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The re-education of offenders through predictive algorithms and behavioural studies

Le traitement de rééducation des délinquants par le biais d'algorithmes prédictifs et d'études comportementales

*Roberta Bisi**

Riassunto

L'articolo, a partire da una sentenza pronunciata dalla Corte Suprema del Wisconsin, nel luglio 2016, che ha dichiarato la legittimità dell'uso giudiziario di algoritmi atti a misurare il rischio di recidiva, analizza un caso, avvenuto in Italia nel 2002, di omicidio aggravato commesso da una madre, AMF, nei confronti del proprio figlio, di anni tre. Dalla più lontana preistoria, il conflitto fra le diverse generazioni è un evento drammatico che puntualmente si ripete. Nell'ambito di questa conflittualità, i sentimenti familiari offrono corrispettivi fenomeni molecolari.

Nel caso in esame, un'attenzione particolare verrà rivolta al processo attraverso cui i consulenti tecnici e i periti sono giunti a delineare il profilo di personalità della condannata e si sottolinea l'importanza di alcune modalità comportamentali e trattamentali che devono essere riservate alle persone, anche a quelle condannate per delitti efferati, nella società attuale: l'impegno dovrà essere quello, infatti, di valorizzare ed affermare la dignità dei sentimenti e delle relazioni affettive, utili per ridare senso alla propria appartenenza sociale, nel tentativo di conciliare le ragioni del cuore e le passioni della ragione.

Pertanto, ci si interroga se sia socialmente accettabile svincolare dalla persona il procedimento logico che conduce ad una sentenza penale di condanna basandosi prevalentemente su algoritmi predittivi.

Résumé

En juillet 2016, la Cour suprême du Wisconsin a établi la légalité de l'utilisation d'algorithmes pour mesurer les risques de récidive. Sur la base de cette décision, cet article analyse un cas d'homicide aggravé commis par une mère qui, en 2002 en Italie, a tué son fils âgé de trois ans. Le conflit entre les générations est un événement dramatique qui se répète constamment depuis toujours. Au cœur de ce conflit, les sentiments des familles montrent un point de vue moléculaire des phénomènes correspondants.

Dans le cas qui nous occupe, l'article attire tout particulièrement notre attention sur le processus par le biais duquel les experts sont parvenus à définir le type de personnalité de la condamnée. Il souligne également l'importance de certains comportements et des services de réadaptation qui, dans la société d'aujourd'hui, doivent être garantis à tous, même aux personnes qui ont été reconnues coupables de crimes effroyables. Il faut affirmer la valeur de la dignité des sentiments et des relations affectives, qui sont nécessaires pour récupérer le sens de sa propre appartenance sociale dans le but de concilier les raisons du cœur et les passions de la raison.

Par conséquent, l'auteur se demande s'il est socialement acceptable de sortir une personne du processus logique qui peut conduire à sa condamnation essentiellement à l'aide d'algorithmes prédictifs.

Abstract

In July 2016, the Supreme Court of Wisconsin ruled that a judge deciding a sentence may consult a risk assessment algorithm to measure the risk of recidivism. In the wake of that ruling, this article analyses a 2002 Italian case of murder with aggravating circumstances involving a mother, AMF, and her three-year-old son. Conflict between generations is a dramatic event that has been consistently repeated since time immemorial. Within this conflict, family feelings offer a molecular view of the relevant phenomena.

In the case under review, the process followed by legal assessors and experts in profiling the personality of the convicted person will receive particular attention, as will the importance of certain standards of conduct and treatment that must be guaranteed to individuals, including those convicted of horrible crimes in today's society. A commitment must be made to value and affirm the dignity of feelings and affective relationships, which are necessary to restore meaning to one's own social affiliation in an attempt to reconcile the motivations of the heart with the love of reason.

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Therefore, this article asks whether it is socially acceptable to extricate a person from the logical process leading to his/her conviction by primarily using predictive algorithms.

Key words: re-education; offenders; predictive algorithms; murder; self-presentation.

1. Predictive algorithms and the administration of justice.

With the 1666 publication of his first two texts on mathematical logic, Leibniz identified the instrument for constructing the calculation of thoughts in the "combinatorial art". He believed that our concepts are composed of simple ideas that, similar to the letters of the alphabet and prime numbers, can be combined with each other according to precise rules that do not exclude the calculability of legal reasoning.

In today's law, predictive algorithms not only exist but are actually applied. Examples include online dispute resolution, commercial cases, and arbitration procedures. Such algorithms are certainly not used in Italy where there is still some debate about automating part of the workload of lawyers who, together with judges, are still struggling with electronic files, PEC (Certified Electronic Mail) and digital signatures. However, the U.S. judiciary has made extensive use of predictive risk assessment algorithms for some time now in order to measure the risk of recidivism at the pretrial stage to determine bail, at the pre-decision stage to assess whether proceedings should conclude with a sentence of probation and at the execution stage to assess whether parole should be granted.

Despite this extensive use, a bitter court battle was recently unleashed in the United States after a convicted prisoner received a long custodial sentence because a software program called COMPAS (Correctional Offender Management Profiling for Alternative Sanctions) determined that the probability of the accused, Eric Loomis,

reoffending was high. Loomis challenged the ruling, claiming that he could not be detained in prison on the basis of a mechanism whose functioning is totally unknown to him, to his defence and even to the judges.

Ruling on Loomis's appeal in July 2016, the Wisconsin Supreme Court judged that the use of predictive risk assessment algorithms to measure the risk of recidivism was legal but noted that such an instrument could not constitute the only element on which to base a conviction. The major difference between the Loomis case and the well-established application of predictive risk assessment algorithms to measure the risk of recidivism was the first-time use of the COMPAS program as a decisive element for sentencing during the cognisance phase. The issue will now be resolved by the United States Supreme Court in Washington, and many believe that judicial algorithms are on a slippery slope. Both jurists and technologists are weighing in with their opinions. Even *Wired*, the bible of the digital world, writes that "Courts Should Pause the Use of Algorithms in Criminal Cases" (1). In fact, our priority should be safeguarding the defence's right to know how the charges against a defendant are raised. Moreover, there is a lack of transparency as the Courts do not develop algorithms themselves but instead acquire them from private companies whose first priority is to protect their patents and who will not explain how those algorithms work. Further, an algorithm is not neutral, as it bases its decisions on socio-economic assessments.

The Loomis case draws attention to and allows us to delve further into an important issue and age-old

problem: crime prediction and recidivism. The possibility of predicting criminal behaviour pervades criminological studies and is linked to decisions regarding whether people should be subjected to security measures or be released. This brings the concept of prediction to the fore once again, and the reason that the courts rely so much on prediction is not hard to understand: if criminal behaviour can be predicted, it can also be prevented.

In Italy, the concept of prediction addresses whether someone is a danger to society, and it is based on the probability of a perpetrator committing other offences. In the case of a criminological-psychiatric investigation, this concept also addresses whether the person is linked to an illness and thus may act due to pathological causes. To make these determinations, investigative methods that are typically used in psychiatry, sociology and psychology are employed. In fact, the investigative method of the interview is deemed essential, although it is complemented to a large extent by psychometric and projection methods for exploring the personality.

Here, it is appropriate to present the "Cogne" (2) case. This case aroused great interest in Italy because it relates to the trial of a mother who was sentenced to 16 years in prison for the murder of her three-year-old child. A full-scale "trial by media" occurred in parallel with the judicial proceeding. This media fascination could be partially explained by the difficulty that the public had as it faced such a heinous crime and was compelled to question the absolute naturalness of family feelings such as the loving, boundless and impartial devotion of parents, especially of a mother. However, filicide (from the Latin "*filius*", son, and "*cidium-cidere*", to kill), which prompts our response, is an institutionalised

practice in some populations. This practice is echoed by religious filicide, which aroused horror and terror in the Old Testament Jews when committed by neighbouring tribes, and by mythical filicide, which in the heroic age of Greece encompassed a whole tradition of filicide.

2. A dramatic event.

In the instant case, some of the facts concerning the discovery, medical aid and declaration of death of S.L., contained in the judgement of the First Court of Assizes of Turin 2007, are as follows: "Having arrived at around 8:32, Dr. A.S. was giving first aid to the child who had collapsed in a pool of blood, which covered him up to the groin or to the waist and in any case was visible from the sternum upwards. He had a major wound to the right side of the frontal bone, from which cerebral matter was escaping, with other small wounds to the upper part of the face; bringing the child closer to her on the bed, Dr. A.S. discovered that there was also a wound to the left of his eye, which could be seen on his forehead. To make the child's appearance less painful to the mother, the doctor washed his face – completely smeared with blood, as was his skull – with water from a basin resting on the bed. She then administered a cortisone injection. The child moaned softly, had no spontaneous movement and had half-closed eyes, tight jaws, tongue *in situ*, blood inside the mouth, and skin colour consistent with severe shock; he had a carotid pulse and bloody teeth, but there was no blood flow from his mouth and his pallor was growing. There were also fragments of brain matter in the pool of blood that almost made a halo around the child's head. He was lying on the pillow, heavily smeared with blood, that she had turned over to ensure that his head did not rest on said organic material (later, she said that the

child was supine, with arms stretched out along his body, his head partially on the lower edge of the pillow, and partly on the mattress and, in fact, the greater part of the head – as she recalled – was on the mattress and completely covered with blood). She proceeded to bring the child towards the edge of the bed to be closer to her and again called 118 (3) to stress the seriousness of the case. Initially, she thought he had been involved in an accident, so much that she had asked the mother if the child had fallen, but then she surmised that it was an explosion due to strong endo-cranial pressure related to incomplete fusing of the skull, which is possible in children of that age [...].

The child was taken on board a helicopter at 9:19, arrived at Aosta Hospital's Emergency Department at 9:47 am, code GCS3, with irregular and almost absent vital signs. He was intubated and put on assisted ventilation; he had non-measurable circulatory parameters and dilated pupils. At 9:55, after attempts to resuscitate him had failed, Dr B. declared him dead, as seen in the records".

After an in-depth investigation, the perpetrator of the crime was determined to be the mother, who had always claimed to be innocent. During the detention period, she asked to be permitted the alternative measure of special home detention, introduced into the Italian Law on Penal Measures by Article 3 of Law No. 40/2001. Under certain conditions and circumstances, this measure aims to both socially reintegrate a convicted person and to allow detainees who are mothers of children under 10 years of age to care for and look after their minor children. In accordance with the ruling of the Supreme Court, Section I, No. 33287/2013, the Court of last resort in the ordinary Italian judicial system, denial of a crime by a convicted person, as in this case, cannot give rise to an unfavourable

prognosis regarding the commission of other offences because the absence of a confession may be due to a variety of reasons and is therefore not symptomatic of social danger or a lack of repentance.

Thus, AMF, having shown significant progress during treatment and being the mother of a child who was under 10 years of age at the time of the case, was granted the measure of home detention for the remainder of the sentence (from 24 June 2014 to 24 August 2019).

Here, we will make a number of observations about the medical and psychosocial tests and legal assessments made to explain why the Bologna Supervisory Court, the Italian judicial body established to decide requests for alternative measures to imprisonment, granted this benefit to the offender. First, I believe it is imperative to analyse the presentation AMF gave of herself. This presentation is not a banal document. It is imbued with tension because it brings into play her social and personal identity. In fact, from the many studies conducted on the subject of personality, social interaction and society, particular by Goffman, we know that when an individual appears before others, he/she projects a definition of the situation partly consciously and partly involuntarily that is considerably informed by his/her perception of that situation (4). When introducing him/herself to others, an individual more or less consciously activates a definition of him/herself consisting of self-image and self-representation. In this sense, we can revert to the concept of "working self", understood as a subset of representations that are activated in relation to the social circumstances and motivational states of an individual. The subject reverts to this peculiar form of self-knowledge to read and interpret stresses and information related

to a particular context and to plan action strategies (5). However, the other person does not just perceive this presentation passively. He/she reacts according to his/her social status and the representation that he/she makes of the image that the person standing before him/her has of him/her. This image is constructed with reference to the various categorical, institutional and educational affiliations that precede the face-to-face encounter. This has been termed "pre-discursive ethos", a preliminary ethos that precedes the construction of the image during discourse (6).

These brief observations are necessary in order to introduce some notes on AMF's biography and the construction of her self-image, as seen from the documentation studied, which has become an integral part of the construction-design of the technical experts appointed by the Bologna Supervisory Court. In reviewing the AMF trial, a life story approach as a transition from a universe of experience to a universe of discourse is key.

In fact, similar to fairy tales, life stories offer a general explanation of life in their ever-varied casework. These explanations serve as a sort of catalogue of destinies that may be given to men and women (7).

Using this approach, we are able to gather large amounts of information about a person's personality traits regarding pressing issues, how he/she reaches out, the image he/she has of himself/herself and many other elements that are indispensable in a socio-judicial context for determining the state of mind of that person at the time of the investigation. This is necessary because the existence of psychic disorders, which constitute an illness that can affect the person's ability to understand or his/her volition, may be the element on which a decision about the person's future

behaviour and his/her possible danger to society is based (8).

Specifically, AMF always appeared at various meetings looking composed, neat and tidy and willing to talk about the matters discussed during her various interviews. Describing her family traits, AMF highlighted her relationship with her own mother in these terms: "I was always enveloped by my mother's strong maternal feelings, which I also have, because for me, as a woman, family is a priority". AMF said that she had never put herself first or thought of a career because "I am really not interested. What I like most and what makes me feel good is being a housewife, being with my children, being with my husband, providing them with that maternal, womanly and familial warmth, which enveloped me at a young age and which knows no bounds within me. It is something that makes me feel good and is, in my view, the purpose of my life. What I experienced at home is this, everyday life with the children, then one is free to decide".

In this context, it should be noted that direct and indirect factors affecting the parent in his/her parenting tasks will also affect the early adult-child relationship and the child's development. Belsky's description identifies three domains that can act as stressors or support factors: the psychological resources of the parents, the characteristics of the child and environmental elements (9). These domains are then traversed by other factors such as the parents' evolutionary history, personality characteristics and type of conjugal relationship. Belsky also noted that a parent's psychological resources, his/her individual psychological well-being, constitute the most important safeguard against the stresses of the adult-child relationship; such resources are superior even to social support sources and the child's characteristics.

According to AMF's account, growing up in a large family was profoundly helpful to her acquisition of those characteristics that are commonly attributed to a sense of community. These characteristics are a sense of belonging, that is, the perception of being part of a group of people coming from a particular area with a system of symbols; influence over the way the community functions through one's own actions and therefore the feeling of being able to influence that community; the fulfilment of cognitive and value-based needs; the emotional connection that represents the spiritual connection and intangible capital. It is this dimension that links a person to other members of the community. In fact, AMF does not hesitate to say that "I have always been very independent because in my mother's house, I was always a little mummy to my younger brothers... for any activities, including social activities, in our village, the village festival, our house was at the heart of everything because it was big. My mother wrote poetry or comedies, went treasure hunting during festivals, and put on plays; thus, there was always a huge amount of coming and going. Then, we would sit at the table for two or three hours, chatting about what you did at school, about what you did that day. This has always been a very important environment".

AMF frequently correlates events with herself to a point that surpasses what is objectively justifiable. This highlights a pronounced sensitivity regarding the awareness of her own worth, which has led experts to assess some of her stances as being dictated by the pursuit of self-gratification, at times free from decisions about making an adequate assessment of the situation, thus making herself an object of love. From this viewpoint, there is clearly a constant need to feed her self-esteem by displaying her abilities and talents. Therefore, we

might say that as far as recent years are concerned, her existence has been characterised by the spasmodic search for what has been termed "narcissistic homeostasis". This term refers to a form of balance between the pursuit of a feeling of well-being, relaxation, and peace of mind, which is never fully achieved, and a persistent feeling of inferiority, which manifests itself by a constant need to satisfy the self-image (10). When we refer to egocentrism and narcissism, we should note that these personality traits are not always considered pathological, as a certain amount of self-love is desirable even if self-esteem appears to be more pronounced, as in the instant case, making the person extremely sensitive to the way others react to her. Even the desire to keep children close can become an unconscious attempt to make them part of a person's incomplete and fragmented self. Assisted by the child, a mother runs the risk of trying to fill the gaps in her personality, which means that from the outset and subconsciously, she makes certain demands on the child. Even the memory of the death of the child can be included in this dynamic. The death of the child is also a significant element because it critically disrupts existential continuity. With regard to the death of her son, AMF frequently reiterated her innocence and reported that every day and every night, she thinks of that terrible morning.

AMF's family environment was also characterised by the presence of a very rigid father figure: "My dad likes to make decisions, to be the one who does the organising, the one doing things, holding the reins of all his children. I'm the one who always tried to pull away from this because I wanted to be free, independent...". In spite of her continued and repeated references to her wish to be autonomous and independent of her family, AMF needs to refer

to her biological family to maintain her self-esteem and self-cohesion.

Separating “being” from “having” in a person is indeed difficult, since the link between these two aspects is so strong that each presentation mobilises, often in an indistinguishable manner, both aspects of one’s self to the extent that by challenging one of these aspects, there is a risk of calling the other into question (11).

3. A self-presentation that hides a frightened face.

A person’s interaction with the environment is actually able to determine his/her behaviour and development, and when the individual changes, the environment, which reacts to our actions, also changes, setting limits or prodding us with other stimuli.

During her interviews, AMF insists on presenting her family as being almost idyllic: “we had a very beautiful family, we were happy; if I wasn’t happy being up there in my mountains, I wouldn’t be there. I was free to do anything and go anywhere; no one was holding me there. I designed that house, and I furnished it with my husband’s cooperation, but I was the one doing all the work. I liked it because he had a job and he thought about it and he gave me *carte blanche* in this regard because that’s how we are, husband and wife, each one is in charge of something. I liked it, I can’t wait to go back, and I am going back there because that’s where my home is, not here”.

The effort she puts into the pursuit of self-gratification involves and consumes substantial energy by making her live in a state of permanent alert and probably making her waste an enormous amount of energy in fear, insecurity, anxiety, anger, and suspicion.

Anxiety, in fact, “as a permanent alert condition, supports and strengthens our defensive armour and continually distorts internal and external messages” (12).

Through numerous interviews, legal consultants and technical experts were able to gather a huge amount of information about AMF’s personality traits, her most pressing issues, how she relates, the image she has of herself and many other elements. In a socio-judicial context, these elements are indispensable for determining the state of mind of the person at the time of the investigation, which is valuable since the existence of psychic disorders, which may constitute an illness affecting her ability to understand or her volition, may be the element on which a decision about future behaviour – and therefore whether she is a potential danger to society – is based.

Ultimately, investigations are conducted with reference to the notion of criminal responsibility, which affects a person’s the ability to be discerning and one’s free self-determination. According to this concept, the perpetrator of a crime cannot be punished if he/she cannot be held responsible for his/her actions, but he/she can be subjected to safety measures if he/she is considered a danger to society. The various assessments require a person to prove his/her state of mind at the time that the individual became the perpetrator of a criminal act, sometimes committed in the not-too-recent past. The person is also expected to indicate his/her state of mind and if it is recognised that he/she has a mental illness, to express a judgement, i.e., a prognosis of future behaviour. Assessments to ascertain alternative measures of detention follow a different approach. These assessments require an examination of personality traits in order to ascertain future behaviour, which is also beyond the

context of mental illness. Medical and psychosocial investigations are carried out in both scenarios, both regarding criminal responsibility and the study of personality for the purposes of re-education.

Therefore, the essential points that need to be addressed in a biographical exploration are those considered useful in “describing and comprehending, in a strictly hermeneutical sense, the complex, intricate set of relationships running through an individual’s biography, the basic characteristics of his/her personality – assuming it is possible to distinguish between chance and necessity – and the biological family, other primary groups to which one can, more or less enduringly, form ties, and ultimately the global framework of the wider society and its normative and institutional structures” (13).

The usefulness of having access to life histories is also linked to Article 236 of the Italian Code of Criminal Procedure on Documents pertaining to the personality assessment, which states: "It is permissible to obtain criminal records, existing documentation from the offices of the social services, public bodies and supervisory offices, as well as the irrevocable rulings of any Italian judge and recognised foreign judgements for the purposes of judging the personality of the accused person or the victim of the offence if the fact giving rise to the proceedings has to be assessed in relation to the conduct or moral qualities of the latter".

The interviews certainly helped to assess AMF as far as rehabilitation treatment was concerned and with regard to all aspects of her relationships, choices and histories and ability to go beyond the experience gained through getting to know her personal and environmental resources.

4. Establishing a relationship in order to banish tension.

In AMF’s case, the assessment of her behaviour by technical experts and social workers is based on a pathway split into four processes: engaging, focusing, evoking and planning. Engaging is the basis for a productive relationship, which causes one to focus on the reason why the person is attending the interview. Using basic interview techniques, such as reflective listening, open questions, summaries, support, and information exchange, the motivations for change emerge alongside ideas and feelings about ways to achieve it (14).

The evoking process then develops in ways that help to elicit the person’s own point of view regarding the behaviour and the facts being addressed. Planning involves action plans and a commitment to change, and the person must feel supported while he/she determines the actions required to implement his/her change process and begins a new phase of life. In this regard, the treatment records prepared by the social workers tell us that AMF’s attitude towards them was always proper and that she expressed a strong desire to help in escaping the desperate situation in which she often found herself.

Treatment interventions both within and outside of a prison environment are aimed to support the person. In AMF’s case, this mainly involved allowing her to engage in useful work. In fact, she rotated from doing desk work for the section to being assigned to the kitchen in the role of chef/food delivery person and "jolly". In accordance with the rules governing internal work, she also worked approximately once every two months delivering extra food, a role that she performed with competence (she has a degree in

accounting) and diligence. She took part in a weekly sewing course held by volunteers. She then applied for a vocational training course in "tailoring and embroidery", which allowed her to start working outside the prison in a tailor's workshop run by a social cooperative.

AMF and the prison police staff describe relations with the other detainees in the section as being trouble-free. At first, the impact of being in prison and the personal stories of other detainees raised some difficulties, but these were subsequently overcome through the appreciable efforts AMF made to conform.

When examining these issues, the cognitive accommodation described by Piaget (15) is a useful model for explaining what occurs when an individual is required to face something that surpasses his/her usual frame of reference. He/she is forced to change cognitive schemas or to develop new ones, which subjects the individual to considerable cognitive activity in order to reappraise and revise schemas and frameworks; it can be a very long and challenging process.

AMF's Rorschach test also revealed that when alone and in contact with herself, the subject can develop particularly depressive aspects, which encourage a tightening of associative links.

AMF's defensive mechanisms appeared evolved and oriented towards non-pathological repression. We know that psychoanalytic theory and observation have demonstrated that repression-based defences are part of the normal development and organisation of the adult personality. In fact, adult personalities that have suffered severe repression usually have a childish aspect, which can be quite obvious in some cases but less noticeable in others. The emotional experience of such people tends to "remain somewhat dispersed and labile; their

actions are dominated by impulses; their anguish has ingenuously fearful or phobic characteristics; and their interpersonal relationships, though intense, are mostly of a narcissistic type with a childish and/or unstable attachment" (16).

Previous studies have established that prison conditions may in and of themselves become a pathological condition, and many studies have highlighted the pathology known as "prisoner syndrome", which causes inmates to become dependent on medical care. In fact, when entering prison, detainees activate a process to assimilate the institution's norms, values and patterns of behaviour. Being excluded from these institutional values is difficult since doing so involves entirely different levels of existence, which range from the mere need for physical survival to the dimension of the imagination.

In fact, many prison doctors have noted that the type of health disorder created by imprisonment in extreme situations is regression, which leads to age-inappropriate behaviour to avoid responsibility or demands made by others, enabling an attitude of self-indulgence.

Another phenomenon often reported by doctors is usually termed "invalidism" (a type of regression in which the person portrays him/herself as an ill or disabled person). In frustrating conditions such as being in prison, this can mean a return to an advantageous behaviour, tried and tested in infancy or at a previous stage of life.

AMF's Rorschach test points to an average basic IQ and a simplistic, egocentric, emotional way of thinking, i.e., an adult with a child's ego. For example, the answers provided in Table IX, the table that most mobilises the unconscious mind and the most difficult to interpret because its chromatic and formal structure does not allow for immediate

perceptual evidence as a reference, revealed a clear exhibitionist feeling and a strong need to be the centre of attention. This table, together with the interpretive difficulties, also provides the subject with the opportunity to express his/her mental resources. The experts proceeded to examine AMF's graphic personality convinced that the use of different tools during their psycho-diagnostic investigation, which is also used in a socio-legal context, would be able to delineate the manifold ways in which the mind works by providing a large amount of useful diagnostic information. This information benefits from and is enriched by a comparison of the evidence. In fact, the diagnostic information is well complemented by the Rorschach test since "graphology often reveals what the Rorschach test fails to mention. Writing does not reveal the creative talent of a genius, unlike the Rorschach test, which sometimes does (first of all, from the determinant kinaesthetics and from the 'original' answers); while writing is no basis for a psychiatric diagnosis, it is possible, not always at least more frequently, with the Rorschach test" (17). A graphic personality analysis shows that AMF is very sensitive to the judgement of others and, striving to be well accepted, consciously adopts controlled attitudes, combining both sensitivity and an innate tendency to seek the esteem and approval of others. Outwardly, she may appear strong because she is able to mask her weaknesses, displaying an aloofness that is more apparent than real, but internally, she is fragile due to her innate sensitivity and the sudden fears that impel her to states of sadness.

However, AMF's psychological resources and her personality characteristics have allowed her to reference social skills or social cunningness, which is the ability to react positively to the stresses of being

with different people and in the most varied circumstances, as evidenced by the relationships she was able to establish with other inmates and various professionals working in the prison facility.

AMF's experience of severe and prolonged frustration certainly contributed to the development of feelings of personal failure and anxiety, followed by behaviours structured to defend her self-image, remembering that the essentially psychological connotation of identity also becomes social because it places the person within the rights and obligations of the community.

In June 2014, this pathway that led to AMF's admittance to the alternative measure of special home detention (in accordance with Article 47-quinquies, Penitentiary Law), which is an example of the importance of relationships, processes and even the way in which an intervention is structured. If open to communicative circularity, interventions become an opportunity for new creative and productive combinations of meaning with an interactive and thus dynamic valence, which leaves wide spaces open for the relationship between the subject and his/her context.

Seen this way, AMF's life history has been read and interpreted in the reports of court-appointed experts as a web of social relationships, as it is obvious that a mature and efficient personality integration cannot be achieved solely by tapping into the reservoir of innate potential; such an integration requires appropriate management within an adequate interpersonal environment.

5. A life project without the fear of boundaries.

Recognising someone's identity as an individual means tangibly updating his/her intrinsic principle and value. In this sense, identity finds total fulfilment in terms of the life practices through

which people connect using the world through their knowledge and action.

Thus, the self is not only the result of the consciousness of a thinking being but also, in William James words, formed by a set of elements that, through the constant flow of thought, are felt by the person as his/her own. This occurs with the body first and foremost, then those most dear to the person, social roles and so on.

"The boundary between what a person calls 'me' and what he/she simply calls 'mine' is difficult to pinpoint. We feel and act in relation to certain things that are ours in a very similar way to how we feel and act in relation to ourselves" (18).

In any case, "in its widest possible sense, a man's self is the sum total of all that he can call his: not only his body and his psychic faculties but also his clothes and his house, his wife and children, his ancestors and friends, his reputation and works, his lands and horses, and yacht and bank account. All these things give him the same emotions. If they grow and prosper, he feels triumphant; if they dwindle and die away, he feels cast down – not necessarily to the same extent for each thing but almost the same for all of them" (19).

If the first level of the self is what James defines as the material self in which a person's being and some particular realities are identified, it is closely correlated with the social self, that is, the sense of the image that others have of us: "A man's social self is the recognition he receives from those around him" (20).

Indeed, if it were physically possible, one could not imagine a worse punishment than for a person to move freely in society but go completely unnoticed. To state that the look of another person, the image of us that we see mirrored in the individuals around us, contributes to the formation of our way of being

means that we think of the human being as a set of relationships with the environment, particularly with things (as is seen from an analysis of the material self) and with that which we feel is more like us, namely, people.

For this reason, a man can be said to have as many social selves as there are individuals who recognise him, and to harm one of these images is the same as harming him/herself. From this point of view, the sense of our individuality and personal uniqueness can then be considered the product of the dynamic equilibrium between the "outward tendency" to capture our being part of a whole and the "inward tendency" to perceive the whole of our being a part. Therefore, direct and symbolic interaction with the experience of others becomes the basic process capable of transforming subjective becoming into an incessant assimilation of personal experience.

The perception of our personal identity, which corresponds to the sense of reality itself, thus finds in others the possibility of existing and simultaneously discovers the premise, which is equally necessary, for attaining an experience of self in the process of differentiation from others.

The relationship between the ego and itself is always also a relationship with things and with others. We bear the traces, the difficulties and the wounds of this relationship, as the unity of the ego is never absolute and the relationship with others is often problematic.

Another critical factor in our personal identity is the observation viewpoint, which refers to the assumption that the proficiency, effectiveness and correctness of an intervention can be evaluated by witnesses who are not impartial but have clear interests and expectations.

In other words, when evaluating the actions of people who are in a particular specialised or

professional position that qualifies them to intervene in the social reality, paramount attention must be given to whether it is possible to meet the needs and expectations in the areas in which those people act. Indeed, subjects with an autonomous capacity to interpret submit this possibility to critical scrutiny.

Therefore, we are faced with a change in social relationships in which the presence of risks that cannot be eliminated is designed to call into question the "freedom-security" relationship and to make the arduous task of halting the proliferation of risks even more difficult without limiting our most valuable freedoms. Obviously, these considerations cannot identify immediate solutions, but I believe they should be borne in mind when examining the place that can be reserved for a person, even one convicted of brutal crime, in today's society. In fact, we must make a commitment to value and affirm the dignity of affective sentiments and relationships necessary for giving meaning to their own social affiliation in an effort to reconcile the motivations of the heart and the love of reason.

Activity, tangible actions or a kind of "doing", can never be separated from "staying" if it is to be satisfactory. Staying with the thought to inform a subsequent action is a chance for us to transform relationships and return to the foundations of our sociality and community living. This opportunity has characterised the reports of court-appointed experts in the "Cogne case", who were aware that it would certainly have been easier to continue on the old pathway rather than reactivate and listen to the authenticity demanded by the traumatising and painful experience that has upset personal expectations.

Social and psychological pathways can alternate between slow or fast, which is closely related to

people, times, and phases of life. Therefore, even the biggest disaster must provide us with an opportunity to reflect on our vulnerability so as not to impel us towards self-elimination. This reflection must trust in the help of the external environment, which in turn must provide the elements necessary for a new start.

6. Conclusion.

The instant case is a good example of how to make what has occurred thinkable through words and shared meanings, transforming the "act" into something "speakable". The efforts made by all the professionals who interacted with AMF aimed at delineating a dimension within which, starting from what occurred, it was possible to design, construct and care for, without ever losing sight of the outside. More precisely, the constant and vigilant attention to the external dimension allowed for a process of re-adaptation, supported by a network of measures enacted by the community services and the help of family and friends. In this dimension, AMF could enter to speak of her own evil, make it felt, and share it without the fear of the door closing behind her. Accordingly, although it does not allow access to another person's conscience, empathy arguably allows us to feel and understand the situation of others, to transport ourselves into the other person's position without being that person. We are together in this world to understand the intentions, designs, emotions, and actions of others, and if we have a problem understanding what others think at times, that problem derives from a change in the practical relationship within our being together. For example, "when the knowledge of each other is lost in dissimulation, reticence and simulation, being-together requires special procedures to get closer to others and 'penetrate'

them” (21). Therefore, when designing prisoner reintegration services, efforts should focus on observing, studying and handling the diverse situations and should favour an approach linked to specific territorial contexts, addressing issues from two perspectives. One should be open to broad outlines, while the other should be open to particularity. This can only occur within a social space conceived as a relational configuration. In other words, it presupposes that the range of methods used is appropriate to the problem being addressed and is considered when using those methods to solve a particular case since, in the words of Bourdieu, it is not possible to separate the construction of the object from the tools used to construct the object and from their evaluation (22). Thus, practitioners’ interventions characteristically share a search for the interlocutor and direct co-operation to interpret the need of the user in a "transitivity without violence, which is the plane of creation. The order of creation is the order from which tyranny is excluded" (23). Fruitful cooperation between the various professionals working in a prison setting becomes most important when the Supervisory Court, as in AMF’s case, has to decide whether or not the person is suitable for an alternative measure to detention. Thus, this determination could be considered an opportunity for the conscious use by practitioners of theories and interpretive schemas of the living space that the user and his/her problem occupy. However, they should also bear in mind that "the dynamics of the processes is always to be derived from the relation of the concrete individual to the concrete situation and, as far as internal forces are concerned, from the mutual relations of the various functional systems that make up the individual" (24).

From this angle, as Blumberg (25) clearly notes, it is important to recall that for the “two-legged” "man", standing on the ground is an action, an effort that tires the body. Whereas the stone lies on the ground and thus complies with the principle of inertia and the force of gravity that constantly acts on it, and the vase stands on a table as long as the table supports vase and no one pulls the table out from under it, a man standing on the ground does not simply satisfy the principle of inertia and is not supported by gravity; on the contrary, gravity forces him into an incessant balancing act against the transience of his balance.

The more difficult it is to maintain balance and harmonisation, the more necessary it is for practitioners to carrying out their activities in a prison setting to make constant reference to that "ethical culture in which the face of the other (...) awakens in the identity of the I, the inalienable responsibility for the other man" (26).

Therefore, I also revert to what I wrote at the beginning of this paper: it is extremely worrying to think that decisions involving people’s lives may perhaps one day be made by technicians from a polytechnic who will evaluate the correct setting of the algorithm and will judge whether, for example, attempted murder is the square root of murder or whether theft from an apartment is petty theft cubed. Thus, one might ask whether it is socially acceptable to extricate a person from the logical process leading to a criminal conviction and sentence, bearing in mind that one of the major limitations of predictive algorithms is that they are based on a statistical method whereby risk scores are correlated to a generic probability of recidivism based on similar cases instead of being correlated to the specific probability that the subject to whom the

algorithm will be applied will commit another offence in the future.

Therefore, in the hope of continuing the debate, it is worth stressing that thanks to our neurons working in parallel in our brains, we can conceive actions, behaviours and designs that cannot, at least to date and according to neuroscience, be explained by an algorithm.

Notes.

- (1) https://www.wired.com/2017/04/courts-using-ai-sentence-criminals-must-stop-now/?_l=1
- (2) Cogne, the place where the events took place (on 30 January 2002), is in the Valle d'Aosta region, a region with special status in northwestern Italy, named after its main city, Aosta.
- (3) In Italy, 118 is a free, public 24-hour emergency service, coordinated by an operational centre that manages all calls for urgent cases and health emergencies and dispatches staff and the necessary resources to meet specific needs.
- (4) Goffman E., *La mise en scène de la vie quotidienne. La présentation de soi*, Les Éditions de minuit, Paris, 1973.
- (5) Arcuri L., “Rappresentazione di sé ed elaborazione dell’informazione sociale”, In Caprara G.V. (ed.), *Personalità e rappresentazione sociale*, La Nuova Italia Scientifica, Roma, 1988, pp. 17-32.
- (6) Haddad G., « Ethos préalable et ethos discursif: l’exemple de Romain Rolland », In Amossy R. (ed.), *Images de soi dans le discours – La construction de l’ethos*, Delachaux et Niestlé S.A, Lausanne (Switzerland)–Paris, 1999, pp. 155-176.
- (7) Calvino I., *Fiabe italiane*, Mondadori, Milano, 1993.
- (8) Bisi R., “La psicodiagnostica in criminologia: orientamenti e prospettive”, In Mucciarelli G., Chattat R., Celani G. (ed), *Teoria e pratica dei test*, Piccin, Padova, 2002, pp. 507-527.
- (9) Belsky J., “The Determinants of Parenting: A Process Model”, *Child Development*, 55 (1), 1984, pp. 83-96.
- (10) Strzyz K., *Narcisismo e socializzazione. Trasformazione sociale e il mutamento di dati caratteriali*, Feltrinelli, Milano, 1981.
- (11) Bisi R. (ed.), *Scena del crimine e profili investigativi. Quale tutela per le vittime?*, FrancoAngeli, Milano, 2006.
- (12) Craia V., Craia E., *Psicopatologia del carattere e disfunzioni sociali*, Edizioni Magi, Roma, 2008, pag. 220.
- (13) Ferrarotti F., *Storia e storie di vita*, Laterza, Bari, 1981, pp. 3-4.
- (14) Miller W.R., Rollnick S., *Il colloquio motivazionale*, Erickson, Trento, 2014.
- (15) Piaget J., *Psicologia dell’intelligenza*, Giunti–Barbera, Firenze, 1975.
- (16) Schafer R., *L’interpretazione psicoanalitica del Rorschach*, Boringhieri, Torino, 1971, pag. 241.
- (17) Bohm E., *Manuale di psicodiagnostica di Rorschach*, Giunti-Barbera, Firenze, 1969, pp. 22-23.
- (18) James W., *Il flusso di coscienza. I principi di psicologia*, Mondadori, Milano, 1988, pp. 115-116.
- (19) *Ibidem*, pag. 116.
- (20) *Ibidem*, pag. 120.

- (21) Heidegger M., *Essere e tempo*, Longanesi, Milano, 2005, pag. 155.
- (22) Bourdieu P., *Risposte. Per un’antropologia riflessiva*, Bollati Boringhieri, Torino, 1992, pag. 30.
- (23) Levinas E., Peperzak A., *Etica come filosofia prima*, Guerini e associati, Milano, 1989, pag. 27.
- (24) Lewin K., *Teoria dinamica della personalità* Firenze: Giunti-Barbera, Firenze, 1965, pag. 48.
- (25) Blumberg H., *L’ansia si specchia sul fondo*, il Mulino, Bologna, 2005, pag. 101.
- (26) Levinas E., Peperzak A., *Etica come filosofia prima*, Guerini e associati, Milano, 1989, pag. 72.

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