

Common sense, psychology and justice

Both professional life and scientific experience enrich themselves from each other. However, for the defending lawyer in the criminal setting - who might also be a scholar in juridical psychology - certain “victories” seem to be the natural consequence of science applied to judicial notices used by Judges. When instead this operation does not succeed and the activity leads to a failure there emerges a great deal of suffering. One consoles oneself with the idea that psychological knowledge is often counterintuitive and that it clashes with common sense and, therefore, with shared feelings and cognitions (well-known facts). Then, after so much effort, one comes across the following justification:

“In the specific case, and in other similar cases, of real abuses or allegations of abuse towards juveniles, unfortunately not rare today, is involved a strong emotionality, so evident in the public opinion, in the parts involved, and also, somehow, expressed by the previous Judges. Nonetheless, this emotionality should be set aside from a judicial decision.

Moreover, what should be avoided is that the intransgressible need to protect childhood, especially in the contemporary historical moment, would lead one to consider always truthful, sincere and transparent children’s accounts, especially, when they are 3-4-5 year-olds and come from a specific context. The fact cannot be neglected that children of these ages are easily influenced: they tend to adjust to the adult’s expectations, to be dragged into fantastic thoughts, to exchange fantasy with reality, to substitute in their memory fantastic characters with real individuals. These are notions, which are related to experience and do not require any specific competence, and not even the support of experts. Notwithstanding these aspects, this knowledge seems to have been put aside, especially by those psychologists, called upon for this proceeding, who, more than every body else, should have borne it in mind”.