



Psychology and Market. Commentary on: “Psychology profession, clinical psychology, psychotherapy. Specificities and boundaries”

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Abstract

This study builds upon the methodological framework established by Castelnuovo *et al.* (2023) to analyze the influence of the intervention context (market) on professional psychological practice. Despite ongoing efforts to define psychologist, clinical psychologist, and psychotherapist roles, we argue that these definitions are insufficient to safeguard both professional practice and client well-being. Regulatory frameworks contained by intervention contexts can create conditions that limit the scope of psychological practice. This limitation stems from the introduction of “other players” and the roles assigned to them by regulations. This can lead to a concerning marginalization of core psychological functions, such as diagnosis. We demonstrate that intervention context significantly impacts the profession’s scope, influencing crucial aspects like the diagnostic function. The legal context is presented as a specific example for further discussion.

Keywords: Psychology Profession, clinical psychology, psychotherapy, forensic psychology.

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Introduction

This paper builds on the work of Castelnuovo *et al.* (2023) and adopts their methodological framework to analyze the practice of psychology. We believe that some of the topics addressed have remained in the background and deserve to be brought to the forefront.

The Italian Order of Psychologists' request for an opinion underscores the dual importance of professional protection and upholding ethical standards¹. This ethical framework, known as deontology, safeguards the quality of clinical psychology and psychotherapy services for clients.

This need arises from the turbulence in the professional landscape, impacting psychology like many other fields. This turbulence necessitates a systematic reevaluation of the scope of practice, which in turn has clear consequences for required professional competencies. It is no coincidence that university educational systems have adapted to greater flexibility in the construction of professional paths, precisely with the 3+2 model to which psychology itself belongs. The 3+2 model, where students earn a bachelor's degree in three years followed by a master's degree in the following two years, exemplifies the growing trend in universities to offer more flexible paths to professional careers. This model is particularly beneficial for psychology students, as the additional two years allow them to finalize their skillset for the job market through specialization. The coursework during these years is enriched by contributions from disciplines beyond psychology but remains relevant to the overall professional field.

This increased flexibility has emerged in response to labor market demands and has led to the adoption of interdisciplinary criteria in the training of professional profiles, resulting in a cross-pollination of skills among professionals operating in the same markets. The examples are numerous: law firms engaging in real estate brokerage despite the existence of real estate agencies, psychologists providing educational services (e.g., homework assistance), clinical pedagogists,

¹ The Italian Order of Psychologists is a national society that regulates the profession of psychologists. It sets professional standards, provides certification and licensure, and works to ensure the quality and ethical practice of psychology in Italy. It is recognized by the Italian government.

medical engineers entering operating rooms with robotic equipment, dentists who are no longer graduates in medicine, etc.

Within this framework, referencing the normative framework of laws, ministerial circulars, and diverse documents issued by the Italian Order of Psychologists becomes an imperative requirement as it can establish an unambiguous baseline for the range of professional practice across diverse markets.

In this sense, we share the attention given to the «a) *sectoral technical skills* – relating to the specificity of the problems/phenomena on which one is intervening – for example: a motivational interview and a psychodiagnostics assessment interview share methodological and technical aspects (e.g., models for interpreting the question) but require different conducting criteria, due to the context in which and according to which they are exercised (purposes, organizational conditions); b) *interface skills* – relating to knowledge of the organizational-institutional frameworks of intervention (e.g., norms, standards, lines of development, organizational models and dynamics, timelines) – for example: a psychologist who intends to work in the legal context needs to know the qualifying standards of expert witness texts, the procedures in which they are embedded, the way they are interpreted and used by commissioners, and the implications potentially associated with them» (Castelnuovo *et al.*, 2023, p. 11).

In our opinion, it is precisely these latter aspects that create challenges for the professional system. While the legal framework that establishes and regulates the profession is important, equally important is the regulatory framework that governs the markets and contexts within which the profession is practiced. In fact, challenges can arise when the psychological profession intersects with other professional systems that operate within the same market or context.

Therefore, it can happen that psychological interface skills may undermine the strength of the *sectoral technical skills* inherent in the psychological profession, to the advantage of other players (other professional systems) operating in that market. In other words, *sectoral technical skills* may lose their relevance, leading to a loss of market share due to the regulatory systems governing them. Focusing on navigating regulations, at the expense of the professional knowledge produced by practice, might overshadow the unique technical expertise psychologists offer, leading to a loss of market share.

These aspects deserve greater attention and further examination, as they can significantly impact the development or regression trajectories of the psychological profession as a whole, and particularly of clinical psychology and psychotherapy. In this paper, we will not propose abstract hypotheses but will present concrete cases drawn from the professional experiences of the authors.

We will argue that despite ongoing efforts to establish clear definitions for the professional roles of psychologists, clinical psychologists, and psychotherapists, these clear definitions are inadequate to protect professional practice and the client. This is because regulations governing intervention contexts can establish conditions in which – to paraphrase the cited authors – “the more not includes the less” or the whole does not encompass the parts but, on the contrary, the parts exert an influence on the whole psychology practice.

Cartabia Reform: Child Hearing

Italy’s Law No. 206 of November 26, 2021, aimed at reforming the judicial system, significantly impacted family law and child protection. Notably, it established the role and functions of the child’s attorney².

In particular, the child’s attorney is tasked with: a) ensuring the representation and defense of the child in court; b) informing the child about their rights and duties as well as the procedures of the process; c) listening to the child’s opinions and considering them in the execution of their mandate; d) promoting the best interests of the child; and e) collaborating with the special curator and other professionals involved with the child.

These tasks thus take shape in the actions and acts related to civil procedure; the issue of child listening and testimony straddles both

² The Cartabia Reform, named in honor of the former Minister of Justice in the Draghi government, Marta Cartabia, aims to optimize the efficiency of the Italian civil and criminal process. This reform not only addresses procedural dynamics but also introduces a progressive enhancement of the digitization process. This reform aims to reduce the duration of civil and criminal proceedings to meet the commitments made by Italy regarding the National Recovery and Resilience Plan (PNRR), specifically the reduction of the average process duration by 25% by 2026.

legal and psychological domains. Contributions in this area come from various psychology branches, including clinical, developmental, and social, each with expertise in both their specific areas and in interfacing with the legal system. Consider, for example, the procedures for protected hearings and the methods of conducting evidentiary hearings.

The scenario to which the Cartabia Reform refers places greater emphasis on the role of the child's attorney. It is now widely recognized in the Western world that minors must be educated and cared for in a manner that respects universally recognized rights and aligns with their individual aptitudes and aspirations. These principles are grounded in the Italian Constitution and the United Nations Convention on the Rights of the Child, adopted on November 20, 1989, and ratified by Italy with Law No. 176 on May 27, 1991. Article 12 of the Convention requires member states to assure that minors who are capable of forming their own views have the right to express their opinions freely in all matters affecting them. In adherence to these references, the supranational regulations specifically recommend listening to the minor: in adoption proceedings, the minor's wishes, opinions, and consent must be respected – Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993); in the 2019 Regulation No. 1111 of the Council of Europe, it is stipulated that judicial authorities, when exercising their competence in matters of parental responsibility, must ensure that minors have a concrete and effective opportunity to express their opinions either directly, through a representative, or through an appropriate body (e.g., social services).

Furthermore, the Charter of Nice (2000) recognizes the right of minors to freely express their opinions, which must be duly taken into account according to their age and level of discernment.

This scenario in the civil law context has thus resulted in:

- *Article 473-bis, 4 of the Code of Civil Procedure (Child Hearing)*. A minor who has reached the age of twelve, or younger if capable of discernment, shall be heard by the judge in proceedings where measures affecting them are to be adopted. The minor's opinions must be taken into consideration with regard to their age and level of maturity.

- *Article 473-bis, paragraph 5 of the Code of Civil Procedure (Methods of Hearing)*. The hearing of the minor is conducted by the judge, who may be assisted by experts and other auxiliaries. If the proceeding involves multiple minors, the judge shall generally hear them separately. The hearing is scheduled at times compatible with the minor's school commitments and, where possible, in suitable and age-appropriate locations, including venues outside the courthouse. Before proceeding with the hearing, the judge informs the parents, those exercising parental responsibility, their respective legal representatives, and the special curator of the subjects to be addressed. They may propose topics for further examination and, with the judge's authorization, participate in the hearing. Taking into account the age and level of maturity of the minor, the judge informs them of the nature of the proceeding and the implications of the hearing, and conducts the hearing in a manner that ensures the minor's peace of mind and confidentiality. A minor who has reached the age of fourteen is also informed of the possibility of requesting the appointment of a special curator pursuant to *Article 473-bis, paragraph 8*. An audiovisual recording of the minor's hearing is made. If, for technical reasons, recording is not possible, the minutes shall provide a detailed description of the minor's demeanor;
- *Article 473-bis, paragraph 45 of the Code of Civil Procedure (Hearing of the Minor)*. The judge personally and without delay conducts the hearing of the minor as provided by *Articles 473-bis, paragraphs 4 and 5*, avoiding any contact with the person identified as the perpetrator of abuse or violence. The hearing is not conducted if the minor has already been heard in another proceeding, including criminal proceedings, and the findings from that hearing have been entered into the record and are deemed sufficient and comprehensive.

The issue of the capacity for discernment thus becomes a crucial point of discussion between psychological and legal sciences, as it highlights the importance of interface skills. It cannot be ignored that psychology has provided a significant contribution in this regard, particularly when Piaget's (2013) theories on cognitive development somehow align with *Article 97 of the Italian Penal Code*, which states

that “minors under the age of fourteen are never criminally liable” and with *Article 98 of the Italian Penal Code*, which states that “a person who, at the time of the act, was fourteen years old but not yet eighteen, is criminally liable if they had the capacity to understand and to will”. This principle underscores the legal system’s recognition of a limited mental capacity in children under this age, hindering their ability to fully comprehend the nature and consequences of their actions³. Consequently, they are not held criminally responsible for their offenses. But, in civil matters, these aspects become less clear.

If Camerini and Pingitore (2023) emphasize the lack of a shared definition of ‘*capacity for discernment*’ between legal and psychological sciences – a crucial aspect – we focus on the existing regulations that allow a minor to be heard by three different actors in the same context: the child’s attorney, the judge, and the judge’s auxiliary (Pasanante & Tucci, 2024).

This regulatory framework stands in contrast to the well-established Noto and Venice Charters, which advocate for minimizing child interviews in all types of proceedings. Similarly, it deviates from the guidelines issued by various Italian professional organizations, including those specializing in forensic psychology.

It is worth emphasizing that the Noto Charter and Venice Charter (Scolari, 2016) along with various professional guidelines, represent the culmination of a collaborative dialogue between legal and psychological studies⁴. Their primary objective is to enhance the reliability of children’s statements in legal proceedings, taking into account the

³ It refers to the maturation of cognitive and affective functions, the progressive development and refinement of these mental abilities. This progressive development is critical for overall psychological well-being and effective functioning in various aspects of life.

⁴ Noto Chart, which consolidates the guidelines for the investigation and psychological examination of minors, emerged from the interdisciplinary collaboration of magistrates, attorneys, psychologists, psychiatrists, child neuropsychiatrists, criminologists, and forensic medical professionals during the Conference on "Child Sexual Abuse: Roles and Responsibilities" held in Noto from June 6 to 9, 1996. The Noto Chart has been subjected to numerous updates throughout its existence, driven by advancements in scientific understanding. Venezia Chart he is the product of an interdisciplinary collaboration of lawyers, psychologists, psychiatrists, child neuropsychiatrists, criminologists, and service providers who came together to draft the Venice Protocol on forensic diagnosis of collective sexual abuse.

unique developmental and psychological considerations of minors. These guidelines embody the recognition that children's cognitive abilities, emotional processing, and memory formation differ significantly from those of adults. Consequently, legal proceedings must be adapted to accommodate these developmental differences to ensure the accuracy and trustworthiness of children's testimonies.

While judges and lawyers are undoubtedly well-versed in legal matters and procedures, their training and experience may not adequately equip them to delve into the complexities of child development and psychology. This can lead to challenges in accurately interpreting a child's behavior, statements, and underlying motivations.

A judge and lawyer typically lack knowledge about the various forms of primary and secondary narcissism, as well as an understanding of developmental psychology. They are even less capable of comprehending and evaluating a child's psychological reality, including their behavioral and declarative outcomes. This is because psychology bases its science on differentiating between common sense and psychic reality.

Psychology has developed tools capable of capturing psychic reality and its developmental trajectory: in other words, psychology is able to discern that a child's statement such as "I want to be with Mom", "I want to be with Dad" can be the result of a narcissistic stage of development – as Freud himself indicated in the anaclitic model – a conflicted condition, opportunistic behavior, manipulation, etc.

If we imagine that the three different stakeholders may, for various reasons or purely procedural ones, overlap in terms of their role in listening, then it is possible to imagine encountering divergent opinions. Conversely, some opinions may align with each other: for example, it is more likely that the judge's opinion may align with that of the child's attorney to the extent that they share a legal professional framework.

In such cases, it is evident that *the lesser absorbs the greater*, whereby sectorial technical skills lose value, as the professional opinion of a technician is absorbed and depleted by the logic of legal system, where the judge is '*peritus peritorum*,' that is, the expert of experts.

Hence, when the judge constructs their own conviction, this conviction maintains an element of unparalleled strength within our legal

framework. For example, in situations of parental disagreement concerning their child's educational placement, the minor's legal representative, appointed to advocate for the child's interests in court proceedings, is obligated to ascertain the child's preferred school environment in preparation for upcoming hearings. Coinciding with this inquiry, the child may also be undergoing a formal technical evaluation of parental competence. This overlap in timelines raises the strong likelihood that the child's educational preferences will become a relevant aspect of the official technical assessment (psychologist). Consequently, there may be instances where the child's attorney and the psychologist reach disparate conclusions and exhibit divergent perspectives.

In the case of the minor's attorney and the judge, dialogue will be more straightforward as they utilize the same categorical professional framework. Conversely, the psychologist will struggle to convey their thoughts and integrate them into a legal framework. Therefore, the judge and the minor's attorney, lacking expertise in recognizing manipulative relational systems, the vulnerability to the child's suggestion, and the experience of guilt associated with the tower game (choosing between mother and father due to conflict), could only operate according to a legal logic that, in any case, remains anchored to common sense, where psychic reality coincides with the statements made. Therefore, it will be easy for them to label this condition as conflictual, forgetting that resorting to the court inherently involves a conflict between the parties. In this case, the psychological expert witness risks remaining isolated due to advocating a professional logic where common sense and psychic reality do not coincide. The psychologist's opinion risks being assimilated into legal logic, potentially neutralizing sector-specific technical competencies applied within the framework of legal context and existing regulations. For this reason, in our opinion, it is often stated in psychological assessments that "*the spouses have communication issues*" and "*they are a conflicted couple*" that are manifestations of the common sense.

Such expressions serve the sole purpose of making a futile attempt to develop a "*sort of competence*" to navigate a legal context by trying to speak the same language as legal professionals. These operational methods lead to a depletion of the psychological function in the medium and long term due to the abandonment of technical-professional

competencies. This results in a loss of distinctions between the professions involved, with psychology emerging as the weaker party.

The landmark decisions of the Italian Supreme Court, Cassation n. 10776/2019 and n. 1474/2021, have marked a significant shift in the legal landscape, extending the possibility of hearing children below the statutory age of 12 in matters that directly impact their lives, such as decisions regarding education, sports, and other personal choices. This expansion of child hearings reflects a growing recognition of the importance of children's voices and their right to participate in decisions that affect their well-being.

In addition, the Cartabia reform provides that lawyers for minors, guardians of minors, and technical consultants must be professionals specialized in this field, to the point that it also provides for the establishment of specific registers.

Therefore, it is conceivable that lawyers and judges could enhance their competencies through continuing education courses, conferences, and other forums. These opportunities would enable them to acquire knowledge and skills relevant to the psychological profession, including techniques for listening to minors, developmental theories, methods for gathering testimony, understanding family dynamics, and more.

The psychological services market is demonstrably experiencing a transformation. This transformation is significantly influenced by the regulatory power of the legal framework, which can impact the ability of professionals to exercise their technical skills within the sector. As observed, these skills appear to be homogenizing among various players, diminishing the distinctiveness associated with the psychological profession. In this scenario, psychology risks losing a service function within the legal context that it has painstakingly built up over the years.

Diagnosis, Psychopathology, and Assessment of Parental Capacity

We propose another example to make it clearer how regulatory systems in contexts can impact and restrict the exercise of psychological function.

The right to parenthood of psychiatric patients balances two

interests: maintaining contact with their child to safeguard the patient's emotional resources and protecting the child from exposure to the parent's mental disorder.

The presence of psychopathologies in a parent does not automatically justify deviating from shared custody, as the judge must prioritize shared custody and ensure the right to both parents unless circumstances dictate otherwise. The Italian Supreme Court of Cassation (Cass. civ., 09.01.1998 n. 120) has ruled that parental mental deficiencies do not automatically equate to parental inadequacy, which must be established on a case-by-case basis. Assessment of parental abilities must consider the specific situation and timeframe, avoiding automatic correlations between psychopathology and parental incapacity. This approach is supported by various rulings, including *Court of Milan, Sez. IX, Decree 27.11.2013*; *Courte of Velletri, Judgment 18.01.2018, n. 74*.

This jurisprudential orientation has led many psychologists to refrain from making diagnoses, even when there were conditions present that could warrant the certification of a psychopathological condition, due to the legal system's perceived irrelevance of such aspects.

The perceived irrelevance of psychopathological conditions in parental capacity assessments has been a subject of significant debate among psychologists, legal professionals, and other stakeholders. Solely providing detailed personality descriptions in psychological evaluations without a corresponding diagnostic label raises concerns about adhering to the fundamental principles outlined in Article 1 of Law 56/89, which governs the psychology profession in Italy and emphasizes diagnostic competence.

This trend is concerning as it diminishes the value of personality descriptors by severing their connection to the nosography categories established in diagnostic manuals (DSM V TR; ICD-11, PDM-2).

Once again, we witness the devaluation of specialized expertise due to its underutilization or, even worse, its partial application.

Furthermore, psychology has largely overlooked the unifying power of diagnostic manuals. Regardless of their theoretical orientation, psychologists tend to readily recognize diagnoses within the framework presented by these manuals. The different theoretical models lose consistency within diagnostic manual.

In such a scenario, the psychologist can only work to either refute

the existing diagnosis by proposing an alternative diagnosis or by certifying an improvement in the patient's condition. This unifying aspect of diagnosis grants psychology a position of strength in the market, as it operates within a universally recognized system with clear professional boundaries, enabling the transcendence of divisions within the field (Salvatore *et al.*, 2022).

Working on personality traits independent of diagnostic categories involves, lead to overly simplistic or vague descriptions of individuals, such as labelling someone as “*infantile*” or “*immature*”.

It should be noted that “*infantile*” and “*immature*” are not psychological categories but rather educational ones, consistent with common sense. Furthermore, it is important to recognize that these terms may be symptomatic of a narcissistic personality disorder. These operational modes, over time, may marginalize the psychological profession within a legal context that is inherently positivist, favouring the construction of truths aligned with common sense. The absence of a diagnosis, in fact, opens the door to mere differences of opinion regarding personality descriptors, where the diverse methodologies of psychological schools' reign supreme, precluding any form of verification and labelling psychological science, as an inexact science, a “relativistic science”.

This aspect becomes particularly critical when considering its future implications. It suggests, for instance, the possibility that the psychological structure of an individual can be assessed, to some extent, by observing a series of life events. This could potentially empower other professions, such as pedagogists, to delve into evaluations of parenting skills based on educational criteria. Consider the recent approval of the draft law on “Provisions concerning the regulation of pedagogical and educational professions and the establishment of the respective professional registers” – DDL S. 788.

Indeed, from a strictly psychological perspective, it cannot be denied that a pathological structure significantly impacts parental functions, as defined by scientific literature as outlined by Vicentini (2003)⁵.

⁵ According to review study of Visentini (2003), parental functions are: protective function affective function, regulatory function, normative function, predictive function, meaningful function, representational and communicative function, triadic function.

Failure to utilize diagnostic categories in the evaluation of parental capacity implies the disregard of potential predictors of parenting competence, not only for the parent with the diagnosed pathology but also in relation to the other parent (co-parenting function). The absence of diagnostic categories in forensic reports, coupled with an overemphasis on personality traits, often renders these reports scientifically incoherent and incongruent. This stems from the abandonment of specialized expertise under pressure from regulatory systems governing these contexts. Inevitably, this reinforces the position of other professional systems operating within this domain.

Conclusion

It is worth emphasizing that our discussion of the provided examples could be reductively interpreted as a mere conflict between norms or as a divergence in regulations across the various fields where psychology intersects with law.

While the considerations hold validity, it is crucial to acknowledge that the professional practice contexts and markets are themselves governed by specific norms that regulate the actions of various stakeholders.

As we have demonstrated, psychological intervention contexts can significantly impact the scope of the profession itself, influencing crucial aspects that define psychological practice, such as the diagnostic function.

While our focus in this work has been exclusively on the legal context, we believe that there are numerous other sectors where regulatory systems constrain the practice of psychology, potentially even undermining its foundations and challenging the profession's technical expertise.

The entire psychological community (academia, scientific associations, private practitioners) should pay close attention to the relationship between psychology and the market, drawing valuable lessons from the historical experience that led to the establishment of the psychologists' register and the subsequent responses from related professions such as psychiatry.

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