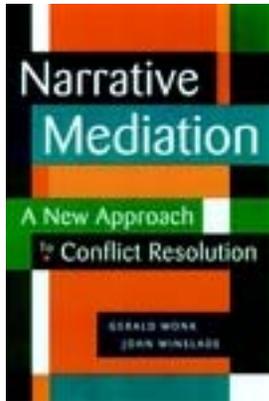


# **A New Approach to Conflict Resolution**

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## **Chapter One: Narrative Mediation: What Is It?**

The universe is transformation: our life is what our thoughts make it. (Marcus Aurelius Antoninus, "Meditations")

Healing is a matter of time, but it is sometimes also a matter of opportunity. (Hippocrates, "Precepts")

Greg wanted the custody of the children to be decided in the family court. "I'm sick of the bloody arguments," he said. "She keeps changing her bloody mind. One day she's all understanding and wanting me to be involved and the next day she's trying to keep me from having a say. I've had enough! I can't see how this mediation is going to make any difference. I don't want to have to rework this issue for one more day. She's made up her mind. It's like talking to a frigging brick wall. How are you going to make any difference? This mess has been going on for months!"

For those who have been involved in divorce mediation, such a scenario will not be unfamiliar. It presents many challenges for a mediator to start to work with. In this book we introduce you to how we would approach the process of mediation in such a situation. We think that the model we are proposing is significantly different from other approaches to mediation, particularly the commonly espoused problem-solving model of mediation.<sup>1</sup> We call our approach narrative to signify some of the ways in which we conceptualize mediation and also to link it to the work of other people who use this metaphor to describe their work.

To start, we tell you a story. It is the story of a mediation between Greg and Fiona. We usher you through this story to illustrate the approach we flesh out in the following chapters. This first chapter is like a snapshot; the more detailed moving picture comes later.

The story shows narrative mediation in action. This method has both a theoretical robustness and some creative ideas for practice to recommend it. The story provides an overview of some of the narrative moves used in mediating a conflict between Greg and Fiona. The challenges thrown up by this conflict are rich opportunities for demonstrating a range of mediation moves to help create preferred outcomes.

### **A Mediation Story**

Greg was not enamored with the idea of mediation. (The comment at the beginning of this chapter is from his first meeting with the mediator.) He wanted a family court judge to put a stop to Fiona's "controlling and manipulative behavior." The judge would surely make a "sensible" decision and give Greg custody of the children. Greg was sure that the judge would understand his story.

Fiona had initiated the mediation. She had outlined to the mediator in a telephone conversation that she had interim custody of the three children and was highly motivated to avoid the agony of an expensive and lengthy court hearing. She did not think this ugly dispute was going to be solved by a judge.

Fiona was also sick of Greg's threats. She knew he would tell the mediator that she deserved to lose all the children, that she was to blame for the breakup of their marriage of fourteen years. Fiona was most upset about how Greg would run her down in front of her friends in their small rural community. He would tell her friends that she had no morals and that she had deceived him when she had an affair with Greg's friend three years previously.

Fiona and Greg had a well-developed problem-saturated narrative about the conflict.<sup>2</sup> Each described the other in unidimensional, fixed, and unyielding terms. Elements of this problem narrative had such a tangible and reified quality that both Fiona and Greg experienced their own storied account as the only true description of the events of the conflict.

### **The Storying Process**

The narrative perception is that people tend to organize their experiences in story form. The narrative metaphor draws attention to the ways in which we use stories to make sense of our lives and relationships.<sup>3</sup> People grow up amid a multitude of competing narratives that help shape how they see themselves and others. They tell stories about themselves and about others. They act both out of and into these stories, shaping the direction of the ongoing plot as they do so. Descriptions of problems are typically told in narrative terms. Such problem narratives have often been rehearsed and elaborated over and over again by participants in a conflict.

Mediators who use a narrative orientation are interested in the constitutive properties of conflict stories. In other words, whether a story is factual or not matters little to the

potential impact it has in someone's life. Our emphasis is on how the story operates to create reality rather than on whether it reports accurately on that reality. Stories therefore are not viewed as either true or false accounts of an objective "out there" reality. Such a view is not possible, because events cannot be known independently of the dominant narratives held by the knower. It is therefore more useful to concentrate on viewing stories as constructing the world rather than viewing the world as independently known and then described through stories.

Practitioners who use this approach are only too aware of the difficulties that arise when mediators seek an objective account of "what really happened" in order then to coach the parties into a more balanced way of looking at the problem. We would even expect such efforts to meet with resistance. From within a dispute it makes perfect sense for conflicted parties to "story" the conflict in their own terms. It is therefore more helpful for a mediator to validate explicitly the stories through which people experience the conflict and then to seek out the points where the story might incorporate some different perspectives.

### **Beginning the Mediation**

Greg was mandated to attend at least one mediation session before the matter could be taken further in the family court. Although he was reluctant to attend, he still had a lot to say about his present circumstances and about his desire for custody of the children. Greg had established his own courier company over recent years and described not having the time he would have liked to spend with his children and, now, his ex-wife, Fiona. He reflected back on these times with some regrets. Yet there was a great deal he was proud of. He was now a self-made man. He enjoyed a very good income and employed a growing fleet of drivers and a competent administrative staff to cater to the demands of his burgeoning business.

At first Greg was clear that his full commitment to his career and the establishment of a strong financial foundation were the best contributions he could have made to his family's development. He recollected clearly the financial struggles his parents had experienced in his early youth and the shame his father had suffered in barely managing to look after the basic needs of the family. Greg did not want to put his family through the money worries of his childhood. Indeed, Fiona had enjoyed a financially comfortable life with Greg in recent years and, while married, had needed to work only part-time, so she was able to follow interests outside of the family.

Greg and Fiona's children-Frank (fifteen), Jessie (eleven), and Thomas (six)-were receiving a high-quality education at a private school and had had some wonderful vacations with their mother in the last few years. Greg had missed most of these vacations because of the demands made on his time by work pressures. Clearly he regretted missing out on so much of the children's childhood. Earlier in the marriage he had wished that he was more nurturing toward Fiona, but now he was bitter about how she was behaving toward him. Greg was against the separation that Fiona had instigated

some seven months before. Although he was still angry at her betrayal and the agitation she had caused him, he still loved her, he said.

Greg explained that it had taken time to build up his business. But now that it was virtually running itself, he imagined he could devote more time to the children, even if he couldn't be with Fiona. In fact, he saw that it was now his right to help shape the children's moral development.

Following his separation from Fiona, Greg had become reinvolved in a Christian fellowship from which he had been disengaged since his teens. He was keen to imbue a strong Christian presence into the children's lives. Greg explained that Fiona was now spending significant amounts of time socializing with friends and, in his view, was not providing the quality of care he thought the children deserved.

Greg was also agitated about the implications for his business of a matrimonial settlement that was still to be finalized through Greg's and Fiona's lawyers. Greg did not think Fiona was entitled to half of their assets. He felt it had been due to his own efforts that the business had gone so well. He recognized that legally he would very likely have to pay out a significant share to Fiona, but he wanted to minimize the size of this payout in order to maintain business solvency.

Greg was certainly unwilling to give up the family home. Fiona had moved into a twobedroom apartment with Frank, Jessie, and Thomas. Greg, however, wanted the children to live with him in the family home. For her part, Fiona was convinced that the children were better off with her.

### **Opening Up Space in a Tightly Woven Story**

Judgment and accusation are typically woven so tightly around the participants in a conflict that there does not seem to be any space for other descriptions of what has taken place or what could take place. We refer to these descriptions as totalizing descriptions; that is, they sum up a complex situation in one description that purports to give a total picture of the situation or of a person in it.<sup>4</sup> Totalizing descriptions of the conflict and of the conflict's protagonists tend to become highly evolved before the mediator has an opportunity to be part of the conversation.

One of the major tasks of a mediator is to destabilize the totalizing descriptions of conflict so as to undermine the rigid and negative motivations that the conflicted parties ascribe to each other. A variety of strategies can be employed by a mediator to loosen these negative attributions. These strategies help to create a context from which a preferred story line can be developed. They may include the following:

- Building trust in the mediator and in the mediation process
- Developing externalizing conversations
- Mapping the effects of the problem on the person
- Deconstructing the dominant story lines

- Developing shared meanings about the conflict and its solutions

These strategies are elaborated in considerable detail in the following chapters. However, here we briefly introduce them in relation to the scenario presented earlier, to give you the flavor of the narrative mediation process.

### **Building the Relationship in Mediation**

Building trust with each of the disputing parties is crucial to the successful outcome of any mediation. When people feel hurt by the actions of another, they tend to rework aspects of the conflict story to reinforce their own sense of injustice, betrayal, victimization, or mistreatment. The mediator can use the narrative metaphor to convey to each of the parties that the mediator has grasped the depth of their distress, without appearing to collude with each party's problem-saturated descriptions of the other.

Mediators are interested in employing strategies that will take some of the intensity out of the conflict and destabilize it to the point where alternative stories can be considered. Careful, respectful listening is a key part of this process. Respect is demonstrated through taking seriously someone's story and avoiding making assumptions about underlying deficit in the person. The starting assumption of the narrative approach is that it is likely that everyone is doing their best to deal with the conflict with the resources they have at hand.

### **Externalizing Conversations**

Externalizing conversations, discussed in more detail in Chapter Six, are one of the most powerful methods that narrative practitioners can use to help disputing parties disidentify with the problem story and begin to develop shared meanings, understandings, and solutions.<sup>5</sup> Externalizing conversations reverse the common logic in both popular and academic psychology that increasingly focuses explanations for events inside the person. Externalizing conversations focus attention on the relational domain. As mediators externalize a problem, they speak about it as if it were an external object or person exerting an influence on the parties but they do not identify it closely with one party or the other.

In the first meeting with Greg, it was helpful for the mediator to prepare for an externalizing conversation with Greg by identifying some of the dominant themes in Greg's account of the problem. Certainly distrust, betrayal, and neglect featured prominently in Greg's descriptions of what was happening to him in his relationship with Fiona. The mediator could then speak of these themes as if they are the problem, rather than identifying Greg or Fiona as the problem.

The mediator asked Greg to identify what he thought were some of the central difficulties that had led to the current conflict over the custody of the children. After pondering the mediator's request briefly, Greg said, "Fiona has caused me a great deal of grief." As is typical of parties caught in a prolonged conflict, Greg stayed with an internalizing,

blaming description of Fiona. The grief he was experiencing was storied as originating from within Fiona, either as a deliberate desire to hurt him or as a result of her character.

Externalizing conversations help separate the problem from the person and open space for a perspective in which blame and shame become less significant. Mediators who explore the use of externalizing conversations need not be disheartened by the blaming responses of the parties to one another despite the efforts of the mediator to externalize the problem. Careful listening by the mediator along with curiosity and enthusiastic persistence are useful in reconstructing problem narratives in less blaming terms.

The mediator next asked Greg, "If we could name this account of the difficulties you have experienced with Fiona 'a great deal of grief caused by distrust, betrayal, agitation, and neglect,' would that come close?" Greg wasn't exactly sure but he thought this description was close enough for now.

In interactions with Greg, the mediator often referred to the dispute over custody of the children as "this conflict" or "this betrayal," "this distrust" or "this neglect," or "this grief." The externalizing descriptions used depended on the direction of the conversation. Staying with the externalization of relational themes that underpinned Greg's blame of Fiona created an atmosphere in which Greg could focus on the effects of the conflict on his life and on the children. This helped him to avoid focusing on the character flaws and inadequacies he might have otherwise emphasized about Fiona.

### **Mapping the Effects of the Conflict History on Disputing Parties**

Fuller descriptions of what is going on give the mediator much more information about how individuals construct problem issues. In the case of Greg and Fiona, the mediator explored the effects of the problem-saturated story in order to gain a richer description of the parties' different understandings of the conflict.<sup>6</sup> The mediator paid particular attention to fleshing out the history of this account of the problem. The ebb and flow of the conflict could then be storied from its origins in an externalized fashion to help the parties understand the impact that the evolution of the conflict had had on them.

A historical account allows for a time orientation to emerge. This time orientation offers an enriched perspective. The rhythms and patterns of the conflict are more clearly perceived by each of the parties as they gain clarity about how the conflict is changing and possibly escalating. Naming when the conflict began and tracing how it developed provide openings for the mediator to inquire about experiences that stand outside the conflict. The skills required to historicize the effects of the problem are discussed in Chapter Six.

The mediator asked Greg, "When did you first become aware of the problems around custody of the children?" Greg stated that the problems started when he objected to Fiona's "declining ability to care for the children." One of the children had mentioned that their mother had gone out one night with a girlfriend and left Frank, the oldest child, in charge. She hadn't come home until midnight. Greg reported being furious on hearing

about what he described as a "serious lapse" in her parenting. He now doubted her ability to provide consistent quality care for the children. Greg also reported that he worried about the children not getting an appropriate spiritual education. He added that he would be taking the children to church and Sunday school if the children were in his care.

The inclusion of relative influence questions or mapping-the-effects questions often builds momentum and volition within the parties. These questions map the effects of the conflict on each person associated with it. They assist the parties to come to grips with how much the conflict has cost them in both personal and material terms.

The mediator asked Greg how the conflict had been affecting his well-being. Greg reported that he was living with additional stress in his life. He was worried about the legal costs of gaining custody of the children and how he would fare in the pending court hearing. He said that his sleep patterns were disrupted and he had not been eating regular meals. He expressed concern about the toll it was all taking on his physical and emotional well-being. He was feeling desperately lonely and was painfully aware that he was not in a psychological space to develop a relationship with anybody else. The matrimonial property issues were weighing heavily on him.

But the effects of the conflict were not just on Greg and Fiona. The mediator wanted Greg to include in his story of the problem an account of the impact of the conflict on the children. There is value in helping disputing parties see how a conflict spills over into other domains in their own and other people's lives.

The mediator asked Greg, "What effect is the growing lack of trust with Fiona having on the children?" "I haven't got the faintest idea," Greg said slowly but thoughtfully. "I am seeing so little of the children right now that I don't really know what shape they are in." Greg was initially reluctant to consider seriously how the conflict had been touching the children's lives. After further discussion, it became clear to him that the children had been suffering as a result of the escalating dispute between him and Fiona. He was concerned about this. The lack of trust between Greg and Fiona was troubling the children, although at this point Greg was holding Fiona completely responsible for the conflict. Jessie, the middle child, seemed to be suffering the most. Her teacher had reported that Jessie's grades had been deteriorating and she appeared to be mildly depressed. It seemed that the negative effects of the conflict were growing. The mediator asked Greg if he thought the lack of trust and grief were going to do further damage to himself and the children given the direction in which the conflict was moving. Greg stated that he thought the damage could get worse but it could be averted if the family court judge were to rule in Greg's favor soon. Even as he said this, Greg recognized that a ruling on custody was many months away.

In the course of such an inquiry into the effects of a problem on the people involved, a story develops about the functions of the conflict in everyone's lives. After sufficiently mapping these effects, the mediator asked Greg whether he would like to do something to change the direction of the conflict. These same lines of inquiry were followed with Fiona as well.

The mediator asked Greg, "Are you willing to continue adjusting to the growing deterioration of trust while waiting for a judge to take action, or are you interested in doing some damage control by building some trust in the meantime?" Greg was not sure what he could do, because it depended to a large extent on what Fiona did. He stated, however, that he would certainly be willing to do the best he could on his side to halt any further erosion of trust. The significance of inviting the parties to make a judgment about the effects of the problem is elucidated in Chapter Seven.

### **Constructing Solution-Bound Narratives**

It is significant for a mediator when one of the parties clearly states that he or she does not want to participate in escalating the conflict. This decision can open the door to a very different conversation. The mediator was now able to ask Greg if there had been any brief periods when there were interactions with Fiona in which he thought trust was building rather than diminishing. This move in narrative mediation is based on the notion that people in dispute are likely to have had experiences that were not completely dominated by the history of the conflict.<sup>7</sup> In this initial session it was possible to begin to coauthor with Greg an alternative, nonproblem-bound narrative that could serve as the rudimentary stage of a resolution to the problem. Greg could recall a few instances when his interactions with Fiona were not filled with angst. Although initially it was a struggle for him to remember, he recalled how Fiona and he had calmly discussed plans for Jessie's birthday. Greg described how a month earlier he had managed to spend a cordial and at times friendly evening with Fiona at Jessie's party.

Narrative mediators put effort into tracking non-problem-bound interactions. Through a series of questions about these interactions, the mediator and Greg were beginning to assemble some alternative descriptions of Greg's relationship with Fiona that were not completely dominated by lack of trust and bad feeling. Greg was beginning to open the door to building trust in his parenting relationship with Fiona. He did not need to put everything on hold while he waited for a decision from a family court judge. He was able to recall a number of other examples of collaborative and cooperative interchanges within recent months.

In their conversations thus far, Greg and the mediator had made the following progress:

- Greg was gaining a fuller appreciation of the toll the conflict was having on him and his family.
- He and the mediator were coauthoring an alternative account of Greg and Fiona working together.
- Greg was much more engaged in the mediation process and was beginning to recognize that establishing a cooperative parenting relationship with Fiona was necessary.

### **Fiona's Account**

A separate meeting was arranged with Fiona. The mediator asked her to express her views on the present difficulties and to provide a brief overview of the history of the conflict with Greg.

Fiona was adamant that her marriage was over. She described many years of feeling empty and alone in the marriage. She felt that Greg had been consistently emotionally unavailable for long periods. Even a short while after marrying, Fiona had noticed a change in Greg. She remembered that he had been very attentive, available, and loving when they had lived together. All that had seemed to change after they got married. Fiona described Greg as losing himself in his work. He would be gone early in the morning and would often return late in the evening. He would be exhausted and spend little time with the children, even though he cared about them. All of this discussion supported a view of the negative effects on Fiona of Greg's single-minded focus on being a successful material provider.

Fiona indicated that she was completely responsible for attending to the children's psychological and emotional needs. She would attend to their distress, deal with their disappointments and conflicts, and delight in their successes. She granted that Greg did his best to play with the children and attend school functions, but he was usually unavailable. Fiona claimed that Greg would often lose his patience with the children and become short-tempered and somewhat aggressive with them.

It is useful for the mediator to store away such commentary because it provides a rich background picture in which some of the dominant cultural patterns that have influenced the direction and shape of the conflict can later be identified. An assumption of narrative mediation is that conflict is produced within competing cultural norms. The mediator was therefore interested in eliciting from Fiona some of the dominant cultural norms that had had an impact on her. The mediator asked Fiona to discuss some of her ideas about marriage and what she had hoped for in her relationship and in the family she and Greg had developed.

Fiona believed that in the early part of her marriage both she and Greg had expected that Fiona would be the homemaker and take charge of the domestic duties. She said they had never really negotiated this but had found themselves caught up in patterns that had been modeled by their parents. By adopting a curious and naive posture, the mediator helped Fiona to name how in both her and Greg's family of origin the women were primarily responsible for the psychological support of their husbands and children.

Featured were traditional gendered patterns for the division of labor in which the male was responsible for the primary income and the female was responsible for the care of the home and the raising of the children. The mediator asked Fiona what her attitude was toward these cultural imperatives. She felt resentful about her predicament and wished that she had been more assertive with Greg about what she wanted. She had dedicated herself to being a good mother and homemaker. She had done her best to be responsive and caring toward Greg, but she felt she had gotten little in return other than temporary financial security. Now that too was gone. She did not have a career and she wished that

she had insisted on support from Greg to commence some studies. She felt betrayed by Greg's "neglect of the family's psychological needs." Fiona was now immediately faced with minimal income. She would get a meager financial benefit from the state and she could supplement this income with her part-time work.

Fiona felt entitled to at least half of the business assets because of the sacrifices she had made in raising the children and taking care of Greg's needs in the home. Yet she also felt guilty about the extra pressures this would put on Greg to find some way of keeping his business while dividing his assets in half to pay Fiona her share of the matrimonial property. This was an issue she would have to face.

Fiona was clear that Greg was in no position to have custody of the children. Currently he had the children in his care every second weekend and set aside one afternoon per week to spend time with them after school. In Fiona's view, the children did not want to live with their father, though she recognized that Jessie had a stronger psychological tie with Greg. Fiona thought that Jessie felt responsible for providing some care and company for her father. Jessie had said to Fiona that she was worried about her Dad living all alone and that he needed somebody to look after him. Fiona was strongly against splitting up the custodial care of the children.

As Fiona told her story she began to get a clearer understanding of some of the dominant cultural messages that had affected her while she was married to Greg. It was important for her to identify these messages because it subsequently assisted her to be less dogged by guilt and self-blame for ending the marriage. By linking the gendered themes of servitude and submission implicit in Fiona's problem-saturated narrative, the mediator helped her to recognize that she was much more vulnerable to verbal attacks from Greg because of her dominant feelings of guilt and self-doubt.

During this meeting, the mediator asked Fiona what guilt and self-blame had done to her when the marriage had begun to unravel. Fiona responded that guilt and self-blame had been extremely costly for her. However, she had also spent long periods wondering whether she should try to repair the damage done to her relationship with Greg. This had left her feeling confused and had led her to give inconsistent messages to him about where their relationship stood. Sometimes, in an effort to alleviate the guilt, she had conveyed to Greg that there was still some hope for their relationship. At other times she was very clear that she could not return to the habitual pattern of relating that had characterized so much of their relationship. It had been too costly for her. This interview with Fiona achieved a number of narrative mediation purposes:

- The effects of the problem narrative on her life were storied.
- Descriptions of a preferred future parenting relationship with Greg were explored.
- Preconceived notions about marriage and relationship that had been problematic for Fiona were identified.
- The features of the cultural context that had caught her in a particular pattern of relating to Greg were also identified. She could see how this pattern undermined

her own sense of confidence and well-being. She could also see how this pattern created confusion and disruption for Greg.

### **Disassembling Cultural Prescriptions**

Fiona had been positioned (not so much by Greg as by conventional cultural discourse) as the domestic server and social-emotional caregiver of the family. Throughout her marriage she had felt obliged to take complete care of the children's psychological well-being and had assumed that this was her primary role in life. She now realized that over the years this role had taken its toll. The moral weight of it was particularly burdensome, because there was no sign that Greg would be relieving her of this responsibility. Cultural norms invoke particular patterns or styles of relating that are enacted in repetitive ways. The mediator, using a narrative orientation, focuses on those cultural constraints that limit the possibilities available to individuals to address their concerns. Engaging carefully in a conversation about preferred experiences that lie outside the domain of the problem opens up new discursive or cultural possibilities.<sup>8</sup> These openings can lead to a resolution of the conflict. The significance of the sociocultural context for the mediator in addressing conflict is expanded and developed in Chapter Two.

Narrative mediation is not merely a set of techniques that can be clipped onto existing mediation models. This approach invites mediators to think very carefully about how their own constructions of the mediation process can significantly influence the outcome. The mediator in this conflict needed to be aware of his own gendered constructions about marriage and relationship, and he needed to consider how his own beliefs might contribute to shaping the conversation. Dominant cultural story lines are likely to influence the kinds of questions the mediator asks and how he hears and understands the parties' concerns. For example, if the mediator has fixed ideas about the kinds of roles men and women should play in a marriage, at some subtle level these views will have an impact on the mediation. We argue that neutrality and impartiality are severely constrained by the cultural location of the mediator.

Many mediation researchers suggest that the mediator should attend to the psychological relationships and to procedural or process matters and be less involved in the substantive or content aspects of any dispute.<sup>9</sup> For example, in the preceding scenario, many mediators would stress the importance of building a strong relational connection with the parties in early mediation interchanges and establishing appropriate procedural guidelines.

Yet there is also significant variation in how mediators respond to relational, process, and substantive issues because of the influence of their theoretical persuasions. For example, some mediators working with family conflict perform as advocates for children. They become keenly involved in substantive issues, particularly when children's needs have been neglected.<sup>10</sup> From this perspective, mediators are directly involved in the content discussions of the mediation. Other mediation researchers suggest that it is not appropriate for mediators to influence the parties directly in shaping content matters.<sup>11</sup> We do not believe that the separation of process and content issues is as simple as it can

be made to sound. Process issues shape the content that can arise, and any process will privilege some content issues over others. In practice, we argue, relationship, process, and content issues are all interwoven in the very fabric of mediation.

### **Naming Dominant Discourses**

Because narrative mediators are interested in tracking the background narratives and identifying the themes that underpin the conflict, it is useful to record the dominant themes. Such recordings will of course be affected by the discursive themes that have an impact on the mediator. In the first session with Fiona, for example, the mediator noted the following background discursive themes that appeared to be a feature of her relationship with Greg:

- A wife should be submissive to the needs of her husband.
- A wife should gain her sense of pleasure and satisfaction through the achievements of her husband.
- A woman is responsible for the social and emotional needs of her husband and children.
- A woman should put aside her own career aspirations.

It seemed that Fiona was still heavily influenced by these discursive influences. However, mapping their effects on her sharpened her sense of the cost that these cultural prescriptions were exacting from her sense of well-being. She was clear too that she did not have to keep subjecting herself to these cultural norms or continue to seek fulfillment through being a dutiful wife and partner. This knowledge had assisted her decision to create a life independent of Greg. The clarity she was gaining from the early mediation session was enabling her to be more consistent with Greg about her intentions.

### **A Deconstructive Conversation with Greg**

The mediator met individually with both Greg and Fiona one more time before a joint session was held. Greg was not keen to meet with Fiona until he felt better prepared. From the mediator's perspective, there was potential value in strengthening Greg's degree of engagement in the mediation. The mediator also wanted an opportunity to understand further Greg's perspectives on the problem.

Before this second session with Greg, the mediator wrote down some of the discursive themes from the first session. The mediator saw Greg as being strongly positioned by a "head of the household discourse" that invited Greg into the position of making executive decisions-in this case, about what was required to resolve the conflict. In addition, in his understanding of Christianity, Greg saw himself as the appropriate moral educator for the children.

Greg felt entitled to be the custodial caregiver for the children. (We discuss how such entitlements are built from a discursive perspective in Chapter Four.) His sense of entitlement was founded on what he identified as Fiona's betrayal of her marriage vows

and the damage he perceived the divorce would do to the children. In passing he did suggest that he would accept joint custody if it was not possible to have sole custody. He believed, however, that Fiona's unwillingness to try to rebuild their relationship was evidence of her lack of moral fiber. From the mediator's perspective, Greg was strongly positioned by a fundamentalist patriarchal stance.

This discursive imperative often invokes a rigid position in a custodial conflict. In the second session with Greg, the mediator explored with him other possible discursive imperatives that were influencing his view of what he was entitled to. They identified the following background discourses:

- Men contribute to the family by being primary income earners.
- The man is the head of the household and should take charge when the family is threatened.
- A good male provider is a good income earner.
- A woman who leaves her husband has betrayed the family. She loses her right to have any say over the welfare of the children. She has breached her contract.
- A Christian life is superior to an agnostic life. A practicing Christian is a better parent than a nonbeliever.

The mediator then went on to explore with Greg the effects of the statement, "A good male provider is a good income earner." The mediator developed an externalizing conversation in order to name the effects of this particular discourse on Greg, Fiona, and the children. The mediator asked Greg whether he felt burdened by "being a good provider," and to what extent he had felt morally obliged to make so many work sacrifices. Greg described feeling the full weight of this responsibility and how it persuaded him into a quest to provide for Fiona and the children in a manner that he might have only dreamed about as a child.

The mediator then asked a relative influence question: "Greg, what have been the effects on you of feeling the full moral weight of responsibility for being a generous and successful provider?" Greg responded, "I think I have done a great job in providing security for the family. I also feel genuinely proud of what I have accomplished in my work life, but I do have regrets. You know, I have sacrificed a lot, but I now wonder whether it was all worth it." The mediator asked Greg to elaborate (a simple use of narrative curiosity).<sup>12</sup> Greg responded, "Well, I missed out on some of the most special times in the children's growing up, including vacation time. Their childhoods are almost half over and I'm only now beginning to realize the painful consequences of being so preoccupied with work commitments."

The mediator asked Greg about other costs of the "man is the provider" discourse. Greg had been suffering from high blood pressure and regular migraine headaches. He thought that these physical ailments were effects of the physical demands he had placed on himself. The stress of fighting for the custody of the children was currently exacerbating some of these physical symptoms.

Such questions helped "unpack," or deconstruct, some of the discursive content in Greg's story of Fiona's "betrayal." He had done his best to meet the demands of the dominant discourse. Fiona's initiative to separate from him and her rejection of the authority of this discourse appeared to discount this effort. The mediator's questions helped crystallize for Greg the role that being a good provider had played in this sense of betrayal, as well as its effects on his health.

Greg stated a wish to be freed from the discursive dictate to work slavishly at being a successful provider. He was already moderating his work to give him more quality time with the children and for his church activities. We would describe this wish as an expression of a desire to reposition himself within the provider discourse. However, the patriarchal discourse still had a very strong influence over him. The mediator did not want to be too directive in exploring the discursive underpinnings of Greg's identity as a father, for fear of coming across as intrusive or judgmental. Therefore, the mediator sought to acknowledge Greg's commitment to being a better parent. However, Greg's certainty about his custodial rights still provided little opportunity for creating leverage in the mediation. For significant movement to take place in the custodial dispute, Greg would also need to loosen his certainties about his role as the executive decision maker.

### **A Deconstructive Conversation with Fiona**

When the mediator met with Fiona again, they continued to develop the deconstructive conversation they had begun in their first meeting. Here two parts of that conversation are highlighted.

The mediator asked Fiona what she needed in preparation for the joint session with Greg. She said she wanted to shore up her ability to manage guilt and to limit the effects of selfblame. The mediator asked Fiona a relative influence question about her growing ability to resist guilt and self-blame. She responded that increasingly she wanted to reposition herself as a woman making her way in the world independently of her husband.

While Greg had continued to subscribe to traditional discursive prescriptions in the marriage, Fiona had over time clearly revised her own understanding of what it meant to be in partnership. Her current view was very different from what it had been when she began the relationship.

The mediator then asked Fiona what had influenced her to change her thinking. Fiona identified some alternative discourses that were emerging influences in her identity. At the end of the second session, she was clearly more comfortable with the following discursive themes:

- Addressing the other person's emotional and psychological needs should be reciprocal in a partnership.
- A woman has a right to develop her own career aspirations within a marriage.

- A male partner should take on a more equitable role in taking care of the psychological needs of the children.
- A female partner should have an equal role in the making of decisions in the home.

This kind of discursive analysis maps out the territory from which ways out of the conflict can be found. As we live, we "perform meaning" around such statements. We also offer one another positions from which to relate. The statements that embody dominant or alternative discourses are not compulsory requirements for living, however. As we weave stories around them, they come to express the realities of the relations between us. In this case, there were some clear discrepancies between the discursive themes from which Greg and Fiona were operating. No amount of negotiation on substantive issues, or even negotiation on the basis of underlying interests, was going to shift that discrepancy. What was needed was a set of discursive statements in which both parties could feel included. Then some compelling stories would need to be woven around those themes before a way forward could be found in the conflict.

### **Introducing the Children's Voices**

One of the options in a situation like this, where two competing stories were casting the two protagonists, Greg and Fiona, into conflict with each other, was to widen the conversation and include other voices. Other voices would alter the dynamics; they would call forth new responses so that Greg and Fiona would not simply respond to each other's voices (and each other's discursive positions).

In this case, further perspectives could be introduced by involving Greg and Fiona's children in the decision-making process. Frank, Jessie, and Thomas were all old enough to have their own perspectives on the kind of caregiving plan their parents could devise. Although Greg initially placed little weight on the children's views, he was willing to consent to the children being interviewed to determine their interest in where they might receive custodial care. The mediator's hunch was that introducing the children into the conversation could make it possible for Greg to review his claims to executive authority.

The mediator interviewed the children both separately and together. He paid particular attention to the use of relative influence questions to explore the children's reactions to the idea of living with either their father or mother or both at different times. In response to the mediator's careful questions, the children disclosed their preference for living with their mother, despite having to live in more cramped conditions, although Jessie acknowledged that she wanted also to live with her father, primarily because she felt responsible for monitoring his well-being. She was the only female child and seemed influenced by the story that girls and women are responsible for looking after brothers, fathers, and children.

But if she were to consider her own preference, she wanted the status quo. This is an instance in which the mediator's own values are present in the conversational moves. The mediator did not support the position taken by Greg that he should have an executive role

in deciding where the children would live. The mediator saw the children as having a legitimate say in decisions about their future. He wanted them to have an opportunity to tell their father and mother, in an unthreatening context, their views about their care. He contracted with the children that they did not have to answer any questions they did not want to answer.

This stance is not a neutral one. It contradicts the dominant legal discourse that still sees children as chattel of their parents who are not expected to have a voice of their own.

### **The Family Meeting**

Greg, Fiona, and the children all attended the next session. The mediator invited the children to speak about their own views on their caregiving arrangements. It was clearly difficult for Jessie to talk. She did not want her father to think she was abandoning him. The mediator supported Jessie's desire not to say anything while Frank and Thomas made their views clear to their father. They spoke frankly about their wish to keep the caregiving arrangements the same.

One of the tasks of mediation is to create contexts in which the participants in a conflict have opportunities to reflect on and examine their positions. This needs to be done in a fashion that does not create defensiveness and guardedness in the participants. Providing a context within the mediation where the children could speak about their desires and wishes was one such context. It enabled the parents to examine their views and reposition themselves in relation to the children's views as well as in relation to each other.

The mediator asked Greg to make meaning out of what the children had said. What had he heard them say and what did it mean to him? It became obvious to Greg, perhaps for the first time, that his children had clear ideas about what they wanted that were in contrast to his own. Again, the mediator inquired about the significance of this information. Greg recognized that to insist on his plans and make the children do something to which they were vigorously opposed would begin to alienate them from him. He began to rethink his role in the family.

This was a unique outcome in the conflict story.<sup>13</sup> It was the beginning of Greg's repositioning himself in relation to the custody dispute. Inviting the children into the mediation process proved to be significant. They stepped out of the position of being objects of their parents' discourse. As the parents made room in the conversation for the children's voices, their own positions were altered, both in relation to the children and in relation to each other. As Greg in particular revised his position about what he wanted for the children, it became possible to start to build a caregiving consensus between him and Fiona.

### **Moving Toward Consensus**

In two subsequent sessions, Fiona became more flexible in her dealings with Greg as he softened his formerly authoritative stance. The mediator exercised his curiosity about the

details of their ideas about caregiving arrangements. This led them to develop greater fluidity in these arrangements, particularly in relation to holiday plans for the children.

Greg was now willing to entertain some challenges to his patriarchal ideas about parental and marital roles. This was evident in his revisions of his relationship with the children. He was now less insistent and less sure that having the children live with him was the right option. Frank's and Thomas's comments had hit Greg hard. The boys had spoken eloquently about their wishes, and Frank had also explained that Jessie felt torn about wanting to live with Greg because of her feelings of responsibility for him. Greg was ready to hear these comments and clearly was revising what he thought should happen. In addition, he was now less focused on blaming Fiona for the pain she had caused him and was more concerned about bringing this stressful conflict to a close. He agreed with the mediator's comment that Greg seemed less in need of controlling the caregiving arrangements, and he added that a lot of the tension and struggle he had been feeling for months was beginning to subside.

In the last session with Greg and Fiona, the mediator noticed a lightness in their voices as they talked about planning a surprise birthday party for Frank. Trust was building in their parenting relationship. Negotiating the caregiving arrangements for the children now seemed much more straightforward. Greg accepted that Fiona would continue as the primary caregiver but he would become more involved in the children's day-to-day lives. It was arranged that on the weekend the children were with Fiona, Greg would pick up Thomas and Jessie and take them to church. Frank and Jessie often wanted time with their friends on the weekends. Sometimes this meant they would not be with Fiona or Greg on one of the weekend nights. Greg was now much more accommodating of these requests.

### **Holding to the Preferred Story**

Fiona and Greg were now beginning to disengage from their totalizing descriptions of the other as hurtful and destructive. They were developing more understanding of what it meant to move from a couple relationship to a parenting one. In other words, they were developing a different story about their relationship. It was the mediator's concern to keep asking questions to help them elaborate this story.

In response to these questions, Greg was certainly able to distance himself more from his earlier struggles to control the outcome of the battle for custody of the children. He had been able to hear, perhaps for the first time, the wishes of his children, which were separate from what he desired for them. He was also beginning to realize that part of his fight for the custody of the children was his attempt to punish Fiona.

Fiona, for her part, was willing to be much more empathetic toward Greg as she saw him beginning to shift away from the authoritative, controlling stance he had demonstrated earlier. Although some mediators might conclude that the work was now done, a further session would prove to be an important investment in settling the somewhat fragile negotiations.

Many mediators prize the sweet taste of success when helping parties resolve a longstanding acrimonious conflict. It is therefore disheartening for a mediator to find his or her hard work unraveling when the conflicting parties return to the earlier interactional pattern that had escalated the original conflict. The narrative perspective makes sense of this backsliding by seeing it as a possible outcome of the competition between stories. The story of conflict has sufficient pull to upset the fledgling new story until the new story is knitted fully into the fabric of the participants' lives. For this reason, it is preferable in a mediation to spend time finding ways to strengthen the solution-bound narratives that emerge when greater understanding is achieved. It can take only one or two negative encounters to reactivate problem-saturated narratives.

A follow-up session with Greg and Fiona took place three weeks after the meeting with the children. Both appeared comfortable and reasonably relaxed. Although they reported that there had been no major disagreements about the caregiving arrangements over the last three weeks, they were both on tenterhooks about the matrimonial property settlement meeting that was scheduled for the following week. They were to meet together with their respective lawyers.

The mediator asked Greg and Fiona to reflect on the last six weeks and identify what they were particularly pleased about in their dealings with each other. Both commented that they appeared to be showing much more respect toward each other when they needed to discuss matters related to the children. They both continued to worry about Jessie because her school work was still deteriorating. What was different now was that they could support each other rather than blame each other for Jessie's difficulties. They both visited Jessie's teacher to discuss their concerns. They also reported that Frank's surprise birthday party had been a great success. Although Fiona had virtually organized it on her own, Greg had paid for the catering. They felt that they had both contributed but in different ways, and no bitter interactions followed. The following interactional sequence took place.

**Mediator:**

I have to say that I am quite surprised by the way you are being with one another given how six weeks ago you had trouble discussing things without getting into a major disagreement. Can you see how I could be surprised?

**Fiona:**

I think I am the one who is most surprised about how well we are getting along. However, I am really worried about how we are going to get on dealing with the matrimonial property issues. We might find that everything is going to come crashing down around our ears. Still, Greg, I feel your whole attitude has changed.

**Greg:**

Yeah, I am worried about the money issues that are inevitably going to be tough issues to work through.

**Thickening the Plot**

It was quite understandable for Greg and Fiona to turn to the difficulties they were about to face in the next week. A degree of trust had developed in the mediation sessions that provided safety for them to talk about these difficult issues that would otherwise be too upsetting to discuss on their own. Although they were ready to focus on the matrimonial property issues, the mediator wanted to stay with reflecting on the changes Greg and Fiona were making in their relationship. He felt that this discussion would give more fullness to the positive parenting narrative they were establishing for themselves and their children. "Thickening the plot" of the preferred narratives of a parenting partnership, would, the mediator believed, serve them both well in managing the difficult matrimonial property issues.<sup>14</sup>

**Mediator:**

I can appreciate that you want to discuss the implications for your parenting relationship given the financial issues you want to address. However, my hunch is that if you can get clearer about your abilities to work through problems together, this may better prepare you to negotiate your way through some of the specific financial issues that are coming up next week. Are you interested in taking a few minutes to reflect on what you have been able to achieve to date, and on some of the reasons for this, before discussing the matrimonial property issues?

The mediator wanted to stay with a curious and inquiring stance about Greg and Fiona's desired relational abilities. He believed that this approach would give further substance and strength to their cooperative parenting narrative. He needed to be respectfully persistent with this aim, but only with their consent. He did not want to take over as a knowing expert the delineation of what they were permitted to talk about, and thereby diminish their knowledge. He wanted, however, to state his preference for the kind of conversation that he believed would most support the growth of the alternative story. So he stated his interest and asked their permission to follow it. This approach is in line with the narrative stance called coauthoring.<sup>15</sup> Greg and Fiona agreed to follow the mediator's line of inquiry.

Next, the mediator focused on a narrative cluster of questions called unique account questions.<sup>16</sup> These questions are designed to help people identify how they were able to achieve their successes. This line of questioning added more richness and depth to the coparenting narratives.

**Mediator:**

How do you make sense of the fact that you are both able to work so well together? You made a success of Frank's birthday, you are working together to address Jessie's schooling difficulties and depression, and you have been following a caregiving plan for the children that you developed yourselves.

**Greg:**

Well, I think I let go of trying to make things go in a direction that I wanted but that didn't seem to fit for the kids. I think I just listened to what the kids had to say and what they wanted.

**Fiona:**

I think we are starting to find a way of liking one another as parents even though there are still some big wounds there.

These interactions helped to name some of the relational strengths that were emerging. Specifically, Greg's response provided an opportunity for him to acknowledge his ability to listen to others' points of view even when they were not what he wanted to hear. Fiona's response demonstrated a willingness to let go of her susceptibility to the story that she had betrayed Greg, and to let go of her resentment over the years that he was unavailable to help with the parenting of the children. She was now able to concentrate on what was happening in the present parenting relationship. Further interactions followed that storied Greg's ability to listen and be attentive, and fleshed out in more detail Fiona's ability to be more trusting of Greg's motives.

The mediator asked Fiona and Greg what it said about them that they were developing a parenting partnership with attentive listening, growing trust, and diminishing bad feelings. This question was seeking a description of personal and relational qualities. It asked them to explore their experience and bring forth aspects of their character that previously had been unstoried. In response to such questions, favored events can be gathered together and storied into a robust account of cooperation. These questions are often difficult to answer but they are worth pursuing because of the potential for relational identity reconstruction they offer. Greg and Fiona were shifting from being an angry, feuding couple with few resources for solving their parenting issues, to being parents living separately who could make wise choices about what their children required.

After some thought, Fiona was able to make the following statement: I think I am a quite trusting and forgiving person deep down and I am also beginning to appreciate that Greg sincerely believed that the way he was being a father of the children in our marriage was motivated by his best intentions. It has helped me see another side of him that I couldn't see before. However, too much has happened to want to try again. I guess that is just the way it is.

Greg followed shortly with his own summary of how he saw himself: Well, all I can say is that it has been a painful experience that I never want to repeat. I've learned a lot going through this and I can't say I am fully there yet. I have been really knocked around by this whole issue. However, I think I am a better man for it. I would like to think that I have the ability to put my family first, and under the circumstances I think I have taken a pretty unselfish view of things. I know that the financial settlement issues will hit me hard, but they have to be faced, and I now say the sooner the better so I can pick up my life again and go on.

### **Storying the Future**

These statements were enormously important because they were to help Greg and Fiona construct a positive foundation from which to tackle some of the more difficult issues they were about to face. I asked them whether they had learned some strategies that

would help them deal with the challenging matrimonial property issues. Greg thought they had moved their relationship into a parenting and business partnership and, because they had built a greater degree of trust, he was not anticipating major problems with the property settlement. Already he was preparing to work with Fiona so that she would receive a just share of their assets. Greg wanted Fiona to be fairly resourced so that she could purchase her own home, one that would be much more appropriate for the children. Fiona, for her part, was going into the deliberations with the confidence that she was seeking a just share of their joint assets, and she was going to take considerable care in the way this would be handled.

The mediator then inquired further about how the changes they were now making were going to be kept intact. He was interested in what rescue plans they had devised, or planned to devise, to help them hold onto the progress they had made, in the event of any difficulties arising in the asset negotiation. This question invited Greg and Fiona to reflect on future possibilities and to plan how to handle future difficult issues, at least in principle. Unique possibility questions prepare the way for the parties who were formally in conflict to reflect on the strategies, techniques, and problem-solving abilities they are putting in place.<sup>17</sup> Fiona and Greg were thoroughly involved in this process. A new chapter in their coparenting relationship was about to unfold.

This is also the end of the first chapter. No doubt this chapter has raised many questions about the narrative approach to mediation. We have made many allusions without providing full explanations. Our purpose has been to whet your appetite. The story we have told serves an introductory purpose for this book. We want it to convey a flavor rather than amount to complete coverage. In the next chapter we explain how a narrative approach is built on assumptions different from those that underlie the problem-solving approach. We then turn to a theoretical review of narrative mediation that underpins all of the important moves and strategies taken up in the mediation process. Later we speak more about the practice aspects of crafting a narrative conversation.

## Notes

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