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THE CONTINUUM OF INCLUDING CHILDREN IN ADR PROCESSES: A CHILD-CENTERED CONTINUUM MODEL

Lorri A. Yasenik and Jon M. Graham

A four-level Child-Centered Continuum Model (CCCM) for being child focused and child inclusive is introduced as a skills-based framework to increase the likelihood that children are considered in mediation and alternative dispute resolution (ADR) processes. The article highlights children as parties to versus objects of family matters that affect them and begins with the belief that children are active participants in family systems. Parent readiness to hear their children is reviewed as well as a description of each of the four levels of the CCCM. Issues related to ADR practitioner neutrality, child and family safety, and skills are addressed.

Key Points for the Family Court Community:

- Continuum model for levels of inclusion of children in mediation
- Practice tool to assist in the identification of parent readiness to hear children
- Practice tool to assist separated parents to hear child and youth concerns
- Approaches to working with dysregulated parents
- Levels of child inclusion

Keywords: *Child Focused; Child Inclusive; Child's Voice; Family Law; and Mediation.*

A focus on children as significant actors in a family system rather than objects of a family system is emphasized in this paper. A Child-Centered Continuum Model (CCCM) for ensuring children's input is presented to provide guidance to those working in the alternative dispute resolution (ADR) field with divorcing families with children.

CHILDREN AS ACTIVE PARTICIPANTS

There are a few significant factors and theoretical influences that have contributed to the claim that children have a right to a voice and adults need to listen to their voices. In addition to the United Nations Convention on the Rights of the Child (UNCRC, 1989), sociocultural theory and the studies on childhood have shaped the idea of children as citizens with the inherent right to participate in social and political life (Graham & Fitzgerald, 2010; James & Prout, 1997; Mayall, 1994; Smart, Neale, & Wade, 2001; Smith, Taylor, & Gollop, 2000; Taylor, Tapp, & Henagahn, 2007). Historically, children were not considered active participants in cultural life, rather, they were defined through theories of socialization in families and schools and by biological and psychological theories. Taylor et al. (2007) reports that during the 1970s ethnographic research changed the traditional socialization studies approach and was responsible for the study of children both as people and as independent and interactive agents. More details about children's subjective experiences in childhood emerged and highlighted the fact that children were not simply passive recipients, rather they were social actors with their own views and thoughts, despite a paternalistic society's reluctance to

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cede them control over their own destiny (Dolgop, 1993). Research began to include children and their voices as legitimate, articulate and insightful. Children began to share widely diverse accounts of their family experiences, coping abilities, acceptance, and satisfaction of their various circumstances (Smart, 2002). It was identified that children were actively involved in the negotiation and renegotiation of their family relationships. This expanded view of childhood also provided a broader consideration of the different ways individual children feel and think about issues such as transition, custody arrangements, and relationships with family members. It was no longer possible to provide a one-size-fits-all guideline to divorce. It was important to recognize *children's* experiences of understanding childhood without adult interpretations stifling these views (James & Prout, 1997). Academics and theorists were not the only ones to recognize such views; the family law courts recognized them as well. The past Chief Justice Nicholson of the Australian Family Court stated:

If there is one thing about which there is a fair degree of consensus among experienced judges and other relevant professionals it is that an adversary system developed in England for the determination of criminal and civil cases a number of centuries ago is not an appropriate method for the determination of family law disputes concerning children in the 21st century. It places undue focus on the rights of parents and far too little focus on the rights of children (2013, p. 15).

In interviews with children about this process, an overwhelming majority stated that they believe it is important to “have a say” in the family dispute resolution process (Graham & Fitzgerald, 2010). The research suggests they want to be kept informed and want their needs and interests heard (Birnbaum, 2009, p. 2). This is different from wanting to have control over the decision made (Cashmore & Parkinson, 2009).

Recently, strong arguments have been made about the approach to decision making with respect to post separation parenting arrangements within the family law system. Of particular note are the current debates about the amount of time that children spend with each of their parents (Pruett, McIntosh, & Kelly, 2014; Warshak, 2014). While acknowledging the significance of these ongoing conversations, this article explores a different proposition; that children are not passive recipients of these decisions. Rather they are active participants in family law processes, and as such should be afforded an opportunity to safely participate as stakeholders in the outcomes.

WHO HEARS THE VOICE OF THE CHILD?

Participation of children in legal family matters is complicated. There are a number of ADR processes that may include children, but a routine opportunity for children to provide input is not in place. Parents or other decision makers will either invite children into a process or order them into a process. Although the enlightenment rationale (children will raise the awareness of decision makers about their needs and preferences; Cashmore & Parkinson, 2009; Warshak, 2003), and the empowerment rationale (children will gain from participating in decisions that affect their lives; Cashmore & Parkinson, 2009; Kelly, 2001; Wallerstein & Blakeslee, 1989) are strong principles in the literature, they are not practiced as a matter of course.

The research indicates that children's involvement with the family mediation process has been quite limited and children were only directly involved in four to 47 percent of all completed mediations across public and private sectors, in the United States, United Kingdom, and Australia (Saposnek, 2004). Over the last decade, there has been more activity related to including children (Goldson, 2006; Ministry of Attorney General Justice Services Branch Civil and Family Law Office, British Columbia, 2007). There are also government funded mediation programs that have been initiated as child inclusive (McIntosh, 2007; Ministry of Attorney General Justice Services Branch Civil and Family Law Office, British Columbia, 2007).

Children may also be invited to meet with parenting coordinators who are quasi-judicial, mental health, mediation-trained individuals who work with high conflict families that have difficulty

communicating and following a parenting plan or making decisions. Parenting coordinators (depending on their professional backgrounds) may also make use of a child specialist to include the voice of the child within the coordination process (AFCC Task Force on Parenting Coordination, 2003; Coates, Deutsch, Starnes, Sullivan, & Sydlík, 2004).

The ongoing debate still stems from taking a child's rights point of view versus a protectionist point of view. The power to include or exclude children is generally a subjective decision made without a decision-making framework. There is a scarcity of training, which "addresses the problem of remaining focused on the needs of separating adults whilst keeping the needs of their children firmly at center stage" (Moloney & Fisher, 2003, p. 13).

CHILD PARTICIPATION: RATIONALE

Children are part of a family unit and therefore deserve the option of being a part of a process that will affect their lives. The idea that the involvement of a family member in the mediation threatens the mediator's neutrality or impartiality is debatable. Exclusion is typically rationalized by the postulation that children are vulnerable and could be further victimized by being placed "in the middle" between parents. This position is possibly related to the thought of power imbalance amongst the parties and the potential lack of ability of the mediator to manage such imbalances. If meeting with more than two parties placed the mediator in a non-neutral position, there would be no multi-party adult family mediations. Rather than a fear of loss of neutrality, it may be a lack of mediator skill and/or substantive knowledge and experience in including children as vulnerable parties in the family mediation processes that stops a mediator from meeting with children. It is certainly agreed that without specialized skill, knowledge, and experience, children can and are placed at greater risk when included in the process. However, when those skills are present, the mediator may well be the most ideally placed to bridge the gap between the family law processes, and the child and their concerns.

WHAT DO CHILDREN SAY THEY NEED?

Children have been telling researchers what they want after their parents separate. A British study conducted by Butler, Scanlon, Robinson, Douglas, and Murch (2002) interviewed 104 children between the ages of 7 and 15 who had been through family separation. Four main messages emerged from the children interviewed including: (1) the children wanted to know what was happening at the time of their parents' separation, (2) they wanted someone to gain their input about their living arrangements, (3) most of the children wanted to continue to have relationships with both parents, and (4) most of the children wanted to spend equal time with each parent. Other studies indicated similar outcomes (Bell, Cashmore, Parkinson, & Single, 2013; Dunn & Deckard, 2001; Graham & Fitzgerald, 2010; Smart et al., 2001; Timms, 2003). Smart (2002) reported on qualitative research about children's lives from their own perspectives. A number of areas of importance to how their day-to-day lives were lived emerged when examining the data, including narratives about physical space (including living spaces, adjustments, organizing possessions, etc.), emotional space (the emotional zones between the two parent homes, transitions between two emotional landscapes), psychological spaces (distance between themselves and their parents, seeing their parents as individuals and distinguishing their parents more, etc.), and issues related to dimensions of time.

TIMING OF CHILD PARTICIPATION

If children are to be viewed as rights-bearing individuals and as members of a family group who will be affected by decision making, then the timing of meeting children should occur at the beginning of the process so that all members enter on relative equal footing. Child participation requires the mediator (or ADR specialist) to have an awareness of individual, couple, and family dynamics.

To begin, each parent is met individually prior to meeting together. The mediator can begin to identify the nuanced history of the couple and the various breakdown points. Questions that relate to the roles of each family member, levels of conflict, relational issues between each parent and each child, and the child's role in the breakdown story are some of what lay the foundational understanding for the mediator prior to meeting the child(ren).

Child-centered mediation is described to both parents as children (5 years and older) also having the opportunity to meet with the mediator as children must be given basic information about the process and be allowed to provide their thoughts and feelings about their family circumstances (or at minimum meet the mediator). Parent conflict levels and confusion may be so high at the beginning of the process that the mediator may choose to delay any involvement of the children directly by way of individual child meetings. Parents are informed children will not be asked any questions that suggest that they must make any decisions related to their living circumstances. Children will be invited to attend, but are not required or forced to attend. If the child already has another professional involved, the mediator will ensure that the invitation to attend is not a replication of another process.

PARENT READINESS SCALE (PRS)

The PRS (Yasenik, 2014a) is a nonstandardized tool designed to assist mediators to identify parent readiness to receive their children's input in the ADR process. This tool is currently being piloted in Australia and Canada, and identifies the following: (1) Parent differentiation from child, (2) Parent insight, (3) Parent sensitivity, (4) Level of disengagement, (5) Parent ability to value role of other parent, (6) Problem-solving ability, (7) Parent ability to self-regulate, (8) Parent ability to take a neutral stance re: other parent, and (9) Ability to place child's needs over parent needs (Appendix 1). Each item is scored on a scale of one to five. Low ratings on the PRS may indicate a point in time lack of parent readiness to receive child input, whereas high ratings may indicate an overall readiness to positively receive direct input from his/her child. This tool provides the mediator factors to consider when determining how and when to include children using the CCCM.

THE CCCM

The CCCM offers four potential strategies to ensure a focus on child inclusiveness in the mediation/ADR process. The CCCM considers the balance between including children and child safety by not inadvertently inserting children further into adult conflict. The continuum model provides a guideline to the mediator without dismissing the rights of the child to be seen initially and informed of the process. The CCCM is a continuum that considers the parents' readiness for levels of involvement. Four levels have been identified: (a) Managed child focus, (b) Child focus, (c) Assisted child participation, and (d) Direct child participation.

Maloney and McIntosh (2004) have argued that the minimum requirement for all family mediation interventions should be that the process is solidly child focused. For them, the question is whether in embracing child focus, is it possible to increase the presence of the voice of the child by employing child inclusive strategies as well. Our work with separating families in both Canada and Australia reinforces the views of McIntosh and Maloney.

MANAGED CHILD FOCUS (LEVEL 1)

The CCCM emphasizes being child-centered and therefore supports that separate meetings occur with the child(ren) in the family at each level. For Managed Child Focus (Level One), the purpose of the meeting is to check-in on the general well-being of the child and to bring any urgent concerns to the parents attention. At this first level however, it is argued that nonurgent issues should be delayed

from presentation until the parents have demonstrated a readiness to hear the concerns of their child (as would be indicated by a higher PRS score).

In approaching this, each level of involvement of the child's voice, safe and secure processes and outcomes remain the highest priority. The principle of "do no harm," remains of central importance. Low scores on the PRS suggest that there is a limited ability of one or both parents to hear the voice of their child(ren). The opportunity for the family mediator to bring the concerns of the children directly to the parents is also contraindicated, at least in the immediate term. The challenge faced by practitioners at this level of the continuum is the practitioner's belief that the risk associated with speaking directly to the children, outweighs the benefits of meeting with and listening to the concerns of those children.

These cases represent the 'pointy end' of the spectrum of work with post separation parents; the cases that will occupy the time and attention of the family courts are cases that are often finding resolution only when the youngest child moves into adulthood. These cases are not only deemed high conflict, but are entrenched conflict. They may include drug and alcohol addictions, mental health conditions, trauma histories and/or abuse from childhood. In both North America and Australia, these are the cases that are regularly present in family dispute resolution processes; cases where parents feel so strongly aggrieved, so strongly mistreated and abandoned by the system, that at the point of undertaking family mediation, one or both parents do not demonstrate a readiness to hear the voice of their child (Graham & Whitehead, 2014). The involvement of children is regularly screened out for these cases rather than to work strategically to bring the child's voice to parents by increasing the readiness of each parent to genuinely and meaningfully engage with their child's concerns.

Managed Child Focus (Level One) focuses on building a parent's readiness to hear the voice of his/her child. The level assumes that any inability to hear a child's voice is a point in time limitation, and that it may be different in the future. As such, a parent may receive professional assistance in order to increase their readiness to hear their child's concerns through specific approaches. Four initial strategies have been identified as useful in increasing the parent readiness. The first strategy is to actively engage with each parent's conflict story. By working with each parent, the practitioner creates a space in which the parent will feel heard. Having created this space, the practitioner then distills the conflict story into one or more key messages or phrases that describes both the story and the associated feelings. It is to these statements that the practitioner returns as the negotiations continue and if/when distress arises, makes use of them to ground the parent back to a more regulated emotional state (Siegel, 1999).

The second strategy builds from the first, which is seeking to assist each parent to self regulate in order to identify and manage his/her own triggers and to remain in discussions that to date have been impossible. Neuroscience has shown how the impact of high conflict, abuse or threats can trigger a fight, flight or freeze response. In effect, parents may move out of their window of tolerance and into a state of hyperarousal or hypoarousal (Siegel, 1999). When in either state, a parent's ability to participate meaningfully in negotiations is limited at best, and the practitioner must provide opportunities for his/her window of tolerance to be regained. Rock (2008) has identified that parents can more effectively hold themselves in the window of tolerance when a practitioner uses the language of SCARF. This language acknowledges the client's *STATUS* as a father or a mother, the parent's need for *CERTAINTY* in reaching some agreements rather than maintaining uncertainty, the parent's need for *AUTONOMY* in reaching a self-determined outcome rather than an adjudicated outcome, the parent's history as a story of *RELATEDNESS*, and the parent's desire for *FAIRNESS* in the process and the outcome. Rock proposes that using the SCARF categories and accompanying language may support the parent to modulate his/her arousal system and remain more functionally effective in an otherwise stressful situation.

The third strategy for practitioners comes through the utilization of the PRS (Yasenik, 2014a). The practitioner may select one or more of the items identified in the PRS as an area of focused attention for the mediation. This item would represent the clearest pathway to improvement in the overall PRS score. By focusing on specific PRS items, parents may improve their post separation working relationship, and potentially increase their readiness to engage with their child's concerns.

The fourth strategy is contained in the subscale items of the Child and Youth Concerns Scale (CYCS; Yasenik, 2014b). The practitioner introduces to the parents the general subscale topics. The CYCS is intended to summarize a child's life experiences and views, and identifies particular areas of concern for a child. Discussions using the CYCS categories can occur without entering into the politics of overnight care and primary and secondary attachment (Warshack, 2014).

CHILD FOCUS (LEVEL 2)

Low to medium scores on the PRS suggest that there is limited availability of one or both parents to truly hear the voice of their child. The family mediator may bring some direct concerns of the children to the parents. Ballard, Holtzworth-Monroe, Applegate, D'Onofrio, and Bates (2013) found that using child-focused and child inclusive interventions in mediations involving parents "led to mediation agreements that should be helpful to family functioning as parents and children adjust to life after separation or divorce" (p. 280). The main focus of discussions in this level relates to what the parents already know about their children's interests and postseparation needs. Any child feedback in this circumstance may be limited to statements that reinforce the views of the parents. Typology of cases that will generally fit this level, include high-conflict clients with significant disagreement about what is best for their children. In level two there is a greater ability to separate child needs from parent needs than in Managed Child Focus (Level One) and an increasing willingness to seek to work from a child's best interest position. What distinguishes this group from the higher levels is, for example, an ongoing and seemingly unrelenting criticism of other's parenting approach, life choices, or values and beliefs of the other parent, such that a collaborative approach to future parenting is at that moment unavailable.

Parents in level two demonstrate a readiness to engage in mediator/ADR professional-led Child-Focused discussions related to their child(ren) (Bell, Cashmore, Parkinson, & Single, 2012). There remains a risk however that while the parents can engage in a discussion about their children, at least one of the parents is not yet ready to hear the concerns of their children. While Child Focus is one level higher than Managed Child Focus, intervention at level two includes discussions that focus on the children's needs, wishes and developmental considerations. This approach seeks to engage each parent directly in discussions that may increase the likelihood that the children's needs are more prominent in the future ideas and plans. It addresses the risk that children's best interests may otherwise be marginalized or subverted due to the conflict between their parents. As McIntosh, Wells, Smyth, and Long (2008) describe:

Children with emotionally overwhelmed parents, preoccupied by ongoing hostilities with their former partner, are compromised by their parents' limited or distorted reflections on the children's experiences and lowered capacity to assist dependent children to integrate change and stress in a healthy manner (p. 106).

Child-Focused mediation has not been clearly defined by family lawyers, mediators, and mental health practitioners. According to Banks (2009), legal practitioners tend to describe Child Focus within the meaning of jurisdictional legislation, and as such, associate Child Focus with the meaning of "children's best interest" principles. While there is some confusion about the concept of a child-focused mediation, the intention in the CCCM model is not so much to embrace a philosophy, as to employ a series of strategies that increase the likelihood that both parents will increasingly focus their minds towards their children and their children's needs. Emerson and Britton (2008) suggest that a child-focused model requires skills that are "traditionally therapeutic in nature" (p. 11). While the strategies have been drawn from therapeutic interventions, it remains within the normal skill set of the mediator to provide a child-focused process. "Child-focused interventions are those that follow processes *and* reach conclusions that are in each child's interests" (Webb & Moloney, 2003, p. 32).

The first child-focused strategy includes the use of the children's best interest principle (Fisher & Pullen, 2003; Lane, 2010) through a tailored agreement to mediate which focuses on children and

children's needs. Additionally, information packages that outline family law and child development principles can be provided to parents. Finally, statements relating to the children's best interest can be placed on the white board from the start and throughout the mediation process.

A second strategy involves a directed discussion between the parents during the joint mediation sessions regarding the specific needs of their children. Through a Child Needs Exercise parents are invited to consider the individual characteristics, strengths and needs of each of their children. This can include a discussion of any changes or concerns that have arisen since separation.

A third strategy involves the creation of a family genogram, which externalizes the conflicted relationship from the individual parents. In undertaking this externalization, the parents are invited into a discussion about how to improve the problematic "relationship." In effect there is a shift of blame away from the other parent and an invitation to join together to fix the conflicted parental relationship. This is described by Hewlett and others as an invitation to the parents to build a postseparation parental alliance based as much as possible in cooperative parenting (Hewlett, 2007).

Finally, the Child Focus (Level Two) can be enhanced by the use of strategies that engage right brain and left brain processes. Mediation has traditionally focused on the creation of structured and meaningful arguments between parties (left brain). This strategy seeks to invite clients to explore the needs and concerns surrounding their children from projective activities, through the use of the various photo language resources, drawing or other forms of projective symbols.

In approaching this second level of the CCCM, parents are invited to consider how their children have been affected by the separation, and the postseparation family life. The child's voice can be brought to the parents through limited use of feedback from the child specialist or the mediator. However, it is not until the next level that the breadth of child concerns can be presented to the parents.

CHILD-ASSISTED PARTICIPATION (LEVEL 3)

Moderate to high PRS ratings may indicate that the parents are willing and able to hear more direct input from their child(ren). The mediator could use level three Child-Assisted Participation and engage a child specialist skilled in working with children of separation and divorce to meet with the children. Then the mediator can invite the child specialist to provide information back to the parents about their children's thoughts, needs and concerns during one or more mediation sessions. The child specialist offers direct information to the parents (as agreed to or approved by the children) at a mediation session. Developmentally sensitive projective activities and interviewing techniques are utilized to gain an understanding of the child's concerns. The child specialist contextualizes the child's feedback within an age-appropriate framework, thus allowing the parents to consider the specific needs of their child(ren). The specialist may also provide a buffer for children whose parents are not able to appropriately or consistently manage their responses during mediation sessions. Emerson and Britton (2008) provides a nonexhaustive list of problematical responses made by parents pointing out that it is important to ensure an appropriate process to receive the children's input so that children actually feel heard.

According to Bell et al. (2012) the advantage of using a separate child specialist is that the mediator is able to remain neutral. It is emphasized however that neutrality is always the role of the mediator. Using a child specialist would therefore require mediator skills in managing multiparty mediations, assisting with and managing the incoming information delivered by the specialist and actively avoiding becoming a child advocate. The CCCM focuses on training mediators to gather the information provided by the specialist and organize it for parents into categories related to the CYCS (Yasenik, 2014b). The CYCS is comprised of nine key areas of concern noted by children of postseparation and divorce: time, physical space, emotional space, psychological space, understanding of parent separation, family relationships, peer supports, community connections, and other. The key areas included are based on research related to what children say and/or express is important to them and on what those who interview/meet with children say is important to them. One or more areas may be highlighted as a significant concern for the child. The CCCM supports a focus on exploring children's perspectives and experiences versus pursuing direct answers to adult dilemmas related to

parenting planning. Understanding a child's lived world and thus understanding the child's voice may include views of his/her current living and visiting arrangements and the conflict between their parents, as well as their hopes for the future (Bell et al., 2012, p. 253). When including the concerns of children through a child specialist, mediators listen for specific and global concerns. There are a number of phases related to managing children's input including: preparing the parents, creating a visual structure to record the information provided by the child specialist, debriefing with parents afterwards, and follow-up during the next series of sessions. Facilitating ways to weave children's voices into the planning process is a main focus and skill of a child-centered mediator.

DIRECT CHILD PARTICIPATION (LEVEL 4)

The role of Direct Child Participation, (Level Four), is typically taken by those with a combined specialization in child therapy and family mediation/ADR practice. Direct Child Participation is possible when parent readiness scores are moderately high to very high and the child wants to provide direct input. After meeting with the child, he/she may be offered the opportunity to attend a parent mediation session with the mediator. The child has the option to directly attend or to bring an art product, or picture of an expressive activity, or to directly share something of importance to the child with his/her parents. The child may also choose to empower the mediator to bring products or messages directly to his/her parents and not be present. Regardless, the role of the mediator is to identify when to meet with the child and how and when to include the child as a direct participator. Some children may want to speak to each parent individually, one parent only, or both.

As part of the CCCM approach, mediators will utilize the CYCS and accompanying projective visuals that allow for age appropriate exploration with children. CCCM practitioners are trained in ways to hear the child's concerns as opposed to seeking or soliciting answers from the child to address adult and/or legal questions. At all times the mediator remains neutral and focused on exploring issues with a child as a member of the family group. The exploration with a child parallels the way a mediator explores issues with each adult in the family system.

In addition to having a combined professional background, the skills involved in Direct Child Participation include: managing a multiparty family session without shifting into the role of advocate for the child; facilitating the feedback session so that each party is prepared for a variety of feeling states, responses, questions, and/or outcomes; ensuring a safe and receptive forum for the child; and collecting and managing the main messages provided to the parents from the child. Parents are supported to reinforce the child's courage by providing positive feedback to their child for their input. In level four, safety of child participation is highlighted by parent readiness, child agreement and interest to provide input, and mediator skill to manage the parties (children and parents) in a family mediation session.

Mediators in New Zealand have successfully experimented with a direct participation model that allows children who wish to be involved to make a "brief uncontested statement" (Boshier, 2006, p. 146) at the beginning of the mediation before leaving their parents to sort out the issues in dispute. This model may address a major difficulty with Child-Assisted Participation, the potential that such services may "become elitist as a result of their high initial cost" (Emerson & Britten, 2008, p. 23). As Emerson and Britton (2008) point out "we must be vigilant to ensure that we do not, in a genuine attempt to ensure children are heard, give the already vulnerable, disadvantaged, and often abused, an even more onerous responsibility and burden to carry" (p. 25). This article emphasizes that the role of the mediator should remain neutral no matter what parties are involved. Additionally, it is important to understand and assess for risk factors related to all vulnerable parties. It is the mediator's job to appropriately lead a multiparty mediation that is inclusive of all parties, including children, with differing levels of power and position. Otherwise, children may be unnecessarily marginalized based on the skill and/or subjective views of the Mediator versus the abilities and rights of the parties.

Direct Child Participation supports the belief that children are not passive victims in their family systems rather they are actively involved parties who play significant roles in dynamic ways. They have important things to say and they can say things in many ways (verbally, nonverbally, or

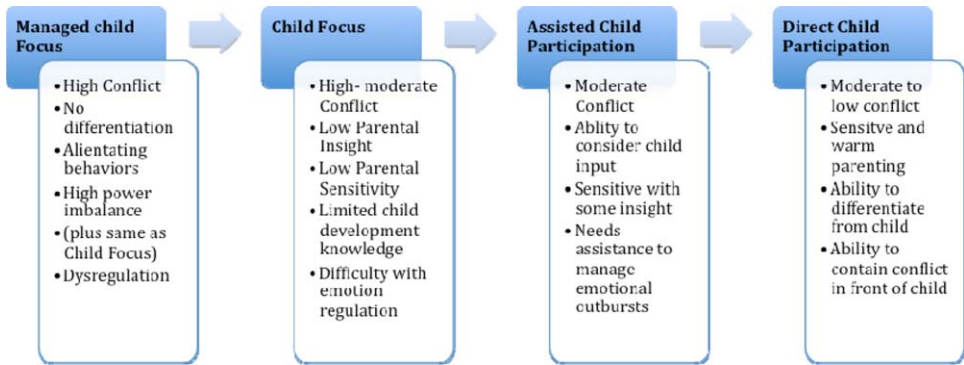


Figure 1 The Child Centred Continuum Model.

symbolically). As long as we know *how to* hear them and *how to* bridge their concerns to the adults in their family systems their input will not be lost.

SUMMARY

This article emphasizes the importance of including children as active participants versus objects of concern in the family mediation/ADR process. We offer a CCCM as a guide for appropriate and sensitive child inclusion. An alternative to the “all or nothing” thinking about the child’s role in matters that affect their lives is provided, as we wish to move the conversation beyond a paternalistic model where adults control child inclusion based on subjective decision making to a skill-based model that focuses on safe and appropriate inclusion of children related to legal issues that affect their lives.

APPENDIX

The following Appendices contain two scales that are **not for direct use with clients, nor distribution to clients**. Neither tool should be regarded as having been standardized.

The **Parent Readiness Scale** is intended to assist in the formulation of practitioner judgement with respect to the parent capacity to engage with the voice of their child at a particular point in time.

The **Child and Youth Concerns Scale** is intended to assist in categorizing feedback to parents in language that may reduce the likelihood that the feedback itself may give rise to negative reactions from either or both parents.

CHILD AND YOUTH CONCERNS SCALE

The Child and Youth Concerns Scale (CYCS) is comprised of 8 main areas of concern noted by children of post separation and divorce. The areas chosen are based on research related to what children say and/ or express is important to them and on what those who interview/ meet with children say is important to them. One or more areas listed below may be of concern for the child. Please check each area that applies and rate the concern on the 5-point scale indicating the degree of the concern. The CYCS is meant to assist those working with children and youth to decipher what is important to a particular child in order to provide helpful feedback to parents and other relevant third parties.

DATE: _____	CHILD FIRST NAME: _____
BIRTHDATE: _____	CHILD LAST NAME: _____
SCHOOL: _____	GRADE: _____
AGE: _____	GENDER <input type="checkbox"/> M <input type="checkbox"/> F

1. TIME

The child/youth symbolically and/or metaphorically shares concerns about time. This may include time spent with one or both parents, amount of time spent at each parent's home(s), time alone, time away from a parent, confusion about time and schedules, etc.

OBSERVED ☐ YES ☐ NO

Please Specify:

Low		Moderate		High
1	2	3	4	5

2. PHYSICAL SPACE

The child/youth symbolically and/or directly shares concerns about his/her physical space. This may include his/her physical living space, adjustments to new/old space (houses, bedrooms), personal possessions, school possessions and study areas. Can include other issues such as lighting, distance from a parent room, sheet textures, etc.

OBSERVED ☐ YES ☐ NO

Please Specify:

Low		Moderate		High
1	2	3	4	5

3. EMOTIONAL SPACE

The child/youth symbolically and/or directly shares concerns about emotional space. This may include emotions related to not wanting to go back and forth between two houses, emotions related to transitions from one parent to the other, general emotional upset when disengaging with a parent, feelings of loss, feelings of missing a parent, etc.

OBSERVED ☐ YES ☐ NO

Please Specify:

Low

Moderate

High

1

2

3

4

5

4. PSYCHOLOGICAL SPACE

The child/youth symbolically represents and/or directly shares concerns about psychological space. This may include he/she representing adult concerns related to legal matters, he/she is focused on a parents' feelings or in caring for one parent, he/she represents a position of one of the parents, he/she views self and parent as "one", child does not differentiate parents from one another, no space between self and parents, he/she reports a lack of flexibility.

OBSERVED ☐ YES ☐ NO

Please Specify:

Low

Moderate

High

1

2

3

4

5

5. UNDERSTANDING OF PARENT SEPARATION

The child/youth symbolically and/or directly shares concerns about his/her understanding of his/her parents' separation. This may include awareness of adult age-inappropriate information about the separation, age appropriate understanding of parent separation, no ability to share anything about changes in family, general confusion, he/she was surprised or shocked by the separation, etc.

OBSERVED ☐ YES ☐ NO

Please Specify:

Low

Moderate

High

1

2

3

4

5

9. OTHER

The child/youth symbolically and/or directly shares information significant to him/her not included in the above items.

OBSERVED ☐ **YES** ☐ **NO**

Please Specify:

Low

1

2

Moderate

3

4

High

5

SUMMARY

Please review the above 9 areas and provide an overall Concern Score. Identify the areas of greatest concern for the child. Ensure that in an age appropriate manner you share with the child what you have understood to be his/her biggest concerns/worries. Prior to directly sharing with parents or other third parties, gain the child's agreement for you to generally share his/her concerns with a 3rd party.

This tool is meant to assist parents to consider their children's input and concerns in order to create sensitive plans for their children post separation and divorce.

CONCERN SCORE:



TOP AREAS OF GREATEST CONCERN FOR CHILD/YOUTH

1) _____

2) _____

3) _____

4) _____

CHILD SPECIALIST _____

DATE _____

PLEASE NOTE

The CYCS is intended to guide practitioner judgement in the formulation of strategies for the giving of feedback to parents. It is not intended for the distribution to clients, nor for any form of client feedback.

PARENT READINESS SCALE

The Parent Readiness Scale is a 9 item 5-point scale for use for practitioners working with divorcing parents. The scale is a non-standardized tool intended to assist practitioners to identify potential parent readiness to receive direct or indirect input from their children related to the development of a parenting plan. The scale is designed to identify ratings from low to high. Higher overall ratings may indicate a parent's ability to include his/her children as part of the planning process. Low scores may indicate a lack of ability to include his/her children. After interviewing the parents, rate each parent on the following areas:

1. Parent Differentiation From Child:

(Level of emotional/psychological involvement or over-involvement)

Low
1

Parent represents child's views as reflective of own views. May block hearing child or can't separate child issues from own issues.

2

Moderate
3

Parent is intermittently able to view child's views as different to own. Parent can accept some differences - some openness to view child as separate to self.

4

High
5

Parent can hold child's views as separate to own and invites child to share views. Parent is willing to consider child's views even if different to own views.

P1

P2

2. Parent Insight:

(Ability to examine one's own conscious thoughts and feelings)

Low
1

Parent demonstrates limited understanding of self and impact of self on others. Limited ability to identify feelings/thoughts related to self. High projection and blame for own feeling states.

2

Moderate
3

Parent intermittently identifies self-related behaviors/feelings. Some shifting of blame from self to other. Some ability to hold a view of self, separate to other.

4

High
5

Parent is able to identify self-related thoughts and behaviors and owns these. Can identify role she/he plays in family dynamics.

P1

P2

3. Parent Sensitivity:

(Ability to attune to the child's signals, interpret them correctly and satisfy them promptly)

Low
1

Parent cannot identify child's cues (experience and/or feelings) and does not view circumstances from the point of view of the child. Parent does not stop hurtful/dismissive behavior even when child attempts to inform parent of needs. Parent does not respond in an emotional and/or physically soothing manner.

2

Moderate
3

Parent intermittently identifies and feels for and responds to the child. Can at times of lower stress of child and identify how their child feels and is impacted. Can at times sensitively respond emotionally and /or physically to the child.

4

High
5

Parent consistently identifies child cues and needs and responds promptly with high levels of warmth and physical and/or emotional care.

P1

P2

4. Level of Disengagement:

(Ability of each party to focus on the parenting role versus the historical couple relationship)

Low
1

Little to no dis-engagement. Parents focused on past relationship issues and un-met needs from the other. Little to no ability to focus on parenting or parenting role as different to coupling role. Continuation of couple relationship through conflict.

2

Moderate
3

Intermittent focus on past couple relationship. Can focus on parenting role when re-directed. Can focus on parenting when stress is lowered.

4

High
5

Parent is able to focus on parenting role and regardless of past couple issues, parent consistently stays focused on parenting issues.

P1

P2

5. Value of Role of Other Parent:

(The degree to which the parent treats the other parent's role as significant and important)

Low		Moderate		High
1	2	3	4	5
Parent does not view the other as necessary or important. May use own past as example. One parent views the other as absent during marriage and therefore unnecessary re: having a significant role. This view is regardless of child pt. of view.		Intermittent focus on value of role of other parent. When issues between the parents are calm, parents are generally able to support and value the role of the other.		Parent views role of other parent as significant and important to the relational and the developmental well-being of the child.

P1

P2

6. Problem Solving Ability:

(Parent ability to address day-to-day parenting issues)

Low		Moderate		High
1	2	3	4	5
Parent has difficulty problem-solving minor and major issues related to parenting planning. Even with assistance, parent has difficulty identifying and/or implementing solutions.		Intermittent ability to solve minor/major issues. Parent often needs assistance related to option development and direction for follow-through.		Parent regularly solves problems. Creative with solutions and does not need assistance. Open to ideas when necessary.

P1

P2

7. Parent Ability to Self-Regulate:

(Parent's ability to initiate, inhibit or modulate his/her emotional state of behavior in a given situation)

Low		Moderate		High
1	2	3	4	5
High reactivity behaviorally and emotionally. Parent name calls, yells, becomes physically threatening or intimidating. Parent may be easily emotionally upset (i.e., crying) or shut down and becomes inaccessible to further conversations. Needs assistance to stop or calm self. May have trouble calming even with assistance.		Intermittent emotional and behavioral reactivity. Can recover reasonably quickly with assistance and at times without assistance.		Parent consistently manages emotions/behaviors even when upset without assistance.

P1

P2

8. Parent Ability to Take A Neutral Stance Re Other Parent:

(Degree to which one parent uses supportive referencing towards the other parent)

Low		Moderate		High
1	2	3	4	5
During discussions the parent uses negative referencing both subtle and obvious when referring to the other parent. This may be observed through stories told by one parent about how he/she handled a situation with the children, other 3rd parties or during session in front of the other parent. Parent rationalized negative statements.		Intermittent use of negative referencing. Negative views of the other parent are easily redirected and/or corrected. The children are generally not present for the negative comments.		No negative referencing of the other parent to any parties.

P1

P2

9. Ability to Place Child's Needs Over Parent Needs:

(Degree to which the parent can actively identify and appropriately meet their child's needs)

Low		Moderate		High
1	2	3	4	5
Parent has no ability or cannot agree to and/or follow-through with actions that are good for the child but may not be as convenient or good for him/her. Even with assistance, the parent does not shift in his/her position.		Intermittent ability to agree to and follow-through with actions that are good for the child even if it is deemed not as good for the parent. Parent, with assistance may change his/her position to accommodate the child.		High levels of accommodation of child needs noted with little to no external assistance necessary.

P1

P2

Total PRS Score Parent 1

P1

Total PRS Score Parent 2

P2

If one parent has a high PRS score, and the other does not, the practitioner must proceed with caution and use his/her skills in finding safe ways to include children's input.

Low PRS

Score 1- 18

Caution re: directly including children. Use indirect methods of including children. (Level I and II of CCCM)

Moderate PRS

Score 19- 36

May include children via a Child Specialist or if practitioner has skill-set he/she may include children in a more direct manner as part of the process. (Level III or IV of CCCM)

High PRS

Score 36-45

Parent readiness is high. May include children in the process without concern of harm. Practitioner must still utilize skills when Including children. (Level IV of CCCM)

PLEASE NOTE

The PRS is intended to assist practitioner judgement with respect to the parent capacity to engage with the voice of their child at a particular point in time.

It is not intended for distribution to clients, nor for any form of client feedback.

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