

Group Together, Act Together: A Multidisciplinary Approach to Criminal Justice

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Abstract

This chapter examines the evolution of the Italian juvenile justice system, tracing its roots in the establishment of juvenile courts in 1934 under Fascist rule. Despite its origins in authoritarian politics, the system adopted a multidisciplinary approach, incorporating expertise in psychology, education and social work. Over time, the focus has shifted to rehabilitative and restorative models, including minimal legal intervention and the reintegration of young offenders. The chapter highlights the importance of an holistic approach, such as drama programmes, to help develop responsibility, self-expression and emotional growth in juvenile rehabilitation.

Keywords: Juvenile justice; theatre; restorative justice; multidisciplinary approach.

In Italy, the Fascist Era was characterised by repression and violence. It was a time when freedom of speech was infringed, but it was still pivotal for the insurgence of Juvenile Justice, thanks to the creation of a Juvenile Court in 1934 as a result of Royal Legislative Decree No. 1404. The need to rehabilitate and (re-)educate juvenile offenders, was not, however, the main concern of the Fascist legislators who, on the contrary, aimed to control and restrain these subjects who, in their view, needed to be brought back under their paternal authority. However, by creating a “special judicial authority,” the Fascists inadvertently encouraged the rise of a pedagogical culture that, from the postwar period to the present day, has led to the recognition of

the legal rights of minors. The mixed composition of the juvenile court that for the first time opened its doors to forms of knowledge unrelated to the juridical culture sprang from the need to appoint lay judges (“*giudici onorari*”) working alongside professional judges. These figures were to be experts in fields that focused on the subjectivity of the individuals they encountered, so they called on social workers, biologists, psychiatrists, criminal anthropologists, pedagogues, and psychologists.

The mixed composition of the juvenile court (which is also characteristic of the Appeal Court, Family and Minors Division, and Surveillance Court) ensures a multi-disciplinary and inter-disciplinary outlook and response. Considering the difficult age of the individuals the court deals with, it is imperative for it to welcome different interpretations of human behaviour, which is, by nature, unpredictable and cannot, therefore, be rigidly contained by a cold, juridical algorithm. This is especially true when retribution is expected. Courts cannot only consider the crime committed without analysing a minor’s personality and trying to meet their personal and educational needs.

In that respect, it is possible to pinpoint three main movements which influenced the educational approach of the Italian juvenile justice system. The first is based on a *retribution* model, as it promotes those approaches which seek to control and contain the offender, thanks to various institutions (reformatories, probation, boarding houses, school prisons, and surveillance institutes). These were later dismantled and replaced by communities and foster homes. The second follows the *rehabilitation/welfare* model, spanning from the 1950s to the 1960s. It is characterised by the so-called “therapeutic myth,” which examines juvenile crime using a clinical approach, namely by using scientific rigour, providing sociocultural hypotheses, and studying personality. The possibility of developing a treatment, which proved highly influential for many Italian criminology scholars and later became fundamental for our correctional system, is rooted in this movement. Instead, we have adopted a *restorative* model, *Restorative Justice*. It is considered the most effective penal response for educational purposes. The Presidential Decree 448/88, a cornerstone of our Juvenile Criminal Law, sees detention as a last resort for young offenders because, as Erving Goffman said, this labels them, thus fostering the development

of a negative identity.¹ The crisis of welfare policies and institutionalisation in general (due to overcrowded facilities and cost-cutting measures) forced Italy to adopt the solutions of other Northern European countries. There, socio-criminological theories prevail, as sentences follow the territorial principle, thus merging the socio-rehabilitative model with the retribution one. The new Juvenile Criminal Law, established by the legislation n. 121 of 2018 is based on this model. Even if it promotes “minimal” legal action, it also encourages a rehabilitative process to make offenders aware of their accountability, hence changing their system of values in their interaction with society (rules, effort, joint decision-making) and, especially, with their victims. Minimal legal action, in particular, is informed by the pedagogical philosophy of the 1988 criminal law, which led to the introduction of probation. This regulation was later applied to adult criminal law but only for minor offences. Mediation in criminal cases studies the communicative and relational aspects of the interaction between offender and victim by establishing a common ground where the two parties – together with the entire community – can meet and discuss any felonious behaviour.

The fact that the Juvenile Court focuses on the minors themselves, rather than their criminal actions, is also demonstrated by its diverse functions. First, it protects minors who come from dysfunctional families, who have not received adequate schooling or are abused and harmed. These minors can be put in the care of foster parents or Child Services because, as of the legislation n. 184 of 1983, all minors are entitled to have a family. The Juvenile Court also has an executive function, as it serves as a criminal prevention institution. It deals with those issues which affect the way teenagers behave and which, even if not criminal, can be dangerous and irregular, like drug use, running away from home, skipping school, or selling their bodies. While the judicial authority does not protect adults who engage in such activities, it does protect minors, as it seeks to rehabilitate them.

The three functions of the Juvenile Court show how complex and multifaceted adolescents can be. As such, they deserve better than stereotypical and conventional answers. Each intervention should be based on the minor’s personality and needs. Mario Portigliatti Barbos, Emeritus Professor of Forensic Pathology at Turin University and Honorary President of

1 E. Goffman, *Asylums. Le istituzioni totali: i meccanismi dell'esclusione e della violenza*, Torino, Einaudi, 2010.

the Italian Society of Criminology, and Duccio Scatolero, Professor of Criminology at Turin University for over thirty years and honorary judge at the Juvenile Court of Piedmont, write that adolescence is an “ambiguous period”: “it is unstable, contradictory, hard to get through. It is the time of heated and fruitless arguments, uncompromising stubbornness, fraught friendships, limitless devotion, and generous effort. It is the time when you feel you are somebody, even though you still don’t know who. You know more than your parents do and defy them, but you are still not independent. Your personality vanishes as you become part of a group, but you feel you have found independence. You persistently follow everyone’s opinion and role model while believing you are original. You don’t talk but yell. You don’t argue but expect. You don’t participate but dramatise. It is the heyday of slogans, choruses, and intolerance. On the inside, adolescents are in conflict with themselves. On the outside, they are tossed about in their environment, inconsistent, careless. Without defences, they must face a period of vulnerability, which is biological, psychological, and social. They question all their relationships: with themselves and the world.”² A few centuries before, Aristotle, in *The Art of Rhetoric* (II, 12), described adolescents as passionate, quick-tempered, and prone to get carried away by their urges. When they make a mistake, they do so out of excess, in love, in hate and in everything else. They think they are omniscient and are always certain of what they say; this is why they always exceed.

This is the reason why in a Young Offenders Institution, like a Juvenile Court, experts in a range of therapies should be consulted. These can offer the judge a representation of what a minor’s experience in the prison system would be like, as well as advancing a hypothesis about the reasons that led the person to commit a crime. This multidisciplinary approach provides a lot of information and responses to a minor’s deviant behaviour, ranging from a strictly behavioural and educational one to a more psychosocial, psychopathological, psychiatric, bioanthropological and genetic one.

Prison, which is hard for everyone but especially for minors, must expand the inmates’ knowledge of criminal genesis and criminal dynamics (to prompt them to process their crimes). Still, it should also provide different therapy supplied by the different educational agencies available in prison

2 G. Ponti, I. Merzagora Betsos, *Compendio di criminologia*, Milano, Raffaello Cortina Editore, 2008, p. 231.

(both the institutional and private ones), which invite minors to talk about themselves or to try out activities they've never considered before (or that they have actively spurned). This can also allow them to realise that they have a talent which might be useful for their community or to feel confident in their relationships with their peers and with adults who have a different background from themselves, but which can still gratify them and make them feel part of a group, where they can freely express themselves.

This is the virtuous role that both youth detention centres and adult prisons have, one of demolishing those processes of "imprisonment" which characterise the prison subculture. Those processes inevitably affect the men and women detained in prison who suffer the "prison machine" but also the staff who work there.³ The constant exchange between experts from different fields and the therapy offered to the detainees – which also allows them to reconnect with their communities and the territory – can also help them re-evaluate their cultural background and, maybe, even challenge some of their prejudices and prevent self-sabotage.

The educational drama activities at the Beccaria are praiseworthy since the young men in prison perform as actors or jugglers who, winking at Dario Fo's clownish figures and Fellini's oneiric visions, can question the stereotypes about people in prison. By constantly playing with the absurd and the ridiculous, the "empty space" they experience can be filled with meaningful relationships and new interests. It is helpful for them to experience something new and to "erode" the monolithic apathy that has taken over their lives, using irony and self-irony, essential elements for developing an *emotional intelligence*.

3 F. Vianello, *Il carcere, sociologia del penitenziario*, Milano, Carocci, 2012, p. 71.