

# Effective Communication - A Viable Solution to Mediation

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## **Abstract**

The ability to communicate is an essential mechanism in the construction and development of interpersonal human relationships, in order to achieve social integration. From this point of view, we consider communication as the main factor of social influence. An effective communication helps and prevents communication barriers that occur and/or to eliminate them. Effective communication, mediation and negotiation have become an essential element of survival in an era dominated and based on power relations in which conflict can occur at each step. In such a society there are many factors that can promote conflicts: lack of interest, differences in perception, difficulty in listening, automatism, emotions, stress, speech difficulties, not least but not last difficulties of personality differences. During this amalgam of social influence, effective communication is the key to success in mediating conflicts.

**Key words:** Communication, interaction, conflict, mediation, assertiveness

## **1. Introduction**

Through communication we receive and transmit messages, information, ideas, we express our feelings, thoughts, desires and intentions. Due to the dynamics of these exchanges, the man builds himself as a personality. Each person is unique in his own way. We don't have the same values, beliefs, rules, thoughts and ideas. Everyone has their own way of life and way of acting in given circumstances. Most times we are tempted to believe that justice is on our side and verbally abused our discussion partner. In such situations we will only provoke the appearance of conflicts or even amplify conflict.

## **2. Conflict and mediation**

Human relationships are influenced by the effectiveness of communication. Misunderstanding of messages sent, often generates the emergence of affective states of confusion, anxiety, resistance, hostility, aggression, until the outbreak of conflict status. L.A. Coser defines conflict as "a struggle between values and demands of statuses, power and

resources in which the aims of the opponents are to neutralize, injure or eliminate rivals” (Coser, L., 1967: p. 8).

The conflicting nature of man and his social nature of the relationship with the other fellows, led to the description of relations between concepts of conflict and society. The doctrine analyzed numerous methods of conflict resolution (Richbell, D., 2008: p. 18). Among these methods we considered the most important are: negotiation, mediation, conciliation and arbitration. All these methods are based on effective communication.

Most times, ineffective communication between the parties involved in a conflict, further tensions the relationship between them, even more than the lack of communication, while effective communication can generate the most unexpected beneficial solutions.

In our approach, mediation occupies the most important place for that: “Mediation is a communion of reflections of the realities encountered and expression of feelings (like a mirror) of the elements felt, not thought”. Mediation is a process that develops the possibility of substituting another person and takeover feelings, in a neutral way, without judging or imposing a vision by accepting evolution of the other, giving dignity and respect (Gherga, E. and Gherga, G., 2000: p. 89).

Acland defined mediation by reference to conflict. Seeing conflict as: a problem to be solved, as a predicament, as a stressful situation, risky and expensive for all involved, mediation is presented as a negotiation assisted by a mediator under separate or joint meetings, which bring together those involved in the conflict to lead to: the reduction or cessation of hostilities and establish effective communication, assisting the parties in understanding the needs and concerns of opponents, assisting parties to develop and communicate new ideas, asking questions that reveal the true interests of each parts, lifting and clarifying existing problems through an adequate solution, helping to formulate proposals acceptable terms, testing responsiveness to new proposals, moderation of unrealistic requests, outlining agreement projects to solve problems, to safeguard relations between the parties and anticipate future needs (Acland, A.F., 1990: pp. 8-18).

Baruch Bush and Folger have defined mediation as “an informal process in which a neutral third party with no power to impose a solution, help conflicting parties to reach a mutually acceptable agreement.” The two American authors believe that there are four different theories about mediation that influence the definition and implementation of it: the theory of social justice, satisfaction theory, transformation theory and the theory of oppression. The first three are positive in nature, while the latter is negative. Thus: “Social justice regards the fact that mediation can unite individuals within strong communities” (Moore, C.M., 1994). Satisfaction takes into account the fact that mediation is a powerful tool to satisfy human needs, putting it a quick, efficient and inexpensive solution to the conflict (Bush Baruch, R. A. and Folger, J. P., 2005: p. 8). Transformation is the ability of mediation to change the quality of the interaction and conflict will therefore strengthen the relationship between parties and social environment in which they are part. The oppressive nature of mediation, assumes that, despite the good intentions behind it, it proved to be “a dangerous tool to increase state power over the individual, and the power of the strong over the weak” (Bush Baruch, R. A. and Folger, J. P., 2005: pp. 13-15).

Lawrence Grossberg, Ellen Wartella and D. Charles Whitney (Grossberg, L., Wartella, E. et altera, 1998: p. 15) believe that communication’s relationship with mediation incorporates

certain ways given by the term mediation: reconciliation, the difference between reality and its image interpretation, performance space and the connection between the subject and reality creates communication circuit.

In the literature it is argued that mediation theory is closely related to the work of J.F. Six, which preserves its scale and it highlights all facets: "A general definition of mediation must take into account that there are four types of mediation, the first two for birth or rebirth of a link, the other two for addressing conflict" (Six J.F., 1990: p. 164). According to the author, there is a "creative mediation" aimed at creating new links between individuals or groups, a "mediation renewal" that restores links, a "preventive mediation" which aims to prevent the outbreak of conflict, and a "curative mediation" whose goal is to help conflicting parties to find a solution. Therefore, there are two forms of mediation: mediation outside of any conflict and conflict mediation. The latter has in turn two components: mediating differences and mediating disputes.

### **3. Effective communication - necessary and useful tool in conflict mediation**

Communication is seen as a complex and dynamic system, with the help of which people interact with each other continuously changing through different sensory channels, both verbal and nonverbal messages. In this sense, we pass through codes, interrelated ideas, information, thoughts and feelings. It is important that between verbal and nonverbal messages that we sent, to have an agreement like a perfect overlap. We can speak of effective management of an impression by an individual when his actions meet a functional requirement of the communicative act, not only when interlocutors correctly received the real and undistorted message the transmitter sends. In practice it was found that when there is a discrepancy between verbal and nonverbal message or an expressive distortion, we tend to think rather that the nonverbal message is most times the most suggestive. Taking into consideration the two forms of interpersonal communication, used in human interactions, we meet three well-defined communication styles: passive, aggressive and assertive.

The passive communication style is a style in which individuals develop a communication model that avoids expressing opinions or feelings, trying to protect the needs and rights they have. Those that use passive communication, usually have a low sense of self esteem. The behavioral attitudes of individuals who use this style of communication is characterized by the lack of action, fear of offenses brought against them by others, refusal of expressing their anger and aggression, the desire to be perceived by people as individuals interacting as charismatic, pleasant and extroverted. All these behavioral elements transform them, in time, in introvert persons. Their passivity in communication causes them to feel more acutely their frustrations, feelings of stress and tension, ultimately reaching to the point in which they isolate physically and emotionally.

Aggressive communication is a style of communication in which individuals express their feelings and opinions strongly advocating for the needs they have, in a way that violates the rights of those with whom they come in contact. These communicators are aggressive verbally and/or physically, being in a permanent state of alert, perseverance and desire to achieve their goals by any means often resorting to forcing things, not being interested in whether their actions affect others. Typically these individuals have low self-esteem due to physical or emotional abuse experienced in the past, have unhealed emotional wounds and feelings of

helplessness. They act with anger, having a dominant behavioral style that produces stress for all those involved in direct interactions with them, which will lead in time to breaking the relationships they have.

Assertive communication style is a combination of passive and aggressive style, being a style in which individuals express their opinions and feelings clearly, strongly advocating for their rights and needs without violating the rights of others. Assertive communication is characterized by high self-esteem, by honesty and power. Assertive people are extroverted, relaxed and talk openly about their feelings and needs, they know how to listen and accept the views of those with whom they come in contact. In this way they provide good long-term relationship without resorting to aggression, being able to adapt effectively to conflict situations.

In any organization, communication takes on new dimensions of efficiency and effectiveness if there is an organizational climate open to listening, dialogue and understanding, avoiding communication blockages that could cause conflicts. From this point of view, we conclude that assertive effective communication will be the best solution in the conflict mediation process.

Mediation and alternative dispute resolution (ADR) is not just a procedural amendment of justice, but is a beneficial change in the level of mentality and culture/organizational culture. Mediation has always existed in traditional societies consisting of small groups of people in which a wise person, as an authority, was meant to act as mediator when the appearance of a conflict situation require it. Thus, mediation can resolve a lot of conflicts with the sine qua non condition as parties to want it. Mediation can be used successfully in litigation pending civil courts, family disputes, inheritance, criminal cases, divorces, collective labor disputes etc., by establishing a correct communication, system allowing parties or organizations involved in the conflict to reach a win-win agreement.

Regarding the common objective of these processes of mediation, we face “consciously or not, almost daily, the objective is clearly the conciliation or reconciliation of relations between the conflicting parties. The difference that arises when we assess the mediation process concerns the techniques more or less developed that those conflicts are discussed with, techniques that take into account, of course, the character, nature and extent of each conflict meditated.” (Maruşca, L., 2010: p. 71).

If the traditional conflict resolution focus is primarily on the legal aspects of the dispute, mediation aims, in line with the law, to find a convenient and realistic solution for both parties to the conflict (Brăescu, V., 2010).

The mediator can't help resolve a conflict unless he understands and analyzes the real causes, objectives that led to the conflict. The source of the conflict is determined after collecting more complete information about the parties, which is possible only if the mediator is accepted and fails to win the confidence of the parties.

The mediation, unlike traditional justice process, doesn't have as a final the determination of guilt or innocence of the conflicting parties. Participation in mediation is voluntary. The mediator's role is merely procedural, to create conditions and guidance to parties who can find solution to the problems raised.

The mediator has no decision-making power, he provides procedural information, stimulates interpersonal communication, facilitating the exchange of information and views

between parties, assists the parties to clarify misunderstandings, needs and interests, to overcome communication barriers and reach to solve problems by finding mutually beneficial solutions (Brăescu, V., 2010).

If the parties encounter difficulties in finding solutions, the mediator may suggest several variants of resolution without imposing a particular solution. The mediator assists the parties in drafting the final mediation agreement stating the commitments of each party to the conflict settlement.

#### **4. Conclusions**

Effective and assertive communication is not a natural behavior that we are born with. People behave and communicate based on two primary reactions – to flee or fight – in a submissive or aggressive way. Assertiveness is the most effective way of solving interpersonal problems. Direct, open and honest communication allows you to receive messages without distortion, which maintains relations with others. In an assertive communication tension, criticism and conflict are constructive.

Given that, traditionally, the mediator is seen as a neutral person that the parties mutually agreed on, considers impartial, experienced in conflict resolution and is believed to be helpful, we conclude that the methods of effective communication and hence assertive communication style is a viable solution, a necessary and useful tool in conflict mediation.

#### **References**

1. Acland, A.F., (1990), *A Sudden Outbreak of Common Sense: Managing Conflict through Mediation*, Londra, Hutchinson.
2. Brăescu, V., (2010), *Ce este medierea?* Available on-line at [www.societal.ro](http://www.societal.ro), consulted on May 20, 2013.
3. Bush Baruch, R.A. and Folger, J.P., (2005), *The Promise of Mediation: The transformative approach to conflict*, San Francisco, Jossey Bass.
4. Coser, L., (1967), *Continuities in the Study of Social Conflict*, New York, Free Press.
5. Gherga, E. and Gherga, G., (2000), *Medierea conflictelor*, Bucharest, Fundația „Phoenix” Publishing House.
6. Grossberg L., Wartella E. et altera, (1998), *Media Making: Mass Media in a Popular Culture*, Sage, Thousand Oaks.
7. Marușca L., (2010), *Comunicare și conflict – Managementul comunicării în soluționarea amiabilă a conflictelor*, Bucharest, Tritonic Publishing House.
8. Moore, C.M., (1994), *Why do we mediate?*, in Folger, J. P., Jones, T. S. (edit.), (1994), *New directions in mediation: Communication research and perspectives*, Sage, California.
9. Richbell, D., (2008), *Mediation of Construction Disputes*, Oxford, Blackwell Publishing.
10. Six J.-F., (1990), *Le temps des médiateurs*, Paris, Seuil.