

NATIONAL QUESTIONNAIRE FOR PARENTS PARTY TO CUSTODY (CARE) AND ACCESS (CONTACT) PROCEEDINGS

PROJECT 100 SUB-PROJECT "D" - REVIEW OF ASPECTS OF FAMILY LAW AND THE LAW OF PERSONS: (REVIEW OF ASPECTS RELATED TO THE CUSTODY OF AND ACCESS TO MINOR CHILDREN)

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1. Did you have to decide on custody and access of your minor children:

Upon your divorce from the other parent;	
Upon your separation from the other parent;	
Upon the child being born of a customary union	
Upon a child born out of wedlock;	
Upon the child being adopted or placed in foster care?	

2. During this process, were you aware of what the following concepts meant?

Mediation;	YES		NO	
Parental alienation;	YES		NO	
Co-parenting;	YES		NO	
A parenting plan;	YES		NO	
Joint custody;	YES		NO	
The "best interests of the child" principle	YES		NO	

3. Should a parent information/education programme for approximately one hour be attended by both parents:

In all proceedings where custody and access have to be determined;	
Only in matters where settlement agreement is agreed upon;	
Under no circumstances as it will be too difficult to implement;	
On a voluntary basis by either or both parents.	

4. Where there is a dispute regarding custody and access matters:

Attendance of mediation by both parents should be compulsory;	
Attendance of mediation by both parents should be voluntary;	
Attendance of mediation should be determined by the Family Advocate's office;	
Attendance of mediation should be determined by a court.	
Compulsory attendance of mediation will just complicate and prolong already difficult divorce proceedings	

5. In your opinion, what do you think will be the advantages and disadvantages of making the attendance of mediation compulsory in matters where custody of, and access to minor children is in dispute?

6. Do you think that the service offered by the Family Advocate’s Office is:

Poor		Adequate		Good		Excellent	
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Comments, if any:

7. Do you think that all parents should be given the opportunity to receive the assistance of a mediator to mediate in all areas where there is a dispute within the relationship for example, maintenance instead of merely focusing on custody and access?

Yes, it is better to try and resolve the dispute in a holistic manner as it will help save legal costs as issues will not be resolved in a piece meal fashion;	
Yes, mediation should be attempted and if it fails, the remaining issues in dispute can be referred to a Court to decide upon them;	
No, certain issues just cannot be mediated and requires the assistance of a Court from the outset.	

8. Can you explain briefly if you experienced any problems with the current legal procedures involved in securing custody and access arrangements for your minor children?

9. What type of persons do you think will be able to be effective mediators in custody and access matters?

10. Should compulsory attendance of mediation be conducted:

By a mediation stream in the Family Advocate's Office	
By private persons practicing as mediators;	
By the mediation stream in the Family Advocates Office with parents given the opportunity to attend mediation with private mediators if they wish;	

11. How should mediation be funded?

Mediation should be funded by the parties themselves, with the State only funding mediation for those parties who cannot afford it after going through the means test;	
Mediation should be funded by the State, with parties given the option of choosing to engage the services of a private mediator which they fund themselves;	
Mediation should be funded solely by the State.	

12. Do you think that if you had attended mediation, you would have been able to mediate a different parenting plan which would be in the best interests of your child but it would have been obtained more amicably rather than through a conflictual Court battle?

Yes		No	
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