

The divorce decree, communication, and the structuration of co-parenting relationships in stepfamilies.

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Abstract:

Using Giddens's (1984) structuration theory, this study explored the communicative processes surrounding the divorce decree in coparenting relationships in stepfamilies. Participants included 21 adults who were coparenting children in stepfamilies who completed diary entries of all interactions with coparents over a 2-week period, and who completed follow-up interviews. Results revealed two structures of signification with respect to the divorce decree that enabled and constrained coparenting interactions. The first signification structure was one in which the decree was framed as a legal document, dictating the rights and responsibilities of parenting, especially with respect to child access and financial issues. The second signification structure was one in which the decree was viewed as a negotiating guide for more informal coparental decision-making processes.

Keywords: communication | coparenting | divorce decree | legitimation | stepfamilies | structuration theory | social psychology

Article:

Over the last decade, family researchers have devoted substantial efforts toward understanding the complexity of stepfamily relationships (Coleman, Ganong, & Fine, 2000). Nevertheless, researchers have stressed the need to move the research focus on stepfamilies beyond the walls of a single household (Braithwaite, McBride, & Schrodt, 2003; Coleman et al., 2000). Specifically, the quality of coparental relationships in stepfamilies is receiving increased attention (Braithwaite et al., 2003), given that a high degree of conflict between former spouses is one of the strongest detrimental influences on children and parent-child relations (Amato, Loomis, & Booth, 1995) and that the quality of the parental alliance affects the quality of parents' nurturing and discipline (Whiteside, 1998). Thus, our interest in this study was on coparenting relationships in stepfamilies, defined broadly to include any parent and stepparent,

across both households, involved in the care of the children. We considered the coparenting relationship to consist of both the ex-spousal subsystem and the parent–stepparent subsystem in the stepfamily. Throughout this article, when we refer to coparenting relationships and the parenting system, we are referring broadly to either and/or both of these two subsystems, and when we refer to parents, we are including both biological parents and stepparents.

One of the most challenging aspects of divorce for former partners involves renegotiating power and intimacy boundaries (Cole & Cole, 1999; Graham, 1997, 2003; Hardesty & Ganong, in press), as many former spouses are in conflict throughout the divorce process (Cole & Cole, 1999; Maccoby & Mnookin, 1992). Managing these challenges becomes even more tenuous in stepfamilies, as remarriage, for both men and women, is associated with less frequent coparental interaction (Maccoby & Mnookin, 1992), less reported parenting support from the former spouse, and more negative attitudes about the other parent (Christensen & Rettig, 1995). Thus, developing a co-operative coparenting relationship is one of the greatest challenges facing adults in stepfamilies (Whiteside, 1998).

At the same time, there is considerable evidence to suggest that both successful and dysfunctional coparenting relationships occur across all types of legal and residential arrangements (e.g., Kline, Tschann, Johnston, & Wallerstein, 1989; Maccoby & Mnookin, 1992). As such, researchers often view the primary function of contemporary divorce law as providing a framework within which divorcing couples can themselves determine their postdivorce rights and responsibilities (Maccoby & Mnookin, 1992). Despite this belief, however, we know relatively little of the ways in which divorce decrees, in general, enable and constrain communication processes among ex-spouses and their new partners, potentially all of whom are coparenting children in stepfamilies. Consequently, the primary purpose of our investigation is to describe the various ways in which communication among adults in stepfamilies structures the divorce decree as a meaningful basis for action in coparenting relationships.

Communication and coparenting in stepfamilies

Researchers investigating postmarital relationships involving children have found that a majority of ex-spouses maintain some form of direct contact well beyond the first year after divorce (Braithwaite et al., 2003; Maccoby & Mnookin, 1992), though with time the frequency and length of such interactions tend to diminish (Maccoby & Mnookin, 1992). In stepfamilies, the postmarital relationship is further complicated by the presence of both stepchildren and new relational partners. For example, remarriage has been found to be negatively associated with co-operative coparental interaction and parenting satisfaction (Ahrons & Wallisch, 1987), as well as continued visitation with the children (Wolchik & Fenaughty, 1996).

To date, Maccoby and Mnookin (1992) conducted what is perhaps the most extensive investigation of communication and coparenting. In their longitudinal study of Californian

postdivorce families, they identified three basic patterns of coparenting that emerged during the first 3 years following divorce, as well as a number of factors undermining co-operative coparental relationships. First, some coparents were *disengaged*, as they managed their interpersonal conflict by avoidance and made little to no effort to co-ordinate their child-rearing activities with each other. Other coparents were best described as being *conflicted*, as they maintained regular contact with each other, but were actively involved in conflict that spilled over into the parenting domain. Finally, some coparents were able to suppress, mitigate, or insulate their conflicts, enabling them to *co-operate* actively concerning the children.

In addition to these three coparenting patterns, Maccoby and Mnookin (1992) identified a number of factors that undermine co-operative coparenting in postdivorce families, including interparental hostility, legal difficulties over custody and visitation, joint physical custody if one or both parents wanted sole custody, incompatible values, and a general distrust of a former partner's parenting abilities. Consequently, Maccoby and Mnookin suggested that 'the law is simply too crude an instrument to regulate and control day-to-day interpersonal relations; its net is not fine enough to deal with the sorts of everyday issues that cause difficulties in coparental relations' (p. 280). Further, these researchers expressed doubt that changing divorce standards alone would have any influence on the way most parents allocate basic responsibilities for day-to-day parenting, and they expressed skepticism that family law could facilitate change. There is little doubt that the divorce decree (i.e., the formal legal agreement that grants the divorce and stipulates its terms) has some influence on the communication among adults in stepfamilies, yet the extent to which the decree both enables and constrains the communicative agency of coparents in stepfamilies remains largely uninvestigated. One theory that addresses the tensions among structure, human agency, and change, and that is particularly useful for examining the intersection of macro-level institutions, such as the law, and micro-level interaction, such as coparenting interaction, is Giddens's (1984) structuration theory.

Structuration and coparenting in stepfamilies

In order to conceptualize the interplay of tensions associated with the divorce decree and coparenting interactions in stepfamilies, we adopted Giddens's (1984) structuration theory. Giddens's theory begins by focusing our attention on *structuration*, the processes or patterns of behavior by which social systems are produced and reproduced through members' use of rules and resources. An important distinction within structuration theory is that between *system*, which simply refers to the observable pattern of relations within a group (such as a stepfamily), and *structure*, which refers to the rules and resources members use to create and sustain the system (Poole, 1999). Structures can be thought of as 'recipes' for acting within a given social context (Giddens, 1984), and the relations between structure and system are represented in the concept of structuration (Poole, Seibold, & McPhee, 1996).

At the heart of structuration theory is the duality of structure: Structure is both the medium and the outcome of the interactions that produce social systems. Giddens (1984) argued that

structures are produced by human agency, and simultaneously, are the reproduced conditions of human agency. In other words, structures are the medium of action because members draw on structures to interact and yet they are also the outcome of action because rules and resources exist only by virtue of being used in interaction. According to Giddens, human social activities are recursive in nature, and it is only in and through their social activities that humans reproduce the conditions that make these activities possible in the first place. Consequently, structures both enable and constrain human interaction, as structural properties constituted in both rules and resources express forms of domination and power. Ultimately, Giddens viewed structural expressions of power as dialectical in nature and he offered the dialectic of control to help explain the two-way character of power, as the less powerful manage resources in such a way as to exert control over the more powerful in established power relationships.

Perhaps the most appealing aspect of structuration theory, however, is that it examines the link between social institutions at the macro-level of analysis and human interaction at the micro-level of analysis. Although family members may create certain structures that are unique to their own stepfamily system, more often structures are appropriated by the stepfamily from social institutions, such as larger political, economic, religious, or cultural institutions. This aspect of structuration theory is especially germane to our present inquiry, as the appropriation of the divorce decree from the larger legal institution may facilitate coparenting interactions in stepfamilies. The term *appropriation* refers to a process whereby family members adopt structural features from a particular institution and develop a situated version of them (Poole et al., 1996). As Poole and colleagues noted, the appropriation of structural features is a skill that results in different versions of institutional features being adapted to specific contexts. To address this process, Giddens (1984) highlighted three modalities that connect levels of human interaction with larger social structures and institutions.

First, Giddens (1984) suggested that institutional features may operate as interpretive schemes in communication processes, referred to as structures of *signification*. Structures of signification invoke certain symbolic orders, modes of discourse, and language that ultimately are only understood in connection with the two remaining structures. Structures of *domination* refer to institutional features that facilitate power and influence, invoking the resource authorization provided by political institutions and the resource allocation afforded by economic institutions. Finally, institutional features may operate as norms that guide behavior and undergird judgments about others, referred to as structures of *legitimation*. Structures of *legitimation* invoke the sanctioning of certain behaviors afforded by legal and religious institutions, as well as by ethical standards and societal customs. It is important to note that, although Giddens identified three distinct structures, the distinction is largely analytical and the three elements tend to overlap in every action (Poole et al., 1996).

Overall, then, structuration theory provides an appropriate theoretical lens for examining the various ways in which coparental communication produces and reproduces the divorce decree as a meaningful basis for action within the stepfamily. In general, many divorced parents are unable

to develop co-operative coparenting relationships as they negotiate in light of previously established legal standards provided by the divorce decree (Maccoby & Mnookin, 1992). These challenges are further complicated by the presence of new relational partners in stepfamilies, and thus, the influence of the divorce decree as a structure of stepfamily interaction warrants investigation. In the present study, we addressed the potential influence of the divorce decree on coparenting relationships in stepfamilies by examining the various ways in which communication generates and sustains implicit structures that determine how the decree is interpreted and implemented.

Method

Participants

The data were collected as part of a larger investigation of communication patterns among coparenting adults in stepfamilies across two households. We recruited participants who met the following criteria: First, participants must have been either a parent or a stepparent of a child who resided in a stepfamily household; second, (step)parents in both households must have been active in raising their child(ren) (i.e., children spent at least some time in each household per week). Guided by these two criteria, then, we sought parents and stepparents coraising children in stepfamilies via a convenience, snowball sample (Miles & Huberman, 1994).

Given that we were asking participants to both keep a diary for 2 weeks and participate in an interview, we faced challenges finding those who were willing to complete the entire study. In the end, 21 participants (representing 18 stepfamilies) completed both parts of the data-collection process. Of these, 14 were female and 7 were male, with a mean age of 42 years. All but one of the participants were Caucasian, and that participant was Latino. Ten of the participants identified themselves as parents (4 females and 6 males), and eleven of the participants were stepparents (10 females and 1 male). In terms of education, the participants ranged from a high-school equivalent diploma to a PhD, with 8 having earned some sort of graduate degree. The mean length of the stepfamilies was 6.35 years with a range from two years to 12 years. The number of children in the stepfamilies ranged from 1 to 6, with a mean of 2.95 children.

Ideally, we would have preferred the participation of multiple adults from each family. However, in the end, four participants were a part of the same stepfamily (two separate households). In both cases, these participants were currently married to each other. When we inquired of other participants about involving other members from the same stepfamily in the study, many expressed reluctance about adults in the other household participating in or knowing about the project because it might jeopardize the delicate nature of their relationships and interactions. Because of ethical concerns, we honored their wishes in such cases and made no attempt to contact others in the family.

Procedures

We approached the current study from an interpretive paradigm, with the central goal of seeking understanding and intelligibility by focusing on similarities in meanings from the perspective of actors themselves (Baxter & Babbie, 2004; Creswell, 1998; Kvale, 1996; Lincoln & Guba, 1985), looking for what Bochner (1985) described as the ‘informal logic of social life’ (p. 44).

To meet this goal, we employed the Diary–Diary Interview method (Zimmerman & Weider, 1977, 1983), which consists of asking participants to keep an interaction diary for a specified period of time and then to participate in an interview that covered both the diary entries and additional questions researchers wish to explore. This method has been used successfully by family communication researchers seeking to track family members’ interactions over a period of time (e.g., Leach & Braithwaite, 1996). Zimmerman and Weider (1977) argued that one goal of this method is to position research participants ‘as both observer and informant’ (p. 484), and that diaries ‘approximate observation’ in difficult-to-observe settings (such as stepfamilies) by providing ‘annotated chronological records’ (p. 116) of interactions. By using this method, we were able to collect data on participants’ interactions through 2 weeks of diary entries and explore meanings they placed on their interactions with adults in the other household through the interviews. This study emphasizes the interview data, because it provided insight into the meanings of the individual interaction events.

We collected data in two phases. First, we asked participants to keep an interaction diary each time they interacted with the adults in the other household over a 2-week period. Because we were interested in both the ex-spouse or the parent–stepparent subsystems, we allowed participants to be either biological parents or stepparents. In each diary, participants reported about the interaction (who contacted whom, through what channel, the length, reason for interaction, and topic of interaction). For each interaction, they also reported their perceptions of conversational effectiveness, satisfaction, level of conflict, and overall feelings regarding the interaction (through semantic differential questions). The number of diary entries completed by each participant ranged from 1 to 23, with a mean of 6.91 entries over the 2-week period.

In the second phase of the Diary–Diary Interview method, we conducted semistructured, focused interviews (Spradley, 1979), allowing for the flexibility to probe for deeper understanding and to perception check as necessary (Kvale, 1996). Zimmerman and Weider (1977) noted that ‘the diary interview converts the diary – a source of data in its own right – into a question gathering and, hence, data-generating device’ (p. 489). We began our diary interviews by asking participants to expand upon the information in the interaction diary entries. Specifically, we asked them to reflect on whether the diary entries reflected typical patterns of interaction, and we asked questions that probed for more information than that provided in the diaries. Additionally, we asked participants about past conflicts, episodes that required planning (such as visitation and holidays), and other types of interactions that occurred with adults in the other household. As noted earlier, the data were collected as part of a larger investigation on communication and coparenting in stepfamilies, and thus, we had not singled out the divorce decree in our interview guide; rather, this structure emerged as a central topic in participants’ discourse concerning

coparenting and their stepfamily experiences. The interviews lasted 45 to 90 minutes each and yielded 391 pages of single-spaced interview transcripts for analysis, in addition to the diary entries. The fact that we did not *a priori* expect that the divorce decree would emerge as an important construct, and that we did not specifically ask about it, makes it even more noteworthy that it achieved such a central place in our findings.

Data analysis

We approached data analysis with theoretical sensitivity, which Strauss and Corbin (1998) conceptualized as approaching data with an ‘open mind’ but not an ‘empty head’ (p. 47). In other words, we did not force the data into categories, but we were aware of the major concepts of structuration theory when analyzing these data. The data analysis process was completed in several steps. First, the researchers individually read through the transcripts holistically several times and met to discuss the identified themes. Second, the researchers read through the transcripts, specifically noting structures that emerged. Third, three of the researchers used the inductive process of analytic coding (Lindlof, 1995) to compare data for similarity and differences. When a given datum was perceived to be different from prior data, a new category was added, and the process was repeated until no new categories were required. The researchers then shared their categories and discussed similarities and differences among their derived categories, including exemplars of the different categories in their analysis. Next, one researcher took the analyses, found connections among them, and refined the categories and chose exemplars for the final research report. Finally, all five of the researchers analyzed these results critically to check the team’s analysis and to confirm that the exemplars accurately represented the findings.

Results

Participants evidenced two structures of signification with respect to the divorce decree. Structures of signification, as Giddens (1984) conceives them, are interpretive schemes or ‘recipes’ that provide rules and resources for communicative action. The first signification structure was one in which the divorce decree was framed as a legal document. The second signification structure was one in which the divorce decree was viewed as a negotiating guide or backdrop for more informal coparental decision making. In turn, structures of legitimation and domination were interwoven with these two signification structures.

The divorce decree as legal contract

The signification structure of divorce decree as legal contract was predicated on the belief that coparenting actions were matters of law, dictating absolutely the rights and responsibilities of parenting, especially with respect to child access (e.g., custody and visitation rules) and financial issues related to the children (e.g., support payments, college savings funds). Sanctioning against violations was enacted by parental use of the court system as a primary resource. Illustrative of the legal-contract scheme is a statement from a stepmother, married to a father who does not

have primary custody of the children from a former marriage. The stepmother indicated to the interviewer that the divorce decree 'loom[s] into our lives' (#21, 425):1

We pick them up from school 2 days a week, and they're with us until about 10 pm. But they spend every weeknight at their mother's house. And then we have them every other week-end . . . There's this sort of rigid pattern of child-sharing . . . She basically has the kids for the traditional holidays at the traditional times, and this is something my husband resents. Ya know, like Thanksgiving, she'll have the kids for dinner but we might see them in the morning or something. Christmas, she has the kids on Christmas Eve and Christmas morning, but they'll come to our house around 2 o'clock. So we tend to see them on all major holidays . . . but not at the times when family traditions are usually taking place. (#21, 164–167, 405–421)

In this excerpt, the stepmother is describing the access rules that determine when she and her husband have visitation rights. Apparently, her husband is not pleased with these rules of access, particularly surrounding holiday time, yet this pair feels legally constrained by them.

Financial support was the other primary domain in which the legal-contract structure was reported. One nonresidential father described, in part, how financial arrangements were determined by the legal contract of the divorce decree:

Well, it is explicit in the divorce decree. That has helped a lot. So, for example, she takes care of the health insurance because the kids get a tuition exchange, a tuition remission. I take a tax deduction for the kids as they come of age, and there is also an item agreement that we will split all unusual costs . . . We really haven't argued about that [financial matters] . . . The agreement itself is pretty explicit. (#9, 143–194)

In this excerpt, the children's father is sharing with the interviewer that there are explicit item agreements in the divorce decree that determine coparenting financial responsibilities. Unlike the stepmother quoted earlier, this parent felt positively about the explicitness of the divorce decree. These positive and negative reactions toward the divorce decree as a legal contract are important markers of Giddens's (1984) observation that structures function both as enablements and as constraints.

The legal contract as enablement. For some stepfamilies, the divorce decree as legal contract facilitated smooth functioning in the coparenting system of both biological/adoptive parents and their respective new partners. For these coparenting systems, the legal-contract structure provided a depersonalized and tightly regulated set of rules for parenting, thereby alleviating parental disagreements, disputes, and conflict. One stepmother, who lives in a household with a father and his son from a former marriage, shared with us her belief in the court system, the institutional mechanism by which the legal contract is determined, as a way to resolve ongoing conflicts about child support between her husband and his former spouse:

The best way to go about it was to just go through the courts because that eliminates all these threats and all of that verbal stuff that goes on when there's a lot of anger and frustration. So he [her husband] just went to court, got a court order, then they went again to a court-ordered mediation. At the mediation, she agreed to sign a contract, which was a legal contract, and she just had to make her [payments]. (#4, 135–139)

In this same coparenting system, the stepmother and her husband strategically relied on e-mail rather than face-to-face exchanges with the former spouse: 'We choose to use e-mail because then we can get a point across and not have her hang up on us or anything, or get upset and swear at us . . . Plus then we have it in writing, and when we have to go to court, which we frequently do, then, it's all in writing. So, it's just a protection for us' (#4, 96–122). For this stepmother, the divorce decree as legal contract was viewed as a set of legally binding rules that limited ongoing conflict between parents. When parents were bound by the contract, they reasoned, it was not subject to dispute. Should one parent violate the contract, the court system functioned as the primary resource through which compliance was achieved.

Other members of stepfamilies shared the view that the legal-contract structure functioned positively in the coparenting system by limiting conflict. One nonresidential father summarized how the legal contract enabled functional communication between the two parenting households: 'I think that in many cases the rules are there so they work best when the individuals are not speaking. The rules become explicit and people can say, "Look, this is what it says and here is when I am going to come so get out of my life"' (#9, 500–508).

The legal contract structure provided a resource to prevent, or resolve, conflicts between coparents. In turning to the language of the contract, a coparenting household could close down efforts by the other household to disagree with, or challenge, parental rights.

Within the signification structure of a legal contract, the divorce decree was perceived to have the advantage of clarity in articulating parental rights and responsibilities. However, such clarity and predetermination were a double edged sword.

Legal contract as constraint. Many coparents reported that the legal contract lacked flexibility for the needs of parents and children alike. When a coparent was perceived as unwilling to negotiate an exception in response to changing circumstances, the divorce decree was perceived as a resource of domination, used by him or her to control the other coparent's access to the child or the particulars of their financial support. One residential stepmother (*P*) of a teenaged stepson provided the following account (to an interviewer, *I*) of how the nonresidential mother was perceived to use the language of the decree as a structure of domination:

P: We were scheduled to go on vacation. And, the vacation fell over the week-end that John [the stepson] was to see his mother, and she had agreed to switch with us. We had given her time with John prior to our vacation. A snowstorm hit and we didn't go on vacation, 'cause we were driving. So we didn't go, and I said, 'Well then call your

mother and have her come up, and you need to go be with your mom,' and he refused because he didn't want to go see his mother. And I didn't probably insist that he go, I just thought 'OK, he doesn't want to, fine.' It wasn't any big thing . . . every time he goes from one place to another he's living two different ways and he just wanted to chill out for a week. He just wanted to be where he was, do what he wanted, and not have to conform to our ways or her ways. Anyways, she found out that we were chilling out rather than on vacation, and so, she took us to court, for contempt. Yeah, because of the fact that it was her week-end even though we had already given up our week-end at a previous time.

I: So, she had already had the substitute week-end, but since this was still supposed to be the official week-end . . .

P: Right, and it was a court order and there was no way that we could prove that she previously, even though the child and the father said that she had already had this week-end, the judge said, 'No, it isn't a matter of people getting to pick and choose. This is a court order, you obey it.' And then [the father] told [the mother], 'You really put me in a difficult position, and you're walking on real thin ice.' 'cause it really isn't contempt. I mean it's not like somebody was deliberately trying to break a court order. But, the law is the law. (#4, 498–527)

In this unexpected circumstance, the stepmother thought it was acceptable for her stepson to stay, especially given that she and her husband had been true to the spirit of the decree by trading week-ends. However, the mother was upset by the act of 'contempt' of the divorce decree, and she used the court system, and the clarity of the divorce decree contract, as a way to sanction her former husband. The boy's father thought the mother's behavior was clearly inappropriate, but 'the law' was not on his side. Interestingly, the stepmother and her husband were apparently not upset with the judge; rather, their anger was directed at the mother, who was perceived to have taken unfair advantage of the stipulations of the decree. Whether ill-intentioned or not, the mother's agency in suing her ex for contempt functioned as a structure of domination in controlling compliance with the court order.

Sometimes, the constraint was reciprocal, as each coparenting household used, or threatened to use, the legal contract of the divorce decree as a structure of domination against the other. Illustrative of such reciprocal attempts at control was this account provided by a residential father, divorced for 14 years. At the time this episode transpired, their son was living with his mother:

She [his ex-wife] mentioned that they were looking at moving to Kansas City. And I said that I was going to fight that and take it to court. And she'd have to take it to court to get him [their son] out of state anyway, so, um, I was going to fight for custody and try to get him back. And I ended up talking to [his ex-wife's current husband] in the process, and it

just came down to a, ‘Well, if I, if we want to do it, we’ll end up doing it and you’ll end up losing.’ And, I didn’t back off to where I said, ‘Well, that’s OK, you can have him.’ I kept stating that I was going to fight it and push it, partly knowing that . . . just hoping that she would back off, I guess, ’cause I didn’t know whether I had the financial resources to try to do that anyway, and I probably would end up losing him. (#6, 424–433)

Although constraint often was experienced as a structure of domination situated in the efforts of the other coparent to use the divorce decree as a weapon, constraint was often attributed directly to the decree itself and the court system that legitimated it. For example, a nonresidential father described how he attempted to use the court system to control his ex-wife’s abuse of the decree’s stipulations, but the story takes an interesting turn, ending with the judge and the decree functioning as a structure of domination over both parents:

Maybe I should tell you about how I had to go to court. [My ex] sees Christmas as when her extended family celebrates it. They celebrate Christmas Eve, Christmas Day, and sometimes the day after. Our decree says that one year she has them for Christmas Day and one year I have them for Christmas Day. This is my year to have them for Christmas Day, and I said, ‘Let’s figure out a time.’ It would be 8 or 9 in the morning to 8 or 9 at night. Well, she e-mailed me and said Christmas is when her family celebrates Christmas so you will get them the 27th. So I went to court to get them on Christmas Day. What was even sillier was the judge’s decision. He agreed that I should have them on Christmas Day – midnight until midnight – and next year with midnight to midnight, I said [to the ex], ‘You know, this is stupid. Let’s just do 8 o’clock to 9. They are just going to be sleeping [at midnight]’ . . . so we finally agreed to that. (#8, 798–846)

This father initially used the legal-contract structure as a resource to change his access to the children at Christmas time, but the language of the judge’s ruling (midnight to midnight) was overly rigid and proved to be an unreasonable constraint on parents and children alike. So the parents were able to construct an alternative structure that worked better for them. They used the legal contract as a guideline against which they negotiated an alternative access rule, abandoning the literal language and mandate of the legal document.

This father’s story is a typical one in our interviews. When the domination structure was the divorce decree itself, rather than the other coparent’s use of that decree, coparents were motivated to transform the meaning of the divorce decree from a legal contract to a different signification structure – one we label a guide. In this alternative signification structure, coparents did not use the decree as a legally binding contract. Instead, it was a backdrop or framework for negotiation in which partners were free to alter the stipulations of the decree if they could informally agree on an acceptable course of action.

The divorce decree as a guide

In the guide structure, legitimation hinged not on following the letter of the divorce decree but on good faith efforts to maintain the principle of fairness with the interests of the children first and foremost. A stepmother discussed these principles as a legitimation structure for the guide scheme, and why she and her fellow coparents preferred it over the legal contract mentality:

We need to work it out, because otherwise there will be a lot of hostility, there will be a lot of anger, and if we work things out as we go, things down the road are gonna be easier. If we don't work things out, the more stuff that we say, 'nope, we can't reach a compromise, just go by the decree,' the more things down the road are going to get more and more like that and it's just gonna be this snowball effect that is just gonna make things worse and worse as we go along. So, we all kinda have the same opinion that if we try to work things through the best we can, and try to be civil, then everybody benefits. The children benefit the most, and the adults benefit too, because then they're not, ya know, feeling like they're not getting their way, or they're being discriminated against or whatever . . . it just benefits everybody involved. (#3, 534–552)

These coparents appeared to endorse the spirit of co-operation directed at the children's interests, viewing the legal contract structure as adversarial, and thus ultimately counterproductive.

Another parent, a nonresidential father, described the fairness principle of the guide structure in terms of how their daughter was to divide time between households for the holidays. Plans were unsettled because of travel on the part of both parents:

What I think is going to happen is I am going to talk to [my ex-wife] and tell her the situation, check with her to see if or when she is going to Philadelphia and then try out the possibility that we could have her for Thanksgiving this year. See if there is something in return we could give her for that . . . You sort of bargain, but bargain makes it sound too formal. I am asking for something, so I am willing to give something up to what works for her as well. (#15, 515–529)

This father talked about bargaining, not in a formalized, legally bound way, but in the spirit of good faith.

The guide as enablement. Coparents often exercised agency to suspend the legally binding constraint of the divorce decree when they found the language of the decree too rigid and inflexible in response to their needs. When coparents were able to liberate themselves from the contract, their coparenting system was often functional, enabling responsiveness to everyone's needs. A residential mother reported that she and her ex suspended the legally determined access rule, because it often did not work for the father's schedule:

We are supposed to rotate holidays and stuff like that, but it doesn't always work for him. If it is my holiday and he wants them, what I generally do is, I visit with the kids to see if

it is OK with them and say I know it is mine, but he wants you. Do you care if you go? That is how we generally work it out, through the kids. (#2, 185–188)

When it came to financial arrangements, however, the legal-contract structure still prevailed:

We had to go back to court 'cause he [her ex] was trying to modify the support. That is pretty touchy. You know, he doesn't see them on a regular basis, he doesn't go out of his way to buy them things or call them on their birthdays or anything. In my eyes, if he could walk away from paying support he would. This is just how selfish he is. (#2, 332–338)

This mother and father suspended the legal-contract structure in favor of a guide structure, but only on a situation-by-situation basis. Thus, the signification structure of this family, like others in our sample, was a mixture of both legal contract and guide, depending on the issue at hand.

This mixture of both legal contract and guide is illustrated by the following excerpt from a stepmother whose household has custody of the children 40% of the time. When asked how she went about trying to balance competing household needs or wants for child access, she said:

Well, by being sensitive to the fact that [my husband] would have liked [his sons] to stay and also being aware that [the mother] wants them over there. Just trying to be aware of what the legal arrangements are, but then also what is the right thing to do. And trying to initiate what is right without having a fight . . . Once I realized that we [herself and the mother] were going to be cordial with each other, things just got more relaxed . . . Except for all the custody arrangements, but that is *their* divorce and that is *their* deal. The kids are all *ours*, *all of our* responsibility. (#10, 255–262, 454–457, emphasis added)

This stepmother indicated that the 60–40 custody split was honored to the letter of the law, but within that parameter, the coparenting system consisting of the biological parents and the stepparents tried to function informally by responding to what the children needed. Her reference to 'their' versus 'our' marked the clear demarcation between the contract and guide significations. Thus, on such matters as homework, curfew enforcement, and household chores, the four parents worked as a single, co-ordinated team on behalf of the children's best interests. The issue of custody was bracketed out of the domain of the contract signification.

Children functioned with increasing agency in reaction to the legal-contract structure, especially when they reached adolescence. Further, many parents were willing to shift to a guide structure in response to the expressed wishes of their children, especially when children reached adolescence. Illustrative of this shift is this account provided by a nonresidential father of a teenager:

[The daughter] lived half time in each household for a number of years: 6. As she got older she increasingly wanted to live in one household and just visit the other one. So she

decided to live at her mom's household and we were trying to come up with some way to do this that would be OK with [the daughter] and OK with me. It would keep me active in parenting her. Part of that arrangement was that [the mother] and I would have monthly meetings face to face so we could talk about issues that came up and plans and strategies and so forth. (#15, 108–114)

Although the father preferred the half-time access he was granted by the divorce decree, he and his ex-wife negotiated a new way to sustain his parenting role, involving less time with the daughter and more time in discussion and decision making with the mother. This change was motivated by a mutual desire to be responsive to their child's wishes to suspend the stipulations of the divorce decree.

A minority of coparenting systems had relied solely on the divorce decree as a guide. Coparents reported that relations were co-operative and good faith had always prevailed in co-ordinating parenting issues. One nonresidential father, divorced for 5 years, invoked the metaphor of how a business is run to describe the coparenting system:

It feels kind of like a business . . . The children are kind of our business together and I can respect that [other] person . . . Anybody can always pick up the phone and communicate about the girls and what's happening. Our daughters come and go as they please. They are welcome to stay any week-end anywhere or during the week. They get to make those choices. (#14, 614–617)

In the coparenting 'business,' the coparents are not friends but business partners. As such, they form a business-like team whose purpose is to raise the children. The teenagers have an active voice in determining parental access.

Many adults in coparenting systems realized that the informality of the guide structure could function to constrain or limit positive coparent relations. Thus the guide structure, like the legal contract, functioned as both enablement and constraint.

The guide as constraint. One disadvantage of the guide structure was that it created the opportunity for coparents to abuse good-faith principles. Such violations functioned as structures of domination, as one coparent was perceived to control the situation in favor of his or her own individual interests. One important way bad faith could be displayed was in attempts to manipulate or use the child. One mother discussed with the interviewer her former husband's pattern of attempting to lengthen his time with their children:

Like they would stay one day longer and he would call and say, 'I talked to the kids and they want to stay two days longer. So we're going to stay two days longer.' And what I knew that he did was to the kids he would say, 'Oh, I miss you so much please stay a day longer' and they would feel bad for him and they would say, 'Yes' and not honor their true feelings. So, I had to be strong. And actually [the daughter] has told me many times

that she never wants the parenting schedule to change. Like we would go to my son's concerts at school and he would, the kids would be with me, and he would say to [my daughter], 'I miss you so much. Why don't you just come home with me and I'll take you to school tomorrow?' And that would put so much pressure on her. She would actually get sick and say to me, 'Mom, I'm going to throw up or something.' (#23, 225–288)

Once the mother perceived that her ex was manipulating the children in order to gain more access to them, she refused to negotiate flexibility in the decreed access rule. In short, she perceived a violation of the good-faith spirit of the guide structure, and resorted back to a legal-contract structure as a resource to protect her children.

When the good faith negotiations of the guide structure malfunctioned, for whatever reason, coparenting systems often moved back to the legal contract structure. A stepmother spoke of how the coparenting system worked when they were unable to reach agreement about how to handle the holidays:

At that point, it's basically up to whatever the decree says. We usually try to accommodate what the people want for holidays, ya know, 'cause when you've got other family members to get together with the children and stuff you really try to make it work. And there have been times in the past where my husband hasn't wanted to give them up on Christmas Eve to accommodate her schedule because then we're not able to take them to Christmas Eve service at our church with us . . . so he will just flat out say, 'We can't reach an agreement. I want them on my day, and we can't come up with a compromise so we're just gonna have to go with what the decree says.' But, ya know, that's very, very rare . . . (#3, 69–89)

Sometimes, the guide structure was perceived to work because there was conscious awareness of the option to resort to the legal-contract structure should informal negotiations fail. A residential stepfather provided this account of why he thought the nonresidential father was so co-operative in their informal guide with respect to financial support:

He pays his child support and I think the reason he does that, between you and me and the gatepost, is he don't [sic] want her going back to court to get more . . . If the doctor bills get a little high or something, he'll chip in extra. Or like the girls now are playing instruments, and they are not cheap. He will kick in a little bit on those and we get along fine. We have no problems. (#11, 70–75)

To this stepfather, the nonresidential father provided extra, voluntary financial support in a fair manner. However, he attributed such generosity not to the father's sense of what was fair but to the possibility that he would be taken back to court. The legal-contract structure thus functioned as a latent threat to enable informal co-operation between coparents.

Discussion

In this study, we used a multifaceted methodological approach, the Diary–Diary Interview method, framed within Giddens’s (1984) structuration theory to further our understanding of communication processes among coparents in stepfamilies. When we interviewed participants regarding their diary records of coparenting interactions across households, we were struck by how salient the divorce decree was as a structure that guided these interactions. Although legal scholars have written about the legal aspects related to the divorce decree, we know of no studies that have examined how this document structures communication among coparents in stepfamilies, both in terms of facilitating it and hindering it, and in turn, how communication produces and reproduces the meaning of the divorce decree. An additional contribution of our study is that we examined communicative processes and structures *across* the households represented, not just within the confines of a single home.

In general, we found two primary ways that the divorce decree structured, and was structured by, coparenting interactions. First, the divorce decree was considered by some of our participants to be a legal document that dictated each parent’s rights and responsibilities with respect to the children. As a legally binding document, this structure served as an absolute mandate regarding appropriate and inappropriate parenting behavior. Among the participants in our sample, the divorce decree either facilitated coparental communication because it provided an objective standard for parental behavior, or it hindered coparental co-operation because it was used inflexibly and rigidly by one parent to exert control over the other.

The second way that the divorce decree functioned as a structure for these families was as a guide. In such instances, the divorce decree served as a structure that provided some guidance, but was not rigidly adhered to in every detail. Typically, the divorce-decree-as-guide structure worked effectively to foster co-operation among coparents, but, at times, one coparent was perceived as taking advantage of the other’s good-faith efforts. Deviating from the tenets of the divorce decree requires considerable mutual trust, because there is no institutional enforcement mechanism when coparents choose to find their own solutions to childrearing issues. When one parent perceived that this trust was violated, there was often a return to the structure of the divorce decree as a legal document to resolve disputes. Thus, even when the divorce decree was used as a guide, the parents’ realization that the legal structure of the divorce decree was available either helped them to negotiate flexibly in good faith or it provided a legal resolution to parenting disputes if one parent perceived that the other was taking advantage of the other’s good will. Our results support Maccoby and Mnookin’s (1992) observation that the law is too ‘crude’ to govern daily human interaction, and therefore cannot replace the human tendency to work out problems in mutually acceptable ways, even if these deviate from the divorce decree.

Our results are suggestive of three possible types of coparenting teams in these data, categorized according to how the divorce decree was structured: (a) *Guide-emphasis* coparenting teams, the least common in our sample, were able to function positively and collaboratively, and thus, used the divorce decree as a guide, not as a legally binding legal contract; (b) *legal contract-emphasis* coparenting teams attempted to remain true to the legal stipulations embedded in the divorce

decree, either finding some comfort in the structure provided by the decree and/or feeling the need to follow the decree rigidly even though it constrained positive coparental interactions; and (c) *mixed* coparenting teams, the most common category in our sample, who used the decree as both contract and guide, depending on their perceptions of whether the other party was coparenting fairly and flexibly. When both parents perceived that the other was functioning in good faith, they were able to use the decree as a guide only, but, when the parties were perceived as being unfair or rigid, at least one party felt the need to resort to using the decree as a contract.

These tentatively identified coparenting types bear some similarity to the typology derived by Maccoby and Mnookin (1992). Our *guide-emphasis* coparents resemble Maccoby and Mnookin's co-operative coparents, who are able to transcend their conflicts to work collaboratively to raise their children. Our *legal contract-emphasis* coparents appear similar to Maccoby and Mnookin's disengaged coparents, who function in parallel, avoid each other, and perhaps rely on the divorce decree as a contractual structure to guide their interactions. Finally, our *mixed* coparents have some commonalities with Maccoby and Mnookin's conflicted coparents, who are actively engaged with each other, but who have periodic conflicts that affect their parenting. We speculate that such parents may feel the need to resort to the divorce decree as a legal structure during these conflictual episodes. Because these two classification schemes have the potential to enrich each other, we hope that future research will explore the correspondence between them.

Our results provide support for the utility of applying Giddens's (1984) structuration theory to the stepfamily context (Krone, Schrod, & Kirby, 2006). In fact, using structuration theory as a conceptual framework helped us identify salient aspects of how the divorce decree is used in stepfamilies, such as directing us to explore how the divorce decree as a structure both facilitates and hinders communication between coparents. Because the divorce decree is developed in conjunction with the judicial system, structuration theory's emphasis on how people appropriate structures from social institutions was particularly helpful. In addition, our findings exemplify several features of structuration theory.

First, as Giddens (1984) argued, structures of signification, domination, and legitimation are interwoven in complex ways in stepfamilies, such that at different times, and perhaps even at the same time, the divorce decree serves as a societal symbol of the divorce settlement, a means of exerting power over another member of the coparenting system, and a set of socially (and legally) sanctioned norms to guide coparenting behaviors in stepfamilies. Our data clearly revealed that the divorce decree serves each of these purposes in sometimes separate and sometimes integrated ways. Second, Giddens suggested that there is a recursive relationship between human interaction and structures, such that the interactions among individuals affect the development of a signification structure, and, in turn, the signification structure influences interactions. Our results illustrated that the coparents, as well as the larger social institutions involved in the divorce process, determined the nature of the divorce decree. In turn, the divorce decree then influenced, as either a guide, a legal contract, or both, the coparenting interactions in

the stepfamily system. In addition, given that the divorce decree can and often is modified by court order (through motions to modify the decree), the reciprocal nature of the interaction–structure relationship becomes even more salient when the decree is legally modified over time.

Finally, structuration theory emphasizes the importance of both human agency and structure, indicating that the course of human interaction is determined by a complex interplay between individuals who are proactively creating and using structures to guide their behavior and the developed structures, in turn, influencing individuals' behavior. In the present study, we found numerous examples of how these coparents found creative (and agentic) ways to co-operatively coparent their children, sometimes bending or even deliberately violating the tenets of the divorce decree because they did not need to follow it. In turn, the structure of the divorce decree provided a foundation that either guided or dictated coparents' childrearing behavior. Coparents in this study were by no means passive recipients or followers of the dictates of the divorce decree; they actively created and recreated (and even changed through the motion to modify process) the divorce decree through creative and purposeful activity.

Limitations and suggestions for future research

Our study has several limitations that suggest directions for future research. First, with one exception, we examined the perspective of only one member of the coparent team. Thus, we can make no claims about how the other coparents view the divorce decree and how it is used. We recommend that future research gathers the perspectives of multiple parents in the coparenting system. Second, we only gathered the perspectives of parents and not children. It would be interesting to determine the extent to which children are aware of the divorce decree, and believe that it influences interactions in their families. Third, and related to the second limitation, we were not able to examine how the use of the divorce decree is related to the age of the children. Because children spend more time with their friends and are more autonomous as they become older, we suspect that coparents will feel more pressure to use the divorce decree as a guide as their children age.

Fourth, even though diary data were gathered over a 2-week period, our interview data are basically cross-sectional. Consequently, we can only speculate about changes over time in how coparents use the divorce decree as a structure that influences their interactions. For example, we propose that couples in the early stages of their divorce may find it necessary to use the divorce decree as a legal contract and that, in some couples, there may be an increase in the use of the divorce decree as a guide over time. Fifth, because we did not initiate the original project with the goal of exploring the divorce decree, there is a considerable amount of information related to the divorce decree that we did not collect. For example, we suspect that the amount of conflict involved in negotiations surrounding the divorce settlement would influence how the divorce decree structures later coparenting interactions. Those parents who had more disagreements in negotiating the terms of the divorce may be less able to use the divorce decree as a guide, rather

than as a legal contract. In future research, we recommend that this issue, as well as others related to the divorce settlement process, be examined.

Finally, the divorce decree involves individuals and institutions beyond the family. For example, lawyers, mediators, judges, and counselors all may play a role in the process of how the divorce decree is developed and how it is later used to guide coparenting interactions. We recommend that future researchers ask parents about how these other constituencies influence how the divorce decree affects their coparenting behavior, as well as interview members of these outside institutions regarding their impressions of how the divorce decree serves as a legal or guiding structure.

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Notes:

1. Transcripts are referenced by interview number, followed by line number.