

On Mediation as a Form of Psychosocial Intervention

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Purpose of this paper is to give a brief overview on the topic of psychosocial interventions in Austria in the context of the public mental health services provided by the welfare state, outlining the current state of affairs of the field. Which is the current mindset and political climate, in the course of which the public services are extended onto interventions into social affairs on the border of public and private domains? What is mediation in general and how are interventions promoted, implemented and regulated? Which are the main agencies vested with the public trust to carry out mediating operations? How do educational, judiciary and other institutions interact, and which is the shared vision under which the collaboration comes about?

Mediation as a service and as a profession is organised by the ÖBM, the federal association for mediation in Austria. As a professional association, the scope of the agency includes the provision of information about the nature and fields of mediation. What is mediation? Mediation is driven by the ambition to foster an elaborate culture in conflict management, both as an autonomous and co-operative practice to resolve arising conflicts in various domains of social intercourse. Mirroring the main fields of intervention, the ÖBM is structured in six main subgroups as follows:

1. Family
2. Health and social affairs
3. Community and intercultural affairs
4. Public domain
5. School and education
6. Business and economy

In each field, the source of conflict is identified. Regarding the family, the challenges identified are in the coping with arising conflicts due to changing demands in the surrounding, due to change in general. Here the development and facilitation of contractual agreements in the course of everyday life are foregrounded. How can conflicting parties with their individual perspectives overcome their individual preoccupations and sense of injustice? How can persons readjust their perspective in the face of divorce, separation and death of family members? Here the achievement of sustainable solutions, bonds, on which the individual members can again begin to strive stand in the foreground of mediation. As conflicts can result in illness and infirmity, mediation in terms of health and social affairs aims at the facilitation of rehabilitation of individuals who have fallen into conflict with others due to health impairments or social difficulties. Here the reduction of violence, the advancement of social health, strategies of reintegration come to light.

The contemporary urban condition poses a new set of demands on individuals in the context of diminishing living space and increasing cultural diversity due to migration. People are forced to tolerate a bigger variety

of differences on an ever shrinking ground, resulting in defensive positions. Here mediation comes into play as a set of interventions which should loosen the defensive and stratified knots in the stance toward the neighbouring others. On the public domain, the problems arising out of conflict of interest of territorial legislating bodies and individuals affected by the decision making are at the center point. Collective interests and perspectives do not always match up with the interests of the individual, which becomes visible in the daily political struggle of implementing communal facilities, for example, by which the local inhabitants might feel threatened in their quality of life. Here the facilitation of decision making processes, the management of information and participation of stake holders are the rhetoric of mediation. On a similar token, the malformation and difficulties of individuals in the schooling system can develop to full fledged conflicts, which might exceed the problem solving capacities of the involved parties. Here too the implementation of a culture of discussion and informed and inclusive decision making processes in the context of educational and school politics on the larger level, and the resolution of conflict of interest, impasses, on the individual level need to be tackled. In the context of economy and corporate bodies, the high demand on the individual to approach others within the corporate body is crucial to the economical survival of any business facility. People are people, they have to get along with each other, and organise their actions around the common economical goal. This tends to get lost in the everyday situation of group dynamics, where animosities between involved parties develop slowly and reach the surface, becomes tangible, only through its consequential and detrimental influence on the production process.

Given the broad field of action, the question arising is how is mediating action structured? Which is the architecture of mediation? How does mediation work? First of all, mediation is a general disposition or attitude towards arising conflict situations. Its basic assumption is that in each situation there are attainable solutions, from which each involved party can benefit. This mindset should supersede the inevitable and ubiquitous response to conflicts, which is the search for the culpables, the ones to blame. The question who is to blame is to overcome by the adoption of more proactive positions, such as how can we resolve the issue to the best benefit of everyone. Emotions most of the time get to stand in the way and have to be addressed accordingly. In this is the way, to fulfil the basic goal of mediation, is the elaboration of a refined and mature handling of acute conflictual situations. Mediation thus is a structured method to resolve conflict apart from the judiciary system. Whereas courts have long been established in the very same effort to manage conflicting views and interests by providing what is called justice, as binding decisions, to which all parties are obliged to adhere, wether like it or not, mediation comes to being as an alternative to the justice system, addressing the autonomous integrity of the involved parties. It works by a consensual finding of a decision from within, focusing on the development of insight, as opposed to the imposition of a verdict from the outside.

Mediation in Austria has been substantially developed as a means of resolving conflict and thus the country has advanced to taking a lead position in implementing mediation as an alternative to the judiciary system. The profession of the mediator has received a legal foundation, whereby the aims and nature of the profession are defined, the context of action is settled and education and certification of the trained professionals are legislated in the Zivilrechts Mediations Gesetz of BGBl. I Nr. 29/2003, with subsequent consolidations and adaptations.

Article 1 of the law defines the mediation as an action which is based on the voluntary submission of the conflicting parties, in the course of which a qualified and certified third party, the mediator, is vested with the task to systematically manage the communication between the conflicting parties with the aim to facilitate the finding of a solution which both parties can take responsibility for. Here the mediator is inserted as an interlocutor, all responsibility to adhere to the solution remain at the involved primary parties.

Article 2 highlights the core field of action, out of which the profession of mediation extends to other, more informal, fields. Here the text refers to ‘mediation in civil legal disputes’ as a field of intervention, conflicts which in their nature otherwise qualify to be subject to civil court trials. Thus the primary field of action are substantial and tangible conflicts of interest, where at least one of the parties is an individual person.

Whereas the primary intention of the legislator was to create a bypassing relief to the burdened justice system by the provision of an alternative channel of managing the flux of private disputes, the profession since then further extends its scope of action into domains, which previously would have not qualified for a court trial. Conflicts which are rather intangible, which in their magnitude would remain under the threshold of the court and thus would unmitigated do now find a substantial feed into the work of licensed mediators.

Further, in the course of the legal basis, new agencies and associations have been formed to tackle the management of micro conflicts in various fields of communal life, following the sixfold structure outlined above. How does the practice of mediation as an infrastructure of conflict management materialise in Austria? How did mediating entities insert themselves into the landscape of social practice? How did the amendment of the justice system due to mediating initiatives evolve? Which is the role of private initiatives, of advocacy groups and other civil rights organisations? To find preliminary answers to this question, it is best to turn to a specific example of a mediation agency. In understanding its genesis and history combined with its agenda, an insight into the forces that shape contemporary developments in social justice in Austria can be accessed.

The civic association ‘Together’ was formed 2003 in the wake of the enactment of the federal civic mediation laws, which granted the legal basis for mediating entities. The complete title of the association which has began its operation in the 9th municipal district of Vienna in association with children and youth lawyers, runs as ‘association for the advancement of mediation especially in schools’. Thus its program is targeting a specific class of conflicts, its main self stated agenda is to provide the children and youth with the confidence to be able to solve their conflicts on their own. The infusion of mediating strategies in the informal social discourse within the ecology of schools should allow for the kids ‘to keep the heads clear for learning in class’. Thus arising conflicts are understood as obstacles to learning and development. This concern has developed out of the experiences of parents, teachers and the afore mentioned lawyers, who have come to experience an increase of conflict potential within schools, a rising trend, which has needed a solution, as the involved parties, including the children did either not have the ability or the license to intervene. Currently the association has expanded its scope to eight contributing and financing municipal districts. Activities which monitor the ongoing work involve a reflective practice through accompanying research, supervision and the dissemination of knowledge base through the provision of further education. The working method of the association is addressing the management of conflict on the temporal stages,

either as intervention in acute conflicts, or proactive as prevention of future conflicts, or beyond the necessary, as a general humanistic endeavour to provide for a sustainable elevation of conflict culture within the school. In the process, the pupils are gaining insights which remain relevant beyond their school career. ‘Now we know that there are many things that connect us, even if we have different interests’, contests a high school student in the wake of a mediation process. Schools are of course a laboratory for social life, with students on distinct developmental level and of differing social background facing each other. Conflicts due to varying attitudes to violence, as much as due to differing cultural and behavioural norms are bound to complicate the climate. Mobbing, and more prominently its variations in the virtual realm, have increasingly become endangering the healthy development of students. Parents and teachers might too become embattled in conflicts, become targets of orchestrated social attacks.

How is the association interacting with the schools and what is the scope of interventions and what is the protocol provided? ‘Together’ provides two major categories of service. The first, in acute cases, is mediation via trained professionals, which is accompanied in the case of preventive and incentive work by peer mediation. In this mode, students from the requesting schools are trained by the association to manage conflicts. Thus they become agents of change and development, bringing the necessary skills to the schools. The benefits of the peer mediators are evident. They are constantly present in the school, their skills are always available. Their awareness is sharpened in the detection and assessment of arising conflicts and they too become trustworthy confidants to students victimised by conflicts. Mediators, when summoned to schools adhere to working in settings of confidentiality. They seek to consult all involved parties disregarding who was initially the requesting party, thus school mediators strive to remain impartial and unbiased. The script of engagement is clearly defined on the association’s website, allowing for a low threshold contact. First and only condition of their engagement is that all school internal measurements of conflict measurements have to be already applied without success. Thus, the school when exhausted of available alternatives, becomes applicable to intervention. Upon this, school teachers and headmasters are eligible to file a request to the association using the association’s landline or email informing ‘Together’ about the nature of the conflict in form of a brief description. The team responds by making contact with the requesting person, who becomes the referent for setting up appropriate measures leading to mediating dialogues. The mapping of the conflict, the gathering of contextual information is the first major step, a prerequisite for the specific mediating sessions.

In this sense, a class of conflicts is addressed which is on the one hand below the radar of the judicial system and on the other hand has become highly problematic in the recent years in the light of evolving social norms and digital mass media. As society is changing, the mediating landscape is a counterbalancing instance, counteracting to the conflict prone nature of the population currently facing increasing levels of uncertainty and anxiety. School mediation specifically is an investment into the future, as the next generation is thus taught at an early level to deal with conflicts.

Mediation is a lingual practice, where the use of words, the interplay of meanings plays a similarly crucial role as in the context of psychotherapy. Oratory skills and techniques of persuasion, allowing for a shift of perspective in the recipients form the base of mediation techniques. The technique of ‘reframing’ as an

example increases the awareness of the use of metaphors and lingual images by the conflicting parties. The role of the mediator here is to carefully reform the encrusted metaphors, provide for amendments and alternatives, which the recipients gradually can adopt and insert into their own mindset. ‘Reframing’ as a technique involves the mitigation on the level of conflicting metaphors, avoiding rejection of the presented material.

On a similar level, story telling becomes a valuable part of the repertoire, making use of the vast repository of cultural intelligence encoded in stories such as fables, anecdotes and fairy tales. ‘The right story told in the right moment can produce miracles’, begins the lesson of Dr. Hanna Milling. In her argument the licensed mediator foregrounds the contrast of the two different ways of thinking and their asymmetric importance in everyday life. Whereas the tendency to follow rational causal chains of thought comes to dominate everyday encounters, supported by the predominant positivistic scientific discourse, this rationale becomes rather disconnected from the world of emotions, which nevertheless continues to influence our interactions unchecked. This blind spot towards the soft factors of engagement with the other, the presupposition of an emotionally neutral opposite, is conducive to the emergence of conflict. Quoting Watzke, ‘we tend to bounce off at the boundary of the internal’, and, ‘as beings infused with reason, we should be able to grasp that we can not rely on reason alone’, reminds us also Oscar Wilde. The work with stories as bodies of an expanded logic, which is able to reconcile reason with emotion, mediation taps into a variety of resources in order to jumpstart processes of reflexive thought.

In this sense, in the course of the writing of this paper, my research has allowed me, future psychotherapist, to get an insight into a neighbouring profession, understanding the interplay of individual actors, of socio-cultural forces, the importance of initiatives and the ways to tap into expertise of approaching fundamental human concerns in regard to the nature and management of emerging conflicts. Yet in the face of a picture of fashionable relativity emerging, I want to end this paper with a quote from Ayn Rand calling into mind the need to take a stance: “The man who refuses to judge, who neither agrees nor disagrees, who declares that there are no absolutes and believes that he escapes responsibility, is the man responsible for all the blood that is now spilled in the world. Reality is an absolute, existence is an absolute, a speck of dust is an absolute and so is a human life. Whether you live or die is an absolute. Whether you have a piece of bread or not, is an absolute. Whether you eat your bread or see it vanish into a looter's stomach, is an absolute.” (Ayn Rand, Atlas Shrugged)

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