

MATILDE PROJECT

Family mediation as a sphere of social intervention supporting minors' rights to both parents

By Rossana Caselli

The principle aim of the Matilde Project is:

To move towards a comparison of experiences in several European countries regarding regulations, activated social services and interventions promoted by the voluntary sector, in the area of family mediation, intended as a possible alternative relationship during the period of family dissolution (the breakdown of conjugal bonds, including those of de facto families).

This project is included in the program of the Daphne initiative, specifically to promote interventions that combat violence against minors and women. It has as its aim the individuation of good procedures, proposals and actions in the area of family mediation, above all to prevent various kinds of violence against minors.

The word violence is used to refer to the totality of modes and instruments by which one person forces another to do what he or she does not want to do, damaging his or her rights. This reaches its extreme in the case of controlling another person's will by the use of physical force. Violence is here understood, for this project, as the explosion of an unmanaged conflict. The destructive forces used in confrontation with another person, therefore, can prevail precisely because the conflict is left to explode as proof of counterpoised forces, and not as a mediation of contrasting interests, sentiments, cultures or rights. Thus it is not the conflict itself, but rather the inability to manage the conflict, that generates violence.

The New York Convention of 1989 and the European Convention of 1995 confirm the necessity of protecting children's rights, assuring them continuity and stability in the affective or relational environment in which they are raised. They consider it necessary that minors be assured a continuity in affective relationships, in order to maintain and development relationships with both parents and with respective families of origin. It is thus recognized that minors have the right to both parents even after the couple's separation and divorce. This right is in fact often ignored, because a culture of separation that takes into account the rights of minors is still lacking. Instead, the focus tends to be on spouses' demands.

The separation of a couple, a step that normally sanctions their definite disconnection, of itself should not have implications regarding the affective relationship that each has established with their children. Still, various elements contribute to the fact that family break-up, following separation/divorce, also affects the children. These effects can be gathered on an idealized continuum that ranges from varying levels of discomfort to forms of actual violence, including physical. Along this continuum we can identify four "phases":

- 1) discomfort of the child with the parents' separation: separation involves all members of the family unit because parents above all intend to dissolve their bond and in this they also involve the child, since their need to have an ally increases. This need, however, may be hidden behind hyper-protective or hyper-permissive attitudes, which are brought out to demonstrate in front of others but also in front of themselves, their own validity as parents and therefore also as human beings, in contraposition to the non-validity of the other. There is a period of about two years following the separation when parents and children pair up, searching for personal or interpersonal stability. At this time, the search for reasons for self-esteem prevails, not so much and not only in parenthood, but also in the social and family context (phase of elaboration of the crisis). These are certainly painful problems, but they are naturally connected to a loss of the bond that united the family. New types of bonds and therefore also of personal identities are created in this way.
- 2) Syndrome of parental alienation: behavior of one or more children in the context of the conflict between parents becomes hyper-critical and denigrating towards one parent, because the other parent has influenced the child in this way, indoctrinating him thoroughly and also influencing the development of the child's personality. This is a genuine exploitation of children to fuel the denigrating and destructive activity regarding the other parent. It is well known to social workers and can be considered even as a form of psychological violence used by the parents against the child. In the case of the complete lack of agreement between parents, the custodial judge can intervene. This occurs when the conflict between spouses is more difficult to manage and recourse to the judge is necessary. If there is evidence of any form of violation of minors' rights (including physical or psychic violence towards the children, with varying degrees of intensity), the case can

go before the Tribunal for Minors for more severe disciplinary measures. These may include proposals for other forms of intervention (for example, various kinds of custody of the minor).

- 3) The international removal of minors, children of mixed couples who are separated. This is a specific area of difficulty in the protection of minors because it is more difficult to evaluate the right to have both parents and to live in their own environment. In this case we can speak of a particular form of psychological violence against minors, over which it is more difficult to apply concretely the conventions of international law. It deals, therefore, with minors who are children in a family unit undergoing temporary or permanent dissolution, either because of internal causes or because of causes that are external to the parental couple (for example in case of emigration, following wars, etc.), which lead to a separation of fact.

Faced with this continuum, which ranges from discomfort to violence against minors, in the case of family break-up, what types of intervention do we have? **In terms of the types of problems for minors that have been gathered under this continuum of discomfort, violence, and violation of rights, analysis can be conducted both in terms of social policies (and relative services activated) and in terms of normative instruments.**

Such analysis should be expanded in the first phase of the Matilde project to include the normative and social-political schema, with particular attention to the contribution of the third sector, individuating types of responses present in each national context. In this way the range of investigation of the Matilde Project can be indicated:

- 1) in the case of point one on the continuum, we can cite family mediation services among the most innovative and significant instruments and services;
- 2) in the second case, alongside the instruments and opportunities planned on the legal level, the services offered by local organizations assume a position of excellence, sometimes in collaboration with private subjects and the private social sector (volunteerism). These are offered to favor parental continuity in situations where children are at risk. This refers to experiences of family mediation in a broad sense, including “places of reception for exercise of visitation rights” (France, a designation established by the national federation uniting these types of services) or “the right to personal relationships” (Belgium, defined in the law of 13/5/1995).
- 3) in the third case we are not presented with services as truly and properly understood, but rather of practices enacted by some local offices and private social organizations. The general aim of such interventions is often to deal with “emergencies.”

The field of analysis of the Matilde project is related to these three types of family mediation intended in the broad sense of the term. However, the first will be privileged above all because of its implicit potential to prevent violent conflict and to spread the culture of mediation (privileged objectives of the Matilde project), with particular reference to minors between 9 and 14 years of age..

Therefore, the work plan to achieve the first phase can be articulated in three points:

- normative description concerning family mediation and supervision of minors in case of dissolution of the marriage bond, also in reference to the three steps of the continuum indicated above;
- description of social policies and services actuated by the EELL and at the national level, with reference to the three steps, citing some experiences of excellence;
- description of initiatives by the private social sector, still referring to the three steps and citing cases of excellence.

To this end, the CNV has begun, as far as Italy is concerned, to conduct an analysis of the literature, bibliographical materials and web sites, and to gather information and opinions through interviews with privileged witnesses.

The interviews now being developed are also intended to reveal result and process variables, to be used for establishing benchmark indicators (institutional and organizational variables, variables related to problems that are the focus of study, to be influenced by experiences, in terms of their efficacy). As planned, we will speak about these next..

MATILDE PROJECT

Cases of excellence: selection criteria and primary methodological indicators for national and international comparisons

By Rossana Caselli

To start the first phase of the project, we have proceeded with:

1. gathering the bibliography;
2. searching for internet web sites that deal with family mediation;
3. interviewing privileged witnesses to identify cases of excellence;
4. specifying indicators to develop a system of benchmarking.

In reference to points 1 and 2, a first report has been produced (using the Matilde logo), and also given to Dr. June Kane (evaluator of the Daphne projects for the European Community).

In reference to point 3, the interviews (approximately 12) are underway, using the attached interviewer's grid. We propose this also for the attention of our project partners.

In reference to point 4, this is in its first phase of elaboration, as attached, under "indicators".

Draft of interviews with privileged witnesses

- What, according to you, are the most innovative instruments and services responding to the needs of a family in which parents are separating, a situation that involves all members of the family unit and therefore also the children?
- Can you identify particularly significant services activated by public entities, in collaboration with private entities or with the private social (voluntary) sector, that are offered to favor parental continuity in situations that jeopardize the interests of children (when children become instruments of parents, when the tutelary judge intervenes because the parents are in total disagreement, etc.)?
- Can you indicate some good procedures of private social organizations, to respond to more general problems such as international removal of minor children, children of separated mixed couples, or children of a marital bond in phase of separation for internal or external (emigration, wars, etc.) causes?
- Regarding these services and instruments that you have cited, what are the variables and points of strength (factors of success) that are absolutely necessary?
- Which variables¹ that intervene in the process (= sum of the activities receiving an input and transforming it into an output, a final result) do you consider important?
 1. What is the ultimate aim of the service (who is the service for; are children involved in this course of action)?
 2. Human resources involved (Who carries out the service; are there internal or external consultants; what kind of training do operators have? Etc.)
 3. Economic resources used
 4. How are activities organized? (Is there an organizing secretary? How are parents contacted? How are parents and children received? What relationship is there between consultants and children? Etc.)
 5. Where does the service take place (physically, in terms of organization, and in terms of contacts, relationships with institutions, etc.)?
 6. ...
- What results are absolutely necessary,² according to you?
 1. Number of families or minors contacted.
 2. Achievement of objectives.
 3. Satisfaction of subjects involved.
 4. ...

¹ INDICATORS OF PROCESSES

² INDICATORS OF RESULTS

Attachment 2

INDICATORS: quantitative variables or qualitative parameters that register a certain phenomenon, considered in fact “indicative” of the factor of quality. These values can be obtained, usually, by comparing INPUT and OUTPUT.) Variables and parameters can be divided into:

Efficacy: level of achievement of objectives that the organization has established;

Efficiency: to establish a relationship between the activity carried out and the resources used in such an activity;

Equity: access to services and ability to avoid discrimination with respect to access to and distribution of these services:

Satisfaction: to define to what degree the service can respond to user expectations;

Appropriateness: useful for verifying congruence (qualitative and quantitative) between the system of resources (material and professional) available and the system of demand, and especially to evaluate the process phase;

Accessibility: analysis of the type of spatial distribution of resources and its compatibility with the objectives to be pursued.

OF RESULTS:

Efficacy:
$$\frac{\text{number of couples who request the service in a year}}{\text{number of couples that separate}}$$

$$\frac{\text{number of couples who go through mediation}}{\text{number of couples who request the service}}$$

$$\frac{\text{number of couples in mediation who end up well: before separation} + \text{during separation} + \text{after separation}}{\text{number of couples who go through mediation}}$$

Appropriateness:
$$\frac{\text{number of couples in voluntary mediation} + \text{recommended mediation} + \text{mediation of a legal truce}}{\text{total number of couples in mediation}}$$

$$\frac{\text{number of encounters and length of time}}{\text{total number of couples in mediation}}$$

$$\frac{\text{number of partial mediations and number of global mediations}}{\text{total number of couples in mediation}}$$

$$\frac{\text{mediator's assessment of number of successes}}{\text{total couples in mediation}}$$

Equity:
$$\frac{\text{involvement of children}}{\text{tot. couples in mediation}}$$

Accessibility: average waiting period for “help” through mediation;

Satisfaction: survey of user satisfaction.

BY PROCESS:

Equity:

- inclusion of mediation in the network of services and places (institutional and non);
- modes and types of promotion of mediation;
- reserve and privacy;

Appropriateness:

- criteria of choice for professional figures and the mediator (consultants, operators, etc.)

Accessibility:

- who and how manages the information/ sensitizes to the service (who is the secretary)
- criteria and place of welcome and information for couples (singularly or collectively);
- existence of a team or connection with other similar services or support systems in the area (common strategies of development?)

Efficiency:

- economic resources (contribution of couples, institutions, or others);
- Average cost per user;