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ORIGINAL

Aims or purposes of school mediation in Spain

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ABSTRACT
Mediation continues to expand, both geographically and in terms of scope. Depending on its purpose, there are three main consolidated mediation models or schools worldwide: the Traditional-Linear Harvard model, which seeks to find an agreement between the parties; the Circular-Narrative model, which apart from the agreement also emphasizes communicational aspects; and the Transformational model, more focused on relational aspects between the parties than in the adoption of agreements. The aim of this study is to determine which is the goal or purpose of mediation, confining it to the school environment and to the Spanish context. A brief comparative study is presented to this end, in which the comparative units are all the *Comunidades Autónomas* [Autonomous Regions] that make up the Spanish territory (n = 17) and the variable compared is the aim or purpose of mediation in schools as established by all the regional rules on school life (n = 17) with the force of a decree.

KEYWORDS: EDUCATION, CONFLICT RESOLUTION, EDUCATIONAL ENVIRONMENT, PEER MEDIATION, COMPARATIVE EDUCATION

1 INTRODUCTION

Ever since its resurgence in the mid-20th century, mediation has continued to expand. It has extended geographically, reaching more and more countries and communities. It has also broadened its scope, and it currently covers almost all areas of human interrelations: families, schools, organizations, businesses, justice, politics, institutions, consumption, health, intercultural and international relations, communities... (Grover, 1996; Six, 1997; Martínez de Murguía, 1999; Fernández, Echeita Sarrionandia, Martín, Del Barrio Martínez, & Andrés, 2003; San Martín, 2003; Cánovas & Sahuquillo, 2007). Several reasons justify this quick expansion of mediation, of course, but three of them stand out from the rest: First of all, the good results obtained through mediating processes in other fields. Secondly, mediation has been able to attract the attention both of professionals from various fields (lawyers, politicians, psychologists, judges, pedagogues, educators, etc.), and of unschooled people. And, thirdly, its enormous educational potential to contribute to the full development of individuals and its understanding of human relationships from a perspective of equality, which ultimately turns it into a way of understanding the world – i.e. into a true form of culture. In this sense, mediation could become a driving force for social change, as a number of authors have already pointed out (Six, 1997; Corbo, 1999; Boqué, 2003; Munné & Mac-Cragh, 2006; Redorta, 2007; Suares, 2008; García-Raga, Martínez-Usarralde, & Sahuquillo, 2012).

In our opinion, which coincides with that of Suares (2008), different ways to settle disputes have been created and used throughout the history of humankind according to the values and beliefs that prevailed during each specific period. Additionally, that mediation is born -or reborn- together with a more egalitarian conception of the human being worldwide, despite all the work that still remains to be done (Suares, 2008). Relationships have been changing in every kind of interrelation (at the family household, at school...); instead of being essentially vertical, now they work in a more horizontal plane. Consequently, new forms of conflict management, more in line with that equity and that horizontal structure, are deemed necessary. Therefore, unlike what happens in purely adversarial forms of conflict resolution such as trials, where one side wins and the other one loses (inequality) and it is up to the judge to settle the conflict from a hierarchical position (verticality), the parties in mediation are co-protagonists of their conflicts ("empowerment" works towards equality and power balance) and there is no such thing as a loser. Both parties win and take responsibility for their agreements (thus working in a horizontal plane) (Torrego, 2003; Calcaterra, 2006).

But what is the aim or purpose of mediation? This question can only be answered through the knowledge of the different existing meditation models or schools. There are currently three consolidated models or approaches which stem from three distinct lines of thought (Boqué, 2003; Munné & Mac-Cragh, 2006; Calcaterra, 2006; Veiga, 2009):

1.1 The traditional-linear Harvard model

This model is followed at Harvard's well-known business school –hence its name– and Roger Fisher and William Ury are its most outstanding representatives. It consequently comes from the fields of law and economics, and its main aim is to reach an agreement between the parties. This model is based on the linear causality of conflict (there is a cause for that conflict, namely: disagreement) and it pays attention to communication in its verbal dimension and understood in a linear way, but not to the

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relational aspects between the parties (Ury, 1997; Fisher & Ertel, 2004; Bercoff, 2007; Fisher, Ury, & Patton, 2011).

1.2 Sara Cobb's circular-narrative model

Its most important representatives are Sara Cobb and her disciples, with Marinés Suarnes standing out among them. This model focuses on communication, both in its verbal aspects (digital communication) and non-verbal aspects (analogue communication). Unlike the previous model, this one is based on a circular causality as it considers that there is not a single cause leading to a certain result, but rather a feedback loop underlying a circular causality. It draws on theories and techniques from other areas of social sciences such as Bateson and Watzlawick's communication theory, the systemic family therapy, cybernetics and Heinz von Foerster and Humberto Maturana's theory of the observer, Kenneth Gergen's social constructionism or Michael White's narrative conceptualizing. This model seeks to change the story that the parties bring with them to the conflict by building an alternative story, and to reach an agreement as well. Therefore, it pays attention both to relationships and to agreements (Suares, 2008).

1.3 Bush and Folger's transformative model

The most relevant figures behind this model are Robert A. Baruch Bush and Joseph Folger, together with John Paul Lederach in the Mennonite context. This approach draws on psychology's humanist theory and on critical and social transformation approaches from the field of education, and focuses on the relational aspects rather than on the adoption of resolutions. It works mostly on achieving empowerment, understood as the recognition by the parties of their role as conflict protagonists. This will allow them to act in the mediation process, to recognise the other party as a co-protagonist in the conflict and to take responsibility for their actions. This approach is based on the new communication models and fully recognises circular causality. It could be described as the opposite model to the traditional-linear model, as it does not focus on the agreement but rather on the relationships (Bush & Folger, 1996; Lederach, 2000).

Therefore, the different schools seek different aims. In the case of the traditional-linear model, the focus is on reaching an agreement; in the case of the circular-narrative mode, in addition to reaching an agreement, communication between the parties is an essential concern too; in the case of the transformative model, the object of mediation is not only the adoption of an agreement but also the relationship between the parties, since it tries to make them recognise the other party as having an equal role in the conflict and, at the same time, encourages them to take responsibility for their actions.

Rather than having to choose one model or a mixture of them, it is more interesting to see how different models may be appropriate in different areas or for different types of conflicts. For example, the traditional-linear model is suitable for mediation in the business world, the circular-narrative model is mainly used in family conflicts, and the transformative model is the one that interests us most of all in education. In our view, mediation training as well as the use of mediation processes to resolve or transform school conflicts cannot be confined to achieving an agreement between the parties. Its purpose must go beyond obtaining an agreement as it must also work on improving communication between the parties and on preventing a deterioration of the relations between them. From its origins, mediation in the field of education has come from two different orientations: the movement for peace and justice and, in the field of academic educational psychology, the concept of cooperative learning (Van Slyck & Stern, 1996; Alzate, 1999; Halligan & Araiz, 1999; Johnson & Johnson, 1999; Viana, 2012).

For us, school mediation performs a social function in the short, medium and long term. Its short-term role is to contribute to the resolution of a particular conflict, the medium-term function is related to its contribution to the acquisition and development of basic skills (BSs) by students (Viana, 2010); and, in the long run, mediation can be an engine of social change as suggested above.

However, which is the aim of school mediation in Spain according to its regulations? The objective of our work is thus getting to know which is the aim or purpose of school mediation in Spain, as established by the different regional rules regulating school life, and to consider how close it is to any of the consolidated mediation models or schools described above.

2 MATERIALS AND METHODOLOGY

The methodology used in this study takes the comparative method with a deductive nature as a starting point which, based on the model presented by G. F. Bereday and F. Hilker, then incorporated input from García Garrido, Ferrer or Martínez, amongst others (García-Garrido, 1990; Ferrer, 2002; Martínez, 2003). Therefore, the main phases of our comparative study are: description, juxtaposition and comparison.

Our study draws a comparison between the Autonomous Regions (hereinafter, ARs) that make up the Spanish territory (n=17) and the variable compared was the aim or purpose of school mediation as established by their different current regional regulations.

The information sources used were all the regional laws with the force of a decree (n=17) directly related to coexistence in Spanish schools which were in force at the time. These rules were approved between 1995 and 2011 and published in the corresponding official gazettes of each AR.

3 RESULTS AND DISCUSSION

3.1 Descriptive phase

Once the education competences had been transferred from the Spanish central government to ARs, the latter started developing a normative framework to regulate school coexistence in their respective territories. Although in some cases school coexistence is also reflected in regulations with the force of a law, all regions have adopted decrees to regulate that area. In turn, these decrees are sometimes developed and completed with other low-level regulations such as orders and resolutions. The focus in this study will only be placed on regional rules with the force of a decree.

Studying the regional decrees that regulate school life in Spain with regard to the aim or purpose of school mediation allowed us to obtain the following results for each region which are presented below.

3.1.1. Andalusia

School life in this AR is regulated by Decree 19/2007, of 23 January, by which measures are adopted to stimulate the culture of peace and the improvement of coexistence in educational centres supported by public funds, with a specific and decisive

inclusion and regulation of school mediation. However, it is quite noticeable that a definition of school mediation is not provided by the Decree and neither does it specify which the aim or purpose of mediation should be.

3.1.2. Aragon

In this case, the aim or purpose of school mediation is provided in the actual definition of mediation within Decree 73/2011, of 22 March, which establishes the Charter of Rights and Duties of education community members and the guidelines on school coexistence at non-university educational centres. Thus, it states that "School Mediation is a form of conflict resolution which helps parties come to a satisfactory agreement by themselves through the impartial intervention of a third person" (Art. 49.1).

3.1.3. Asturias

School coexistence in this AR is regulated by Decree 249/2007, of 26 September, which lays down students' rights and duties and the coexistence rules of publicly funded non-university educational centres. This regulation expresses a clear commitment to mediation as an educational process to resolve certain coexistence conflicts and also includes its goal or purpose in the definition of mediation. It states that "school mediation is a form of conflict resolution through the intervention of a third person, specially trained and impartial, in order to assist the parties in order to reach a satisfactory agreement on their own" (Art. 29.1).

3.1.4. Balearic Islands

This AR is also committed to school mediation and regulates it in detail in Decree 121/2010, of 10 December, which establishes students' rights and duties as well as the coexistence rules for publicly funded non-university educational centres. Its aim or purpose is also included in a definition which establishes that "School mediation is a strategy of conflict resolution through the intervention of a third person, impartial and with specific training, in order to help the parties achieve a satisfactory agreement by themselves" (Art. 34.1).

3.1.5. Canary Islands

This AR is also clearly committed to mediation in schools and establishes it in detail in Decree 114/2011, of 11 May, which regulates coexistence in the education system of the Canaries. This regulation specifically defines it as follows: "Mediation: a conflict-management procedure. It is based on dialogue at a voluntary meeting between the parties and the mediator, who is not involved in the conflict and, acting in an impartial manner, helps them communicate. The aim is finding and deciding how to solve the problem that kept them in conflict in joint agreement between the parties. The agreement reached must be satisfactory to both parties" (Art. 2.g). Therefore, the goal of mediation is to reach an agreement between the parties.

3.1.6. Cantabria

Decree 53/2009, of 25 June, on the regulation of school life as well as the rights and duties of the educational community in this AR, fixes a coexistence model where mediation plays an important role in school conflict management. Its aim or purpose is included within the definition and establishes that "School mediation is a conflict resolution method through the intervention of one or more impartial persons, called mediators, who help the parties obtain a satisfactory agreement on their own and contribute to students' personal and social development, and to the acquisition, development, consolidation and enhancement of basic competences, especially the social and civic competence, the personal autonomy and initiative competence, and the linguistic communicative competence" (Art. 40.1).

As can be seen, this AR includes within the aim of mediation not just reaching an agreement between the parties but also its contribution to the acquisition, development and enhancement of basic competences. In our opinion, this must be the medium-term task of school mediation.

3.1.7. Castile-La Mancha

Decree 3/2008, of January 8, which regulates school coexistence in this AR, promotes the autonomy of schools together with the involvement of the educational community in the development of school coexistence regulations and on the development of preventive actions. Mediation is included among them as a dispute resolution system, and it is regulated in detail. It contemplates the practice of school mediation as a way to expedite the resolution of conflicts through consensus and negotiation and as a tool for personal growth (Art. 2.e). Its aim or purpose is included within the definition: "School mediation is a conflict resolution method in which, through the impartial intervention of a third person, the parties receive help to reach a satisfactory agreement by themselves" (Art. 8.1).

3.1.8. Castile and Leon

This AR incorporates mediation into its school coexistence regulations as a voluntary corrective measure for conflict resolution among peers and specifically regulates not only mediation but also the re-educative agreement processes in Decree 51/2007, of 17 May. The Decree lays down students' rights and duties and the participation and commitment of families in the educational process, and also establishes the rules for coexistence and discipline in educational centres. This regulation mentions two types of actions to correct behaviour against coexistence: immediate actions and subsequent actions, among which mediation is included.

First of all, this Decree provides a definition: "Mediation is a way to address conflicts between two or more people with the help of a third person, called a mediator" (Art. 42.1). After this definition, the decree clarifies that "The main goal of mediation is to analyse the needs of the conflicting parties, by regulating the communication process in search of a satisfactory solution for everyone" (Art. 42.2), and that "its purpose is to reconcile people and, if necessary, to repair the damage caused" (Art. 43.b).

It is worth highlighting how the regulation specifically defines an aim for school mediation. At the same time, this aim refers to seeking a solution, but also to the way in which mediation "analyses needs" and "regulates the communication process", which brings it closer to the circular-narrative and transformative models. Along these lines, it explicitly states that the purpose of mediation is reconciliation between people and, if necessary, to repair the damaged caused.

Table 1. Juxtaposition of all ARs

Comparative units	Specifies aim or purpose	Aim or purpose
ANDALUSIA	No	-
ARAGON	Included in the definition	"School mediation is a form of conflict resolution which helps parties reach a satisfactory agreement by themselves through the impartial intervention of a third person"
ASTURIAS	Included in the definition	"School mediation is a form of conflict resolution through the intervention of a third person, specially trained and impartial, in order to assist the parties to obtain for themselves a satisfactory agreement"
BALEARIC ISLANDS	Included in the definition	"School mediation is a strategy of conflict resolution through the intervention of a third party, impartial and with specific training, in order to help the parties obtain by themselves a satisfactory agreement"
CANARY ISLANDS	Yes	"The aim is finding and deciding how to solve the problem that kept them in conflict in joint agreement between the parties. The agreement reached must be satisfactory to both parties"
CANTABRIA	Included in the definition	"School mediation is a conflict resolution method through the intervention of one or more impartial persons, called mediators, in order to help them obtain for themselves a satisfactory agreement and to contribute to the personal and social development of the students, and the development, acquisition, consolidation and enhancement of basic competences, especially the social and civic competence, the personal autonomy and initiative competence, and the linguistic communicative competence"
CASTILE-LA MANCHA	Included in the definition	"School mediation is a method of conflict resolution in which, through the impartial intervention of third person, the parties get help to reach a satisfactory agreement by themselves"
CASTILE AND LEON	Yes	- "The main goal of mediation is to analyse the needs of the conflicting parties, by regulating the communication process in search of a satisfactory solution for all" - "its purpose is to reconcile people and, if necessary, to repair the damage caused."
CATALONIA	Included in the definition	"School mediation is a method of school conflict resolution through the intervention of a third person, specially trained and impartial, in order to help the parties reach by themselves a satisfactory agreement "
VALENCIAN COMM.	Included in the definition	"Mediation is a conflict resolution process that promotes democratic participation in the learning process, allowing an assumed and developed resolution to the conflict with the commitment of the parties"
EXTREMADURA	Yes	"The main interest of mediation goes beyond the practical aspects of the agreement. The aim, in addition to reaching agreements, is to guide the relations so that the parties can express and articulate their needs and interests in a framework of mutual recognition and solution seeking."
GALICIA	-	(mediation is not regulated)
LA RIOJA	-	(mediation is not regulated)
MADRID	-	(mediation is not regulated)
MURCIA	-	(mediation is not regulated)
NAVARRA	Included in the definition	"School mediation is a conflict resolution method in which a person intervenes between two or more parties in conflict in order to help them find an agreement that is satisfactory to all parties"
BASQUE COUNTRY	-	(mediation is not regulated)

3.1.9. Catalonia

Decree 279/2006, of 4 July, on students' rights and duties and the regulation of coexistence in non-university educational centres of this AR regulates school mediation in detail. Its aim or purpose is actually made explicit in the definition of mediation: "School mediation is a school conflict resolution method that includes the intervention of a third person, specially trained and impartial, in order to help the parties reach by themselves a satisfactory agreement" (Art. 23).

3.1.10. Valencian Region

Decree 39/2008, of April 4, on coexistence in publicly funded non-university educational centres and on the rights and responsibilities of students, parents, guardians, teachers and administrative staff, briefly regulates school mediation including its goal in the definition. Thus, it establishes that "Mediation is a conflict resolution process that promotes democratic participation in the learning process, allowing an assumed and developed resolution to the conflict with the commitment of the parties" (Art. 7.1). As can be seen in the definition, in addition to conflict resolution, there is a reference to how mediation "promotes democratic participation," which highlights certain aspects of mediation which are not strictly related to the adoption of an agreement.

3.1.11. Extremadura

In this AR, Decree 50/2007, of 20 March, which establishes students' rights and duties along with the coexistence rules in educational centres states that "The main interest of mediation goes beyond the practical aspects of the agreement. The aim, in addition to reaching agreements, is to guide the relations so that the parties can express and articulate their needs and interests within a framework of mutual recognition and solution seeking" (Preamble). Therefore, the goal is not just to reach an agreement,

as there is also a reference to communication and relationship issues.

3.1.12.Galicia

This AR chose to normalise school life using a regulation with the force of law such as Law 4/2011, of June 30, on the coexistence and participation of the educational community, and there is still no implementing decree approved to develop it. At the same time, it applies Royal Decree 732/1995, of May 5, on students' rights and duties and the coexistence regulations for educational centres -issued by the Ministry- in everything that does not contradict the provisions contained in Law 4/2011. In any case, none of these rules regulates school mediation.

3.1.13.La Rioja

Decree 4/2009, of September 8, which lays down the procedure to prepare and approve the Coexistence Plan for non-university educational centres in this AR, does not regulate school mediation even though it refers to mediation on several occasions. There is, however, no reference whatsoever to which the aim or purpose of mediation should be.

3.1.14.Madrid

Decree 15/2007, of 19 April, which establishes the regulatory framework for coexistence in the educational centres of this AR, does not regulate school mediation or mention it explicitly. This lack of regulation is surprising, as Madrid was one of the pioneering ARs implementing school mediation programs, together with the Basque Country and Catalonia (Alzate, 1999; Torrego, 2003; Llibre Blanc de la Mediació en Catalunya, 2010).

3.1.15.Murcia

In Decree 115/2005, of 21 October, which lays down the coexistence rules for publicly funded educational centres in this AR, there is no explicit mention to school mediation and, consequently, to its aim or purpose.

3.1.16.Navarre

In this AR, Foral Decree 47/2010, of 23 August, on students' rights and duties and the coexistence in public and state-assisted private non-university educational centres does regulate mediation in detail and includes its aim or purpose in the definition. Thus, it establishes that "School mediation is a conflict resolution method in which a person intervenes between two or more parties in conflict in order to help them find an agreement that is satisfactory to all parties" (Art. 8.2).

3.1.17.Basque Country

Decree 201/2008, of December 2, on students' rights and duties in non-university educational centres contains no express references to school mediation. The same as in the case of Madrid, this lack of regulation is striking, since the Basque Country was precisely the first AR to implement a school mediation programme in Spain. (Uranga, n.d.).

3.2 Juxtaposition phase and juxtaposition conclusions

3.2.1. Juxtaposition phase

Table 1 shows us all of the ARs juxtaposed (n = 17); whether each of them specifies or not which the aim or purpose of school mediation should be; and finally, if applicable, which that aim or purpose is.

3.2.2. Juxtaposition conclusions

Our analysis shows that 29.41% of ARs (*n*=5) do not regulate school mediation in their coexistence rules and, therefore, do not establish which its goal or purpose should be. These ARs are: Galicia, La Rioja, Madrid, Murcia and the Basque Country.

Among the remaining 70.59% (*n*= 12), i.e. those ARs which do regulate school mediation in their regional regulations on school life:

- 5.88% (*n*=1) do not specify the aim or purpose of school mediation. This is the case of Andalusia.
- 41.18% (*n*= 7) consider that the aim of mediation is to allow the parties involved to reach a satisfactory agreement by themselves. These ARs are: Aragon, Asturias, Balearic Islands, Canary Islands, Castile-La Mancha, Catalonia and Navarre.
- For 23.53% (*n*=4) of ARs, the aim of mediation goes beyond the adoption of agreements, since other aspects associated with communication and personal relationships are stressed as well. This group of ARs includes: Cantabria, Castile and Leon, Valencian Region and Extremadura. The case of Cantabria deserves a special mention, as it is interesting to see that this AR includes among the aims of school mediation its contribution to the development of basic competences. As explained above, this view is fully shared by us.

4 CONCLUSIONS

Firstly, it may be concluded that school mediation is expanding in Spain, where 70.59% (*n*=12) of ARs specifically regulate it in their school coexistence rules. Only 29.41% (*n*=5) of ARs still do not support it in their regulations. This last detail becomes particularly significant, as two of the three pioneering ARs in the implementation of school mediation programs in Spain are to be found in this group. Such was the case of the Basque Country, Catalonia and Madrid in 1993, 1996 and 1997, respectively. Of these, only Catalonia supports mediation in its legislation.

Secondly, 41.18% (*n*=7) of ARs bring school mediation closer to the traditional-linear Harvard model as they establish that its only aim is reaching a satisfactory agreement for both parties.

Thirdly, only 23.53% (*n*=4) of ARs acknowledge that the aim of school mediation must go beyond reaching an agreement between the parties and also stress aspects linked to communication and personal relationships, which brings mediation closer to the circular-narrative and transformative models.

There is a clear need to keep expanding the aims of school mediation beyond the adoption of agreements, since the involvement in a mediation process entails a series of vital and significant learning experiences related to the development of personal and social competences, which are essential to the

formation of active and responsible citizens, regardless of whether an agreement is reached or not for a specific conflict. If this is a common idea in mediation in any field, it becomes even more meaningful in the case of school mediation because the users of these services are mostly children and young adults undergoing a process of personal and social development.

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