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# Mediation – Communicative Action and Philosophical Practice

Antonio SANDU<sup>1</sup>

## Abstract

*Mediation is a particular type of communicative action that generates professional socialization and normative adherence (Sirbu, Gheorghiu, Croitoru-Anghel, 2013). In this paper we are interested in communication strategies and how to obtain interpretative consensus in the process of mediation. The analysis of identified communicational strategies as mediation principles will allow us to develop a model of construction of a new communicational paradigm that places gaining mutual consent in the process of communication mediated by a third party – the mediator, whose function is to reconfigure the interpretative maps regarding the object of the conflict. This process takes the form of a partnership based on the symmetrisation of communicational relationships. In this paper we will discuss mediation as facilitative practice, transformational mediation, narrative mediation and appreciative mediation. Regarding the appreciative mediation, we will propose a creative model of solving conflicts starting from the elements of success of the parts in reframing conflicting elements into transformational elements. We build the appreciative mediation starting from the perspective of an appreciative social semiotics.*

## Keywords:

*mediation, social communication, facilitative mediation, narrative mediation, transformational mediation, appreciative mediation*

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### **Introduction**

Mediation<sup>2</sup> is a particular type of communicative action that generates professional socialization and normative adherence (Sirbu, Gheorghiu, Croitoru-Anghel, 2013). In this paper we are interested in communication strategies and how to obtain interpretative consensus in the process of mediation. The analysis of identified communicational strategies as mediation principles will allow us to develop a model of construction of a new communicational paradigm that places gaining mutual consent in the process of communication mediated by a third party – the mediator, whose function is to reconfigure the interpretative maps regarding the object of the conflict (Sandu, 2014a). This process takes the form of a partnership based on the symmetrisation of communicational relationships. An efficient relationship between the parties in mediation, as well as between them and the mediator, is based on offering trust and feedback (Roșu, 2010). The purpose of the process of mediation is maximizing the communicational efficiency, which leads to solving the conflict without recourse to the constrictive force of justice (Gagu, Bădulescu, 2014). The constitutive values of mediation as communicative action are connected to social justice, equity, charity and not the least, accepting alterity and specifically postmodern understanding of the other as being complementary and partner. Equity, from a postmodern perspective, is no longer done by justice, but by the very conflictive partners. Conflict is considered a learning experience that doesn't need to be sliced, but solved by repositioning each parties through particular aspects of the win-win approach.

### **Mediation – communicative action and philosophical practice**

In all social practices, both social and communicative action work based on the particular style of the mediator, and can take the form of social action, as well as of communicative action. Planned action can be integrated in strategic action as it is defined by Habermas (2000). The result of strategic action is efficiency – mainly in economic plan. We consider that strategic efficiency is important for the success of the social

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action of the social worker precisely because in the deficiency paradigm, the client suffers from cognitive vulnerability (Cojocaru, 2005) or teleological vulnerability. The strategic action of the mediator generated during the planning function is coordinated in the process of mediation as a form of philosophical practice (Codoban, 2011) taking the form of a reflection on practice – from the perspective of the mediator- and on own position in the conflict for the parties in the process of mediation. This reflection on the practice transforms mediation in a metapractice – a self-reflexive practice of identifying own paradigmatic agreements. This practice, when taking the form of supervision of ethics in the process of mediation, is of communicative action nature. The opinion reflected and reconstructed in the practice of mediation is, itself, another example of communicative action. There were also highlighted the practices of transferring responsibility from the participants in the process of mediation and the mediator. The paternalistic approach on the mediation reflects an unequal model of the relationship mediator-mediated. This relationship turns into one of power through means of influence. According to Habermas (2000), social action conveys a process of exercising the soft power. Communicative action, on the other hand, aiming at gaining consensus, targets the symmetrization of power by turning communicative actors into partners, in the process of co-constructing meanings (Sandu, 2014b). The idea of social referential was presented by Dumitru Borțun (2014) who shows that the subject of social action is tributary to the social referential from which the action is regarded, as an individual in a train has a different inertial referential than the individual sitting next to a moving vehicle, the same is an individual in a social environment having the role of changing the communicative referential, even in the context in which the social referential remains unchanged. Taking the example of mediation through the strategy of compromise constitutes a referential for the practice of mediation centred on problem (paradigm of deficiency). Changing the communicative referential by focusing on the win-win approach (Stoica-Constantin, 2004) – constitutes another communicative referential – another meta-story on the conflict and the characters involved in it – turning solving the conflict into a successful story (Sandu, 2014b). This is why we consider that, even though appreciative practices were created in the area of organizational development and human resources, being

retrieved in Romania by Ștefan Cojocaru (2005) in the area of social work, can represent the base of mediation practice based on win-win approach (Cornelius, Faire, Cornelius, 2006) (appreciative). In this context, we mention that the aspect of communicative action with impact in social transformation suffers a theoretical cleavage from the sphere of sociology and social work, towards the one of communication sciences as a meta-theoretical framework. From the social sciences, it is taken as an alternative to traditional justice, both in the civil and the criminal area (Sandu, 2014b).

Cristi Danileț (2012) shows that “along with the classic concept of “process”, the recent theory of judicial organizing consecrates another phrase, “the process without procedure” ”. By process without procedure, the mentioned author understand the fact that the parts agree that the dispute shall not be subject to a slicing settlement that would be in favour of one or the other part, through means of the court, but use a mechanism of amicable settlement of the conflict. Legitimation of such procedure – says Cristi Danileț (2012) – comes from the liberty of the parts to contract, including over avoiding classical procedure rules and bringing/not bringing the dispute in front of a judge, resorting instead to a private person who applies a set of specific rules for each dispute, in a confidential *procedure*.

According to the Law 196/2006, mediation represents a voluntary way of solving disputes amicably, turning for help to a third person that is qualified as mediator, extrajudicial *procedure* that takes place in conditions of neutrality, impartiality and confidentiality.

### **Communication and creativity in mediation. Styles of mediation**

Mediation procedure involves a series of techniques of particular communication grouped according to the paradigm underpinning the communicative practice as mediation. Each mediator, depending on their experience and, especially, on the epistemic positioning in regard to the mediation as social practice and/or communicative action opts for one of the mediation styles (Mitroi, 2010). Of course, the ones presented in this paper are only just some of them, our approach being tributary to the constructionist paradigm (Sandu, 2012a).

*Facilitating Mediation* is considered the first style developed in the 60s – 70s, being the origin of other styles of mediation developed afterwards (Mitroi, 2010). The style of facilitating mediation is still most often used nowadays, the Law of Mediation being, in Mugur Mitroi's opinion, structured to constitute the framework of implementing facilitative mediation (2010). Facilitative mediation implicates a set of procedures applied by the mediator in order to facilitate the parts to reach a mutual agreement, accepted by all parts in the litigation. The sessions take place individually and jointly, discussing the interests, needs of the parts, their position and the alternatives for solving the conflict. The mediator, as a facilitator, avoids to express his own opinion, suggest solutions or give advice (Pop, 2011). The parts are the ones that control the solutions proposed, and the way in which those are transformed in understanding and, finally, mediation agreement (Pop, 2011). In our opinion, facilitative mediation has its origin in the subject centred paradigm, also called centred on client, formulated by Carl Rogers (2003). The facilitative mediation is based on the intentional, nondirective interview devised by Rogers and his collaborators. Carl Rogers, psychologist by training, sets up the "nondirective therapy" as an answer to the necessities of a more efficient approach of the clinical intervention starting from the Child Guidance<sup>3</sup> field where he worked in the first period of his activity. Non-directivity, also called Client Centred Therapy, starts from the so-called "tendency of self-development" (translation of the term "growth"), self-actualization, innate growth as a human being, in Rogers' opinion (1996). Non-directive therapy achieves the change in cognitive-behavioral customer behavior by encouraging the self-development tendency of the self: therefore, the client is an agent of change of the own behavior and attitudes himself. Non-directivity as social intervention, as a practice of facilitating mediation, in this case, involves a series of rules, among which "unconditionally positive attitude", non-estimated attitude, empathy, full trust in the capacities of the client, lack of any unasked advice, etc. "If the meeting is firmly conducted and oriented with the help of precise questions, we are dealing with a conducted or directive interview. If the meeting is free and

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3 Child Guidance – socio-psychological support service for children with social, family and school integration issues, being part of the general system of child protection in the USA.

runs around a theme, the subject having the opportunity to express in a personal manner, without any codified question, dealing with a non-directive interview. In this case, it starts from the principle that the interviewed person is the most capable to present own thoughts and feelings. The role of the interviewer (mediator - author's note) is to encourage the subject (client) in relating the story, proving that he listens carefully, motivating him to express what he knows and feels" (Miftode, 2011). In terms of methodology, non-directivity is the solution in which the mediator can value the tendencies of self-actualization of the parts, making them the agent of change (Sandu, 2013a). The main purpose of mediation is not solving the litigation through a decision, be it arbitrary, but helping parts to develop, create their own decision making autonomy and capacity of moral agent, which allows them, through alternative vision, to obtain a cognitive repositioning towards the conflict, and therefore reaching an agreement on the situation in question. Social change takes the form of interpretative agreement, and as such should not have to target exclusively a formal change of the conditions that led to the dispute, but a change at the level of motivational-cognitive system, so they will become capable to act as communicational actors with full autonomy (Sandu, 2013a).

From the sociological point of view, we can develop a principle of "structural non-directivity" as a factor of transforming the social environment. The existence of the self-actualization tendency is not a condition, from our point of view, of the success of the mediation as long as it minimizes the role of the social to determine the frameworks of the conscience within whose limits the self-updated tendency that the individual can operate in. In other words, the self-updated tendency of the individual is transformed from potentiality into act of the concrete conditions of the social and cultural environment in which the individual acts. The self-updated tendency of the individual need to be associated with a dynamic-conservative tendency of the social environment, like a social-structured grid applied to the individual by his social environment as a true deforming grid (the term belongs to I. P. Culiănu, 1994). Social change as a structural result of the process of mediation is, from our point of view, a congruence between the change-adaptation cognitive

motivational-behavioral of the individual, and the structural operational change of the institutions<sup>4</sup> that operate in that environment.

We prefer to consider mediation as a particular form of communicative intervention similar to the other social practices based on communicative action. The efficient intervention thus has two dimensions, one on the individual as a system that interacts in a given social field, and a second one on the social environment as a system that conditions and channels the possible interactions at the level of the given social field. The first dimension is constituted by counselling, and the second one by advocacy (Sandu, 2013a). Mediation brings together the two dimensions of counseling and advocacy, which it transfers to the parts in litigation in the process of facilitating the communication. The process of facilitation in mediation is, at the same time, a process of empowerment that the mediator develops in the benefit of both parts, them being to gain consensus at the end of the process – even if based on a compromise.

A second methodological principle examined by Rogers is the principle of reflection. Its main objective is to bring into contact the parts with their own statements, as they were perceived by the mediator (Sandu, 2013a). The practical result is that, on one hand, the mediator makes sure that he understood perfectly the message sent by the parts, the meaning that they give to the message, and on the other hand, the parts themselves note the complete meanings of their own message, reflect on the content of the message, on the way in which it can be received by other parts and even the social environment. Specifically applied in practice, the principle of reflection is achieved through the technique of active listening punctuated by paraphrases. In order to self-assess the capacity to achieve communicative practices – including the ones of mediation – in a non-directive manner, Carkhuff (2000) proposes the following questions:

- Are you capable to listen to what the subject says verbally and non-verbally?
- Will you let the others tell the story or you become impatient and rush them?

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<sup>4</sup> We used the term of institution as instituted social fact, regulated by social functioning norms, in sociological acceptance.

- Do you encourage the subject to tell you the story in details in order to satisfy your own curiosity?
- Do you have the tendency to get lost in details?
- Are you capable to give up on your own opinions and enter the world of the subject?
- When the subject speaks, are you capable to observe the ciphered messages?
- Are you capable to keep the client concentrated on the basic problems? (understanding and acceptance communicated to the client?)
- Are you capable to work non-defensive with the signs of resistance and/or resilience of the client?
- Can you use the resistance of the client to determine him to deeper explore the issues? (Sandu, 2013a)

Facilitative mediation, actually mediation itself as an alternative practice of solving the litigations appeared – and therefore has, as constitutive value – the vision of humanist psychology, of the non-directive one in particular, according to which the ideal human condition includes the opening towards the authentic, together with the self-updating growth tendency. The Rogers theory on personality is based on the philosophical assumption that comes from the postmodern humanism, according to which the Ego is developed only in relation and through communication with the otherness. The dynamic I - Otherness is, for Rogers, fundamental for the social construction of the autonomy of the subject. Its agent capacity, as a direct result of the autonomy, allows him to assume his options and propose them to the Other, in a communicative strategy to gain interpretative agreement. The philosophy of introducing mediation as an extrajudicial alternative is the one of strategy of normalization of power in relation with the otherness. The social contract, through which the Enlightenment paradigm and the modern one legitimate the use of force, and implicitly of justice in solving disputes, is rather interpreted as a semiotic pact on the situation that generated the dispute. As such, instead of public power (of court) legitimization to intervene in the private sphere to apply distributive justice (Rawls, 2012), the parts themselves are legitimized in the action to establish transactional justice. The pacta principles are servanda and,

therefore, the contract being the law of parts, were brought, in the American law environment, to the degree of principles of transactional justice. The third principle of communicative practices centred on client is represented by non-directivity, correlated with positive unconditioned trust given to the parts, and their capacity to achieve conflict management.

### **Evaluative mediation**

Evaluative Mediation appeared in the 80s, placing the mediator in the position of expert. The expertise of the mediator is manifested in the sphere of the nature of conflict, and of the solutions that could be given by a court of law (Mitroi, 2010). The mediator is involved both in the control of the procedures, and in proposing solutions for solving the dispute. He expresses his own opinions and formulated recommendations regarding the nature of the conflict, suggesting solutions. The mediator shows the parts the strong and the weak points of the case, and in general is based on individual sessions (Mitroi, 2010). The mediator follows the principle of equity and respects the rights of parts (Pop, 2011). The model is an alternative to the legal solution, unformalizing the procedures. The model transforms the legal procedure into expertise. The approach is a directive and paternalistic one. This practice is, in fact, based on a paternalistic model of constructing communicative strategies. The paternalistic model comes from the system of Roman law, and is the same that was the basis of Roman law, by the development of pater familiae institution. The model is based on the authority of thing judged as a principle of interpretative agreement. In fact, in the absence of a solution given by the court, it speculates on the possible solutions. Given the fact that the precedent is not a source of law in our country, and that only the judge – from the supreme court, is the only accepted hermeneutic of the legal act, the mediator can only use his expertise in the sense of possible solutions. In the context of Romanian legislation, the model is tributary to a realistic paradigm of interpreting the conflict. Conflict is a reality, outside the parts and objective, that can be fully understood by a mediator, careful observer of the phenomenon. His expertise is applicable, since mediation is a technology of power (Foucault, 2005).

### **Transformational mediation**

Transformational Mediation (Mitroi, 2010; Pop, 2011) is a recent practice, tributary to the postmodern paradigm, based on the communicative strategies as a form of interaction between the parts. As a central element, the transformational mediation is based on encouraging parts to acknowledge and understand the needs, interests and points of view of the opposite part (Pop, 2011). The best known works in the field of transformational mediation belong to Joseph Folger and Robert Baruch Bush (1994; 1996). The transformational approach of the mediation favors a social/communicative vision on the conflict (Baruch, Bush, Folger, 1994). According to this vision, the conflict is basically the expression of a communication and interaction crisis (communicative – author's note) (Della Noce, Baruch Bush, Folger, 2002). The transformational model proposed by Folger and Baruch Bush (1994) shows that, despite the potentially destructive impact of the communicative interaction in the conflict, the individuals have the capacity to alter the nature of the interactions in which they are involved, in order to reflect on their strengths and self-trust [result of the process of empowerment (Lord, Hutchinson, 1993)]. Positive dynamic of the communicational interactions regenerates the behaviors of the individuals who assume a constructive (Gergen, 2005) and humanizing relation. According to this model, what matters most in this type of mediation is the affirmative transformation of the parts in conflict and personal development. This matters even more than the actual resolution of the conflict, and, this transformation of structure of the communication and constructive interaction – that generates the social construction of reality for the actors implicated in the conflict - author's note – is the source of solving conflict.

The purpose of the mediator is to identify the opportunities of empowerment and the affirmative leap – the process of reframing the reality, when it occurs – and to facilitate the transition from the destructive interaction to the constructive one (Baruch Bush & Pope, 2002).

The epistemic model behind the transformational mediation is a constructivist one, or even constructionist. Constructionism just like constructivism, are paradigms that refer to the way in which the individual operates with constructs understood as operational definitions

on certain clippings from reality. While constructionism places the development of constructs at the level of the individual, constructionism places them at the level of interactions in the social environment, the individual assimilating and re-projecting them onto the social environment (Sandu, 2013a). The constructionist perspective is, by its structure, close to postmodernism – the liothardian division according to which our image on reality is a consensus of speech. Platonian essentialism operates with two levels of reality, one being transcendent and immutable, while the other is immanent, imperfect and discontinuous. The essentialist division is tributary to the ontological assumption of independence of context of the main characteristics of the classes of objects. Constructionism denounces the ideology of independence of context, and the very idea of existence of a unique ontological referential (Sandu, 2014b). The starting point of social constructionism is the works of Kennet Gergen, of which defining are the articles:

- The Social Constructionist Movement in Modern Psychology (1985),
- Toward generative theory (1987),
- Affect & organization in post-modern society (1990),
- An Invitation to Social Construction (1999).

In the vision of Gergen (2005), social constructionism is concerned with explaining the processes by which people come to describe, explain and take note of the world they live in, and that includes them. The constructionist model shows that reality is created in the process of communication with the instruments of the language of each individual, influencing and shaping the answers of the others (Cambell, Kinsella and Coldicott, 1994). We consider that this paradigm can be related with the communicative action theory formulated by Habermas (2000). He considers communicative action as the preferred model of exercising power in the contemporary society (Habermas, 2000). We took, from the Habermas criticism, the two theoretical distinct poles namely the analysis of the theories of micro-level on the social rationality based on communicative structures and on acts of language such as the integrative theories on the modern society at macro level. Communicative action directed towards gaining consensus codes a strategy of power particular to postmodernity, namely the subtilizing of

power, emergence of seductive strategies and replacing force with soft power of convincing (Nye, 1990, 2004, 2010).

The semiotic agreement ensures the interpretative unity of the world by social co-construction of reality (Sandu, 2014c, Sandu, 2013b). The interpretative agreement involves a “negotiation of definitions” that the dialogue partners operate with. We, therefore, followed the social construction of reality as a communicative action, extending the area of communicative action to the entire social pragmatic. We interpreted social action as a discursive-seductive strategy of exercising power in a public space. We adhered to the constructionist idea according to which public space is represented by any area of action of co-constructing reality.

The model is also based on the perspective of the transformational leadership (Sinclair, 2007). In Guy Sinclair’s opinion (2007) the transformational models, in mediation, are based on the belief that the process of mediation needs to be offered to the parties more than the simple opportunity to solve the conflict in a satisfactory manner, but also an environment in which they produce an affirmative transformation of the parts in conflict, and by extension, the society. For the quoted author, it is a certainty that the transformational mediation is more than a form of solving the conflict, being also involved processes of moral development – development of self-determination and self-awareness autonomy, development of the capacity of expressing feelings, including compassion. Globally, the paradigm involves the emergence of a society of peacemakers. We identify *these peacemakers that Guy Sinclair is talking about* – the term naming both the mediators and the participants in sessions of transformational mediation – with the so called *cultural creatives*. Regarding the knowledge based society, a significant part of the middle class with humanistic, ethical, ecological and scientific concerns are the so called cultural creative (Ray, 2011). We consider that once the transmodern society that we identify as the knowledge based society will become more significant from the public influence perspective, the cultural creatives will become a dominant social class, standing out and differentiating from the ones that are today the white collars (Sandu, 2014b).

The goal is that the parts, and the relationship between them, to transform during the mediation, and this transformation to lead to the ending of the conflict.

In transformational mediation, the communication between the parts takes place during joint sessions that aim at facilitating dialogue and debate. The approach is basically a non-directive one, facilitation being a process conducted by rules of the unstructured interview. There are no basic rules regarding the behavior in mediation, the mediator doesn't lead the conversations, the parts being completely free to choose the subjects of dialogue on conflict (Mitroi, 2010). The mediator pays attention to the parts during discussions, intervening only when it's necessary to score the moments of "acknowledge the other's opinion", moments that can lead to a transformation and resolution of the conflict.

### **Narrative Mediation**

Narrative mediation starts from the assumption that each part involved sees the conflict differently (Pop, 2011), each part having their own "story" on the mediated case. The role of the mediator is to determine the parts to narrate these "stories" about the conflict, including each one's perception on the event, the feelings involved, the needs and desires of the different parts (Mitroi, 2010). The stories expressed by each of the parts will be reunited by the mediator into a new "alternative story" that is a combination of the versions of both parts and that, in the same time, will be accepted by the parts, thus offering the premises of solving the conflict (Pop, 2011). This "common story" is not only the base of reaching a settlement, but also offers the possibility to continue the personal relationships between the parts, after the mediation stops (Kure, 2010). The narrative practices have proved their efficiency in different areas in which communicative action comes in confluence with the social one. In the field of mediation, the narrative practices were recovered by researchers such as Cobb (1993; 1994; 2004), Winslade (2006), Winslade and Monk (2000; 2008), Winslade, Monk and Cotter (1998), etc. The epistemological perspective from which this type of mediation starts is the foucaldian one, according to which the speech is a practice of systematic construction of the thing talked about (Foucoult, 1969, Kure, 2010). The speech appears as a local semantics that configures the identity of the parts implicated in the

relationship (of conflict - the author says). This semantics is, in the vision of Davies & Harré (1990) the assumption of the relational identity and a delimitation of the position call (Kure, 2010). The positions calls are socially and culturally built, by using certain culturally privileged places, such as the rational speech versus the irrational one (Kure, 2010).

Starting from the theory of speech proposed by Laclau and Mouffe (1985), Nikolaj Kure (2010) conceptualizes the organization as a hierarchical network of dominant and marginal discourses, whose position is in conflict. The author shows that the idea of hierarchy should be seen as a key concept in understanding the organizational conflict. From our point of view, the communicative – discursive hierarchy is a key concept in the analysis of any strategy of normalization of the power relationships, being them conflictive or seductive. As such, the role of the mediator is the very reframing of the story so as to produce a balance of the dominant speech. Members of such hierarchical communicative networks, being in dominant position, are able to build negative definitions about others. The mediator's role is to question the stories that led to the hypertrophy of the negative from the partner of communicative action – the conflict being such an action. An important aspect is the definition of Foucault (1969) on the subject as being a position in the discursive structure. This shows that subjectivity is a discursive construction, dependent on the communicative context. The identity is no longer centred on an interior essential structure, but is formed by the network of communicative interactions to which the individual participates. This network recruits the subject of the communicative action to assume communicative positions (Kure, 2010). (Organizational) identity is built from systems of discursive meanings, which gives position to the one acting (socially, strategically or communicative). In order to access the communicative action, a positioning of the communication network in one of its nodes is necessary, so that it can transmit and receive messages from the network. The theory of Laclau and Mouffe (1985) shows that any speech seeks to control social practices. This is compatible with the Habermas (Habermas, 2000) theory of communicative action, as consensus, as a result of the interpretative action, doesn't stop exclusively to the communicative practices, but is translated as social action. Conflict appears as a result of the practices of polarization of the power speech.

Those who adhere to a narrative perspective on mediation refuse an objective nature to the conflict, as an effect of certain contradictory interests, but operationalize it in the sense of expression of the positioning practices – centrality versus communicative marginalization. Narrative mediation is focused on the expansion of the discursive resources of the participants that are redefined by practices of positioning. The purpose of the practice of mediation is that of constructing an alternative story to modify the discursive dominants. In mediating a work conflict (Kure, 2010), for example, the mediator will engage in examining the stories of the manager, but also of the employees, their hopes and intentions. This approach will lead to the construction of stories on the work relationship regarded as an opportunity to develop creativity, honesty in interpersonal relationships, etc. This new narrative positioning is no longer congruent with the conflictive relationship and no longer constitutes a marginalized context for any of the communicative actors.

Starting from the model of transformational mediation, of the narrative one described below, and from the one of the appreciative inquiry, we will seek to outline a model of appreciative inquiry.

#### **Appreciative mediation**

The principles<sup>5</sup> of the appreciative inquiry are used in areas such as institutional development, social and community development, management, marketing and human resources, leadership, and not least, human resources management. Currently, a series of large corporations such as McDonalds, US Cellular, British Telecom, Avon Mexico, World Vision, Nutrimental, as well as a series of public organizations involved in central or local public administration from Brazil, Canada, India, Holland, South Africa, etc. use the appreciative inquiry in their own organizational development and management of human resources.

*We propose the concept of appreciative mediation as a part* of the Appreciative Ethics, as particular communicative practice used to obtain interpretative agreement from the parts. Romanian scientific literature contains no references to the use of appreciative inquiry in the practice

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<sup>5</sup> The present article is partially a subset of the information contained in the article Sandu, A., (2014). *Medierea apreciativa. De la conflict la creativitate*, [Appreciative mediation. From conflict to creativity], Inventica, 2014.

of mediation. In the international scientific literature, we identified the use of appreciative inquiry as a practice of gaining consensus in situations of mediation in the works regarding the solving of conflicts that arise in the management of human resources. The proposed approach combines the win-win method (Cornelius, Faire, Cornelius, 2006) with the appreciative principles. In the appreciative mediation, as an alternative to solving conflicts, we cannot identify a scientific literature, but mostly presentations of the services offered by mediators that apply Appreciative Inquiry in mediation<sup>6</sup>.

Appreciative mediation is a style of practice of mediation that we propose, and comes from the area of appreciative inquiry methods introduced in the scientific literature by David Cooperrider and Suresh Srivastva (1987). Appreciative inquiry was defined as a co-transforming research of the positive in individuals and organizations, a transforming discovery (Cooperrider, Srivastva, 1987) of the sources that generate vitality of the live systems in times of maximum efficiency and maximum creative capacity in the social (Bushe, 2011), economic and human field.

Appreciative inquiry is based on the interrogative art regarding the strengths of the system in order to understand, anticipate and maximize the creative potential that exists at this level (Sandu, 2009a). Cooperrider and Whitney (1999) consider appreciative inquiry as a mobilization of the interrogative capacity based on the principle of the unconditionally positive questions. The term of *appreciation* itself, of valuing, makes us think of the positive side of the process of development, of affirming the strengths and positive aspects, targeting the transformation of threats in the opportunities of development (Ponea, 2009).

The element of novelty that the appreciative inquiry brings is the change of accent from the traditional way of action in an organizational environment, invariably oriented towards solving problems, only because in each environment there has to be problems to be solved, to the highlighting of the importance of development of “what is best from what is” (Cojocaru, 2005). Cooperrider and Srivastva (1987) states that the *action research* is only based on problem, and that it leads to a

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<sup>6</sup> To see Why AI Mediation (AIM)? Accessed online la on 02.06.2014, address: <http://www.appreciativeinquirymanagement.com/mediation-services/>

constraint or lack of innovation when reality, or the problem, are approached (Tudosă, 2013).

**Appreciative inquiry** starts from the appreciation and valuing of what is best in the organization, continues with the building of a vision of what could be, and the dialogue regarding what should be the base of the assumption that an organization is a mystery that should be discovered (Cojocaru, 2005).

The concept of **appreciative inquiry** was launched in 1987 in the work of David Cooperrider and Suresh Srivatsva, *Appreciative inquiry in organizational life*, that defines appreciative inquiry as being the “search of what is best in people, in organizations and the world. Appreciative inquiry systematically implies the discovery of what “life” offers to a system in life (Cojocaru, 2005), when it is most alive, most efficient and constructive from economic, ecological or human point of view” (Sandu, 2009b). Appreciative inquiry places the accent especially on the highlight of the strengths of the targeted system, thus providing a way of understanding, anticipating and maximizing the creative potential (Sandu, 2009b).

*Appreciative inquiry is a particular way of questioning the subjects of organizational development and, in the same time, to foreshadow the future by adopting certain positive relationships starting from the fundamental positivity inherent to the person, organization or situation, improving the capacity of the system to cooperate and change. The method fundamentally assumes that the engagement of the individuals in improving, changing and focusing on performance* (wikipedia.org/wiki/Appreciative\_inquiry) (Sandu, 2009a).

To appreciate<sup>7</sup> = 1. To value the action of recognition of the positive aspects in people, the surrounding world; affirming past and present strengths, identifying potentialities, the perception of those things that give value to life (health, vitality, excellency) to live systems; 2. to increase value, Synonyms: to value, honor, cherish (Cooperrider, Whitney, 1999).

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<sup>7</sup> Ap-pre'ci-ate, v., 1. valuing; the act of recognizing the best in people or the world around us; affirming past and present strengths, successes, and potentials; to perceive those things that give life (health, vitality, excellence) to living systems 2. to increase in value, e.g. the economy has appreciated in value. Synonyms: VALUING, PRIZING, ESTEEMING, and HONORING.

**Inquiry**<sup>8</sup> = 1. action to explore and discover, 2. Action to ask questions, being open to seize new potentialities and opportunities, Synonyms: discovery, research, systematic exploration, study (Cooperrider and Srivatsva, 1987).

The perspective of the Appreciative Inquiry is a social-rationalist one, summed by Cooperrider and Srivatsva (1987) in a few essential elements:

- The social order is fundamentally unstable, at any time being the product of negotiations or agreements between persons, convention assumed tacitly or explicitly by those (Sandu, 2009b).
- Models of the social-organizational action are not imposed in a biological or physical manner, being capable of an infinite variety.
- Social action is likely to be interpreted differently depending on the historical context in which it takes place, none of the interpretations not being considered objectively superior to the other.
- Human actions are prescribed by ideas, beliefs, intentions or theories. As such, any transformation of the behaviour is done by changing those thoroughly. The social-rationalist perspective states that the theories that we embrace, our beliefs and representations have a strong effect on social reality (Sandu, 2009a).
- One of the most powerful tools that are available to the communities in transforming conventions into norms, values, scopes, ideologies, is the act of dialogue. Changes that occur at the level of linguistic practices may cause deep transformations in the social practices (Cojocaru, 2005; Sandu, 2009b).
- The social theory is understood as an elevated language that has its own grammar, and can be used as a linguistic instrument necessary to create new models of social action (Cojocaru, 2005; Sandu, 2009b).
- Any theory has normative value, latent or manifested, having the potential to influence social order. Each social theory implicitly has a moral meaning: having the potential to affect and regulate

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<sup>8</sup> In-quire' (kwir), v., 1. the act of exploration and discovery. 2. To ask questions; to be open to seeing new potentials and possibilities. Synonyms: DISCOVERY, SEARCH, and SYSTEMATIC EXPLORATION, STUDY

the inter-personal relationships both in the institutional environment, and in the everyday life. Social knowledge is built in a process of collective interaction, knowledge being created, maintained and used by the human group (Cojocaru, 2005; Sandu, 2009b), in its quality of interpretative community (Sandu, 2012b).

The psychological dimension of the appreciative inquiry is represented by the construction of the concept of appreciative intelligence formulated by Thatchenkery and Matzker (2009). Appreciative intelligence represents the “capacity to unite, sublime and extend the degree of intelligence from a wide variety of known intelligences: linguistic, personal non-linguistic and oriented towards other persons, being a kind of meta-intelligence, bringing together all types of intelligence in constructive purposes”.

Thatchenkery and Matzker (2009) formulate in plastic terms the idea that appreciative intelligence is the “ability to see the oak tree from the oak acorn”. The three components of the appreciative intelligence are:

- Reframing, understood as the redefining of the constructive framework;
- Appreciation of the positive elements;
- Notifying the most probable way in which the system will evolve, the ways of alternative evolution most favorable to the system and the ways in which you can build the future starting from the present (Thatchenkery, Matzker, 2009).

Appreciative intelligence – is called “the power to reframe things, the appreciation of the positive possibilities and the capacity to see how the future evolves, starting from the present” (Thatchenkery, Matzker, 2009).

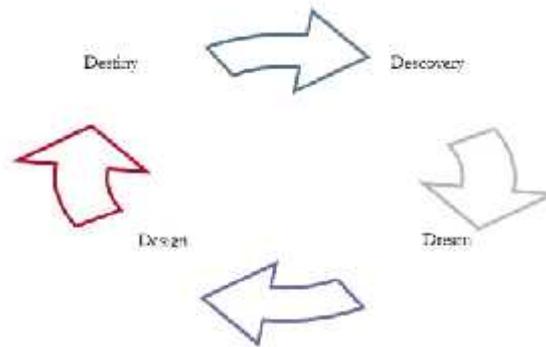
Reframing represents changing the perspective through which things are perceived, redefining the framework is seen as a psychological process through which a person modifies the perspective on an object, a person or a social context. It is a process of redefining the framework of the problem into a challenge for development (Thatchenkery, Matzker, 2009).

The appreciation of the positive represents the ability to sense the positive in events, situations, obstacles, to focus on the positive

elements from the total of the elements of an object (Thatchenkery, Matzker, 2009).

*Sensing the way in which the future starts from the present represents the capacity to make connections between the generative aspects of the present and the desired future* (Thatchenkery, Matzker, 2009).

Appreciative inquiry is generally represented as a cycle with a four-phase structure that, in the scientific literature, is called the **4 Ds of the Appreciative Inquiry**.



Starting from the 4 phases of the appreciative inquiry in the vision of Diana Whitney, Jacqueline Stavros and David Cooperrider (2005) we developed a 4 D model of appreciative mediation:

**1. DISCOVERY** (Appreciative discovery) represents the phase of identifying the positive “stories” (of and about success) and the way in which they are perceived at the level of the organization<sup>9</sup>, the degree of spread that each of the successful stories has inside the organization. As a starting point of the appreciative mediation, we propose the selection of affirmative/positive themes; taking into account the hypothesis according to which the conflict evolves in the direction in which its parts are interrogated and interrogate themselves. In the methodological construction of the appreciative inquiry we use a particular type of comprehensive interview, intentionally non-directive, called appreciative interview. The methodological instrument used in achieving appreciative mediation is a guide of mediation – interview of mediation – with

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<sup>9</sup> By organization we understand any human organization. The parts in conflict due to particular relationships can be treated as organized social structure.

questions that are focused around the affirmative themes (Sandu, 2009a). There are series of steps based on the individual interviews with the parts in conflict, and joint interviews. A common practice is the interview between the conflicted parts, moderated by that who leads the appreciative mediation. The process of joint interview can be held as a focus group (Cojocaru, 2006). Van der Haar shows that in this stage it is developed a process of appreciation on what gives life and energy to the individuals in the organization (Haar, 2002), and in the appreciative mediation it seeks to note the personal aspects on the conflictive situation. It is a stage of analysis of the affirmative (positive) stories told by the parts in conflict on their communicative experiences, this stage being the core of the positive change in the organization. We showed that this stage is a great ethical and epistemic commitment, as there are used methods such as: appreciative interview, appreciative focus group, structured interview (Sandu, 2009a) etc. Stefan Cojocaru emphasizes the meaning of this stage from the perspective of the appreciative principle according to which each organization evolves in the direction in which it is researched (Cojocaru, 2006). At the level of this stage, the appreciative analysis targets both the elements of positivity included in the meaningful stories presented by the parts, simultaneously with the reading of their fundamental experiences, from the book there shall be extracted elements of positivity and success by focusing the interview on them. The presentation of certain problems – as dysfunctional elements – is not blocked, being analyzed under the aspect of methodological challenges. There are successful stories questioned, that can emerge from similar situations that are considered, by the stakeholders, transferable in the given situation.

**2. DREAM** is the stage in which the subjects of appreciative solving of the conflict and the appreciative mediation describe their wishes and dreams related to the situation in conflict (Cojocaru, 2005). From the methodological point of view, in this stage a group meeting is held, with the purpose of mutually sharing the data collected in the first stage under the form of relocating the conflict as a successful story for the future. This stage corresponds partially to the elements of narrative and transformational mediation presented previously. Van der Haar (2002) shows the importance of alternative thinking and the process of overcoming the limits. This “out of the box” is achieved by means of

appreciative visions on the future that are based on both the appreciative reconfiguration of the history, and the present of the organization (Haar, 2002). The results of the appreciative interviews from the previous stage are used in designing and implementing a new series of individual or group interviews that follow to develop an area of convergence or communicational transparency (Sandu, 2009b). Bernie Carter argues that the dream stage adopts a series of creating affirmative images that are structured starting from a way of thinking “outside the box” (Bernie, 2007). The appreciative interview that takes place during the DREAM stage contains symbolic provocative elements that are based on valuable experiences in the previous communicative action between the parts, captured in the previous stage and that has aspirational and transforming role (Sandu, 2009b).

**3. DESIGN** (projecting the appreciative development of the system) uses the data collected by each of the two previous stages. Once there is a coherent image on what is wanted for the targeted system to become, we proceed to the identification of its new social architecture. In this stage the infrastructure and the management system needed to support the vision of the system are built. This stage represents a process of re-inventing the situation that generated conflict (Cojocaru, 2005). Van der Haar (2002) shows that the role of this stage is to create an organizational design of procedural and relational type that targets the updating of the “dream” from the previous stage. The method is a constructive and collaborative one of creating an action starting the opportunities and strengths (Sandu, 2009b).

**4. DESTINY** (implementation of the development plans). Known also as DELIVERY, represents a stage of constructing facilitating networks of the co-creator potential development (Carter, 2007). The affirmative cycle of the appreciative mediation is defined starting from the premise that the conflictive situation has the tendency to develop in the direction in which the communication is directed in the process of mediation.

Appreciative mediation can be, by its nature, an ideal solution for those conflicts that are based on a dysfunction of appreciation, or a communicative marginalization, in the sense described in the narrative mediation. Mediation of the work relationships, criminal mediation as a strategy of restorative justice, mediation of the disputed generated in the

process of cooperation of different forms can benefit from an appreciative approach. Appreciative approach can be used anytime the result of the mediation should overcome the simple share of certain resources, to restore the communicative structures between the parts, allowing even a future cooperation between them.

### **Conclusion**

While social action targets the social efficiency, meaning social change, communicative action targets reaching interpretative consensus. In our opinion, mediation is a communicative action because it targets the reflective practices on own strategies of action of the persons involved in the conflict, and that have agreed to participate in the mediation. In general, communicative action is socially efficient – generates social change – just by generating new interpretative practices.

Social action creates a reframing of the conceptual paradigm in which the subjects cooperate. Social action operates in the same paradigm, transforming social reality in favor of the subject. Both types of action can be used in the practice of mediation. From our point of view, social action is kept in the framework of the deficiency paradigm, in the sense that it identifies a problem and seeks possible solutions to solve it. Switching to an alternative paradigm such as the appreciative one targets the very change in the interpretative agreement on reality and can only be a communicative action. We consider that the favorite tool of mediation is the communicative action, just because the role of the mediator, among others, is connected to social inventiveness.

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