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**FAMILY
CONSTELLATION AS A
CONSENSUAL CONFLICT
SOLUTION METHOD**

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Abstract: The present work discusses the use of the Family Constellation as a tool for conciliations and mediations in the judiciary. Therefore, it aims to investigate whether this method can be considered a science or, at least, a scientific approach. In addition, the work seeks to understand Family Constellations so that they can be correctly used in the legal environment in order to resolve conflicts. In addition, deductive and dialectical methods were used as a methodology for structuring this work, with the research being carried out through bibliographic consultations. In conclusion, it was noted that the family constellation, even though it has no scientific connotation, is a useful and effective tool that cooperates for the resolution of disputes.

Keywords: Family Constellation. Mediation. Family conflicts.

INTRODUCTION

The present work deals with a new method to speed up procedural procedures. It is known that there is, especially in the Judiciary, an overload of work that contributes so much to the slowness of justice.

The method in question is the Family Constellation, which was originated by the German Bert Hellinger, and aims to identify the source of a person's internal conflict.

Through the Family Constellation, it is possible for the constellate, that is, the person who wants to find the solution, to discover patterns of repetitions of behavior within their family cycle, and from that, find a way to end such repetitions, and consequently end the conflict.

This way, applying this method together with mediations and conciliations, the probability of reaching an agreement and extinguishing the process afterwards, increases significantly.

Therefore, we seek to provide an answer in the course of this research to the following

question: Can Family Constellations be applied in the judicial sphere for the purpose of conflict mediation or would their mystical characteristic rule out their use?

Therefore, this research has as general objective, the investigation of the resources used by the Family Constellation, in order to verify if it can be considered as a science or a scientific method.

Meanwhile, the specific objectives of this project were to demonstrate the relevance of the Family Constellation for the Law, to use data from Constellation sessions held in Brazil and to find out about the acceptance of this method within the legal environment.

Article 3, §3 of the Code of Civil Procedure encourages the use of new conflict resolution methods within conciliation and mediation. This way, the use of the theme for the research is justified, since speed is present as a constitutional principle.

Therefore, the theoretical framework applied in this project will be the author Bert Hellinger, who created the methodology explained here, in Germany. For him, his family system is in disarray if the systemic laws are not in balance. Such systemic laws are called respectively: belonging, balance and order. For that, the person who is in conflict needs to go through the so-called "Family Constellation" to untie the problematic knots in his life.

THE FAMILY CONSTELLATION AS A MECHANISM FOR SOLVING LEGAL PROBLEMS

THE JUDICIALIZATION OF LIFE

It is a fact to say that, in every family reality, there is a conflict to be resolved. The issue to be discussed is the almost cultural need to solve problems in a heteronomous way, that is, the conflicting parties define a third party to "judge" the proposed demand.

In addition, it is known that even after

years of waiting for a court decision, it may happen that the parties are not satisfied with the result.

When faced with a dispute, we have a procedural and sociological conflict, it is common to end a process without resolving the conflict. The Judiciary fulfills the function of delivering the sentence, as if it were the resolution of the conflict, which could generate an even greater one, in case one of the parties is dissatisfied or feels harmed. This happens because of the person's need to demonstrate their motives to the other. This way, new processes will be started, with the same characteristics, the same elements involved and for the same reason. This generates a large amount of unnecessary processes, making the number of pending cases even greater. (WELKER, 2019, p.83)

With the advent of the Federal Constitution of 1988, there was an increase in the presence of judicial institutions, their procedures and their agents in Brazilian democracy.

Democracy, so cherished by the aforementioned Constitution, gives everyone the right to demand their adversities.

The search for a swift and effective justice added item LXXVIII to article 5 of the Federal Constitution, through Constitutional Amendment 45 of 2004, which guaranteed as a fundamental right the "reasonable duration of the process and the means that guarantee the speed of its processing".

Judicial protection is exercised through the guarantee of access to justice and constitutes one of the greatest, if not the greatest instrument, to ensure a fair legal order for the effective exercise of citizenship.

Today, if there is a conflict between two people or groups of people, characterized by one of the causes of dissatisfaction described above (resistance from others or legal veto to voluntary satisfaction), in principle the law imposes that, if you want to put an end to this situation, the subject tries to call the State-judge, who will finally say what the

will of the legal system is for the concrete case (declaration) and, if it is the case, make sure that things are disposed, in practical reality, according to that will (execution). (CINTRA; GRINOVER, DENMARCO, 2015, p. 41)

Thus, access to justice is linked to social justice. And the excess of procedural actions in the Judiciary began to give way to the slowness of the process and to set aside one of the principles of the Constitution: celerity.

THE INSERTION OF MEDIATIONS AND CONCILIATIONS IN THE JUDICIARY

Conciliations and mediations are forms of self-composition of conflict resolution, that is:

It is the form of conflict resolution by the spontaneous consent of one of the contenders to sacrifice their own interest, in whole or in part, in favor of the interest of others. It is the altruistic solution of the dispute. Currently considered as a priority form of social pacification (Article 3, §2, CPC). Progress is being made towards putting an end to the dogma of state exclusivity for resolving conflicts of interest. It may occur outside or within the jurisdictional process. (JR. DIDIER, 2017, p.187)

In this sense, the Federal Constitution of 1988 has been proposing the pacification of conflicts. In its preamble it says:

We, representatives of the Brazilian people, gathered in the National Constituent Assembly to institute a Democratic State, destined to assure **the exercise of social and individual rights**, freedom, security, well-being, development, **equality and justice as supreme values of a fraternal society**, pluralistic and without prejudice, **founded on social harmony and committed**, in the domestic and international order, with the peaceful solution of controversies, we enact, under the protection of God, the following (...)

Article 4, item VII of the Federal

Constitution also points to the same proposal as the aforementioned preamble, since its principle is the peaceful resolution of conflicts.

This way, these devices end up making room for conciliation and mediation, which are instruments for harmonious conflict resolution.

Regarding these instruments, conciliation was already established in the old Civil Procedure Code of 1973 and mediation was only supported by the new Civil Procedure Code in 2016.

In this regard, the National Council of Justice edited resolution 125/10, which was then remodeled by Amendment Number 2 of 2016, which reads as follows:

(...) it deals with the Judiciary Policy and other measures, in which, among other issues, it establishes the creation of Courts of alternative dispute resolution, true judicial bodies specialized in the matter.

Thus, in addition to being instruments for harmonizing disagreements, and giving autonomy to both parties in the process, conciliation and mediation began to provide speed and effectiveness to the Judiciary.

Naturally, it is possible to effectively implement this new access to justice if the courts manage to redefine the role of the judiciary in society as less judicial and more harmonizing. Thus, the aim is to establish a new face for the judiciary: a place where people seek and find their solutions – a center of social harmonization. (AZEVEDO, 2018, p.51).

Therefore, the interest in increasing the speed and effectiveness of the process is notable, but it is also noticeable that even with the implementation of these protections, justice remains slow. And it is for this reason that there is still a search for how to implement the principles cherished by the Constitution: speed and effectiveness.

In addition, it is important to note that the dissatisfaction factor of the parties involved,

even after the final decision, is great, since the conflict does not cease to exist, even if it is defined in an agreement or in a sentence what was pleaded.

A person's dissatisfaction is characterized, and the experience of millennia shows that dissatisfaction is always an antisocial fact, regardless of whether or not the person has the right to the intended good. The lack of definition of people's situations before others, before the intended goods and before the law itself is always a reason for individual and social anguish and tension. Even when it comes to a lack of definition as to the State's own jus punitions in a given concrete situation: since the value of freedom is an inherent part of the human person, which everyone aspires to and which cannot be the object of disposition by anyone, pending situations like this is an undeniable factor of suffering and unhappiness, which needs to be overcome. (CINTRA; GRINOVER, DENMARCO, 2015, p. 41)

In this sense, the Family Constellation appears as an option to give the Judiciary not only greater speed, but the solution of conflicts, and the possible satisfaction between the parties.

THE FAMILY CONSTELLATION, ITS ORIGIN AND DEFINITION

The Family Constellation originated from the studies of the German Bert Hellinger. Born in 1925, his training, associated with his therapeutic activity, has been approached in numerous ways, such as group dynamics, script analysis, hypnotherapy, and family therapy. He was the provider of technical developments, which came to be called "Family Constellation" later.

Hellinger was provocative and revolutionary, as he lived in Germany during the holocaust period, traveled all over the world, having to learn to face torture, wars and, in the midst of all this, came to present a new methodology for harmonizing families.

The idea of this new project was to make people inserted in families see their place and the place of the other within their own system, and thus harmonize the possible conflict that existed in the environment.

Thus, the family constellation, conceived by Bert Hellinger, is a proposal for psychotherapeutic treatment, which aims to solve family problems and conflicts.

Therefore, this method aims to show the patient, that is, the constellate, how his family system works. This system is nothing more than the person's family tree, but exposing the patterns of each family member.

This way, the Family Constellation aims to undo old patterns that ended up hurting in some way, generation by generation, and obstructing the loving flow of that family.

Each of those present, even those who presented themselves only as victims, can often realize in an experienced way that there was something in their own posture or behavior that, even unconsciously, was contributing to the conflict situation. This perception, in itself, is significant and naturally favors the solution. (STORCH, 2018, p.3)

It is a dynamic worked with the constellate, that is, the one who wants to realign a certain problem or feeling experienced within his family order. This dynamic can be done in many ways, such as using puppets or in groups.

When the approach is made by groups of people, people that the constellate does not know are chosen to represent their family system. Thus, the representatives take the place of each relative and help the patient to see where there is a knot in his system.

Representatives experience feelings that they handle better than customers, since they are less affected than customers (if they continue with the interpretation). In setup, your role is to struggle to find a solution, while customers often hang on to the problem.

These two different perspectives, problem-oriented and solution-oriented, can give rise to cognitive dissonance in clients, which can spur them to develop their own attempts to find a solution. (FRANKE-BRYSON, 2016, Position 2867 of 3350 – AMAZON EBOOK)

The objective of this work, however, is to highlight the dynamics made in groups, since it is through these dynamics that the Judiciary prefers to employ. According to Stoch:

Family constellations consist of a work in which people are invited to represent family members of another person (the client) and, when positioned in relation to each other, they feel as if they were the represented people themselves, expressing their feelings in a different way. impressive, even if you don't know them. Hidden dynamics in the client's system that cause inconvenience come to light, even if related to facts that occurred in past generations, including facts that he is unaware of. One can propose phrases and movements that undo the tangles, restoring order, uniting those who in the past were separated, providing relief to all family members and making the unconscious need for conflict disappear, bringing peace to relationships. (STORCH, 2018, p.2)

Well, this group dynamics brings to the constellate a fairer view in relation to the other, and therefore, a new posture of the constellate towards his family. Thus dissolving the family conflict.

The technique assists in the harmony between family and social relationships, working on issues that become entangled in our system, due to non-compliance with the laws that govern relationships. The method shows that, many times, the lack of success in life can be directly related to the absence of the mother, and the addictions, the relationship is with the father. The subject is interesting and helps in understanding how we can make life lighter. (ZACHE, 2019, p.1)

This is how the doubt of the present work arises: Considering that the reactions that

are transmitted to the representative of the constellation are not pre-programmed and that the members of the group do not know each other, much less know each other's history, Can the Family Constellation be considered a scientific tool to be applied in Law? How can representatives react so well to the constellation's family?

Many people think that constellation is something linked to mysticism or astrology, but it is a set of techniques that can be used to mediate, taking the focus from within the conflict and looking at the problem from the outside. (ASCOM, 2018, apud VIEIRA, Adhara, 2018, p.4)

The creator of the method, Bert Helliger explains that these reactions are transmitted through the systemic energies of the constellation. And, this way, the representatives are unconsciously affected in the session.

THE IMPORTANCE OF FAMILY CONSTELLATIONS

The judge of law Sami Storch, at the state headquarters of Bahia, already with experience in Family Constellations since 2006, began in a pioneering way to insert this method in hearings in 2012.

During and after the work with constellations, the participants have shown good absorption of the matters dealt with, greater respect and consideration for the other party involved, in addition to the willingness to conciliate – which is also evidenced by the results of the hearings held weeks later and with the reports of the parties and the district attorneys. (STORCH, 2018, p.3)

Constellations are a way to pacify the conflicts present within a family, which often only conciliation is not able to solve.

The Traditional way of dealing with conflicts in the Judiciary is no longer seen as the most efficient. A judgment on the merits, handed down by the judge, almost always generates

nonconformity and is not rare for both parties. In many cases, it leads to the filing of appeals and procedural or extra-procedural maneuvers that make execution difficult. As a consequence, the pendency tends to be prolonged, generating costs for the State and uncertainty and suffering for the parties. (STORCH, 2018, p. 1).

Differences that are demanded in the Judiciary with a family character are usually discussions about debts, custody, alimony, inventories, adoptions, litigious divorces, among others.

People seek the Judiciary to resolve a certain conflict. In the Constellation, they discover ways to solve it on their own, in a much deeper way than the judicial decision. They end up breaking harmful patterns, harmful relationships, violent behavior. (FARIELLO, Luiza, 2018, p. 3)

It is important to point out that the use of the Family Constellation, currently, has been not only in the family court, but also in the criminal court. In the criminal sphere, the victim is constellated to be able to forgive the past and the criminal. However, the focus of this work is the use of family constellations in the family court.

Tragic or premature deaths, abandonment, serious illnesses, secrets, crimes, immigration, broken relationships in an “unresolved” way and abortions are some of the events that can generate entanglements in the family system, causing difficulties for its members, even in future generations. (STORCH, 2018, p.2)

And this is how it is proposed to carry out Family Constellations within a conciliation and mediation session. Since the “victim” forgives his “accused”, without necessarily failing to charge the other with responsibility.

So that there is no breach of the principle of impartiality of the judges, they are not participants in the Family Constellation sessions.

The magistrate does not participate in the constellation sessions, only the parties, their attorneys, the constellator and the voluntary representatives. The use of the systemic technique observes the procedural rites and the requirement of the new Code of Civil Procedure regarding the indispensability of mediation/conciliation. (AGUIAR, 2018, p.91)

It is important to point out that the function of the Family Constellation is to make the part visualize where the problematic “knots” in your family are located, so that your life can flow again. And this does not necessarily mean that a couple does not get divorced, but that there is respect between them and that an amicable settlement of possible child support is possible.

Faced with the problem situation of each party, it becomes evident that the conflict often has no direct connection with the other party, but rather with their family system. (WELKWER, 2019, p. 84)

For this reason, when both parties agree to participate in the Family Constellation session, they are more likely to agree with each other, as both sides will be open to a conversation, since the “knots” have been untied.

For customers, this means they can be seen as responsible people who make an impact and can help shape their environment. They can see themselves as the starting point for change, considering that when one element in the system changes or is changed, other changes in the system are triggered which impact all elements. The constant interaction – the reciprocal effects and linkages – means there is no more room for one-sided accusations. Instead, what happens is a mutual development. This usually gives clients a great sense of relief that they are no longer forced to take responsibility for situations and their own behavior that cannot be explained by analysis of an isolated individual. It may be possible that these experiences and behaviors cannot be explained until seen as an interaction of

all participants. (FRANKE-BRYSON, 2016, Position 209 of 3350 – AMAZON EBOOK.)

The doubt that remains, therefore, is whether the Family Constellation can be considered as a science, and if not, how it can be submitted within the Law. This subject will be discussed in the next chapters.

THE SEARCH FOR UNDERSTANDING THE CONCEPT “SCIENCE”

METHODOLOGIES TO ACHIEVE THE BEST INTERPRETATION OF THE TERM “SCIENCE”

This chapter seeks to understand what science means and what methods are needed to determine a practice as science.

However, before entering the currents and definitions of science, it is necessary to state that science is and must always be objective, which must not be influenced by beliefs, personal opinions or common sense. In the words of Chalmers, 1993, page 18, “Scientific knowledge is reliable knowledge because it is objectively proven knowledge”.

Let’s start our research with the philosopher of science Thomas Khun, who says that the search for what science is brings aspects to a long discussion. He states that the researchers initially proposed an arbitrary way to define this term, which would require solutions to imposed questions. Let’s see:

Effective research rarely begins before a scientific community thinks it has acquired firm answers to questions such as: What are the fundamental entities that make up the universe? How do these fundamental entities that make up the universe interact? How do these entities interact with each other with the senses? what questions can legitimately be asked about such entities and what techniques can be employed in seeking solutions? (KUHN, 1970, p.23)

Therefore, this method would be termed as normal science. However, Kuhn later

begins to question the real need to use such absolutist questions to reach a conclusion about something so broad.

Normal science, the activity most scientists inevitably spend most of their time on, is based on the assumption that the scientific community knows what the world is like. Much of the venture's success stems from the community's willingness to champion this assumption—at considerable cost, if necessary. For example, normal science often suppresses fundamental novelties because these necessarily subvert its basic commitments. Nevertheless, insofar as these commitments retain an element of arbitrariness, the very nature of normal research ensures that novelty will not be suppressed for long. (KUHN, 1970, p.24)

Following this reasoning, Kuhn cites the scientific revolution, which relies on extraordinary research for unusual episodes that may occur during the research process.

Sometimes a common problem, which must be solved through known rules and procedures, resists the repeated and violent attack of the more able members of the group in whose area of competence it occurs. At other times, a piece of equipment, designed and built for normal research purposes, does not function in the anticipated manner, revealing an anomaly that cannot be adjusted to professional expectations despite repeated efforts. In this and other ways, normal science often goes astray. And when this occurs – that is, when members of the profession can no longer dodge the anomalies that subvert the existing tradition of scientific practice – then the extraordinary investigations begin which finally lead the profession to a new set of commitments, to a new basis for the practice of science. In this essay, the extraordinary episodes in which this change in professional commitments occurs are called scientific revolutions. Scientific revolutions are the disintegrating complements of the tradition to which normal science is bound. (KUHN, 1970, p. 24)

It is clear then, that Thomas Kuhn did not agree with the so-called normal science, and that to determine what science is, a deeper study would be necessary beyond pragmatic questions.

On the other hand, from reading the book: “O que é a ciência, afinal?”, written by the British philosopher of science Alan Francis Chalmers, it is possible to perceive that there are several currents that seek to substantiate this issue.

That said, let's go through the most relevant currents cited by Chalmers.

The first is named by him as “naive inductivism”, which is the way to induce a result from a single observation. In the words of Chalmers:

According to the naive inductivist, science begins with observation. The scientific observer must have normal and unaltered sense organs and must faithfully record what he can see, hear, etc. in relation to what he is observing, and he must do so without prejudice. Statements about the state of the world, or some part of it, can be directly justified or established as true by using the senses of the unprejudiced observer. (CHALMERS, 1993, p.19).

However, there are criticisms of determining science in this format, as science is not sufficient only through induction, since this is the ability not only to predict results, but also to explain them.

In this context, the view of logical and deductive reasoning arises, and firstly, it is necessary to clarify that logic within science is not directly linked with inductive study, but only with deductive reasoning.

Having said that, let us explain the deduction. This is the opposite thought of induction, as it is from the consequences of a given fact that explanations and predictions arise.

Since a scientist has universal laws and theories at his disposal, it is possible to

derive from them various consequences that serve as explanations and predictions. For example, given the fact that metals expand when heated, it is possible to derive the fact that continuous railroad tracks unbroken by small spaces will alter under the heat of the Sun. The type of reasoning involved in derivations of this kind is called deductive reasoning. (CHALMERS, 1993, p.23)

However, despite being a coherent reasoning, there are also criticisms that can be made based on this thought. Even if the deduction can bring a true result, it is necessary that the premises are also true, which is not observed. Only the result of the research object is observed.

Deductive logic alone, then, does not function as a source of true statements about the world. Deduction is concerned with deriving statements from other given statements. (CHALMERS, 1993, p. 25)

Meanwhile, other theories emerged. However, to simplify the study, we will then understand the theory that was called “normal science”, whose observations are entitled as paradigms, and these are made with an absent look of criticism.

Periods of normal science give scientists the opportunity to develop the esoteric details of a theory. Working within a paradigm whose foundations they take for granted, they are able to carry out the rigorous theoretical and experimental work necessary to bring the correspondence between the paradigm and nature to an ever higher degree. It is through their confidence in the adequacy of a paradigm that scientists are able to devote their energies to trying to solve the detailed puzzles that face them within a paradigm, rather than engaging in disputes about the legitimacy of their assumptions, and fundamental methods. Normal science needs to be largely uncritical. (CHALMERS, 1993, p.121)

This theory was based on the philosopher of science Thomas Khun, who contributed to the development of the subject. However,

there are criticisms of this theory. In the words of Chalmers:

Kuhn’s paradigms are not so precious that they can be replaced by an explicit set of rules, as mentioned above. It is quite possible that different scientists or different groups of scientists interpret and apply the paradigm somewhat differently. Faced with the same situation, not all scientists will come to the same conclusion or adopt the same strategy. This has the advantage that the number of strategies tried is multiplied. (CHALMERS, 1993, p. 122)

Leaving this perspective and moving to rationalist and relativist theories, we have other points of view when considering the meaning of science. In a first view, we can say that rationalists have a unique, timeless and universal criterion for analyzing a fact.

The rationalist finds the distinction between science and non-science easy to understand. Only those theories are scientific which can be clearly evaluated in terms of the universal criterion and which survive the test. (CHALMERS, 1993, p. 125)

While relativists do not believe that there is a standard in which to define which theory is worse or better.

The relativist denies that there is a non-historical standard of universal rationality against which one theory can be judged to be better than another. What is considered better or worse in relation to scientific theories will vary from individual to individual and from community to community. The purpose of the pursuit of knowledge will depend on what is important or what is valued by the individual or community in question. (CHALMERS, 1993, p. 125)

There are other theories that could be cited, however, those demonstrated in this chapter already become sufficient for what is intended in this work.

DEFINING THE TERM “SCIENCE”

As it was seen in the previous topic, there are

several theories that try to explain the concept of science. All these concepts, however, seek to arrive at the same result: to have a validation that the circumstance studied has some basis. Chalmers, in his book: “O que é a Ciência, afinal?” ends up concluding that there is no correct theory that will legitimize a certain study as science or not. In your own words:

Philosophers lack the resources that enable them to legislate on the criteria that need to be satisfied for an area of knowledge to be considered acceptable or “scientific”. Each area of knowledge can be analyzed for what it is. That is, we can investigate what their goals are – which may be different from what is generally considered to be their goals – or represented as such, and we can investigate the means used to achieve these goals and the degree of success achieved. It does not follow from this that no area of knowledge can be criticized. We can try any field of knowledge by criticizing its goals, criticizing the propriety of the methods used to achieve those goals, confronting it with alternative and superior means of achieving the same goals, and so on. From this point of view we do not need a general category “science”, in relation to which some area of knowledge can be acclaimed as science or maligned as not being science. (CHALMERS, 1993, p. 197)

Would it be, therefore, so simple to make an investigation of which theory fits more precisely in the scope of a research? In a primary conclusion, we can understand that it is not enough to elect a basic theory to arrive at a result, but to know if the object of study makes up a list of rules and laws for such a phenomenon to obtain an adequate result.

CAN FAMILY CONSTELLATION BE CONSIDERED AS A SCIENCE?

After extensive discussion in the previous items, we realized that the term “science” is quite broad and can be interpreted in different ways. Leaving the doubt if the Family

Constellation can be considered as science or not. Making it relative to the discussion about which instruments applied in Law are or are not scientific.

This way, the first judgment that we can draw is that they are not just scientific instruments that are applied within the Law, since these depend on various interpretations to be considered as such.

In the background, when we observe the object of study of Law for a jurist, we have:

While for the other sciences the object of study is data that the scientist assumes as a unit, the object of study of the jurist is, so to speak, a result that only exists and is realized in an interpretive practice. Thus, the legal theory of ownership evolves and changes as it acts, positively or negatively, on ownership itself, in social life. (FERRAZ JR., 2018, p. 48)

In other words, it is considered that a fact only becomes legal from the moment it is put into practice, and its results are interpreted. And so, in an amplified conclusion, we have that for the Law there may be other instruments besides the scientific ones.

Legal theory, however, does not have a single method. In different countries, in different historical periods and sometimes even simultaneously, different methods have competed with each other to try, with difficulty, to account for the intrinsic complexity and variation of social life. Nevertheless, the work of legal theorists shares some important characteristics with the scientific method.

The systematic observation of the harsh realities of life, which in general reveal themselves in the form of social conflicts between people or between institutions, constitutes the typical activity of the jurist. This proposes theories and conjectural models in order to group apparently very different facts within the same conceptual framework. For example, all social conflicts of origin outside any previously planned

relationship are grouped in the sphere of civil liability law. Afterwards, the jurist resorts to empirical data to test his model (that is, he consults all previously available records of similar social relations) and admits the limited and arbitrary nature of his models and theories, mainly because he takes into account the fact that jurisdictions Different organizations almost always follow different organizational principles. (CAPRA; MATTEI, 2018, p. 58)

Furthermore, even not being able to affirm the scientific nature of the Family Constellation, the next chapter will try to conclude what the Family Constellation is, and if we can consider it in some concept with complete certainty, or not.

THE FAMILY CONSTELLATION AND ITS APPLICABILITY IN CONFLICT MEDIATION

THE FAMILY CONSTELLATION AS PHENOMENOLOGY, NOT MYSTICISM

In the previous chapter, we discussed Family Constellation as a science, and we were unable to reach a favorable result, since it was not possible to define it.

Despite this, it is important to discuss the concept of the Constellation, to make it clear that there is a method about the experience. Unlike the common sense perception, it is not mystical and much less supernaturalism, when session volunteers begin to empathically feel the life of the other without even knowing them.

From that moment on, hitherto inexplicable phenomena begin: the representatives of the constellate's relatives begin to feel like the people represented, the true members of the family. They start to have sensations that are strange to themselves, numbness, pain, malaise, restlessness, thoughts that they do not recognize as their own, but identified with those of the represented family member (through access to the morphogenetic

field?). (ANDRADE, 2002, p.59)

The author Adhara Vieira, (2019, p.74) in her book "A constelação sistêmica no judiciário", says that it is about phenomenology, whose meaning is a scientific method plus philosophy. As a scientific method, it is the way of "describing, not explaining or analyzing" and as a philosophy, "the world is always 'there', before reflection. The perceived world is therefore what exists for me.

Phenomenology, therefore, according to the "Michaelis" dictionary (online), means:

(...) 2 PHILOS In the philosophy of the German Edmund Husserl (1859-1938), a philosophical method that proposes to make a description of the lived experience of consciousness, through a return to things in themselves, in order to find the truth in the data originating from experience. This method influenced philosophers such as Martin Heidegger (1889-1976) and Jean-Paul Sartre (1905-1980).

3 BY EXT Any theoretical formulation, especially in the human sciences, that seeks to highlight the lived experience of subjectivity, leaving previously established principles, theories or values in the background.

Thus, the previously inexplicable actions and feelings of the representatives are part of a "psychosocial network", as named by the author Adhara Vieira, (2019, p.84). This network is about energy fields, that is, psychological currents that are transmitted from human beings to human beings in which they live.

However, when we talk about Family Constellation, we say that we open the field of the constellation, that means that, in addition to the family and social weight, we will also be adding all the experiences of the human species, which is conceptualized as "collective unconscious" by Jung (apud VIEIRA, 2019, p.84).

Entering, therefore, the concept of morphogenetic fields mentioned above by the

author Lêda Andrade, we have a theory that was developed by Kurt Lewis. This way, the morphogenetic field would act as a “collective memory”, where the human brain would be able to memorize the experiences of its ancestors through the genes that would be transferred to each generation.

(...) **to sense another person is an empathetic process.** Empathy is a function of identification, that is, when we identify with a person's bodily expression, we can feel its meaning, apprehend its meaning. One can also feel what it is like to be someone else (...). Each person's feelings are private, subjective; you feel what happens inside your body and you feel what happens inside you. However, inasmuch as all human bodies are similar in basic functions, **the bodies find a reciprocal resonance** when operating on the same wavelength. When this happens, the feelings of one body are similar to those of another. In practical terms, this means that, **when assuming a person's bodily attitude, one can capture the meaning or have feelings related to that expression.** (LOWEN, apud VIEIRA, 2019, p.87)

Thus, in a brief synthesis of the concept of phenomenology we have a science and philosophy that work together in order to explain phenomena, such as bodily sensations that do not belong to the person who emits the sensation, which occur through a feeling called empathy.

From all the above explanations, therefore, it is easy to understand the Family Constellation as a phenomenology, and to break the common sense idea about the mysticism involved in the Constellation experience technique. In Adhara's words, we have:

In a constellation dynamic, representatives access this memory field of the family system they are representing. This has nothing mystical or supernatural, it is a simply human ability. It has to do with empathy, (...). (VIEIRA, 2017, p. 88).

After having understood this, we will

now discuss the importance of the Family Constellation for conflict solutions in the field of Law.

HOW THE FAMILY CONSTELLATION CAN BE SEEN IN THE LEGAL - SCIENTIFIC SCOPE

The purpose of this work is to consider the possible application of the Family Constellation in Law. The discussion of what science is and what law is served to better understand that there is no way to arrive at a single answer on “what science is”.

However, when we consider the Family Constellation as a phenomenology, that is, a scientific method plus philosophy, we can come to the conclusion that the Constellation does not completely distance itself from science.

Continuing with the above, when observing our Code of Civil Procedure, it is possible to see that the legislators sought in their articles to give voice to new methods of conflict resolution, as well as a peaceful and cooperative posture. Therefore, in Articles 3 and 6:

Article 3º Threat or injury to the right will not be excluded from the jurisdictional assessment.

§ 2 The State shall promote, whenever possible, the consensual resolution of conflicts.

§ 3 Conciliation, mediation **and other methods of consensual conflict resolution must be encouraged** by judges, lawyers, public defenders and members of the Public Ministry, including in the course of the judicial process.

Article 6: All the subjects of the process must cooperate with each other so that a fair and effective decision on the merits is obtained within a reasonable time

Furthermore, when we observe Resolution

125/2010 of the National Council of Justice, we see that one of its predictions is the implementation of public policies for conflict resolution. Let's see:

(...) it is up to the **Judiciary to establish a public policy for the adequate treatment of legal problems and conflicts of interest, which occur on a large and growing scale in society, in order to organize, at a national level, not only the services provided in judicial proceedings, as well as those that may be through other conflict resolution mechanisms, especially consensual ones, such as mediation and conciliation.**

This way, what we seek next is to add the Family Constellation as a conflict resolution mechanism in order to call it a public policy.

Therefore, we must pay attention and effectiveness to this resolution since article 92, item I, paragraph A, establishes the National Council of Justice as an organ of the Judiciary. Thus, it is possible to recognize the legal effectiveness of the National Council of Justice.

By establishing the Family Constellation as a public policy, family conflicts would be reduced, since it is a technique that reveals the real problem of the conflict. The Constellation can contribute to the management of the feelings, thoughts and emotions of the party, creating a more peaceful environment for the realization of agreements.

In this sense, the author Adhara Vieira also understands the implementation of the Family Constellation as a positive measure for the Brazilian judiciary. And to that end, she emphasizes:

It is important to remember that mediation and conciliation went through informality before being adopted as official State policy. The acceptance of more pluralistic approaches in Brazilian legal culture went a long way before we adopted the view that the State guides the parties to resolve their own conflicts in a more consensual way and, only exceptionally, decides in place of the parties.

(VIEIRA, 2017, p.223)

The expectation of the Family Constellation, therefore, is that the party visualizes the patterns of negative repetitions between its generations and that this is extinguished, thus avoiding new conflicts and, consequently, new lawsuits.

Systemic Mediation has been recognized in the legal system because conflicts between groups or individuals are caused by deeper issues, in addition to simple disagreements. This is a complex reality, which can hardly be portrayed on a page of a judicial process. A simplistic judicial solution may bring some momentary relief, however, it will not be able to definitively resolve the conflict. (WELKWER, 2019, p.80)

After stating this, when we give vision to the Family Constellation as a public policy, we will now analyze the results of the application of this method in some judiciaries.

THE APPLICATION OF THE FAMILY CONSTELLATION IN THE JUDICIARY

As is already known, the Family Constellation is already exercised in some audiences of the Brazilian judicial system. However, unfortunately, the necessary amount has not yet been reached to reduce the slowness of the procedural system.

According to Leonardo Romero da Silva Santos, (2019,.70), a family constellator trained by the Brazilian Society of Systemic Law, legal professionals still have an archaic view of conciliations. This is because the learning that most obtained during college had to do with professionals who were combative, those who could "take justice into their own hands".

From Leonardo's point of view, it is possible to continue practicing the profession of law and at the same time resolving conflicts more quickly.

It does not mean that the lawyer will stop

filing the lawsuit, performing his work and receiving fees. It is simply a conscious way for the professional to act, and moreover, with the client also as conscience, the entire responsibility for the case is not transferred to another party, making this process perhaps take years to be resolved, and it could be resolved in a more coherent and assertive way by the parties themselves, logically with the guidance and guidance of the lawyer, but in such a way that there is actually the execution of what was agreed by the interested parties. Because, otherwise, they are merely formalized agreements of the “mouth out”, not fulfilled and thus more and more lawsuits. (SANTOS, 2019, p. 71)

Moving to a perspective focused on the Judiciary, the judge of law Sami Storch, published an article in 2014, in his personal blog “direito sistêmico.wordpress.com”, called “Direito Sismático, whose title of the article is “Family Constellations in the Family Court enable agreements in 91% of the processes”, considering that the conciliation rates in which both parties participated in the experience¹ was 100%. Whereas, when only one of the parties participated, the rate became 91%. On the other hand, when neither of the two parties were present in the Family Constellation, it dropped to 73% of agreements made in conciliation.

Besides, according to data published in the book “Direito Sistêmico”: the awakening to a new legal conscience”, by Ana Cecília Aguiar et al, (2018, p.88), through an action idealized by Judge André Tredinnik, of the first of the Leopoldina Regional Forum, called “Constelações Project”, an approval result of 80% of those who went through the method was possible. The project brought together about three hundred procedural situations whose themes involved child custody and alimony.

The same book also points out (AGUIAR,

2019, p.89), that the magistrate Paulo César Alves das Neves, coordinator of the Permanent Nucleus of Consensual Methods for Conflict Resolution of the Court and creator of the project of the Court of Justice of Goiás, informed that in 2016, the result of conflict resolutions was approximately 94% with the use of the Family Constellation technique.

This way, it is proven, through data, that the Family Constellation increases the acceptance rate in agreements, thus bringing greater agility and efficiency to the Judiciary.

The family constellation is responsible for 76% of agreements in the TJDF family courts and is in the process of being discussed, through a bill, in the Federal Chamber. (ASCOM, 2018, p. 3)

Currently, there are already 16 Brazilian states plus the Federal District, where the Family Constellation is practiced in the Judiciary, according to research on the website of the National Council of Justice.

Journalist Cíntia Zache addresses therapist Laura Cavalcanti in her report, who has been working with Family Constellations for years and obtained very positive results applying this technique, which received a satisfactory compliment from a patient, see:

I got to know the Family Constellation through Laura. I was perhaps one of the first people to constellate with her, I have already participated in some workshops and I certainly recommend her. We live in a moment in life, when self-knowledge is liberating and allows us to live with more harmony and knowledge. The Constellation opens up our family field, our roots, our deepest identity with ourselves and with everything around us. It's a deep experience of love, which allowed me to see life in a broader way with more tools, made me understand how important and wonderful my Family Constellation is. Our ancestry is seen in the Family Constellation as a source from which we descended, and that the life

1 These are experiences lived by the constellates. Consultation carried out in a group to discover the origins of the family problem.

that came to us came through this beautiful source of much love. When we are faced with our ancestry, our clan, our roots, we realize how much we are connected to something very deep and strong. (ZACHE, 2019, apud MAIA, Delma, p. 4)

This way, we have seen that the Family Constellation method has been providing excellent results for the Judiciary, making it an additional tool for conflict resolution.

Due to the method having an excellent performance in the conciliation of family conflicts, the Systemic Constellation applied to the Judiciary is a way of helping and providing another efficient tool in the resolution of processes, quickly and consistently. Applying the law fairly and impartially, assisting the law and ensuring effective outcomes with mediation. (SILVA, 2019, p.86)

From all these analyses, it is easy to understand that Brazilian justice has the means to speed up its legal process, since the Family Constellation has great results in terms of conflict resolution.

CONCLUSION

As shown in the course of the research, the Law has been advancing and proposing new consensual methods of conflict to speed up the process. This way, the proposal to insert the Family Constellation as a method for conflict solutions arises.

Despite this, it was possible to perceive that the Family Constellation is a little known method and still little used in Brazil. This method, therefore, deals with a session in which the constellated person will have the opportunity to see where the negative points are in his life and seek to change them based on his own deductions in the face of what happened.

Despite being a very effective method, there is still prejudice with its use, since there is a common sense idea that the method is

mysticism or supernaturalism. And so, the doubt/problem of the work arises.

In this sense, we sought to provide knowledge of what science is so that we can try to frame the Family Constellation as such. However, during the course of the research, it was discovered that the term “science” is very broad and can generate several interpretations on the subject. Thus, the Family Constellation still without a defined concept so that it could be delimited and accepted within the Law.

So, as we delved deeper into the research, we came to the conclusion that the approach that best fits the Family Constellation is Phenomenology, a method much studied by the German Edmund Husserl.

Furthermore, the importance of the Family Constellation was demonstrated, since extremely positive data were presented, since the method was used several times by Justice assistants. And, therefore, as a proposal, the implementation of the method as a public policy was sought.

This way, it became clear that the Family Constellation must be applied in all Brazilian Courts of Justice, since it is an additional tool to speed up and positively extinguish judicial disputes. This is because it aims to resolve not only the judicial conflict, but also proposes a real solution, going deeper into the roots of the problem.

The present work is concluded by verifying that the use of this method is a promising way of advancing and agility to the great demands that the judiciary receives daily.

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