

DOMESTIC VIOLENCE: CRIMINOLOGICAL PROFILES, PREVENTION AND VICTIM PROTECTION

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***Abstract:** One of the reasons for the high dark number that characterizes domestic violence is that women often fail to recognize violence especially in the forms of psychological or economic violence, which, however, through the humiliations, denigrations with which it is substantiated annihilates women's personalities. Often women decide to turn to an anti-violence center only after they have suffered physical violence, and there they discover, then, that they have also been victims of other forms of violence that had not, however, been experienced as such, despite the outcry raised by the media.*

***Keywords:** domestic, violence, prevention, victim, protection.*

Introduction

In order to understand the criminogenic causes of intra-family violence, it is necessary, first of all, to dwell on the evolution of society over the past fifty to sixty years. Indeed, cultural and social evolution, which has also led to an increase in women's work, has resulted in the disappearance of the patriarchal structure of the family. Women have begun to take on roles previously reserved only for male subjects, and relationships within the family have become increasingly fragile. The causes of violence should not be sought within a single factor, as violence arises from a multiplicity of factors of different natures: social, cultural, individual and relational. One of the greatest difficulties encountered in analyzing the phenomenon is the enormous obscure number. Indeed, many women, despite being victims of violence, do not report it. The data in the possession of anti-violence centers, which fail to detect that part of the phenomenon that remains undeclared, are not helpful either. Statistics in recent years show a certain stability in homicides of women accompanied by a decrease in voluntary homicides of the male gender (ISTAT, 2020).

Several criteria can be used to distinguish domestic violence from other forms of violence or simply noncompliant behavior, including that of the behavioral patterns used by the violent person, that of the subjective perception of the victim, and that of the immediate and long-term consequences (Sontate et al., 2021).

1. The concept of domestic violence

Domestic violence, as previously mentioned, comes in different forms encompassing physical, sexual, psychological, and economic violence, and all individuals can be victims regardless of gender and age. In most cases it occurs in the family and home economy, but it can also involve current or former partners who do not live under the same roof, and the

victim does not always have a correct perception of being subjected to acts of domestic violence.

The World Health Organization has pointed out, however, that intimate partner violence and sexual violence have a strong gender connotation because most victims are women and most perpetrators are men (WHO, 2010).

According to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention; RS 0.311.35, approved in Istanbul on 11.05.2011 and ratified in Italy by L. 77/2013), the term "domestic violence" designates all acts of violence: physical, sexual, psychological or economic that occur within the family or household or between current or former spouses or partners, regardless of whether the perpetrator shares or has shared the same residence with the victim (Art. 3(b)). In relation to physical violence there are so-called "spy crimes," which are represented by all those crimes indicative of gender-based violence directed against a woman such as threats, beatings, and family abuse, the occurrence of which can then lead to an escalation that ends in crimes of attempted murder or even consummated murder. Sexual violence occurs when the victim suffers sexual harassment, rape, or is coerced into sexual acts. It should be pointed out that according to the Lanzarote Convention, all sexual acts committed with a person who by national law has not reached the age limit for legal protection constitute the crime of sexual abuse of minors. Psychological violence takes the form of a series of acts that can also be quite subtle such as instilling guilt, instilling terror, limiting the victim's social life by resorting to different motivations and others, on the other hand, more explicit such as insults, intimidation, denigration, humiliation, and fear for personal safety. Economic violence takes the form of making it difficult or limiting the victim's economic autonomy by, for example, prohibiting her from working or controlling her expenses or income or exploiting her economically. In addition, we distinguish domestic violence in the family and couple by the type of violence acted (physical, sexual) by the acts suffered by the victims and the consequences resulting from them, severity, frequency and duration. Violence may take the form of one-time violent behavior or continuous behavior that may result in violence and control. Thus, domestic violence occurs between individuals who are not always related by family or biological ties, and victims are such regardless of gender; often, however, perpetrator and victim may live in the same place such that incidents may occur even after the relationship has ended. It also differs from nondomestic violence in that the violence occurs more in the victim's home or in a place considered by the victim to be safe and secure; the victim is threatened by a person known to her with whom she has an emotional or intimate bond. Violence affects not only physical integrity but also psychological and/or sexual integrity. Different forms of violence can occur either singly or in combination. Another peculiarity of domestic violence is that systematic violent behavior toward the ex-partner or minors in the domestic sphere is based on and consolidates power inequality (Hagermann-White, 2016). From a classificatory perspective, it can be affirmed that domestic violence falls into the three categories of violence outlined by the World Health Organization: self-inflicted violence, interpersonal violence committed by other individuals or small groups (domestic violence), and collective violence enacted by organized groups.

2. Forms of violence

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The Istanbul Convention distinguishes between two types of domestic violence: violence between current or former partners and intergenerational violence between parents and children or between people of different generations with other kinship ties. One aspect that is often ignored by the media and scarcely reported in official statistics due to the high obscure number is intergenerational violence, which constitutes a form of domestic violence and takes the form of acts of violence enacted by parents and caregivers against children and adolescents, or acts of violence enacted against older persons, but also forms of violence witnessed by minors or even acts of violence acted by in acts of violence acted by minors against their parents. Hence the complexity and difficulty of recognizing domestic violence since it sometimes happens that a victim of multiple individuals becomes or performs acts of violence simultaneously in the same family relationship (Sontate et al., 2021).

Children's exposure to domestic violence negatively affects their psychophysical development. Without proper reprocessing of the traumas experienced during childhood the same can cause mental, physical and psychosocial disorders and exposes them to the risk of becoming perpetrators of violence in adulthood. Violence is considered to be acted on minors even when it is not personally experienced by them. Stalking is one of the forms by which domestic violence can be acted out and is particularly common in cases of separation or divorce. The Istanbul Convention in Article 34 defines stalking as "intentional and repeatedly threatening behavior towards another person, leading him or her to fear for his or her safety," and impairs the psychological and/or social integrity of the victim. Even in this form, domestic violence is difficult to detect because the acts in which stalking takes place may appear individually harmless but their repetition makes them particularly dangerous.

In order to prepare strategies for the prevention of domestic violence, empirical data must be taken into account in addition to theoretical elaborations. Indeed, some authors distinguish between situational violence and systematic violence (Johnson, 2008).

The situational one, which takes the form of spontaneous conflict behavior, is characterized by acts enacted by the perpetrator(s) one or more times, even regularly, in couple or family conflicts to eliminate tensions and resolve conflicts. It is based on poor communication and poor interpersonal skills as well as insufficient skills to resolve existing conflicts including economic conflicts (Anderberg et al., 2016). In the literature, the systematic use within a pattern of controlling and humiliating behavior by the perpetrator on the victim is called intimate terrorism. Situational violence can become systematic violence and have severe or lethal consequences.

Systematic or controlling behavior violence, on the other hand, is characterized by the repetitiveness and persistence of violent acts and is based on an asymmetrical relationship of abuse. It is directed at creating an enduring power gap through prevaricating, controlling and managing behaviors in the relationship with the victim. Victims report greater physical and psychological consequences and this form of violence can only be stopped through the tools provided by the criminal justice system or with the victim support network.

There are two typical profiles of violent offenders, but the transition from one profile to the other always appears possible. People who are violent "by situational factors" act in stressful situations present in the family relationship, couple, or environment. Violence is acted out as a means of conflict resolution and, often, the victim also uses violence against his

or her perpetrator. Individuals who are violent due to "personality-related factors" enact violent behavior due to personality disorders or more generally due to personality characteristics related to con correct development, and this implies that even an irrelevant fact is enough to trigger it. In such circumstances in the couple is the sole perpetrator of violence.

Violence is always the result of an interaction of several mutually influencing causes. Empirical studies are concerned with indivi-duating risk and protective factors. In science, a risk factor is defined as a higher statistical probability of undergoing or committing violence in the presence of certain characteristics or conditions. Protective factors, by contrast, reduce the probability of undergoing or committing violence and increase resilience in the presence of risk factors (Wilkins et al., 2014).

Differentiating the types of violence suffered, any overlapping of the same, and the severity of the acts is important to assess the possible consequences of violence on the victim and prepare supportive action for the victim. Each victim experiences the extent of health violence differently in relation to his or her individual characteristics (age, health status), the form of the violence experienced, and the relationship with the perpetrator/offender (Dokkedahl et al., 2019). Psychic violence that lasts for a long period can produce greater damage on victims' health than physical violence (Johnson, 2008), and the consequences produced in the long term from a psychic perspective are more thought-provoking than short-term physical ones (Dokkedahl et al., 2019). Trauma from having experienced violence can have perennial consequences and, more importantly, increases the risk for the perpetrator to become a victim of violence again. In fact, violence causes both short- and medium- and long-term health consequences for victims, whether they have experienced violence or witnessed violence (Dziewa et al., 2022). Immediate consequences of physical violence include physical injuries, concussions, head trauma, internal injuries, sleep disturbances, fear, anxiety, performance and concentration problems, and reliance on medication. In the medium and long term health include a wide spectrum of psychosomatic disorders (D'Inverno et al., 2019) such as pain syndromes, gastrointestinal disorders, cardiovascular and skin disorders generating fear, sense of helplessness and overwhelm, post-traumatic stress disorder (Seidler et al., 2019). Cognitive and emotional developmental impairments and attachment disorders can occur in children who are victims of violence (Brisch 2012). The Istanbul Convention states that when determining child custody and visitation rights, incidents of domestic violence should also be considered in order to prevent further harm to children (Art. 31). Exposure of children to ongoing parental conflicts can undermine their psychophysical balance and, therefore, when establishing parental authority in the case of separation or divorce such conflicts must also be specifically assessed in combination with other factors (Kalmijn, 2016). In fact, it may happen that the abusive parent may continue to exert control over the former partner through shared custody of the children, engaging in personal relationships, and participating in child care (Meier et al., 2019). Violence is considered to be acted upon children even when it is not personally experienced by them (McTavish J.R., 2016). In relation to gender, several studies have shown that the health consequences of domestic violence are greater among female victims particularly those who are victims of mental and sexual violence (D'Inverno et al., 2019). From a social point of view, violence in the medium to long term can affect the ability to work temporarily or permanently by affecting the professional life of victims.

2.1. The concept of transgenerational violence

Transgenerational violence occurs when a person reproduces in his or her relationship or family the violence experienced during childhood. The correlation between violence experienced in childhood and violent behavior is well known in the literature (Spearman et al., 2023). Indeed, in stressful situations, individuals who have experienced violence during childhood have an increased risk of reproducing on their children the traumas they have experienced by developing the latter trauma disorders also due to biological mechanisms of trauma transmission that can leave epigenetic traces and change the regulation of the stress hormone system (Ahmad et al., 2022). However, we cannot speak of the existence of a deterministic link between experience of violence and reproduced violent behavior or development of post-traumatic stress disorder. Therefore, protective and resilience factors need to be enhanced in prevention (Deriu, 2016).

The costs for prevention activities are absolutely lower and most importantly they eliminate or reduce the suffering of victims (Rutherford et al., 2007).

A particular form of domestic violence is what is called "separation violence," and it occurs either as a reaction to the communication of one partner's desire to separate from the other or during separation and divorce proceedings or even when they have already ended. In such circumstances, in fact, the risk of violent behavior increases especially when violence was already present prior to separation (Capaldi, 2012). In some cases, despite the episodes of violence suffered, the victim does not leave the home in which she lives with her aggressor in order to prevent her partner from becoming even more violent or because the position of control and dominance in which the victim comes to find herself, or other factors such as the presence of the children does not allow her to do so. Frequent couple conflicts or previous episodes of acted out violence or controlling behaviors in the relationship constitute risk factors for separation violence (Walker et al., 2004). In dating violence, the first episode of physical violence may be preceded by verbal aggression, hostile attitudes, or jealous and controlling behavior. Longitudinal studies show that purely psychological violence is associated with an increased risk of future physical violence (Salis et al., 2014).

Among individual factors, sociodemographic characteristics may be useful in identifying groups of people at risk for violence.

Older age goes hand in hand with lower risk of committing and experiencing dating violence and thus is a protective factor. Men and women are equally likely to commit relationship violence. Family income, unemployment and poverty are risk factors especially with unfavorable conditions for stress management and conflict resolution (Anderberg et al., 2016). Having experienced abuse and violence during childhood or having witnessed violence among parental caregivers exposes one to the risk of subsequently committing or experiencing violence in the relationship or in one's family especially in the presence of risk factors and in the absence of protective factors. Parental educational behavior with parents' participation in their children's lives, their support, and their encouragement of nonviolent behavior constitute protective factors. Negative emotionality (fear, anger, hostility) and aggressive behavior constitute risk factors. Certain personality disorders have been found to be predictive factors for the use of couple violence in the same way that depressive symptoms may constitute risk factors more for women than for men (Lanchimba et al., 2023). In

addition, substance use is also considered an important risk factor for both genders especially in the presence of particular behavioral problems or antisocial behavior. Stress whether economic, parenting, relational, work overload stress is a risk factor along with other risk factors.

Relational factors include relationship status and the occurrence of relationship violence. According to some research, married people are at a lower risk in the onset of relationship violence unlike separated women who are particularly at risk of violence from their ex-partner. Another risk factor for both genders is low relationship satisfaction since there is a close correlation between relationship satisfaction and couple conflict. Conflict rates are a predictor of violence for both men and women, and the lowest rates are found in couples where partners are on equal footing. Jealousy and possessiveness are also related to couple violence against women.

Critical changes and transitions such as the birth of a child cannot be forgotten, which can be associated with stress loads; separation situations are an adverse event and behavior an increased risk of violence.

Community and social factors include social isolation and social support while the former is a risk factor several studies have shown that support and concrete help protect against violence. Social disorganization can also affect violence as it involves less informal social control of the neighborhood and community. Finally, the broadly understood social environment (legal, political, and economic equality between men and women) can also affect the occurrence of violence as the acceptance of hierarchical gender attitudes in society increases women's risk of experiencing dating violence (Kindler and Walper, 2016).

2.2. The concept of couple violence

In relation to the protection of victims of violence, it is necessary to distinguish prevention strategies in legal, coordination and collaboration with any services involved, protection and support of victims of separation violence, and support of perpetrators of violence. Protection of victims of domestic and separation violence through legal measures is based on the use of the tools offered by criminal law, police measures, and civil law; protection and support strategies for victims of separation violence include information, counseling, protection, safety planning, risk assessment, psychological and therapeutic support of both victims and children who witness violence. Particularly useful, although they are only recently becoming more widespread, are perpetrator treatment programs that aim to help perpetrators of violence reflect on violent behavior by making them abandon those culturally constructed and socialized beliefs or norms that justify violent behavior and by making them take responsibility for the actions they put in place and awareness of the consequences produced by violence (Bozzoli et al., 2017). Such programs, then, also aim to reduce the risk of recidivism.

Couple violence in all its forms is always the result of the interaction of many factors at different levels. The conditions that trigger couple violence are not easily transferable to other forms of domestic violence such as child abuse, violence against the elderly, and violence of children against their parents.

It is not possible to explain why some people or groups become violent or experience violence more often while others are better protected. WHO (2002) has since 2002 adopted

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an ecosystemic model for explaining interpersonal violence by tracing it back to a complex interaction of influencing factors on 4 levels that change over the life course: individual, relational, community and social.

At each level correspond factors that can increase or reduce the likelihood of the occurrence of relationship violence. At the individual level it emerges that the behaviour of each partner is influenced by developmental, biological and personal factors, but also characteristics such as gender, age, level of education and employment status. At the relational level, communication and conflict management patterns and the distribution of power within the couple are relevant. At the community level the social reference systems of individuals and couples such as relatives, friends, the workplace and the resulting social isolation or social support, approval or tolerance of violent behaviour by the social context become important. At the social level, factors that can create a climate that promotes or prevents violence such as social norms, gender roles, and the management of violence are noted.

The ecosystem model emphasizes that there is no single cause of couple violence. Violence is always the result of an interaction of several causes that influence each other. Moreover, couple violence is never inevitable, even under certain conditions. It is not possible to empirically prove the existence of a cause-effect link in the complex phenomenon of couple violence. Therefore, empirical studies are concerned with identifying risk and protective factors. In science, a risk factor means a statistically higher probability of experiencing or committing violence in the presence of certain characteristics or conditions. Protective factors, on the other hand, reduce the probability of experiencing or committing violence and increase resilience in the presence of risk factors (Wilkins et al., 2014).

Research on couple violence has described various cycles of violence that can occur in violent relationships. The cycle of violence theory (cycle of abuse) developed by Walker (1979) describes a frequently observed pattern of violence in relationships that includes the following phases: 1) build-up of tension, 2) outbreak of violence (physical, sexual) and 3) repentance, reconciliation and calm. This cycle repeats itself until an intervention or separation (or in the worst case, the killing of the victim) interrupts it (Walker, 1979). The frequency of repetition is variable and both the individual phases and the whole cycle can have different durations: hours or days the first, up to a year and more the second. The violence may become more intense and the outbursts more frequent, in other words, the violence may escalate (Walker, 1984).

The cycle of violence - also known as the 'violence spiral' - is widely used in practical prevention work to describe the individual and interactive behavioural patterns of violent people and victims of violence.

Couple violence can create psychological burdens in victims such as post-traumatic stress disorder, depression, anxiety, substance abuse, which limit the victim's ability to exit the violent relationship. However, resilience factors such as self-esteem, flexibility in dealing with stressful situations, can mitigate the psychological consequences of violence and increase the ability of victims to contain repeated couple violence (Foa et al., 2000). In some cases, couples are able to end repeated violence and establish a lasting non-violent

relationship on their own or by availing themselves of external support, but much more often, violence leads to the separation of the couple. Victims with a strongly ambivalent behaviour in dealing with violence and with extremely limited personal resources need more extensive and longer-term support in order to successfully exit the violent relationship (Rajagopalan et al., 2015).

3. Forms of violence prevention or repression

In the Istanbul Convention, the signatory States undertook, among other things, to share and transpose into national legislation certain principles considered fundamental, including: the specialisation of all operators; the provision of adequate mechanisms for effective cooperation between all competent state bodies, including 'judicial authorities, public prosecutors and law enforcement authorities'; the possibility of monitoring its application through an effective statistical survey and the consequent evaluation of data revealing the phenomenon.

Among the objectives that the same Convention sets for States to eliminate violence against women and domestic violence is that of adopting an integrated approach to be pursued through effective cooperation between law enforcement authorities, an objective that can be achieved through coordination in the collection of data on the phenomenon and the consequent dissemination of the results obtained. This approach consists of helping all those involved, creating effective coordination between all institutions involved in the issue of domestic violence and optimising their cooperation and interventions (Hagemann-White et al., 2010).

It is precisely with regard to this obligation of "diligence" in preventive and repressive activities that the Commission could not fail to consider the important warning of the judges of the European Court of Human Rights - in the judgment " *Talpis v. Italy* " of 2 March 2017- to work to ensure that the protection mechanisms provided for in domestic law work in practice and not only in theory, and that especially in cases of domestic violence the rights of the aggressor cannot prevail over the rights to life and the physical and psychological integrity of the victims (European Court of Human Rights, 2017).

It is also well known that, due to the specific characteristics of this form of violence, especially in cases where the conduct has been going on for a long time and with repetitiveness, the perpetrator does not always become fully aware of the disvalue of his behaviour, often does not consider himself guilty, does not understand the sentence and hardly changes his conduct (Walker, 1989). In this context, the granting of prison benefits, from per- sentences to semi-release, cannot disregard a well-founded assessment that they do not jeopardise the safety of offenders (Merzagora, 2009).

It seems appropriate to draw attention to what is provided for in Article 15 of the Istanbul Convention, namely inter-institutional cooperation. This provision encourages the legislators of the signatory countries to include courses on "coordinated inter-institutional cooperation in the training of professionals who deal with victims or perpetrators of all acts of violence, in order to enable a comprehensive and appropriate management of the guidelines to be followed". In addition, Article 18 of the Convention places an obligation on States to ensure 'adequate mechanisms of effective cooperation between all relevant State bodies, including judicial authorities, prosecutors, law enforcement authorities'. In Italy,

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taking into account the close correlation between civil proceedings and criminal proceedings for physical and psychological violence occurring in family relationships, the legislator with Law 69/2019 introduced, in the implementing provisions of the Code of Criminal Procedure, the obligation to transmit certain acts of the criminal proceedings to the civil proceedings in cases where specific criminal offence hypotheses are being prosecuted (Article 64-bis). Still on the subject of the unicity of jurisdiction, it also seemed central to emphasise the role played by the public prosecutor in civil proceedings, in respect of which - as is well known - Article 70 of the Code of Civil Procedure stipulates that he 'must intervene under penalty of nullity [...] in matrimonial cases, including those of the personal separation of spouses'. For more than obvious reasons, it seems essential that he should be a judge specialised in gender and domestic violence, just as a new and significant reconsideration of the role he can and must actually play also in the aforementioned civil cases is considered fundamental. It must be emphasised that the intervention of the Public Prosecutor in civil cases of separation and divorce and in those concerning minors, in his capacity as the one who represents the State must be concrete by guaranteeing the effective protection of the parties, in particular the weaker ones as in the case of minors when they may be involved in family relationships characterised by violence, thus contributing to ensuring that the "best interests of the child" are taken into account in all decisions.

A further problem is given by the protection orders against family abuse regulated by the art. 342bis of the Italian civil code. The competent judge for the adoption of such measures is the civil one. The protection orders, in the intention of the legislator, were to combat violence in family relationships. To date, the measures with which protection orders were adopted have only highlighted episodes of domestic violence in very few cases. This situation before the civil courts is more critical than what emerged in the prosecutor's offices.

This data can be interpreted through the lack of awareness that professionals have of the complexity of gender and domestic violence, so much so that at a judicial level it often continues to be equated with other matters even in the definition of magistrates' workloads. This could contribute to the triggering of vicious cycles: inadequacy and efficiency of the judicial response, non-timeliness of the intervention, increase and imbalance in the workload to the detriment of specialized magistrates, with the real risk of a disaffection towards the matter. It should also be highlighted that in Italy, the offices most directly involved in the action to combat gender and domestic violence for the investigative functions assigned by the judicial system are the Public Prosecutor's Offices, competent offices, together with the judicial police bodies. About a fifth of prosecuting magistrates have been assigned to deal with the matter of gender violence and domestic violence but it is not certain that they only deal with this matter, as they also deal with other matters concerning the so-called "weak or vulnerable subjects".

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Conclusions

The role played, even in the preliminary investigation phase, by technical consultants, professional figures represented, in almost all cases, by psychologists, has taken on an increasingly greater importance which is expressed not only in the carrying out of specialist assessments (technical assessment or expertise), but also in the function of assisting the judicial police, the public prosecutor or the defender, in the collection of information from minors or injured persons in conditions of particular vulnerability, with direct consequences on the taking of declaratory evidence (testimony) in criminal proceedings. The deficits in their use in carrying out psychological counseling on minors are significant and, first and foremost, the fact that the appointment does not always take place on the basis of the verification of an effective specialization in the field of gender and domestic violence. In many prosecutor's offices, consultants are chosen from among those registered in the court's register of experts, a register which does not contain a section or a list of experts specialized in the subject. Furthermore, the adoption of standard questions in assigning tasks to consultants in the field of gender violence and child abuse is still too rare. This choice seems desirable, firstly because it guarantees homogeneity in judicial action (and this is particularly significant in medium and large-sized offices), secondly because it allows to ensure, especially in such a complex sector, a correct identification of the object of the assignment and, therefore, to best guarantee compliance with the boundaries between the expert assessment and the jurisdictional function reserved to the magistrate.

There is a social problem, a "cultural pathology" which has also been defined as penal populism: to indicate the tendency and practice of delegating the tackling of complex social issues, such as domestic violence, to the penal code (and punishment), "also making a symbolic function of criminal law prevail, but it is not from criminal law that the fight against domestic violence will receive its confirmations and victories" (Ronconi, 2021). The risk of becoming accustomed to violent gestures and words is not the prerogative of victims of violence but of all of us. Everyone in their role must not be afraid to take difficult positions of rupture, of contrast because only in this way can we avoid that, day after day, we become accustomed to the most subtle forms of violence and end up defining normal what is not normal.

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