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New and old in the fight against honour-based violence in Italy

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ABSTRACT

In the Italian Criminal Code of 1930, honour-based violence was recognized as a mitigating circumstance for causing the death or injury of a spouse, daughter, or sister involved in «an illegitimate carnal relationship», as well as for the killing of a newborn or fetus resulting from such a relationship. These provisions were justified by the perceived need to protect personal or family honour. Law 442/1981 repealed them, declaring honour-based justification unacceptable in light of cultural changes in Italian society. Nevertheless, honour still plays a significant role, not only within immigrant communities - brought to judicial attention through cases of young women's murders - but also within Italian society at large. The persisting patriarchal culture uses honour to preserve its power, turning reactions to transgressions of its rules into duties imposed by the family. A case law study on domestic abuse confirms this dynamic: analysis of 194 judgments from the Criminal Court of Milan - the Italian city with the highest percentage of foreign residents - showed that Italian women suffered violence in the name of so-called honour at the hands of their husbands in the same way as immigrant women. Although perpetrators rarely invoke honour explicitly (unlike in some honour killing cases), it clearly emerges as the root cause of violent behaviours aimed at asserting supremacy and hegemonic masculinity, as reflected in victims' testimonies.

1. Introduction

Honour-based violence (HBV) is a form of violence that primarily affects women and girls, being an expression of the patriarchal culture still prevalent in many countries across the world (UN, General Assembly Resolution 57/179 of December 18, 2002 and 59/165 of December 20, 2004). According to the Resolution 1681 (2009) of the Parliamentary Assembly of the Council of Europe «*the problem, far from diminishing, has worsened, [...] both in Europe and the rest of the world, especially in patriarchal and fundamentalist communities and societies*».

There is no general consensus on the definition of HBV, nor on the forms of violence that should be led back to it. The Council of Europe - which began to address this issue since the Recommendation 1450/2000 - identifies honour crimes by the fact that the perpetrator justifies the violent act with «*the need to defend or protect the honour of the family*» and the commission of the crime may involve «*one or more close family members (including partners) in the name of individual or family honour*». However, 'honour' is an ambiguous word because «*is the perpetrator of a particular crime who is allowed to define the meaning of honour*». Within this wide notion should fall honour killings, forced marriages, domestic abuse, female genital mutilations (Cryer, 2003).

For its part, the 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) includes «*the crimes committed in the name of so-called "honour"*» among the «*serious forms of violence*» to which women and girls are often exposed (Preamble) and prohibits the use of «*culture, custom, religion, tradition or so-called "honour"*» as a justification for these crimes (Article 42); in addition, the Convention imposes the criminalization of forced marriage (FM) (Article 37)

Abbreviations: SC, Supreme Court; CM, Court of Milan followed by the nationality code (Standard ISO 3166-1) of the defendant; It.CC, Italian Criminal Code.

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and female genital mutilation (FGM) (Article 38).

In light of the results of a research on domestic abuse cases, related to this phenomenon (see § 4), we decided to adopt a more comprehensive notion of HBV to include those forms of gender-based violence in which the perpetrator acts in response to a suffered or feared offence to (individual or family) honour and his reaction depends on a moral duty imposed or perceived as imposed by his cultural identity. Family involvement, which is one of the characteristics typically associated with HBV (Rigoni, 2023), can take different forms. It may be active (when present), potential (when distant), or even imagined by the perpetrator through the so-called "phantom community" (Ceretti and Natali, 2009; Athens, 2007), as honour always requires external recognition in order to hold any value (Carobene, 2014). Within the familial context, patriarchal culture strategically employs the notion of honour to sustain its dominance; thus, adherence to patriarchal norms is reinforced through conformity to the honour code.

From this perspective, FM and FGM differ from other honour-based crimes, as is evident from the Preamble of the Istanbul Convention itself. They can be primarily understood as culturally motivated crimes (Basile, 2022; De Vido, 2015; Le Onde Onlus, 2014), which may give rise to HBV as a reaction of the *pater familias* to the victims' rebellion (CEDAW, Recommendation 31/2014). In honour-based cultures, a man's honour is indeed tied to his ability to control and discipline women, who are expected to obey him - particularly with regard to sexual behaviour - under the strictures of patriarchal norms.

2. HBV and the Italian context

With Law 77/2013, Italy signed the Istanbul Convention, which is the first international binding law in this field (SC 10959/2016). Anyway, all the obligations previewed by the Convention are even more binding for European Union Member States because of the EU's accession to the Convention on the June 1, 2023 (De Vido, 2023).

The Italian legal system largely complies with the requirements of the Convention; nevertheless, honour-based violence still remains at the margins of public and political debate on gender-based violence. This may be because it is perceived as an issue «*mainly concerning immigrant communities*» (Bormioli et al., 2017). At the same time, honour killings, which emerged in Italy between 2006 and 2011 within immigrant communities, did not generate the same «*great cultural shock*» as in other countries (Danna, 2011; Garofalo, 2012). This is partly due to the fact that honour is a «*deeply rooted element*» of Italian culture (Della Rocca and Zinn, 2019), with a long tradition that can be traced back to Roman times (De Cristofaro, 2018). This explanation is even more plausible considering that within the same timeframe, in a big Italian city, an Italian woman was seriously wounded by her brother because she had just had a baby while being separated from her husband. Handing himself over to the Police, the brother stated that he acted «*fora matter of honour*», because his sister was not married with the father of the baby (Caruso and Travaini, 2010). Few years later, it is once again a matter of honour («*you are a dishonour to the family!*») at the origin of the stabbing of a 36-year-old Italian man by his 20-year-old younger brother, who could not withstand any more the shame of his homosexuality within the small village of South Italy where they live (Russo, 2011).

These latter cases happened more than twenty-five years after the removal of the honour-based justification from the Criminal Code with the Law 442/1981: after all, the intervention of the legislator could hardly lead to an immediate change in the customs and expectations of all the consociates, even if that intervention was prompted by a cultural shift in the social acceptance of the honour-based justification (Visconti, 2018). Even today male honour seems to play a significant role in the Italian social context (Della Rocca and Zinn, 2019) in which, despite the results achieved in women's empowerment, patriarchal culture persists (Bimbi, 2013; Cavina, 2011; Gilligan and Snider, 2018).

Scholars have already highlighted how 'Western patriarchy' has been underestimated in discussions on HBV, leading to an oversight of the similarities across different cultures (Mayeda and Vijaykumar 2016). Aside from culturally-motivated crimes such as FM and FGM - almost unknown within the Italian tradition - crimes committed in the name of so-called honour reveal strikingly similar motivations, whether perpetrated by men from countries where honour culture remains dominant or by Italian citizens, both from the North and the South of the country. This depends, as already said, on the spread of the patriarchal culture within Italian society which uses honour to preserve its power, turning reactions to transgressions of its rules into duties imposed by the family.

There are, however, some differences between the two contexts: a) 'honour killings' are more frequent within immigrant communities, although a significant number of femicides among Italian couples also stem from the woman's decision to end the relationship, which her partner perceives as a dishonourable 'rejection'; b) the involvement of relatives in the commission of the crime is almost absent in Italian society, which is more individualistic and characterised by nuclear rather than extended families, as is typical of Western societies. Nevertheless, it has been observed that, even in the migrant context, «*restoration of hegemonic masculinity*» tends to operate on a more individualized level and «*execution of honour codes more commonly falls upon a woman's intimate partner*» (Mayeda and Vijaykumar, 2016). This pattern mirrors what can be observed in cases of HBV in Italy: where relatives are actively involved, it is typically in honour killings rather than in instances of domestic abuse, since the associated shame remains confined within the household.

Given that domestic abuse is considered highly widespread within migrant communities (Mayeda and Vijaykumar 2016), particular attention is devoted to this less severe form of HBV in order to provide a more comprehensive account of the phenomenon in Italy. To this end, we analysed a sample of Italian caselaw, which revealed that the violence experienced by immigrant women in the name of so-called honour does not differ from that suffered by Italian women for the same reason. We therefore interpret all these cases as manifestations of HBV, since honour - although not always explicitly invoked by perpetrators, as is sometimes the case in honour killings - clearly underlies such violent behaviours. These acts aim to assert supremacy and hegemonic masculinity over women, as emerges from victims' testimonies.

3. The honour-based violence in the Italian legal system, between past and present

In Italy, as in other Mediterranean countries, the culture of honour has long been present and was institutionalised through the honour-based justification for some specific crimes, typically carried out by certain categories of people, mostly within the family environment.

The Zanardelli Code of 1889 – the first Criminal Code enacted after the unification of Italy – merely provided a mitigating circumstance for those relatives, among those legally entitled, who reacted in response to «*flagrant adultery or illegitimate concubitus* (lying together)» (Art. 377 It.CC). In the subsequent code – the Rocco Code of 1930, which is still in force – the honour-based justification was expanded to encompass new situations deserving of a milder judgment. Even the killing of an adulterer or an unfaithful partner became a specific crime, considered less serious than ordinary homicide.

These provisions were eventually repealed after more than fifty years; however, as we said, the cultural justification underpinning it did not disappear. More recently, honour has regained importance in the Italian caselaw due to honour killing cases, mostly among immigrant communities living in the country. Unlike in the past, today the application of an aggravating circumstance is at stake.

3.1. Looking at the past: the honour-based justification and the so-called 'shotgun marriage' in the Criminal Code

In the Rocco Code the role explicitly assigned to honour-based justification varied for the different crimes: for some offences – such as abortion (Art. 551 It.CC), infanticide and feticide (Art. 578 It.CC), or the abandonment of a new-born (Art. 592 It.CC) – the action had to be committed with the specific purpose «*to save one's own honour or that of a close relative*», and under very distressing circumstances. On the contrary, in the case of homicide and bodily harm (Art. 587 It.CC), the action had to be a reaction to a dishonour: the law required a «*state of anger caused by the offence to his honour*» for having discovered sexual intercourse outside marriage on the part of spouse, daughter or sister (Visconti, 2018).

The innovative decision to introduce a specific crime of honour-based murder, punishable by imprisonment from three to seven years – significantly milder than that provided for ordinary homicide (imprisonment of no less than 21 years) –, was met with criticism from contemporary scholars. It was described as a provision that «*does no credit to our civilisation*» (Manzini, 1951) and that «*sympathises too much with the primitive instinct to erase certain facts with blood*» (Caraccioli, 1960). The crime was eventually removed by Law 442/1981, nearly two decades after the first proposal for its abrogation (Rovera, 1984). Although the mitigating circumstance could apply to the wife for the murder of her husband or his paramour, an investigation into the archives of the Catania Court of Appeal shows that, between 1952 and 1970, in sixteen cases of murder for reasons of honour, only once was the accused the wife (De Cristoforo, 2018).

The same Law 442/1981 repealed the provision that allowed the extinction of the crime of rape through marriage to the victim (the so-called shotgun marriage) (Art. 544 It.CC). As explained in the Ministerial Report accompanying the 1887 draft Criminal Code – which led to the enactment of the Criminal Code of 1889, where the provision was already present – it was deemed «*prudent to facilitate, by granting impunity, the greatest reparation that a man can give to the woman dishonoured by him*» (Manzini, 1951). This conception was consistent with the classification of sexual violence, under the Rocco Criminal Code, among «*crimes against public morality and decency*» (Arts. 519 ff. It.CC), thereby emphasising the public (and familial) dimension of the harmed interest, characteristic of the patriarchal culture of honour.

It took another fifteen years to reform this area of law. With Law 66/1996, sexual offences were reclassified as crimes «*against personal freedom*», and the anachronistic distinction between violent sexual intercourse (Article 519 It.CC) and violent libidinal acts (Art. 521 It.CC) was abolished. These two sexual offences were replaced by a single provision focused on coercion «*to perform or undergo sexual acts*», albeit through violence, threat, or abuse of authority.

Nonetheless, the reform maintains the requirement of a formal complaint for the prosecution of sexual violence against adult victim, as well as the transmissibility of the right to file such a complaint to the victim's heirs – an option otherwise reserved (not coincidentally) for crimes against reputation, such as defamation (Arts. 609-septies and 597 It.CC). This framework reveals, in truth, a certain degree of hypocrisy (Pecorella, 2016): it is presented as intended to safeguard the woman's self-determination in facing a criminal trial (which is painful for her, given the well-known risk of secondary victimization), yet it completely disregards the victim's (alleged) needs when the crime of sexual violence is committed in conjunction with another crime – even a trivial misdemeanour such as illegal possession of a weapon (Art. 699 It.CC) – which can be prosecuted *ex officio* (Art. 609-septies It.CC). In such cases, as well as when the offender is a public official, the law gives unconditional prevalence to the interest of the State in punishing the perpetrator, thereby making sexual violence subject to mandatory prosecution whenever for the investigation of the concurrent crime its assessment appears necessary.

3.2. Honour-killing and the aggravating circumstance of having acted for «*abject or trivial reasons*» (Art. 61 n.1 It.CC)

As previously noted, since 2006 cases of honour killings within immigrant communities have also been recorded in Italy. The victims were all women – mostly young daughters of the perpetrators – who refused to comply with the traditional patriarchal norms and values of their family culture. In 2006, for example, a 20-year-old Pakistani woman, Hina Saleem, was murdered by her father with the assistance of three relatives after rejecting an arranged marriage and choosing to live with her Italian partner (Danna, 2011). In 2009, 18-year-old Moroccan woman Sanaa Dafani was killed by her father, who also seriously injured her Italian boyfriend, with whom she had begun cohabiting. In 2010, Shahnaz Begum, a 46-year-old Pakistani woman, was murdered by her husband and son for supporting her daughter Nosheen – who was wounded but survived – in her refusal of an arranged marriage (Danna, 2010). More

recently, in 2021, 18-year-old Pakistani woman Saman Abbas was killed by her uncle after refusing an arranged marriage with a cousin. To this tragic list must also be added the case of a 16-year-old Pakistani girl who attempted suicide by ingesting muriatic acid in order to escape an arranged marriage with a compatriot.

In the criminal proceedings concerning such cases, the honour motivation, declared by the perpetrator(s), underwent a different evaluation: it was discussed if honour could be considered as a 'trivial' reason for the murder, in order to apply an aggravating circumstance of the Criminal Code (art. 61, n. 1 It.CC). According to the Supreme Court caselaw, this aggravating factor must be applied when the *«external stimulus to act was so mild, trivial and disproportionate compared to the seriousness of the crime to appear absolutely insufficient to motivate the crime, according to the common way of feeling»* (SC 39261/2010).

In one case, the intention to preserve family honour was legally assessed as a 'trivial' motive, where an Egyptian Muslim man attempted to suffocate his 17-year-old daughter after discovering her sexual relationship with a young man of a different religion outside marriage.

This statement of the courts of first and second instance was overturned by the Supreme Court which, on the contrary, excluded the aggravating factor (SC 51059/2013; Basile, 2014; Poli, 2014): *«the protection of family honour and the religion cannot be considered a trivial motive for a crime, although absolutely not acceptable in a modern western society»* (Basile, 2008, 2014). To the decision has been objected that *«Such rulings, linked to archaic conceptions of male-female and father-daughter relationships, risk to lead to dangerous setbacks in our criminal system»* which conversely, after the elimination of the honour justification in 1981, *«should move towards an aggravating circumstance for 'femicide' or, more generally, for violence against women»* (Carobene, 2014).

It is worth noting that two years later the Supreme Court changed its opinion in a case concerning the honour killing of a man within a Roma group, perpetrated in response to his sexual intercourse with a female member of the family (SC 11591/2015).

3.3. The new crimes of Female genital mutilation (Art. 583-bis It.CC) and Forced marriage (Art. 558-bis It.CC)

In this paragraph we offer a brief overview of the crimes of FGM and FM introduced in our Criminal Code in the 2000s. As we explained before, we considered them mainly as culturally-motivated crimes, rather than honour-based crimes.

3.3.1. The crime of «Female genital mutilation practices» (Art. 583-bis It.CC)

The crime was introduced by Law 7/2006, in order to extend the protection of individuals' physical integrity already provided by the provisions on personal injuries (Arts. 582 and 583 It.CC). According to the widespread view of Italian legal scholars, the express criminalization of such practices represents *«an example of symbolic legislation aimed at asserting the ideology and values of the host legal system»* (De Maglie, 2010; Fornasari, 2008). This statement was based on the assumption that FGM could be punished as aggravated personal injuries (Art. 583 It.CC) and the legislator's intervention appeared therefore unjustified, resulting even in a *«punitive excess»* (Basile, 2007; Brunelli, 2010). However, given the growing awareness of the harmful physical and psychological effects on women of these practices, the introduction of a specific crime could contribute to prevent them (Pecorella, 2011), also providing women with a powerful argument to save their daughters from this violence (Farina et al., 2017; Pecorella, 2021).

The new crime – which arguably would have been more appropriately placed among the crimes against sexual freedom – provides two hypotheses. First, it punishes with imprisonment from 4 to 12 years anyone who, *«in the absence of therapeutic needs»* causes any of the forms of FGM identified by the World Health Organisation (WHO) – namely, *«clitoridectomy, excision, infibulation, or any other practice causing similar effects»* (Art. 583-bis, para. 1, It.CC). In the second paragraph it provides a milder penalty for anyone causing *«injury to the female genital organs, different from [mutilation], that results in a bodily or mental illness»*. Unlike the hypothesis outlined in the first paragraph, this provision requires the specific intent of having acted *«with the aim of impairing the sexual functions»* of the woman. Such a psychological element can be difficult to establish in practice (Pecorella, 2013), as emerged in the first case brought before the courts. The parents of two Nigerian new-borns, who had been convicted at first instance for a 'ritual' intervention on their genitals, performed (or attempted to be performed) in Italy by a Nigerian obstetrician, were acquitted on appeal due to the absence of the specific intent required by law (Fusaschi, 2014).

Ten years later, another case decided by Italian Courts concerned the mutilations (Art. 583-bis, para. 1, It.CC) of two young Egyptian sisters (8 and 9 years old) performed by a doctor during their holidays in Egypt (SC, 2019/2021). In this case, the girls' mother, who assisted the mother-in-law with the surgery, was convicted upon her return to Italy, by the extraterritorial application of the Italian criminal offence (Art. 583-bis, para 5 It.CC). On the contrary the father was acquitted since his knowledge of the mutilations was not established (Sciutтери, 2022).

Recently, another Italian criminal Court condemned two parents for the infibulation of their daughter performed in Burkina Faso by the grandmother during a summer stay. This time, the parents of the minor, who did not assist the surgery, have been convicted for the violation of their *«duties of protection and supervision of minor children, given the widespread nature of infibulation in the community of origin»* (SC 37422/2021): they should have prevented family members (especially grandmothers) from carrying out the mutilation, having the *«concrete knowledge or being able to know»* that the girl was exposed at risk (Galvan, 2025).

3.3.2. The crime of «Coercion or inducement to marriage» (Art. 558-bis It.CC)

In line with article 37 of the Istanbul Convention, Law 69/2019 (known as 'Red Code') introduced the crime of «Coercion or inducement to marriage» among the crimes against marriage. This solution has been criticized by scholars who would have preferred its inclusion among crimes against individual moral freedom (Pepè, 2019; Carobene, 2020; Sbarro, 2022).

This provision refers to marriage (i.e. the legally recognized union between a man and a woman) and to civil unions of same-sex couples, in accordance with Law 76/2016, which institutionalised them. However this provision requires hard interpretative efforts to

cover unions without legal effect, which are widespread in other cultures (Pepè, 2019; Sbarro, 2022).

Conversely, the scope of the new offence is appropriately broadened beyond instances of violence or threats employed to compel an individual into marriage - which may not, in practice, represent the most frequent scenario - to encompass additional modalities. These include the exploitation of a person's «*vulnerability, mental inferiority, or state of need*», as well as the abuse of «*family, domestic, or employment relationships*» or of «*authority arising from the individual's custody for purposes of care, education, instruction, supervision, or guardianship*» (Art. 558-bis, para. 2, It.CC). Doubts, however, remain about the punishment of arranged marriages (Valtolina, 2014), strongly influenced by parents (Pepè, 2019; Sbarro, 2022).

A separate offence was not introduced to address underage marriages (frequent, for example, among nomadic populations living in Italy), for which coercion or inducement arguably ought to be considered irrelevant. Instead, Art. 558-bis of the Criminal Code merely provides an increased penalty for the base offence (from 1 to 5 years' imprisonment) when the act is committed against a minor. Specifically, if the victim is under 14 years old, the penalty is imprisonment from 2 to 7 years; if the minor is aged between 14 and 18, the penalty for the base offence (i.e. prison from 1 to 5 years' imprisonment) may be increased by up to one-third.

Finally, the law provides the extraterritorial application of this criminal offence – derogating from the general principle of territoriality (Art. 3 It.CC) – similarly to what is established for the offence of FGM.

As of today, this new provision has not been applied. A recent case concerning a Roma girl given in marriage by her father in exchange for a so-called 'bride-price' was classified as a case of enslavement (art. 600, para. 1, It.CC), since the more favourable provision under art. 558-bis of the Criminal Code was not yet in force at the time of the events (SC 30538/2021; Pepè, 2022; Grandi, 2022; Motta, 2022). Notwithstanding the lack of proceedings, forced marriages came to public attention mainly through news involving young women who were killed for refusing to enter into marriages with nationals, arranged by their families. Many years ago an empirical investigation was carried out among immigrant communities living in a specific area of middle Italy where there is a strong prevalence of foreigners in the total population (Trama di terre, 2008). 44 privileged witnesses were interviewed, including 3 victims of attempted forced marriages. The research pointed out that people coming from Morocco, Pakistan, India and Turkey are more likely to be victims of forced (or arranged) marriages (Danna, 2010).

The experiences of other women who managed to avoid the same fate were documented by a young journalist who contacted them and collected their harrowing testimonies. These stories often ended with the women escaping from their family environments and beginning a new life *in incognito*. The women, aged between 22 and 30, came from different countries, particularly Bangladesh, Afghanistan, Pakistan, and India. In all cases, the escape from the arranged marriage was possible thanks to the support – sometimes even material – of individuals they trusted, such as teachers, educators or boyfriends, or by neighbours alerted by screams from adjacent homes (Castigliani, 2022).

4. Power and control as central aspects of honour-based oppression: an investigation on domestic abuse in the caselaw of the Court of Milan

As previously noted, the overview on the role that HBV is still playing in Italian society would not be complete without considering the caselaw on domestic abuse. It is primarily within violent, controlling, and oppressive family behaviours that the persistence of the patriarchal culture of honour becomes most visible. For this reason, we present the results of an investigation on cases of domestic abuse, decided at first instance in the year 2022 by the Court of Milan, which is the Italian city with the highest percentage of foreign residents.

The provision applied in these cases is that of «*abuse against family members and cohabitants*» (Art. 572 It.CC), which punishes, in very broad terms, «*anyone who mistreats a family member or cohabitant*», providing harsher penalties if the victim is a minor (even only by witnessing violence), a pregnant woman, or a person with disabilities. According to established caselaw, the crime is deemed to occur when the victim is subjected to «*painful and intolerable living conditions*» as a result of repeated acts – of physical, psychological, or economic violence – that are humiliating and oppressive, regardless of whether such acts constitute crimes in themselves.

In some cases, this crime concurred with that of sexual violence (Art. 609-bis It.CC), when the victim reported being forced to engage in non-consensual sexual acts.

4.1. The sample analysed

The research focused on 194 proceedings concerning both Italian and foreign defendants. This distinction is based on the defendants' place of birth, which, unlike the nationality, is always indicated in sentences. Therefore, in this paper we decided to address as 'foreigners' all men born in a country other than Italy.

Approximately half proceedings (95) concerned foreign defendants. In a small subset of them (20 cases), the violence acts were against an Italian partner, being mixed couples; the remaining 99 cases concerned Italian defendants, with 19 of them involving foreign partners. The numerical distribution of judgments concerning Italian and foreign defendants reveals a disproportionate representation of foreigners in domestic abuse proceedings, given that, as of January 1, 2022, non-nationals accounted for only about 18.8 % of the population residing in the city of Milan.

The average age of both Italian and foreign defendants was 45, similar to that of their partners (41 on average). A wider age gap between the perpetrator and the victim was observed in mixed couples. Children were often affected, in addition to partners; notably, they were the only male victims (making up 17.3 % of the total, compared to 82.7 % female victims).

A significant proportion of the defendants had addiction issues: alcohol addiction was found in 25.7 % of cases, drug addiction in 12.4 %, and gambling addiction in 1.9 %. Moreover, 18.9 % of defendants suffered from both alcohol and drug addiction. Among the

victims, on the other hand, there were no gambling addiction cases and only a limited incidence (3 %) of alcohol and drug addiction.

Convictions were the predominant outcome across all proceedings, accounting for approximately 75 % of the cases, with a slightly higher conviction rate for foreign defendants (79 %) compared to Italian ones (70 %). Notably, in cases involving mixed couples where the perpetrator was foreign and the victim Italian, the conviction rate rose to 85 %. The judge's gender had no influence on conviction rate, as previously observed in another empirical investigation at the Milan Court (Pecorella and Farina, 2018).

As for acquittals, these mostly depended on the way the court evaluated the alleged violence: the existence of the crime is denied when the violent acts are considered an expression, sometimes even excessive, of «*heightened conflict and mutual intolerance*» within the couple (CM 9422/22), leading both parties - being considered «*in a situation of substantial equality*» (CM 8291/22) - to overpowering and humiliating behaviours «*differently but equally detrimental to family morality*» (CM 3675/22). As observed in the already mentioned study on the same topic (Pecorella and Farina, 2018), this evaluation may reflect the desire of the judge to comply with the victim's attitude during the trial: for example, her minimisation of the reported facts, which may have occurred several years earlier, or the apparent reconciliation with the partner.

4.2. The (universal) forms of domestic abuse

Focusing on *convictions*, particularly those involving *foreign* defendants, the most represented continent is Africa (29 judgments, about half of which concern Moroccan citizens), followed by America (23 judgments, with a marked predominance of convictions of Peruvian men); the remaining decisions are equally divided between Asia (notably, 5 judgments against Filipino men) and Europe (primarily concerning Romanian and Albanian nationals). However, the forms of violence inflicted on partners (and, in some instances, also on children), as described in the court decisions, appear to substantially similar in terms of methods, motivations, and in the perpetrator's belief in being entitled to act, regardless of men's geographical origin, age, culture, or social background, including Italian nationals. In all cases, the perpetrators seek to exercise exclusive control over their partners, imposing rigid gender roles and isolating them from other men:

«In contexts where the depositary of honour is considered the woman, who is charged with ensuring genealogical purity, the defence of honour from external threats primarily involves the practice of female segregation» (Fiume, 1989).

The analysis of convictions against Italian defendants confirms how deeply rooted patriarchal norms and honour codes remain in our society, fuelling behaviours we might have hoped had long disappeared. The violence these men inflicted on their partners – lasting over two years in 64.9 % of the cases – is less a result of alcohol or drug abuse (which only intensified the violence), and more a reaction to women's refusal to submit to patriarchal norms and segregation imposed by them. This reaction, which judges often describe as stemming from 'obsessive' or 'morbid' jealousy, should rather be understood as «*a man's attempt to reassert his identity*» (van Sommers, 1993), threatened or denied by the woman's refusal to comply with the rules dictated by him, rules still implicitly legitimised by broader societal norms.

As has been rightly observed, the 1981 reform undoubtedly ended the «*institutionalised jealousy*», that is typical of honour-based societies (Cavina, 2011), but it has not entirely eradicated the social tolerance (and hence the implicit legitimisation) of male control over women, nor of the violence used to reassert that control when challenged:

«If institutionalized jealousy is starting to dissolve in some Mediterranean societies, it is due to several major social forces: the penetration of state law, urbanization, immigration and emigration, changes in workforce composition, tourism, youth culture, and women's movements. I do not believe these forces are capable of entirely transforming societies and individuals to the point of eliminating jealousy. More likely, they will reduce the volume of men's 'preventive' jealousy and the number of adherents among the guardians of honour and champions of shame» (van Sommers, 1993).

Indeed, court judgments reveal that a woman's state of 'slavery' at home is often known to relatives and friends, who accept it as a matter of fact, without leading to any form of social ostracism or concrete intervention against the perpetrator:

«I saw how [she] was treated all these years, like a slave in every sense (...) she supported her husband entirely like a servant (...) he constantly made her feel deeply guilty just for going out or taking a moment of freedom. He controlled her constantly, until he psychologically destroyed her», recounts a friend who frequently visited the victim's home (CM 3196/22 IT).

Even witnessing violence often carries no consequences, except that of generating concern about its external resonance and the others' opinion: «*Do you have to beat her every night? Stop it, everyone can hear you*», said a friend of the abusive partner temporarily staying in the couple's home, before finally deciding to call the police out of fear that the violence might turn against him too (CM 3044/22 IT). Similarly, a mother-in-law urged her daughter-in-law to «*cover up with clothes to hide the bruises*» (CM 7859/22 IT), while the parents of a perpetrator, despite being aware of repeated episodes of violence over several months, «*did nothing to intervene and even justified the physical abuse he inflicted on [her]*» (CM 10275/22 IT).

4.2.1. The need to exert power as a man

Among the many recurring patterns of asserting male dominance over women deemed to be insubordinated, the imposition of silence is particularly frequent:

«Shut up! You only speak when I say so» (CM 10040/22 IT); «shut up, you don't understand anything, go cook, you good for nothing» (CM 8721/22, EG); «you have to shut up because I'm stronger than you, you're nobody» (CM 2864/22 PE); «I want someone who obeys and stays quiet» (CM 10552/22 IT).

This claim of silence is often accompanied by the enforcement of a rigid behavioural code:

«Either get the hell out or do what I say, period» (CM 12290/22 IT); «you're my partner and you do what I say»: the woman, forced to «eat, smoke, and dress as he wanted» and told to «throw herself off the eighth floor» when she didn't comply, described three months of cohabitation as akin to living in a «prison camp» (CM 11886/22 IT).

«In the evening you must first put the children to bed, then have sex with me, and only after that finish your chores: this is your only purpose» (CM 9774/22 LK); «you are in this house only to clean, take care of the kids, and have sex with me, nothing else» (CM 4860/22 EG).

In other cases, the man's need to dominate is even more explicitly stated:

«Kneel, you are my slave, you must kiss my feet» (CM 14301/22 RO); «where do you think you're going? You're mine, you stay here, this is your home (...) quit your job, take care of my mother, and clean the house. A woman must submit to a man» (CM 9013/22 IT).

Another means of reasserting an exclusive right to control a partner's sexuality, is the imposition of sexual intercourse, even in forms not desired by the partner, given that the man's sexual satisfaction is construed as the woman's duty within the couple:

«No, you don't get it, I want it and I'll do it. You're here and must have sex when I want, or you can leave» (CM 4860/22 EG); «I screw my wife whenever I want» (CM, 2057/22 MA);

«[we had to have sex] how and when he wanted, in the positions he wanted (...) he bought some straps for me to wear because I had to be like a prostitute», and forced her to watch pornography on his computer, saying: «come see, you need to learn, you must do this (...) it's your duty as a wife, he married me just to fuck me» (CM 12210/22 IT).

4.2.2. The defence of honour through the coercive control

Women's oppression does not end with exerting hegemonic masculine power, even over women's sexuality, but it also entails a strong control over the relationships a woman maintains (or would like to maintain) outside of the home. Technology significantly facilitates this reprehensible purpose by enabling constant – and highly invasive – monitoring of the woman at all times of the day when she is alone:

«[She felt] like a fly caught in a spider's web (...) monitored 360°», because her partner had told her that even when he was far away, there was always someone «among his trusted people» who monitored all her movements; she had also stopped using her cell phone because he obsessively checked it (CM 2434/22 IT);

«he checked me, opened my purse, checked my cell phone, contacts, messages, didn't want me to wear makeup, monitored how I dressed, said that the makeup I wore made me look like a whore, pardon the word» (CM 9013/22 IT); «the defendant constantly checked her phone, wrote down all the numbers saved in her contact list to then call them and verify who they were and what their intentions were» (CM 768/22 Montenegro); «[I told him]: did you take my phone again and look through it? You messed up all my numbers, all my chats! Everything was scrambled (...) It was as if he had demagnetized it» (CM 6510/22 IT);

«he had activated the 'Find My iPhone' function on his wife's iPhone, enabling geolocation so that by logging into her account from his device, he could see in real time where she was (...) He also demanded that she send photos of the places where she was» (CM 11314/22 MA); «my husband doesn't want to separate from me because he says he's in love and that I'll never be free of him. He is obsessed with a morbid jealousy he shows every day, claiming I'm having an affair at work, which is completely untrue. He always says he's watching me and knows all my movements and threatens to cut my alleged lover's throat (...) I'm not free to receive phone calls because he obsessively demands to know who I talk to. He checks my phone and calls to ask where I am, who I'm with, and what I'm doing» (CM 12267/22 IT);

«he was the kind of person who didn't want me to change my profile picture if he wasn't in it. He had to be in that picture (...) he demanded that I call him from everywhere and threatened me so that I would say at school that he was my husband» (CM 9278/22 EC); «he demanded [that the woman] keep her phone on all day with an earpiece so he could listen to what she was doing during her shifts (both day and night) at the hospital» (CM 4487/22 IT); «he forced her to keep the phone on day and night [with the earpiece in her ear], even while she was working (...) At night she would cry because she wanted to sleep, but he forced her to stay on the phone» (CM 12272/22 IT).

Some forms of control are so extreme as to seem pathological, and in any case are symptomatic of a man's disproportionate obsession with the body of his partner which he considers of his exclusive property:

«the first thing he did when I got home was inspect me: he checked my vagina to see if I had had sex with other men, he checked my phone, I wasn't allowed to go anywhere because he monitored the hours and minutes, how long I stayed, and I wasn't allowed to stop anywhere, because he watched how long I could stay in a place» (CM 11922/22 PE);

«he was insanely jealous, even when I was pregnant with our first child, he was jealous of anyone looking at me because of my belly ... It was as if he was saying 'she's mine and no one else can have her' (...) [When he beat me] he always hit my eyes and face because he

didn't want me to look around, he said I was too beautiful (...) I had bruises everywhere, my face swollen like this, my eyes so swollen I was ashamed to even go grocery shopping, and begged him not to hit my face. (...) When I took my children to school, I covered myself with sunglasses and everything I could» (CM 10522/22 IT);

«[he was] irritated by the fact that [his partner] hung laundry on the balcony, particularly bras in the front row, giving the neighbours across the street the opportunity to see their size or model» (CM 2551/22 IT); «he would get angry even when I went to the beautician ... I mean, I wasn't allowed to go to the beautician» (CM 4351/22 IT).

Astonishing is the obsession with the woman's body even when it comes to a medical examination, without caring about any damage to her health:

«he refused to call the on-call doctor, telling her that medical staff only come 'to look at your tits', even discouraging her from undergoing surgery [for breast cancer] because the doctors would see her naked» (CM 4487/22 IT); «during pregnancy, the partner prevented the woman (a hospital nurse) from being examined by male gynaecologists and forced her to meet him for lunch every day, despite the high-risk pregnancy requiring rest and minimal physical effort» (CM 4487/22 IT).

Moreover, we also find other forms of degradation aimed at confining women to the home and preventing them from meeting other people, even to the point of making them lose their jobs:

«the victim stated that she was not given the opportunity to learn Italian and thus to integrate, as the defendant prevented her from interacting with others» (CM 10967/22 MA); «he forced her to leave the house - even for important matters such as radiotherapy - only with his permission and under his constant surveillance; he rarely allowed her to leave and she had to ask permission even to see her family; he sometimes timed how long she spent in the bathroom and demanded that she prepare every meal of the day for him, including breakfast at 4 a.m.» (CM 12439/22 IT); «he prevented his wife from working, claiming that women should stay at home. (...) He would confiscate her phone for days and broke several of them» (CM 10967/22 MA, the woman had been forced by her family to marry that man and move to Italy); «she was forbidden from getting a driver's license so as not to become independent in her movements» (CM 3063/22 IT);

the woman worked as a waitress in a restaurant and received calls on the restaurant's landline «five, ten, fifteen times a night» from her partner, who also showed up at the restaurant and asked her employer to fire her (CM 139/22 IT); «he tried in every way to make his wife's work life difficult, even contacting her employer and often saying things like: 'did you learn to talk to me like this because you went to work?' » (CM 7326/22 MA); «you're not a good mother; you'd rather go to work than take care of your children» (CM 2827/22 TN).

4.3. The criminal response

Considering that honour still persists in Italian society, it is interesting to put attention on the criminal justice system response to the phenomenon in order to discover if judges share the same culture. It is always difficult to assess the evaluations made by a judge in individual cases; however, some considerations can be drawn from the reasoning that supports the exercise of judicial discretion.

Before analysing conviction judgments, it is necessary to recall the amendments introduced by the 'Red Code' (Law 69/2019) to Art. 572 of the Criminal Code, since they had an impact on sentencing in the cases examined.

First, the penalty for the crime was increased: the previous range of 2–6 years' imprisonment was replaced with a new range of 3–7 years. An aggravating circumstance was also introduced for violence (including witnessed violence) against minors and pregnant women (Art. 572, para. 2, It.CC), providing for an increase in the punishment (up to half) greater than that (up to one-third) already provided by the common aggravating circumstance under Art. 61, para. 11-*quiquies* of the Criminal Code. Finally, suspended sentences can no longer be granted to perpetrators of gender-based crimes, such as domestic abuse, unless they attend «specific rehabilitation programmes» run by organisations that are specialised in prevention, psychological support, and rehabilitation for violent men (Art. 165, para. 5, It.CC).

These reforms, aimed at increasing the overall severity of sanctions, apply only to those cases committed after the entry into force of the law. Before the legislative amendment, the most frequently imposed sentences did not exceed 2 years of imprisonment – i.e. the previous statutory minimum – whereas after the 'Red Code', sentences between 25 and 36 months became the norm. Sentences of 4 years or more (though still less frequent) quadrupled (Cardinale, 2025). The new sentencing range has made it more difficult for offenders to benefit from suspended sentences (generally available only for convictions up to 24 months); however, inside prison facilities rehabilitation programmes, which can affect the release time, should be available (Art. 13-bis of the Prison Regulations, introduced by the same Law 69/2019).

4.3.1. How judges use 'generic mitigating circumstances' to reduce the punishment

Despite the substantial homogeneity of domestic abuse addressed in the examined proceedings – and setting aside the cases in which the perpetrator was convicted also for the crime of sexual violence (punished more severely) –, sentence length varied depending on the judge's decision to apply the so-called 'generic mitigating circumstances' (Art. 62-bis It.CC) and, if so, on the importance given to them in relation to any aggravating circumstances. In cases involving both mitigating and aggravating circumstances, indeed, judges must determine whether they are equivalent (therefore neutralising one another), or which of them prevail and therefore must be applied.

Considering the judgements analysed, it can be noticed that generic mitigating circumstances are often granted explicitly to «*adjust the penalty to the seriousness of the offence*», either by reducing the impact of aggravating factors (most commonly: witnessed violence against minors, violence against a pregnant woman, habitual use or drug, recidivism), or by lowering a sentence that is already close to the statutory minimum.

Among the most frequently cited reasons for granting the mitigation is the «*proper trial behaviour*» of the defendant, such as attending hearings, submitting to examination by the court (regardless of admitting guilt), or consenting (through counsel) to the admission of the prosecution's evidence, thereby facilitating a quicker resolution of the trial.

The absence of a criminal record is also commonly invoked by judges, though in a more controversial way. While recidivism is common, particularly among Italian defendants (some of whom even reoffended within five years against the same or a previous partner), the law explicitly states that a clean record «*shall not in itself be a sufficient ground*» for the application of generic mitigating circumstances (Art. 62-bis, para. 3, It.CC, as amended by Law 125/2008). To comply with this provision, Courts nearly always add other arguments, such as the defendant's young age (under 30), psychological or psychiatric issues, social or economic hardship, or marginalisation. Some judgments refer to the «*social and cultural conditions that facilitated the commission of the crime*» (CM 5295/22), or the social hardship «*resulting from a lack of integration into the national territory*» (CM 11305/22).

Only in a limited number of cases, mitigating grounds are identified in the defendant's attitude towards the crime and his responsibilities towards the partner and children. For example, it has been stated that the defendant «*expressed genuine remorse for what had happened and committed to change his lifestyle in order to rebuild the family unit*» (CM 12267/22); «*immediately following the incident, he began psychological rehabilitation*» (CM 9793/22); «*he made efforts to re-establish a relationship with his children (...) and reached an agreement with the victim during separation proceedings*» (CM 11845/22); «*he re-engaged with the victim in a constructive way (...) and took real responsibility for his role as a father to the two minor daughters*» (CM 8653/22).

Conversely, the (rare) denial of generic mitigating circumstances depends on the absence of any meaningful sign of remorse or self-reflection: «*The defendant clearly lacks any empathy towards the women who expressed feelings for him*» (CM 11886/22); he showed a «*total absence of critical review of his actions (...) refusing to follow the suggested rehabilitation programme or re-establish contact with his children, for whom he has shown no interest*» (CM 7871/22); «*during his examination, he denied all accusations with statements not only implausible (...) but constituting yet another act of contempt towards the victim*» (CM 8721/22; CM 10783/22); «*he never adopted a reparative attitude or gesture of solidarity towards the victims, limiting himself during voluntary statements to offering implausible justifications for his conduct*» (CM 174/22); he demonstrated an «*infantile, victimising and irresponsible attitude throughout the trial*» (CM 3576/22); «*he failed to show any awareness of his conduct or adopt any behaviour aimed at overcoming his emotional and relational difficulties*» (CM 10596/22).

5. Conclusions

The culture of honour appears to be no longer broadly accepted within Italian society and is largely perceived as a reprehensible trait, often associated with the behaviour of individuals residing in Italy but originating from countries where traditional family structures still prevail (Basile, 2017). However, the study into domestic abuse carried out through the analysis of the caselaw of the Court of Milan reveals a different reality: women's non-subordination to rigid patriarchal norms is still perceived – even within Italian culture – as an affront to honour legitimising a violent reaction. At the same time, persists a widespread, and perhaps unconscious tolerance among Italian society, even within the courts. Sentences are almost invariably imposed at the lower end of the statutory range (in line however with a broader trend observed across many areas of criminal law), and the impact of aggravating circumstances is often neutralised through the discretionary application of generic mitigating circumstances.

For its part, the Italian legislator introduced new crimes in the Criminal Code to prevent FM and FGM and strengthened penalties for domestic violence, while also placing emphasis not only on punishment but also on offender rehabilitation: great attention has been more recently focused on perpetrators programs - the effectiveness of which, however, is still uncertain - and on the restorative justice approach, which could constitute a valid alternative to the criminal justice system but it is not so adequate in situations of domestic violence, because it can lead to secondary victimization of women. On the other hand, the Italian government has not yet made a serious commitment to achieve a greater awareness about HBV among social and judicial professionals, as well as an effective equality for women.

In our view, it is important to emphasize that HBV is not solely a problem of other cultures, as honour remains a shared value within Italian society. This awareness, which emerges from our caselaw analysis, should contribute to the fight against domestic abuse by framing HBV as a cross-cutting issue that transcends national and cultural boundaries. At the same time, such an approach avoids any discrimination and exclusion suffered by immigrant communities (Sacchi, 2011; Garofalo, 2012; Elakkary et al., 2014) and make women of those communities aware that this kind of violence is not an «*intrinsic part of their culture*», that they have to accept unconditionally, but rather an expression of the more general phenomenon of gender-based violence, that affects all the women of the world (Gill, 2009).

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