



International Review of Couple and Family Psychoanalysis

ISSN 2105-1038

N° 30-1/2024

Couples and families facing law and Justice

Introduction to the issue “Couples and families facing law and Justice”

Anne Loncan*

Whatever the country concerned, it is apparent that the frequency of *recourse* to Justice has grown for all kinds of reasons which also concern the lives of couples and families. Crimes and misdemeanors, which *confront them to the law*, also seem to have experienced an unprecedented acceleration. Finally, new legal provisions are being made in similar ways in various countries. This forces us to think about the interference of these multiple developments with the practice of couple and family psychoanalysis. The problems they generate lead us to the confines of the scope of our usual clinic and, as a result, to rub shoulders with other professionals for a multidisciplinary partnership.

Evolution of legislation and recourse to the law and/or Justice

An overview of the situations that justify the confrontation of a couple or a family with the law and/or with Justice is necessary. In recent decades, social and legislative changes have been considerable and it is important to appreciate their effects on our field of intervention. New legislative provisions have been made both under pressure from active minorities who demand changes, such as the possibility of not keeping one's birth gender, but the new laws also confirm, by making them official, practices that have become commonplace, such as unions between people of the same sex. The aura of scandal diminishes as couples and families are legitimized in ways that only recently caused them to be derided. The increase in the incidence of divorces and separations has long fueled the courtrooms, but since 2017 divorce by mutual consent

* Psychiatrist, child psychiatrist, couple and family psychoanalyst, member and former president of the SFTFP and the CTFP-GSO, member of the AIPCF. anne.loncan@gmail.com



can be registered in France with a notary, which has considerably relieved Justice. Consequently, INSEE¹ is now unable to record the number of divorces in France, since the Ministry of Justice no longer has a monopoly on it.

Let us remember that one of the indisputable causes of divorce was based on the infidelity of one of the spouses. From the summer of 1940, the Vichy government had made infidelity “a crime which corrupts the family and tends to pervert nature, the State and the social body.” From 1939 to 1945, no divorces were recorded by INSEE. Were the magistrates devoting themselves to other tasks or had divorces fallen under the combined effects of the war and the criminal repression of adultery? At present, the “observation of adultery”, still practiced, does not entail any criminal sanction, but benefits the spouse who intends to take the advantage during a conflictual divorce, which remains within the jurisdiction of Justice.

We used to speak with compassion of the children of divorcees, whose situation exposed them to a sad destiny, even to delinquency. Serious studies have shown that possible disturbances could pre-exist, were also age-related and generally transient. The future of these children is, as for all others, greatly dependent on the environment, which does not necessarily lead to the experience of trauma, despite the upheavals suffered. For the effects of separations differ greatly depending on the brutality of the events and the impact assumed, both for each parent and for each child, as the family might be either fractured or simply disjointed.

As for illegitimate couples, once seen as an association of depraved people, or even criminals (see the Vichy ordinances), their proportion almost equals that of legitimate couples and the opprobrium cast on them and their descendants seems to have almost disappeared.

At the same time, single mothers, who were seen as easy women or “seduced and abandoned” wretches, are no longer stigmatized as much and if they are, it is based on their social status: a female minister will not lose public consideration, while an isolated young woman whose financial situation is precarious will find herself pushed to the margins of society. It is also important to emphasize that these changes are concomitant with a liberation of speech, generally with the support of certain circles. Thus, half a century ago, no teenager would have dared to mention an “unnatural” sexual orientation. Although it is easier to talk about it, the incomprehension sometimes turning into aggression has not disappeared and it is now the attackers and harassers who are the subject of legal proceedings. Likewise, it has become more common to denounce acts of incest and sexual assault that ordinarily escaped the law. If it is futile to continue the inventory of all the changes that have occurred regarding acts, behaviors or situations that involve Justice, whether or not there is a violation of the law, the fact remains that couples and families can be the scene of misdemeanors and crimes, from the most serious to the most venial.

¹ The national institute of statistics and economic studies



Delinquency and crime within the family

When shared ethics are flouted, the nature of the family configuration plays little role in the occurrence of crimes or misdemeanors. Spoliations, marital violence, mistreatment of children which can go as far as murder: in all cases the irruption of public power into the lives of families is essential. It is possible to think that these interventions are too frequent or that they are not frequent enough; everyone's beliefs and convictions color the characterization of these situations differently.

Violence and destruction also come from outside. It happens that the family is a target of aggression, voluntary or not, whether against one of its own (for example, in a settling of scores) or against it as a whole (arson, burglary, home jacking). . It is then the police or justice authorities who refer couples and families for consultation. Not all cases will be examined in this issue, which is more precisely oriented towards a therapeutic approach which contributes to the unveiling of the unsaid, to the metabolization of the disorders generated in the links and the family group psychic apparatus.

We will see that the articles focused on intense issues.

The issue has been divided into several chapters.

In the first chapter, entitled “*Breaking the law or benefiting from it*”, two original contributions meet. Florian Houssier offers us a theoretical-clinical study centered on the future of the adolescent confronted with a tight maternal hold which is maintained at the expense of the tender current supposed to prevail. Two clinical accounts, one from family consultations and the other from family therapy, highlight the processes which, embedded in an incestual climate, incline these young people towards transgression of the law.

The law is not only restrictive and punitive, it also offers child “transplants” which adoption achieves. Recently, new legal provisions in Italy have established adoptive families where the child maintains contact with his family of origin (most often limited to the mother). Psychological support and steps to adapt the framework then appear to be necessary to free the child from the heartbreaking conflicts which sterilize his or her psychological and emotional life. Maria-Grazia Fusacchia presents us with an illustrative case of this problem and the technical arrangements implemented.

The chapter “*Crime in the family*” brings together 3 articles under its banner: the historic article by Bernard Savin was published in 2001 in *The family couch* No. 6. This author, with solid experience of psychological work in prison environments, including with families, thus establishes from the outset the relationship between crime and family, the title of his article: «...whatever its form and its victim, every crime has family repercussions. It speaks to the family and speaks about the



family». The hypothesis of an elaborative recovery of a transgenerational trauma is examined and fueled by a case of family therapy conducted in prison.

Two articles follow which approach the question of infanticide from different angles. Magali Ravit presents a review of major works on the theme, starting with the reinterpretation of the myth of Medea. She differentiates the murders of children carried out very early, often linked to the precariousness and inexperience of the mother, from those which stem from an underlying melancholic pathology, where the sacrifice of the child serves as «a counter-investment in alienating pain». To do this, it is based on two clinical situations encountered in a prison environment. For their part, Sonia Harrati and David Vavassori explore the intrapsychic cause of the child-murdering dynamic when «filicide re-actualizes the primitive and undifferentiated aspects of the subject as well as traumas that have remained silent, contaminating marital and intra-family ties».

The third chapter of issue 30 asks the question of *work of the couple and family psychoanalyst* when faced with situations involving Justice. This aspect has been addressed in previous articles, but it constitutes the main focus of two texts.

The first one's main author is Roberto Losso, our recently deceased Argentine colleague, to whom this new publication pays tribute. Originally published in the magazine *Interactions*, this article was co-written by Well Packciarz Losso, wife of Roberto. The authors discuss the multidisciplinary context in which their therapeutic work takes place in the face of insoluble marital or family conflicts, particularly "endless" divorces" which provide them with a perfectly illustrative example.

Argentinian colleagues Roberta Gorischnik, Gimena Falcone and Melina Nadal tell us about the benefit of interventions with families facing legal proceedings, emphasizing the relevance of mediation practices inspired by the psychoanalysis of the link.

To complete the theoretical-clinical work presented by all of these articles, **a new section has been created**, which we titled "**Film clinic**". The aim is to present works of cinema, whether recent or heritage, and to examine them according to the theoretical corpus of couple and family psychoanalysis. We do not offer a review of the film, as one finds in the press, much less a film analysis which would examine the construction carried out and the technical aspects used by the author: film schools and their teachers provide this. We intend to highlight the relevance of our concepts outside of therapy sessions, to reflect on these sequences which present us with virtual slices of life where significant aspects of the psychological functioning of the couple or family appear.

Two recent films related to the theme of the issue are examined:

Je verrai toujours vos visages (I will always see your faces) is a docu-fiction made in 2023. The film, by Jeanne Herry, features Restorative Justice, a new modality of Justice whose practice has been encouraged since 2014 on a European scale. In



France, it was experimented before being formalized by an implementing decree in 2017. I offer a presentation of this film which highlights the rigor of the practices and the nature of the effects of Restorative Justice. It is the mutual understanding between offenders and victims that matters, beyond or below any judgment. Two very different situations are presented: on the one hand a small group of offenders facing victims of robberies in equal numbers, and on the other hand a brother and a sister separated by the incest of the eldest on his younger sister.

Anatomie d'une chute (Anatomy of a fall), a work of fiction made in 2023, directed by Justine Triet, is the subject of a note written by Margherita Rossi. After the presentation of the work and the numerous awards it has obtained, the author follows the progress and complexity of the trial where the wife is accused of the murder of her husband, the latter having suffered a fatal fall from which the only witness is their blind son. Margherita Rossi wonders about the evolution of a couple who has not been able to mature and transform the part of chaos that inhabits them: «We can then hypothesize that in this story the fall becomes a metaphor for the failure of this third pole represented by the son, but also of the couple's bond itself, in its function as an intermediate and creative space.»

A brief **reading note** closes this issue. Jean-Philippe Grynberg tells us about Rozenn Le Berre and his book *Sur la crête (On the Ridge)* which recounts years of experience within a Judicial Youth Protection (PJJ) home, highlighting the versatility of tasks and activities carried out, as well as the multidisciplinary perspective they require.

In fine, this issue is nourished by the dark and obscure parts that we encounter within couples and families struggling with Justice, whether as complainants, as accused or as convicted. Only a sample of these confrontations and collaborations is present here; their sheer number and breadth testify to the difficulty of tackling them and the courage of those who embark on it