

Innovative Law Old Services: Application and Limitations in the Application of Restorative Justice in Italy: Description and Analysis of a Case Study

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ABSTRACT: This study aims to present how restorative justice is applied in the context of the Italian legislature through a case study. In particular, the relationship between a judge of the Juvenile Court, the local Social Services and the drug addiction service is presented. After a brief presentation of the history of Italian juvenile justice and a comment on the current model of juvenile justice, a number of critical issues, organisational and technical, will be analysed. From this, the need to renew some local services will emerge, in relation to the cultural and judicial approach to minor offenders.

KEYWORDS: Restorative Justice, Juvenile Justice, Diversion, Probation, Addiction.

1 INTRODUCTION

In many states today juvenile offenders are tried by tribunals for adults as there is no legislation specifically aimed at minors [1][2]. This means that detention is imposed on many children without any rehabilitative purpose [3]. Lawyers and scholars, both of whom deal with prison, agree that the punitive approach is insufficient in tackling crime and its recurrence [4][5]. From many quarters, not least the various recommendations of the United Nations [6][7][8][9], there is a clear need to change direction and to research and develop diversion programmes [10][11]. This means that detention is just a last resort, as indicated by the International Convention on the Rights of the Child approved by General Assembly of the United Nations 20 November 1989 art. 37. The alternative to detention programmes today are based on the model of restorative justice [12][13], implemented in Italy through the DPR.488/88 and considered a flagship of Italian legislation [14]. As will be shown later, a practical application is not always as good as the law. In fact, not all local services are built on the basis of the innovative nature of the law, making the law itself less effective in relation to its premise. Although the DPR. 488/88 is an excellent example of restorative justice; it is the product of a decade long legislative process, whose starting point was not recognised as such. For this reason we felt it useful to describe in a short paragraph the history of juvenile justice in Italy.

2 HISTORY OF JUVENILE JUSTICE IN ITALY

The juvenile justice system in Italy began in 1934 (20/07/1934 RD. n.1404), the year in which the Juvenile Court, a specialised body whose membership consists of two worthy 'social assistants' (art. 2), was established. The juvenile court dealt with not only criminal cases, but also the civil and administrative divisions that still exist today [15][16]. The R.D. n. 1404 entrusts institutions with the task of observing and accommodating children, assessing the personality and indicating the measures and the rehabilitative treatment best suited in order to reintegrate the child into society (Article 8). These institutions were: re-educational houses, juvenile boarding-houses (working community), medical-psycho-pedagogic cabinets (counselling structure), observation institutes, prison-schools, reformatories and the social services. However, these institutions were more like prisons and the ultimate task of these institutions was not to re-educate, but to protect the community from young offenders [17][15][16]. According to this decree, the intervention of reintegration of the child continued even in the case of release on parole, by the placing of the subject, if under 21 years, into a reformatory or if greater than this age, into a penal settlement (farm-settlement) or a working-house (working communities) [17][16].

However, the task of these institutes was, rather than to re-educate, to protect society from young offenders [18]. The amount of time they will spend in these structures will be equal to the penalty that the person still has to serve (Art 21).

Moreover, Articles 23 and 24 bestow upon the Court absolute control over the child and the supervisory structures to which he or she is committed [16].

If the juvenile is proved to be, after repeated discussions with the court, completely reformed and worthy to participate in any social activity, he can be declared rehabilitated [19]. In the case of the juvenile's misconduct or being a victim of sexual offences, as provided for by Article 25 and 25 Bis, the court may take the necessary measures for their recovery and reintegration into society, through the custody of the child to social services or its placement in a rehabilitation community. In the treatment of juvenile misconduct, the costs of care are the parents' responsibility, if their assets permit.

The last articles of the decree govern the relationship between the child, the parents, the rehabilitation facilities in which the subject is inserted and society, and how to reintegrate the rehabilitated young person into society; as well as modifications, changes and the end of educational measures taken.

"In 1948 came into force the Constitution of the Italian Republic, which contains articles about family and children" [15].

Several articles have remarkable importance: Article 2, which guarantees the fundamental human rights [20]; Article 10, in which the legal system is automatically adapted to recognise the rules of international law; Article 30, where the rights and duties of parents and the parental measures in the event of incapacity are described; Article 31, which provides economic measures of various kinds to facilitate family life as the best way to avoid juvenile crime[18][20]; Article 32, which states that the Italian Republic must safeguard health as a fundamental individual right and interest of the entire society and finally, Article 34, which provides compulsory education open to all.

The enforcement of the Constitution symbolised the passage from the fascist regime to democracy. Rehabilitation was favoured as an ideology, and so programmes and institutions of care and rehabilitation were implemented, and a new professional role of social worker was established.

This was achieved by law n. 888 of 25/07/56.

In 1956, the law n.888 introduced new re-education institutions, including social services and educational measures, such as the new 'reliance on social services'. Furthermore, the law ordered that a child pending trial could not be kept in prison, but at an observation institute [15][16].

This led to the creation of a large variety of facilities giving the opportunity to use the diversion in a better way and give to youngsters what they need [16].

The re-education of juveniles structured in this way did not give the desired results. The idea began to prevail that only prevention would work and thus the Law n.431 of 05/06/67 was created, which put in place a fundamental work of prevention: the special adoption of abandoned children in institutions [15]. This action was created to remove the children from institutions and to promote their growth by giving them a family [17].

Between the 1970s and 1980s a fundamental legislative decree in the history of juvenile justice was implemented: the DPR n. 616 of 1977. With this decree, the administrative measures were moved under the control of the municipalities, which proved to be totally unprepared and unable to fulfill a re-educational function.

In 1983 Law 184 of 04/05/1983 led to the regulation of family custody as a way to protect the child but claiming, at the same time, the child's right to live with his /her family.

The real breakthrough in the field of juvenile justice occurred in 1988 with the enforcement of the new Code of Criminal Procedure for the child DPR 448 of 22/09/88 [16][15].

3 THE NEW ITALIAN JUVENILE CODE OF CRIMINAL PROCEDURE: DECREE 488/88

Starting from several international references, in 1998 Italy decreed a new Juvenile Code of Criminal Procedure (d.P.R. 22/9/88 n. 448). The ultimate aim was to avoid jail time for young people. In particular, there have been significant references to: a) no interruption to the ties with the institution of the territory in which the offender is placed; b) to direct, participatory involvement of the child and the family; c) to define a penal intervention commensurate with the developmental needs of the children involved and d) to foster new forms of alternative interventions to detention, creating the conditions for reparation of the act committed, for example through the institution of probation, diversion etc.

A. The non-interruption of the ties with the territory is mediated by Articles 6, 19, 20, 21, 22, 2. Article 6 states that "at every stage and level of the proceedings the court uses the services set up by the local authorities", which has the function of mediating between the procedural requirements and the educational needs of the child. In articles 19-23 the need "not to interrupt the educational processes in place" is expressed by defining various protective measures in the unique interest of the child. For example, in art. 20 (prescriptions) and art. 21 (stay at home) there are a series of measures that intervene with the child, without distancing him from his family, and have the aim of the child being the family's responsibility. The first states that "the court, after hearing the operator of parental authority, may give the minor specific provisions concerning the activities of study or work or other activities useful to his education"; while in the second, the judge requires the minor to "stay at the family home or other private residence". In paragraph 2 of art. 21 the opportunity is given to the judge to "allow the minor to move away from the residence in relation to the requirements of the activities of study or work or other activities useful for his education."

B. The involvement of the minors and their families is provided for by articles 1, 2 and 12 of d.P.R. 448/88. Paragraph 2 of art. 1 states "the judge specifies to the accused the meaning of the court activities that take place in his presence and the content and the ethical and social reasons of the decisions." Art. 2 describes the roles that the minor may encounter on its path: "a. the Public Prosecutor at the Juvenile Court, b. the judge for preliminary investigations at the Juvenile Court, c. the Juvenile Court, d. the Attorney General at the Court of Appeal, e. the section of the court of appeal for minors, and f. the supervising judge for minors." Section 12 argues that "the emotional and psychological assistance to the accused minor is ensured at every stage and level of the proceedings, by the presence of parents or other suitable persons." Therefore, this covers not only the technical help from the defence attorney to draw up an adequate defence plan (pursuant to article 11, based on the provisions of article 97 of the code of Criminal Procedure), but also that of the parent and services.

C. The correspondence between penal action and the needs of minors is defined by articles 5, 9, 30 of the Presidential Decree 448/88. Art. 5 provides for the establishment of specialised sections of the judicial police for minors, where the staff must be "endowed with specific skills and competencies", designed to capture the peculiarity of the specific situation. Section 9 states that "the public prosecutor and the judge acquire elements about the conditions and personal, family, social and environmental resources of the minor in order to ascertain whether he is imputable and the degree of responsibility, evaluate the social meaning of the facts and also take the appropriate criminal measures and adopt any possible civil actions." The conditions of minors are therefore put in the foreground, compared with the criminal act of which they are accused. In addition, section 30 identifies alternative sanctions to imprisonment, even after the judgment, and "taking into account the personality and needs of work or study of the child and its family social and environmental conditions"(section 30).

D. The new forms of alternatives to detention are outlined in article 27, which states that the judgment of non-suit may be given for irrelevance of the fact. This article is an opportunity for the re-education of the child in the preliminary investigation stage, since it provides a comparison at a hearing between the judge, the parental authority, and the offended party. The judgment of non-suit can be given on the basis of the "tenuous nature of the offence and the occasional behaviour" and also in the event that "the further course of the proceedings affect the educational needs of the child." Thus, the emphasis is on the conditions of the child investigated, rather than on predetermined and objective criteria.

Article 28 of Presidential Decree 22/09/88 n. 448 provides for the possibility of suspension of the process and for probation of the minor, "the judge, after hearing the parties, may issue a ruling suspending the process when it feels the need to assess the personality of the minor to the outcome of the trial." In the case of success, the consequence is the declaration of extinction of the crime as an alternative to the criminal penalty. According to the requirements of Article 29 "after a period of suspension, the judge sets a new hearing in which he states with a judgment the offence is extinguished if, taking into account the behaviour of the minor and personality assessment, he believes that the test has given a positive result. " This institution, with a primarily rehabilitative and restorative function, should improve the life of minor and give greater accountability to the young. Prevailing on the punitive aspect is therefore the function of re-education. This is in line with the instructions contained in art. 27 of the Italian Constitution which states that the penalties "must aim at the rehabilitation of the offender." With regard to probation "object of the process is no longer a criminal act, but the person"; thus, education fully enters into the programme. It is also the only tool available to make sure that there is a direct confrontation between the minor offender and the victim, to ensure that there is mediation between the opposing parties.

4 RESTORATIVE JUSTICE

Many of the articles previously presented are a first systematic attempt in Italy to access the restorative justice model. It is a legal system that differs from the punitive paradigm, which continues to be valid for adult legislation, as well as the

reference point for many states in the world [21]. This approach bases its activities on the penalty of the subject offender [22][23] and as an elective strategy, the detention in prison. Given the current critical situation of prisons in Italy, and in many places of the world, and the inefficiency of the punitive system in terms of education, a different legal approach was born, which is opposed to the punitive system, the model of restorative justice. It is a model that involves all the parties involved in the crime in an attempt to conciliate the implications and requirements of the same, especially taking care of the relationship between offender and victim [24][25]. In a reparative system the focus is on the consequences of the offence and the problems created by the crime to the victim. Indeed, the restorative approach considers the crime as a conflict that causes the breakdown of social expectations symbolically shared. The strategy is therefore to create conditions so that the offence can be repaired [26], and the offender placed in a position to take responsibility towards the victim and the community [27]. Interventions such as conciliation or mediation are therefore elective to implement the idea of the repair. However, it is not a simple technique for the treatment of conflicts, but a device that can produce new socialisation, to regenerate new bonds between people and to develop skills in dealing with difficult situations or criminal law. The setting of the restorative model can then be placed in the "de-legalisation" of the conflict [28], which shifts the focus from conflict resolution to the expert management of the same, with the involvement of all institutions and parties in accordance with their available resources.

5 DATA ON OFFENSES COMMITTED BY JUVENILES IN ITALY (2000-2008)

The Department of Juvenile Justice has created a report that allows us to get a better idea, on the national presence of juvenile delinquency through statistical data. The Department of Juvenile Justice has created a report that allows us to get a better idea, on the presence of juvenile delinquency on a national basis through statistical data.

From the document, juveniles reported to the courts between 2000 and 2007 are mostly male (the presence oscillates in the several years between 82% and 84%), females have a variation, across different years, between 16-18%. These guys are aged between 14 and 17 years for the 82-84% while the presence of children under 14 years has a range from 15% to a maximum of 18%.

As for the differences according to nationality, if in 2000 the percentage of Italian juveniles reported is higher than foreigners (77% VS 23%) with the approach of 2007, the number of foreign children went slightly growing (73% Italians vs 27% foreigners), probably due to increased immigration and the parallel lack of policy-making.

Focusing on the latest data, in 2007, according to statistics ISTAT juveniles reported were for 83% males, while for the remaining 17% females. In the same year age groups of children reported were threefold: to 57% were children between 16-17 years, to 30% between 15 and 14 years, while 17% were aged less than 17 years.

Specifically, regard to the age group 14-17 years, males are still more numerous with 85% while females settle to 15% ; in the group of children aged less than 14 years, males decreased to 75% while females appeared to be more present with a 25%.

In 2007, the percentage of Italians is 73% while foreigners are reported to a 27%, for a total of young Italians and foreigners reported to prosecutors in 2007 alone, amounted to 38,193 units.

About the percentage of foreigners reported in 2007, the 70.02 % of these children most come from European countries (Italy excluded), the 19.05% from Africa and the 6.63% from America, 3.86% from ' Asia, for a total of 10,390 guys.

With regard to the nature of their offenses for the 53% it comes to heritage crimes, to 26.2% against the person, for the 12.8% offenses against the safety, the economy and the public faith; to 4.8% against the state and other institutions of public policy, for the 2.2% for other offenses, to 0.5% for offenses against the family, morality and decency.

The data on the use of juvenile justice services refer to the year 2008.

In 2008, the children who lived in juvenile prisons were to 90% male and 10% female.

The age group most represented were between 16 and 17 years for the 52%, to 33% are 18 years old or more (young adults), whereas 15% have between 14 and 15 years.

Based on the type of legal position we can observe how children waiting for the first judgment and residing in juvenile detention are 53%; quelli con giudizio definitivo 21%; appellants 16%; the applicants 5% , and those with position legal mixed and judgment 3%, and finally those with mixed legal position and without judgment to a 2%.

If we look at the data provided by the Department of Juvenile Justice on the legal position and nationality of children in penal institution in 2008, we can observe how in 2008 italians in custody were 66%, while who are serving a sentence are the 34%; in the same year foreigners in custody are 72%,while who are serving a sentence are the 28%.For a total of juveniles who are in custody to 69% and youngsters who are serving a sentence to 31%.

In 2008, on 741 crimes, the most committed crimes (taking into account that there may be more accusations for the same guy) in order of major frequency are: 375 crimes against property; Other Offences 215 units (such as breach of the laws on drugs, illegal possession of weapons, violence, outrage and resistance to PU, weapons law violations ... etc..) Offences against the person 151 units.

The subjects reported to social services in 2008, are still, with a clear majority, male users, and for 86% of female users in 14%.

The subjects entrusted to social services are 10% girls and 90% boys.

The percentage of foreign is 38% while the Italians are 68% for a total of 3552 boys. Of all these guys, 9% are girls compared to 91% of boys; most are aged between 16 and 17 years (66%), 18% between 14-15 years, and 15% have 18 years or more, only 1% are younger than 14 years.

In conclusion we can see that the type of people who commit serious crimes, statistically, are Males aged around 16-17 years, and that the crimes are mostly related to damage to property but also the fact that there is a broad use as a measure precautionary to penal institutions, which, however, does not follow an equally easy to give a fair judgment in a short time, as evidenced by the percentage of children living in institutions and still awaiting judgment.

6 FROM "PUTTING TO THE TRIAL" TO "PUT IN THE PILLORY": AS A DRUG SERVICE COUNTERACTS THE RESTORATIVE JUSTICE APPROACH

Description of the case study

This situation concerns the application of the legal arrangement of the "pre-trial probation" ordered by the Court of Milan within the normative framework of DPR 448/88, valid in juvenile legislation. It is applied to a minor under 16, under investigation for drug dealing.

The "probation" is a tool issued by the judge for the purpose of enabling the offender, within a specific time, to demonstrate the randomness of the crime. The same court will make its assessment on the basis of reports that are periodically sent by social services, in this case composed of a social worker and a psychologist. If there are no relapses and the reports sent to the judge are positive, the minor is taken "out" from the circuit court, as reference standards.

In the situation shown here, the judge ordered a toxicological control (urine) for the entire period of probation, about 9 months. The social worker, assisted by a social educator, followed the minor for the period of probation and organised a series of meetings with the person involved. In order to follow the orders of the judge, a SerT (Service of Drug Addiction) in Lombard (North Italy) were contacted, with the objective of initiating the collaboration between the services and the subject. The initial agreement was that the minor accesses the service for periodic testing of urine as directed by the Court. The SerT determined that the control takes place once a week and, as a condition, they were to be contacted directly by the minor. After a preparatory meeting with the social worker, the minor autonomously made contact with the person in charge at SerT and went there the first time, accompanied by his mother (October 2010).

The minor had an interview with A. S. of SerT., who asked him to provide a description of his personal and family history (anamneses). He then talked with the referring physician, who repeatedly stressed the diseased condition of the minor, and informed him that he had to access the SerT once a week for the urine tests. He also explained that the minor would have a further interview with the service psychologist and that the mother was required to attend a support group for family members of drug addicts at the same SerT. In the same interview the boy said he did not feel sick and that he did not have any disease. The manager replied that "everyone says so in the beginning, they do not really realize that you have a disease, and that the doctor is one and that he should be treated". Following the interview, the boy turned to the educator telling her that he does not feel sick, is not a "toxic" and he does not want to go to the SerT. He also asked if she believes that he is ill. This study has omitted the intervention made by the educator and the strategies used to bring the attention of the boy on the restorative project, as irrelevant to the purpose of this contribution. A month later, the educator and the social worker held a meeting with the Head of SerT to clarify the objectives of the path taken by the minor, share the possibilities of collaboration, and explain the activities already undertaken by the boy (relationship with the teacher, external path of psychological counselling, socially useful activity). During the meeting (attended by the minor, the mother and the educator),

the doctor in charge reiterates the diseased condition of the child and the importance of a permanent verification; stressing the need for the minor, despite just coming of age, to be constantly accompanied by his mother during the weekly urine checks.

The service is attended by people who are addicted to drugs for many years. The access hours at SerT are a fixed day of the week at 7:30 am. Despite the difficulties of the minor relating to school attendance and being accompanied by the mother, who works shifts, it does not provide other possibilities for easy entry. The minor began weekly access to the service, in the morning before going to school and was always accompanied by his mother (who regularly logged on to work an hour late). The access time at SerT meant that the minor arrived at school about 40 minutes late and had to justify to the headmaster, teachers and students the reason for the delay. Later, during one of the required inspections, he was asked to meet with the psychologist of the SerT (as a practice of service) and to undergo psychological testing. The minor met the psychologist who asked him to do a historical overview of himself and his family (anamneses) and administered some tests. In the form completed by the psychologist the minor is defined as a consumer of cocaine. The same subject argued that this is not true, that he is not a consumer and that the offence was smuggling of hashish. The psychologist said that this is the practice, and he must write something. The minor turned to the educator, asking if the fact that he had sold hashish means that he is a cocaine addict.

One morning, during the usual access to SerT for the urine test, the mother of the minor did not physically enter the service with him, but waited for him outside in the car. As a result, the minor was severely reprimanded by the manager. This episode disturbed the continuation of the project as both the boy and his mother were declared "irresponsible" by the facility manager.

Three months later a monitoring meeting was organised between SerT and Social Services, with the presence of the educator of reference. The meeting, organised with many difficulties, affirmed the lines previously established by the SerT and did not accept the proposal of social services to limit the accompaniment by the mother who, in addition to having almost run out of vacation days, was in serious danger of losing her job. The child continued to access the SerT regularly, accompanied by his mother.

The exam results were always negative. One morning, during the month of July, the nurse present during the urine test asked the child to meet the doctor on duty to talk about some blood tests. The doctor, who had never previously been encountered by the minor, asked for an overview of their personal and family circumstances (anamneses). She then told him that he should submit the blood samples for the control of hepatitis and HIV and provided forms to fill out to get an exemption (valid for 2 years) because of his addiction. The child turned to the educator with alarm and concern. The tests were negative; only after it turns out that it was operating practices.

7 ARCHITECTURE OF SERT.: PRACTICES THAT BUILD THE ROLE OF THE DEVIANT?

From the description it is possible to highlight how certain practices activated by SerT do not correspond to the logic underlying the model of restorative juvenile justice, showing an institutional ambiguity that can lead to contradictory messages. This is done by placing the child in the state of repair or regarding the child as a taxable person to treat. This analysis intends to offer some observations on the effects of certain laws and practices that are activated by these institutions and does not constitute a criticism of colleagues or individual professionals involved.

1. First, the procedure of receiving the minor reported only if they are present alone and spontaneously has been criticised. Due to a spontaneous request for help, they prefer to risk losing those who do not show up on their own. This is probably mediated by the theory that if a person does not want to be healed you cannot intervene. This belief is also shared by many psychologists, and can be summed up in the saying: "if he is not motivated cannot be done." The "motivation" is considered to be a characteristic inherent in the individual, before objectifying and then delegating the outcome of this meeting with the user. In a sense, what generates such a belief is a lack of responsibility in the technical intervention service on the user.
2. For minors for which there is a legal provision, the spontaneity required by SerT is invalidated from the start. You cannot ask a person to be spontaneous if they are not in the condition to be spontaneous. They should be able to discuss the decision of the judge. If you ask him to discuss it you are basically inducing the de-legitimation of the court itself.
3. If the justice system intends to apply a reparative logic, it is critical to point the blame only at the smaller, as is the responsibility of all parties involved. Consequently, the means of engagement should empower operators in the first place, both of the court and the health and social services.

4. The decision to make an appointment for weekly urine testing at 7.30 irreversibly led to the disruption of school timetables, and especially the fact that the "legal event" pervades all the other areas of life, as with that of school. Imagine precisely how this prerogative is viewed by other minors, their parents or teachers of the school.
5. Attending school an hour late every day for 9 months certainly limits attendance at some lessons, with all that this implies in terms of teaching.
6. The request to ensure that the minor was accompanied by his mother at the weekly appointment endangered the occupation of the mother, already in receipt of single parent income. This also implies the possibility that the "legal event" permeates the working environment of the mother, or the mother, justifying her delay, may be considered to be a "parent with child deviant" or "addict" by her colleagues.
7. Assigning the term "sick" to a drug addict is a questionable operation from the scientific perspective. This label is often assigned by a doctor from the need to find a diagnosis helpful to recognise similar diseases, predict the course from prior knowledge about the disease itself and choose or recommend a treatment. This approach has proved effective and relevant when applied to the "body" and chemical mechanisms related to it. When applied to the so-called "drug addict" the term carries with it the risk of generalised inclusion and ambiguous treatment, creating potentially critical diagnostic labels in their effects, but also it is not a strict application of the same medical practice. In fact, in order to define such a disease the following criteria of medical practice should be applied: the prognosis, prevention, assessment, medical history, treatment and diagnosis. With regard to the prognosis, within SerT no operator, physician or psychologist can define in a rigorous way the prognosis. Often the future scenario is delegated to the user and how he will "come out" of the situation. Although the user is asked to stick to their treatment and care, no one is able to control the timing in a precise way, as a doctor could for acute bronchitis. Prevention in the medical field refers to the possibility of intervention in the mechanisms of cause and effect, and this is possible if the scope is the body. As the addict is not a "body" the intervention of these mechanisms is quite critical, as the effects of the actions of the so-called drug addict cannot be traced to a definite cause. The evaluation or follow-up of efforts to combat drug addiction is considered critical for the mix of behavioural and biochemical indicators, from two totally different application areas, narrative and chemical. It is noted that, with regard to the anamneses, SerT has as its object, the story of the person in general with reference to his mind, unlike in anamneses as an object, instead of having medical body, something that is found. Therapy exists, but it is predominantly pharmacological and is not always able to eliminate drug addiction. With regard to the diagnosis on which the disease based it is necessary to specify two types of classes of medical diagnosis: etiology - certain ones in which it is proved in the causal relationship between a specific agent and the disease, as in the case measles, and those of uncertain etiology, for example syndromes such as AIDS and SARS. The syndrome in fact organises the symptoms into a consistent clinical framework; while in diseases with a certain etiology we have signs (semiology medical), so called because they are released from the categories of knowledge of the operator. The historical transition is illustrated by the findings on genetic diseases, for example, from the "Down Syndrome" to "trisomy 21". The set of symptoms are semiological, despite it being common sense to keep calling him "handicapped"; this is the same as an "addict". The assignment of the sick to "addict" lies clearly in the uncertain etiology, so it is primarily the improper scientific application of structural labels such as "sick" or "disturbed" or "depressed." The effect can also have a critical result in users of a service intended for health. The correct term would be "drug addiction syndrome" [29][30].
8. Assignment of a lower label of illness involves a different role from the boy's previous life. The assignment of "offender," which is the reason why the boy is there, becomes in the entrance in Ser as ill, without any justification in the medical-legal forensic or scientific-technical.
9. The communication "all addicts do not realise they are sick," or the belief that the addict has its own characteristics and definitions, not only reflects a generalisation of common sense, but it tends to place the minor in a stereotypical category marking it as sick.
10. Prescribing that the mother must attend self-help groups for parents with children who use drugs indicates the risk that she has issues with the role of mother and needs to get help. It also makes her similar to other parents with children who use drugs, in the absence of any evidence about the biographical history.
11. Filling out the form by entering the anamnestic "cocaine" in the absence of other plausible voices is an attempt to adapt the minor to the schemes of the service and the procedures for reference, disclosing a nomothetic and self-referential approach.
12. Offering to the minor the use of the exemption form (valid for two years) as drug addict, although mediated by the benevolent intent of saving, indicates a further allocation of the position of the addict offender, with an attached prophesy for the future.

8 DISCUSSION AND CONCLUSION

The operating procedures used by the SerT with reference to the institution of pre-trial probation ordered by the court seem to trigger a series of author attributions for minor offences in the direction of the sick addict. The effects of this intervention can be found in the requests for invalidation posed by the minor to the educator and social worker: " Am I mentally ill? " Or "I look like a junkie?".

Another effect concerns the lack of understanding of those aspects that can stop activities of educational value. For example, the prejudice that the school will have on the lateness of the minor and on the risk that school performance is affected. It is good to be clear, as Becher [31] reminds us that the labelling does not occur only in the face of negative reviews, but in relation to what a person is considered to be due to some specific characteristics. With regard to the exemption ticket this could generate, in the "eyes" of pharmacists, nurses and various employees, a further and collective attribution of the role of drug addict. It is so easy to think that the minor will be in a position of having to manage the responsibilities that the institution holds out and that he does not share. The management of all this involves the use of social skills that can hardly be attributed to a minor and therefore, devoid of conceptual tools, the minor can more easily be exposed to inadequacies.

These entire elements led us to consider the encounter with the establishment SerT as a joint biography, in order to confirm the deviance rather than opportunity to repair after the event, as had been thought in the model of juvenile justice. From this it can be said that the DPR 448/88, while internationally regarded as a flagship of Italian juvenile legislation, may not always demonstrate this in its implementation and effectiveness. This is, in fact, greatly reduced when there is collaboration with local services with obsolete organisational and technical architecture, exclusively oriented to care and medicalisation. In fact, this approach does not reflect the efforts of national legislation and international action which, from evidence in the law and the social sciences, is more geared to the empowerment of the subject, rather than the guilt of the potential criminal. This should give pause to the legislature, as the effectiveness of the restorative model will be reduced.

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