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 **ROUTLEDGE**

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A Process of Socialisation

Jean-Pierre Bonafé-Schmitt

INTRODUCTION

Mediation has been the subject of much discussion in recent years, and countless members of society consider using it, everyone from police officers and social workers to judges and security guards. Mediation is trendy, and we therefore need to distinguish, conceptually speaking, between “mediation activities” and “mediation authorities” (Bonafé-Schmitt 1998, 198) in order to avoid confusion. While social workers and police officers certainly perform mediation activities in the context of their work, i.e. by reconciling conflicting parties, they are not mediators. This term is reserved for mediation authorities: organisations or people whose primary or secondary role is mediation, to the exclusion of all other professional practices.

Social mediation does not escape this inflationary spiral. In fact, there is a tendency to describe as mediation the intervention of third parties like *adultes-relais* (a kind of intercultural mediator), *correspondants de nuit* (a kind of inner-city night patroller) and *agent locaux de médiation* (a kind of local social mediator). The increased presence of such third parties similarly necessitates clarification in conceptual terms, since they are totally unrelated to mediation authorities even though they may use mediation techniques in their interventions. Their functions also fall under what we call mediation activities.

To compensate for the significant recent growth in these mediation activities, we would like to highlight other types of experiences, namely the neighbourhood and school mediation projects being developed by the *Boutiques de Droit* and AMELY (*Association de Médiation de Lyon*).¹ These experiences rely on a social logic by encouraging citizens (in neighbourhoods and schools) to actively participate in the settling of conflicts, which is why we refer to them as *social mediation*. The use of this kind of mediation is based on the belief that communities should re-appropriate conflict management rather than expecting the state to take care of everything. It is also based on a certain voluntarism since it requires conflicting parties to refer their cases to mediation authorities before addressing the courts or the police. Mediation is ideal for putting this logic of re-appropriation into

practice because it teaches parties how to find solutions to their conflicts themselves and thus resembles an educational process. Schools therefore represent a privileged place in which to learn this new form of conflict management and in so doing can become true "schools of citizenship" (Bonafé-Schmitt 2000).

However, the development of this type of social mediation has not been without its problems. Neighbourhood mediation in particular has been criticised in both the United States and France for promoting 'second-class justice', a pacification of social relationships and the expansion of social control (Abel 1981; Pavlich 2000). While such criticism is not groundless, this view of mediation is overly Manichean since it ignores mediation's role as a new form of action and a new model of social regulation. Not all forms of mediation obey the rational-legal logic of the instrumentality used by state-controlled organizations. Other experiences are based on a more communicative rationality that aims for a less conflicting, more consensual model of justice, a kind of "comprehensive justice" (Bonafé-Schmitt and Robert 2001). Not only do mediation projects like these give communities the tools to re-appropriate conflict management, but they also help to create new forms of socialisation and thus spread new social norms.

SOCIAL MEDIATION: AN ACT OF REGULATION AND SOCIALISATION

Since 1981, many urban riots that have taken place in France, specifically in Vénissieux, Vaulx-en-Velin and Clichy, have not only revealed a lack of social regulation in inner-city neighbourhoods but have also shown how minor conflicts can escalate into riots. The increase in such occurrences shows how the state is increasingly struggling to control conflicts since its traditional means of intervention are proving unsuitable for dealing with the evolution and complexity of social relationships. The *Boutiques de Droit* and AMELY developed their social mediation project in response to this situation, based on both the belief that neighbourhoods need to be recognised as important places for conflict institutionalization and the need to create community organizations involving residents as mediators.

The Crisis of Institutions of Social Regulation

While the nature of conflicts has remained the same, the increase in urban riots over the last three decades suggests that a new kind of conflictuality has developed. It seems that conflicts related to fields of material reproduction like labour conflicts have lost their central place in our societies and been replaced by new conflicts in the areas of "cultural

reproduction, social integration and socialization" (Habermas 1987, 390). Traditional institutions of conflict resolution are finding it increasingly difficult to control these new types of conflict because they "are not ignited by distribution problems but by questions having to do with the grammar of forms of life" (392). They pose new problems related to issues like quality of life, equal rights, self-actualization and social identity. They convey both a resistance to the "colonization of the lifeworld", to use Habermas's expression, and the consequences of a more collective, complex world (e.g. disputes related to neighbourhood, family, community, consumption and the environment). Controlling such conflicts requires a more consensual kind of resolution based on conciliation and communication rather than sanction and compensation. We are no longer talking about settling a problem of the past by proclaiming who is right and who is wrong, "but of resolving one raised among people who must continue to live together" (Vescovi 1983, 175).

Disadvantaged inner-city neighbourhoods, with their proliferation of specialists—from local social workers to community centres to educators, not to mention the police and the justice system—are the best places in which to assess the failure of ongoing rationalization policies pursued by the state-providence to control conflicts (Bonafé-Schmitt 1992, 279). This superimposition of institutions, which usually affect the same neighbourhood without any coordination, did not prevent the social eruptions of recent decades. We have since understood that this state of social disorganisation cannot be resolved simply by increasing the number of social workers, judges and police officers.

In France, several measures have been taken to try to remedy this situation, including the DSQ (*Développement Social des Quartiers*), the *contrat de ville* and the *contrat local de sécurité*. However, in practical terms, these have done little to fundamentally change the motivations of the different institutions. There has been a lot of talk and little action when it comes to putting partnership work into regular practice. To move forward on this issue, we need to end "social Taylorism"² and rethink how social regulation is performed in neighbourhoods. In fact, we quickly forget that, in the past, many conflicts were regulated by the family, the church, the school, the neighbourhood etc. But the state's total infiltration of our social lives has led us to question such intermediaries between the state and civil society. Subsequently, for most disputes previously regulated within the family and the neighbourhood, the only interlocutors are now police officers, judges or social workers.

This is not to suggest taking a nostalgic view of the past to restore or validate the pater familias' 'slap in the face', the teacher's 'switch' or the priest's 'sermon'. The idea is rather to create new places of social regulation that reflect the experiences of neighbourhood mediation, which are based on the participation of residents, and thus help to rebuild a minimum of solidarity among them.

Mediation: A Place of Socialisation

Neighbourhood mediation projects are not meant as a response to malfunctions in the justice system but as an alternative model of controlling disputes that breaks away from the formalism, professionalism and rationalism that permeate our current system. Rather than re-creating the old neighbourhood 'justice of the peace', we are talking about implementing new procedures involving non-professionals and neighbourhood residents.

The objective of such mediation projects is not to carry out justice but to instil social issues, to incite actions aimed at rebuilding sociability based on the resolution of these disputes and to re-create places of socialisation. Indeed, the operations of these sites were organised around this project to create places of mediation and make the neighbourhood a relevant place for the day-to-day resolution of conflicts. They therefore endeavoured to become a kind of community centre by establishing themselves within inner-city neighbourhoods to make it easier for residents to reach them. This is why special attention was paid to the location of the mediation projects, most of which are placed in the heart of the neighbourhoods, in housing-project apartments that are easy to find, thus making them accessible to residents.

To make such places easier to distinguish and to avoid creating confusion in people's minds, those in charge of the neighbourhood mediation projects chose to locate mediation projects separately from traditional community centres or municipal buildings. In fact, the autonomy of mediation projects not only makes them more recognisable but also helps neighbourhood residents appropriate them better.

In establishing these neighbourhood mediation projects, the goal was to build places in which to resolve the kinds of conflicts and minor disputes that do not necessarily need to pass through the justice system. We are mainly referring to the kind of day-to-day disagreements that are usually mentioned in police log books, like neighbour and family conflicts, minor property damage and altercations with groups of kids. Because they happen so often, these are the kinds of cases that most contribute to feelings of insecurity (Bonafé-Schmitt, Schmutz and Bonafé Schmitt 1988). They are also the kinds of cases to which social mediation projects try to apply their efforts in order to become known as a place of mediation for all such day-to-day conflicts. They differ from the judicial mediation practiced by public prosecutors, who pass the case files off to probation services or victim support services since such sub-contracting of files does not actually do anything to resolve such cases, which remain nothing but a mention in a police log or in a complaint made to a landlord association.

By establishing themselves as autonomous places for conflict regulation, social mediation projects seek to create not a 'parallel justice system', but rather a place of socialisation. Social mediators are meant to support rather than replace already-existing services and associations, thus helping to

develop new places in which to control neighbourhood disputes. Encouraging a networking approach is the only way mediation centres can know and be known by neighbourhood residents.

The Mediators: Neighbourhood Residents

The fact that neighbourhood mediation projects involve residents as mediators distinguishes them from other experiences like the *Maisons de Justice* in France. Since mediation advocates wish not only to resolve conflicts but also to promote communication and create places of socialisation, special care was taken to determine the criteria for choosing the mediators. This principle led to the idea that mediators should be neighbourhood residents and that the criteria for choosing them should not be tied to their possible possession of professional or legal skills. On the contrary, in choosing the mediators, greater emphasis was placed on social criteria and factors related to the socio-demographic composition of the population. Mediators were therefore chosen for how representative they are of the neighbourhood population to ease their introduction and their recognition among residents. This very different kind of representation means that the mediators perceive themselves more as links within their community than as advocates working on their behalf and is what distinguishes 'French-style' social mediation projects from 'American-style' neighbourhood mediation. It also reflects the different models of integration, with a republican or universalist model for France and a community or differentialist model for Anglo-Saxon countries.

The goal of these projects was not to produce mediation professionals but to create new places of socialisation in the hearts of the neighbourhoods. However, the absence of a professional referent does not mean that the mediators lack skills, since the *Boutiques de Droit/AMELY* have established a programme to train and supervise mediators. Without the need to train professionals, the initial training is based on a thirty-hour module, which is followed-up by a continuous mentor system and supervision of the mediators' work for two hours each month. Neither do any permanent employees need to be trained since the projects are volunteer-driven. However, those who abandon their position for any reason need to be replaced, on average every two years. The ongoing training of new mediators helps to spread the knowledge of conflict resolution techniques among various neighbourhood members and facilitates the formation of a network of mediators who can be mobilized depending on the need. Not only do their training and especially their supervision ensure that mediators are consistent in their interventions, but they also help them to develop a group identity, both of which foster the project's staying power (Bonafé-Schmitt and Robert 2001). In fact, the supervisory meetings address issues regarding both the specific mediation cases and how the group functions overall. By virtue of how they function, the

neighbourhood mediator groups are good examples of these new intermediate systems between the state and civil society that define themselves by a new form of common action, i.e. mediation.

By involving residents, those who initiate neighbourhood mediation projects try to create a place of institutionalization and conflict regulation involving a legitimacy that we could describe as 'social'. This legitimacy is based on the ability of neighbourhood residents to recognise such mediation centres as relevant places in which to resolve disputes, thus helping to reconstruct a certain social fabric within these disadvantaged communities.

The creation of community organisations, stripped of all formalism, allows day-to-day conflicts to be resolved under ideal conditions. When it comes to these kinds of disputes, the purpose is to re-establish communication, rebuild social fabric and create new forms of solidarity within the neighbourhood, rather than decide who is right or wrong. These projects are based on the idea that when residents directly exercise these responsibilities, not only does it let them re-appropriate ways of managing conflict but, more importantly, it reinforces the vitality and stability of their relations with their neighbours. This voluntary approach to conflict resolution actually gives parties the chance to resolve their disagreements on the basis of mutual understanding and to shape their future relationships according to their respective interests. This is really more about creating new ways to communicate and learn on a day-to-day basis than it is about managing conflicts.

SCHOOL MEDIATION: AN EDUCATIONAL PROCESS

The conflicts between kids and adults in inner-city neighbourhoods and the difficulties that have arisen in trying to mediate between them are what led the *Boutiques de Droit/AMELY* to develop mediation in schools.³ The project was based on the belief that mediation is an educational process in which people learn how to re-appropriate conflict management and that schools are therefore relevant places for such learning.

Participation in an Area- and School-related Project

For the *Boutiques de Droit/AMELY*, the success of a school mediation project requires both a certain institutionalization on the part of the schools involved and the long-term participation of the students. This is why the schools chosen are located in the same general area, so students can be followed from elementary school through middle school to high school. Within the context of this experiment, the schools were not chosen at random since they were located in districts where neighbourhood mediation projects had already been introduced, such as Vénissieux and Saint Priest.

The choice of these urban districts obeyed a certain logic on the part of AMELY coordinators, who aimed to make the neighbourhood a relevant place for the institutionalization of social mediation, be it through neighbourhood or school mediation. The *Zone d'Éducation Prioritaire (ZEP)*⁴ can represent this relevant place within the school domain, i.e. an intermediate space between the school and the neighbourhood, by helping to rebuild the action between the public and the private and encouraging a new action to emerge between school and neighbourhood actors (Bonafé-Schmitt 2000). In terms of conflict management, mediation is a perfect example of this new form of common action involving both public and private actors (Giraud 1993). Yet it cannot simply be mandated. As we will see below, the development of school mediation is challenged by the opposition of certain teachers and the resistance of students, notably in high school, to resolving conflicts this way (Bonafé-Schmitt 2000).

To establish this project, the ZEP framework seemed to be the most relevant for encouraging the spread of this method of conflict resolution. The project involves the joint training of educational community members and the parents of students enrolled in ZEP schools to prepare as many people-resources as possible to be mobilized based on the type of conflict. Educational community members are trained to create a group dynamic around mediation within the ZEP so that this method of conflict management becomes the common rule. The training also increases the number of adult referents, which in turn encourages the spread of a conflict management model to adolescents who would not otherwise understand why adults would not apply the mediation method to manage their own conflicts. Finally, co-mediation involves parents in the management of conflicts and, more broadly, in the school environment, which should help to bridge the gap between the school and the neighbourhood.

Mediation: A Learning Process

The objective of the mediation project is not simply to respond to the immediate problems confronted by schools, like violence, vandalism, absenteeism etc.; it is not a disciplinary measure. On the contrary, mediation is an alternative to the 'disciplinary model', which is based on the stigmatization and exclusion of a student through the application of a sanction. School mediation programs are developed to promote a new more consensual model of controlling conflicts by using techniques of communication and negotiation. In the first place, the mediation project involves student mediators who are authorized by school officials to have a certain power to manage conflicts. It is actually a non-power, since the role of mediators is limited to helping conflicting parties find a solution to their problem themselves. In the second place, unlike the disciplinary model, mediation is not based on opposing interests and sanctions but on principles like maintaining trust, seeking consensus and compromising. The mediation approach

requires mediators to show some empathy for the conflicting parties and establishes the climate of trust needed for parties to negotiate a solution.

Mediation is thus a part of an educational process aimed at developing the communication and reasoning skills of student mediators, whether in the management of the mediation process or in the search for solutions to conflict. On this last point, mediation techniques help mediators develop critical thinking skills, since they must verbally analyse the conflict, consider the viewpoints of the different parties without taking sides and help them find a solution to their conflict.

Mediation is also a way to teach students accountability for improving relationships, developing new forms of solidarity and promoting a healthier environment in and out of school. A lot of people talk about 'schools of citizenship', but I believe that learning mediation techniques represents a concrete expression of this idea since it helps people resolve conflicts better, not only at school but also in their neighbourhood. The mediation project thus promotes a concrete way to learn citizenship while also helping to rebuild relationships between the school and the neighbourhood.

In this sense, mediation programs can help increase the standing of each person in social roles that are not just tied to schoolwork. This way, they not only reinforce what psychologists call 'self-esteem', but also help students have an easier time at school over the long run.

Awareness Raising and Mediation Training: A Culture of Mediation

Initial evaluations of school mediation projects have shown that mediation is not a part of the dominant culture of today's 'schoolyard' and that its dissemination requires several years of work with one set of students from the same age group (Bonafé-Schmitt and Robert 2002). To encourage the greatest spread of this method of conflict resolution among students, mediation awareness is introduced to as many classes as possible, with the eventual goal of creating a common culture of mediation. Raising student awareness in the classroom is vital for establishing these projects, not only to explain what mediation is but, more importantly, to motivate students to manage their conflicts this way.

Raising awareness is also important as part of the process to legitimise future mediators among all the students in the schools. To reinforce this legitimacy, special care was taken in designating mediators according to several criteria, including age, gender and ethnicity, to ensure they are most representative of the entire student body. Other criteria, like the need to integrate 'good' students with 'problem' ones, were also considered. This last criterion has been the subject of much debate within the schools since the integration of this kind of student forms the cornerstone of the mediation project, which is primarily an educational process. By making mediation an educational process, we wanted to determine whether the integration of such students in the mediation project would lead to a change

in their behaviour and their representation. We started from the hypothesis that school is a place for learning and socialisation, on the one hand, and that mediation helps people learn socialisation, on the other hand.

The training period represents the second key moment in establishing the mediation system since it focuses not only on training mediators but, more importantly, on creating a group of mediators (Bonafé-Schmitt 2000). The fact that the mediators in training came from different classes and grades made it hard to create this group identity. Mediations must take place in pairs, so trainers had the sometimes-difficult task of getting third-grade students to work with sixth-grade students. An eight-hour training session was organized to teach them mediation techniques⁵ including how to manage discussions, with exercises to develop their listening and rephrasing skills, and how to help people find solutions, notably when situations arrive at a 'standstill' due to the intransigence of the parties. Part of the training is devoted to mediation ethics, i.e. asking the mediators to agree to certain rules, like not imposing their own solutions, making sure the mediation proceeds smoothly, maintaining the trust of those involved etc. Eight hours may not sound like a lot, but these training sessions are completed by meetings in which the mediators are supervised and given specific training. The objective is not to turn the students into professional mediators but to help them develop the skills and autonomy needed to regulate conflicts without adult intervention.

SOCIAL MEDIATION: A NEW MODEL OF SOCIAL REGULATION

Not only is mediation a way to communicate and to manage conflicts but it also presents a new model of social regulation, a new mode of action that helps to rebuild relationships between the state and civil society. We share the viewpoint of certain scholars who consider the development of this "new mediation movement" in all domains of social life to be "an instrument of socio-political transformation" (Becker 1986, 110).

Mediation: A New Model of Action

While mediation is often presented as a conflict management technique, it is also more rarely recognised as anticipating a new mode of action involving a new form of rationality, one that is different from the instrumental form that characterises our modern societies. We are talking about a communicative rationality, in the sense intended by Habermas, who thinks the place of law as a medium should be replaced by "procedures for settling conflicts that are appropriate to the structures of action orientated by mutual understanding—discursive processes of will-formation and consensus-oriented procedures of negotiation and decision making" (Habermas, 1987, 408). According to him, the school domain is the ideal place in which to measure

the harmful effects of this tendency to “juridify” social relations because it shows how “the medium of the law comes into collision with the form of educational activity” (Habermas, 1987, 408).

To prevent the medium of the law from colonizing the lifeworld, Habermas believes we should rely on an action oriented towards mutual understanding and that we should establish procedures aimed at consensus, i.e. decision-making procedures that consider the participants as capable of representing their own interests and sorting out their own affairs. Mediation is based on this communicative rationality because its objective is to encourage parties to be more involved in settling their own conflicts and overcoming their disagreements based on a mutual understanding of their needs and interests (Bonafé-Schmitt 1992).

This is why mediation cannot be reduced either to a simple conflict-management technique used by states as a tool of social regulation or to a new actor in the conflict management market; it also represents a new social movement and a new form of common action in which relationships between the state and civil society are rebuilt through the creation of “intermediate places” of social regulation (Laville 1994). Mediation thus presents a new concept of actor and action in the sense that mediators are “meaningful actors” (23) who wish to help build new “intermediate structures” between the state and individuals. The idea is to create new places of socialisation and control, new “existential communities” (White 1994, 46) based on forms of solidarity that involve more of a communicative than an instrumental rationality. We are cautious in our use of the notion of community, especially at a time when traditional communities have been “dislocated, disrupted and disorganized by the consequences of modern rationality” and new ones have appeared, born of “religious fundamentalism, ethnic chauvinism, religions or other non-rational phenomena” (47). However, we hypothesize that the existence of these “existential communities” would allow mediation to produce a new form of common action that would in turn help to create new forms of solidarity and a new common identity.

Without falling into an organicist current, we can argue that mediation could help create these intermediate structures by helping to fight the atomization of our societies, not only in neighbourhoods but also in schools. Mediation could therefore help to create new forms of solidarity in schools, both among students and between them and the educational community. Such a structure would help prevent actors from turning in on themselves or forming sub-groups (isolated from everyone else) and would help the school community rebuild itself through exchanges.

Mediation: A New Model of Social Regulation

Social mediation projects are based on the idea that the “conflicting” model is not appropriate for resolving certain kinds of conflicts, like those for

example in neighbourhood or school disputes between parties in ongoing relationships with one another. In such cases, a “negotiating” or “therapeutic” approach is advised (Silbey and Sarat 1989, 479). Mediation is the only kind of intervention that lets parties build future relationships since it is based on their problems rather than abstract norms.

However, the development of mediation collides with the aforementioned tendency to juridify social relationships, a colonization of the lifeworld, to use again the expression of Habermas, who believes that in certain types of conflicts we should use procedures aimed at consensus, i.e. decision-making procedures requiring the parties to resolve their own conflict. This is why the mediation process represents a special ritual with its own dictates and forms and a new and unique approach to conflict management. While the judicial ritual is marked by a certain formalism and legal rationality, that of mediation would be animated by a more communicative rationality characterised by a new approach to verbalization and time management. The ritual of mediation is an excellent example of the new form of justice we call “comprehensive justice”, since it aims to create the procedural conditions for mutual understanding between the conflicting parties (Bonafé-Schmitt and Robert 2001).

Rather than seeking a “soft consensus”, the consensually based ritual of mediation is more like seeking a “dissent” in order to reach an agreement (Debarbieux 1995, 242). Mediation is thus based on a ‘deconstruction-reconstruction’ kind of logic. In other words, it involves going through a “separation” before “reconstructing” the social relationship (Duval 1993; Hammouche 1998). Mediation rituals all have this in common since the deconstruction phase starts with the mediator allowing the achievement of the separation phase, that is allowing both parties to speak and express their point of view on the conflicts and their expectations—in short, to express their points of dissent.

Mediators are meant to work just as hard on the points of agreement as on those of disagreement, seeking not to minimize such disagreements but rather to live with them and to find a *modus vivendi* (Debarbieux 1995).

A Common Law

By letting parties be more involved in the settling of their own conflicts, not only does mediation help people overcome their disagreements, but it also helps them build new relationships, which in turn reinforce the normative nature of the decisions made. This search for a new consensus based on negotiated rules often helps to mend a torn social fabric, notably in large urban building complexes. In these large complexes, where the community pressure of the past no longer plays a role, negotiation or mediation helps build new places of socialisation and control.

Mediation plays a vital role in rule-making because its solutions rarely follow rules of law in the strict sense. Instead, they often involve equality or even the parties’ imagination, as in noise-related cases in which

simple, sensible rules have helped resolve the conflict. The enactment of such norms in mediation agreements reveals the nature of a law that is negotiated using contracting techniques to rebuild relationships between conflicting parties. We should pay special attention to the results of mediation, since they have shown us how this method of resolving conflicts could be the bearer of a new social norm. The contents of neighbourhood or school mediation agreements highlight the unique nature of this way of settling conflicts, which essentially concerns “symbolic measures” or the adoption of what we have called “rules of behaviour” (Bonafé-Schmitt and Robert 2001, 95).

Under this general category of ‘symbolic measures’ we have grouped *words* like ‘apologizing’ and ‘agreeing to live in peace’, with *gestures* like ‘the handshake’. Rules of behaviour are also inherently quite varied since they concern everyday actions like ‘agreeing to not leave bags of rubbish in the hallway’. Such rules are not an ‘obligation to do or not to do’, to use legal categories, since they are not imposed but rather developed in a joint way between the conflicting parties.

The foundation of such agreements does not rest on an average, legal type of instrumental rationality but rather a communicative rationality that involves categories pulled from the lifeworld. Normatively speaking, these mediation experiences play a key role in the making of rules, since they show how a new social order can be built on the basis of negotiated agreements.

SOCIAL MEDIATION: A COUNTER-CULTURE

The emergence of this alternative model of settling conflicts is not without its challenges. We should therefore avoid placing too much value on the changes taking place today and consider them more as a transformation-adaptation of the current system than as a rupture *per se*.

The Culture of the ‘Power Balance’

In fact, we cannot underestimate the resistances to change, notably because of the omnipotent influence of both the ‘culture of the power balance’, to the detriment of the misunderstood importance of consensus, and the ‘culture of the law’, which opposes that of compromise. While we cannot deny the importance of power balances and violence in social relationships, we should challenge constructions aimed at relating all social relationships to power balances in the last analysis (Boltanski 1990). In light of these ideas, we should revisit notions of compromise and agreement, which are not the product of a logic of conflict but rather the result of a logic of cooperation involving a respect for the mutual interests of the parties engaged in the negotiation process.

This ‘culture of the power balance’ partly explains why less than 50 percent of conflicting parties agree to engage in mediation (Bonafé-Schmitt and Robert 2001, 96). Despite the efforts of mediators, parties reach an agreement only 50 to 70 percent of the time (97). These results reveal a strong resistance to developing a new way to settle conflicts and the need to work on ways of teaching it in school so that it becomes a natural reflex, like reporting a traffic accident. Mediation could thus become the accident report of daily life.

The idea that a model of conflict could evolve into a new, more consensual one has been the subject of bitter criticism by several scholars, who denounce the ‘ideology of harmony’ for failing to account for the inequality of powers, e.g. in American society. They think the ideology of harmony is based on the negation of conflict because its objective is to prevent the expression of conflict rather than its cause (Nader 2000). They argue that supporters of this ideology encourage parties to view judicial procedures as alienating, hostile and excessively costly, while viewing mediation as encouraging of civic and community-driven responsibilities. They reject this view of things, whereby conflicts are transformed into communication problems and legal disputes become relational or affective disagreements. More generally, the ideology of harmony would present a model of society that is based on the belief that all people share the same objectives and values, which would consequently encourage greater pacification of peoples through the expansion of social control.

A Minor Dispute

Taking into account their relatively unique character, social mediation projects in France involving residents represent a marginal phenomenon quantitatively speaking, since at present there are less than fifty neighbourhood mediation projects and less than a hundred school mediation projects by peers in France.⁶ According to the available data, the number of cases addressed by mediation projects—thirty to a hundred a year—remains quite small compared to the total number of recorded cases for the different jurisdictions.

Qualitatively speaking, conflicts overseen by neighbourhood mediators essentially involve problems related to neighbour relations or daily life. The vast majority of problems are related to noise, relational issues, rent or consumption. Without drawing up a typology of conflicts, noise pollution tends to be caused by the running of household appliances, ‘conjugal disputes’, ‘constant parties’ or ‘late-night arguments’, not to mention animal noises (dogs, cocks, etc.). Relational issues usually entail conflicts that can escalate, like insults between neighbours, threats, racist talk or rumours. Tenant-related issues include problems paying rent or other costs and consumption disputes like delivery problems, defects etc.

When it comes to the school environment, the number of conflicts managed by students is about the same (less than fifty per year) and also involve everyday matters like insults, rumours, pushing and shoving etc.

Shallow Roots

Despite the proactive policies of the state and national and local organisations in the field, most of the population still fails to identify mediation as a natural way to resolve conflicts. When conflict arises, the most common reflex is to appeal to the police and the justice system or even avoidance, i.e. refusing to face a problem until the initial disagreement escalates into violent conflict.

This explains why most neighbourhood mediation cases have been handed down by the police, the justice system, social housing landlords, social or municipal services etc. While more and more parties in conflict are referring themselves directly to mediation projects, the aforementioned institutions will continue to play a decisive role in orientating cases for some years to come. Yet nothing is set in stone, since a project like the *Boutiques de Droit*, for example, shows that almost 50 per cent of the cases dealt with by AMELY neighbourhood mediation projects were actually handed down by *the legal experts of these structures within the context of legal advisory services* (Bonafé-Schmitt and Robert 2001). The situation is the same for school mediation, since most cases addressed by student mediators were handed down to them by teachers or school employees.

Its frequent dependence on institutional policy explains why the social mediation movement is so fragile. Sometimes a simple change in the management of an institution (municipal, police, school, etc.) is enough to throw the existence of a mediation project into question. In terms of the school environment, one evaluation showed how the survival of these mediation systems often depends on the abilities of principals and certain teachers to mobilize the necessary resources (Bonafé-Schmitt and Robert 2002). All of this shows how challenging it is to socially root mediation, which resembles a true transplant into the social fabric for the constant effort required to prevent it from being rejected.

Our evaluation of how awareness is raised, how students are trained and how mediation is managed also showed us how hard it is for students to appropriate this new ritual of conflict management. In fact, mediation is not part of the dominant culture of students. It is much more like a counterculture, and this validates our theory about the need to ensure the survival of these systems by starting them in elementary school and following them through middle school to high school. Elementary and middle school students are most successful in appropriating this new ritual, while in high school the experiment has never really worked. By analysing the responses of mediators, as well as those mediated, we can see how difficult it is to manage the mediation process and establish a communicative logic based on mutual understanding. More generally, these differences of appropriation also convey the problems mediators have with legitimacy in the different schools. The fact that it is strongest in elementary school and weakest in

high school shows how mediators' legitimacy is a true social construction that cannot simply be mandated.

CONCLUSIONS

The institutionalization of neighbourhood and school mediation is still in its early stages and remains very fragile since it relies on the involvement of certain personalities. While this situation is not exclusive to social mediation, it reveals the difficulties inherent in establishing projects that are associated more with a counterculture than a dominant culture. Mediation is a complex phenomenon, and we need to take into account the diversity of its projects since they rely on the work of peers and are collectively intended as a new model of social regulation rather than as a response to malfunctions of the judicial or school system. Because this mode of conflict regulation is associated more with a counterculture, due to the omnipotence of the mode of conflict and the tendency to apply a legal meaning to conflicts, we cannot expect social mediation to develop rapidly in the years to come.

Initial evaluations have shown that neighbourhood residents and students struggle to appropriate this new ritual of conflict management. In fact, mediation is not part of the dominant culture of neighbourhoods or schools, and this validates our theory about the need to develop school mediation and ensure the survival of these systems by starting them in elementary school and following them through middle school to high school in order to create a true culture of mediation.

Despite the difficulties, the development of mediation nevertheless conveys how our societies are evolving towards a greater pluralism when it comes to systems of social regulation. This is especially true for social mediation, which challenges state-dependent reflexes by focusing more on building new places of mediation and new intermediate structures between citizens and the state than on establishing new professional agents of social regulation. More broadly, this model of mediation would help to rebuild places of socialisation, thus anticipating new modes of social regulation that would not only convey changes in the distribution and organization of power, but would also represent a re-definition of the relationship between what we call civil society and the state, and more particularly that of the legitimacy of judicial power to settle disputes.

NOTES

1. The first *Boutique de Droit* in Lyon was created in 1980. AMELY (*Association Médiation de Lyon* [Mediation Society of Lyon]) was founded in 1986 on the initiative of the *Boutiques de Droit* to separate mediation activities from legal aid and to avoid confusion between mediators and lawyers. Today, there are nine *Boutiques de Droit* in Greater Lyon that deal with at

- least 6,000 case files a year and 14 neighborhood mediation projects managed by AMELY, who look after some 750 case files. On the history of the *Boutiques de Droit* and AMELY, see Bonafé-Schmitt, Schmutz and Bonafé-Schmitt (1992).
2. Social Taylorism refers to the division of social work among various institutions, such as social security, educational institutions, unemployment offices etc. The term 'Taylorism' comes from Frederick Winslow Taylor, who developed the method of scientific management of labour in the manufacturing industry at the end of the nineteenth century.
 3. This association took concrete form in a research project whose main results were published in Bonafé-Schmitt (2000).
 4. ZEPs group together elementary, middle and high schools that are located in a same area. They are established in disadvantaged inner-city neighbourhoods to help students succeed in their education.
 5. In the United States, student mediation training lasts from eight to twelve hours.
 6. These numbers represent an order of magnitude since there is no way of collecting data on the number and nature of neighbourhoods and school mediation projects.

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