

Selected Issues in Family Law

Editor
Nora A. Hak



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EDITED BY

NORA A. HAK



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FAMILY MEDIATION AND OTHER DISPUTE RESOLUTION PROCESSES DISTINGUISHED

By

Nora Abdul Hak

Introduction

Family law litigation can be said to be unique in so far as it rarely involves judgements solely concerned with matters of fact but is almost invariably complicated by the intense and intimate emotions of the parties in conflict. The use of the traditional litigation process to resolve family law issues in dispute has been much criticised. Where human relationships are strained, the adversarial approach may actually exacerbate rather than reduce conflict. The utilisation of other processes, such as counselling and mediation, independently of litigation or in conjunction with it, may lead to a more satisfactory resolution of disputes. Currently, mediation is regarded as the most widely recognised alternative disputes resolution method especially in family issues such as marriage breakdown, divorce, maintenance, custody of children and right of access.

Family Mediation

Webley¹ described family mediation as “a loosely defined term,” as