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Unaccompanied Foreign Minors In The Italian Context: From Legal Order To Networking In Educational Services

Cinzia NOVARA

Department of Psychological, Educational and Training Science University of Palermo, Italy cinzia.novara@unipa.it

Consuelo SERIO

Department of Economics, Business and Statistics Sciences University of Palermo, Italy consuelo.serio@unipa.it

Gianluigi MOSCATO

Department of Social Psychology, Social Work, Social Anthropology and East Asian Studies, University of Malaga, Spain moscato@uma.es

ABSTRACT

As the result of armed conflict, poverty or natural disasters, many children move away from their families and culture of origin. In 2014, in Italy, the number of unaccompanied foreign minors was approximately 11,000. They represent the most vulnerable of the migration phenomenon and for this reason, in December 2013, the Directorate General of Immigration and Integration Policy of the Ministry of Labour and Social Policy, adopted new guidelines for policies on reception, repatriation and effective integration arrangements of unaccompanied foreign minors. It is possible to promote the implementation of the opportunities aimed at the children concerned activating a networking that involve National and International Social Service, non-governmental organizations, reception structure, educational and scholastic services and, of course, the families of origin in the hometown and any foster families in the host country.

Keywords: unaccompanied migrant children, networking strategy, educational intervention

INTRODUCTION

The relationship between migration and human rights is a topic of growing interest for international organizations, scientific and political institutions and for the foreigner to recognize his political rights as a citizen. Rights that are occasionally barely guaranteed due to a inadequate governance by countries and to the remarkable dimensions of migratory flow in recent years (Observatory of International Policy, 2012).

The causes of international migration are multiple: global economic imbalances, poverty and environmental degradation along with the absence of peace and security, violations of human rights and different levels of development of judicial and democratic institutions (Centre for Research on the Epidemiology of Disasters, 2012, www.cred.be).

These scenarios are also related to the increase in the number of minors involved in the migration process year by year: between 2013 and 2014 the number of non-EU citizens legally residing in Italy increased by about 110 thousand units (+ 3%) and children constitute the present 23.9% of non-EU foreigners legally residing (www.istat.it).

It is important to distinguish between accompanied minors and those unaccompanied or separated children. The latter category includes minors who have been forced to separate from both parents, or guardians, but not necessarily from other relatives, and children separated from both parents, other relatives and tutors.

The European Directive 2001/55 / EC3 generally defines unaccompanied minors as 'third-country nationals or stateless persons below the age of eighteen who arrive in the territory of the Member States unaccompanied by an adult responsible for them whether by law or by custom, until they are effectively taken into care by a responsible person, or minors who are left unaccompanied after they have entered the territory of the Member States' (Art.2). It is, therefore, minors who are forced to cross Europe to escape conditions of serious



deprivation, seeking asylum for fear of persecution or for the lack of protection due to the violation of human rights and armed conflict within the country of origin (UNHCR, 2004, 2).

All children have the right to protection under national laws and international conventions on the protection of children, regardless of any consideration of race, color, sex, language, religion, political or other opinion of the child or her parents or legal representatives. Of particular relevance are the rights highlighted by the United Nations Convention on the Rights of the Child (NY, 1989) such as to have a name, legal identity and birth registration (Art. 7); to not be separated from parents (Art.9); to physical and legal protection (Art.19); to the right to provisions for basic subsistence, care and assistance appropriate to the age and needs of the child's development (Art. 23, 24, 25, 27). These rights, however, can not always be protected. For example, failure to register the birth makes it hard for the legal protection of children in cases of migration, when it becomes necessary to adopt appropriate measures. (Every child's birth right inequities and trends in birth registration, UNICEF, 2013).

Until 2012 on Italian territory, the body responsible was the Committee for Foreign Minors - CMS (Decree of the President of the Council of Ministers, December 9, 1999, n. 535), until the transfer of its duties to the Directorate General of 'Immigration and Integration Policies' (Ministry of Labour and Social Policy). Such Authorities can take different decisions with respect to unaccompanied foreign minors' rights. In this respect, as an example, it acts the assisted repatriation, arranged on request of the parent or guardian should it be deemed that the reasons for the child's immigration are not shared by the relatives (for example, running away from home...). In this case, for the minor is guaranteed the necessary assistance until the family reunification in the country of origin (art. 12, paragraph 20, of Decree n.95 / 2012, converted into Law no. 135/2012). In contrast, the Committee does not offer repatriation (art. 33 co. 2a of Act no. 286/98) if the parents or guardian do not 'claim' the child or they agree with his/her immigration plan; in those cases, as foreign minors they can not be deported unless they follow an expelled parent (TU 286/1998, art. 19). If reported, intercepted or if they arise spontaneously to the police, they are hosted in communities that provide an initial reception, whilst waiting for a path of individual emancipation. Such structures, called 'bridges', are responsible for only the first phase of reception and allow the child to be immediately placed in a safe place. They make the necessary investigations to determine the subsequent integration path, pending the transfer to the definitive facilities that will host them until they reach eighteen years of age. At the first shelter, through the work of the Mayor or his delegate, identification of the person and observation of a minor's age is carried out; as well as the acquisition of information on possible family members in Italy and a health screening to protect the child and the other members of community.

Fundamental, in this phase, is the age assessment and a correct identification to guarantee the effective exercise of the rights to which children are entitled even in cases of wrongdoing.

An investigation into age is also important to reduce the chances of adult subjects being mistakenly identified as minors and being housed in facilities for minors, endangering themselves and abusing the protection system reserved for them (UNHCR, 2014). The taking into care by social services in the second phase, however, allows the transition to a community of 'secondary reception' which can best meet the needs of protection requirements and the protection of the child, who can be recommended a care plan and customized integration until coming of 18th birthday.

The transition to adulthood of the unaccompanied foreign minor is an extremely delicate because it coincides with the closure of the educational and integration processes.

To overcome this limitation, some Juvenile Courts (eg. Palermo) resort to rehabilitative measures of placement in the community with continuation beyond eighteen years of age, believing that the resignation of youth from the host structure involves an irrecoverable interruption of the activated re-education process, as well as its likely entry into a deviant system and illegal immigration.

At this stage, it is important that the individual care plan encourages, even more so than in the first period of reception, a path of progressive autonomy where the support of the educators gradually decreases in order to allow users the experimentation of self responsible housing and daily life. All this calls for effective planning, actively involving young immigrants who can leverage internal resources more easily, increase capacity and skills, and become more aware of themselves and the world around them. Certainly obtainable goals through the management of resources and time (eg. Management and care of the home, use of resources and community services, knowledge and use of the healthcare system, finding a job); through management staff (eg. self-regulation strategies, motivation for change, goal setting, self-protection) and in interpersonal relations (eg. to support formal and informal relationships, friendships) (Smith, 1999).

NETWORKING AS AN INTERVENTION STRATEGY

From what has been already highlighted, it is clear that failure to regularize the position of unaccompanied foreign children before they reach adulthood, which is essentially linked to delays in protection for children living in some of the host communities, is a source of risk abuse, violence and exploitation, since these children live without a caregiver and legal representation (www.comunitalavela.it). A shortage driven by possibly the



absence of differences, on an organizational level, that includes the initial reception (characterized by the temporariness of the permanence of the minor) and secondary care, useful to define over time the initial period of taking the minor into care and to begin an individualized path of social integration (Save the Children, 2009). Many unaccompanied foreign minors suffer, for those reasons, a violation of the right to protection, or are likely to receive 'first and provisional acceptance' (max 90 days) from the centers, conditions which are inconsistent with minimum standards arising from rules of international and national law with regard to childhood and adolescence. They act, in this respect, as an example for the case in a safe, friendly and familiar place where the child can feel welcomed and respected. In these they have access to essential commodities (proper food, personal hygiene ...) and to social and health services under conditions equal to minor Italian citizens such as free legal assistance (timely completion of the procedures for the regularization of the child, custody and the issue of the residence permit); access to basic education and vocational training opportunities and employment. But, also, they receive information on their rights and on the services offered, and the ability to express themselves in a language they understand (linguistic - cultural mediation), including those relating to the possibility of applying for asylum; protection from all forms of neglect, abuse, violence and exploitation (in the community). Requirements, namely measures, to ensure a reassuring and welcoming environment in which to rebuild a 'bridge' to connect with what children have left and that what they have found.

In recent years, the reception system has not been as it should have been due to the absence of proper coordination between the institutional subjects that are in various capacities and in charge of the reception of children at national and local levels (European Union, Ministry of Interior, Regions, Municipality). In addition, there is also a lack of adequate resources to ensure standards and services (Second Report Anci, 2007- 2008).

There is no doubt, therefore, that to find an answer to the complex needs of unaccompanied foreign minors it is necessary create a network of different professionals (Bertozzi, 2005; Rania, Migliorini, Sclavo, Cardinali & Lotti) but also between services. We can distinguish between different forms of this methodology, which gradually translates individual demand for support into one of change of a collective nature (Raineri, 2004).

- Working with the network: primary networks, such as those spontaneous and non-professional networks, which, if strengthened, reduce mortality rates and increase the well-being of the individual;
- working in networks: the so-called method of *case management*, involving the management of individual cases through teamwork, so the networking of experts in various community services, mostly public;
- the work of the network: the organizational form of services which meet in a coordinated manner by assuming different tasks, limited to a specific project or a set of shared goals (Novara, Moscato, 2009).

At a glance, these are strategies that fill the legislative gap by adopting shared methodologies, thus standardized practices, but which are able to give into the specific nature of local circumstances and individual stories.

In particular, the work of the network is set up as a form of social work (Folgheraiter, 1995). More precisely, it identifies a 'way of working that operates at different levels to increase "the intersystemic agreement" between parties. Framed in the approach of community care, networking is defined as a social action project that starts from the contingency of a problem or a critical event and stands at the centre of change in the quality of the relationships between people and organisations, suggesting a transition from the network partnership to the institutional market and the third sector (Bocaccin, 2010).

A corollary of networking is, therefore, the collaboration between public and private subjects in recognizing that a model of welfare mix could translate their common intentions, first in pilot schemes – able to experience interconnected working methods – and then in services that, once put to the system the specific skills of each partner, may be long lasting. Although, in fact, the local authority has a legally central role by having to bear the protection of unaccompanied minors, it is clear that only by networking with all social players it is able to avoid overlaps and inconsistencies in the management of intervention.

Unfortunately, in Italy, the development of the welfare model mix has suffered significant delays due to an assistential culture that has referred the request for services to the company with the result of heavy public spending. This has become unsustainable, leaving to the associations an often-marginal role in the process of self-organization and prompt participation in the problems of collective nature. We should instead formalize agreements and existing collaborations and enable a participative programming of direct interventions to unaccompanied foreign minors, to ensure – besides control and protection – their welfare and the chances of building a 'possible future'.

In view of networking, the role of civil society also emerges in the form of voluntary work, which could complement the programs carried out by the institutional bodies and by the third sector through the creation of informal networks. Such networks activate services by combining the professionalism and spontaneity of the local community (think foster care, self help, Time Banks, peer education, etc.), enabling first contact with those 'unreachable' minors gradually accompanied through 'light' interventions to reception facilities intended for them.

In Italian reality, the path towards community welfare is experimenting with the allocation of child protection to volunteers, exceeding protection as an exclusively legal-formal fact and finding in the fabric of the community participated forms of care of unaccompanied foreign minors.

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As described above, an important employment network is constituted by the host community that, after initial contact and the taking into care by the local authority, has the task of programming the educational and social services to be activated in response to the needs of the child. In this case, the work of the network is achieved in a territorial unit of municipal or district scale. Law 328/00 identifies Zone Plan as the main tool for local programming, a document drawn up in collaboration with various social, institutional and non-institutional services (Municipality, local health, social services, and third sector) that formalizes the priority lines of action, compared to a specific target.

But it would be hoped that the coordination between all parties could happen at a national level, since the condition of an unaccompanied foreign minor is ever changing depending on his movements from one city to another in the country. By providing continuity to the courses already underway, it would solve the matter of the emergency to which you are likely to respond to with standard or contingent actions. Finally, another challenge is the coordination at a supranational level with the children's countries of origin. In fact, it is necessary to link up with them, both to prevent the phenomenon through international projects of subsidiarity and for their accompanying case of assisted repatriation, although this tool is used in Italy in an extraordinary way, subordinating it to family reunification.

The *job of the network*, of which we highlight the potential here, then redesigns the local community as the intersection (collective) for social groups with different institutional *missions* but, also, concentrates on the welfare of *many* and the possibility to contain factors of disadvantage imposed on territorial communities.

In this way, the job of the network can only be the development of the community and to adopt the strategy in identifying integrated solutions between formal, informal and quasi-formal help systems. One Model of *Community Development*, through which a network of aid 'extends outside of the primary circle of relationships to make way for strangers' (Folgheraiter, 1995), in turn, can enhance a network of additional skills compared to the original existing network (Noto & Lavanco, 2000).

At a glance, the paradigm of the network becomes an expression for the potential for community, for local, national and international networks, for working interdependently and for building prevention plans on various systemic levels.

A POSSIBLE ROUTE

A path to follow for future policies that concern un-accompanied foreign minors is, therefore, one that recognizes the central role of networking (Bertozzi, 2005). It is true that in each local network work has taken on different forms, using tools and actions that are not always comparable. By comparing different approaches, it is evident how broadly the range of experiences that you collect and recognize in the paradigm of networking can be configured. In terms of theory alone, we see intertwined suggestions of ecological and systemic theory, graph theory and that of *social support*; anthropological theory with the psychological, social and community theories. In terms of the tools, methods of observation and the interview they are essential, along with the ability to read and mobilize reticles, create links (*linking*) and multiple interactions with various social players; as well as the possession of organizational skills to coordinate networks of services of individual actors. The different procedures adopted, the timing of the reception process of minors, with delays related to increasing numbers of recent years, the uncertainty of migration pathways (Silva, Campani, 2004) together with the vulnerability of the children themselves (Bergamo, 2006) impose a strategic methodological framework to contain deviations from the protection of minors which must be a priority. We propose the following working model of the network that, in six steps, traces a synthesis of a shared educational project.

To study a community the first step is analyze it. This means to give it a face, then to trace those essential lines through which the living environment becomes recognizable to its citizens and to an outside observer. The discomfort is not born in a social vacuum but is configured within a framework, understood as physical and social interaction, symbolic space and multiple memberships. If it is true, discomfort is the face of the community, it needs to have the tools to read it and to decipher the dynamics. The method of the community profiles is part of the paradigm of action research that, through the collaboration of researchers (experts) and community representatives (local groups), looks to change by reading into problems in the dual-social, individual expression.

To analyze the community means to understand more closely the objective, structural and purely dynamic aspects: subjective issues that only when related to each other can assume a different configuration from the isolated analyses themselves. Moreover, creating awareness of organizational resources present in the territory stimulates the possibility of merging them into specific network projects.

With regard to unaccompanied foreign minors, it means investigate scientifically their presence in the area through surveys and statistical reviews that address the extent of the phenomenon but which also integrate this data with structural data of a so-called 'community profile'. Therefore, it observes the subjective perception of the phenomenon that different social groups have, such as families (eg. those potentially being fostered), operators of care facilities, the administration responsible for the protection, representatives of associations, volunteers and stakeholders with interests in this area of intervention. It is not just aimed at translating the issue



into 'figures', but to understanding the impact of the reach on community culture, therefore identifying possible interlocutors – formal and non – that for various reason could intervene in the programming of networking.

The second step consist in clarifying the partners' mission. For each potential partner, the *mission* develops strategies for understanding the nature of organizations that want to network, understanding the purpose of their work, knowing the fields of interest and intervention and measuring the resources (human, material, logistical, etc.). By sharing the institutional task requirements, therefore, we recognize the role played by each partner in the network, acknowledging added value over existing volunteer networks. Such a step is also important in order to ensure the sharing of values and tendencies that each partner pursues independently from the others but in connection with the other. Values that the network has to be careful to respect and which never can be overwhelmed by the individual prerogatives of the partners.

Within the framework of unaccompanied foreign minors, this step would consolidate the sustainability of social policies for the integration of minors, where the public-private partnership is indispensable. Thus for training (in schools, CTP or in vocational training centers) and for employment interventions that depend also on the supply of job exchanges in the area, apprenticeship opportunities, field experiences: all measures which together could be a deterrent to the paths of illegality, which often intercept minors quickly and with promises of easy economic benefits. Moreover, if we could involve partners who are capable of responding to planning for the future life of the child, once they become older, they may go hand-in-hand with levels of housing and working through 'action bridge'.

The third step represents a ratification of the contribution that each one wants to give to the work of the network, putting pen to paper with resources and the commitment to each other. It takes shape so that the partnership can be formalized in agreement with the program, convention, agreement or network protocol agreement. At this point, it is possible explain the logic of reciprocity, following a shared method to activate the resources, even if only potentially, to resolving the problems in question. Typically, we select a lead agency that can facilitate the organizational process. The key ingredient of this step is the trust between parties in the interests of reciprocity. We can define trust as 'the desire to make oneself vulnerable to a partner when he/she can not be controlled' (Mayer, Davis & Schoorman, 1995) or even as 'an expectation of experience with a positive value for the actor, acquired under conditions of uncertainty' (Mutti, 1998, p. 42). Recent approaches have found mediated solutions for which it is assumed that trust has both a rational and a relational connotation (Pelligra, 2010). This requires a well-identified, familiar partner, whose reliability can be measured in well-deserved confidence (trustworthiness) based on networks of past relationships and according to reports of the 'here and now' situation (Laurent, 2012). This perspective widens the net of participation to the third sector that especially within the environment of unaccompanied minors is constantly changing, bringing to the scene of intervention new skills which are professionally very qualified even if not 'embedded' (embedded) in rope teams of formal networks.

Integration is the process by which a 'system' acquires and maintains a structural and functional unit, while maintaining differentiation of the elements. This involves the development of communication tools – fourth step – which a system needs to achieve comparison and the exchange of information. Among the equipment, for example, is the construction of a mailing list, a format of the periodic report for the activities carried out, a results report model in the short and long term, the opening of a website (virtual reality is already a network), the maintenance of a register for verbally reporting the decisions taken at regular meetings, the appointment of a committee to design the field and an organizing committee (governance), the establishment of one or more group events, the printing of a magazine or newspaper to make territorial communication and the dissemination of awareness material.

At fifth and sixth steps, you are meant to sign a plan of action that involves actively involved partners, therefore, also sharing the *vision* (the change) that the project as a whole pursues. The projection of this action that brings a transformation into the future is difficult to measure in the short term, which is why we describe this action in two steps, so do not take it for granted that the drafting of the project is equivalent to the sharing of change that can arise from it. The project will specify: purpose, objectives, targets, methodologies, timing, actions distributed among partners, expected results, indicators of change and resources and expenses. In a more complete project, it will be helpful to indicate also the characteristics of innovativity of the networking proposed, the impact on the partners in terms of the new skills acquired an evaluation system and external supervision.

The proposed model avoids creating stagnant and mutilating situations and targets cohesion to the networks regarding the construction of an open system, thus, it is not given once and for all. In this sense, the development programs in the communities provide and include the work of the network, setting a view to overcoming the work of the network when the network of relationships that are built have been so dense that they leave no room to identify the skills, that over time, groups and individuals may have gained.

The management and the improvement of the quality of life depend, then, on the participatory action of all social quotas, and even more on the capacity of these to become part of a 'soft' network, and not structurally overwhelming. A network that does not smother the learning capacity of the community but that implements this through the circulation of skills; a network that does not restrict resources but that joins together temporarily to



strengthen them; 'weak' networks that are capable of regrouping on emerging concerns without identifying themselves with the same problems.

Taking care of unaccompanied foreign minors by providing them with dignified reception conditions, appropriate care, pathways into effective insertion, training opportunities and job placements, offers a service to the host country, since potentially, these new citizens may be able to contribute to the common good.

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