

NEVER-ENDING VIOLENCE AGAINST WOMEN AND CHILDREN

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***Abstract:** This article regards the subject of “secondary victimization”. It regards a judicial term which still appears to be unknown, not only to the public opinion but also to justice operators; however, it defines a reality of domestic violence and assisted violence which, unfortunately, are still very frequent and dramatically affect the life of many women and of their children and it consists in blaming the victim of the violence.*

***Keywords:** secondary victimization, victim, violence, phenomenon, cases of minors, foster families, accusation.*

INTRODUCTION

Secondary victimization means “victimization which does not happen as a direct consequence of the criminal act, but throughout the response given by institutions and individuals to the victim” (definition given by the Recommendation of May 8 of the Council of Europe).

The victim becomes a double victim: the first time because of the domestic violence which she is subject to, secondarily in a judiciary context since the children are removed from the victim who reported the violence in order to safeguard the children involved! This kind of double (or triple?) violence may be taken out through judicial, forensic, and assistential victimization.

With a specific regard to the kind of violence that happens in judicial separation, removal of minors, limitation of parental responsibility proceedings, the authorities called to repress violence - probably fail at recognising it or do not give it the due relevance – they fail to adopt the right measures aimed at safeguarding the victim, and instead underline the victim’s responsibility in the violence to which she has been subject to.

Underestimating the phenomenon of domestic violence against women has the direct effect of subjecting the victim to secondary victimisation in the context of civil or minors proceedings. Therefore, acting as a consequence appears necessary, especially in order to ensure the right to justice and the certainty of the punishment since our legal system is required to prosecute crimes and convict guilty people, not mistake them for the victims.

I am not the only one claiming this, also the Parliamentary Commission of inquiry on femicide and on any other form of violence were the main subject of a very important inquiry regarding secondary victimization on women and on their children, however, barely anyone has ever heard about it (Art. 27, Italian Constitution).

So now I’m going to be the one to disclose the Parliamentary Commission Inquiry, along with the outcome of my experience in the field, my thoughts on the subject.

Therefore, I hope that with my new book I will be able to contribute, along with doing my job on a daily basis, in advocating for victims of domestic violence and their children, despite all of the hurdles that are deliberately imposed to me.

1. The premises of rising violence against women and children

For decades I have dealt with cases of minors taken away from their biological mothers victims of domestic violence, and this happens in the light of judicial measures that appear to be questionable, given by reports written by the Social Services and by official technical reports (CTU) which appear to be equally, if not even more questionable (Guidi et al., 2013).

The measures have led to the removal of minors not only from the mother and their home, but also from all of their relatives (such as grandparents, aunts and uncles, cousins, older brothers or sisters which appear to be available for their custody) and have led to the direct consequence of the temporary placement of the minors - which usually becomes a permanent placement in special homes or to family units.

Sometimes the children are even placed with the father who is accused of violence.. many of these cases are dramatically known and are still waiting for the final sentence. In the meantime, the unit composed by mother and child, biological or lawful, now dismembered and dispersed, has been subject to an existential damage which appears to be irreversible and that can never be compensated on an affective, personal and relational level, and last but not least, on an economic level.

On this last subject – money, it’s always about money! – foster care outside of the biological family lead to very high costs and it is public money. It is estimated that a minor placed in foster care, almost always private ones, costs the Italian State and/or Regions around 400 Euros a day, if not even more! (Miraglia, 2023)

Foster families are obviously entitled to forms of reimbursement and compensation, holders of a maintenance allowance of more than 6-700 euros per month. Whereas, based on my experience in the field, I can confidently say that at least 50 or 60% of the removal proceedings have no reason to exist and that minors could indeed, without any kind of harm, remain placed with their own mother if supported, even economically by the State, Regions, and local authorities. The expenses would surely be lower and the results much better!

But why does this happen? One could ask. Why are minors removed from the mother who has reported a domestic violence, which has often occurred before their own eyes? It usually happens because women have reported violence episodes taken out by their ex- husband or ex-partner, and for this specific reason are considered as weak and overprotective of their children, hindering their relationship with the father.

An accusation which finds its origin in the fact that the father, even if violent towards the mother, has never directly harmed the child and therefore, could be considered a good father. Overmore, the mothers are accused of failing in the attempt to protect their children and accused of not reporting the father of their children before (Miraglia, 2020).

Whichever perspective you look at it from, women who are subject to domestic violence are pointed out and blamed as responsible for the violence and unfit to raise their children, which are taken away without any form of support from the institutions.

The consequence is that children, in the name of a right to parenthood, in the vast majority of cases only serves to reiterate the ancestral intra-family superiority of the male role over the female one (a superiority particularly felt in Italy and which in fact restores the parental power which, even by law, should have been superseded by many years), are forced to keep in contact with their violent father, are given shared foster care in their name of double parenthood or, in the majority of cases, taken away from the father but also removed from the mother because the majority of complaints about domestic violence are not even taken into account.

This is confirmed by the judges, magistrates and the Parliamentary Commission Report into femicide: 95% of the courts are unable to say in how many cases regarding separations, divorces, measures regarding children, situations of mistreatment and abuse emerge; and this happens frequently even when the domestic violence is known and verified since almost a third of the cases, the documents regarding the criminal proceedings are acquired by civil proceedings. The complaint filed by the abused mother usually serves to set the perverse mechanism of removal from the family or placement in foster care (Antonocci, 1986).

The consequences of secondary victimization affect on the short and long term many of the cognitive processes, such as memories, attention span, the ability to elaborate informations.

On a psychological level they can be very severe manifesting in fear if not terror, a sense of helplessness, low self-esteem, depression, anxiety, post traumatic stress disorder, traumatic stress, social isolation, shame, guilt and loss of trust in other, institutions with the devastating consequences in the relationship between mother and child, not to mention the direct consequences that children face on a daily basis.

There may also be a long lasting impact on pyhysical health, causing sleeping disorders, heart problems, gastrointestinal disorders and other stress related disorders. Victims may also experience challenges in interpersonal relationships and in their ability to lead a satisfying lifestyle.

These kind of disorders, which if not overcome can lead to spirals of violence, perpetuates a cycle in which the child who once was victim of violence, becomes himself or herself a bearer of the same violence.

Let us now look more closely at what this violence is, this triple violence - gender, domestic, assisted - which women and their minor children are still unable to escape or oppose, in many cases becoming victims twice over: once of their executioner, a second time of the decisions taken in the name and on behalf of Italian law.

Often in everyday reality, in the family environment, it is difficult, if not impossible, to draw a clear line of demarcation between the three types of violence. In any case, as statistics show, the common element is almost always violence against or through women, and it almost always involves a woman mother.

1.1. What is violence

First of all, it is good to clarify the terminology because only in this way is it possible to outline the problem and, above all, qualify the crime of which one is a victim in order to act in the most appropriate way in order to protect oneself and free oneself from it. Furthermore, these are definitions, especially those of domestic violence and witnessed violence, which are still little known to the great mass of public opinion. It is often combined with the more well-known "stalking" (or persecutory acts) but, as we will see better later, it is not always the same type of violence and crime and, consequently, the protections and sanctions.

It is therefore appropriate, first of all, to recall the definition of violence, as given by the World Health Organization (WHO):

“Violence is defined as the intentional use of physical force or power, whether threatened or actual, against oneself, another person, or against a group or community, resulting in or having a high degree of likelihood of resulting in injury, death, psychological damage, poor development or deprivation” (based on Francesco Morcavallo's speech at the "il Caso Bibbiano" conference organized by Renovatio21 in Cavriago on 4 october 2019).

The numbers are impressive and we will analyze them in detail below. For now, just think that, according to the report that Save the Children (one of the most important international organizations for the protection of children and adolescents) published in 2011 with the support of Cismai (Italian Coordination of Services against Child Maltreatment and Abuse), the minors involved as spectators or victims of domestic violence in Italy were around 400 thousand, while ISTAT (Higher Institute of Statistics) counted in over 6 million and 700 thousand women between the ages of 16 and 70 were victims of violence, 690 thousand were those who suffered it at home and had children, and 400 thousand children were present (2015 data). And behind each of these numbers, behind each of these stories there is a small spectator who "will have consequences equal to those of a directly mistreated and abused child".

1.2. Gender violence

The expression "gender violence" indicates all those forms of violence that affect a large number of people discriminated against on the basis of gender, i.e. sex. It therefore ranges from the psychological and physical to the sexual, from the persecutory acts of stalking up to rape and, as an extreme consequence, femicide, that is, the murder of the woman as such.

Since in the vast majority of cases the victims of gender violence are women (it is no coincidence that, historically, the female gender has been defined as the "weaker sex"), gender violence effectively coincides with violence against women and therefore with the content of the UN Declaration on the Elimination of Violence against Women. The latter had been preceded by the United Nations World Conference (Vienna, 14-25 June 1993), in which gender violence (specifically against women) had already been defined as "any act of gender violence involving, or is likely to result in physical, sexual or psychological suffering or any form of suffering to the woman, including threats of such violence, forms of coercion or arbitrary forms of deprivation of personal liberty whether occurring in the context of private life or the public one".

A few months later, on 20 December 1993, with Resolution 48/104, the aforementioned Declaration on the elimination of violence against women was adopted by the General Assembly of the United Nations, albeit without a vote. It contains the recognition of the "urgent need for the universal application to women of the rights and principles relating to equality, security, freedom, integrity and dignity of all human beings" (Manicardi, 2011).

The Resolution therefore recalls and embodies the same rights and principles enshrined in the Universal Declaration of Human Rights (i.e. the document on the rights of the person, adopted by the United Nations General Assembly in its third session, on 10 December 1948 in Paris with the Resolution 219077A).

Articles 1 and 2 of the Declaration on the Elimination of Violence against Women provide the most widespread definition of violence against women (OHCHR, 1993):

- Article 1: "For the purposes of this Declaration, the term 'violence against women' means any act of gender-based violence that causes, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether in public or private life."
- Article 2: "Violence against women is defined as including, but not limited to, the following:
 - a. Physical, sexual and psychological violence occurring within the family, including beatings, sexual abuse of female children in the family, dowry violence, marital rape, female

genital mutilation and other traditional practices harmful to women, non-marital violence and violence linked to exploitation;

b. Physical, sexual and psychological violence that occurs within the community at large, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

c. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs”.

- Article 3: “Women have the right to the equal enjoyment and protection of all human rights and fundamental freedoms in political, economic, social, cultural, civil or any other fields.

These rights include, among other things:

a. The right to life;

b. The right to equality;

c. The right to liberty and security of the person;

d. The right to equal protection before the law;

e. The right to be free from all forms of discrimination;

f. The right to the highest attainable standard of physical and mental health;

g. The right to fair and favorable working conditions;

h. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment."

In 1999, as a consequence of the Resolution, the United Nations General Assembly, led by the representative of the Dominican Republic, then designated November 25 of each year as the “International Day for the Elimination of Violence against Women” (based on Francesco Miraglia's speech at the "il Caso Bibbiano" conference organized in Cavriago on 4 October 2019).

2. The many faces of gender violence

The forms and ways in which violence is expressed can also be of various types: - verbal threats of abuse, aggression or torture towards the woman and/or her family, children, friends; - repeated threats of abandonment, divorce, starting another relationship if the woman does not satisfy certain requests; - damage or destruction of the woman's property; - violence against animals dear to the woman and/or her children.

It is important to remember that in moments of anger we can all use provocative, insulting or contemptuous words and we can behave in inappropriate ways but usually followed by remorse and repentance. In psychological violence, however, it is not a momentary outburst of anger but rather a constant and intentional torment with the aim of subjugating the other and maintaining one's own power and control.” There is no profile of the typical woman who suffers violence. It can involve all women. It takes on many forms and modalities, although the physical one is the easiest to recognize. Here is a sort of sample.

2.1. Physical violence

“It includes the use of any act driven by the intention to harm or terrorize the victim. Acts attributable to physical violence are: throwing objects; pushing; slaps; bites, kicks or punches; hit or try to hit with an object; beatings; suffocation; threat with a firearm or knife; use of a firearm or cutting weapon. These forms occur in the crimes of battery, personal injury, private violence, home invasion, kidnapping.”

2.2. Sexual violence

“It includes the imposition of unwanted sexual practices or relationships that are physically harmful and harmful to dignity, obtained through threats or blackmail of various kinds. The imposition of an unwanted sexual relationship or intimacy is an act of humiliation, oppression and subjugation, which causes deep psychological as well as physical wounds in the victim.”

2.3. Psychological violence

“It encompasses every form of abuse that damages the identity of women:

- verbal attacks such as derision, verbal harassment, insult, denigration, aimed at convincing the woman that she is "worth nothing", to better keep her under control;
- isolate the woman, distance her from supportive social relationships or prevent her access to economic and non-economic resources, so as to limit her independence;
- jealousy and obsessiveness: excessive control, repeated accusations of infidelity and control of his acquaintances

2.4. Economic violence

Often such violence is difficult to register as a form of violence because it may seem normal and obvious that the management of family finances is the man's responsibility. Economic violence is defined as: - limit or deny access to family finances; - hide the family's patrimonial situation and financial resources; - prohibit, hinder or boycott women's work outside the home; - not fulfilling the maintenance duties established by law; - exploit women as workforce in the family business or in general without giving any type of remuneration in exchange; - take possession of the woman's savings or earnings from work and use them to their own advantage; - implement every form of legal protection for the exclusive personal advantage and to the detriment of the woman (for example, the registration of properties); - impose legal commitments by deception, threats or blackmail. This form of direct control, which limits and/or prevents the woman's economic independence, often does not allow escape from a destructive relationship of mistreatment." Stalking (Persecutory acts) “It indicates the oppressive behavior carried out by the persecutor towards the victim who rejected him (mainly the ex-partner). Often the stalker's conduct is subtle, aimed at harassing the victim and placing her in a state of anxiety and awe, with the aim of compromising her serenity, making her feel hunted, and in any case not free (Palmieri, 2021).

2.5. Domestic violence

The most widespread violence, contrary to what is thought even if we have now become aware of the reality of the phenomenon, is that which occurs within the home, or within the family. It consists of a continuous series of different actions but characterized by a common purpose: domination and control by one partner over the other, through psychological, physical, economic and sexual violence. The World Bank recognizes domestic violence as a public health problem, as it seriously affects the psychological and physical well-being of all family members.

According to the definition that was given way back in 1996 by the World Health Organization, "domestic or intra-family violence includes every form of physical, psychological or sexual violence and concerns both subjects who have, have had or intend to have an intimate relationship between a couple and individuals who have parental or emotional relationships within a more or less extended family unit". This definition still seems to us to be the most incisive and

extensive because it manages to extend to all the new types of interpersonal relationships that in the meantime have emerged, spread and consolidated, profoundly changing the social perception of the concepts of family nucleus, parental relationship, intimate couple and emotional relationship.

The mechanism that best defines the phases of a condition of domestic violence suffered by a woman is called "spiral of violence" or "cycle of violence", to indicate the ways in which the violent man achieves his goal of subjugating his partner making her feel incapable, weak, helpless, totally dependent on him. The phases of the spiral of violence can present themselves in a crescendo and then "mix": isolation, intimidation, threats, blackmail of children, physical and sexual assaults often alternate with phases of relative calm and false reconciliations, with the aim of confusing the woman and weaken her further.

2.6. Witnessed violence

This term refers to violence witnessed by minors, that is, a form of child abuse and psychological maltreatment that occurs mainly within the family, in the presence of domestic violence. It is indirect violence, not suffered personally but through violence on other individuals present in the family, usually the mother.

Minors may be directly exposed to violence or abuse when it occurs in their presence or may have indirect knowledge of it when someone, voluntarily or unconsciously, informs them about it; or, again, they can perceive its effects when they feel sadness, terror, anguish and a continuous state of alert of the victim or when they see bruises, wounds, torn clothes, tears, broken furnishings, etc. Minor victims of witnessed violence are invisible: invisible to the mother, who no longer has resources, and invisible to society, which barely recognizes them. They see, unseen, a daily climate of shame masked behind the appearance of normality.

Their involvement in domestic violence can occur not only during the parents' cohabitation, but also during the separation phase and after the separation itself. These last two phases are particularly at risk due to their involvement by the violent father/partner, who can use the children as a tool to reiterate the mistreatment of the mother and to continue to control her. Furthermore, in these phases the risk of escalation of violence and the possibility of a lethal outcome (murder of the mother, multiple homicides, murder-suicide) increases.

The dynamics of domestic violence obviously interfere with the relationship with children, altering the expression of the parental functions of the maltreating mother and father and the attachment models (Vita et al., 2023).

CONCLUSIONS

So, what conclusions should be drawn? What kind of advice should be given to women and mothers victims of domestic violence by the hand of their husband or partner? Don't file a complaint because it will just get worse? Because, reporting will only add to the punishment of seeing your child removed from you.

In the meantime, every taxpayer continues to pay in order to support a system based on a double form of suffering, which also leads to the death of the woman and mother, in a femicide hatched in the complicit silence of the institutions since it holds a woman prisoner in a house where she continues to suffer until the final explosion. Does that seem fair to you? (Palmieri et al., 2021)

REFERENCES

1. Antonocci G. Prejudices and the Christian knowledge of psychiatry, Cooperativa Apache SRL, Rome 1986
2. Guidi Antonio, Palmieri Vincenza, Miraglia Francesco, "Never a child again. Families, institutions, family homes, children's rights", Armando Editore, Rome 2013
3. Manicardi Nunzia, "Crazy cases. When Justice, Psychiatry and Social Services cross the path of the Italian citizen. Francesco Miraglia, an anti-current lawyer", Koinè Nuove Edizioni, Rome 2007
4. Manicardi Nunzia, *Give us our children back! Stories of children stolen from their families told by their lawyer Francesco Miraglia*, Edizioni Il Fiorino, Modena 2011
5. Miraglia Francesco, "Social Services, Custody and Parenting. Something to clarify", Artestampa Fioranese (Fiorano, MO), 2020
6. Miraglia Francesco, "The Children's Advocate. Too much power without control: this is how false family abuse and illicit foster care are built" presentation by Francesco Morcavallo, preface by Vincenza Palmieri, afterword by Raffaella Regoli, Armando Editore, Rome 2022
7. Palmieri Vincenza, Francesco Miraglia, "Prison Children" preface by Mario Giordano, afterword by Francesco Morcavallo, Armando Editore, Rome 2021
8. Palmieri Vincenza, *Psychiatric Filieria in Italy - from Basaglia to Bibianoe until the time of Coronavirus*, Armando Editore, Rome 2021
9. Palmieri Vincenza, Miraglia Francesco, "Dad take me away from here! Dedicated to Anna Giulia, 7 years old, Italian citizen", Armando Editore, Rome 2015
10. Vita Daniela, Miraglia Francesco, "I'm here too" Disability is a dimension of human diversity. Armando Editore, Rome 2023
11. Council of Europe. *Recommendation n° 8 of 2003, Council of Europe*. https://pjp-eu.coe.int/documents/42128013/47261704/COE_rec_2003_8_en.pdf/7f6642ac-c3ea-4d5d-8b66-35492d37f9d1?t=1377601426000
12. <https://autonomie.regione.emilia-romagna.it/polizia-locale/promozione-e-comunicazione/vademecum/>
13. Office of the High Commissioner, United Nations (OHCHR), Declaration of the elimination of violence against women, 1993. <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>