

Early and Forced Marriages

In May 2020, the Italian Senate's "Special Committee for the Protection and Promotion of Human Rights" (Human Rights Committee) published a report on early and forced marriages. After providing a definition of "forced marriage" and "early or child marriage", the report investigates the phenomenon, stressing how difficult it is to quantify it, and clarifies the Italian legal framework.

Under art. 37 of the Istanbul Convention, the definition of "forced marriage" is based on two elements: the intentional conduct of forcing an adult or a child to enter into a marriage; the intentional conduct of luring an adult or a child to the territory of a Party or a State other than the one she or he resides in, with the purpose of forcing this adult or this child to enter into a marriage.

"Early or child marriage" refers to any formal or informal union in which one of the spouses is under the age of 18. These unions are not always formalized and therefore they don't necessarily produce legal effects. Yet, they are perceived as actual marriages by family members and by the social context in which they occur. On July 30, 2019, the Human Rights Committee approved a Resolution urging the Italian government to make a commitment to increase prevention by:

- training the operators of organizations working in the field - first of all teachers, police operators and judges - in order for them to be able to pick up the signs from potential victims and prevent early and forced marriages;
- training family members through schools and the social workers network in order for them to be aware of the negative effects of forced marriage on the girls' lives;
- providing support to victims and facilitating their access to the job market – through adequate education and training programmes - in order to make it possible for them to become economically independent and to achieve the relevant social status;
- setting up a national Watchdog for monitoring, analyzing and combating this phenomenon as well as other forms of violence such as female genital mutilation on one hand, and facilitating the adoption of measures against those who organize the travels for the purposes of child or forced marriages on the other.

From a criminal perspective, other types of offenses - that are mentioned in the Human Rights Committee's report - are to be taken into consideration in case of forced or early marriages, such as sexual intercourse with minors, child abduction, kidnapping, trafficking in human beings, duress.

The first operation conducted by Polizia di Stato under art. 558-bis c.c. (forcing or inducing to marriage) is an illuminating example.

On September 21, 2019, the Flying Squad in Pisa arrested a 46-year-old Bosniak national on charges of slander, domestic abuse, kidnapping, forcing or inducing to marriage (articles 81, 368, 572, 605, 558-bis c.c.) against his 2 daughters aged 20 and 22. The investigation had started after he reported his two daughters as being the victims of kidnapping. Indeed, the two girls had fled from the Roma settlement where their father kept them isolated and subjected them to abuse and violence in order to force them to get married with men of his own choice.

While the phenomenon of forced and early marriages may be accompanied by a series of offences, the analysis of the reports under art. 558 bis of the criminal code indicates that not all incidents fall within the category of the so-called "culturally oriented or motivated offences", that is those offenses that originate in specific cultural, ethnic or religious environments. These acts are punished by our legal system, yet they are not considered as offenses by the communities which the perpetrators belong to. Some cases appear to be linked to the suspect's desire to obtain the residence permit; others originate in a milieu of abuse and violence.

In order to help healthcare professionals, social workers and cultural mediators working in CPSAs (first

aid and reception centres), CDAs (reception centres) and CARAs (receptions centres for asylum seekers) and to provide them with adequate information tools in case they encounter potential victims of FGM and forced marriages, in December 2017 the Department for Equal Opportunities of the Presidency of the Council of Ministers published the “Guidelines for the early identification of victims of female genital mutilation and other harmful practices”.

Insights

Human Rights Committee's Report

http://www.senato.it/documenti/repository/commissioni/dirittiumani18/Il_lavoro_della_Commissione_diritti_umani_del_S

Website of the Department for Equal Opportunities

http://www.pariopportunita.gov.it/wp-content/uploads/2018/01/file-unico-mgf_eng.pdf

Version française Versione in italiano

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