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RESEARCH ARTICLE

APPROACHES TO THE CONCEPT OF CONCILIATION IN COLOMBIA

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ABSTRACT

This article presents a bibliographical approach that aims to review the concept of conciliation in Colombia (within the framework of the research project entitled "Efficacy of prejudicial conciliation in alimony obligations – years 2014 and 2015 in the Reconciliation Center of the UCEVA"), Particularly in the area of preliminary conciliation in family law; in an attempt to study the conceptions that currently exist in Colombia as well as in Latin America, highlighting their importance as a mechanism to relieve the ordinary justice. Such exercise is further developed, taking as a reference for contrast some jurisprudential definitions and some outlined by contemporary foreign procedural dogmatic.

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INTRODUCTION

Law, as a field of knowledge that has as object of study and scope the legal action, is usually approached from two perspectives: dogmatic or scientific and philosophical. The first refers to the study of what the legislator declares as a valid right in a given territory; that is, it focuses on a certain type of positive law, generally incorporated in normative statutes. The second one focuses on reflections on the concept of law, and the aims or values that it aims to serve. Noguera (2010, p.1). Although the present article contemplates theoretical elements of Legal Philosophy, it is mainly framed within the first category, particularly in the study of the conciliation in Colombia.

The sociability of man and the legal institutions

Man lives in society, a fact that imposes the presence of two other institutions: normativity, which establishes what is allowed or prohibited to do to individuals and authority, as well as sancionates or punishes whoever transgresses the normative limit. (Montoya Pérez and Montoya Osorio 2001, p.10) The preeminent institutions exist in a necessary relationship of dependency. If any of them failed, it would give way to a society deprived of the necessary harmony for the coexistence of citizens.

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For this reason, there are established and improved the ways of resolving conflicts between individuals, among which the following stand out: self – legal protection, which is a solution for a problem imposed by one person to another; the self – composition, on which the people involved in a conflict compose it directly without any imposing of one on the other; and heterocomposition,which occurs when a third party solves the differences. (Montoya Pérez, 2003). Subsequently a new political category appears: "The"State", which assumes the power to resolve conflicts between individuals and therefore solves them through its judges, through a mechanism, denominated process." (Mora Campo, 2017). After more than four score years of validity of the Code of Civil Procedure, recently in Colombia, the General Code of Process came into force. This statute was conceived within the Colombian Institute of Procedural Law and serves as a direct normative reference in civil, commercial, family, agrarian and indirect matters, with respect to other matters. Likewise, it implements oral trials and raises the possibility of a digital justice plan, among other aspects. It also recognizes and validates conciliation as an alternative mechanism for dispute resolution. (Mora 2012). An old Italian lawyer once said that a citizen comes to the process as a degree of civility. In fact, if justice is effective, the process is not only humanized but it is also contributed to the creation of a fairer society with a lower level of criminality. In the meantime, it is committed for the so – called alternative mechanisms of conflict resolution in order to try to ease congestion in the judicial offices in Colombia, and consequently to strengthen the culture of peace.(Mora 2017).

In addition, these mechanisms guarantee the constitutional right of access to justice, understood as a fundamental right that allows attending to the different instances authorized for the protection of rights or for the resolution of conflicts. The multiplicity and magnitude of social conflicts that affect our daily life and that seem to dominate the national scenario demand new criteria, mechanisms and strategies to find not only effective and expeditious solutions to conflicts but, fundamentally, to strengthen the citizen's coexistence. (MINJUSTICIA, 1996, p.5). Likewise, it must be indicated that "conciliation reduces the discomfort and the emotional burdens involved in maintaining a conflict for a long time, and which consequences are uncertain". (MINJUSTICIA, 1992, p. 13)

Brief approximation to the historical background of the conciliation:

The conciliation is not a modern institution; vestiges of it are found in the law of the XII tables and in Roman law. In ancient Greece, in the 7th century BC, the conciliators were obliged to exercise on the parties; a task of conviction for the purpose of seeking a solution to conflicts, prior appealing before the judges. (Romero 2006, p.20).. Until the nineteenth century, in civil matters, France and Spain assumed the conciliation as a procedural requirement that had to be advanced before an authority – before whom the process would not be processed – in case of failure of conciliation (Political Constitution of the Spanish Monarchy, 1812, Article 282). In the United States there exists conciliation, but as a private system of conflict resolution. (Romero 2006, p. 22)

The law 13 of 1825, as well as the law 14 of 1834 consecrate the conciliation. This demonstrates that in Colombia conciliation was established as a procedural requirement since 1825. Later, the Decree 1400 of 1970 includes conciliation to resolve disputes of minimal amount in summary verbal matters. Then, in 1989, with Decree 2303, the agricultural area was regulated…(Ahumada, 2011, p.17) Likewise: "The implementation of the constitutional bases of conciliation are the most expeditious mechanism in the solution of conflicts and the primary means to which all citizens can turn as an immediate alternative in the search of a solution for their problems." (Political Constitution of Colombia, 1991, article 116, item 3). In Colombia, conciliation is currently framed as an alternative mechanism for resolving conflicts, and arises from excessive litigation and a reduced number of judicial officials. That is, it seeks to alleviate the excessive burden of processes that must be studied daily in judicial offices, as it also allows such figure to be exhausted before appearing in the judicial scene. Likewise, over time, this alternative has contributed to generate a culture that seeks to manage conflicts in a peaceful way. (Mora 2017)

The conflict

By conflict it is understood such circumstance in which two or more persons disagree with respect to a particular situation or manifest opposing theses or opposing positions. On the other hand, within the scope of law, it is indicated that "the conflict must be interpreted as the presence of opposing interests in relation to the same legal situation in which two or more persons are found, born regularly of a substantial juridical relationship."(Junco, 2002, p.1).

Of course, such conciliation is mediated by anaccredited and qualified subject, who is generically called conciliator.

The conciliator

"The conciliator is a third party distinct from the parties in dispute or conflict, a broad expert on the situation at issue, endowed with abilities and qualities that allow him to propose formulas of agreement, which is the primary purpose of his functions." (Junco 2002, p.23) The conciliator in Colombia must have any of the following qualities: to be a titled attorney; to be a student of legal practice; to be a notary; to be part of the support staff, the latter involves: being a student of: Psychology (last year), student of Social Work, Psychopedagogy, Social Communication. (Cristancho 2002, 61) Similarly, the conciliator is defined as a neutral third party other than the parties in dispute, who is aware of the matter of the conflict, with the power to propose formulas of agreement, an essential point in the doctrinal difference between mediation and conciliation. (Junco, quoted in Pérez, Sauceda, 201, page 78)

The alimony

Conciliation is often applied in family matters, particularly in matters of failure to provide alimony. It is important to mention some norms or judgments that determine the concept of "alimony". The Children and Adolescents Code in Colombia determines who has the right to alimony, the classification of alimony and other articles that record information relevant to exercise the right to alimony. About this particular "Children and adolescents have the right to alimony and other means for their physical, psychological, spiritual, moral, cultural and social development, according to the economic capacity of the alimony provider. Alimony is understood as all that is indispensable for sustenance, room, dress, medical care, recreation, education or instruction and, in general, everything necessary for the integral development of children and adolescents. Alimony includes the obligation to provide the mother with the costs of pregnancy and childbirth."(Law 1098, 2006, article 24)

Alimony in Colombia is divided into congruent and necessary. Congruent are those that enable the sustained to subsist modestly in a manner corresponding to his or her social position. Necessary are those that suffice to subsist. Alimony, whether congruent or necessary, includes the obligation to provide primary education and that of a profession or trade to the child under the age of twenty-one. (Law 57, 1887, article 413). The right to alimony in Colombia: the spouse, the legitimate descendants, the legitimate ascendants, in charge of the guilty spouse, the spouse divorced or separated without their fault, the natural children, their legitimate posterity and the natural grandchildren, the natural ascendants, the adoptive children, adoptive parents, legitimate siblings, who made a large donation if it had not been rescinded or revoked (Law 57, 1887, article 411). The Constitutional Court in its jurisprudence has included in different sentences, which establish that in order to claim alimony, that it is necessary that these conditions are met: that a legal rule grants the right to demand alimony; that the petitioner lacks property and, therefore, requires the alimony he or she is requesting; that the person to whom the alimony is asked has the economic means to provide them. At procedural level, it is necessary to prove the kinship or the creditor of the right to alimony according to

the applicable rules; to direct the claim against the person obliged to give alimony and, finally, to prove that there is no property in such a way that their subsistence cannot be guaranteed. (Judgment C-919, 2001). The Colombian Constitutional Court has defined the right to alimony, as the one that assists a person to claim from those who are legally obliged to give them, what is necessary for their subsistence when they are unable to provide it by their own means. The alimony obligation is then headed by the person who, by legal mandate, must sacrifice part of his or her property in order to guarantee the survival and development of the creditor of the alimony. (Judgment C – 156, 2003). The guarantee given to the right to alimony must reflect the prevalent character of it and cannot only consider the perspective of the protection of the child in his or her vital minimum, but also demands to extend to the effectiveness of the above-mentioned principles relating to the higher interest of children, to family solidarity, to justice and to equity. (Judgment C – 1064 of 2000)

The family

When we speak of conciliation, we resemble the term with conflict, because it gives origin for the parties that are involved in the disagreement, gain access to the conciliation. According to the above, through a social analysis, it can be affirmed that, in the majority, it is necessary to indicate that the conflicts to a high degree originate in the nucleus of the Colombian families, and therefore it is necessary to mention some authors that have procured to structure a definition of family. The family is understood as: "a group of persons united by kin bonds, whether in blood, by marriage or adoption, living together for an indefinite period of time; and, constitute the basic unit of society." Macias (2008, page 45)

"The family is the primary group of society made up of all those people who are united by ties of kinship, marriage or de facto unions; supplied with basic principles for its formation and development, both in its physical and psychic aspect. The family is the precinct where man meets the human, social, moral, cultural, and even religious values, and based on them learn to create social relationships. This instance is a meeting place between family needs and social proposals. On the one hand, the family is a relational system in which each of its members is differentiated, but, as a system, it goes beyond its individuals and harmonizes with each other." Gonzales (1997: 229). At present the term "family" means diverse realities. In the broad sense, it is understood as "the set of people mutually joined by marriage or filiation"; or "the succession of individuals descending from one another", that is, "a lineage or offspring", "a race", "a dynasty". (Petit Robert) But the term also has a strict, much more common sense, which dictionaries give as a first meaning and that is the only meaning that sociologists usually take into account.In this sense, it refers to "the related persons living under the same roof", and "more especially the father, mother and children". (Petit) These two elements of definition of the family in the strict sense are reconcilable to the extent – and just to the extent – that in our society it is rare for other people different from the father, mother and children to live in the same household. (Flandrin 1979, p.3). In the analysis of the concept of family, the term filiation arises, as a word that clarifies a little more the aforementioned concept. Thus, filiation is assumed as "a legal state that the law assigns to a certain person, deduced from the natural procreation relationship that links it with the other."(Suarez 1992, p.4).

On the other hand, filiation is understood as "a legal status that originates from the fact of the birth: that is, the legal status that the law grants the child in relation to his or her parents and the parents in relation to the child." For López (1992, p. 289-20)

Children and descendants

This section deals with the effectiveness of preliminary conciliation in alimony obligations in the conciliation center; in this context, it is necessary to clarify the concept of a child. According to the Digest "with the child we mean all descendants," meaning that every descendant of a person is a child. (Dors et al. 1968, p. 852); another definition reads "The offspring from parents to children; or, the quality that one has of child with respect to another person who is his father or mother. (Scriche 1977, p. 602). The affiliation in this section, as in the previous one takes on special importance. This "has two meanings, one broader, one more precise. Generically, filiation refers to all the links in the chain that bind a person to his ancestor, even the most distant; but in the most ordinary sense, which is ours, it refers only to the relation of a child to his or her immediate parents, to his or her father and his or her mother; this relation takes the name of filiation when it is considered from the side of the child, and the one of paternity or maternity if one is placed in the point of view and in the side of the parents."(Josserand 1952: 212)

"The kinship relationship that exists between the father or the mother and the child is called paternity or maternity, when the person of the father or mother is considered, and filiation when it is considered with respect to the person of the child."(Aubry and Rau 1897, p. 1). Affiliation is: "the set of legal relationships determined by paternity and motherhood, they link parents with children within the family."(Zanoni 1998, p. 283)

Extrajudicial Settlement

However, conciliation, in legal matters, contemplates several types; this section focuses mainly on the extrajudicial conciliation, understood as that one that seeks to conciliate before the beginning of the judicial process. Giraldo argues that the extrajudicial conciliation is that which is performed before or outside a judicial process. It is also called pre – trial conciliation, when it is carried out without any judicial process being initiated. "Extrajudicial conciliation can be denominated in law or equity; the conciliation shall be designated in law when it is carried out through the conciliators of conciliation centers or before authorities in fulfillment of obligatory functions and shall be denominated in equity when it is carried out before conciliators in equity." (Giraldo 2012, p. 40)

On the other hand, extrajudicial conciliation is erroneously defined in the Law 640 of 2001, in such law it is referred to it as that which is carried out before or outside a judicial process, that is, extra – procedural. According to Gomez (2003) in a strict sense, it is understood by extrajudicial conciliation that one that is carried out before authorities other than the judge. It is also crucial to determine that conciliation can be submitted to conciliators by suspending the process, but the parties may also be governed by what a superior such as the judge stipulates, as López (1992, p. 7) establishes when he affirms that "these are processes that are brought before the judges, but in some cases they will be suspended in order to seek the possible settlement before conciliators outside the process; in

other events that same possibility will be sought but before the same judge."

Procedure in Colombia and procedural incidence:

In the area of family law, conciliation is a mandatory instrument for the parties before the process. In accordance with the terms established in articles 39 and 40 of Law 640 of 2001, the family counselor, family commissioners, family judge or municipal promiscuous judge may be conciliators and in the rest it shall be governed by civil procedure."(Junco 2002, p. 56). The conciliation has effect of enforced sentence, with res judicata value. Therefore, when it has occurred prior to the claim, it can be opposed as a prior exception or as peremptory; when it ceases, once the judge is informed, by means of a warrant in which he orders to abide by what is stipulated therein, any subsequent action, for lack of competence, is null and void."(Devis (2015, p. 51). The conciliation must be urged before the initiation of the judicial process, before family judge, family defender, family commissary, or failing that, before the promiscuous municipal judge. (Law 446, 1998, article 88) Conciliation in family legislation may be attempted prior to the commencement of the judicial process, or during the process of conciliation before the competent Family Defender, in the following cases: suspension of the common life of the spouses; custody and personal care, visitation and legal protection of minors; the fixing of the alimony quote; separation of bodies from civil or canonical marriage; separation of property and liquidation of conjugal societies for reasons other than the death of the spouses, and contentious proceedings on the economic regime of marriage and succession rights. (Law 23, 1991, article 47)

Theoretical and conceptual framework of the conciliation in the Colombian Doctrine and Colombian Legislation

Etymologically the "conciliatio" comes from the verb conciliare, which means to agree, to settle, to compose or to form two parts that are debated in a controversy of interests or in dissidence. This leads us to indicate that conciliation is conditioned by conflict and presupposes the existence of more than one will. (Ledesma 2000, p. 55). "As for the origin of the words Conciliation, Conciliator and Conciliar, they come from the Latin or Roman language."Concilatio, Tionis, Conciliator, Conciliare" and the latter translates to compose and adjust the moods of those who were opposed to each other. (Cristancho 2002: 64) For Junco (2002, p. 2) "Conciliation is a suitable means to avoid the long processes and if they already exist, to finish them, having the judge as the main model of conciliator, forced to propose the settlement between the parties in the litigation, to the point of being obliged to propose formulas of settlement which are put to the consideration of the parties, which, when accepted, constitute a new way of terminating, wholly or in part, a dispute.

For professor Parra Quijano (1992, p. 169) to conciliate means to win the spirit, to attract benevolence, to unite, to join, to compose and to adjust the moods of those who were opposed to each other. "Conciliation is a mechanism of conflict resolution through which two or more persons manage the settlement of their differences on their own, with the help of a neutral and qualified third party called conciliator. According to the National Conciliation Program, conciliation is understood as a procedure with a series of stages, through which people who are involved in a removable, transible or determined conflict as a conciliatory matter by the law, find a way to solve it through a mutually satisfactory agreement."'In general the conciliation is presented as an opportunity that the law grants the parties to restore their minds, through a figure that may be judicial or extrajudicial in nature and to which they voluntarily submit as a result of a conflict with the purpose to give existence to an act whenever the rights are susceptible of transaction, withdrawal or conciliation." (National Conciliation Program, 2017, para. 1 – 2. According to the Colombian law, "conciliation is a mechanism for resolving disputes through which two or more persons manage the settlement of their differences on their own, with the help of a neutral and qualified third party called conciliator." (Law 446, 1998, article 64)

For López (1992, p. 289 – 290) the conciliation is understood as an agreement in which the parties linked in a conflict can make decisions in a consensual way. It should be noted that in this figure, the conciliator is only a moderator, an impartial collaborator who must act with knowledge in the handling of the legal conflict, but at the same time, with respect for the parties, while the decision in the conciliation lies solely and exclusively in them. When we talk about willingness we talk about the will, the desire, the intend; therefore, this desire should not be conditioned in any way by the conciliator, nor by third parties, much less by the norm that in the Colombian legal system establishes the conciliation as a requirement of procedural access to the Administration of Justice. According to Decree 1818 of 1998, conciliation constitutes a mechanism of conflict resolution, by means of which, two or more persons manage by themselves the solution of their differences, with the help of a neutral and qualified third party, called conciliator. (Law 446, 1998, art. 64) Similarly, conciliation is understood as "the legal act and the instrument by which the parties in dispute, before a process or in the course of it, undergo a negotiation process to reach an agreement or settlement above all that which is susceptible of transaction, if the law allows it, having as intermediary, objective and impartial, the authority of the judge, another official or a duly authorized individual, who, prior knowledge of the case, must seek the fair settlement formulas submitted by the parties or, failing that, to propose and develop them, in order to reach a settlement that recognizes rights constituted as res judicata." (Junco 2002, p. 55). It is worth adding that if citizens have a close referent, sponsored by the legislator, that empower them as citizens, we see how the A.M.C.R. (Alternate Mechanisms for Conflict Resolution) display democratic potentiality, since they partially restore to the community and citizens the ability to voluntarily settle their own litigation. (Yépez 2001: 304) For Gil (2011, p. 15), the Conciliation as a process or mechanism for the settlement of disputes, goes beyond the boundaries of the legal business; but as an agreement contained in the final act it constitutes a true legal business, as it contains expressions of willingness aimed at producing a legal effect. The settlement, which may be of a contractual nature, is subsumed in another legal business called conciliation: the final agreement or settlement may itself constitute a legal business containing, in turn, a contract nominated or unnamed, whenever there are consecrated benefits provided by one or both parties.

Conciliation as a meeting space for the settlement of disputes strengthens citizen participation, especially when participants do not have access to formal justice; we refer to the role of community justice. In the discussion of conflict resolution

mechanisms there are two tendencies: that of those who see in conciliation only a mechanism for resolving conflicts; and that of those who consider it an essential tool for social transformation.

Theoretical and conceptual framework of conciliation in foreign Doctrine

Mauro Cappelleti (cited in Vescovi, 1999, p. 288), referring to conciliation, states that it is a phenomenon that "consists in finding a better form of justice against the defects attributed to the current: high cost, long deadlines and complex procedures and access difficulties, especially for the poor ones." The word conciliation comes from the Latin "conciliatio", onis. The dictionary of the Royal Academy of the Spanish Language establishes equivalence to the "action and effect of conciliate". As for the expression to conciliate, from the Latin conciliare, corresponds to "to compose or to adjust opposite spirits"; as a second meaning, "to form two or more positions that seem to be contradictory"; and a third, "to gain or to win the spirits and the benevolence." (Dictionary of the Spanish Language, 1984, p. 352). Conciliation is the legal business through which parties who are reciprocally in debt, before a competent official and complying with the substantive and formal requirements required by law, reach an arrangement that avoids legal proceedings or that, if this one is already in process, finish the action of the jurisdictional apparatus of the State. (Sarmiento 1997, p. 147)

According to Pina (1994), conciliation is understood as the agreement between those who are faced with a conflict of interests, with the aim of avoiding a trial or putting an end to one already initiated (without going through all the procedures that would otherwise be necessary to complete). Cabanellas (1945, p. 411) states that conciliation is an act, a procedure and a possible agreement. As an act it represents the change of points of view, of pretensions and proposals of composition between parties that disagree. As a procedure, the conciliation is integrated by procedures and formalities of a conventional character or legal imposition to enable a match between those who have raised a legal problem or a social economic conflict. As a settlement, conciliation represents the arrangement formula agreed upon by the parties. The conciliation is an agreement between the parties that present a conflict, in order to solve it either before or after a labor claim is filed. The conciliation takes place in almost all the branches of the Law, since conciliation is required in order to be able to solve the controversies that appear. It is also considered as a method of conflict resolution where mediation, arbitration and transaction also stand out. (Quiroga 2002, p. 6)

Osorio Villegas (2002, p. 60) provides some theoretical elements that can lead to a definition: Subjective element. It refers to the protagonists of the conciliatory process, that is, the parties to the conflict, which must have the capacity to reconcile, have a clear conciliatory spirit and finally the conciliator himself. Objective element. Constituted by the conflict, discrepancy or antagonism, which solution is susceptible of transaction, withdrawal or conciliation itself as an autonomous figure. Methodological element. It consists of the conciliatory process, that is, the orientation that the conciliator formulates as a facilitator and identifier of the formulas that must serve to achieve the agreement. It is basically about the elements that, in an orderly and systematic way, are made available to the parties for the peaceful resolution of the conflict, which means a conciliator's ability to obtain it and the spirit and willingness of the parties to reach settlement. For the Law, conciliation is an alternative to the judicial process, which requires that the parties involved in a conflict, after the action of a third party called conciliator, seek to reach a logical and satisfactory agreement in order to put an end to the controversy, or to avoid, in a definitive form, that among them arise a possible litigation. For Salamandria (2009, p. 159) "conciliation is a true process infanticide."

Conciliation in the Colombian Jurisprudence

Conciliation is a significant gender of settlement between the parties. Both Law 446 of 1998, article 64, and decree 1818 of 1998, define it from the instrumental perspective, that is, as a self – help mechanism for the resolution of conflicts, with the help of a neutral and qualified third party, called a conciliator. Judgment from November 22, 1999, file No. 5020, lecture: Jose Fernando Ramirez Gomez. On the other hand, the Council of State pronounced with reference to the conciliation itself, in the sense that the conciliation agreement does not constitute a contract, as it happens with the transaction. It is stated that it is only an early form of controversies created by the legislator in order to decongest judicial offices. Judgment from March 16, 1998, file No. 11911, lecture: Juan De Dios Montes Hernández.

Conciliation does not have the character of a judicial activity in the strict sense nor it gives rise to a judicial process, because the conciliator, administrative or jurisdictional authority or individual does not intervene to impose on the parties the solution of the conflict by virtue of an autonomous and innovative decision. The conciliator is simply limited to submitting formulas for the parties to agree to the resolution of the conflict, and to witness and record the settlement they have agreed upon; The conciliator, therefore, is not an interested party in the conflict; therefore, he or she assumes a neutral position. (Constitutional Court, Judgment C-160/99)

Conclusion:

Conciliation, as an Alternative Mechanism for the Resolution of Judicial and Extrajudicial Conflicts and as an instance that allows for the decongestion of state formal justice, constitutes an agile and simple mechanism to resolve the conflicts that arise among the associates. However, in the literature on the different conceptions of conciliation, it is observed that for some authors such as Juno Vargas, it is a suitable mechanism to avoid delaying processes or to complete them, with the Judge being the main actor as conciliator in these cases, who proposes formulas of settlement which, if accepted by the parties, must bring an end to the dispute. Likewise, the author emphasizes the jurisdictional role of individuals who are temporarily invested in the function of administering justice on a transitional basis, as established in Article 116 of the Political Constitution of Colombia. For Giraldo Angel, the importance of the A.M.C.R. (Alternate Mechanisms for Conflict Resolution) lies in community justice, exercised by conciliators in equity and peace judges; these are chosen by the community, to resolve conflicts through the competences expressly attributed to them by the Law and the Constitution.

In the concepts outlined, it is observed that the common factor of the alternative mechanisms of conflict resolution is to contribute to the pacific solution of the same. A

complementary view of what has just been proposed presupposes that these mechanisms represent a tool for social transformation, in order to contribute to the construction of the social fabric and to the decongestion of the justice administered by the State. On the other hand, foreign doctrinators refer to the figure of the aforementioned mechanisms as a phenomenon that enhances a better way of conceiving justice, in front of formal justice that is costly and subject to terms. They also conceive it as a legal business through which the parties reach an agreement, which ends their differences, against a neutral third party called conciliator.

From a humanistic perspective it can be pointed out that conciliation makes possible an approach between individuals, which provides spaces to find in the dialogical action the opportunity to be sensitized to the problems of the other and through feelings, such as empathy and recognition grant To the other a status of an individual worthy of viable alternative solutions to their conflicts. From a linguistic dimension, it can be affirmed that through conciliation, the parties find in the word a resource of singular value in order to construct meaning and negotiate alternatives, based on argumentation, in the presentation of interesting ideas, which allow them to pact settlements and find in the communicative exchange the possibility of finding a different route for the rapprochement and understanding of the dissensions. In this exercise, language is fundamental, since it enhances its regulatory functions, as sources to shape the reactions of individuals according to the communicative contexts, in order to create the best possible scenarios to facilitate human coexistence. Not surprisingly, some thinkers consider language to be the house of man, dwelling that man must inhabit with tranquility and decorum.

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