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Project of Significant National Interest - PRIN 2022 PNRR

Where are the LGBT victims of intimate partner violence? Agencies, operational practices, and interventions who support victims, prevent, and fight against the phenomenon. (Vi.S.S.)

SUMMARY OF THE RESULTS OF THE FIRST RESEARCH PHASE Milestone 1 (December 2023-May 2024)

Socio-criminological, victimological and socio-legal analysis

This first part of the research was divided into two phases, which were simultaneously carried out: the first consisted of the retrieval and analysis of socio-criminological and victimological literature, both national and international, in order to reflect on the phenomenon of IPV (Intimate Partner Violence) in same-sex relationships; the second, from the socio-legal point of view, the collection of judgments carried out in order to examine, both from a quantitative and qualitative perspective, the Italian jurisprudential production on the subject.

Socio-criminological and victimological analysis

In Italy, there has been a growing focus on women's experiences since the 1980s, leading to a deeper understanding of sexism and the effects of patriarchy. This has resulted in the adoption of the concept of "domestic violence" to describe various forms of violence. From the beginning, domestic violence seemed intertwined with marriage and a family law system that seemingly supported it. Physical violence was considered permissible due to the societal acceptance of female subjugation within marriage. The feminist movements' efforts in raising awareness and protesting have resulted in the establishment of dedicated centers for women, known as Anti-Violence Centers for Women (CAV), with the help of international collaborations (Creazzo, 2008). This facilitated a shift in focus from simple victimization and damage reparation to the necessity of developing intervention strategies, particularly in terms of planning, to support women in their efforts to regain a sense of self-determination.

Domestic violence, as an expression of gender-based violence, consists of violent acts aimed to control and subjugate women. The 2011 Istanbul Convention defined domestic violence as “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit, or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”.

In addition, a further expression of gender-based violence, which is intertwined with domestic violence, is the so-called family violence (Cruz et al., 1998), defined as “a set of violence or abusive acts committed between members of a family or household (e.g., adult partner/adult partner, adult/elderly person, adult/ children, sibling/sibling) and, by some definitions, alternate kinships such as people related by marriage (e.g., in-laws, step-siblings), foster care, adoption, or other familial ties” (Nash et al., 2024, p. 3). It can also be viewed as a manifestation of behaviours and patterns that reinforce societal power dynamics centred around the oppression of women and the supremacy of men.

Additionally, within the academic sphere, the term Intimate Partner Violence (IPV) is often employed to encompass all acts and threats of physical, sexual, and psychological violence perpetrated by a partner or ex-partner (Ibid). The choice of using the terms domestic violence and IPV seems to be attributed by different reasons. Indeed, while some scholars use the two terms interchangeably (Hearn, 2013), others argue for a broader distinction between them. These scholars assert that the term "domestic violence" was specifically created to describe the experiences of wives who are victims of their husbands' abuse. In contrast, the concept of "intimate partner violence" (IPV) encompasses all forms of violence that “exist in any form of intimate relationship despite partners' marital status, sexual orientation, gender identity, or place of residence and that the roles of the abuser/victim can be attributed to either sex or gender of partner” (Nash et al., 2024, p. 3).

Some argue that assuming heterosexuality in violent relationships has indirectly contributed to the continued invisibility of violence within LGBT couples.

In the first phase of attention to non-heterosexual domestic violence, which can be conventionally included between the 1980s and the 1990s, references were found exclusively concerning homosexual couples (consisting of women or men) without, in this sense, considering and including other sexual orientations and non-cis gender identities. However, starting from the second decade of the 2000s, scientific literature, along with a more widespread social awareness, began to include all subjectivities: this shift contributed to the dissemination of studies and research concerning trans people (Bornstein et al., 2013; Cook-Daniels, 2015; de Lima, 2023; Garthe, et al., 2018; Goodmark, 2013; Greenberg, 2012; Guadalupe Diaz, 2019) and sexual orientation such as bisexuality (Head & Milton, 2014; Bermea et al., 2018).

IPV in non-heterosexual couples is a phenomenon that exhibits similarities to the experiences of heterosexual victims, while also presenting unique characteristics because these individuals belong to a sexual minority. Specifically, individuals who have been victimized may encounter various types of isolation and social exclusion, particularly in their interactions with support services, which can also result in instances of homophobia and transphobia; according to victims' accounts, the risk of secondary victimisation – manifested when they attempt to file a complaint or require local support - is so pronounced that it constitutes a significant barrier to seeking assistance (see Alhusen et al., 2010; Comstock, 1991; Jablow, 1999; Aulivola, 2004; Pattavina et al., 2007; Addington, 2020; Finneran & Stephenson, 2013).

Stereotypes and prejudices surrounding LGBT unions, such as the perception that same-sex couples do not engage in sexist dynamics or the misconception that LGBT couples are more likely to have equal and peaceful relationships, serve as an impediment to the study of this phenomenon. Furthermore, statistics reveal a nearly equal occurrence of domestic violence in both heterosexual couples and LGBT relationships, contradicting this distorted perception.

Utilizing various search platforms (Google Scholar, OPAC, Academia.edu, NILDE, etc.) and employing diverse key terms (e.g. “Intimate Partner Violence and LGBT community”, “Domestic

violence on same sex couples”, etc.), researchers were able to gather a range of 357 scientific sources for this research project.

Socio-legal analysis

We commenced the collection of judgments, pronounced from 2013 onwards (the year Italy ratified the Istanbul Convention), concerning criminal offenses that fall under the purview of Intimate Partner Violence (IPV), to evaluate the quantity and quality of legal precedents pertaining to same-sex couples.

The research was conducted using a variety of platforms, both public and confidential, to access legal databases and trace sentences related to offenses identified as legally relevant in cases of violence within emotional and/or intimate relationships. These offenses include ill-treatment against family members and cohabitants – art. 572 of Italian Criminal code; personal injuries – art. 582; sexual violence and aggravated sexual violence – articles 609-bis, and 609-ter – persecutory acts – art. 612-bis; personal injuries aggravated by family ties and deformation of the person’s appearance by permanent facial injuries - art. 582 and art. 583-bis aggravated pursuant to art. 576 paragraph 1, n. 2, 5 and 5.1 and pursuant to art. 577 Italian Civil code paragraphs 1 and 2; protection orders for victims of violence - art. 342-bis Italian Criminal code.

To identify judicial rulings related to the offenses at hand, specific keywords denoting the relational aspect within the LGBT community were utilized, including the abbreviated form of the offense (e.g., "art.572" and "homosexuals").

The sentences identified are thus the outcome of numerous attempts to associate crimes with specific words and word sequences, which did not always yield valid results.

In fact, the term “gender” was predominantly found in judgments concerning forms of violence perpetrated against women in heterosexual couples. Therefore, precisely because of this prevalent use, the term "gender" was excluded - although it identified a substantial number of judgments (2,186 in total), it made it exceedingly difficult to detect cases specifically attributable to same-sex relationships. Similarly, more specific terms (e.g. “queer”, “LGBT”, “LGBTQIA+”) did not yield any results, returning an empty list for each of the offences searched.

However, this information itself bears significance as it enables the examination of the specific legal and social attention given to the often-unnoticed phenomena.

The utilization of additional keywords led to the compilation of a comprehensive list of 608 judgments, out of which only four pertain to intimate relationship contexts involving non-heterosexual couples.

It is important to note that the limited number of identified sentences should not be interpreted as an accurate representation of the actual prevalence of IPV phenomena among the LGBT population in our country. In addition to the concept of the dark figure of crime, the negligible size of the findings appears to be attributable to other factors as well.

First, the insufficient specificity in these judgments can be attributed to a general disregard for the gender of the individuals involved in court case indexing, in line with the inherent abstraction of the reality that characterizes the legal domain. Consequently, many of the cases indexed as offenses, although they may involve events related to LGBT relationships, elude precise identification through targeted searches. Only by identifying the presence of the same gender (traditionally “male” or “female”) among the main parties involved in the proceedings (for convenience: “defendant/convicted”), particularly using gender-specific adjectives, we were able to identify relevant cases to our study.

Secondly, it is evident that the conditions and characteristics pertinent to the research project do not receive precise attention even in a “discursive” sense. This likes to contrast with other, not dissimilar fields, such as the extensive and heterogeneous area of violence against women perpetrated by men.

This discrepancy presumably reflects differing levels of influence, including those of a political-media nature.

In brief, it is crucial to emphasize that this could be regarded as an intriguing phenomenon, necessitating an exploration of the associations between a specific "neutralization" of gender and sexual orientations within conventional judicial classifications, regarding the principles of legal abstraction and the absence of a clear attention or "sensitivity" among legal and IT practitioners.

This research project aims to address the significant gap in national-level studies in this field. It seeks to investigate the characteristics and dynamics of violence in relationships among LGBT individuals, explore the responses of services and operators, and amplify the voices of the victims. The goal is to distribute guidelines that encompass a summary of the legal instruments, practices, and interventions employed by the involved services and associations in the research.