence in favour of the therapeutic approach is very low, the undesirable effects and their risks are also low.

Recommendation

For people separating, taking a therapeutic approach to adjudication is more effective than the adversarial approach to adjudication for their well-being.

Evidence Base
(Recommendation 10)

First literature search: most plausible interventions

During a first assessment of the available literature, we were able to identify an intervention for sharing information with children, this being: parents limiting the disclosure of information about the separation.

PICO question

For children, is actively limiting disclosure of information about the other parent more effective than sharing all information for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

For this PICO question, keywords used in the search strategy are: communication, parental conflict, separation, divorce, children, information, revealing, disclosure.

Assessment and grading of evidence

The three main sources used for this particular subject are:

- Matthew R. Sanders, W. Kim Halford and Brett C. Behrens, Parental Divorce and Premarital Couple Communication (1999)

- Tamara D. Afifi, Tara McManus, Susan Hutchinson and Birgitta Baker, Inappropriate Parental Divorce Disclosures, the Factors that Prompt them, and their Impact on Parents' and Adolescents' Well-Being (2007)

- Paul Schrodt and Tamara D. Afifi, Communication Processes that Predict Young Adults' Feelings of Being Caught and their Associations with Mental Health and Family Satisfaction (2007)

The article by Sanders, Halford and Behrens is based on a detailed observational analysis of couples' interaction. The article by Afifi, McManus, Hutchinson and Baker bases its findings mostly on clinical and empirical evidence. The article by Schrodt and Afifi uses both empirical and meta-analysis to support its findings. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'low' to 'moderate'.

Recommendation

Desirable outcomes

It is important to note that, based on uncertainty reduction theory, children need some information about the separation in order to reduce their uncertainty about the state of their family (Afifi, McManus, p. 80).

Undesirable outcomes

Research has shown that parents' inappropriate disclosures give children psychological distress, physical ailments and feelings of being caught between their parents (Afifi, McManus, p. 79). Examples of inappropriate information are: negative information about the other parent (including complaints on lack of child-support), sensitive information and information judged not to be suitable (such as on financial issues, the reason for separation and personal concerns of the parent), and information that makes children feel caught between their parents (Schrodt, p. 209).

If children are completely uninformed about the separation, they can feel deceived, which can produce mistrust, diminished satisfaction with their parental communication, and a fear of establishing committed romantic relationships upon maturity (Afifi, McManus, p. 80). It can be difficult to for some parents to determine the fine line between disclosing the right amount of information and inappropriate information.

Balance of outcomes

In determining whether actively limiting disclosure of information to children about the other parent is more effective than sharing all information for their well-being, the desirable and undesirable outcomes of both interventions must be considered.

The available literature suggests that certain information is not to be disclosed for the sake of the wellbeing of the child. In particular, revealing negative information about one parent would have severe negative effect physically and psychologically in both the long and short term. This type of information is classified as 'inappropriate'.

However, it is important to keep in mind that children should be informed during the separation process.

Recommendation

In light of the undesired outcomes of revealing inappropriate information to children, we make the following recommendation: For the well-being of children, it is appropriate that parents disclose information on the separation, albeit in a considered and limited way.

Evidence Base (Recommendation 11)

First literature search: most plausible interventions

During the orientation process of the available literature, we were able to identify one intervention, this being: limiting the exposure of children to severe parental conflicts.

PICO question

For children, is actively limiting the exposure of children to severe parental conflicts more effective than not doing this for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

For this PICO question, keywords used in the search strategy are: communication, parental conflict, separation, divorce, children.

Assessment and grading of evidence

The three main sources used for this particular subject are:

- Matthew R. Sanders, W. Kim Halford and Brett C. Behrens, Parental Divorce and Premarital Couple Communication (1999)

- Tamara D. Afifi, Tara McManus, Susan Hutchinson and Birgitta Baker, Inappropriate Parental Divorce Disclosures, the Factors that Prompt them, and their Impact on Parents' and Adolescents' Well-Being (2007)

- Paul Schrodt and Tamara D. Afifi, Communication Processes that Predict Young Adults' Feelings of Being Caught and their Associations with Mental Health and Family Satisfaction (2007)

The article by Sanders, Halford and Behrens is based on a detailed observational analysis of couples' interaction. The article by Afifi, McManus, Hutchinson and Baker bases its findings mostly on clinical and empirical evidence. The article by Schrodt and Afifi uses both empirical and meta-analysis to support its findings. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'low' to 'moderate'.

Recommendation

Desirable outcomes

Adaptive communication behaviours can be learned. Therefore, the problems that children face as a result of exposure to a parental conflict can be prevented (Schrodt, p. 62). In this regard, training children in cognitive and behavioural skills might be beneficial. If the training is extended to parents, they are able to become aware of how communication impacts others.

If children are to try and make sense of their parents' disputes, then becoming privy to additional information relevant to such disputes and marital conflicts may increase their satisfaction and mental health by reducing the uncertainty and stress associated with making sense of it all (Schrodt, p. 223).

Undesirable outcomes

Children's exposure to marital conflicts can place them in an uncomfortable position as mediators (Schrodt, p. 204). When parental disclosures produce role changes or make them feel caught between their parents, it may result in psychological and behavioural problems for adolescents (Afifi, McManus, p. 81). When parental separation is associated with exposure of children to severe parental conflict, this means children also get exposed to models of maladaptive conflict management behaviours (Sanders, p. 61). When children take over these interaction habits, then they are put at greater risk for relationship problems as adults (Sanders, p. 61).

Balance of outcomes

In determining whether actively limiting the exposure of children to severe parental conflicts is more effective for their well-being than omitting this, the desirable and undesirable outcomes of both interventions must be considered.

The literature suggests that exposure to marital conflicts has negative effects on children's well-being. It can place them in the position of a mediator and it can make them feel caught between their parents. Moreover, exposure to a marital conflict can have negative consequences to the well-being of children in the long term.

On the other hand, children need to make sense of their parents' marital conflict. Therefore, the balance between outcomes is not entirely clear.

Recommendation

Despite the unclear balance of outcomes in terms of children's well-being, we make the following recommendation: For children, actively limiting the exposure of children to severe parental conflicts is more effective than not doing this for their well-being.

Evidence Base
(Recommendation 12)

First literature search: most plausible interventions

During the orientation process of the available literature we were able to identify the following interventions for decisions concerning short-term housing arrangements post-separation:

Single person/parent household

Extended household

The composition of an 'extended household' includes both the 'nuclear family' and people outside the nuclear family (Abalos, p. 850). 'Single person household' refers to a living arrangement where one individual head their own household. 'Single parent household' refers to a living arrangement were one parent lives with a child or children.

Research shows that people are generally not inclined to move unless there is a compelling reason to do so, such as separation (Mulder et al, p. 154). Living arrangements are highly associated with children's well-being (Abalos, p. 845).

For the purpose of this PICO question, we compare living in a single person or single parent household with living in an extended household.

PICO question

For separated or separated individuals, is moving into an extended household more effective than moving into a single person/parent household for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

For this PICO question, keywords used in the search strategy are: separation, divorce, housing arrangements, living arrangements, single-parent families.

Assessment and grading of evidence

The main sources of evidence used for this particular subject are

- C.H. Mulder, B. ten Hengel, J. Latten & M. Das, Relative Resources and Moving from the Joint Home Around Divorce (2011)

- K. Gram-Hanssen & C. Bech-Danielsen, Home Dissolution: What Happens After Separation? (2008)

- P. Feijten, Union Dissolution, Unemployment and Moving Out of Homeownership (2005)

- Jeofrey B. Abalos, Living Arrangements of the Divorced and Separated in the Philippines (2011)

- P.R. Amato & B. Keith, Parental and Adult Well-Being: A Meta-Analysis (1991)

- C.H. Mulder, Family Dynamics and Housing Conceptual Issues and Empirical findings (2013)

- J. Mikolai & H. Kulu, Divorce, Separation and Housing Changes: A Multiprocess Analysis of Longitudinal Data from England and Wales (2018)

- P. Feijten & M. van Ham, Residential Mobility and Migration of Divorced and Separated (2007)

The article by Mulder et. al. investigates the influence of relative resources on who moves out of the marital home in light of separation: the man, the woman or both. Gram-Hanssen and Bech-Danielsen's study uses a quantitative and qualitative approach to see how the housing situation of different types of people was affected by the separation. Feijten investigates immediate and the lagged effects of union dissolution and unemployment on homeownership.

Abalos examined living arrangements of separated people using data from the Philippines' 2000 Census of Population and Housing. Mikolai and Kulu investigated the effect of marital and non-marital separation on individual's residential and housing trajectories using data from the British Household Panel Survey. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'low'.

Recommendation

Desirable outcomes

Research shows that the extended household may be more practical than single or single-parent households because it may provide better economic security due to the pooling of resources (Abalos, p. 855). The following examples may be relevant:

Separated persons with low education, who live in an extended household, with the economic support of the adult members, are able to complete their education. In contrast, those living in single or single-parent households and providing for their own dependents, may be unable to pursue higher education (Abalos, p. 856).

Women with children can also depend on other members of the extended household for childcare, especially if she is employed, thus avoiding additional childcare costs (Abalos, p. 855). Living in an extended family, therefore, is seen as more financially secure than living alone.

Moreover, where a family is characterised by strong family solidarity and kinship ties, those who have experienced a marital break up may turn to their extended family for support. This is especially true for a woman whose marriage was dissolved at a young age. They are less likely to be financially secure, less likely to have children (and even if they do, these children are more likely to be in their childhood years in need of more care), and are more likely to have their either or both parents still alive. Thus, returning to the parental household far outweighs the cost of living alone or heading their own single parent family (Abalos, p. 846-847).

Undesirable outcomes

Individuals who live in a single person household feel more pressure to participate in labour than those in an extended household. The latter do not feel the same kind of pressure because of the economic security afforded to them by their extended family (Abalos, p. 857). People living in extended households might not be inclined to work.

Research shows that adolescents in single parent families may be pressured to leave school early to seek employment. Low educational achievement is likely to be associated with low occupational attainment, unemployment, poverty, and welfare dependency later in life (Amato & B. Keith p. 44).

Balance of outcomes

In determining whether living in an extended household after separation is more effective than in a single household, the desirable and undesirable outcomes of both interventions must be considered.

The evidence shows that living in an extended household provides more economic and social security than living in a single household, particularly for people of low-income. On the other hand, it does not innately incentivise people to seek employment. Nevertheless, the desirable outcomes outweigh the undesirable outcomes.

Accordingly, living in an extended household is more effective than living in a single household.

Recommendation

Taking into account the clear balance towards the desired outcomes, and the strength of the evidence, we make the following recommendation: Extended household arrangements are more effective than single parent/person household arrangements.

Evidence Base
(Recommendation 13)

First literature search: most plausible interventions

During a first assessment of the available literature, we were able to identify two different interventions for fair living arrangements for infants and toddlers. These being:

Agreements on frequent contact, including overnight visits, with non-residential parent (where the housing situation allows)

Agreements on contact with no overnight visits with the non-residential parent

PICO question

For infants and toddlers, are agreements on contact that include frequent overnight visits with the non-residential parents more effective than contact agreements without overnight visits for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

For this PICO question, keywords used in the search strategy are: fair, living arrangements, housing arrangements, residential agreements, toddler, infant.

Assessment and grading of evidence

The two main sources of evidence used for this particular subject are

- Joan B. Kelly, Changing Perspectives on Children's Adjustment Following Divorce: A View from the United States (2003)

- Linda Nielsen, Shared Parenting After Divorce: A Review of Shared Residential Parenting Research (2013)

The article by Kelly highlights empirical and clinical research that is relevant to the design of children's living arrangements after separation. It focuses on what is known about living arrangements after separation. Nielsen's article bases its findings mostly on empirical studies and some meta-analyses. The strength of this evidence is classified as low according to the HiiL Methodology: Assessment of Evidence and Recommendations.

Recommendation

Desirable outcomes

Children who had one or more stays overnight per week with their non-residential parent, had better psychological and social adjustment than those children who did not have overnights (Kelly, p. 46).

It is important for toddlers to have frequent contact, including overnight visits with their non-residential parent, without prolonged separations from either parent. Staying overnight with the non-residential parent is associated with closer relationships (Nielsen p. 603). It is important for the children's well-being to have continued contact with their non-residential parent (Kelly, p. 38).

Undesirable outcomes

Data indicates that arrangements with less contact lead to diminished closeness between children and their non-residential parent (Kelly, p. 39).

Balance of outcomes

In determining whether agreements on frequent overnight contact with the non-residential parents are more effective than agreements without overnight contact for the well-being of infants and toddlers, the desirable and undesirable outcomes of both interventions must be considered.

Evidence from the literature suggests that a close relationship between parent and child has a major influence on the child's well-being. For parents to be emotionally involved with their children, it requires them to have frequent overnight contact with the children (separately from the other parent). Agreements on overnight contact provide for the opportunity to maintain a close parent-child relationship.

Recommendation

Taking into account the desirable and undesirable outcomes of both interventions, we make the following recommendation: For infants and toddlers, agreements which include frequent overnight contact with the non-residential parent are more effective than agreements without overnight contact with the non-resident parent for the child's well-being.

Evidence Base (Recommendation 14)

First literature search: most plausible interventions

During the orientation process of the available literature, we were able to identify five different interventions for fair living arrangements for young children. These being:

- Agreements of weekly contact during the school week with the non-residential parent ('agreements of weekly contact during the school week')

- Agreements of a set schedule, on every other weekend, for one or two overnight visits with the non-residential parent ('every other week agreements')

- No set schedule and erratic agreements

- Occasional contact for example, once every 3 to 6 months with the non-residential parent ('holiday only agreements')

- Face-to-face contact less than once a year with the non-residential parent

Research shows that the majority of children reported 'loss of contact' with the non-resident parent as the most negative aspect of separation (Kelly, p. 43). Reduced involvement of the non-residential parent after separation has been linked to many issues, for example, criminal conduct by children (Kelly p.45, Nielsen). Agreements of weekly contact during the school week or 'every other week', offer regular contact with the non-residential parent. Therefore, only those two interventions will be assessed.

PICO question

For young children, are agreements of weekly contact during the school week more effective than 'every other weekend' visitation for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

For this PICO question, keywords used in the search strategy are: fair, living arrangements, housing arrangements, residential agreements, young children.

Assessment and grading of evidence

The two main sources of evidence used for this particular subject are

- Joan B. Kelly, Changing Perspectives on Children's Adjustment Following Divorce: A View from the United States (2003)

- Linda Nielsen, Shared Parenting After Divorce: A Review of Shared Residential Parenting Research (2013)

The article by Kelly highlights empirical and clinical research that is relevant to the design of children's living arrangements after separation. It focuses on what is known about living arrangements after separation. Nielsen's article bases its findings mostly on empirical studies and some meta-analyses. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of the evidence is classified as low to moderate.

Recommendation

Desirable outcomes

When children have close relationships with their non-residential parent, and the non-residential parents are actively involved in their lives, frequent contact is significantly linked to a more positive adjustment and better academic achievement, compared with those with less involved non-residential parents (Kelly, p. 45). Active involvement includes help with homework and projects, emotional support, age-appropriate expectations of their children and authoritative parenting (Kelly, p. 45).

Furthermore, mediators and parenting coordinators have reported that children visiting the non-residential parent during school week are better protected from being in the middle of parental disputes (Kelly, p. 45).

Undesirable outcomes

Active involvement of the non-resident parent during the school weeks requires a high level of flexibility. Interventions should aim to ensure that children are able to reach their parents regularly. Accordingly, it is preferable that parents reside close-by to one another (Kelly, p. 38). Some parents might be forced to pay more for their house as opposed to a cheaper option that is far away.

In families with a history of violence, the type of living arrangements should be determined extra carefully. The child's emotional and physical safety must prevail (Kelly, p. 42).

Balance of outcomes

In determining whether agreements of weekly contact during the school week are more effective than 'every other weekend' visitation for the well-being of children, the desirable and undesirable outcomes of both interventions must be considered.

The evidence suggests that avoiding conflict and maintaining close relationships can have a great impact on children's well-being. Accordingly, maintaining a close relationship with the non-residential parent has several benefits, including achieving better academic results. In addition, weekly contact during the school week ensures that children are able to adjust to the post-separation living arrangements by maintaining close relationships with both parents.

For such reasons, weekly contact during school weeks is recommended.

Recommendation

Taking into account the net desirable outcomes with regard to the effect on children's well-being, we make the following recommendation: For young children, agreements of weekly contact during the school week are more effective than 'every other weekend' visiting arrangements.

Evidence Base (Recommendation 15)

First literature search: most plausible interventions

During a first assessment of the available literature, we were able to identify two different interventions for fair living arrangements for adolescents. These being:

- Shared residency (or dual residency)
- Sole custody

Shared residency, also referred to as 'dual residency or joint custody', is defined as between 33% and 50% time spent with one parent and the remainder with the other. This type of joint custody entitles both parents to make major decisions about their children (Kelly, p. 37). Sole custody refers to a type of custody where children reside with one parent, who makes all decisions and need not consult or inform the other parent (Kelly, p. 37).

PICO question

For adolescents, is shared residency more effective than sole custody for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

 For this PICO question, keywords used in the search strategy are: fair, living arrangements, housing arrangements, residential agreements, adolescent.

Assessment and grading of evidence

The three main sources of evidence used for this particular subject are

- Joan B. Kelly, Changing Perspectives on Children's Adjustment Following Divorce: A View from the United States (2003)

- William V. Fabricius and Linda Luecken, Postdivorce Living Arrangements, Parent Conflict, and Long-Term Physical Health Correlates for Children of Divorce (2007)

- Linda Nielsen, Shared Parenting After Divorce: A Review of Shared Residential Parenting Research (2013)

The article by Kelly highlights empirical and clinical research that is relevant to the shape of adolescent's living arrangements after separation. It focuses on what is known about living arrangements after separation. The article by Fabricius and Luecken is based on a large observational study. Nielsen's article bases its findings mostly on empirical studies and some meta-analyses. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'low'.

Recommendation

Desirable outcomes

Adolescents who have joint custody arrangements with their parents are generally satisfied, feel loved, and report fewer feelings of loss (Kelly, p. 46).

According to an observational study by the Stanford Custody Project, shared residency adolescents were better off academically, emotionally and psychologically than the sole residence children (Nielsen, p. 597).

Several observational studies in different countries suggest that shared residency adolescents were better off in regard to antisocial behaviour, aggressive behaviour, smoking, depression and self-esteem (Nielsen, p. 600).

Furthermore, it has been reported that these adolescents have a closer and more trusting relationship with their parents than those who only spend a few nights a month at the house of the non-residential parent (Nielsen, p. 605).

Undesirable outcomes

According to an observational study by Fabricius and Luecken, poor father-child relationships are associated with poorer physical health of adolescents (Fabricius, p. 202). Sole-custody of the mother can negatively affect the child-father relationship, and therefore can be detrimental to children's health.

As several observational studies suggest, where parents are not getting along well, shared residency adolescents were more likely than those in sole residence to feel caught in the middle of disagreements (Nielsen, p. 600).

Balance of outcomes

In determining whether shared residency is more effective than sole custody for the well-being of adolescents, the desirable and undesirable outcomes of both interventions must be considered.

The available literature clearly points to the importance of maintaining close contact with both parents. Adolescents who have joint custody arrangements report having a better relationship with their parents than adolescents who have sole custody arrangements. Moreover, there are many studies reporting that, in general, children of shared residency are better off both psychologically and physically.

However, where parents engage in many conflicts, there is a higher risk for the adolescent to be caught between both parents. In families with a history of conflict, the type of living arrangements should be determined extra carefully.

Recommendation

Taking into account the net desirable outcomes with regard to the effect on adolescents' well-being, we make the following recommendation: For adolescents, shared residency is more effective than sole custody for their well-being.

Evidence Base
(Recommendations 16, 17 and 18)

First literature search: most plausible interventions

During the orientation process of the available literature, we were able to identify three interventions, these being:

- Authoritative parenting
- Authoritarian parenting
- Permissive parenting

Authoritative parenting is characterised by having high levels of control and maturity demands, combined with high levels of nurturance. These parents rely more on positive than negative sanctions to gain their child's compliance and encourage their child to express himself/herself when the child disagrees (Handbook, p. 452).

Authoritarian parents display high levels of control along with low levels of clarity and nurturance. These parents rely on power-assertive forms of discipline. They are less likely than authoritative parents to provide reasons when attempting to alter their child's behaviour and discourage expressions of the child's disagreement (Handbook, p. 452).

Permissive parenting is characterised by parents who display low levels of control and maturity demands, combined with higher levels of nurturance. They are less likely than authoritative parents to enforce rules or structure for their child's activities (Handbook, p. 452).

For the purpose of this PICO question, we compare authoritative parenting with the two other forms of parenting, because authoritative parenting shows a high level of demandingness and nurturance, while the other two parenting styles either have a low level of demandingness or nurturance (Handbook, p. 452).

PICO question

For children, is authoritative parenting more effective than other forms of parenting, for their well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis, Peace Palace Library.

For this PICO question, keywords used in the search strategy are: parenting, upbringing, raising, arrangements, children, development, upgrowing, well-being, divorce.

Assessment and grading of evidence

The four main sources used for this particular subject are:

- Sanford M. Dornbusch, Philip L. Ritter, P. Herbert Leiderman, Donald F. Roberts and Michael J. Fraleigh, The Relation of Parenting Style to Adolescent School Performance (1987)

- Fletcher, Steinberg and Sellers, Adolescents' well-being as a function of perceived interparental consistency (1999)

- The Handbook of Family Communication, edited by Anita L. Vangelisi, Chapters 9, 20 and 27 (2004)

- Erlanger A. Turner, Megan Chandler and Robbert W. Heffer, The Influence of Parenting Styles, Achievement Motivation and Self-Efficacy on Academic Performance in College Students (2009)

- Linda Nielsen, Shared Parenting After Divorce: A Review of Shared Residential Parenting Research" (2011)

These sources are largely based on an RCT and several observational studies. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'low' to 'moderate'.

Recommendation

Desirable outcomes

For the child's interest, authoritative parenting by both parents with warmth, support, effective monitoring, control, discipline, positive discussion and responsiveness to children's needs is essential (Handbook, p. 204). Studies indicate the following:

- Children of separated parents benefit the most when their father is actively engaged in their lives across a wide range of daily activities and when he has an authoritative rather than permissive or authoritarian parenting style (Nielsen, p. 591)

- Children are less depressed, were less aggressive and had higher self-esteem when both parents are authoritative (Nielsen, p. 599)

- Children with at least one authoritative parent have been linked to better academic competence and higher grades (Fletcher, Steinberg and Sellers p. and Dornbusch et al., p. 1256)

- Children from parents applying an authoritative parenting style do better at school compared to the other parenting styles (Dornbusch et al., p. 1256).

- A consistent and authoritative parenting style is effective (Afifi, p. 751). Parenting characteristics such as supportiveness and warmth continue to play an important role in influencing a student's academic performance (Turner et al., p. 343).

- Authoritative parenting is associated with lower levels of substance abuse for children (Handbook, p. 616)

Parenting characteristics such as supportiveness and warmth continue to play an important role in influencing a student's academic performance (Turner et al., p. 343).

Undesirable outcomes

Children from families applying authoritarian or permissive parenting tend to do less well at school compared to the authoritative parenting style (Dornbusch et al., p. 1256 and Turner, p. 338).

Parenting styles with controlling contexts (such as the authoritarian parenting style) diminish autonomous motivation and enhance controlled motivation (Turner, p. 339). In other words, the authoritarian parenting style limits the ability of children to make their own choices and control their own life.

Balance of outcomes

In determining whether the authoritative parenting style is more effective than the authoritarian and permissive parenting styles, the desirable and undesirable outcomes of both interventions must be considered.

The literature suggests that, regarding academic achievement, the authoritative parenting style is in the interest of the child while the authoritarian and permissive parenting styles are not.

The balance of outcomes is in favour of an authoritarian parenting style.

Recommendation

Taking into account the balance of outcomes, the high effect on children's well-being and the strength of the evidence, we make the following strong recommendation: For children, authoritative parenting is more effective than other forms of parenting for their well-being.

Evidence Base
(Recommendation 19)

First literature search: most plausible interventions

During the orientation process of the available literature, we were able to identify three interventions, these being:

- Formal and informal child support provided by non-residential parent

- Only formal child support provided by non-residential parent

- No child support

Formal child support payments are received through a welfare office (Greene and Moore, p. 159). These are payments agreed upon beforehand.

Informal child support includes money given directly to the residential parent, groceries, clothes or other items (Greene and Moore, p. 159). These payments are not agreed upon beforehand.

For the purpose of this PICO question we compare providing formal and informal support with only providing formal child support by the non-residential parent. Research shows that nonresident fathers provide a considerable amount of in-kind support instead of cash support (Greene & Moore, p. 174).

With regards to the third intervention (i.e. not paying child support), research shows that nonresidential fathers' support not only increase children's standard of living, but also improve children's health, educational attainment and general well-being (Amato & Gilbert, p. 557-558; Garasky et al, p. 365). Providing child support would therefore be clearly desirable over not providing for child support. For this reason we do not test this intervention.

PICO question

For parents deciding on the costs for their children's upbringing, is formal and informal child support provided by the non-resident parent more effective than the non-resident parent providing only formal support for their children's well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis, Peace Palace Library.

For this PICO question, keywords used in the search strategy are: child, maintenance, support, child-care, formula, support, child support, child maintenance, in-kind payments

Assessment and grading of evidence

The main sources used for this particular subject are:

- Maureen R. Waller & Robert Plotnick, Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research (2001)

- Paul R. Amato & Joan G. Gilbert, Nonresident Fathers and Children's Well-being: A Meta-Analysis (1999)

- Lenna Nepomnyaschy, Child Support and Father-Child Contact: Testing Reciprocal Pathways (2007)

- Angela Greene & Kristin Moore, Nonresident Father Involvement and Child Well-Being Among Young Children in Families on Welfare (2000)

- Steven Garasky et al, Toward a Fuller Understanding of Nonresident Father Involvement: An Examination of Child Support, In-Kind Support, and Visitation (2009)

Waller and Plotnick analyse findings from qualitative studies to understand why the child support system is ineffective for many low-income families. Amato and Gilbert use meta-analytical methods to explain how dimensions of the non-resident father-child relationship are linked with children's well-being. Nepomnyaschy's study examines the relationship between child support payments and fathers' contact with their nonmarital children. Greene and Moore use descriptive data to research factors that predict father involvement among non-resident fathers of young children who receive welfare and whether nonresident father involvement is associated with better outcomes for these children. Garasky et al investigate the relationships among three aspects of father involvement namely, child support, in-kind support and visitation. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'moderate'.

Recommendation

Desirable outcomes

Mothers who receive formal and informal support from fathers report fewer behavioral problems and higher levels of social and emotional adjustment for their children (Greene and Moore, p. 175).

Regarding the well-being of children, both formal and informal child support are positively associated with better ratings on the Personal Maturity Scale (an outcome variable used in this research, which focuses on the child's emotional and behavioral development) (Greene and Moore, p. 175). Informal child support is associated with improvements in the child's home environment (Greene and Moore, p. 176). Over time, informal support from the father may be associated with improvements in cognitive assessment scores and academic achievements for children.

Fathers who pay child support may want to see their children more, in order to oversee the allocation of their contributions (Nepomnyaschy p. 94). A stronger positive relationship exists between visitation and support provided by a nonresident father when that support is made informally to the child's mother (Nepomnyaschy, p. 94).

Child support seeks to ensure that parents who live apart from their children contribute to their financial support in order to achieve specific goals such as poverty and financial insecurity reduction among children and their custodial parents. Child support also seeks to affirm the widely held belief that parents are morally and socially obligated to support their children (Waller & Plotnick, p. 89).

Child support is thought to have symbolic meaning, representing the non-resident parent's care and concern to the child; and this may improve the child(ren)'s well-being beyond the effects of raising the child's standard of living, to a psychological contribution (Garasky et al, p. 365).

Undesirable outcomes

Mothers mention that conflict may arise when the father begins to pay child support and stop supporting them informally or doing the "extras" for their children (Waller & Plotnick, p. 101). Moreover, these conflicts can make already difficult parenting arrangements more hostile and may lead to their dissolution (Waller & Plotnick, p. 99).

After low-income parents become involved with the formal system and a support order is established, concerns about how the system enforces support orders arise. Mothers often perceive it as ineffective in enforcing their rights to

support. Fathers become frustrated with the system's insensitivity to their changeable economic circumstances and its use of criminal sanctions to enforce compliance. These perceived problems with the enforcement process are likely to contribute to poor parents' reluctance to participate in the formal system in the first place (Waller & Plotnick, p. 101).

Punitive child support enforcement policies may drive fathers who are incapable of providing support to abandon their families altogether (Nepomnyaschy, p. 109).

To some fathers, formal child support represents a forced payment rather than an authentic expression of paternal love (Waller & Plotnick, p. 100). Some women agree with this assessment of child support, as both tainted and unreliable because it does not derive from an emotional bond (Waller & Plotnick, p. 100-101).

Balance of outcomes

In determining whether providing formal and informal support by the non-residential parent is more effective than providing only formal child support by the non-residential parent, for the financial well-being of persons the desirable and undesirable outcomes of both interventions must be considered.

Although some parents sometimes did not comply with child support regulations, these studies suggest that they strongly endorse the belief that fathers have an obligation to support their biological children and be involved in their lives. All studies indicate that communities recognise in-kind contributions such as diapers, toys, clothing and shoes as valid expressions of this paternal obligation (Waller & Plotnick, p. 100).

In sum, the effect on well-being of the desirable outcomes are more far-reaching than the effects on wellbeing of undesirable outcomes.

Recommendations

Taking into account the clear balance towards the desired outcomes, and the strength of the evidence, we make the following recommendation: Receiving both formal and informal child support is more effective than receiving only formal child support.

Evidence Base
(Recommendation 20)

First literature search: most plausible interventions

During the orientation process of the available literature, we were able to identify the following interventions for spousal maintenance:

- Non-permanent spousal maintenance:

    Rehabilitative spousal maintenance

    Limited duration spousal maintenance

- Permanent spousal maintenance

Rehabilitative spousal maintenance provides a former spouse with support for a limited period of time to allow for the development of the skills, training, or education necessary for self-support. It presupposes the existence of a future capacity for self-support (Greene, p. 9) and is designed to improve the recipient's employment prospects (Shehan et al, p. 310).

Limited duration spousal maintenance (also known as transitional support) is periodic maintenance or terminable maintenance; an amount regularly paid to a recipient for a fixed period. This form of maintenance is meant as a financial buffer to help the former spouse become self-supporting during the period of transition from married life. If the recipient is not self-supporting and cannot become so, limited duration alimony may not be awarded. Limited duration spousal maintenance is not modifiable and cannot be discontinued even if the recipient remarries within the repayment period (Shehan et al, p. 310).

Permanent spousal maintenance is awarded as the primary source of support for the recipient (Greene, p. 9). A modification is permitted upon showing a change in the circumstances of the parties. If a spouse who has been awarded permanent alimony subsequently becomes self-sufficient, termination or reduction of the permanent alimony award normally follows (Greene, p. 14). The duration of a permanent award is generally until the death or remarriage of the

recipient. Permanent spousal maintenance is most likely to be provided when the recipient is aged, infirm, or unable to be self-supporting. The amount of the award is based on the level of financial need and the standard of living enjoyed in the marriage

(Shehan et al, p.310).

For the purpose of this PICO question, we compare permanent spousal maintenance with the two other forms of non-permanent spousal maintenance: Limited and rehabilitative spousal maintenance. Limited and rehabilitative spousal maintenance both focus on self-sufficiency, while permanent spousal maintenance does not.

PICO question

For separated spouses, is non-permanent spousal maintenance more effective than permanent spousal maintenance post-separation?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR, Taylor & Francis, Sabinet, LexisNexis.

 For this PICO question, keywords/phrases used in the search strategy are: alimony, spousal maintenance, spousal support, divorce, awarding of alimony, income measures.

Assessment and grading of evidence

The main sources used for this particular subject are:

- Jean van Houtte and Corinne de Vocht, The Obligation to Provide Maintenance between Divorced Husband and Wife in Belgium (1982)

- Cynthia L. Greene, Alimony is Not Forever (1988)

- Constance. L. Shehan, Alimony: An Anomaly in Family Social Science (2002)

- Twila B. Larkin, Guidelines for Alimony: The New Mexico Experiment (2004)

These sources include observational and empirical studies. According to the HiiL Methodology: Assessment of Evidence and Recommendations, the strength of this evidence is classified as 'moderate'.

Recommendation

Desirable outcomes

Research shows that efforts by the supported spouse to remain or become self-supporting and independent of the former spouse are favoured. Limited and rehabilitative maintenance focus on the recipient parent becoming self-sufficient (Greene, p. 11; 22-23; Shehan et al, p. 310).

Rehabilitative spousal maintenance is needed particularly for women who entered marriage under a very different set of rules, for example where they abandoned their own jobs and careers to the expected, traditional roles of mother and wife. In those years in which they would have developed job skills and careers. Such women were unable to attain or incapable of attaining self-sufficiency (as cited in Greene, p 13). Rehabilitative spousal maintenance can assist them to develop their own lives.

Spousal maintenance would be appropriate:

a) where the recipient abandoned her job and career to fulfill the expected, traditional roles of a mother, wife and hostess... (as cited in Greene, p. 13)

b) where there are minor children under the age of five and it is not practical for the recipient to generate income in excess of work-related child-care costs, or both parties are committed to one parent remaining home with the child(ren) (Larkin, p. 53).

Undesirable outcomes

Permanent spousal maintenance presumes that the recipient cannot become self-sufficient (Greene, p. 9). However, some recipients might come to rely on these payments rather than taking the initiative to obtain additional training or education, a job or resume a career (Shehan et al, p. 309).

Permanent payment might keep alive the hostility. Maintenance could alter the post-marital distribution of power between spouses. For example, when bitterness grows between the separated litigants, one party often seeks to have the other punished for their failure to pay maintenance (Shehan et al, p. 309).

Balance of outcomes

In determining whether non-permanent spousal maintenance is more effective than permanent spousal maintenance post-separation, the desirable and undesirable outcomes of both interventions must be considered.

Permanent spousal maintenance is appropriate only where the recipient is unemployable. Rehabilitative or limited duration spousal maintenance is appropriate in the event of a need for maintenance and should be awarded until the recipient becomes self-sufficient, implicitly requiring the former spouse to make reasonable efforts to become self-sufficient.

Accordingly, non-permanent spousal maintenance is more effective than permanent spousal maintenance.

Recommendation

Taking into account the balance of outcomes, including, the effect on former spouses' well-being (in particular self-sufficiency) and the strength of the evidence, we make the following recommendation: Non-permanent spousal maintenance is more effective than permanent spousal maintenance.

Evidence Base
(Recommendation 21)

First literature search: most plausible interventions

During the orientation process of the available literature, we were able to identify the following interventions:

- Active measures [with the goal to generate more income]:

    Generate more working hours

    Self-employment

    Migration to areas with better employment opportunities

- Other [passive] measures:

    Applying for and receiving public assistance

    Remarrying

    Cutting back on expenditures

Financial resources are an important factor in the adaptations families make. Families save up in good times, and spend savings or borrow in bad. Families who do not have such savings, will not be able to do this (Yuen & Hofferth, p. 7). The analysis done by Yuen and Hofferth distinguishes between active measures (e.g. migration and increasing partner's work effort) and other measures (e.g. relying on public assistance) (Yuen & Hofferth, p. 7 and 25). Families with substantial income and assets and those who live in low unemployment areas tend to take active measures, whereas families with little resources or in high unemployment areas are likely to rely on public assistance, remarriage or cutting back on expenditures (Yuen & Hofferth, p. 25). For purpose of the PICO question, we compare active (which generate more income) and passive measures, as the available literature makes, a distinction between these two strategies in overcoming post-divorce financial distress.

PICO question

For families, is taking active measures with the goal of generating more income more effective than taking passive measures, for their financial well-being?

Search strategy

The databases used are: HeinOnline, Westlaw, Wiley Online Library, JSTOR and Taylor & Francis.

For this PICO question, keywords used in the search strategy are: divorce, income, increase, decrease, financial, economic, income-generating activities, financial adjustment, financial distress.

Assessment and grading of evidence

The main sources used for this particular subject are:

- Wei-Jun Jean Yueng and Sandra L. Hofferth, Family Adaptations to Income and Job Loss in the U.S. (1998)

- Linda Scott, Catherine Dolan, Mary Johnstone-Lous, Kimberly Sugden, Maryalice Wu, Enterprise and Inequality: A Study of Avon in South Africa (2012)

- Caroline Dewilde and Wilfred Uunk, Remarriage as a Way to Overcome the Financial Consequences of Divorce- A Test of the Economic Need

- Hypothesis for European Women (2008)

- Naila Kabeer, Gender equality and women's empowerment: A critical analysis of the third millennium development goal 1 (2005)

These sources are largely based on empirical studies. Evidence can be regarded as being low.

Recommendation

Desirable outcomes

One of the indicators to measure gender equality and women's empowerment is the increase of women's share of wage employment (Kabeer, p. 1). Paid work has the potential to shift the balance of power within the family. It also leads to a long-term reduction in domestic violence, as well as an increase in women's assets (Kabeer, p. 18). In some cases, women's participation in wage employment has allowed them to have greater economic independence and even to escape abusive marriages (Kabeer, p. 19).

Geographic migration has been viewed as a means of improving the allocation of human resources (Yueng & Hofferth, p. 5-6).

Undesirable outcomes

Seeking public assistance is stigmatizing and is seen as only a short term-option (Yueng & Hofferth, p. 24).

When it comes to cutting back on expenditures, cutting food expenditures points to the possibility of deteriorating living conditions that may threaten the survival of family members. (Yueng & Hofferth, p. 24).

Operating within a social setting unfriendly to women will be challenging due to, for example, pervasive violence. Women might encounter difficulties in running a door-to-door business in a country where no one opens the door out of fear. Moreover, women moving about to make sales, deliver products and meet teams are easy targets for such predators (Scott. et al., p. 562).

Migration to an area of better employment opportunities may weaken the family's support network and detract from children's school progress (Yueng & Hofferth, p. 24).

Balance of outcomes

In determining whether taking active measures with the goal of generating more income is more effective than taking passive measures, for the financial well-being of persons, the desirable and undesirable outcomes of both interventions must be considered.

An analysis of the outcomes shows a lack of consensus regarding which measure works. Research shows difficulties with using these strategies particularly due to national contexts. A suitable option is arguably exploring active measures because of efforts by divorced spouses to become self-supporting and self-sufficient.

Recommendation

Taking into account the balance towards the desired outcomes and the strength of the evidence, we make the following recommendation: Taking active measures to generate more income is more effective than taking passive measures for the well-being of families.

7. Core Group of Experts

The Core Group of Experts have played a fundamental role in the development of this catalogue. They have supported in gathering and evaluating the best practices and evidence on which this catalogue is founded. In addition they have been instrumental in ensuring the local context is taken into account for all the recommendations and best practices. Without these individuals, this would not have been possible:

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Annex 1: Explanation of Methodology

Assessment of evidence and recommendations

Internationally available literature contains evidence, which substantiates and disproves interventions to family-related issues. This document describes how the quality of evidence is assessed. It also clarifies the entire process of establishing recommendations for the Family Justice Catalogue. The steps to be taken are chronologically structured.

1. Assessing relevant family law topics

The Research Director and research team establish potential relevant topics to be included in the Family Justice Catalogue. They ensure that the outcomes of the Justice Needs and Satisfaction Survey Uganda are incorporated in the selection of topics. Internationally recognized family law experts and professionals (from the Netherlands, the United Kingdom, Canada and other countries) provide input. A diverse group, consisting of Ugandan practitioners and family justice experts (referred to as Core Group of Experts), decides on the final list of topics.

2. First literature search: identifying the most plausible interventions

The research team conducts a first literature search to identify all possible interventions for each topic. This is done in accordance with the search strategy (explained further on in this document). Per topic, the team selects the two or three most plausible interventions. Two interventions are then compared with each other in PICO format and - if applicable - similarly compared to a third intervention.

3. Defining the PICO question[1]

In order to assess the effectiveness of interventions, the research team compares selected interventions by using PICO questions. The PICO-approach is used in the medical sector to help define the effectiveness of an intervention. PICO stands for:

- Population (person in question)
- Intervention
- Comparison

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[1]   How to phrase a PICO question is explained in: Schunemann, Brozek, Guyatt, Oxman, GRADE Handbook, Chapter 2, see: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp

- Outcome

These four elements should always be present in the PICO questions. The standard structure of a PICO question is: For [population/person], is [intervention 1] more effective than [compared intervention 2] for [outcome/goal]?

4. Search strategy[2] and literature selection[3]

After identification of the PICO question, the research team searches and selects the literature. The research team first defines which keywords are used for the literature search.

The literature search is conducted in a hierarchical manner. The research team starts with looking into existing evidence-based guidelines, systematic reviews and meta-analyses. In case this results in insufficient evidence, the search extends to random controlled trials. If this is not available, the team searches for observational studies and empirical research. Lastly, if needed, the research team gathers relevant opinions by international experts. Steps taken in the process of selecting literature are (in this order):

Screening of titles and abstracts: a first selection is made where non-relevant titles are excluded.

Selection on methodology, based on titles and abstracts: the researcher selects sources according to their methodology.

Selection on substance: a substantive and definitive selection based on the title, abstract and the substance.

Rating of selected literature: the quality and quantity of the literature are assessed. If not sufficient, the search strategy and criteria are altered.

The research team consults several (legal and psychology-related) databases, which are accessible through Google Scholar.

5. Assessing and grading the evidence

The literature contains evidence. Following the selection of literature, the quality of the evidence is evaluated. The research team grades the quality of evidence for each recommendation, based on the GRADE (Grading of Recommendations Assessment, Development and Evaluation) system. The GRADE-manual (accessible on www.guidelinedevelopment.org/handbook) provides an elaborate description of this method.

GRADE is used extensively by the medical sector for developing guidelines. The GRADE system provides a definition of the quality of evidence. The quality of evidence reflects the level of confidence in the effect of the intervention on people's wellbeing. The evidence is graded according to a three-step process.

2   The search strategy is similar to the strategy used in developing guidelines for family doctors in The Netherlands, see: https://www.nhg.org/sites/default/files/content/nhg_org/uploads/handleiding_ontwikkelen_nhg-behandelrichtlijnen_0.pdf
3   The literature selection-process is similar to the selection-process used in developing guidelines for family doctors in The Netherlands, see: https://www.nhg.org/sites/default/files/content/nhg_org/uploads/handleiding_ontwikkelen_nhg-behandelrichtlijnen_0.pdf

A. Firstly: rate the entire study design

Rating the quality of evidence starts with the study design. The evidence is categorized by the type of study, using the four GRADE classifications:

High	Existing evidence-based guidelines, meta-analyses, systematic reviews
Moderate	Random Controlled Trials (RCTs), large observational studies, large empirical research
Low	Medium/small observational studies, medium/small empirical research
Very low	Opinions of international experts

B. Secondly: take into account factors for downgrading and upgrading

Next, the research team looks for factors that reduce the quality of evidence. These being:

Risk of bias of the publication, such as: -Use of evidence by the author to support one favoured intervention (for example: the author is clearly in favour of mediation or supporting completely equal roles of men and women in family life as a matter of principle) -Reporting of outcomes is selective -Samples used in the study to back up arguments are not representative	1 or 2 levels down
-**Risk of true effects reported being different in other culture/location,** For example: the Uganda city population may not experience the same effects of an intervention as the Texas rural sample in the study	1 level down
Inconsistent results from different studies, such as those based on: -Geographical area (different studies report different outcomes for different geographical areas) -Interventions (different studies report different interpretations of the same intervention) -Outcomes (different studies report different effects of the same intervention)	1 or 2 levels down

Studies only present indirect evidence, such as: -Different results in different geographical areas in one study -A difference in how the intervention is applied in one study -A difference in the effects of the intervention in one study	1 or 2 levels down
Imprecision -Uncertainty about the study results	1 or 2 levels down

The research team also looks at factors that increase the quality of evidence:

A large magnitude of the effect of the intervention: -The effects are consistent across different samples -Consistency in the studies on the magnitude of the effect	1 or 2 levels up
Unanimous endorsement of the Core group of Experts	0 or 1 level up
All suggested best practices are in line with the recommendation	0 or 1 level up

Studies may report different outcomes. All outcomes of the studies that are essential to a recommendation are graded separately.

Until now, the upgrading and downgrading process has not been evaluated individually. In future iterations of the guideline, the research team will provide reasons for upgrading or downgrading a recommendation and explain the reasons.

C. Thirdly: rate the quality of evidence of the entire recommendation based on step A and B

After taking into account the rating of the study design and the factors for down or upgrading the quality of evidence, the research team determines the overall quality of evidence. The research team provides a single grade of quality of evidence for every recommendation. The quality of evidence can be classified into the following four categories of the GRADE model:

High	There is much confidence that the true effects of the tested intervention are close to the estimations of the effects
Moderate	The true effects of the intervention are likely to be close to the estimates of the effect. There is a possibility that it is different
Low	The confidence in the estimates of the effects is limited. The true effects can be substantially different from the estimates
Very low	There is very little confidence in the estimates of the effects

Because the GRADE approach rates the quality of evidence separately for each important outcome of the studies, quality might differ across outcomes. When determining the overall quality of evidence across outcomes, the research team considers only those outcomes that the research team assessed as being most important. These critical outcomes have been identified for each recommendation in the catalogue. If the quality of evidence is the same for all critical outcomes, then this becomes the overall quality of the evidence supporting the answer to the question. If the quality of evidence differs across critical outcomes, then the overall confidence in effect estimates cannot be higher than the lowest confidence in effect estimates for any outcome that is critical for a decision. Therefore, the lowest quality of evidence for any of the critical outcomes determines the overall quality of evidence.

At this stage, the rating of the evidence has not been evaluated independently. However, if the research team or the Core Group of Experts express doubts about the recommendation, the rating of the evidence has been revisited.

6. Making recommendations[4]

The recommendations can be established following the answer to the PICO question and assessment of the quality of evidence by applying GRADE.

The strength of the recommendation depends on whether the desirable effects of an intervention outweigh the undesirable effects, and on the strength of evidence. Recommendations are categorized into four groups:

Key factors that influence the direction and strength of a recommendation are:[5]

Domain	Comment
The balance between desirable and undesirable outcomes (trade-offs) taking into account: -Best estimates of the magnitude of effects on desirable and undesirable outcomes Importance of outcomes (estimated typical values and preferences)	The larger the differences between the desirable and undesirable consequences, the more likely a strong recommendation is warranted. The smaller the net benefit and the lower the certainty for that benefit, the more likely a weak recommendation is warranted
Confidence in the magnitude of estimates of the effect of the interventions on important outcomes (overall quality of evidence for outcomes)	The higher the quality of evidence, the more likely a strong recommendation is warranted
-Confidence in values and preferences and their variability	The greater the variability in values and preferences, or uncertainty about typical values and preferences, the more likely a weak recommendation is warranted
Resource use	The higher the costs of an intervention (the more resources consumed), the less likely a strong recommendation is warranted

[6]

4   The assessment and grading of evidence in the medical sector is explained in: Schunemann, Brozek, Guyatt, Oxman, GRADE Handbook, Chapter 5, see: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp
5   How to go from evidence to recommendations in medical guidelines is explained in: Schunemann, Brozek, Guyatt, Oxman, GRADE Handbook, Chapter 6, see: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp
6   See: Schunemann, Brozek, Guyatt, Oxman, GRADE Handbook, Chapter 6, table 6.2, accessed at: http://gdt.guidelinedevelopment.org/app/handbook/handbook.html#h.1yd7iwhn8pxp

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