BRAM PEPER AND FRANS SPIERINGS

SETTLING DISPUTES BETWEEN NEIGHBOURS IN THE LIFEWORLD: AN EVALUATION OF EXPERIMENTS WITH COMMUNITY MEDIATION IN THE NETHERLANDS*

ABSTRACT. Many neighbourhoods in the Netherlands have reached the stage of colliding subcultures, and interpersonal conflict. The young live next to the old, the rich next to the poor, single people next to families, the white next to the brown and the black, the established next to the outsiders. In some places, this social-cultural abundance leads to fear, uncertainty, and irritation. Not everybody is as understanding and tolerant of diverse lifestyles and thinking patterns as another person is. In places, this diversity leads to new behaviour patterns and institutions. Multi-ethnic community boards are starting to function as mediatory panels for settling disputes between neighbours and neighbourhood residents. In this article we claim that community mediation – a form of alternative dispute resolution designed to resolve interpersonal conflict in the neighbourhood – is both an attempt to rejuvenate the idea of community and a new way to settle differences and interpersonal conflicts between neighbours in the Netherlands. One might even argue that the neighbourhood is a level too high for social intervention and that instead one should focus on a lower level in the lifeworld: the house, the block, or at most, the street.

KEY WORDS: autonomisation, community mediation, neighbourhood, social policy

Modern society can be characterised by the process of formalising social relations. Over the years, conflicts are being increasingly defined and processed within the domain of the legal system. Conflict solving mechanisms have become monopolised by the formal institutions of social justice. Other traditional institutions that (used to) solve conflicts, e.g. the Church, the family, the community, have become less prominent conflict solvers. It is not surprising in this respect, that mediation – an anthropologically and historically non-legal way of settling disputes – originates in many modern states from the legal system. From a historical perspective, this is the world upside down. The trend of mediation has even been presented as a way of relieving case-pressure on courts.

In this article, we will discuss recent experiments with community mediation[1] in the Netherlands. Community mediation is a form of mediation designed especially for *neighbours* (and other community members) to resolve their mutual conflicts outside the legal system and inside the local community. Neighbour conflicts involve ongoing struggles stretching over a long period of time. They typically begin with a life style difference, often merge with class and/or race differences, and escalate over time through a series of acts of nuisance and mutual retaliation. In the early 1970s, the idea of community mediation was given shape by the founding of the San Francisco Community Boards (SFCB). The founders of the SFCB emerged from a tradition of community organising. They hoped to establish a separate justice system to the state system that would be more responsive to local community needs and interests (Merry 1997).

First, we will examine the basic principles and ideas of community mediation. Next, we will describe the background, the practical set-up and the results of the experiments in the Netherlands. After the description of community mediation in practice, we argue that a need orientation is an important criterion for evaluating the results of community mediation, understood as a project by and for citizens (*qua* selection of cases, tasks of community board members, privacy-rules, etcetera). We will introduce the concept of autonomisation to describe a general process in which (groups of) citizens reclaim the conflict solving action space, which has become institutionalised in modern society within the legal system. If the concept of autonomisation can be empirically grounded in future research, the process that it entails may well offer important possibilities for institutional fine-tuning in the legal system and the community at large.

THE IDEA OF COMMUNITY MEDIATION

Community mediation is focused on resolving interpersonal conflict between neighbours, often involving colliding lifestyles and beliefs, such as different types of cultural expectations and behaviour patterns in the community, stereotyping and prejudice.[2] Community mediation takes place in the

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[1] John Blad has reported earlier on the experiments in Netherlands in this journal (Blad 1996).

[2] This is not so much a conflict of interest, or a value conflict, but a conflict about not fulfilling lifeworld (silent and daily) expectations, e.g. a lifestyle conflict. See also Aubert's distinction between types of conflict (Aubert 1963).

lifeworld[3] of people: the neighbourhood. Community mediation consists of two terms, which are equally important: *community* and *mediation*. First we will discuss the mediation element; after that we will pay attention to the community element.

Community Mediation as Alternative Dispute Resolution

Neighbourhood disputes have become qualified as 'home-garden-and-kitchen' conflicts, referring to the daily character and relatively small scope of many of these conflicts. In court, these cases are referred to as 'garbage cases', implying that they are hard to solve or settle, involve minor financial stakes, etcetera (Merry 1997). The observation that these so-called 'lifeworld conflicts' are not minor conflicts is, however, important. Seen from a socio-psychological perspective, people experience neighbour(hood) conflicts as unpredictable, penetrating and often intolerable. A person cannot defend himself or herself against this type of nuisance. Neighbour problems are, from the nature of things, close to the senses.[4] Sounds, smells, pets and insults coming from a neighbour can intrude physically on a person's sense of privacy and safety. These intrusions are hard to ignore. Most neighbours, on their own accord, seem unsuccessful in making problems go away. They could move, but cannot financially or do not want to (Spierings 1998b). One should be warned that these conflicts could seriously damage the living climate of a community.

In the early 1970s, the idea of community mediation was given shape by the founding of the San Francisco Community Boards (SFCB) in the United States (Merry and Milner 1993). Central in the SFCB model is the 'dispute resolution panel'. The San Francisco panels consist of three to five trained individuals, volunteers living in the same community as the disputing parties. They organise meetings with disputants, referred to as the complainant and the respondent. The volunteers in the panel have no contractual, legal or formal power or authority over the disputants or the dispute. Participation in a 'hearing' is voluntary for all parties.

The main aim of the dispute resolution panel is to bring people together, and to try to conciliate and reconcile differences between people. The disputing parties are stimulated to communicate their differences openly,

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[3]We understand the concept of the lifeworld in accordance with the work of Alfred Schutz (Schutz 1967).

[4]Furthermore, nobody knows when the conflict will be solved. This leads to an uncertainty that can have a tremendous effect on the psychological well being of people (cf. Erikson 1995).

not only at the interest level, but also on the emotional and expressive level ordinarily associated with interpersonal conflict. The expression of emotions is important in order to achieve agreement in the end. Hostilities between parties, often arising from differences in interpretations of events, have to be discussed openly as a way of grounding the dispute-settlement process in the emotional needs of the disputants. The idea behind this is, that if the emotions and interests of disputants can be both addressed and reasonably satisfied, then the non-legal agreement or contract will hold up without force of law or formal authority (Shonholtz 1993).

Community mediation is not only concerned with solving problems, but also with re-establishing durable relationships between neighbours. People are asked to participate actively. The participants themselves have to look for solutions. Nobody gives a verdict; no external authority chooses a solution. This form of participation can lead to 'empowerment' – the idea that people feel that their actions 'make a difference' – not only for the conflicting parties involved but also for the volunteers that help to settle the dispute (Baruch Bush and Folger 1994). The process of community mediation can be broken down into several phases.

– *Orientation*: the mediator collects the facts about the conflict. He also gives both parties the opportunity to talk about their emotions. Hereafter, the mediator tries to make up the balance.
– *Understanding*: the mediator tries to start the communication between the conflicting parties. The goal is reaching common understanding.
– *Comprehension*: after understanding, a new perspective on the other party might be possible.
– *Negotiating solutions*: both parties try to look for solutions, and these will be set out in a sort of contract, or written agreement.
– *Evaluation*.

Raymond Shonholtz, founder of the SFCB, hoped to establish an alternative justice system in the community – separate from the state system – which would be more responsive to local community needs and interests. He came out of a tradition of community organising (Merry and Milner 1993). The early SFCB used anti-law rhetoric. The law was perceived as alienating and remote, a place where average people received poor services and their problems were not taken seriously.

Sally Engle Merry, who studied the SFCB intensively, concludes that mediation can be effective in conflicts between neighbours. When both sides become weary of the conflict and seek only to find a space where they are equal, mediation can provide an opportunity to declare a stopping point.

Merry maintains that mediation is far less effective in producing a just settlement when the parties are unequal, for instance employer-employee, landlord-tenant, domestic violence between parents and children, man and wife. The basic problem with conflicts between unequals is that mediation is a system of trading concessions. In order to reach an agreement, mediators have to build on the concessions that the weaker party is willing to make. As a result, many respondents are reluctant to use mediation (Merry 1997). Importantly, inequality can also arise when a neighbourhood changes, new neighbours settle, former neighbours depart, and life style differences begin to merge with age, class, race and even sex differences (Elias and Scotson 1965; Lofland 1989).

Community Mediation as Part Community Building

When a neighbourhood changes through gentrification, urban renewal, or urban degeneration, neighbours are challenged to find a new way of living together. In the 1980s, many neighbourhoods in the Dutch cities experienced problems of some kind with the relocation of residents. Old norms, mutual expectations and even minority rules were challenged by newcomers in the neighbourhood who did not comply to the cultural expectations of the 'old guard'. Coping strategies and identities, originally designed to create a bearable social climate, changed. Some old residents actively put pressure on the new, in order to make them behave in a 'socially' acceptable manner. In some places, this led to resentment. Residents started to avoid each other.

As a response, community mediation was introduced by local and central authorities as an instrument to re-establish a sense of community. Community mediation was part of a comprehensive programme of social renewal. It was seen as an instrument to improve community safety and quality of life in the cities. After improving the houses, governments invested in bringing the social network of the neighbourhood closer to the people. Cities tried to actively involve residents in community activities (like cleaning the street together, organising a neighbourhood party, etcetera). Housing corporations were given a task in upgrading the social climate.[5] Social services were couched in the language of community building, community policing became apparent and Justice Centres were initiated in the neighbourhood, situated close to and for the people (Boutellier 1996). This happened not, as in the United States out of a sense of community organising,

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[5]Since the mid-1990s housing associations are required to take care of the quality of life. This is considered to be a regular part of their work.

but out of a sense of rebuilding social ties. All these parties were also initially involved in the implementation of the idea of community mediation.

EXPERIMENTS WITH COMMUNITY MEDIATION IN THE NETHERLANDS

In 1996–1997 three experimental projects were initiated in the Netherlands,[6] aimed at conflict mediation at the local community level; one situated in Rotterdam (1996), one in Zwolle (1996), and one in Gouda (1997). The project in Rotterdam (the second city of the Netherlands, ± 600,000 inhabitants) concerns a comparative experiment in three distinctly different neighbourhoods. These neighbourhoods can be classified as an urban renewal area, a zone of transition and an area of cheap housing in high rise buildings. The quality of life in these areas is judged by the residents as fairly poor. Zwolle is a city with a population of 100,000 in the eastern part of the Netherlands. The quality of life in Zwolle is judged as fairly good. Gouda — like Zwolle — is a middle-sized city, right on the edge of the Randstad (the western, densely populated part of the Netherlands). The quality of life is judged as average. For instance, many autochthonous residents claim there is a problem with the Moroccan ethnic community in Gouda.

The Ministry of Justice and the local council finances the projects in Zwolle and Gouda. In Rotterdam the local council, the community council and two housing associations finance the projects. On the ideological level the San Francisco Community Boards have inspired all projects. The idea of reinforcing the community is only implemented in Rotterdam. In Zwolle and Gouda they are mostly interested in resolving the conflicts. Community building is considered to be an unattainable goal.

Initiating the Project

Starting an experiment such as community mediation takes quite some time before it is up and working. In Zwolle the mediation project started in the autumn of 1996, whilst in Rotterdam mediation started in the spring of 1997 for the first neighbourhood (Lombardijen), in the summer of 1997

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[6]A fourth project was initiated in Gorinchem (33,000 inhabitants) at the end of 1997. This project is not discussed in this article.

for the second neighbourhood (Schiemond), and more recently (January 1998) mediation has started in the third neighbourhood (Nieuwe Westen). In Gouda the mediation project started in the autumn of 1997. In all the locations a professional was hired to help start up local projects. In Zwolle and Gouda this professional is affiliated with the local social service institution, and this professional input is meant to be longlasting. In Rotterdam, it was hoped that volunteers would take over the role of the professional, but at present a facilitating professional institution is still necessary. In all the locations, thought is being given to the issue of excessive personalisation of the role of the professional.

Training

In Rotterdam, Zwolle, and Gouda volunteers perform the actual mediations. The volunteers are recruited from within the three neighbourhoods in Rotterdam, and from all over the city in Zwolle and Gouda. Volunteers only operate in their community. Not every citizen is suited to become a community mediator. Before one becomes a mediator, training by a professional mediator is required. The mediators-to-be are trained in communication skills. The most important part of the training is to develop the skill of dealing with communication barriers such as blaming and claiming reparation or restitution. The mediators are trained in active listening, to ask questions, and to reformulate the stories of the conflicting parties in a positive way.

A difficult aspect of the training is the position of the mediator in the conflict. The mediator plays a specific role in the mediation process. He or she is not allowed to actively participate in bringing up solutions. Also, a mediator is not allowed to direct the conflicting parties to a personal solution to the conflict. The mediator accepts the constructions of the reality for both the conflicting parties. He or she will try to support their emotions, while trying to uncover their wishes and interests. Most importantly, the mediator will not discuss the emotions, wishes or interests of the conflicting parties. The main purpose is to facilitate both parties in resolving their differences, by listening to the arguments, asking questions, and reformulating the stories. In some cases this can lead, as Merry indicated, to a tendency to bypass non-negotiable issues and taboos, such as violence in a relationship. Some topics cannot be discussed (Merry 1997). The role of the mediator in community mediation is therefore different from the role that mediators play in conciliation or arbitrage. The mediator in community mediation can be regarded as a facilitator or a panel chairman. In practice it took quite some time to teach the

volunteers not to be directive in the mediation process.[7] It is a natural habit of people to think up solutions when people present their problems.

A big challenge for community mediation has been the attempt to be successful in finding a representative community board in each neighbourhood. Critics doubted whether it was possible to find enough ethnic participation in the boards. In other resident-projects such as voluntary work, resident-boards, victim help, etcetera, this had previously been impossible. Critics were proven wrong in connection with community mediation, however. Through extensive communication, approaching self-help organisations, visiting schools, and meeting places, ethnic representation in the boards succeeded. Spokesmen of ethnic communities were approached and involved in recruiting members. In the end, each community board in Rotterdam had several ethnic members. Not only are most ethnic groups 'represented', the projects also succeeded in interesting young and elderly people, and men and women in equal numbers. The community boards became broadly representative of the communities they were functioning in. But in Zwolle and Gouda they did not succeed in getting a representation of the city. This was partly due to the fact that the potential pool of mediators-to-be was much larger.

Two Models of Community Mediation

Although the experiments in community mediation in the Netherlands have all been inspired by the SFCBs, the implementation process has taken on different forms. Over the space of two years, two models have developed: a neighbourhood model, and a city model.[8]

The experiment in Rotterdam is most similar to the SFCB, even on the conceptual level. The 'boards' in Rotterdam are independent groups of volunteers, who are not directly associated with existing institutions in the community. The boards slowly broaden their working area, geographically, and with respect to their field of expertise (more different types of cases).

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[7] We can distinguish between *evaluative* and *facilitative* mediation. When mediation is evaluative the mediator actively introduces a third party view to assist in settling the dispute. The facilitative mediation implies no third party view, the mediator only facilitates the possibility for two parties to settle their dispute (Mackie et al. 1995). The latter is the case for community mediation.

[8] Gorinchem can be referred to as a 'professional model'. In Gorinchem there is a professional mediator, and a contact officer working for the police department. Contact officers working for the housing associations redirect all the cases.

Rotterdam is referred to as the neighbourhood model. Community mediation experiments in Zwolle and Gouda are instead situated within the local social services foundations. The community mediators are recruited and operate on a citywide scale. Zwolle and Gouda represent the city model.

An important difference between the models is the scale of the pool from which cases are selected and the identification with a locality connected with it. The community board in the neighbourhood model only mediates in local cases; the neighbourhoods are approximately 4,000 residents large. Local volunteers are mediating in conflicts between a local complainant (the first party) and a local respondent (the second party). The co-ordinator and the central co-ordinator of the neighbourhood model operate independently; they are not affiliated with an organisation or institution. Each of them has an independent agency. The community board in the neighbourhood model decides on the operational questions, for instance which cases to mediate and which not, how to operate with regard to privacy rules, when to meet, etcetera. The co-ordinator of the city model is on the pay-roll of the social services bureau in the city concerned. The co-ordinator distributes the cases, organises meetings, intake procedures, after care procedures, etcetera. Where the sense of community is strong in the neighbourhood model, it plays no significant role in the city model.

Another difference is the degree of distance to professional workers in the field, the housing corporation, the police department, community workers. The community board in the neighbourhood model has only a short distance to go to reach professionals in the field. It is easier to run into one another and to discuss situations informally than it is in the city model.

On the other hand, selection of volunteers in the enrolment process in the city model is city wide, which provides for a bigger reservoir of volunteers. It appears that the level of education and income is somewhat higher than might be suspected from population statistics. This may seem advantageous, but in practice a higher level of education does not seem to be important with connection to mediations, whereas good social skills are. Also, in the city model it is more difficult to get a board of volunteers that is representative for the community. In Table I we present an overview of the two models. The two models are largely similar. This is not surprising, considering the mutual source of inspiration.

TABLE I

Two models of community mediation in the Netherlands.

	City model	Neighbourhood model
Mediators	Volunteers	Volunteers
Pre-education	None	None
Mediation course	Three day course	Three day course
Scale	The city	The neighbourhood
Representation	No issue	Representation of the community
Housing	Central Office	Neighbourhood building
Professional support	Central co-ordinator	3 local and 1 central co-ordinator
Type of conflict	Horizontal neighbour conflicts	Horizontal neighbour conflicts
Selection of cases	From all over the city	Exclusively from the neighbourhood
Relationship with neighbourhood	Weak	Strong
Effect	Moderate drop out rate	Low drop out rate

COMMUNITY MEDIATION IN PRACTICE

In this section we will present the results of the experiments in Rotterdam, Zwolle, and Gouda.[9] As mentioned above, not all the experiments started at the same time. In every city it took some time before the community mediators could start. The groundwork for training, information, networking, and finding cases in the community had to be done, and the boards had to decide on intake procedures, privacy rules, registration, etcetera.

Registration and Nature of Complaints

During the research period 159 cases were registered in Zwolle, 109 in Gouda, and 94 in Rotterdam (in the three neighbourhoods together). We have chosen not to discuss the results of each separate city or neighbourhood,[10] but instead to use the two models of community mediation. Thus, in the city model there were 268 cases registered, and in the neighbourhood model 94 cases. Since the start there has been a steady increase in cases. This is mostly due to the continuous increase in registration at the city model, though the neighbourhood model shows a more irregular pattern.

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[9]Our material is collected in two ways. We used the unstandardised registrations and notes of the project-managers in the three cities. We discussed all case material intensively. We also used standardised registration forms, which were developed by our team of researchers in co-operation with the project-managers. Unfortunately, these standardised forms were not systematically filled in.

[10]In the recent research report *Bemiddelen bij conflicten tussen buren* (Peper et al. 1999) we describe each location in more detail.

TABLE II

Registration of complaints (in percentages).

	City model (n = 268)	Neighbourhood model (n = 94)	Total (n = 362)
Self-registration[a]	34	47	37
Housing associations	26	38	29
Police	24	4	19
Others	18	11	15
Total	100	100	100

[a]A part of the self-registrations are those people who are told by other institutions to voice a complaint about the neighbours to the community boards.

At the start of the experiments, institutions such as the police, housing associations, and social workers, were asked to co-operate by directing suitable cases towards community mediation. During the start-up period, residents needed to become aware that a new platform for settling disputes was being set up in the community. Therefore, an important question is: who is making reference to the community mediation projects?

In spite of the fact that community mediation was a new phenomenon, more than one third of the registrations came from the complainants themselves. It is not strange that the housing associations in Rotterdam directed a lot of cases, they were strongly involved in the project. One of the associations in Rotterdam actually initiated the project in the early 1990s. The amount of cases directed by the police in Rotterdam is, however, remarkably low. This is due to the fact that a lot of 'minor irritations' between neighbours disappear against the background of other social problems in a city like Rotterdam. This is less so in the cases of Zwolle and Gouda.

What are the problems people complain about? In Table III an overview is presented. In some instances more than one complaint was given. These complaints were registered as multiple problems. In the other instances the first (and dominant) complaint was registered.

Table III also shows the distribution of complaints in the Netherlands compared to the San Francisco Community Boards (SFCB). The following data from the SFCB were taken from an extensive evaluation project (Blad 1996; Merry and Milner 1993). Noise and garden/fence complaints are typical neighbour problems. Nuisance situations such as gossip, pet behaviour, children/teenagers, and litter/dirt could in fact be caused by residents living on the block, but the complainant attributes these 'incorrect' behaviour patterns to the neighbour. The same can be said about complaints about multiple problems and other complaints. Complaints about noise are by far the most important complaint in the community boards in the

TABLE III
Nature of the complaints (in percentages).

	City model $(n = 268)$	Neighbourhood model $(n = 86)$[a]	Total $(n = 354)$	SFCB $(n = 2,190)$
1. Noise	40	53	44	18
2. Insults/harassment/gossip	10	6	9	27
3. Pet behaviour	9	6	8	10
4. Multiple problems	6	14	8	–
5. Children/teenagers	6	7	6	–
6. Garden/fence	6	1	5	–
7. Litter/dirt	4	1	3	6
Other complaints	19	12	17	39
Total	*100*	*100*	*100*	*100*

[a]In 8 of the 94 cases the cause of the complaint is unknown.

Netherlands. Compared to the SFCB this percentage is a lot higher. The other percentages are notably higher in the SFCB, especially insult/harassment/gossip and other complaints. The high percentage of other complaints is of course caused by a different manner of categorisation. Insult/harassment/gossip on the other hand does show a significant difference in the amount of complaints that were mediated in the SFCB.

Unfortunately, we cannot draw a distinctive picture of the characteristics of the first and second parties. This is due to insufficient data.[11] But, we did find some interesting patterns. The first party is usually a little older then the second party. Women are filing the most complaints, since they are more at home.[12] There is also a tendency to complain more about residents with children, than about residents without children. Most of the people who file a complaint are autochthonous, only one third of the complaints concern allochtonous neighbours. Most of the complaints were already known to existing institutions such as the police, housing associations or the local government. People were also asked if they already knew about the possibility of community mediation. More than half of the first party were familiar with its existence, while only one fifth of the second party had that knowledge.

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[11]We agreed with the project co-ordinators that they would keep the registration, but this was not done reliably (see note 9).

[12]This is also an effect of the (still) low participation of women in the Dutch labour process.

Effects of Community Mediation

Community mediation is focused on the restoration of communication between two conflicting neighbours. Naturally, such a process can take quite some time. It is also difficult to measure in objective criteria. In order to get an idea of the effects, we have divided the process of community mediation into four different phases, whereby each phase works selectively:

1. *registration*, here we find the first selection of cases;
2. *intake of the first party* (the complainant), here the mediator decides if the case can be mediated and whether or not the complainant wants his case to be mediated;
3. *intake of the second party*, here we find the same kind of selection as in phase II;
4. *mediation*, both parties want to talk and come to an agreement.

In practice we found a wide variety of possible outcomes during the process of mediation. Logically we distinguished four possible outcomes:

— the conflict is solved through mediation;
— the conflict is solved without mediation;
— the case is referred to another institution;
— the conflict cannot be referred.

In Tables IV and V we have given an overview of the case histories by combining the process and the outcomes. If you read the Tables horizontally, you will see the outcomes per phase, as well as the drop out rate during each phase in the process. Vertically, you will see the outcomes related to the different phases. In other words, the rows are concerned with the process of mediation, while the columns are concerned with the outcomes of mediation. For instance, in the city model during phase III (intake of the second party) 9% of the cases were solved without mediation, 4% of the cases were referred, and 22% of the cases were unplaceable. In phase III 35% of the cases were processed, which left 22% of the total registered cases to reach phase IV.

When we compare both models, we notice several differences. The neighbourhood model shows a high dropout rate during phase I, 31% of the cases are referred or seem unsuitable for mediation. In the city model this is only 13%. An explanation for this difference could be the fact that the city model is more distant to people, which results in a first selection. In a neighbourhood the distance between people is less, which makes it easier to call community mediation with all kinds of problems.

TABLE IV

Case history at the city model (n = 268) in percentages.

	A: solved by mediation	B: solved without mediation	C: case referred to	D: case not referrable	Total
Start	100				
PHASE I	–	–	12	1	13
After phase I	87				
PHASE II	–	10	7	13	30
After Phase II	57				
PHASE III	–	9	4	22	35
After phase III	22				
PHASE IV	19	–	2	1	22
Total	*19*	*19*	*25*	*37*	*100*

TABLE V

Case history at the neighbourhood model (n = 94) in percentages.

	A: solved by mediation	B: solved without mediation	C: case referred to	D: case not referrable	Total
Start	100				
PHASE I	–	–	21	10	31
After phase I	69				
PHASE II	–	5	1	9	15
After phase II	54				
PHASE III	–	9	1	7	17
After phase III	37				
PHASE IV	33	–	–	4	37
Total	33	14	23	30	100

During phases II and III we see a reversal of this pattern. The dropout rate in the neighbourhood model is low (II: 15%, III: 17%), while this is higher in the city model (II: 30%, III: 35%). The conclusion is that when one reaches phase II, the neighbourhood model leads more people towards mediation and agreement. This is probably due to the proximity of social relations. It is more difficult to leave the process when you know – albeit vaguely – the mediators. The city model may have mediated fewer cases; this only applies to the percentages. When we look at the actual amount of cases, the city model seems steadier.

What is the effect of community mediation? Community mediation has three types of effect. The primary effect is defined as an actual mediation plus agreement (A). The secondary effect (A+B) is defined as situation A plus those conflicts solved by the parties themselves after having contact with community mediation (B). The tertiary effect (A+B+C) is defined as situation A or B and when the case is referred to another organisation (C).

In Table VI we compare the effects between the city and the neighbour-hood model. The neighbourhood model seems to be more effective in settling disputes between neighbours than the city model. Of all the cases in the city model, 37% are unplaceable. What remains is 63% and this is what we call the tertiary effect (agreement, solved by participants themselves and referred to another agency). If we narrow this down to the secondary effect (problem solved with or without mediation), the percentage is 38%. If we narrow this down to the primary effect (agreement through mediation), the percentage is 19%. Of all the cases in the neighbourhood model, 30% are unplaceable. What remains is 70%: the tertiary effect (agreement, solved by participants themselves and referred to other agency). If we narrow this down to the secondary effect (problem solved with or without mediation), the percentage is 40%. If we narrow this down to the primary effect (agreement through mediation), the percentage is 22%.

Is There a Niche for Community Mediation

An important question with the introduction of an experiment such as community mediation is to know whether there is a niche for such an instrument viable enough to make it succeed. Local communities in the Netherlands are sometimes seen as over-regulated from an institutional point of view. Every community has a lot of organisations and institutions to which a resident can turn. We will analyse the institutional discourse with respect to community mediation, a newcomer to the institutional field. Later, we will address this question from a resident's point of view, when we discuss the survey that we conducted within the neighbourhood.

TABLE VI

Effects of community mediation (in percentages).[a]

	City model ($n = 268$)	Neighbourhood model ($n = 94$)	Total ($n = 362$)
Primary effect (A)	19	33	22
Secondary effect (A+B)	38	47	40
Tertiary effect (A+B+C)	63	70	64
No effect	37	30	36

[a]The three effects are cumulative, therefore adding 'no effect' to the 'tertiary effect' gives 100%.

Institutional Perspectives

The experiments of community mediation in the Netherlands must be seen in the light of the strong professionalisation in social work. In contrast with the USA – with its strong tradition of community organising and self-help organisations run by volunteers (Adriaansens and Zijderveld 1981) – the Netherlands can be characterised as a strong corporate welfare state with a high level of social organisation by professionals (Esping-Andersen 1990). At the neighbourhood level this translates itself into a patchwork of professional organisations, all concerned with helping neighbourhood residents. In this setting the question rises: will community mediation be accepted?

What is the communis opinio of professional (and voluntary) workers in the institutional environment? To examine this question we have conducted 150 half-structured interviews with professionals in the field, such as community workers, policemen, social workers, doctors, lawyers, etcetera. Most respondents seem to think that in a complex, pluralistic society conflict is 'normal', often unintentional, and it has to be solved. Four different models can be identified from our material.[13] Common in all interviews is the notion that being in community inevitably leads to conflict.

In the first, the *instrumental model*, low costs and effectiveness are the most important criteria. In this model, spokesmen of the Police Department and Justice Department define community mediation as an instrument for conflict resolution, supplementing existing channels of conflict resolution. The type of argument used is mainly economic (reduction of the court caseload).

In the second, the *formalistic model*, equal rights, equal treatment, and equal accessibility are important criteria. A situation where community mediation would function independently from existing organisations and institutions could threaten its quality and authority. Legal and other procedures should be followed properly; otherwise community mediation could lead to escalation of neighbour conflicts instead of conciliation. Supporters of this view fear abuse of power, and corruption by the participants. It is inherent in this model that community mediation has to be 'tested' by quality measures from other institutions. The type of argument used is mainly judicial.

The third, the *norm-forming model*, sees community mediation as a way of establishing and reaffirming cultural expectations, values and norms that

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[13]Our material is based on interviews conducted before and after implementation.

'exist'[14] in the community. Through open and public discussions,[15]citizens, e.g. neighbours learn (again) to behave as expected by others and to communicate social constructions amongst one another. The type of argument used is mainly sociological.

The fourth, the *service model*, sees community mediation as a community service, provided by trained volunteers. People who ask for help in solving conflicts or discussing forms of nuisance ask a third party to provide the service of mediation (or panel chairman). The service model maintains that people do not 'cause' problems 'on purpose'. Rather, they are not aware that their actions can be offensive for other parties. Conflicts and irritations arise from the different interpretation of actions. Solutions for conflicts (and irritations) can be found through direct and private communications between neighbours, supported by a 'host', as the best way to eliminate miscommunications. The type of argument used is mainly socio-psychological.

The models can be empirically attributed to different institutional settings. The instrumental model is common among social engineers, policymakers, and politicians. The formalistic model is common among police officials, public prosecutors and judges, lawyers and solicitors. The norm-forming model is common among sociologists and community workers. The service model is common among social researchers, doctors, volunteers and citizens, persons that have a need-based view of people and society as a whole.

The respondents are all positive about the initiative of community mediation. They support the bottom-up character of community mediation. And, they also acknowledge the problems that result from too much professionalisation, such as the problems concerning the referral and 'shopping' of clients, the fragmentation of assistance, the skimming off of the most promising clients, etcetera (Spierings 1998a). There are many institutional channels for the resolution of all sorts of conflicts. But until recently, in the Netherlands, there were no channels for solving disputes about private nuisance between neighbours. Our research indicates that citizens and professional workers find community mediation a necessary supplement to other conflict solving mechanisms.

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[14]Exist as social facts cf. Durkheim.

[15]Compare this with Merry's analysis of mediation in traditional small-scale societies (Merry 1982).

Is There a Need for Community Mediation?

Do citizens themselves say that they need community mediation? We have questioned 508 randomly selected community members in Rotterdam, Zwolle and Gouda. To examine the issues of needs and interests we asked them the following questions:

— *Do you have a conflict with your neighbours?* In the neighbourhood model 48% of the randomly selected community members experienced a nuisance[16] situation with the neighbours and other community members; in the city model this was experienced by 41%.

— *What forms of nuisance do you experience in your daily life?* Some forms of nuisance are caused by people living in the neighbourhood (parking, pets, litter, and youths), some are caused by people from outside the neighbourhood (fast driving, addiction/junkies) and some are caused by the neighbours themselves (noise, strange smells, and litter). Therefore, not all problems are suitable for community mediation.

— *How often are your neighbours causing a nuisance?* In the neighbourhood model 22% of the people said that their neighbours annoyed them on a weekly basis. In the city model this percentage was a little lower: 11%. We may therefore conclude that in big cities the problem of annoyance with neighbours is larger than in small cities.

— *How do you try to solve neighbour conflicts?* In the neighbourhood model 21% of the community members have the occasional argument with the neighbours, vocal or otherwise (in the city model this percentage is lower: 17%). Of these people in the neighbourhood model, 46% try to talk this argument over. Compared to that, only one in 20 community members asked a third party for help. Many people state that they should solve neighbour problems themselves, but, in practice, many people do nothing.

— *Are you successful in solving the conflict?* In the neighbourhood model as well as in the city model, the results from talking arguments through with the neighbours themselves did not seem very promising. Half of the people who were in conflict tried to talk. Only in one third of the cases did people state that talking made the situation any better; one third states that the situation did not change after the talks; and one third stated that the situation worsened (see also Ellickson 1991). In any case, the self-reported success-rate was rather low.

— *Do you use other conflict solving mechanisms?* In the neighbourhood model 10% of the community members have filed more than one

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[16]Nuisance is defined as 'annoyance', 'argument' and 'insult'.

complaint against a neighbour in the last year, with the police, the council or the social landlord. In the city model 2% have filed more than one complaint against neighbours. Many community members state that complaining about the neighbours does not help to improve the situation. Many complainants are not satisfied. Neither talking to nor complaining about the neighbours seems to lead to a solution for this problem.

It appears that many community members do have a positive attitude towards community mediation. In total, 60% of the community members in the neighbourhood model said that they would use community mediation in the future, and this corresponds to 43% in the city model. Importantly, community members also report that many conflicts stay unresolved. From this perspective, one might conclude that these problems are lying *dormant* in communities. This could explain the deterioration of the quality of life in neighbourhoods, the unravelling of social fabric and the feelings of unsafety. Could it be possible that these conflicts are ready to rise to the surface if the circumstances change?[17] Community mediation places these conflicts in a communication form. It prevents the unexpected and unregulated manifestation of conflicts. The survey reveals that there is a need for community mediation.

Seen from a lifeworld perspective, community mediation is a legitimate supplement to the existing channels of conflict resolution. There seems to be a surplus of unresolved neighbour conflicts, which points to a structural social problem. For two thirds, communication without an intermediary seems to lead to a communication breakdown and the end of the 'neighbourly' relationship, moving to another house and neighbourhood or letting the conflict 'slumber'. Not many people use other institutional channels to complain about the neighbours. Of those who do, most are not satisfied with the official handling of their complaint.

DISCUSSION

The above analysis leads us to ask several questions. What should the starting point of community mediation be? Should one choose a city model or a neighbourhood model? And, the underlying question: should one focus on whole neighbourhoods or just neighbours? The first question deals with the practical set-up of community mediation, while the second question raises a more fundamental point.

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[17]The Netherlands has no history of large racial conflicts or other forms of social unrest, such as Birmingham 1982 or Los Angeles 1996.

The answer to the first question seems easy, if we look at the experiments in the Netherlands. The neighbourhood model seems more suitable to re-establish a sense of community between members of a neighbourhood. The neighbourhood model shows better results in the mediation process, on the other hand the city model offers more continuity. Large scale has the advantage of a larger social reach and better continuity in the intake of cases. When we also look at the history of the SFCB, we can conclude that it is possible for a neighbourhood model to grow towards a city scale.

If one's goal is to introduce community mediation in order to solve conflicts between neighbours, and at the same time to re-establish a sense of community, starting with the neighbourhood model seems the best choice. As we stated earlier, professional workers are in favour of a bottom-up approach by settling disputes between neighbours. They support the idea of intervening directly in the lifeworld of people.[18] This is considered the only way to really motivate and empower people to solve their conflicts. The role of the mediator is therefore to facilitate the possibility of people solving their conflicts together.

If we start with a neighbourhood model the question remains: in what neighbourhood do we start? If we look at the experiments with community mediation in the Netherlands, we can observe that the projects were started in well-known problematic neighbourhoods. This implies those areas in cities where social problems accumulate. The choice for these kinds of neighbourhood seems obvious. However, we will argue that this choice rests on a fallacy, namely the fallacy to equate neighbourhood problems with problems between neighbours.

Neighbourhood problems are problems situated on a meso-level, while problems between neighbour are taking place on the micro-level. The fact that a neighbourhood is defined as a problematic area does not say anything about the relationships between the inhabitants of that neighbourhood. Problematic neighbourhoods are measured by the combined percentages of levels of poverty, unemployment, high crime rates, etcetera. To conclude from these indicators that neighbours are in conflict with each other, seems too hasty a step.[19] Neighbourhood problems are mostly socio-economic problems, while problems between neighbours are mostly lifestyle conflicts. Although the two kinds of problem sometimes show some overlap, they are different.

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[18]A recent report of the city of Amsterdam points in a similar direction (Gemeente Amsterdam 1999).

[19]Goris makes a similar remark when discussing the introduction of neighbourhood justice centres in Belgium. The success of programmes on community safety are dependent on a firm social policy that is occupied with raising the quality of life in the so-called 'bad neighbourhoods', and not only focussing on safety aspects (Goris 1996).

Ignoring this difference can be an explanation as to why community mediation seems to work fine in neighbourhood A, while it is not really successful in neighbourhood B.

Nowadays, there seems to be a trend in Dutch local government to finance all kinds of projects in the neighbourhood. Instead of earlier social policy, which was focused on categories of people, the tendency now is to finance areas e.g. neighbourhoods. The selection of neighbourhoods is based on 'objective' criteria, and not on the experience of neighbourhood members themselves, probably influenced also by the availability of European funds stimulating backward areas. When one does not differentiate between neighbourhood problems and a problem between neighbours, the same kind of stigmatisation known from social policy about categories will happen to neighbourhoods (cf. Hortulanus 1995). And the same disappointments will arise regarding the effect of the social policy. Therefore, to deploy community mediation as an approach to problems between neighbours on a meso-level is undesirable.

Community mediation works on the micro-level of the lifeworld: the house, the block, or at most, the street. Both the concept of 'informal justice' (Merry 1997) and the anti-law rhetoric (Shonholtz 1993) seem too narrow to describe community mediation as a conflict solving mechanism in the Netherlands. Community mediation can better be seen from the viewpoint of a sort of DIY-rhetoric (do-it-yourself rhetoric). Most of the professionals we interviewed agreed with the idea that people should have to deal with their own neighbours when having a conflict. It makes no sense to use the court system to rule in mentality problems, because it will not be effective. Supported by the research material presented here, it is important to have a conflict solving mechanism in the neighbourhood for problems that exist close to people. Neighbours are:

— dependent upon one another for a safe and pleasant environment;
— geographically close and bound to some kind of a relationship;
— not successful in solving conflicts by themselves (although they think they are supposed to be).

Based on this typical relationship, a conflict-solving mechanism has to be:

— voluntary, together with a mediator (catalyst) led by community members, in the vernacular language chosen by the participants;
  based on active participation, by people defining their own problems, and choosing their own solutions, maximising the chances for personal commitment;

– based on a horizontal model of problem solving, instead of an adversarial
model, maximising the chances for lasting relationships.

The evolution of a manner of conflict solving combining these three
ingredients can best be understood through the concept of *autonomisation*.
By this concept we mean the process by which residents (neighbours, and
volunteers) try to (re)capture the conflict solving action space in the
community and with that, increasingly reclaim control over their lifeworld.
The process of autonomisation can also be seen as the opposite of
Habermas's idea of the 'colonisation of the lifeworld' (Habermas 1987).
Community mediation can empower people to turn the increasing
colonisation of the system around into the lifeworld. Instead of dealing with
people on a meso-level, the process of autonomisation starts at the micro-
level. The role of the (local) government will change in this perspective
from an impersonal regulating system into a facilitating organisation, which
is based on the needs of citizens.

SUMMARY AND CONCLUSION

Community mediation is not only concerned with solving problems, but also
with re-establishing durable relationships between neighbours. This form
of participation can lead to 'empowerment' – the idea that people feel their
that actions 'make a difference' – not only of the conflicting parties involved
but also of the volunteers that help to settle the dispute. Community mediation
tries to be more responsive to local community needs and interests. If both
the interests and the emotions of disputants can be addressed and reasonably
satisfied,[20] one can assume that the non-legal agreement or contract would
last successfully without force of law or formal authority.

The experiments in Rotterdam, Zwolle, and Gouda show that there is a
need and a niche for this kind of dispute resolution in daily life. There is a
market for community mediation. Which market, however, is a subject of
considerable debate. The Ministry of Justice, financing several projects,
would like to see community mediation as a way of reducing court case
loads, and as a way of intervening before conflicts escalate. The Ministry
of Internal Affairs, and local councils (both responsible for the police force),
view community mediation as a way of improving (feelings of) public safety.

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[20]Merry makes an important remark by pointing to the implicit power differences
between the conflicting parties. These differences are mostly not given attention in the
mediation process (Merry 1997). Unfortunately, due to space and time constraints, we
will not explore this further.

Finally, social services and housing associations define community mediation as a way of improving social cohesion, community building through empowerment and participation.

A need orientation to solving conflicts can be an important starting point in a process of institutional analysis. Through time, institutions can become inflexible and fossilised. Seen from the needs, interests and opportunities of the citizens, conflict solving institutions can become unresponsive to human needs, somebody else's institution. From a need-oriented, e.g. service model, it is important that community mediation can develop in an inductive way, bottom-up, pre-institutional, by people defining their own problems and by mediators accepting (and starting from) the definition of the situation made by the complainant and the respondent. If institutions can be fine-tuned and rejuvenated, by mirroring them against instruments that are embedded in the daily lifeworld, space is given for changing needs and mores to boil to the surface.[21]

In this article, modern society is characterised by processes of rationalisation, professionalisation, and formalisation of relations. Institutions – such as governmental organisations, social welfare systems, etcetera – approach their clients in a top-down manner. Not the needs of citizens, but the supply perspective of the institutions has become the dominant starting point for support. This supply perspective is becoming out of date in a late-modern (or post-modern) society, with its emphasis on cultural pluralism, and individualism, governed by market rhetoric. We understand community mediation as a way for people to reclaim the ownership (cf. Christie 1977; Gusfield 1989) of conflicts that originated in the lifeworld in the first place. In this respect community mediation can be considered a clear example of a process of autonomisation.

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[21]Important in this respect is the consideration that society, even as an objective reality, is a continuous product of human conduct (see Berger and Luckmann 1967). This holds especially true for community mediation in the Netherlands.

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BRAM PEPER
Erasmus University Rotterdam
Faculty of Law
ARW, room L6-78
P.O. Box 1738
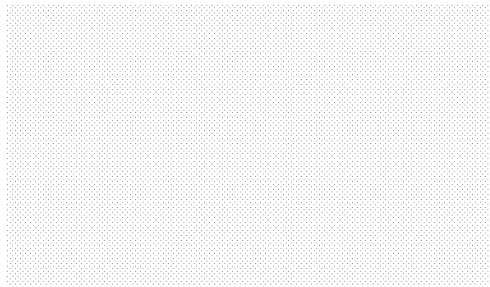*3000 DR Rotterdam*
The Netherlands

FRANS SPIERINGS
Ministry of Finance
Tax Information Centre
P.O. Box 446
3500 AK Utrecht
The Netherlands

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