v. 2, n. 25, 2022

Scientific Journal of Applied Social and Clinical Science

THE PEACEFUL RESOLUTION OF CONFLICTS: MEDIATION AS A RESOLUTION TECHNIQUE IN CIVIL PROCEEDINGS AND RESTORATIVE JUSTICE AS A RESOLUTION MECHANISM IN CRIMINAL PROCEEDINGS

Irio José Tabela Krunn
Master's in Law at the institution: Universidade Estadual de Ponta Grossa

Alexandre Almeida Rocha
Doctor in Applied Social Sciences at the institution: Universidade Estadual de Ponta Grossa

All content in this magazine is licensed under a Creative Commons Attribution License. Attribution-Non-Commercial-Non-Derivatives 4.0 International (CC BY-NC-ND 4.0).

"Do not hate your enemy, because if you do, you are somehow his slave."

Jorge Luiz Borges, *Elogio da Sombra*

Abstract: This article addresses the peaceful resolution of conflicts in civil proceedings with the tool of mediation and in criminal proceedings, the use of restorative justice. This is a bibliographic research and literature review on the subject. Initially, the conceptual discussion about Mediation is faced, in order to differentiate it from the technical concepts of arbitration and conciliation. Next, the possibility of use in criminal and civil proceedings is analysed. The analysis is limited to the dogmatic approach based on Law number: 13.140/2015 and Resolution number: 125 of the national justice council and subsequent amendments, regarding conflict resolution in civil proceedings and the reference to restorative justice in criminal proceedings.
Keywords: Conflict resolution; Mediation; civil procedure; criminal proceedings; restorative justice.

INITIAL CONSIDERATIONS

As a militant lawyer for more than 34 (thirty-four) years, predominantly in the criminal sphere, the arrival of new formulas for consensual conflict resolution in our country seems to have been a late proposal. I say late, because we lawyers are used to finding the solution to the disputes that have been presented to us, through the Judiciary.

I have felt, on the part of the other colleagues who militate in the forum, the reluctance to accept the solution of the demands that are presented to them, through consensual methods. As it seems to us, the culture of litigation is impregnated in the spirit of the lawyer who always opposes this alternative to solve the demands that are offered to them.

As an old professional and accustomed to facing demands in the penal area, I have experienced the same difficulty in this area, as incredible as it may seem. Recently, in a Hearing in which the occurrence of the criminal figure called "Perturbação do Sossego" (Article 41 of the LCP) was discussed, the offending party refused to make an "Agreement", since the Public Ministry had forwarded the parties to seek a consensual solution to that conflict, within the scope of CEJUSC.

Subsequently, the (offending) party itself, already in Hearing in the Special Criminal Court, accompanied by another lawyer, requested the Conciliator to evaluate the possibility of making an "agreement", a Term of Good Living, as it is said in forensic practice before the Courts, which was immediately accepted by the opposing party. We later found out, after the hearing was over, that the offending party had not previously made an agreement, as it would have been advised against by the professional who had accompanied it.

To bring the dispute to the civil sphere, things get even more complicated, given that legal professionals fear making agreements for the simple loss of their fees and we can even say, for the lack of "showing service" to the client, because, evidently, that they will have to charge lower fees in cases of finding a consensual solution for the solution of the case that was brought to them.

The great difficulty we perceive is the lack of qualified professionals to act as Mediators in the search for conflict resolution, by consensual way, whether through Conciliation, Mediation or Arbitration.

A fact, which is undoubtedly related to and stems from the deficiency of training in the undergraduate banks themselves, considering that although the curricular guidelines of the law course that demand that conflict resolution be transversal in the curricula, in watering, the professors of other areas other than civil procedure, also do not have the education or training to apply to

the disciplines that teach the issue of conflict resolution.[1]

This way, the proposed theme is justified. Our purpose here is to address more specifically the application of the Institute of Mediation as a form of conflict resolution, for that we need to make some considerations about such a way of resolving conflicts.

CONFLICT RESOLUTION IN CIVIL PROCEDURE: MEDIATION AS A RESOLUTION TECHNIQUE

Law number: 13.140/2015 defines mediation in the sole paragraph of article 1: "Mediation is considered to be the technical activity carried out by an impartial third party without decision-making power, which, chosen or accepted by the parties, helps and encourages them to identify or develop consensual solutions to the controversy". From the normative statement, it is initially inferred that Mediation is an activity of a technical nature, requiring this way, the technical training of those who propose to act as a mediator. CAHALI (2012, p. 57) says about mediation:

> [...] Mediation is one of the instruments of pacification of a positive and voluntary nature, in which an impartial third party acts, actively or passively, as a facilitator of the process of resuming dialogue between the parties before or after the conflict is established.

It is possible to affirm that Mediation as a technique is an instrument of pacification, insofar as it calls on the mediator to act as a facilitating agent for the construction of a peaceful solution to disputes, both in the judicial and extrajudicial spheres. It must be noted that the role of the mediator is an active agent (FIORELLI et. al., 2008, p. 2) in the composition of the dispute, acting not only to promote an agreement, but the dialogue between the parties this way "[...] the agreement becomes the logical consequence, resulting from a good cooperation work carried out throughout the procedure, and not its basic premise" (SAMPAIO et. al., 2007, p. 20).

It is thus possible to technically distinguish Mediation from Conciliation, which is "[...] the technique in which the conciliator can present proposals for agreement, that is, "in conciliation, the conciliator suggests, interferes, advises, and in mediation, the mediator facilitates communication without inducing the parties to an agreement (SPENGLER et al., 2016, p. 26). In this sense, the authors establish important distinctions, which help in understanding, since they work with the categories used in the discussion of the topic:

> Mediation is an eminently private activity, alien to the public power and distant from the Judiciary. It is not intended to avoid lawsuits or contribute to procedural deflation. Mediation is a mechanism to encourage self-composition, that is, the agreement between people involved in a conflict of interest. Self-composition is a means of conflict resolution, alongside hetero-composition and self-protection. Heterocomposition is the means of conflict resolution in which an impartial third party replaces the litigants and imposes a solution that seems fair; it can be carried out through arbitration (private) or through State Justice, which is obviously public. Self-protection is the means of conflict resolution in which one of the litigants imposes the

1. Resolution, number 5, of December 17, 2018, establishes: [...] "Article 3 The undergraduate course in Law must ensure, in the profile of the graduating student, solid general, humanistic training, analysis capacity, mastery of concepts and of legal terminology, ability to argue, interpret and value legal and social phenomena, in addition to the mastery of consensual forms of conflict composition, combined with a reflective and critical view that fosters the capacity and aptitude for autonomous and dynamic learning, indispensable for the exercise of law, the provision of justice and the development of citizenship. Article 4 The undergraduate course in Law must enable professional training that reveals, at least, cognitive, instrumental and interpersonal skills, which enable the student to: [...] VI - develop a culture of dialogue and the use of means consensual conflict resolution;".

> solution on the other; it is almost always obtained by force, sometimes by dexterity or cunning. Self-composition is carried out by several mechanisms, among them the best known are: negotiation, mediation and conciliation. The first two are eminently private, spontaneous, even if they are carried out professionally. Conciliation is characteristic of the Judiciary and arbitration, and is therefore an essential step for these mechanisms. Mediation is, by its essence, an activity that is alien and external to heterocomposition, whether this means is practiced by arbitration or by State Justice.[2]

Thus, without any pretense of exhausting the conceptual and dogmatic discussion about the concept of Mediation, it is possible to understand from what has been exposed that mediation, without any doubt, constitutes an extremely useful tool for conflict resolution, in extrajudicial matters. and/or judicial.

MEDIATION AND LAW NUMBER: 13.140/2015

Understood as Mediation as one of the ways in the search for conflict resolution, there is no disagreement between the authors as to its suitability for procedural issues. Initially, Mediation was dealt with in Resolution 125 of November 29, 2010 of the National Council of Justice, which provides for the national policy for the proper treatment of conflicts of interest in the Brazilian Judiciary, initially bringing the discussion to the civil process. After the entry into force of the new Civil Procedure Code and Law number: 13.140/2015, its initial provisions were amended to have the following wording:

> Article 1 The National Judicial Policy for the Adequate Treatment of Conflicts of Interest is hereby instituted, with a view to assuring everyone the right to resolve conflicts by means appropriate to their nature and peculiarity. (Wording given by Resolution number: 326, of 6.26.2020)
>
> Single paragraph. According to article 334 of the Civil Procedure Code of 2015, combined with article 27 of Law 13,140, of June 26, 2015 (Mediation Law), the judicial bodies are responsible for offering other mechanisms of dispute resolution, especially the so-called consensual means, such as mediation and conciliation, as well as providing assistance and guidance to citizens. (Wording given by Resolution number: 326, of 6.26.2020)
>
> (BRAZIL, 2010, p. 1)

Regarding the advent of the Law, number: 13.140/2015 Cavalcante (2017) informs that:

> In Brazil, mediation was the subject of Law 13,140/2016, which regulated the mediation procedure, providing for the possibility of judicial or extrajudicial mediation, as well as the possibility of mediating conflicts involving the Public Administrationumber: It is defined as a technical activity performed by an impartial third party without decision-making power, which helps the parties to identify or develop consensual solutions to the dispute.

Despite the resistance offered by lawyers in relation to the acceptance of new methods of resolving claims, Mediation did not come to appear only as a mere option available, and, why not say, as a last exit in the search to solve the conflicts that are presented.

It is urgent to recognize on the part of the various actors that work with the Judiciary, in particular, the operators of the law, the certainty that access to justice cannot be exclusively through the Judiciary, but can also be sought by other forms of conflict resolution through consensual methods currently available to people in conflict.

No one is unaware that the search for conflict resolution, with the Judiciary as

2. The authors (organizers) criticize the constitutionality of Resolution 125 of the National Council of Justice, considering the fact that the CNJ would not have the power to regulate the matter without there being a regulation of the matter by law, one of the reasons that justified the supervenience of the Law, number: 13.140/2015.

the only way out, is at a saturation stage. There is no longer any way to hide that the monopoly of this power constituted in the solution of demands is completely overcome. There are several reasons, among which we can highlight the high values related to the costs charged by notaries, especially those not nationalized; lack of staff; lack of budgetary resources; precarious structure in the 1st Degree of Jurisdiction, allied to the great demand by the needy population that goes in search of justice supported by the gratuitousness of Justice, which, by the way, is withheld from the poorest. Finally, in view of these difficulties and others that cannot be enumerated here, we have to find more agile means for resolving conflicts that are not only through the Judiciary. As well emphasized by BRITO (2014, p. 103):

> Hence the third wave or third movement of access to justice centered the discussion on the insufficiency of the contentious way as a model of satisfactory resolution of disputes that arose in society, proposing diversified answers given the complexity of the topic.

According to this author, one of them, without a doubt, is consensual justice. Thus, Conciliation, Arbitration and Mediation, as alternative means of resolving disputes, presented by the doctrine in a perspective of a multi-procedural system and with multiple doors, which gives breadth to the constitutional principle of access to justice in order to go beyond the merely heterocompositional judiciary. It can be said that there is a movement to implement public policies for consensual conflict resolutionumber: The National Council of Justice (2016) highlights:

> The legislator, both in the Mediation Law and in the NCPC, honored the proposal for consensualization of the Judiciary Power advocated with the Movement for Conciliation and especially by Res. 125/10. However, it is noted that the legislator advanced by establishing the rule of referral to conciliation or mediation in artigo 334 of the NCPC, indicating that if the initial petition meets the essential requirements and the preliminary injunction is not dismissed, the judge will designate a conciliation or mediation hearing. The intended stimulus was so emphatic that § 4 of the same article establishes that the hearing will not be held only if both parties expressly express disinterest in the consensual composition or when self-composition is not admitted. In addition, § 8 of the same article also establishes that the unjustified non-attendance of the plaintiff or defendant to the conciliation hearing must be considered an act that violates the dignity of justice and must be sanctioned with a fine of up to two percent of the intended economic advantage or the value of the case, reverted in favor of the Union or the State.

It can be seen, therefore, that the actions have been diverse in order to create the necessary means for the effectiveness of what is provided for in various legal provisions and that require the State, in general, and the judiciary in a specific way, to act positively to that the necessary conditions are created. The aforementioned CNJ (National Council of Justice) Resolution made it clear by standardizing the discipline between Mediation and Conciliation and instituting a Code of Ethics, where rules and principles were established that must be compulsorily observed by mediators and conciliators in the activities for the pacification of demands.

Vezzulla (2013, p. 22) lists the difficulties and limits of the Mediation procedure, which, due to the brevity here, we will point out just a few. According to the author cited above, the first difficulty appears to be the adversarial culture:

> Millennia of social organization based on imposition and violence have created in Western societies mechanisms, automatisms, already fully incorporated in people, very difficult to modify. This

culture has established itself in Western society in such a way that it generates the illusion of being the only one possible, which forms part of human nature and is therefore unchangeable. Summarizing: A 1) The rooted concept that the way to resolve an issue is through opposition, through confrontationumber: This binary vision, linked to the laws of zero-sum games, in which for there to be a winner, there must be a loser, has been incorporated in such a way in the behavior of people and societies that it dominates all aspects of life.

For the same author, in Mediation, fundamentally concerning property conflicts, we often observe that when an agreement is reached that meets the needs presented by both participants, a feeling of insecurity begins to appear in them due to the fact that the other is satisfied. Immediately, the binary mechanism of confrontation is activated, producing perplexity and raising the question of being deceived according to the reflection: "If the other is satisfied, it means that I am losing, therefore, I cannot accept this agreement". The conflicting posture needs to be removed.

> Therefore, it is necessary to have a non-adversarial perspective of a legal dispute.
>
> On the other hand, the creation of non-adversarial environments for dispute resolution is one of the biggest challenges for this public policy and for the Judiciary itself. This is because this change involves a change of culture. Often defined as "the software of our minds", culture, in order to be changed, demands extensive knowledge of the 'hardware' - in our case, the structure and vicissitudes of the Judiciary and its operators - as well as the creation of stimuli for change. of culture. Naturally, a new smartphone operating system update will only have adherence if the new system offers something that the old one did not have. (National Council of Justice, 2016, p. 10)

Another observation that Vezzulla (2013, p. 23) makes is the certainty that baffles the mediands is: "Only professionals know how to solve it, ordinary people like me don't". Since we were born, the imposition of an authority that knows more than we do and it creates a disincentive to decision-making and a dividing line between those who know and can and those who do not know and cannot. This dependence, he says, adequate for the purposes of domination, creates an abyss between the population and its leaders, authorities and professionals".

Another difficulty found by Vezzulla (2013, p. 23) that makes mediation difficult and even sometimes impossible is the information received by mediation parties before or during mediationumber:

> [...]
>
> B 1) Lawyers, accustomed and trained in universities to think according to the adversarial model of the courts, build their demands by distorting the real needs and hiding the real reasons, replacing them with legal requests with arguments that they consider more convincing than the real motivations. As the lawyers' logical thinking is aimed at convincing a judge, it must logically start from the reasoning to be used in the judge's judgment and on the basis of this legal reasoning build their arguments. All common sense or socially accepted reasons cannot be considered either by lawyers or judges. When in mediation this artificial discourse cannot be broken to reveal the real reasons for the request, because the mediate has been warned of the danger of making the real reasons, the procedure must be interrupted because the mediator is unable to convey the message that personal motivations are always much more convincing and valid than legal ones.

It is evident that there are several obstacles to Mediation, these however must not justify the interruption of the journey that began in Resolution 125 of the National Council of

Justice - not exempt from criticism - and which has been improving over the years, indicating positive results. Do not forget that, as Vezzulla reminds us, regarding the difficulties: "[...] the greatest difficulty in perceiving the limits of mediation is its voluntary nature, because mediation can only be reached and only those who wish to resolve it through dialogue can participate in a cooperative and responsible manner".

CONFLICT RESOLUTION IN CRIMINAL PROCEEDINGS: DISTRIBUTIVE JUSTICE VERSUS RESTORATIVE JUSTICE

Obviously, if we have problems and obstacles in the scope of the civil procedure, they are even more so in the criminal procedure. Such obstacles evidently stem from the fact that the State is the only holder of the right to punish crimes, which is aggravated by the fact that the judiciary – presents itself – universally as – at least in the scope of criminal law. – as the conflict solver not opening up to other forms of resolutionumber:

The objective is to expose the problem, without any intention of covering all the topics that the theme is demanding. In the narrow limits of the work, there is the theoretical north, the conception of a minimum and guaranteeing criminal law, believing that they are instruments that help us to understand that it is possible to reconcile criminal law with conflict resolution mechanisms. Obviously, one cannot fail to mention that the fundamental principle that guides the reading and understanding of fundamental rights is the dignity of the human personumber:

It is possible, understanding that the material aspect of human dignity can be understood from a broader interpretation, in line with the dictates of justice. Thus, access to justice will not necessarily be done with access to the Judiciary. Hence, there is a possibility of working with Restorative Justice in Criminal Law. In this sense, theorists start from the recognition of the distinction between Restorative Justice and the traditional penal system.

> Restorative Justice emerges as an alternative to conventional criminal justice, showing that the punitive/retributive model adopted is saturated and in crisis, which imposes the adoption of new forms of conflict resolutionumber:
>
> It deals with a model that aims to break with the paradigm of contemporary criminology that every criminal offense must be punished, since it is painful, bureaucratic and time-consuming.
>
> It is a criminal justice model that seeks to promote the inclusion and empowerment of the parties, so that they have a voice in the restorative process and contribute to an effective solution of the conflict, instead of the exclusion and stigmatization that the current criminal process generates, as well as as it seeks to propose a change in values, in the sense of eliminating the desire for revenge from the parties and encouraging reconciliation and reparationumber: It is assumed that adding one evil to another evil does not turn it into a good, and it is preferable to strive for an environment of social reconstruction number: (CAVALCANTE, 2017, p. 81-82)

A change of perspective is necessary, since in the retributive system, the crime (typical and unlawful fact) presupposes the violation of criminal law, while in Restorative Justice, the dimension of the person is considered, since the fact of having was the author of the crime does not mean that he was not hit. Evidently, this reading raises several discussions, considering that the victim of the crime does not want to be placed next to the person who committed the crime; in the same condition as this one. Ramires (apud SALIBA, 2009) on this issue elucidates:

> Liability, restoration and reintegration number: Responsibility of the author, as each one must answer for the conduct that he freely assumes; restoration of the victim, who must be repaired, and thus come out of his victim position; reintegration of the offender, reestablishing ties with society that was also harmed by the deceit.

What is sought is not to punish. The aim is to restore the relationships that were broken as a result of the crime, both with the victim and with the community. Certain that there are several limitations in order to fully achieve and form the reconstruction of what was affected by the crime, however, any recovery must be valued. This perspective, without any doubt, is extremely challenging, but, at the same time, innovative and aims to guarantee access to justice, not as access to the Judiciary, but as access to the feeling that justice has been effectively delivered.

> For Restorative Justice, the standard procedure of contemporary criminal sentences prevents this offender from being placed in the face of the circumstances of pain and prejudice produced by his act. In the modern criminal process, he will never force himself to know this reality. Nor will he be faced with the challenge of doing something that will lessen the victim's pain or replace the damage he himself has caused. In a retributive system, the offender is expected to bear his punishment; for Restorative Justice what matters is that it actively seeks to restore the broken social relationship. For this, restorative procedures must consider the situation experienced by the offender and the problems that preceded and led to his attitude. Thus, in addition to the efforts that the offender will have to make to repair his mistake, it will be up to society to offer him the appropriate conditions so that he can overcome his most serious limits, such as, for example, educational or moral deficit or conditions of poverty or abandonment (ROLIM, 2009).

It is evident that Restorative Justice presents itself as a new model of criminal justice that differs and distances itself from the retributive model. It is evident that the application in Brazil will be different, considering the crime under analysis, which will not be developed here, but which dogmatically will require different readings. Undoubtedly, as with Mediation in civil proceedings, Restorative Justice encounters significant resistance from legal practitioners, which will only be overcome if there is a study, practice and continuous reassessment of the processes and procedures that have been used for the peaceful resolution of conflicts.

FINAL CONSIDERATIONS

There is no doubt that we urgently need to bring to the Academy the knowledge of these forms of conflict resolution, which, by the way, are not new, but which ended up falling into disuse because the State confiscated from human beings their conflicts, raising into a true god, as if he had the capacity and mechanisms to do so.

As the aforementioned author correctly pointed out, in his conclusions, "we must think of the men and women who naturally come into conflict as a result of their activities, their professional and family relationships and, in general, for living their lives in search of meeting their needs, develop their skills and achieve respect for their identity".

True respect for human rights does not consist only in preserving people from the violent action of the state, but in recognizing the right (of the need) of each person to an identity, an ideology, a culture that make him what he is.

Thinking about conflict resolution mechanisms is thinking about the possibilities of delivering justice in the best possible way, allowing human beings their total

emancipationumber: Undoubtedly, Mediation in Civil Procedure and Restorative Justice in Criminal Procedure are presented as possible solutions to the various problems that are faced by the Judiciary. It is necessary to deepen these discussions, seeking to reconcile theoretical studies, existing practices and, considering a translational perspective, the construction of new tools for improvement, thus guaranteeing access to justice, so that it does not continue to die, but strengthened.

> Justice continued and continues to die every day. Right now, as I speak to you, far away or next door, at the door of our house, someone is killing her. Each time it dies, it is as if it never existed for those who had trusted it, for those who expected from it what we all have the right to expect from justice: justice, simply justice. Not the one that wraps itself in theater robes and confuses us with flowers of vain judicialist rhetoric, not the one that allowed its eyes to be blindfolded and the weights of the scales vitiated, not the one with the sword that always cuts more to one side than the other, but pedestrian justice, a justice that is a daily companion of men, a justice for which the just would be the most exact and rigorous synonym of the ethical, a justice that became as indispensable to the happiness of the spirit as indispensable to the life and nourishment of the body.
>
> JOSÉ SARAMAGO

REFERENCES

BRITO, Gilton Batista. O acesso à Justiça, a teoria da Mediação e a Resolução 125/2010 do CNJ Teoria da Mediação e a Resolução 125/2010 do CNJ**. Revista da EJUSE**, numero: 20, 2014 - Doutrina– 103).

CAHALI, Francisco José. **Curso de Arbitragem.** 2. ed. São Paulo: Revista dos Tribunais, 2012.

CAVALCANTE, Vinicius Rodrigues. **Dignidade da pessoa humana e acesso à justiça:** meios alternativos para desjudicialização em matéria penal. Dissertação (Mestrado). Pós Graduação *Stricto Sensu* em Direito, Universidade Federal de Sergipe, Sergipe, 2017 Disponível em: https://ri.ufs.br/bitstream/riufs

FIORELLI, José Osmir; FIORELLI, Maria Rosa e MALHADAS JÚNIOR, Marcos JulioOlivé. **Mediação e solução de conflitos: teoria e prática.** São Paulo: Atlas, 2008.

BRASIL. CONSELHO NACIONAL DE JUSTIÇA. Azevedo, André Gomma de (Org.). Manual de Mediação Judicial. 6.ed. Brasília/DF, 2016. Disponível em: www.cnj.jus.br

BRASIL. CONSELHO NACIONAL DE JUSTIÇA. RESOLUÇÃO Numero: 125, de 29 de Novembro de 2010. Dispõe sobre a Política Judiciária Nacional de tratamento adequado dos conflitos de interesses no âmbito do Poder Judiciário e dá outras providências. **DJE/CNJ numero: 219/2010**, p. 2-14, dez. 2010. Disponível em: www.cnj.jus.br

BRASIL. LEI Numero: 13.140, de 26 de junho de 2015. Dispõe sobre a mediação entre particulares como meio de solução de controvérsias e sobre a autocomposição de conflitos no âmbito da administração pública. **Diário Oficial da União – Seção 1,** p. 4, junumber: 2015.

ROLIM, Marcos. **A síndrome da rainha vermelha**: policiamento e segurança pública no século XXI. Rio de Janeiro: Zahar, 2009.

SALIBA, Marcelo Gonçalves. **Justiça restaurativa e paradigma punitivo**. Curitiba: Juruá, 2009.

SAMPAIO, Lia Regina Castaldi; NETO, Adolfo Braga. **O que é mediação de conflitos.** São Paulo: Brasiliense, 2007.

SPENGLER, Fabiana Marion e SPENGLER NETO, Theobaldo (org.) **Conciliação e arbitragem:** artigo por artigo de acordo com Lei numero: 13.140/2015 e com a Resolução numero: 125/2010 do CNJ (emendas I e II). São Paulo: Editora FGV, 2016.

VEZZULA, Juan Carlos. A Mediação uma análise da abordagem dos conflitos à luz dos Direitos Humanos, O Aceso à Justiça e o respeito à dignidade humana. Artigo Publicado in ABOIM, Luciana Machado Gonçalves da Silva (Org.) **Mediação de Conflitos**. São Paulo: Editora Atlas, 2013.