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ANNOTATION:

DESCRIPTION: This article deals with Victim-Offender Mediation (VOM) in Germany and France, which is a form of Restorative Justice (RJ). This article values argue that there might appear to be problems which contradict the aims and working principles of the procedure as well as the legal rights of the participants, even if an agreement has been reached. These problems become visible if one takes into account the interaction process from a micro-sociological point of view.

DESIGN: This article will report the results of a qualitative study which evaluated the interaction process between participants and mediators and which is based on German and French case studies. The following hypothesis will be set out: VOM is not able to put into practice its specific modus operandi in the framework of a penal procedure. I will argue that this is due not only to individual, social and professional impediments but mainly to its structural link to the penal law.

RESULTS: This article demonstrates that it is worthwhile to take the interaction process into account when evaluating the impact and functioning of VOM. Mediation in itself is a procedure based on ideals that no one can disagree with. Data show: (a) that mediation as a communication process is too demanding for many participants; (b) that it lacks a precise and manageable set of aims; (c) that the mediators are not professionalized sufficiently; and (d) that, above all, it does not work well within the system of penal law. VOM is based on ideals that are not easily compatible with the structural conditions laid down by the judicial framework.