
Exploring the Concept

A flourishing concept of mediation has become a fashionable phenomenon, which is cited in several fields. However, we quite often use the term mediation without properly considering its stakes and foundations. Mediation is not a vague notion; it benefits from a rigorous definition, but it suffers from a sometimes lax use. Generally, mediation can be defined first of all as a way of building and managing social life through an intermediary third party, who is neutral, independent and has no other power than the authority granted to them by the mediated individuals, who will have freely chosen or recognized them (Guillaume-Hofnung 1995).¹

The main goal of mediation is the re-establishment or the establishment of communication. We can say, in the words of Michèle Guillaume-Hofnung, that mediation is basically tripartite in its structure and result (Guillaume-Hofnung 1995).

There are multiple symbolic forms and mediations that allow humans to establish relations with other individuals.

¹ A substantial bibliography divided into basic references and more specific texts will allow readers to find their way in the literature and supplement the sometimes brief information contained in this work.

Any intermediary is a mediator, even if often it is not recognized as such: our body and language are mediators of the world, a habit or speech are mediators, etc. According to the type of mediation, the components will have different shapes, from the singular to the collective and from objects to the virtual dimension, including the human sphere. Contemporary mediation relies on an external third party, otherwise we refer to conciliation. “Mediation is conceived both as the symptom of a societal evolution and as a remedy to its diseases; it is simultaneously a theoretical perspective and a course of action, a way of saying and a way of doing; finally, it refers to both ‘micro’ (relation between an audience and a work, relation between individuals in conflict) and ‘macro’ phenomena (relation between cultural groups or worlds of meaning). We can already see that this topic cannot be understood all at once.” (Servais 2016, p. 9). This argument, put forward by Christine Servais, reflects accurately the current use of the concept of mediation. This concept, which has been employed in Information and Communication Sciences since the 1990s, ranks among the indispensable foundations of this field. For Jean Caune, mediation is an essential concept that makes it possible to describe and understand the relations among humans and the relations between humans and the groups that they create (Thonon 2003).

1.1. A conceptual approach

We have deliberately chosen a conceptual approach, ruling out in particular a diachronic approach that would juxtapose topics to be researched and their related theoretical frameworks.

Concepts are useful tools for building theories or models and constitute a way of offering a scientific overview of the field. We distinguish between topics to be researched and concepts, as the former pivot on practices, phenomena and

human or social products, whereas concepts combine, intensify and can be reused to understand these different topics.

Concepts allow us to describe and understand the topics of our research and the phenomena that characterize them. A concept is an abstract and general idea (Cuvillier 1967). André Comte-Sponville claims that a notion is generally vaguer or broader, whereas a concept is narrower or more precise. A notion can only be understood in context, while a concept is somewhat autonomous; it is understood in a theoretical context, but it can be abstracted and show a form of self-sufficiency (Comte-Sponville 2001). While a notion concerns common ways of thinking, a concept has to do with a specific science or school of thought. Certainly, there are different levels at which the idea of a concept can be grasped. Naming facts and phenomena already constitute a conceptual vision that defines terms, which correspond to the typifications mentioned by Berger and Luckmann (1966).² However, beyond naming, we can explain, understand and abstract, and it is on this level that we should grasp the idea of a concept such as it is employed in this work. In relation to the concept of mediation, we will have to mention, sometimes rapidly, a certain number of elements that allow us to specify the way in which it is understood (among other things, the idea of third party, relation, subject, institution, organization, device, time in mediation, etc.). The references employed in this work will enable the readers themselves to delve deeper into those elements that according to them have been addressed too cursorily.

² When we refer to old publications, we provide in the text and as far as possible the date of the original edition; in the bibliography, we specify the date of the edition consulted.

1.2. The origins

We may think that mediation has existed since the dawn of time in those cases where third parties have intervened to solve conflicts. However, this type of mediation differs from the kind that we have usually referred to since the end of the 20th Century.

If we consider age-old traditions, we can see that mediation is deeply rooted in Arab, Chinese and African cultures (think of the palaver tree).

In astrology, mediation is the culmination of a celestial body; in music, it is the pause in the middle of a plainchant verse, and, in geometry, the mediator is the set of points that are equidistant from the two endpoints of a segment or, in other words, the perpendicular at the center of this segment.

Observing bonobos or chimpanzees, whose behaviors are thought to be similar to those of the first humans, reveals that frequently there are conciliators, often an old female or an old male not involved in power politics (de Waal 1989).

We can identify the skeleton of mediation in the culture of Ancient Greece, with the philosophical current that started with Plato (428–348 BC). Maieutics aims to allow an individual to express the knowledge inside him and therefore to think and act. According to Plato's words in the fourth book of the *Republic*, the goal of this practice is to develop personal responsibility by mastering one's passions (Plato 1578). The rhetoricians' teaching is opposed to the sophists', who are mostly interested in the effectiveness of communication techniques with the aim of applying them in trials. The perspective adopted by Platonist philosophers involves helping and accompanying an individual in his introspection, whereas sophists employ these techniques to lead an audience to adopt their point of view by using language often in a manipulative manner.

If mediation first meant division, in the 16th Century the word started to mean intercession bound to reconcile individuals and parties, first in a religious context in a relation between Man and God (1541) and later in a legal and diplomatic context (1878).

The figure of the mediator first appeared in French in Christian theology. According to St Augustine, the divide between Platonism and Christianity involved religious mediation. Like St Paul, St Augustine claimed that the only mediator between God and men is Christ, who is the life mediator opposed to the Devil, i.e. the death mediator (Huisman 2009). The Virgin Mary was called the mediatrix in order to highlight the role she plays in the mystery of Redemption. Then, the word mediator took on the more general meaning of an “individual who intervenes to help people come to an agreement” (1355), especially in international law (1437). Since World War Two, the American government has encouraged the intervention of mediators/conciliators in labor disputes to ward off social instability. In France, the law that institutes a mediator, inspired by the Scandinavian ombudsman, has contributed to the modern meaning of the word since 1973.

The theory of mediation or clinical anthropology, established by Jean Gagnepain, is an analysis model in the humanities. According to this theory, the problems that can be found in language do not always constitute linguistic problems: the human dimension observed from a pathological perspective reveals that the cause is not related to the effects that it produces (Gagnepain 1994).

According to Jacqueline Morineau, the mediation process is not a recent idea, but a very old practice that is emerging in a new shape to meet the actual needs of the modern world. This author draws a parallel between mediation and Greek tragedy, which appeared at a crucial moment in Greek history when two “universes” were meeting, one based on the

respect of the power of superior forces, the gods, and the other, newer, founded on the supremacy of law, man and reason (Morineau 1999). The concept was then shaped by linguistics and, according to Jean Caune, it was because of the philosophy of language that the notion could be established in full and in its heuristic dimension (Caune 1999).

1.3. Professional mediation

Among the first authors who formulated a theory of mediation, Jean-François Six put forward the following meaning: “There are four types of mediation: the first two are bound to create or re-establish a link, whereas the other two are bound to avoid a conflict” (Six 1990, p. 164). “Creative mediation” aims to produce new connections among individuals or groups; “renewing mediation” reactivates connections that have been stretched thin; “preventive mediation” avoids the outbreak of a conflict; “remedial mediation” helps the warring parties find a solution. Six’s classification is functional.

Michèle Guillaume-Hofnung reduces the model to two categories: mediations outside any kind of conflict and conflictual mediations, which she also calls “mediations of differences” and “mediations of disagreement”. The mediation of differences takes place every day, often without our knowledge, and it involves the mediation of a third element, whether an object, individual or language. The mediation of differences becomes more apparent when it is lacking than when it is working properly, and it requires a planned, sustained, daily and unobtrusive action. The mediation of disagreements concerns the conflictual sphere since its goal is preventive or restorative. We should not disregard the extreme case of urgent mediation, when partners are in danger or blocked, and unable to ask for mediation.

Michèle Guillaume-Hofnung globally defines mediation as “a process of ethical communication based on the responsibility and autonomy of those involved in which a third party – impartial, independent, neutral, whose authority is limited to that granted by the mediated parties – favors through private discussions the establishment or re-establishment of the social connection, and the prevention or settlement of the situation in question” (Guillaume-Hofnung 1995, p. 70).

Mediation is tripartite, and it cannot exist without the third element. We distinguish between two trends: the case in which a third party intervenes to bring out individual responsibility and the commitment to a certain neutrality in conflictual situations, and the case in which a third party replaces the individuals, imposes a decision, but at the same time strips them of their responsibility.

Several authors associate a medial type of approach with mediation itself by citing the different ways of dispensing justice, i.e. that of St Louis and that of Solomon. However, if justice like mediation is tripartite because of the judge who is extraneous to the case, it may seem binary in its result, as ultimately the goal of justice is to decide. Mediation orchestrates the desire of each party to reach a satisfactory agreement in relation to a previous agreement (tacit or signed), which may have been contested. Therefore, mediation makes it possible to find or rediscover some common ground; it affects then the quality of communication and consequently of the interpersonal relation.

The French Professional Chamber of Mediation and Negotiation (PCMN)³ defines mediation as a rigorous

3 Professional Chamber of Mediation and Negotiation (PCMN) (www.cpmn.info) (all the links mentioned in this book were verified on March 5, 2018).

discipline in its own right, which is characterized by a structured process, identifying this way of solving conflicts as the only one that can maintain relational and contractual freedom beyond conflictual contingencies. The works carried out by this body have identified four schools of thought that drive mediation: the spiritualist current, which is related to the concepts of good and evil and the attempt of which to find a solution is underpinned by the idea of forgiveness; the legal current, which is related to the concept of rights and duties and the attempt of which to find a solution is based on compensation; the psychological current, characterized by a pathological way of conceiving the individual and an attempt to find solutions that is marked by counseling; and the professional mediation current, which involves learning new behaviors in the face of a change. According to the professional mediators of the PCMN, it is the fourth stance that enables the development of the structured process of mediation as a discipline that can deal with situations of indecision, change and conflict in which they are called on to intervene (PCMN).

Mediation represents a way of supporting and helping the decision-making process, which can be applied to the settlement of conflicts. Professional mediators develop a structured process applied in every field and line of business. “WikiMediation” provides all the information about this discipline.⁴

The definition of this activity varies depending on the application context. The debate on the definition of mediation and its goals is driven by the influence of the trends usually involved in the field of conflicts and interpersonal quality of life: religion, law, psychology and philosophy. Nevertheless, there are constants every time a third-party intervenes by trying to facilitate a relation or

⁴ www.wikimeditation.org.

make a situation easier to understand. This is how elements concerning relational quality and pedagogy can be found in mediation practices. Made especially popular in terms of conflict resolution, mediation can be conceived in different ways in relation to the individual. It is in this aspect that it differs from conciliation, with which it is sometimes conflated. Professional mediators, therefore, dissociate mediation from arbitration and conciliation by showing that the last two practices involve the intervention of a third party who imposes or suggests a solution by referring to a moral code or the law.

1.4. Mediation and peace

Mediation performs a fundamental function that involves the re-establishment of communication. Conflict is not part of the global definition of mediation which, however, does not exclude conflict settlement, as Michèle Guillaume-Hofnung claims. The tripartite nature of mediation sets it apart from negotiation and conciliation, which may do without a third party. There are never direct mediations, as the etymology itself prohibits the removal of the third party. In a situation of conflict, which is an integral part of human relationships, accommodation involves dialog and negotiation. International conflicts fall within the remit of international law.

Peace has long been reduced to a defense issue and regarded as the focus of defense and strategy studies. However, step by step mediation has become closely related to the cultural sphere of peace, and it occupies an increasingly more important role in the management of conflicts, as peace negotiations are by now extremely complex (let us mention the conflicts across the Middle East) (Greminger 2007).

Spinoza (1632–1677) defined peace in positive terms: it is not the absence of war, but a virtue, a state of mind, goodwill and a commitment to trust and justice (Spinoza 1677).

According to Jean-Jacques Rousseau (1712–1778), the state of nature is an initial state of peace; it is society that creates the state of war, which only ends in domination. In *The Social Contract* (Rousseau 1762), the author's goal is to find a type of association that can defend and protect an individual and the goods of each partner from all the common power, and through which everyone, despite joining everyone else, follows only his own orders and remains as free as he was before. What Rousseau suggests is an association pact rather than a submission pact. In this sense, Rousseau is in line with Locke (1632–1704), for whom a voluntary contract is the only legitimate foundation of power if war is to be avoided (Locke 1689). This way of conceiving the contract brings about two perspectives based on consensus, one founded on popular sovereignty, which involves every individual's submission, and the other on the associative contract, which does not subjugate individual freedom, which is seen as inalienable. From 1858, the term consensus has spread in the sense of agreement, based on the sociological work carried out by Auguste Comte (1798–1857) and then Émile Durkheim (1858–1917) in relation to the integration and interpretation of all the aspects of social reality in social consensus (Rey 1998). Therefore, every type of society is naturally based on consensus, even if its ambivalence should not be ignored (Durkheim 1895).

As a historical point of reference, the Act of Mediation constitutes a fundamental episode in Switzerland's political life. In July 1802, Napoleon's French troops retreated from Switzerland, a country in an economic slump. The First Consul imposed his decision and on the 30th of Pluviose of the year XI (February 19, 1803), he passed the Act of Mediation. This Act of Mediation marked the birth of subject

lands that became cantons and a new organization of the Helvetic Confederation, which included then a federal formation and 19 cantons, each with its own cantonal organization. This act granted the Confederation 10 years of peace (Grandjean and Jeanrenaud 1965).

Since the end of the Cold War, most armed conflicts have ended with peace negotiations that involved the mediation of a third party. While in the past we referred to the “services” of an independent mediator, now we speak of facilitation and mediation. Voluntarily chosen by the warring parties, a facilitator supports, smoothens and encourages the interactions among the warring parties without becoming involved in the very situation that needs negotiating. A mediator is authorized by the warring parties and helps them find some middle ground as well as some solutions based on the facts.

Mediation and facilitation are used in peace processes. Generally speaking, a peace process involves three steps: pre-negotiation, negotiation and implementation. Each of these phases can take several years, and other approaches can support mediation and facilitation, such as sanctions, arbitration, and civil or military operations aimed at restoring and supporting the consolidation of peace.

Peace negotiations are complex processes, managed by a highly qualified mediator who relies on experts in state structures, constitutional law or disarmament, or individuals able to deal with history. The main actors involved in mediations are organizations, such as the United Nations (UN), the European Union and the African Union, countries, such as the United States, Switzerland, and Norway, or non-governmental organizations (NGOs), etc. Mediation is an answer to the increasing complexity of the world.

Even if conflicts are part of life, they do not necessarily degenerate into violence. Several social dimensions are

developing mediation as a practice where individuals themselves handle conflicts.

Mediation has its specific elements and constant characteristics, which we are going to examine.