



MIND PROJECT

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

By Rossana Caselli

1) The objectives and program of the day

To share the plan giving some practical performance in ways to agree with in the encounter of Brussels. Which organizational requirements, etc)

2) Presentation of the association partners of “Mind”, their motivations and expectations

By why has the CNV considered it opportune to occupy oneself with a theme such as Family Mediation, which is apparently very “specific” and certainly not among the most widespread or noted in the area of volunteerism?

There are essentially four reasons:

- 1) Because family mediation is a particular area of social mediation.** It can be stated that volunteerism, or at least part of the world of volunteerism – that part which is more involved in the protection of international rights, of peace movements, etc. – has for some time recognised such a role. Furthermore, mediation in general assumes an ever-greater importance both for micro and for macro conflicts. In a time of globalisation and thus of heightened differences between rich and poor, among countries developed and not, of return to the weight of ethnicities and of wars of religion, mediation seems to present itself as an instrument of peace and reason, of understanding the needs of those who are different and weaker, of a call to respect for human rights, where sometimes there prevail instead violent conflict, war, the law of the stronger and of destructive forces, rather than democracy and civil dialogue. With this aim, in our country there have in recent years been many Masters, training courses for “social mediators,” peace mediators, etc. The world of volunteerism has “historically” had a role precisely as “peace mediators” in micro-conflicts and macro-social conflicts: which does not mean ignoring the causes that have led to generating conflicts and marginalisation, but to making an effort to find solutions that help people not to succumb to the violence of conflicts, promoting, through solidarity and sharing, a greater respect for humans as such. Social mediation involves, therefore, according to this interpretation, a growing responsibility on the part of the world of volunteerism, of which the CNV is also a part.

- 2) **Family Mediation, specifically, has proved to be a potentially effective instrument, even if few know and use it, to safeguard the rights of minors when the family in difficulty tends to break up.** The rights of minors in such conditions are among those most difficult to protect and are those with which the voluntary sector is particularly involved. A volunteerism of advocacy, that is, of protection of rights for the weakest, has developed even in the area of minors. This has repeatedly shown that rights affirmed “on paper” by law are then in effect difficult to have valued and applied. Family Mediation – following the appropriate seminars organised by the CNV on the theme of “volunteerism of rights”³ – has proved to be a useful instrument for the support of dual parenting and for the preservation of these rights. Also from the legal point of view, in fact, in the area of the most recent reflections concerning new citizenship rights, the need to review the obsolete dichotomy between individual and collective rights has been demonstrated, introducing the category of relationship rights as one that is inextricably connected with the social function that the family carries out as intergenerational mediator. These relationship rights protect the delicate and complex mechanism of constructing an identity for the children, which is a process of development that takes place through the integration of different parental roles. In the family, in fact, the rights and duties that each member has as a person are exercised in relationship to the rights and duties of the others. According to this viewpoint, guaranteeing the rights of minors in their role as children means also guaranteeing that each of the parents should be able to perform the responsibilities tied to the parenting function: this guarantees the children’s right to both parents, by promoting, supporting and helping the parental function. Therefore, a volunteerism that intends to promote above all responsible parenting can for these reasons support family mediation as an instrument supporting the rights of minors.
- 3) **For these reasons the CNV has already carried out research and studies related to the family and to its evolution⁴ and has promoted a national co-ordination of the volunteer associations that operate with and for minors.** The research in particular has analysed connections between the family, social marginalisation and welfare services. They have stressed that the more a networked system is present – that is, relationships involving the internal world of the family with the external world (the local community, institutions, volunteerism) – the more the family’s needs can be faced, finding and potentialising that minimum of the family’s internal resources, that will make situations, even those charged with stress and difficulty, less traumatic and more “liveable.” The social solidarity of volunteerism, therefore, is aimed at not separating the minor from his own family, but helping to recuperate as much as possible the role of both parents, supporting their parenting capabilities even in the more conflictual cases, in order to recover those hidden potentials that prevail over the destructive forces between spouses and to develop their co-operation, except in cases of serious and temporary family incompetence (see hetero-familial custody, educational custody, etc.) or in cases of the absence of one of the parents (adoptions, etc.). Above all, looking for ways of intervening to support the family when this is still strongly at risk of disintegrating, in order to prevent the worst effects on the children, has been found to be more important. Family mediation has therefore been an important instrument for preventing the maltreatment and violence, neglect and abandonment, faced by minors.

³ The CNV has also carried out annual cycles of seminars on the theme of the volunteerism of rights. In May 2000, the cycle “Volunteerism for going beyond citizenship: rights of the citizen and rights of the person,” with which on 26 May 2000 a seminar on family mediation was held, entitled “The abandoned minor, divided and contested.”

⁴ The National Centre for Volunteerism has carried out, in collaboration with the C.N.R., two levels of research for a five-year period: “Family, informal networks, volunteerism and services,” co-ordinated by Prof. A. Ardigò and directed by Prof. P. Donati, whose main results were published in 1995 in the book *Famiglia e cure di comunità: il difficile intreccio tra pubblicom, volontariato e reti informali nell’Italia di oggi*, F. Angeli editor, Milan 1995; a second level of research entitled *Ruolo della famiglia e del settore non-profit e della telefonia sociale per la fondazione di una politica sociale a rete integrati*, which was carried out from 1996 to 2001.

- 4) **Family mediation, in this perspective, is therefore a certainly innovative form of solidarity expressed by volunteerism towards families that find themselves in difficulty and in particular putting itself “on the side of the children.”** In all of Europe, the marital bond shows evident signs of crisis: there is not only a decrease in marriages and in their duration over time, but also a notable increase in the number of separations and divorces, above all in the last 20 years. Every 3 marriages celebrated in Europe, on the average, has at least one divorce or separation, and the average duration of marriage is around 12 years, although with notable differences from one country to another. Certainly the problem demonstrates, therefore, a growing social relevance in all the countries of Europe. Volunteerism, and the social sector in general (that is social co-operatives, associations, foundations, as well as volunteerism) has promoted their own services, social interventions of various kinds, to support families in difficulty. Above all these are interventions extended to offer both moments of listening in times of difficulty, offering information and consultancy, as well as sharing and solidarity with the sufferer, often connected to conflicts lacerating the family unit, in which artifice, victimising and complicity sometimes are mixed and involved in complex relationships of love, hate and reciprocal support and need, for the both the professional services offered (lawyers, doctors, etc.), and also those of Family Mediations.

For the reasons mentioned here, the Centre has considered it opportune to stimulate the debate and confrontation on the theme of family mediation, and to promote the spread of the “culture” of family mediation within the world of volunteerism, within the institutions, among young people, promoting also a specific project, the Matilde project, on the national and European level. To maintain networks of solidarity among individuals, generations and social groups is a task that is above all “cultural,” to which the CNV intends to give its personal contribution, because this cultural dimension is one of its purposes, perhaps its main purpose. This “cultural” task calls for human qualities, but also for high levels of professional competency, above all when dealing with families and minors in difficulty.

With these objectives, the CNV has begun a course of study and comparisons with others who have become “travelling companions” with the “**Matilde**” project, for the research in Europe of those which can be considered “good practices,” if we can call them this, or experiences that are considered, for various reasons, good, that is, valid experiences of family solidarity and family mediation, according to the meaning already expressed above, taking into consideration the regulatory differences, social politics, etc. in each country.

Our “travelling companions,” with whom we have undertaken this research in Europe, have been Professors Fredres Merida De Pedraza and Carmen Dominguez Alcon, of the University of Social Studies of Barcelona, Spain (Fredres has also represented the Spanish voluntary sector within the CEV, the European voluntary organisation that the CNV contributed to founding more than ten years ago), as well as Marie Hilgenfeld and Pea Kramer, who belong to two women’s associations that operate within the German organisation Caritas. Furthermore, our local “travelling companions” have been the faculty of jurisprudence at the University of Pisa, the City of Lucca (Assessor of Social Services, who has had a family mediation service functioning for years), the Community of Sant’Egidio of Rome and the IRS of Milan.

During 2002 we had new “travelling” companions, Belgium, Greece and Bulgaria. We plan to examine also with them how family mediation is carried out in their countries, what assessment they make of it and what they propose. But above all we want to spread the awareness of an instrument of “peace” which is thus terribly current, of the widest significance and utility, for which we ask the collaboration above all of young people: using their youthful language and

style of vision, collaborating to tell other young people of other countries, collaborating to spread a culture of mediation – if they find it useful – among the children of today and parents of tomorrow, and parents of a Europe united not only for the Euro.

Before concluding, I would like to add two words, turning essentially to the young people in the room, inviting them to discover how in family mediation one can foresee a “message” that should not be either a honeyed panacea nor a false and suffocating mortal embrace, which confines parents and children in the name of family unity at all costs.

I believe instead that in family mediation there is something extremely modern and almost “futuristic.” It is not only a search for an exit from the tunnel of conflicts, but a search for re-establishment of interrupted dialogues, for activating unpleasant conversations among people who are different, with reciprocal respect, recognising them as people who are trying to do without forced relationships of one over the other, sometimes based on violence and on superior strength, establishing new equilibriums of forces that are not juxtaposed.

This is somewhat futuristic because, beginning with the family, they are looking for new forms of living together, better ways of staying together as man and women, more respectful of each other’s needs and desires. To stay together then, because they are free to do so, not only by law, or for duty, for lack of autonomy or for other reasons, but also because our diversities, which as such are never really noted by the other, can be a richness to discover, an opening towards new horizons, perspectives, life projects to re-design: these are a richness, if they are not overwhelmed by the desire to possess, to control, to limit the other to ourselves. Rather they are dialogues and a desire to identify with the other in order to know them and to recognise one another in relationships of reciprocity.

Why do I say this?

Because in our travels in family mediation, we have become aware of the suffering and pain that exist in these family contexts, in which often dominator and dominated, conqueror and conquered, confuse themselves in inextricable ways, closed in a single vise-grip from which they cannot escape. The person who is apparently stronger and more violent is better due to the power that they exercise over the one who succumbs or who wants to be forced to succumb. In family relationships, the one who is apparently the strongest and the most violent is often this way because he doesn’t know how to be anything else. Sometimes this is the one who is the first victim: because he would like to be loved as he is or to love the one who doesn’t love him for what he is. This person is a victim who sometimes tends to perpetrate this model of relationship in the children, a model in which one cannot manage to be different, cannot manage to change anything, thereby designing for the children a “destiny” that repeats an already well known story.

Without using relationships of force, but rather identifying oneself with the other in order to understand the reasons for a failed relationship, sometimes we can help each other to change, even if this calls for much fatigue and pain - but perhaps less than one would think, compared to remaining prisoners of that same logic of relationships based on force.

On behalf of the children, therefore, to go beyond, because they absorb the past experiences as a treasure from parents of yesterday, so that they can become the new parents of tomorrow, in which the freedom of staying together is not a menace, but a new opportunity. It can assume the meaning of a challenge to change, of the search for improvement of oneself and of one’s relationships, of a greater respect for people, beginning with those we love the most, or who we

used to love. This is a profound crisis, which goes to the roots of our very existence, but in the pain I believe there is also a great vital force. And the children represent this: they are the future even of parents who are ex-spouses. Only they can know how to surpass their parents, if they want to. Family mediation, I believe, has this message included within it: it contains the relationship ties for living together better, for improved well being in staying together, beginning with the family. For those who intend to accept this challenge, even considering the difficult roles of the children of separated parents, I would like to express all of my personal sympathy and solidarity.

3) The meant one of the words

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.

Family Mediation is an instrument of "peace" in support of parenting. Every child, as a child, needs – and this has been recognised as a right – to have his own parents, even when marital ties between mother and father are broken. Family mediation is therefore a form of support to families in difficulty so that the couples can still be parents even after their separation.

The specific objective of Family Mediation "is that of reducing and if possible resolving family conflicts." Couples undergoing separation can turn to this type of intervention or service if they want to create, through the intervention of a mediator who is impartial and appropriately trained for this purpose, "the elements of an agreement that takes into account the needs of each member of the divided family, and particularly of the children."¹

Still, while **mediation is "an instrument of peace,"** its success, we believe, is not so much measured in terms of the "peace" achieved, as in terms of the dialogue and communication that is created or is sustained between the partners in conflict, recognising in the conflict an aim that can be in itself positive and absolutely necessary in human relationships. It is positive because the conflict can be a moment of growth or a time for understanding why another person thinks or lives in conditions different from our own. Their reasoning must be understood and taken into account in the relationships that are established. When this dialogue or reciprocal comprehension does not occur, we are in the presence of a conflict in which the responses can even become violent, substituting for the dialogue only the juxtaposition of forces. In this situation, inevitably it is not reason that prevails, but arrogance.

We believe that the importance of Family Mediation is to be seen in the search for oneself, in that it is a form of prevention and intervention in the violence that, because of family conflicts or of break-ups of the ties that unite parents, sometimes can even be turned against the children themselves.

The New York Convention of 1989 and the European Convention of 1995 define as necessary the protection of rights of boys and girls, assuring them continuity and stability in the affective and

¹ M. Malagoli Togliatti, La mediazione familiare, in *Pianeta Infanzia, Questioni e documenti*, No. 4, Istituto degli Innocenti, Florence, 1998.

relational environment in which they are raised, that is defining as necessary the assurance that the minor has continuity in their affections so that these minors can maintain and develop relationships with both parents and with the respective families of origin. This right is recognised even after the separation and divorce of the couple, but it is in fact elusive because the tendency is to privilege the claims of the couple rather than the rights of the minor, and not only in legal proceedings. These rights have been recognised even in the Charter of Fundamental Rights of the European Union, art. 24, in which it is established that “each child has the right to regularly maintain personal relationships and direct contacts with both parents, except when this is contrary to their interest.”

Regarding this right to both parents, **Family Mediation does not intervene to reach agreements that are not wanted, but rather tries, on a voluntary basis to develop better dialogue and reciprocal understanding among family members who are in conflict** (usually the parents, but these can also be other relatives, such as grandparents, etc.), finding shared agreements and rationales that go beyond the logic of winner and loser, of “*mors tua vita mea*” (your death my life), friend or enemy, “who is not with me is against me.” As such, mediation can be intended as an “emergency” tool when there is little dialogue between parents, because it attempts to substitute for the arrogance and violence of the conflicts that have been established between the parents, the understanding of reciprocal rights and the need to finding satisfying agreements for all parties, first of all the children, or when this is not possible, minimising the damage that they suffer, within the new family context that is being established.

Mediation – as a specific “technique” practised by people who have for such purpose acquired a particular training and experience – has many areas of application that have been affirmed over the course of years in various countries: in conflicts among peoples, in conflicts at work, or for environmental problems, or between generations, or in the scholastic area, prisons, etc. The existing practices in the various European countries are numerous and heterogeneous. Family mediation is thus a particular type of social mediation, particular because it refers to family relationships in which the adults have responsibility not only for themselves, but also for the children, who because of their age are dependent on adults. Such dependency, greater when children are younger, makes family mediation assume particular connotations. With mediation we are not dealing with finding an agreement among the parties in terms of their past or present conflict, but rather in returning the attention to the reasons for future conflicts and in the “superior interest” (superior to that of the parents), that is, to the well-being of the children. The children, who generally have no responsibility for the causes of the conflicts, need their parents to continue to be parents, even if they are separated, and without turning towards the past and without discrediting the matter, being nonetheless responsible parents helping them to become adults. At the basis of Family Mediation there is in fact the conviction that above all the image of the discouraged parents, fragile in the adversities of life, violent and incapable of assuming the required responsibility, has absolutely negative reflections on the children.² Family mediation attempts, on the other hand, a process of dialogue and communication between parents, giving these parents faith in themselves – singularly, and jointly, for more complex choices – in order to continue (or begin, sometimes) to carry out their own proper role, to be responsible, because of the importance that this role has, even for separated parents, for children. Responsibility is intended in Family Mediation not so much as a “duty,” synonymous with imposed relationships, fixed and immutable roles, hiding over time behind a mask which hides other sentiments, camouflaged with hypocrisy, but rather responsibility means the capacity to respond (the origin of the word *responsibility* in Latin has precisely this significance) to needs and necessities of the children, identifying with them, understanding them, assuming full awareness of them. Family mediation, therefore, is also as an instrument not to divide, to separate economic goods and offspring, but rather to sustain where possible that parental

² Editorial, “Condividere sempre la sura dei figli” in “I figli dei separati: come limitare i danni e dimenticare i rancori.” *Famiglia oggi*, N2/2001.

function that only with difficulty can be substituted by others and the lack of which will leave “holes” or “wounds” in the personality of the children.

4) The program of development of the plan

In order to expose the program of plan MIND we make reference logical framework

THE LOGICAL FRAMEWORK:

principal objectives (punto 5)

The projects aims to favour the exchange of info and experiences of support to the victims of family conflicts, especially during separation and divorce. These results will be reached by offering support to and reducing vulnerability of underage children through 1) the exchange of info on how to start a Family Mediation (FM) center; 2) the assistance in the creation of such centers in three receiving countries; 3) the creation of an European network of FM workers. Expected results are: a)project lines sharing; b)3 close examination seminars in the receiving countries; c) editing of 500 information booklets and 3200 illustrative brochures; d) training of 15 FM workers; e)online counselling; f) telematic forum on FM. Main beneficiaries will be underage children. Main target groups will be parents, volunteers, public personnel, lawyers, and teachers.

Specific objective of the project (punto 7.1)

To respond to the problem, the project will: 1)Offer assistance in the FM center start-up in order to intervene in family conflicts and manage them without violence, which frequently makes children the real victims. 2) Favour the creation in three receiving countries of FM centers, managed by NGO and public institutions, in order to have results sustainable in time and to develop solidarity and training to conflict mediation. 3) Create an European network of mediation experts, able to develop further European kinds and practices of FM.

Directly expected results (punto 7.2)

Expected results are the following:1)Inner result: project guide lines shared in compliance with the ISO 9000 quality model, as defined in Belgium in the focus group.2) Three seminars of close examination, adaptation, participation and experience sharing in 3 receiving countries (Lietuva, Latvija, and Slovenija). 15-20 among public personnel, teachers and volunteers will participate to the half-day seminars, in order to examine and adapt the materials and the experiences of previous Daphne project on FM. 3) 3200 illustrative brochures and 500 booklets of information on the usefulness of FM will be disseminated in the target group (after adaptation and translation in the languages of the receiving countries of the existing Daphne material).4) 15 people will be trained to become FM workers after appropriate selection and following agreed criteria and the behaviour code approved by the European forum on FM. Training will be 180 hour long, 120 of which in Italy, 30 online and 30 as formative credit.5) Online counselling.6) Implementation of a telematic forum on FM on CNV Web site and a European network of online FM centers.

Activities undertaken, means used (punto 8.2)

- 1) Planning with info exchange in the first focus group in Belgium, in order to share the project lines and budget through the logical framework.
- 2) Organization and implementation of a half-day seminar for 15-20 people, with preparation of the focus group work on the characteristics of the social contexts of the receiving countries and the adaptability of FM(one full day with the participation of at least one representative for each receiving country).In the phase before and after the seminar, advertising and diffusion of the initiative (almost 500 contacts).

- 3) Training (and selection in accordance to agreed criteria) of 15 workers, in order for them to start up FM centers, for a total amount of 180 hours (including training credits, online training) on analysis, techniques, methods of FM and simulations.
- 4) online counselling and beginning of the telematic forum.
- 5) Re-elaboration, adaptation and dissemination of material (500 booklets and 3200 brochures).
- 6) Transversal activities: coordination, monitoring, evaluation of the project, and report.
- 7) Periodic reports.

The markers (2.2)

Criteria in conformity with ISO 9000 methodology we have been certified. The evaluation will consider seminars (number of participants, level of interest and learning to be assessed through a questionnaire), and material (quantity of material distributed and requested). The number of family mediation cases carried out and solved will be included in the assessment. For the final assessment and the supervision we will collaborate with the Dep of Social Sciences of the University of Pisa. The contributions surfaced from the project will be monitored with the purpose of favouring the understanding of the problem and the usefulness of FM in other countries of the EU as well.

For verification

Survey after six months, a year and years

Times and budget

In order to carry out these activities we have previewed these times, on which we can begin to confront to us:

June, Focus group in Belgio

July Seminar in Slovenia

September/october: Seminar Lituania and Lettonia

October end of selection participants to the course

November development of the formation course

December/January: FAD and beginning activity of the Centers of FM

March/april/may: advising on line

There will be a telematic forum in the web site of the CNV