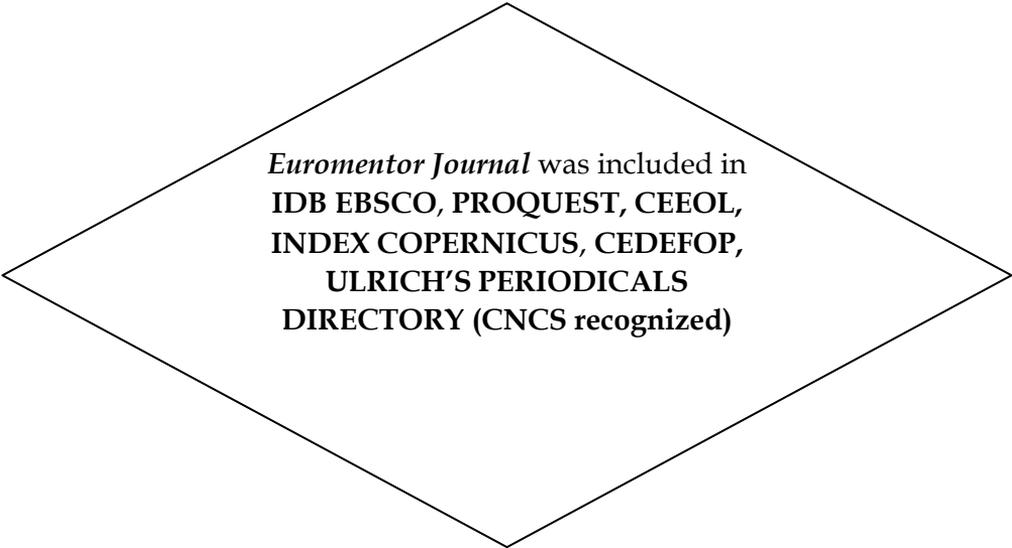


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# WHY JUVENILE LAW IS A PEDAGOGICAL ISSUE

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**ABSTRACT:** *This contribution intends to highlight the educational mission of the Italian juvenile process which, both in civil and criminal matters, performs a proactive as well as reparative function aimed at reactivating the processes of recovery of a juvenile's own existential path through changes in the relational and communicative dynamics of its core of reference.*

**KEYWORDS:** *Pedagogy, Juvenile Law, Promotion, Education*

## 1. Educational change through juvenile law

What is change? It is both a result and a process. It is a new way of dealing with a situation, and it is also the path that the situation has taken to transform itself into something different.

This is true for people, for family systems and for social systems involved in developmental processes. Change often occurs through *crisis*, pedagogically understood as an interruption of the process of growth and development of a person towards the achievement of one's own existential equilibrium; or the questioning of a consolidated balance, perhaps dysfunctional, but still consolidated<sup>1</sup>.

Whoever starts to change through a crisis, without succumbing to it, manifests the intimate desire to move towards growth and that human and existential maturation typical of the educational process<sup>2</sup>.

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<sup>1</sup> W. Brezinka, *Obiettivi e limiti dell'educazione - Objectives and limits of education*, Armando Editori, Rome 2005.

<sup>2</sup> F. Cambi, *La pedagogia generale oggi: problemi di identità - General pedagogy today: problems of identity*, in F.Cambi, E.Colicchi, M.Muzi, G.Spatafora, *Pedagogia generale. Identità, modelli, problemi - General pedagogy. Identity, models, problems*, La Nuova Italia, Florence 200.

<sup>2</sup> C. Scurati, *Fra presente e futuro. Analisi e riflessioni di pedagogia - Between present and future. Analysis and reflections of pedagogy*, La Scuola, Brescia 2001.

In this regard it was effectively written: "... the educational process can manifest itself as growth, maturation, development, anticipation, awareness, acquisition of knowledge, skills and abilities, but always involves reports, relationships, comparisons, mediations, interventions, choices, objectives, responsibilities, presences, commitment, possibilities, feelings, thought, play, work, suffering, joy, solitude, sociability, convergence and conflict, a positive sense of existence and a yearning desire to vanish, need for clarity, rationality and the impulse to fall back into the unconscious and into the irrational, in the penumbra of indecision, the strong call of an affective cohesion and a tendency to build a fence between self and others, the intense stimulation of spiritual projections and the choice of a crystalline secularity, the acquisition of systematic specialization and the quest, sometimes desperate, to prevent the loss of one's identity, a projection into the future and a need to overcome the difficulties of daily life, an aspiration to produce culture and a dramatic sense of the limit of one's abilities"<sup>3</sup>.

The educational process is therefore both crisis and desire to become, two sides of the same coin of change, pedagogically understood as personal and social maturation of the subject<sup>4</sup>.

But the change thus understood is not always realized spontaneously. There are cases in which a subject is able to activate his own internal resources to move towards an autonomous and gradual maturation through coping with a crisis<sup>5</sup>, but there are also opposite situations that require external intervention to support people who might not be able, or might not be able at a certain particular moment of their existence, to understand the need for initiating transformation and change in order to overcome their own discomfort and crisis<sup>6</sup>. These subjects need someone to take care of them - in the pedagogical sense of having their destiny at

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<sup>3</sup> R Fornaca, *Società e cultura complesse, educazione nuova e pedagogia - Complex society and culture, new education and pedagogy*, in F.Cambi, G. Cives, R. Fornaca, *Complessità, pedagogia critica, educazione democratica - Complexity, critical pedagogy, democratic education*, La Nuova Italia, Florence 1991.

<sup>4</sup> MG Riva, *Il lavoro pedagogico come ricerca dei significati e ascolto delle emozioni - Pedagogical work as search for meaning and listening to emotions*, Guerini Scientifica, Milan, 2004 F. Frabboni, F. Pinto Minerva, *Manuale di pedagogia generale - Manual of general pedagogy*, Laterza, Roma-Bari 1994.

<sup>5</sup> R. Laporta, *Avviamento alla pedagogia - Introduction to pedagogy*, Carocci, Rome 2001.

<sup>6</sup> M. Corsi, *Come pensare l'educazione - How to think about education*, La Scuola, Milan 2001.

heart - through the implementation of actions, projects, relationships that enable them to desire their own change<sup>7</sup>.

If this type of educational approach is necessary for supporting adults, it is even more so in order to support children in educational distress - and above all those who are facing a moment of existential crisis due to contact with civil or criminal juvenile justice. These are minors who, due to lack of education, disadvantaged or deviant family and social conditions, suffer or perpetrate psychological, physical or material damage upon themselves or others, which leads them to have to face the Juvenile Court (TM) in order to be protected and placed under surveillance or in some way "sanctioned".

Faced with the stories and faces of these minors, the TM takes a pedagogical approach aimed at combining the need to provide a response to the discomfort experienced by the minor (both when he is a victim and when he is the author of transgressive acts), with the need of safeguarding his evolutionary processes, thus protecting him from the effect of a traumatic contact with the judicial system. In this case the *crisis* of the minor lies not so much in the motivation that led him to meet justice, but in the encounter itself, that encounter-confrontation that forces him somehow to become aware of his own experience of hardship and deviance, and to take action with respect to it<sup>8</sup>.

In order to do this the juvenile judge (both nominated and honorary<sup>9</sup>) uses the courtroom and the time of the investigation to give life to a

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<sup>7</sup> L. Mortari, *La pratica dell'aver cura - The practice of taking care*, Mondadori, Milan 2006.

<sup>8</sup> A. Muschitiello, *Ragazzi contro o contro i ragazzi. Dal bullismo alla criminalità - Boys against or against boys. From bullying to criminality*. Laterza, Bari 2008.

<sup>9</sup> The juvenile honorary judge entered our system at the same time as the Juvenile Court, with RDL no. 1404 of 1934; and since then has represented a very particular figure in the Italian judicial context. Psychologists, educators, psychiatrists, doctors, criminologists, social workers and professionals with educational experience in services for minors and their families can in fact be appointed to fill the role of honorary juvenile judge. He does not perform technical consultancy or scientific assistance functions to professional judges, but constitutes an integral and necessary part of the judging panel, where the interaction between the juridical competences of the judges and the multidisciplinary humanistic knowledge of the honorary judges characterize the Juvenile Court as a specialized judicial body instituted to protect the minor. In fact, from the point of view of the superior interest of the minor, the procedure must always constitute an area in which processing the facts of the case is carried out in a prognostic dimension where decisions to be taken are corroborated by an understanding of the psychological, pedagogical, medical and social factors at play. To the honorary juvenile judges,

pedagogical setting in which to start listening and an accompanying the minors in a process of understanding the value and meaning of the actions they carried out, or of the situations and events they suffered; and of sharing a plan for their future with a view to growth and improvement. The judge in a subsequent provision will then stigmatize this planning without however appearing to impose “participation” upon the minors. To achieve this goal the juvenile judge must, on the one hand, become an “educator” of the minor, listening to him and accompanying him, while on the other hand never giving up his role as authoritative decision-maker, because it is precisely this role that produces, in the minor, the educational effect of assumption of responsibility with respect to himself and his future<sup>10</sup>.

## 2. Time as an educational dimension of the juvenile process

The question whether change in a minor undergoing a trial before the TM is a result or a process has another equally demanding inquiry behind it, which is whether the fragile families the court is dealing with should be

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appointed for three-year calls and selected by the Superior Council of the Magistracy, it is therefore essential to continue to carry out their profession in order to reinforce the introduction of live, current, multidisciplinary verified knowledge into operations that can interact effectively with legal knowledge in the expression of a highly efficient capacity of judgment. The honorary judge carries out almost all juvenile investigations and always supports the nominated judge in those that the latter carries out in person. Furthermore, the honorary judge collaborates and compares himself with the juridical competences of the nominated judge in order (without prejudice to the role of decision-maker of the nominated judge) to elaborate a provision, provisional or definitive, which takes into account all the aspects of the problem. From now on, whenever the author speaks of “juvenile judge” he will refer to that *unicuum* constituted by the figures of the nominated and honorary judge who together, reconciling their professionalism, are concerned with protecting the juveniles.

The author is an honorary judge at the Juvenile Court of Bari since 2015 and it is on the basis of this experience that she elaborated the present intervention.

<sup>10</sup> C. Silva, *Mediare nella società multiculturale: il punto di vista della pedagogia interculturale sulle pratiche di MGF - To mediate in the multicultural society: the point of view of intercultural pedagogy on the practices of FGM*, in E. Urso (ed.), *Mediazione e famiglia tra conflitto e dialogo. Una prospettiva comparatistica ed interdisciplinare - Mediation and family between conflict and dialogue. A comparative and interdisciplinary perspective*, FUP - Firenze University Press, 2013; C. Silva, *Gli adolescenti, la multiculturalità e il bisogno di un'appartenenza al plurale - Adolescents, multiculturalism and the need for belonging to the plural*, in C. Betti, C. Benelli (ed.), *Gli adolescenti tra reale e virtuale. Scuola, famiglia e relazioni sociali - Adolescents between real and virtual. School, family and social relations*, Milan, Education Unicopli, 2012.

treated as a film or as still images. No answer is all-encompassing and it is necessary to make distinctions, but if we tend to think that we are dealing with photographs, the task of the TM will be “to classify them” in the right category - with decisions such as “not to provide” or “entrustment to social services”, etc. - and as soon as the case is closed, switch to another. In the other case it may seem necessary to maintain for a time a perspective on the vicissitudes of a family that is probably in transformation, if it is true that a report reveals and sometimes accelerates a crisis that has already occurred or is latent<sup>11</sup>.

The difference between the two orientations is therefore *time*; and in the juvenile sphere the latter tends to prevail over the former (unlike what generally happens in trials before the Ordinary Court). When dealing with minors and especially families, in fact, haste is a bad counselor: “while all the judges must decide, sometimes as quickly as possible, when intervening in personal relationships one must first work to understand and then to decide. We must equip ourselves with a series of instruments suitable for giving back their role to the parents, supporting and integrating it”<sup>3</sup>. In juvenile trials the first objective is therefore to reach the agreement, the consensus, the least traumatic solution. With respect to this, the intervention of the judge takes place in the second instance, or in the third, or in the fourth, or in the fifth, not in the first<sup>12</sup>. All cases have, in fact, a more or less hidden key to understanding that particular situation, which can become a suggestion, a request for clarification, an address for further study, in other words a “non decision”; and which requires further study or time to verify if spontaneous changes occur<sup>13</sup>. The decision is reached only after the node has been represented, examined, understood from all points of view<sup>14</sup>.

In this perspective, the non-decision or the suspension of the judgment is a way of giving, in a pedagogical sense; time to listen and to understand the protagonists and situations, each of them different. A time that is not only linked to the length of the procedure and to the number of auditing and updating hearings required with respect to a case, but also

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<sup>11</sup> L. Mortari, *Apprendere dall'esperienza. Il pensare riflessivo nella formazione - Learning from experience. Reflective thinking in education*, Carocci, Rome 2003.

<sup>12</sup> F. Blezza (ed.), *Pedagogia della prevenzione - Pedagogy of prevention*, Centro Scientifico Editore, Turin 2009.

<sup>13</sup> M. Corsi, *Il coraggio di educare - The courage to educate*, Vita e Pensiero 2003.

<sup>14</sup> The therapeutic path of a parent neglected because he is a heroin addict will not give results in a few months, just as an example.

the time of individual listening, which must be the right time; useful for calmly facing all questions and aspects; useful for bringing out the experiences and emotions, the desires and expectations of those present; but also a respectful time, which is not intrusive and which does not abuse the fragility of minors or subjects involved in the affair, because this could create further damage<sup>15</sup>. At the moment of listening something happens, it is more than simple verification and has to do with taking care of the change<sup>16</sup>

But if all this is true it is natural to ask oneself: but is the process not made for judging and deciding? What does the minor's education have to do with the process? Does the judge, when he takes measures and makes decisions that affect his life, hurt like a surgeon or a murderer? And he, the judge, how can he orientate himself before acting? To what extent must the judge let the need to educate prevail upon the need to decide and intervene?

These are questions that at first sight seem difficult to answer. Traditionally<sup>17</sup> decision and re-education concern two distinct, if not opposed areas and are defined in particular by the irreconcilability between the decision or sanction imposed by the court and the voluntary adhesion that must motivate the subject towards any formative project concerning him. But this is exactly the TM's offer. Here lies the nerve center of its philosophy, openly oriented towards dealing with the pedagogical profile that concerns the education of the juvenile, next to the juridical one of decision on his fate.<sup>18</sup>

The juvenile legislator has seen in the process in which the minor is called to respond to a specific behaviour a possible occasion to also (or in the first place) deal with his educational and training path. In this

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<sup>15</sup> The delicacy of listening in civil and criminal juvenile hearings requires specific humanistic competences, which are those that motivate the figure of the honorary judge as a figure that professionally supports the nominated judge in his contacts with the subjects involved in legal proceedings, assisting him in the delicate task of listening and understanding the underlying pedagogical and psychological dynamics.

<sup>16</sup> C. Mozzanica C., *Pedagogia della/e fragilità - Pedagogy of/and fragility*, La Scuola, Brescia 2005. Fabbri L., *Comunità di pratiche e apprendimento riflessivo. Per una formazione situata - Community of practices and reflective learning. For a training course*, Carocci, Rome 2007.

<sup>17</sup> G. Chiosso (edited by), *Luoghi e pratiche dell'educazione - Educational sites and practices*, Mondadori, Milan 2009.

<sup>18</sup> L. Rossi, *La criminalità minorile. Elementi di criminologia e psicologia forense - Juvenile crime. Elements of criminology and forensic psychology*, CLITT, Rome 2005.

perspective, in some cases (especially in a civil trial) the procedural process is protracted over time to make room for change before the final decision; while in others (especially in the context of criminal proceedings) it is interrupted (with the institution of judicial pardon or irrelevance of the fact) or suspended (with the legal institution of probation) pending the outcome of a trial that gives less space, time and opportunity for starting a change. In all these cases, in short, the juvenile trial is a trial that denies itself in order to allow a procedural (as well as substantial) conclusion from meanings and contents very different from those of decisions and sanctions that may be taxing, but nevertheless of great educational value<sup>19</sup>.

### **3. The importance of listening to emotions in pedagogy**

Motivating, reinforcing, clarifying the consequences of repeated behavior, limiting, comparing and, above all, listening and understanding are inherent acts of the dozens of hearings that take place every day in juvenile courts, acts that the juvenile judge must know how to perform with care and patience. If a parent or a teenager leaves the judge's office with an awareness, a purpose, an idea more or less different from his previous ones, this will probably produce effects and educational developments in the future of that juvenile or that family. The juvenile judge who realizes this type of listening therefore can never consider himself outside or above the reality which he approaches. The hearing that he carries out becomes a stage in the evolutionary path of the minor and those subjects involved with his life path, a moment in which the involved subjects acquire awareness of their own *hic et nunc* and, where possible, start a process of restructuring and promotion of their own existence<sup>20</sup>.

Italian pedagogical studies of the last decade have significantly emphasized the role of emotions, empathy and listening. For example in the category of Italian pedagogy, in recent decades, contributions to the

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<sup>19</sup> This is the position of some sections for minors of appellate courts. The controversial issue is still open. P. Sceusa, *Il processo civile minorile: la volontaria giurisdizione non esiste- non solo a Trieste - The juvenile civil trial: the voluntary jurisdiction does not exist - not only in Trieste*, in *Minori e Giustizia - Minors and the law 4/2011*, Franco Angeli, Milan.

<sup>20</sup> S. Ulivieri, *Nascita del sentimento dell'infanzia attraverso tracce, indizi, memorie, immagini di bambini - Birth of the feeling of childhood through traces, clues, memories, images of children*, in G. Minichiello, L. Clarizia, M. Attinà, P. Martino, *La persona come discontinuità ontologica e l'educazione come ultima narrazione. Saggi in onore di Giuseppe Acone - The person as an ontological discontinuity and education as the last narrative. Essays in honor of Giuseppe Acone*, Pensa Multimedia, Lecce 2014.

field of the study of emotions have grown significantly. From Cambi's philosophical contributions (2015) and Contini's existential ones (1992-2011) passing through those of Riva (2004) who considers listening to emotions as a pillar of pedagogical work, this significant portion of human experience has fully entered the interest field of pedagogy. The study of emotions in an educational way crosses that of empathy (Mortari 2006; Boffo 2005), of feelings, of emotional life in a more general sense (Iori, 2009) as a function of self-care and the pedagogy of family relationships (Corsi, Stramaglia, 2009).

Among various researches on the subject, a significant contribution is that of Maurizio Fabbri, inspired by the well-known work of Contini, an authentic pacesetter of the pedagogy of emotions which, in the perspective of Bertin's pedagogical problematics, focuses on an analysis of emotional experience in relation to behavioral determinants both internal and external to the individual. The author moves from a consideration of the current social crisis and the need for a pedagogy of emotions towards favoring change and growth of the young generations. He emphasizes the importance of considering knowledge and cognition on the one hand, and emotion on the other, as two inseparable aspects of the human mind; and refers to the contribution of recent fields of neuroscience that have highlighted neuronal plasticity.

From this perspective, the author also implicitly recalls the contribution of psychoanalysis and attachment theory, which strongly emphasize the role of emotional experiences and early educational exchanges between child and parents in the development of the mind and growth of personality. Fabbri emphasizes in particular the function of listening to the child's emotions, so that he can grow up expressing himself. This is connected, in its assumed perspective, to the role of empathy and the so-called mirror neurons (Rizzolati, Sinigaglia), postulating the potential of *caregivers* to "put themselves in the child's shoes, for the purpose of really rich listening, worthy of the name".

Fabbri, like Gordon, enhances active listening. A listening placed in the perspective of a true understanding to favor the emergence of characters of authenticity in the educator's personality. Vanno Boffo (2005) in his contribution on empathic communication reports the theme of listening to emotions as its primary and most natural matrix: the family. In stressing the value of family communication, the author focuses on the function of dialogue in the relationship between parents and children, which fulfills its educational and training function through

communication endowed with humanity. Cultivating humanity in this light constitutes, for the scholar, one of the main aims of education and also of communication within which listening becomes particularly important. It is in this that one of the foundations of educational care also takes shape.

But if, from a scientific, theoretical and abstract point of view the importance of emotions in care relationships is now established, I wonder why this dimension is not adequately deepened in the contexts of university education of these professional figures? It would be necessary to focus much more on developing the emotional management skills of future educators, to provide them with useful tools so that they are able to confront the moments of disorientation that characterize this work, allowing them to use moments of crisis as occasions from which new resources and capacities emerge as sometimes essential stages for achieving more mature balances.

From this perspective it can be said that the action of listening constitutes an activity of action-pedagogical research<sup>21</sup> in which the judge, with his observation, intervention and presence is not indifferent to the reality he is dealing with. By *being there*, he changes its orientation. His presence has a value that goes beyond the interpretations of which he is capable, and is validated both by himself and by the relationship he establishes with the minor and with the subjects revolving around him<sup>22</sup>. Thus, the intervention of the juvenile judge realizes an action that relies on the relationship and takes account of it, rather than being overwhelmed by becoming educational action research<sup>23</sup>.

In order to adopt this pedagogical approach, the juvenile judge must be moved by the intimate propensity to never stop believing in possible change, thus constantly seeking, among his own instruments, those most

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<sup>21</sup> JP Portouis, *La ricerca azione in pedagogia - Action research in pedagogy*, in E. Becchi, B. Vertecchi, (edited by), *Manuale critico della sperimentazione e della ricerca educativa - Critical manual of experimentation and educational research*, Franco Angeli, Milan, 1995; J. Elliot, A. Giordan, C. Scurati, *The Research Action*, Bollati Boringhieri, Turin 1993.

<sup>22</sup> L. Mortari, *Cultura della ricerca e pedagogia. Prospettive epistemologiche - Culture of research and pedagogy. Epistemological perspectives*, Carocci, Rome 2007.

<sup>23</sup> FM Sirignano, *Pedagogia della decrescita. L'educazione sfida la globalizzazione - Pedagogy of degrowth. Education challenges globalization*, Franco Angeli, Milan 2012; Pati L., *La politica familiare nella prospettiva dell'educazione - Family policy in the perspective of education*, La Scuola, Brescia 1995.; B. Rossi, *Pedagogia degli affetti. Orizzonti culturali e percorsi formativi Pedagogy of the affections. Cultural horizons and training paths*, Laterza, Rome-Bari 2002.

suitable for facing every situation and orienting it in the sense of promoting the human<sup>24</sup>.

#### **4. The proactive function of the Juvenile Court**

In the light of considerations highlighted so far, it emerges that the true core of specialization required for each juvenile judge is that of having to decide only if it is necessary, and to the extent strictly necessary for change.

At this point, however, one must ask whether change, as the aspiration of the TM, legitimizes the right of the latter to impose on the subjects that revolve around the minor a change of their behavior where deemed necessary for his protection and care.

That is, if a parent is a drug addict, is it permissible to include him in a provisional decree to follow a therapeutic path? Is it permissible to impose upon him a change, with a view to protecting the rights of his child?

For some judges, yes, certainly, in a hypothesis of change that makes a balanced relationship between parent and child possible again. For others, no; because the task is to decide, at present, to secure the child - perhaps far from the parent - and then evaluate what to do, only after the parent detoxifies himself. Of the two positions, the second wants to act soon and does not see far. The first strives to look in perspective. The judge who calls for treatment considers drug addiction as an obstacle to the practice of parenthood and, by focusing on the minor's rights, demands that the parent freely choose whether to give priority to substances or to the bond with the minor. In this framework what the parent cannot do is avoid choosing (or choosing both, which is the same).

In this sense it is clear that the TM acts as an enforcing factor, in that it places the parent before a decision that he would perhaps have avoided carrying out if left undisturbed: choosing to act responsibly, striving to

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<sup>24</sup> To do this, the juvenile judge must maintain a close relationship with services in the territory, know the experiments and their results, sometimes suggest their application. The judge cannot think of himself as separated from other social structures, he must involve himself - at least a little - with the paths of mediation, with taking charge of the perpetrators of violence, with supporting the victims, with overcoming trauma. Raising his head from his files, he should be working for change, detecting social needs that many families make tangible and present to those who can take charge of them, as in fact often happens in the relationship between juvenile judicial authorities and territorial authorities, because in a court of law for minors a variety of emergencies are concentrated, that fortunately do not exhaust reality but identify trends that are not otherwise noticeable, variations relative to this most fragile and suffering part of society.

limit his personal freedom to protect his child. A judge who does this, perhaps unknowingly, in the perspective of pedagogical ethics is assuming the right and duty to go beyond even the constitutional principle of freedom of care, in favor of the protection of minors who cannot ask their parents to change, or change parents, and sometimes not even ask for help because they are very small or in difficulty<sup>25</sup>.

What happens when parents do not respect the indications and prescriptions of care and support proposed by the TM?

Given that that parent remains free not to undertake any change, assuming all actual consequences in his relationship with his child, the juvenile judge, having experimented with all possible solutions, must protect the child by limiting or declaring the forfeiture of parental responsibility, moving him away to the most appropriate place in consideration of his age, his schooling and his social ties that must be safeguarded as much as possible to avoid further trauma<sup>26</sup>.

In this sense, an intervention by Zagrebelsky is fitting: "One point I care about is that *mild law* does not mean a permissive right, rather it should be that right that calls for a sense of responsibility and freedom, but must decide when this assumption of responsibility is not possible."<sup>27</sup>

## REFERENCES

Ascenzi, A., Corsi, M., (2005, a cura di), *Professione educatori/formatori*, Vita e Pensiero.

Bertolini, P., (1988), *L'esistere pedagogico*, La Nuova Italia, Firenze.

Blezza F., (2009, a cura di), *Pedagogia della prevenzione*, Centro Scientifico Editore, Torino.

Brezinka, W., (2005), *Obiettivi e limiti dell'educazione*, Armando Editori, Roma.

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<sup>25</sup> C. Covato and S.Ulivieri (edited by), *Itinerari nella storia dell'infanzia. Bambine e bambini, modelli pedagogici e stili educativi - Routes in the history of childhood. Little girls and little boys, pedagogical models and educational styles*, Milan, Unicopli 2001

<sup>26</sup> MG Riva and Chiosso G. (edited by), *Luoghi e pratiche dell'educazione - Educational sites and practices*, Mondadori, Milan 2009.

<sup>27</sup> P. Pazé, *La mitezza del diritto e delle istituzioni negli interventi e nei procedimenti per le persone, la famiglia e i minori di età - The mildness of law and institutions in interventions and procedures for persons, families and minors Interview with Gustavo Zagrebelsky*, in "Cittadini in crescita - Citizens in Growth", No. 1. 2010; P. Martinelli, *Per una giurisdizione minorile mite (la giurisdizione della non decisione) - For a mild juvenile jurisdiction (the jurisdiction of the non-decision)*, in "Minori giustizia - Minors and justice", n.2. 2008

Cambi, F., (2005), *La pedagogia generale oggi: problemi di identità*, in Cambi, F., Colicchi, E., Muzi, M., Spatafora, G., *Pedagogia generale. Identità, modelli, problemi*, La Nuova Italia, Firenze.

Chiosso, G., (2009, a cura di), *Luoghi e pratiche dell'educazione*, Mondadori, Milano.

Corsi, M., (2003), *Il coraggio di educare*, Vita e Pensiero.

Corsi, M., (2001), *Come pensare l'educazione*, La Scuola, Brescia.

Demetrio, D., (1992), *Micropedagogia. La ricerca qualitativa in educazione*, La Nuova Italia, Firenze.

Fabbri, L., (2007), *Comunità di pratiche e apprendimento riflessivo. Per una formazione situata*, Carocci, Roma.

Fabbri, L., (2007), *Comunità di pratiche e apprendimento riflessivo. Per una formazione situata*, Carocci, Roma.

Fornaca, R., (1991), *Società e cultura complesse, educazione nuova e pedagogia*, in Cambi, F., Cives, G., Fornaca, R., (1991), *Complessità, pedagogia critica, educazione democratica*, La Nuova Italia, Firenze.

Frabboni F., Pinto Minerva F., (1994), *Manuale di pedagogia generale*, Laterza, Roma-Bari.

Galli, N., (2007), *La famiglia, un bene per tutti*, La Scuola, Brescia.

Laporta, R., (2001), *Avviamento alla pedagogia*, Carocci, Roma.

Mantovani, S., (1998, a cura di), *La ricerca sul campo in educazione I metodi qualitativi*, Mondadori, Milano.

Martinelli, P., (2008), *Per una giurisdizione minorile mite (la giurisdizione della non decisione)*, in "Minori giustIzia", n.2, 2008.

Mortari, L., (2007), *Cultura della ricerca e pedagogia. Prospettive epistemologiche*, Carocci, Roma.

Mortari, L., (2006), *La pratica dell'aver cura*, Mondadori, Milano.

Mozzanica, C. (2005), *Pedagogia della/e fragilità*, La Scuola, Brescia.

Muschitiello, A., (2008), *Ragazzi contro o contro i ragazzi. Dal bullismo alla criminalità*. Laterza, Bari.

Pati L., (2008, a cura di), *Famiglie affidatarie - risorsa educativa della comunità*, La Scuola, Brescia.

Pati, L., (1995), *La politica familiare nella prospettiva dell'educazione*, La Scuola, Brescia.

Pazé, P., (2008), *La mitezza del diritto e delle istituzioni negli interventi e nei procedimenti per le persone, la famiglia e i minori di età. Intervista a Gustavo Zagrebelsky*, in "Cittadini in crescita", n.1, 2010;

Riva, M.G., (2004), *Il lavoro pedagogico come ricerca dei significati e ascolto delle emozioni*, Guerini Scientifica, Milano.

Riva, M.G., Chiosso, G., (2009, a cura di), *Luoghi e pratiche dell'educazione*, Mondadori, Milano 2009.

Rossi, B., (2005), *La criminalità minorile. Elementi di criminologia e psicologia forense*, CLITT, Roma.

Rossi B., (2002), *Pedagogia degli affetti. Orizzonti culturali e percorsi formativi*, Laterza, Roma-Bari

Sceusa, P., (2011), *Il processo civile minorile: la volontaria giurisdizione non esiste (non solo a Trieste)*, in "Minori e Giustizia" n.4, 2011, Franco Angeli, Milano.

Scurati, C., (2001), *Fra presente e futuro. Analisi e riflessioni di pedagogia*, La Scuola, Brescia.

Silva, C., (2013), *Mediare nella società multiculturale: il punto di vista della pedagogia interculturale sulle pratiche di MGF*, in E. Urso (a cura di), *Mediazione e famiglia tra conflitto e dialogo. Una prospettiva comparatistica ed interdisciplinare*, FUP - Firenze University Press, FUP Firenze.

Silva, C., (2012), *Gli adolescenti, la multiculturalità e il bisogno di un'appartenenza al plurale*, in C. Betti, C. Benelli (a cura di), *Gli adolescenti tra reale e virtuale. Scuola, famiglia e relazioni sociali*, Educazione Unicopli, Milano.

Simeone D., (2008), *Educare in famiglia. Indicazioni pedagogiche per lo sviluppo dell'empowerment familiare*, La Scuola, Brescia.

Sirignano, F.M., (2012), *Pedagogia della decrescita. L'educazione sfida la globalizzazione*, Franco Angeli, Milano.

Sità, C., (2005), *Il sostegno alla genitorialità- Analisi dei modelli di intervento e prospettive educative*, Editrice La Scuola, Brescia.

Ulivieri, S., (2014), *Nascita del sentimento dell'infanzia attraverso tracce, indizi, memorie, immagini di bambini*, in Minichiello, G., Clarizia, L., Attinà,

Xodo, C., (2008, a cura di), *Dopo la famiglia, la famiglia. Indagine sui giovani tra presente e futuro*, Pensa Multi Media, Lecce.