

# Scientific Journal of Applied Social and Clinical Science

## CONSENSUS PRACTICES ADOPTED FOR THE SOLUTION OF LEGAL AND FAMILY CONFLICTS WITHIN STATE COURTS

---

### *Dirce do Nascimento Pereira*

PhD in Law from the institution: Pontifícia Universidade Católica do Paraná (PUCPR). Adjunct Professor of the Bachelor's Degree in Law at the institution: Universidade Estadual de Ponta Grossa (UEPG). Permanent Professor of the Stricto sensu Graduate Program in Law at the institution: UEPG. Ponta Grossa. Paraná. Curriculum lattes: <http://lattes.cnpq.br/9407519980824473>

### *Janaina Aparecida Pires do Nascimento*

Master's student in Law at the institution: Universidade Estadual de Ponta Grossa (UEPG). Lawyer. Ponta Grossa. Paraná. Curriculum lattes: <http://lattes.cnpq.br/1258655566398607>

### *Zilda Mara Consalter*

PhD in Civil Law from the institution: Universidade de São Paulo (USP) Adjunct Professor in the Bachelor of Law Course at the institution: Universidade Estadual de Ponta Grossa (UEPG). Permanent Professor of the stricto sensu Graduate Program in Civil Law UEPG. Legal Adviser. Ponta Grossa. Paraná. Curriculum lattes: <http://lattes.cnpq.br/5471268018863867>

All content in this magazine is licensed under a Creative Commons Attribution License. Attribution-Non-Commercial-Non-Derivatives 4.0 International (CC BY-NC-ND 4.0).



**Abstract:** The family is a locus of ongoing relationships permeated sometimes by affection, sometimes by clashes. Faced with the complexity that emerges from these marital and/or parental connections, it is necessary to adopt consensual practices that encompass this tangle of legal, sociological and psychological issues, so that the parties involved can have autonomy in decision-making. The research problem consists of identifying, within the scope of legal-family conflicts, which consensual practices have been made available by the Brazilian Courts of Justice and whether these practices are properly regulated, whether in terms of methodology, training and qualification of professionals. The logical-deductive approach method was adopted based on the indirect documentary technique, and in the legal field, legislative and doctrinal ones were used, and in the statistical plane, existing data extracted from official bodies were collected and used. As a result of the research, it was found that the Courts of Justice have been adopting Restorative Justice, the Divorce and Parenting Workshop and the Family Constellation as self-compositional tools aimed at resolving family disputes. It was found that the first two practices are duly regulated, but the Family Constellation does not have specific regulation, with criticisms, among other factors, due to the lack of scientific knowledge, methodological regulation and criteria for training and training of working professionals. The proposal is to promote actions by the Judiciary, in order to encourage, support and disseminate the systematization of duly regulated consensual practices (Restorative Justice and Divorce and Parenting Workshop) and, on the other hand, to make efforts to scientifically investigate the use of the Family Constellation to – depending on the result of the investigation – regulate what has not yet been applied and improve what has already

been applied, in order to endorse or not its application under the scientific bias.

**Keywords:** Family issues, Restorative justice, Workshops, Constellations.

## INTRODUCTION

With the transformation of the family, the previously existing clashes, which accompanied this whole journey, demonstrate that conflicts are inherent in human relationships and there is no way to live harmoniously all the time, whether within this social microclan (family), or in the larger clans, in which one necessarily lives together: school, work, church, politics, society, State, among others.

So, based on the premise that conflicts touch relationships, there are, among those, those that are managed by those involved themselves. However, many of them go beyond the parties' coexistence space and are taken to the analysis and solution of the Judiciary, which currently can offer options to jurisdictions, in addition to the conventional vertical decision.

This plurality of options, in the Brazilian context, is corroborated by Resolution 125/2010 (National Council of Justice, 2010), which establishes the public policy for the adequate treatment of conflicts, as well as by the Code of Civil Procedure (BRAZIL, 2015-A), which expressly encourages consensual solutions, in addition to Law 13,140/2015 (BRAZIL, 2015-B), which provides for mediation as a means of resolving disputes.

At the international level, the necessary promotion of peaceful and inclusive societies for sustainable development and the guarantee of access to justice for all remain inserted in the Sustainable Development Goal (SDG) number: 16, of the United Nations (UN, 2015), whose agenda is intended to be implemented in Brazil by 2030.

Thus, it is important to say that this normative framework supports and subsidizes

the application of self-compositional methods of dealing with that class.

Faced with the complexity of family conflicts, which are permeated by underlying issues that surpass the legal field, it is important that the treatment provided involves the participation of other areas of knowledge that can also contribute to the peaceful resolution of conflicts. And in this sense, it is relevant to verify which are the consensual methods aimed at the family harvest that are made available to those under jurisdiction, within the scope of action of the Courts of Justice (Court of Justice), bodies of the Judiciary that have the competence to prosecute and judge the majority of legal-family disputes.

In view of the described context, the research problem that is now proposed consists of identifying, within the scope of legal-family conflicts, which consensual practices have been made available by the Brazilian Court of Justice and whether these practices are duly regulated, whether with regard to the methodology, education and training of the professionals who conduct them.

And so, the general objective of the investigation is to identify which compositional practices to resolve conflicts in the sphere of Family Law are being adopted by the national Judiciary, and if they are properly regulated. Therefore, the theoretical contribution related to the transformation of families, as well as the legal-family conflict, is based essentially on the theoretical contributions of Cândido Rangel Dinamarco, Giselda Maria Fernandes Novaes Hironaka, Jean Carbonnier, João Baptista Villela, John Gilissen and John Paul Lederach, in addition to referential contributions extracted from the specialized doctrine about self-composition methods resulting from research carried out by the World Wide Web, whose methodology will be presented in due course.

It must be noted that the research was

developed under the method of approach that favors logical-deductive precepts, starting with the presentation of a general panorama about the transformation of the family and legal-family conflicts, followed by the mapping of the self-compositional methods with greater recurrence in the family area and in the sphere of action of the Court of Justice to present the main characteristics of the consensual practices resulting from the research, whether with regard to methodology or the (in) existence of normative support to culminate in the discussion about the collected data.

And to implement the aforementioned scientific method of approach, all stages of the research - which is of an eminently theoretical nature - were developed based on the indirect documentary technique, and in the legal field, legislative and doctrinal nature were used, and On a statistical level, existing data extracted from official bodies were collected and used, with no direct documentary research in the field.

## **FAMILY ARRANGEMENTS OVER TIME**

The family is a natural and customary phenomenon, as “what we wanted to see in the family was, above all, a phenomenon of customs. As a legal phenomenon, only by accident”. (CARBONNIER, 1979, p. 211). However, in a more rudimentary way or not, the family has always been subject to regulations.

From the Code of Hammurabi (Babylon, 1700 BC), through Rome (563 AD) to the Universal Declaration of Human Rights (UN, 1948), article 16, item 3: “The family is the natural nucleus and fundamental part of society and is entitled to protection by society and the State”. In the same sense, the American Convention on Human Rights (ACHR, 1969) in its article 17 establishes: “The family is the natural and fundamental element of society

and must be protected by society and by the State”.

And despite the normative forecast, only recently has legislation started to protect the family (GILISSEN, 2003). For example, in Brazil, in the Civil Code of 1916, what prevailed was primogeniture, bastardy and illegitimacy; paternal power as a rule, the incapacity of married women, the legal valuation of religious marriage, the separation and its deleterious effects (especially for women), the prohibition of divorce, Family Law focused primarily on property issues and unconcerned with the people.

With the advent of the Constitution (BRAZIL, 1988), the provision of protection for the family at the domestic level became a reality. The patriarchal family model gave way to the plural recognition of family entities, which led to a profound change and the necessary re-reading of the content originally codified by the then-current Family Law.

In the current Civil Code (BRAZIL, 2002), formal marriage was disciplined with numerous rules, assumptions and requirements as the desired portrait for marital and cohabiting unions, failing, on the other hand, to address issues such as, for example, biolaw, assisted reproduction and homosexuality.

This is because, for more than 40 years, Villela's doctrine (1980, p. 680) already stated that the family model had to be “[...] open, that is to say, inspired by freedom. If it is not to summarize too much, the golden rule may be to attribute to the State the guarantee and to the man the construction of the family”. In the same vein, Perlingieri (2002, p. 244) also asserted that “each family form has its own legal relevance, within the common function of service to the development of the person; one cannot, therefore, assert an abstract superiority of the nuclear family model in relation to the others”.

In fact, there is no way to conceptualize family for the Law, without placing it inside a hermetically closed box and, this way, closing “the eyes to a countless number of social facts that are essentially representative of the family, but that sometimes do not would fit in the cold letters of any wrapper of positive Law” (HIRONAKA, 2015, p. 53).

In this task of rethinking the legal organization of families, under penalty of repeating historical injustices, the macro principle of human dignity, in addition to revolutionizing the entire national legal system, contributed to the incorporation and elevation of the value of the family to the category of constitutional principle: he brought to the center of the legal scene the appreciation of the subject and the humanity that is in each person. With this, it is better understood that in legal-family relations, the object cannot overlap with the subject. The patrimonial and formal aspect cannot overcome the subjective and human.

It is in this context that Family Law reinvents itself and becomes Family Law, sheltering endless family conformations.

Alongside the modification of the family, there was a change in the roles played by its members and, consequently, the conflict gained a new guise to accommodate new characters, different rhetoric and different ways of managing these conflicts.

Faced with this transformation, it is necessary to rethink the way these conflicts are received and managed by the Judiciary. In addition to the vertical resolution of the conflict, through the judicial sentence, there is the possibility of adopting self-compositional methods, appropriately to the peculiarity of each dispute.

In order to map the most recurrent consensual methods used by the Brazilian Judiciary in the context of family conflicts, research was carried out with a focus on the

state Court of Justice, to identify the options available to the parties with a view to the consensual solution of the conflict.

## **COMPOSITIVE MEASURES AND THE BRAZILIAN COURTS**

Statistical research was carried out at the state level (Courts of Justice), considering that family conflicts are mostly sued there. Based on this geographic delimitation, as well as the competence due to the matter, the time frame was established, between 2010 and 2022, since in that year Resolution 125/2010 of the National Council of Justice (2010) came into force. The data collection was carried out by the World Wide Web (internet) during the month of January 2023 using the research platform (GOOGLE, 2023), as well as on the official websites of the 27 (twenty-seven) Court of Justice of Brazil following the methodology described below.

Initially, all the following words were searched: methods, consensus, solution, conflicts, family members and the expression “court of justice”, excluding the words: “mediation” and “conciliation” from the query (the objective of this first search was to verify which methods consensus are adopted, except for mediation and conciliation, which are mechanisms already regulated and widely used).

The following resulted, cited here as examples: Workshops for Parents and Children (Court of Justice, 2016); Parenting Workshop (Court of Justice, MT, 2016); Family Constellations (Court of Justice, AL, 2018); Restorative Justice (Court of Justice, MG, 2021-B).

Based on these results, a second search was carried out on the official websites of the 27 (twenty-seven) Court of Justice, as well as on the GOOGLE search platform (2023), using the following expressions as a parameter: “Restorative Justice”, “Restorative Practices”.

restorative”; “Family Constellations”; “Family Constellation”; “Systemic Constellations”; “Systemic Constellation”; “Systemic Law”; “Parenting Workshops”; “Divorce and Parenting Workshops”; “Fathers and Sons Workshops” and “Fathers and Mothers Workshops”.

All the results obtained were analyzed to verify the use of the aforementioned consensual practices in the family sphere, excluding the hypotheses of application in other areas of Law, such as, for example, criminal and Consumer Law. Records of lectures, workshops, courses and meetings with the theme were excluded. Practices were included that portrayed developed projects, published normative acts, as well as precise information regarding the application of the mentioned consensual methods, within the family scope.

With regard to Restorative Justice, the work developed by the NATIONAL National Council of Justice (2019-A, p. 20) was used as a complementary source of research, which mapped the Restorative Justice Programs with data referring to the respective areas of application up to 2019.

As for Restorative Justice, it can be seen that in 8 (eight) Court of Justice there is no record of its application in the context of family conflicts, namely: Ceará (Court of Justice), Federal District (Court of Justice), Paraíba (Court of Justice, PB), Pernambuco (Court of Justice), Rio Grande do Norte (Court of Justice), Rondônia (Court of Justice), Roraima (Court of Justice) and Santa Catarina (Court of Justice), therefore being adopted in approximately 71% (seventy-one) percent of the state courts in Brazil.

Continuing the investigation, an indication was sought of which Court of Justice apply or not the Divorce and Parenting Workshop. From this data collection it was found that in 7 (seven) Courts of Justice there is no record of



the use of the mentioned practice within the scope of competence of the referred Courts, namely: Acre (Court of Justice), Alagoas (Court of Justice), Pará (Court of Justice, PA), Paraíba (Court of Justice, PB), Piauí (Court of Justice, PI), Roraima (Court of Justice, RR) and Sergipe (Court of Justice), and is therefore currently used in approximately 74% (seventy-four) percent of courts in Brazil.

With regard to the Family Constellation, it can be seen that in 7 (seven) Court of Justice there is no record of the application of the aforementioned practice in the context of Family Law, namely: Acre (Court of Justice, AC), Amazonas (Court of Justice, AM), Espírito Santo (Court of Justice), Paraíba (Court of Justice), Sergipe (Court of Justice), Tocantins (Court of Justice) and Roraima (Court of Justice), demonstrating that the Family Constellation is used in approximately 74 % (seventy-four) percent of state courts in Brazil.

Well, having done this drawing of the current scenario, the next section will contextualize the methodology of each of the consensual practices mapped from the specialized literature.

## **EFFECTIVE ADOPTION OF THE COMPOSITION IN FAMILY WORK**

Conflict can be considered as the “objective situation characterized by an aspiration and its state of non-satisfaction, regardless of whether or not there are opposing interests” (DINAMARCO, 2003, p. 140-141, note 151).

Still under the broad prism of the conflict, it is possible to visualize it under the negative aspect since for a long time it was seen “as something to be immediately denied, expurgated and peremptorily eliminated” (TARTUCE, 2015, p. 14), consisting of the personal distance between the parties and the absence of compromise between them. However, conflict can also be seen from a

positive perspective, considering that “it is something normal in human relationships”, and can be understood as “an engine of change” (LEDERACH, 2012, p. 17).

In Family Law, to all these perspectives can be added the tangle of feelings and emotions that manifest themselves due to the breaking of affective ties, unsatisfactory relational experiences and the need to maintain a bond due to affiliation. These are just some exemplified hypotheses, which go beyond the legal aspect, to also cover sociological and psychological aspects, which contribute to increase the complexity of the conflicting situation within the family.

In the family area, conflict does not install itself suddenly, it normally represents “a construction over time and relational experiences”, based on a “sum of personal dissatisfaction, things not said in a timely manner, repressed emotions, disinterest, constant neglect, betrayal or sabotage of the established life project” (NAZARETH; GUEDES-PINTO; VILELA, 2009, p. 30).

In this path, the research carried out in this essay portrays the current panorama of consensual practices, adopted by the Brazilian Judiciary Power, aimed at parties that are experiencing a family conflict. And the diversity of self-composition methods demonstrates the multiplicity of actions and approaches by different areas of knowledge, however complementary, which enable the parties to manage their own conflicts in a consensual way.

In this context, it is proposed to point out, below, the methodology used for the development of the most recurrent consensual practices, within the family, as well as to investigate the respective normative apparatus that underlies the application of the self-compositional methods contained in this research.

## SEARCH FOR THE RESTORATION OF FAMILY TIES

The pioneering spirit of Restorative Justice is attributed to Howard Zehr (2015) who, from the end of the 1970s, started to systematize this practice, promoting in the United States, the first program of victim-offender encounters (initially in relationships arising from the practice of crimes), directing attention to the “needs of those harmed, those who caused the harm and the communities where the situation occurred” (ZEHR, 2015, p. 33). (already highlighted).

However, based on meeting the needs and still seeking the responsibility of the parties involved in the conflicts, it also began to contemplate family relationships. It turns out that, unlike hypotheses arising from the practice of crime, in the family field, roles are not precisely delimited, since family members experience a relationship of continuity, in which these positions are alternated and, thus, as the conflict itself “passes to be a constant in the lives of the family members involved” (BOURGUIGNON; ORTH, 2018, p. 87).

Thus, in the family area, approaches called Peacebuilding Circles (PRANIS, 2010, p. 19) are adopted in order to allow the construction of consensual solutions that provide opportunities for dialogue and stimulate the manifestation of feelings and emotions, enabling the formation of a safe environment for the parties.

The consensual practice includes the so-called consensual decision-making process, which, although it is a desirable result, does not always portray a possible outcome, since all parties need to consider that their needs were met at the time of formalizing the agreement. Only under these conditions can the agreement be formalized with greater probability that its terms can be effectively implemented, voluntarily, by the parties.

In Brazil, the normative forecast and the

effective implementation of Restorative Justice within the scope of the Brazilian Judiciary began with the entry into force of Resolution 125/2010 (National Council of Justice, 2010). Since then, there has been an expansion of restorative practices within the scope of the Brazilian Judiciary, considering that its methodology had already been adopted since 2005 by the Court of Justice of the State of Rio Grande do Sul (CRUZ, 2016, p. 95).

In 2016, Resolution 225/2016 (National Council of Justice, 2016-A) was published, a normative framework for the implementation of the National Restorative Justice Policy within the scope of the National Judiciary. The mentioned Resolution establishes criteria of uniformity for the concept of Restorative Justice, for training and qualification, and for monitoring and evaluating the Restorative Justice projects in execution, in order to “avoid disparities in orientation and action, ensuring a good execution of the respective public policy, and respecting the specificities of each segment of Justice” (National Council of Justice, 2016-A).

## DIVORCE AND PARENTING WORKSHOPS

This modality has as a precursor and responsible the magistrate of the Court of Justice of the State of São Paulo, Vanessa Aufiero da Rocha. In 2013, her project was implemented in the 2nd. Family and Succession Court of São Vicente, in the State of São Paulo (BORDONI; TONET, 2016, p. 112).

It is an “educational and preventive program” that does not aim to guide specific cases and resolve individual disputes (National Council of Justice, 2013-A, p. 7), but to carry out activities, collectively with the purpose of promoting the creation of a responsible parental relationship, seeking to prevent parental alienation, based on the parents’

awareness of the importance of healthy and harmonious coexistence between parents and children.

The Parents' Workshop is aimed at parents and/or those responsible for the children, as well as the Children's Workshop, which is subdivided into Children's Workshops, aged between 6 and 11 years old, and the Adolescents' Workshop, for assisting children aged between 6 and 11 years old. between 12 and 17 years old. The workshops are conducted by instructors, with the support of psychologists, who contextualize the conflicting environment experienced by the parties, based on the presentation of videos and group dynamics. For children there are recreational activities. Teaching materials are available, in the form of booklets, organized by the Judge and recommended by the national council of justice, with information aimed at parents (national council of justice, 2015), teenage children (National Council of Justice, 2013-B) and instructors (National Council of Justice, 2013-A).

With regard to normative support, in 2014 the national council of justice, through Recommendation number: 50/2014 proposed to the Courts the adoption of "parenting workshops as a public policy in the resolution and prevention of family conflicts [...]" (national council of justice, 2014). In 2020, the national council of justice created the guidelines for carrying out training and qualification courses (national council of justice, 2020).

## **FAMILY CONSTELLATION**

The creation of systemic family therapy is attributed to Bert Hellinger, German theologian, philosopher, pedagogue and psychotherapist (2004, s/p), whose methodology aimed to "help family members restore balance" (HELLINGER; WEBER; BEAUMONT, 2002, p. 204) and "find out

whether there is someone in the extended family system who is entangled in the destinies of previous members of that family. [...] Bringing the entanglements to light, the person manages to free himself from them more easily" (HELLINGER; HÖVEL, 2007, p. 11).

In it, participants consider connections with their ancestors to reproduce these movements at the time of therapy, whose movements may reflect behaviors arising from the family system of origin.

During the dynamics, family members are represented by third parties who have no relationship with the constellated, called "client". During the Family Constellation session, the internal world of the constellate is manifested by the representatives, who are now participating in the therapy, however, "[...] they feel like real people, as soon as they are in the constellation. [...] There is no explanation for this fact. But it has been seen thousands of times in these constellations" (HELLINGER, 2007, p. 11).

Representations of family members can occur through people or dolls, in the latter case "the dolls must preferably be chosen and positioned by the client" (GRAÇA, 2018, p. 133), thus demonstrating "the unconscious connections established between the topic addressed (problem) and its systemic implication in the original group in which the client participates" (VIEIRA, 2019, p. 79).

This therapy began to be used by the Judiciary in 2012, through the Project "Constelação na Justiça" conducted by Sami Storch, Judge of the 2nd. Family Court of Itabuna, in the State of Bahia. In the Family Court of the municipality of Castro Alves, in the period 2012 and 2013, the application of the Family Constellation resulted in a rate of 100% (one hundred) percent of conciliation in the processes in which both parties participated and 91% (ninety-one) percent



in cases in which at least one of the parties participated in the dynamic (National Council of Justice, 2016-B).

In the normative scope, there are no express rules regarding the methodology to be used to carry out the therapy, nor express guidelines by the Judiciary, regarding the training of professionals who work in conducting this dynamic. However, considering the scope of Resolution 125/2010 of the National Council of Justice (2010), the Family Constellation has been accepted by the Court of Justice that adopt it, as a consensual mechanism for solving disputes, since the mentioned norm encourages the adoption of consensual practices that enable the adequate handling of conflicts.

In the legislative field, it is necessary to list some initiatives regarding this methodology: SUG 41/2015 CLP (Chamber of Deputies, 2015), transformed into Bill 9444/2017; Bill 4887/2020 of the Chamber of Deputies (2020) and Legislative Suggestion number: 157869 (SUG 1/2022) of the Senate.

In view of the legislative omission, the Court of Justice of Alagoas (Court of Justice, 2021), prepared Ordinance number: 2/2021 to regulate and systematize the use of the technique within the scope of state justice; the Court of Justice of Minas Gerais (Court of Justice, MG, 2021-A), also began to regulate the use of Systemic Constellation, through Ordinance number 3923/2021, of the 3rd. Vice presidency; and in the Court of Justice of Paraná (Court of Justice, PR, 2022) Recommendation number: 001/CEVID/ Court of Justice, PR/2022 which promotes the non-recommendation of the Family Constellation in cases involving crimes of domestic and family violence against women.

The Request for Provisions, formulated by the Brazilian Association of Systemic Constellations (ABC – Sistemas) is currently in progress with the National Council

of Justice (2021-A) with the purpose “to promote the regularization of the use of the Family Constellation dynamics in the context of consensual methods of conflict resolution” with the proposal, to the National Council of Justice, of the elaboration of a Resolution to regulate the mentioned practice.

## **COMPOSITIVE PRACTICES ADOPTED AND THEIR NECESSARY DISCUSSION**

The data collected demonstrate that, given the complexity of family conflicts, there is a need for an interdisciplinary approach directed at the specificity of each demand. At this point, we move on to a more in-depth analysis and discussion of the findings.

Most Brazilian Court of Justice are in line with the guidelines established by the National Council of Justice, in order to implement the National Judiciary Policy for dealing with conflicts of interest, ensuring, as much as possible, the solution of conflicts by means appropriate to their nature and peculiarity, along the lines of Resolution 125/2010 (National Council of Justice, 2010).

The percentage of application by the Court of Justice of the State, Restorative Justice (71%) and the Divorce and Parenting Workshop (74%), although high, could be expanded so that these self-composition methods were made available to citizens, in all Brazilian Court of Justice, considering the express regulation, both with regard to the methodology to be used in each of the practices, as well as the education and training of professionals who work in the development of the dynamics.

This way, the expansion of the application of Restorative Justice and the Divorce and Parenting Workshop could contribute, in an even more significant way, to the early resolution of demands, mainly to avoid damages in relation to the vulnerable who are

directly involved in the conflict, ensuring the preservation of the best interests of the child and adolescent who suffer the harmful effects of the conflicting relationship.

In addition to the recommendations contained in Resolution 125/2010 (National Council of Justice, 2010), actions could be promoted by the National Council of Justice in order to encourage the implementation of the aforementioned consensual practices in Court of Justice that have not yet adopted them.

Another suggestion would be the collection and dissemination of data related to the contribution of the aforementioned practices to the peaceful resolution of conflicts. There is sparse data, realizing that there is a significant rate of formalized agreements, but there is no consistent public data that can result in the evaluation of the implementation of the public policy of adequate treatment of conflicts, stimulated by the National Council of Justice.

It is important to emphasize that public policy must go beyond the enactment of a law, normative act or project to encompass “subsequent actions (sic) of implementation, support and evaluation” (TEHODOULOU apud VALLE, 2009, p. 37).

With regard to the application of the Family Constellation, the percentage average of 74% (seventy-four) percent in the Court of Justice is also significant. However, unlike other self-composing methods, there is no institutionalized regulation of this practice. There is only the content of Resolution 125/2010 (National Council of Justice, 2010) which contemplates the possibility of adopting other self-composition methods, in addition to mediation and conciliation and, therefore, the Family Constellation would be covered by that.

And although there are several initiatives in the normative scope in the sense that the Family Constellation is effectively regulated,

all are awaiting the manifestation of the competent bodies.

This way, as with Restorative Justice and the Divorce and Parenting Workshop, there is a need for the National Council of Justice to express its opinion regarding the use of the Family Constellation, so that, if deemed appropriate, it regulates this practice or recommends its non-use, as Allowing isolated regulation by some Courts does not make this practice institutionalized and scientifically recommendable at the national level.

## FINAL CONSIDERATIONS

Ultimately, it is necessary to highlight some aspects and to consider a few other points about the research carried out.

First, it is always important to remember that the basic social niche that is made up of family arrangements, even though they form the substrate of the entire web that sustains a society, does not always support coexistence and harmonious behavior.

Regarding the conflicts, they really exist and there are many of them. The so-called social struggles are very numerous and, evidently, many of them present themselves before the Judiciary in order to find a solution (not necessarily, its end, but an adequate solution). And it is up to the Judiciary Power – beyond the simple final sentence – to try to implement practices that can offer those involved/interested/jurisdictional, tools to carry out (or, at best, participate) this decision-making act.

Then, the compositional measures outlined in item 3 of this essay are presented, which have proven to be quite effective in this endeavor and which, as indicated by the data presented in items 2 and 4, have been applied by most of the Courts of Justice of the States of the Federation.

This is because, over the years, it has been understood that it is necessary and necessary

to make efforts to encourage people's autonomy when dealing with family conflicts.

The numbers contribute towards guiding implantation decisions, but a theoretical and practical study is needed in order to submit the proposal made to verification. Along these lines, and with a view to analyzing whether the methodology provided for in specialized legislation, as well as in the development of consensual practice in Court of Justice, may or may not be adopted, it needs to be submitted to scientific research with evaluation of results and indication of the adoption of improvements.

This way, the analyzed standards can be refuted or accepted in their entirety or even with the suggestion of changes to adapt the practice to the foundations of the National Judiciary Policy for dealing with conflicts of interest.

In this investigation, despite the existence of significant data in relation to the agreements formalized during the Family Constellation, there are severe criticisms, including the normative act that provides for its non-recommendation, considering, among other factors, the lack of scientific knowledge, methodological regulation and criteria for education and training of working professionals (Court of Justice, PR, 2022).

Given the conditions in which they are presented and the effectiveness of their methodologies, the Divorce and Parenting Workshop and Restorative Justice contribute, as a rule, to the solution not only of the judicial dispute, but above that, of the sociological dispute, which leads to that.

With regard to the research problem, it can be seen that the Court of Justice have been adopting compositional measures in the resolution of family disputes, and it is possible to identify the Divorce and Parenting Workshop, Restorative Justice and Family Constellation as the most recurrent examples.

And it has done so through the satisfactory normative support offered by the National Council of Justice.

And finally, it is always healthy to highlight that scientific research can be a contribution to the validation, systematization and standardization or to the construction of foundations to oppose the methodology that has been used in the development of the Family Constellation, since it is not possible to consider exclusively the result - in theory positive regarding the formalization of agreements - without taking into account the means employed for the desired pacification of conflicts.

Therefore, it is essential to encourage, support and disseminate the systematization of duly regulated consensual practices such as Restorative Justice and the Divorce and Parenting Workshop and, on the other hand, to make efforts to scientifically investigate the use of the Family Constellation to - depending on the result of the investigation - regulate what has not yet been or improve the practices already adopted and endorse or not their application under the scientific bias.

## REFERENCES

- BORDONI, Jovina D'Ávila; TONET, Lucianumber: As oficinas de pais e filhos como instrumento para coibir a alienação parental In: Themis. **Revista da Escola Superior da Magistratura do Estado do Ceará (Esmec)**, vol. 14, 2016. Disponível em: <http://revistathemis.Tribunal de justiça.ce.jus.br/index.php/THEMIS/article/view/531>. Acesso em: 18 jan. 2023, p. 105-120.
- BOURGUIGNON, Jussara Ayres; ORTH, Glaucia Mayara Niedermeyer. A prática restaurativa com famílias e a proteção social. In PEREIRA, Dirce do Nascimento; CONSALTER, Zilda Mara. **Práticas consensuais para a pacificação dos conflitos no âmbito familiar**. Curitiba: Juruá, 2018, p. 81-101.
- CARBONNIER, Jean. **Sociologia jurídica**. Coimbra: Almedina, 1979.
- CRUZ, Fabrício Bittencourt (Coord.). **Justiça Restaurativa: horizontes a partir da Resolução NATIONAL COUNCIL OF JUSTICE 225**. Brasília: NATIONAL COUNCIL OF JUSTICE, 2016. Disponível em: <https://www.National Council of Justice.jus.br/wp-content/uploads/2016/08/4d6370b2cd6b7ee42814ec39946f9b67.pdf>. Acesso em: 17 jan. 2023.
- DINAMARCO, Cândido Rangel. **A instrumentalidade do processo**. 11. Ed. São Paulo: Revista dos Tribunais, 2003.
- DINAMARCO, Cândido Rangel. **Instituições de Direito processual civil**, v. 1, 7. Ed. São Paulo: Malheiros, 2013.
- GILISSEN, John. **Introdução histórica ao direito**. 4.ed. Lisboa: Fundação Calouste Gulbenkian, 2003.
- GRAÇA, Marusa Helena da. Constelações familiares com figuras. In GRAÇA, Marusa Helena da. **Constelações familiares com bonecos e os elos de amor que vinculam os ancestrais**. 3 ed. Curitiba: Juruá, 2018, p. 125-136.
- HELLINGER, Bert; WEBER, Gunthard; BEAUMONT, Hunter. **A simetria oculta do amor: por que o amor faz os relacionamentos darem certo**. Trad.: Gilson César Cardoso de Sousa, 3. ed. São Paulo: Cultrix, 2002.
- HELLINGER, Bert. **Ordens do Amor: um guia para o trabalho com constelações familiares**. Trad.: Newton de Araújo Queiroz, 2. ed. São Paulo: Cultrix, 2004.
- HELLINGER, Bert; HÖVEL, Gabriele Ten. **Constelações Familiares: o reconhecimento das ordens do amor**. Trad.: Eloisa Giancoli Tironi, Tsuyuko Jinno-Spelter. São Paulo: Cultrix, 2007.
- HIRONAKA, Giselda Maria Fernandes Novaes. O conceito de família e sua organização jurídica In PEREIRA, Rodrigo da Cunha. **Tratado de Direito das Famílias**. Belo Horizonte: IBDFAM, 2015.
- LEDERACH; John Paul. **Transformação de Conflitos**. 3. ed. Tradução de Tônia Van Acker. São Paulo: Palas Athena, 2012
- NAZARETH, Eliana Riberti; GUEDES-PINTO, Ana Célia Roland; VILELA, Sandra Regina. **Mediação Familiar**. PAULINO NETO, Analdino Rodrigues. ONG APASE – Associação de Pais e Mães Separados. São Paulo: Equilíbrio, 2009.
- PERLINGIERI, Pietro. **Perfis do direito civil**. Trad. Maria Cristina De Cicco. 3. ed. rev. e ampl. Rio de Janeiro: Renovar, 2002.
- PRANIS, Kay. **Processos circulares**. Tradução: Tônia Van Acker. São Paulo: Palas Athena, 2010.
- TARTUCE, Fernanda. **Mediação nos conflitos civis**. 2. ed., rev., atual. e ampl. Rio de Janeiro: Forense; São Paulo: Método, 2015.
- VALLE, Vanice Regina Lírio do. **Políticas públicas, direitos fundamentais e controle judicial**. Belo Horizonte: Fórum, 2009.
- VIEIRA, Adhara Campos. **A constelação sistêmica no Judiciário**. Belo Horizonte: D'Plácido, 2019.
- VILLELA, João Baptista. **Liberdade e família**. Belo Horizonte: Faculdade de Direito da UFMG, 1980, p. 657-687.
- ZEHR, Howard. **Justiça Restaurativa**. Trad.: Tônia Van Acker. São Paulo: Palas Athena, 2015.