Mediation As A Means Of Expansion Of The Access To Justice And The Realization Of Human Rights?

– *One experiment conducted in the 3rd Probate and Family Court of Santo Amaro, São Paulo*

Carla Boin[1]

Abstract: Mediation is being gradually introduced in the Brazilian legal framework, and its potential effects on the expansion of the access to justice and the fulfillment of Human Rights call for a change in culture, which stirs the interest in the possibly existing parallelism with the culture and experience lived in Japan. In this paper, we will attempt to demonstrate that Mediation can stand for a disruptive element in Brazilian belligerent process, to the extent that it fosters the opening of communication channels that value the dialogue, the process of listening, the outreach, the legitimation and the recognition of the human beings involved in the conflicting circumstances. We are convinced that Mediation will represent the extension of access to justice and, as a result, will enable the satisfaction of Human Rights, as long as the need for a change of the mental mindset for its application and the development of its practices is thoroughly understood.

Keywords: Justice; Mediation; Dialogue; Human Rights; Brazilian culture.

1. Introduction

The alarming growth of the number of lawsuits filed each year in Brazil

[1] PhD candidate at the Faculty of Law – Universidade de São Paulo, Brazil). carla@boin.adv.br - 55 11 98106.4500/ 55 11 2359.4688 **http://lattes.cnpq.br/0121090329456550**

captures our attention to the degree of litigiousness of Brazilians and challenges us to devise initiatives that will accommodate the need to expand the access to Justice without necessarily inflating even more the judicialization process. In the opposite direction, the realm of justice in Japan is marked by a decrease in the amount of disputes brought before the Courts, with low crime rates and annual records of lawsuits that have remained stable for over a decade. The Japanese, for their culture, are less prone to litigation and always seek a solution for their conflicts by informal instruments, such as negotiations and private settlements between the parties. In this regard, the common belief that cultural aspects are decisive in setting the tone of the persons relations with themselves and with others around them is worthy of mention.

The purpose of this paper is to analyze how Mediation is being introduced in the Brazilian legal scenario and its possible effects related to the expansion of the access to Justice and the fulfillment of Human Rights, by outlining parallel lines with the culture and experience of Japan as far as Mediation is concerned. Departing from the experiment conducted in the 3rd Probate and Family Court of Santo Amaro District, we will try to demonstrate that Mediation is likely to: a) represent a disruptive element in the Brazilian belligerent process, in that it enables the opening of communication channels that value the dialogue, the process of listening, the outreach, the legitimation and recognition of the human beings behind the conflicting circumstances; b) build new possibilities of interaction based on the conflict, by supporting the mediated parties in handling their shared living within a context of openness, guided by the ethics of otherness; and c) drive changes of behavior and broadening of perspectives for the parties involved and, while doing so, invite them to exercise their autonomy and to take control of and responsibility for their actions, as subjects of rights and obligations.

2. The Brazilian Scenario

Litigation rates in Brazil are not one of the highest on the globe, but they increase continuously and relentlessly, as indicated by the report Justiça em Números [Justice in Figures], prepared by the National Council of Justice (CNJ) in 2016, based on data compiled in 2015.

With regard to the number of lawsuits, the Brazilian Judiciary closed the year of 2015 with almost 74 million legal proceedings. This figure represents an increase of 1.9 million cases (3%) in contrast to the previous year (2014). The results are basically a direct portrait of the State Courts of Justice, which are responsible for 80% of the cases pending trial. The inventory of proceedings in the Judiciary (74 million) has been on the rise since 2009. The accumulated growth to date has reached 19.4%, or 9.6 million cases, when compared to that year. Therefore, even if the Courts had ceased to accept new demands, at the current productivity of judges and public officers, it would take approximately three years of work to eliminate the backlog.

With regard to the rate of settlements in Brazilian Courts, only 11% of the judgments and decisions, on average, were recognized in 2015. The Courts where most settlement agreements succeed are the Labor Courts, in which 25% of cases are closed in settlements by mutual consent between the parties. This happens because the Brazilian Consolidated Labor Law (CLT) imposes the obligation on the parties to attempt to settle at two different procedural phases namely: after the opening of the discovery hearing (art. 846) and following the presentation of the final statements by the parties (art. 850), when the failure of either party to do so could ultimately be grounds for invalidity of the judgment. Settlements before the Courts of Labor are an

absolute priority. Law no. 9. 957/2000 which introduced the Summary Proceedings into our legal system, enhanced the relevance of settlements by providing that: “Once the session is opened, the judge will explain to the parties in attendance the advantages of settlement and will resort to all adequate means of persuasion to achieve a conciliatory solution for the litigation in any phase of the hearing”.

Nonetheless, the search for consensus rather than for litigation is not a part of the Brazilian culture. The “culture of settlement” appears in recent speeches in support of this shift of paradigm and advocates the promotion of consensus as a way to impart greater efficiency and speed to the resolution, in response to the slowness and overload of the Judiciary institutions. This historical background reflects another important fact: it was only after ten years from the launch of one of the theoretical marks of the study and understanding we have of the access to Justice that the project coordinated by Mauro Cappelletti and Bryant Garth, entitled *The Florence Access-to-Justice Project*, on which a final report was published in English in 1978 and had a great impact on the procedural science of many different countries, that the publication was translated into Portuguese in Brazil and began to be adopted to foster studies aimed at the renovation of Justice.

The main issue related to the access to Justice, as discussed by scholars writings in Brazil in the years 70-80, was the expansion of basic rights to the populace, who did not have access to them (JUNQUEIRA, 1996, p. 390). This fact is attributable to the individualistic liberal tradition of the Brazilian legal system, to the socioeconomic marginalization and to the legal and political exclusion in effect under the military regime. According to Junqueira (1996), while the international academic circles, particularly after the Florence Project, were concerned with the resolution of conflicts and collectivization of the demands as a result of the rise and crisis of the social welfare state, the

agenda of Brazilian researchers that embraced the study of conflict resolution did so because of the "exclusion of vast majority of the population from the basic social rights, including the right to housing and health." (JUNQUEIRA, 1996, p. 390).

Thus, since the 80s a number of laws have been edited to recognize individual and trans-individual rights with an eye to ensure broad access to justice, which laws were incorporated by the Federal Constitution of 1988. The Federal Constitution, in turn, affirmed an array of fundamental rights and guarantees, being considered a milestone in the assurance of the right of access to Justice. Not only did it consolidate the procedural guarantees inherent to the concept of "due process of law", but it also afforded ample access to the courts of jurisdiction, by ensuring, in its Article 5, subsection XXXV, that "the Law will not preclude the appreciation by the Courts of any injury or threat to the law", among other fundamental rights related to the access to Justice.

We may state that the movement for access to Justice in Brazil has culminated in both the affirmation of the fundamental rights of citizenship and the establishment of procedural mechanisms and guarantees to ensure the effectuation of such rights. The process of reinstatement of democracy in the country, therefore, is characterized by the prevalence of the comprehensive notion of access to Justice, where a substantive role is reserved for the Courts of Law as the arena for the construction and consummation of rights.

3. Culture of Conflict, Culture of Litigiousness and the Cultural Impact

Within the elements that make up the culture of a certain people lie their capacity and forms to deal with the conflict. As culture, and for the purpose of the study of the culture of conflict, the conceptualization of Kroeber and

Kluckhohn is considered, according to which culture consists:

> "of patterns, explicit and implicit, of and for behavior acquired and transmitted by symbols, constituting the distinctive achievement of human groups, including their embodiments in artifacts; the essential core of culture consists of traditional (i.e., historically derived and selected) ideas and especially their attached values, culture systems may, on the one hand, be considered a product of action and, on the other hand, conditioning elements of action" (KROEBER; KLUCKHOLM, 1952).

Conflict, in turn, may be "understood as the set of psychological, cultural and social conditions that determine a drastic reversal of attitude and interests in the relations of the persons involved" (WARAT, 2004, p. 60).

On the basis of this pair of definitions, the culture of conflict is, so to speak, the set of rules – especially those of a procedural nature – referring to the handling of conflicts in the legal realm, in concordance with the psychological and social institutes that integrate an arena typical of the cultural environment, which recognizes its peculiar mechanisms in the approach of the phenomenon of dissent inherent to human relations. According to Warat (2004), Law scholars believe that conflict is something to be avoided, as they understand it as litigation, as a controversy – in turn – limited to the aspects of law or estate and, in so doing, they fail to address and deal with the subjective issues of the dispute.

The culture of litigation portrays the distortion of the typology referred to above. It disseminates a functional anomaly of the conflict, in such a way that the general idea inserted in the collective (un)conscious is that each and every conflict needs to be judicialized and settled in an 'adjudicated solution', that is

to say, one imbued with imperative and coercive power, founded on the win-or-lose logic.

This is the point where the resistance to the introduction of a practice of pacification resides, as it spreads not only among the citizens under jurisdiction, but also in the proliferation of the t often times vain necessity of imposing a court decision (though not always the most adequate from the perspective fairness in the resolution of the conflict).

From an initial analysis of the provisions of Resolution CNJ No. 125/2010 [National Justice Council], which deals with the National Judicial Policy on the adequate treatment of the conflicts of interests in the scope of the Judiciary, we can distinguish a perception of the "new forms of conflict resolution" derived from a modus operandi that resembles those typical of legal proceedings appreciated by the courts – that is, with the terms, definitions and procedures similar to those of a legal dispute, though in a conciliation and settlement hearing. In this connection, for instance, it provides in art. 8 that "the courts are to create the Judicial Centers of Settlement of Conflicts and Citizenship (Centers), as the branches of the Judiciary preferably responsible for holding the sessions and hearings of conciliation and settlement". In the mediation process, there is no hearing, not even under mediation of the court. Correspondingly, the first paragraph of the article in question allows the holding of conciliation and settlement hearings at the own courts, designated Minor Claims Courts or District Courts, "as long as the procedures are conducted by conciliators and mediators registered with the Court (item VI of article 7) and supervised by the Coordinating Judge of the Center (article 9)". How will mediation proceed within the court itself – and under the supervision of a judge?

Paragraph 2 of art. 9 sets forth that "the courts must ensure that the Centers are staffed with civil servants bound by an exclusive dedication

clause in their employment contracts, all of them trained and qualified in consensual methods for conflict resolution, and with at least one also qualified for the adequate screening and referral of the cases". But why a civil servant? What will be the parameters adopted for such screening and referral? In light of the practices of the Minor Claims Courts, we could think of this servant – already familiar with the legal routines , as someone who will sort out the cases in light of their background in the court proceedings and use their own discretion to predict the possibility or not of initiating legal proceedings, or even the odds of a successful outcome in a lawsuit (Leite, 2003).

Although the Resolution CNJ No. 125/2010 provides that the program in furtherance of actions that encourage auto-composition in litigation and social pacification by means of conciliation and mediation (art. 4) will be implemented along with a network comprising all the agencies of the Judiciary, public entities and private entities in partnership (art. 5), the CNJ itself has embedded, in the scope of Judiciary, the education and qualification of mediators and conciliators in the centers for dispute resolution. The conciliator will preferably act in cases where there is a specific bond between the parties, whereas the mediator will preferably act in cases of a continuous bond between them, by assisting the interested parties in the understanding of the matters and interests at stake, so that they are capable, once communication is restored, to identify by themselves the consensual solutions that will yield mutual benefits. In this process, the mediated parties are the protagonists and the ones responsible for spotting and creating forms of conflict resolution. In practice, the difference is evidenced along the development of the case dealt with during the encounter, and whether the object will require more sophisticated tools and longer time for interaction or not is an aspect to be defined according to the intricacy of the object of the process.

In September 2011, the CNJ organized a program for the formation of instructors in conciliation and mediation, with the a dual-faceted purpose: on the one hand, to train Judiciary servants to act as instructors in conciliation and mediation, with a view to cascade and standardize these techniques across the Brazilian courts and, on the other hand, to enhance their experience in teaching, so they are prepared to take over the formation and qualification programs in the courts of law. On the grounds that "this measure will even save resources for the courts, which will not have to outsource services for qualification, as they will mobilize their own servants to teach their internal and external audiences," the formation and qualification of the court's future mediators and conciliators were not carried out under cooperation agreements with public and private entities, education institutes and universities, but by the own servants of the Judiciary instead.

It appears that the institutionalization of mediation by the Judiciary is taking a path toward the development of a litigation solution process different from adversary proceedings, but otherwise retaining similar features, in that it excludes relevant characteristics of the institute of mediation like interdisciplinarity. As a result, we can question ourselves about the possibility of mediation in the form it is being shaped in the judicial scope. When the State appropriates the institute of mediation to settle conflicts, by causing the mediation process to be conducted by servants of the Judiciary, it is once again calling upon itself the responsibility (and the monopolistic power) for the resolution of social conflicts. This is nothing else but a novel form of social control and retention of an institutional power with the intention of molding and organizing social conflicts.

Nonetheless, it always worth emphasizing that mediation is an institute that primarily seeks to establish the dialogue between the parties. The construction of the agreement by the parties involved is a consequence of the

process, not an end per se. It is necessary to highlight that the most relevant virtue of conciliation/mediation as a social pacification instrument lies precisely in the much greater dimension in which the conflict can be dealt with than the dimension of court litigation, as mediation/conciliation bring(s) personal relief when the solution is attained, at the same time as it(they) diminish(s) the supremacy of the prevailing party and, conversely, mitigate(s) the oppression of the defeated one.

4. Mediation and the necessary change of the mindset model: the volunteer Project experience

When we invoke a new paradigm, we understand new ways of thinking about ourselves, our mutual relations and the notion of the existing interconnection and interdependency between all things and all people. The Brazilian Federal Constitution of 1988 guarantees a series of Fundamental Rights of a Democratic Rule of Law, but in practice we see and witness such rights being disregarded, day by day, by the own operators of Law.

Maybe if we open channels to think about the crisis in the Judiciary based on more "streamlined" forms, we would be able to expand the access to Justice and to promote the fulfillment of Constitutional Rights. I rely on the assistance of Morin (2000, p. 31), who states that: "it is necessary to note that the principles that have boosted the scientific knowledge and have proven to be extremely valuable, nowadays pose severe problems". And, in this regard, the author proposes that we summarize the principles into the principle of simplification, adding that this apparent chaos vanishes when we discover the simple laws that actually rule them. What would be the simple laws that would be useful to us in the recognition of the crisis in the legal procedural system?

We risk suggesting that, to arrive to some of these simple laws without forgetting the intricacy surrounding them, we can depart from the investigation on the causes that compel people to seek remedy in Court. Based on the understanding that (except for the cases involving Public Authorities, as we would then face difficulties to identify the subjects), when one or more persons file a lawsuit and initiate a process that triggers a series of procedures aimed to obtain a final decision, in the majority of the cases – we could say –, it is because that they are driven by the difficulty in communication and the failure to hold people liable for their actions.

The Judiciary, in turn, has the duty of ruling with a view to promote social pacification. To this effect, it must follow preset procedural steps. The time has come for us to realize that these procedures no longer suffice to back the greatest value of Justice, which goes far beyond the enforcement of the rule. What about thinking of the conflicts that are a part of life in the community and that, perhaps, if we focus on the instruments used to solve them, we can achieve better results?

The construction of Justice calls for a rationale capable of getting to the values that support legal rules. Laws are not an end in themselves, they exist to fulfill the objective of declaring, ensuring and materializing the rights in the service of life or, in other words, rights conceived upon the ascertainment that, as beings in interaction, we depend on others to exist.

It is clear that Mediation will henceforth establish a new process within the Structure of the Judiciary that will unquestionably humanize and renovate it. Proof of that is the experiment carried out by a volunteer Project at the Probate and Family Courts of the Judicial District of Santo Amaro, under the responsibility of a team of five mediators, whose members are Ana Lúcia Prado Catão, Camila Sarno Falanghe, Carla Maria Zamith Boin Aguiar (the author of this article), Lúcia Cronemberger and Silvana Cappanari, the

first three of them graduated in Law, and the two others in Social Services and Psychology, respectively. The Project was coordinated by Lídia de Andrade Conceição, the Judge responsible of the Area of Conciliation and Mediation of the Probate and Family Courts of the Judicial District of Santo Amaro.

Departing from the premise that people are represented in the relations, encounters and exchanges, the Project focused mainly on interpersonal relations of the various social systems and subsystems to which they belong and on the conflicts arising out of such relations. It is in the relationships that people build themselves jointly, live and learn to cope with their differences, as they organize their lives.

In this context, the area of Mediation at the Probate and Family Courts of the Judicial District of Santo Amaro considered the various systems of existing relations – the relations between the mediated parties (parties to the legal proceedings, and possibly other persons involved in the conflict); among the mediators; between mediators and mediated parties; among mediated parties, lawyers and notary offices; among the mediators and several players of the Court (court clerks, notary office clerks, judges, technicians, etc.), and between mediators of the Regional Court of Santo Amaro and others acting in São Paulo, etc. – being guided by some assumptions.

The assumption of intricacy yields the concept that complex relations imply weighing in the context of action and the possibilities of dialogue. The assumption of intersubjectivity presupposes relinquishing the paradigm of objectivity, which holds people hostage of their truths, with the usual procedures of persuasion (evidence, dates, times, precise recollections), in a system that demands the true truth – and this has to be identified s, and requires that "the judge, in order to rule out any risk of subjective or personal decisions, must take into account strictly what is entered in the records"

(VASCONCELLOS, 2002, p. 92).

Mediation is the joint construction of knowledge, in which each one voices their experience and knowledge, and these are as true as those of the other. By listening to the accounts of others, the mediated parties are able to legitimize the experiences, feelings and values of both, find out that they have built the conflict together and together they can search a solution to the impasse.

The assumption of instability draws the attention to the need of self-organization. This is about changing the belief of an invariably stable, orderly world, to believe in a world in the process of creation. Order and disorder are perceived as variables of life. In doing so, we recognize the need and the possibility of building a way of talking that the mediated parties can continue to adopt in the future, by creating new adaptable agreements. The assumption of reflection is about causing the mediated parties to have a view of how they do what they do, whereas the team in charge of the Project gets ready to do the same, as the relevance of the reflection process lies in enabling the continued restructuring of the established practices.

In this manner, in the system adopted, the records of the proceedings in which the Mediation of the parties will be conducted have been referred to Mediation, where they only remain with the consent of the parties, who voluntarily submit to the method. This aims to ensure that the parties are actually available for the Mediation. They stay there only the necessary time for the Mediation to take place. During several weeks, meetings are held to foster dialogue. With regard to this aspect, it may be noted that Mediation brings, in itself, the rupture of the procedural paradigm in effect. The method whereby the legal process is built is usually relinquished during the Mediation process, so the hidden conflict can emerge and, as a result, the actual assuagement of the involved ones can be pursued. One of the deepest

observations that can be made is that Mediation advances directly in the opposite direction of the legal proceedings, by breaking frontiers that limit the conflict and expose what was concealed. The resistance comes from all those acquainted with the legal proceedings, with their defined roles, who now are confronted with a new reality.

The first proceedings assigned to the group of volunteers had been pending for five, seven, even ten years of litigation. They were difficult mediation processes, attended by many lawyers resistant to Mediation and obstinate about the litigation system. With that, the group's task was not reduced to the Mediation between the parties, as it was necessary to carefully look to the form of inclusion of the lawyers. They needed to be reassured of the relevance of their role to their clients, i.e., that they would speak for them and ensure that their rights would be respected, and to provide legal support.

Table 1 – Testimonies of the Mediated Parties

"I think it is very good, as in this way we have the opportunity of solving the problem in a better way."
"It was wonderful to participate, the people who received me were wonderful and knew how to listen to me and helped me."
"When I got here, I thought that everything was lost and that we would never speak with each other, but now everything has changed, my life has changed and I can talk with F, he listens to me and our daughter is happy, thank you."
"You have helped me a lot, I couldn't see the harm I was doing to L in doing what I did, and now I can share my concerns with the father and I am not alone anymore."

As time went by, the lawyers, throughout the Mediation process, realized that there were gains for them as well, not only for the parties. One of them once stated: “I don’t believe we are reaching any agreement, but one thing I know, my client is disturbing me less over the weekend.” This statement was made in front of his client, which reinforces that the possibility of clarity and openness is one of the targets of Mediation.

The testimonies of the mediated parties obtained during the last encounters also indicated the recognition of benefits from the Mediation process, even without settlement. Because of the need to protect the confidentiality, the accounts of mediated parties are presented with no mention of the authors’ names or references likely to lead to the identification of the Procedural Actions in Table 1 – Testimonies of the Mediated Parties.

Moreover, informally, most post-Mediation cases progressed. Some of them were settled in hearings, others entered into settlements and took them to court for ratification, which is indicative that Mediation has had a positive impact on the dynamics of the systems involved, despite the difficulties faced.

This change reflects how Mediation is understood by the team of mediators responsible for the Project of Implementation of the Mediation Section in the Probate and Family Courts of the District of Santo Amaro. The group worked on Mediation as a process to conduct and settle conflicts, in which the mediator creates space for conversation and allows the parties to find more creative ways to deal with their conflicts and impasse, thereby favoring the relationship existing between them.

Transformation is obtained by means of an action guided by ethics directed to the care and recognition of the autonomy of the other, through the legitimation of one of the parties; the resignification and new contextualization of the conflicting circumstances and other discrepancies that permeate them; the empowering of the people involved; and the joint responsibility for

the process of a potential settlement.

Without the pretense of eliminating the conflicts, the project has been building possibilities to handle them within a setting of dialogue and reflection and designing mutually satisfactory settlements likely to be recognized in court. The focus of Mediation is not only directed to the construction of a transient settlement between the parties, but to unveiling the possibility of new agreements and conversation along their continued relationships. In a situation of equality with the parties, the mediator does not expect a solution, but only incites dialogue, which enables the mediated parties to raise their different versions of the situation and to identify themselves as capable of creating a conversation space to understand better their needs.

The results obtained to date leave no question about the importance of Mediation. By the end of the first semester of 2007, the scenario at the 3rd Probate and Family Court of the Judicial District of Santo Amaro was composed by dissatisfied employees, grouchy faces, constant arguments, 12.5 thousand accumulated cases, with folders piling up even in corridors. In January 2009, the environment was different: large and organized spaces, digital management of the cases, which were cut to 6,656 – a reduction of 47% in relation to June 2007 – and all this despite the filing of, on average, 500 new proceedings in this court each month.

This improvement in figures was also portrayed by a survey conducted in December 2008, which shows a drastic transformation of the 3rd Probate and Family Court of the Judicial District of Santo Amaro. The interviews conducted with 12 employees of all levels and notary office users, one year after the completion of the Mediation work, recorded a positive change at the public agency. We consider, therefore, that this work identifies ways to enhance the efficiency and reduce the notorious slowness of the Brazilian Judiciary.

5. Final Considerations

This work attempted to demonstrate that, because individual and society are in continuous transformation, the frequent updating of concepts and views regarding the instruments of conflict resolution is necessary. This means rethinking, resignifying and adapting them to the contexts and needs presented.

For all the reasons set out throughout this paper, our opinion is that Mediation will represent the expansion of the access to Justice and, as a result, will enable the fulfillment of Human Rights, as long as the need for a change of the mental mindset for its application and the development of its practices is thoroughly understood.

In this regard, Mediation relies on setting a space open to dialogue, where individuals can independently choose and agree on what they consider more beneficial and fair in a cooperative manner. Thus, the institute of Mediation does not envisage to relieve the overburden of Courts with solutions imposed or randomly suggested. Mediation proposes the creation of democratic and participative dynamics that open room for the facilitation of dialogues centered on human relations and inter-relations, so as to operate as a didactic methodology of prevention and transformation of the ways people deal with their conflicts.

Furthermore, we stress that the Mediation process, when conducted in accordance with the contents of this work, is always positive, to the extent that it affords the possibility of involvement and responsibility of persons for their choices and behaviors, regardless of whether the mediated parties reach an agreement or not. Mediation pursues the recognition and respect of otherness – which is understood as realizing that others have the same rights

as human beings and have similar expectations. The legal proceedings must be regarded as an alternative of last resort, in that they are not a democratic and emancipatory means of conflict resolution. The persons do not take part in the decision process, as the power is assigned to a representative of the Judiciary.

In this regard, the figure of the mediator must be emphasized as a specialist in the facilitation of dialogue, who has under his responsibility the complex task of creating and recreating healthy and cooperative environments that induce individuals to feel empowered to address and solve their own conflicts and take over the responsibility for their choices and actions, as was the case of the 3rd Probate and Family Court of the Judicial District of Santo Amaro.

Lastly, it is important to observe that the legitimacy of Mediation is built upon the interdisciplinary knowledge, and its practice enables the perception of Law not as a static Science, but as a Human Science that must extend to the intersubjectivity and intricacy existing in human relations and conflicts.

Bibliography

AGUIAR, Carla Zamith Boin. **Mediação e Justiça Restaurativa: A humanização do sistema processual como forma de realização dos princípios constitucionais.** São Paulo: Quartier Latin, 2009.

CATÃO, Ana Lúcia; CRONEMBERGER, Lúcia Fialho; CAPPANARI, Silvana (Orgs.). **Mediação no Judiciário: desafios e reflexões sobre uma experiência.** Rio de Janeiro: Ed. Forense, 2012.

KROEBER, Alfred, KLUCHOHN, Clyde. **Culture: a critical review of concepts and definitions.** Cambridge, Mass., Harvard University, 1952.p. 357.

MORIN, Edgard. **A inteligência da complexidade/Edgard Morin & Jean-Louis Le Moigne.** 3. ed. Translator: Nurimar Maria Falci. São Paulo: Peirópolis, 2000.

VASCONCELLOS, Maria José Esteves de. **Pensamento sistêmico: o novo paradigma da ciência.** Campinas: Papirus, 1997.

WARAT, Luis Alberto. **Surfando na pororoca: o ofício do mediador.** Florianópolis: Fundação Boiteux, 2004.