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Indice

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Democratization by Elections or Democratic Regression? Nigeria, Zambia, and Kenya after the Last Elections (2021-2023)

Democratizzazione per via elettorale o regressione democratica? Nigeria, Zambia, e Kenya dopo le ultime elezioni (2021-2023)

Federico Battera

Abstract

This paper analyzes and compares three key elections in Zambia (2021), Kenya (2022) and Nigeria (2023). The aim was twofold: assessing the impact of elections on the democratic process and on the party system. The Zambian elections confirmed a trend towards democracy and party system consolidation, which since 2016 has become a two-party system. 2021's general elections marked also an important defeat for the incumbent and the consequent government change, with a significant increasing of voter numbers. This double result – the government change and the good level of voter participation – were considered as two indicators of the vitality and the full legitimacy of the democratic process. Contrary, in the other two cases under scrutiny problems of democratic consolidation seems to arise. In both cases the incumbent coalition won but what seriously affected the electoral legitimacy is the decline in voter participation recorded (i.e. dropping to 27% in Nigeria). The role of ethnicity was tested for all three cases by disaggregating the vote at the constituency level.

Questo articolo analizza e compara tre elezioni in Zambia nel 2021, in Kenya nel 2022 e in Nigeria nel 2023. Obiettivo del paper è quello di determinare l'impatto delle elezioni sul processo democratico e sui sistemi di partito. Le elezioni in Zambia confermano il consolidamento democratico del paese in un sistema bi-partitico. Le elezioni del 2021 hanno rappresentato, peraltro, una decisiva sconfitta per il candidato presidente in carica e del suo partito, con percentuali di partecipazione elettorale crescenti rispetto alle precedenti elezioni. Questo doppio risultato – il cambiamento della coalizione al potere e il crescente livello di partecipazione elettorale – era stato scelto quali indicatore della vitalità e piena legittimità del processo democratico. Negli altri due casi sembrano dunque manifestarsi dei problemi di consolidamento democratico. In entrambi i casi la coalizione al potere ha vinto ma ciò che più preoccupa la legittimità dei processi elettorali in questione è il calo del livello di partecipazione elettorale che ha raggiunto livelli preoccupanti nel caso nigeriano (27%). Il ruolo dell'etnicità è stato testato disaggregando il voto a livello circoscrizionale.

Keywords

Africa, Elections, Cleavages, Party-System, Democratization
Africa, elezioni, fratture, Sistema partitico, democratizzazione

Introduction

Starting at the beginning of the 90s, democratization in Sub-Saharan Africa has recently undergone important outbreaks of democratic backsliding. Since 2017, at least eight military successful coups have been recorded. While most of these occurred in countries that were either still under authoritarian rule (Zimbabwe, Sudan, Gabon, Chad) or were weak democracies (Guinea, Mali, Niger, Burkina Faso), a most serious general trend of decline of democratic standards has also been recorded in the continent (Cassani and Tomini 2019; Gyimah-Boadi 2021). Still, democracy continued to be sustained by African public opinion (Afrobarometer 2023). This happens in both countries that democratized during the 90s and the 2000s as well as in countries that suffer from lasting authoritarianism.

This paper concentrates on a selection of countries that held democratic elections in the triennium between 2021 and 2023 and where these elections were the last of a long sequel of uninterrupted ones. For this reason, the countries selected could be considered regimes where electoral procedures consolidated overtime. The aim of this paper is therefore twofold: given the rising theme of 'democratic backsliding', it firstly intends to assess the impact of elections on the quality of democratic process in countries characterized by achieved democratic standards; secondly, by analysing the party systems and the cleavages, it endeavours to make considerations on continuities and changes in the party system. Electoral politics in Africa has attracted an enormous amount of interest since the beginning of the 90s and this paper further contributes to the general reflection on the relation between vote behaviour, the changing structure of cleavages and the legitimacy of the democratic processes.

Given the many elections held from 2021 to 2023 a selection of three cases has been made: Zambia, which held general elections in 2021, Kenya, in 2022 and Nigeria, in 2023. The cases have been selected based on their record of continuity in regular elections since the return to multiparty elections and on their magnitude in terms of population and geography and/or the importance of the potential political impact in the area. These countries returned to multiparty elections in 1991 (Zambia), 1992 (Kenya) and in 1999 (Nigeria). Other cases in equally crucial countries have been therefore ignored, either because elections were held under authoritarian control – Ethiopia 2021, Uganda 2021, Angola 2022, Zimbabwe 2023 – or because of their minor regional impact as those in Benin, which held the Presidential election in 2021. Finally, the selected cases were easier to compare. They were all general elections, meaning that electors were called to vote for a President who is the head of the government, a Parliament and, in at least two cases, for the election of local governments. They were furtherly held under electoral rules which are roughly the same (single-member plurality; SMP) and the total number

of elections held so far were also equal. Another election that deserved to be analysed, that of the parliament in Senegal, held in 2022, at the end was excluded. The main reason was that presidential and parliamentary elections are not concurrent so the impact of the presidential candidates on parliamentary alliances and results is different.

The Theory of Democratization by Elections and Its Critics

The capacity of the democratic process to reflect the changing preferences of electors is the consequence of the capacity of the party system and elections to reflect social change. This will be tested by comparing elections in these countries with the previous ones looking to the entire series of elections since the re-introduction of multi-party politics.

Such capacity of African democracies is not merely intended as Bingham Powell's "chain of responsiveness" (2004). African democracies are generally still poorly responsive, unable to fully provide citizens with what they demand (Gyimah-Boadi *et al*. 2021; Asunka *et al*. 2022). In the paper, the capacity of the democratic process and its legitimacy (Norris 1999) is intended as the capacity to respect that government changes occur and maintaining sufficient levels of participation. This will be assessed through two indicators: electoral participation (measured with the voter turnout; VTO) and the frequency of government change (FGC). As long as the VTO and FGC remain high, the democratic system could be intended as fully legitimate and still able to fulfil its Schumpeterian promises, notwithstanding the feeble chances of generating responsive government. If these "democracies" fulfil the aforementioned minimal requirements will be considered "consolidated", even if at a poor level when compared to mature democracies, but the likelihood of a serious reversal is at this point improbable. We should remember where these countries came from: two were single-party regimes before the return to multi-party politics and one was ruled by a series of military regimes.

This approach is partially consistent with the theory of the 'power of elections' as introduced by Lindberg (2006), if we go to the essence of Lindberg's contribution. According to Lindberg (2006: 34), the regularity of free and fair elections strengthens democratization.[1] The theory was initially welcomed because broke with the scepticism which surrounded African transition to multi-party politics. Results from the dataset employed by Teorrel and Hadenius (2009) seemed to be consistent with Lindberg ar-

[1] On the regularity of the elections in Africa as a proxy of political institutionalization and as a factor which curtails the likelihood of the democratic breakdown through military coups, see Ieraci and Battera (2023).

guments. However, criticisms also arose. Positive results for Africa were not confirmed elsewhere (McCoy and Hartlyn 2009; Bunce and Wolchik 2012) until Bogaards (2013: 152) heavily criticised the theory also in the case of Africa founding it "inconsistent" and the causal mechanisms in support of the theory poorly developed. Bogaards found that the repetition of elections per se does not necessarily strengthens democracy in countries that have already transited to democracy, not to say about countries with heavily manipulated democratic standards – i.e. "electoral authoritarian regimes". His analysis rather suggested that African electoral democracies are still vulnerable to reversal if not breakdown.

The reliability of Lindberg's theory will be therefore also tested. The countries under scrutiny have now a long tradition of electoral politics. Their democratic standards have not always improved. In particular, doubts about the fairness of some elections are strong, but after five electoral cycles, it could be said that multi-party politics has consolidated. The point remains which level of democracy they have reached. For example, according to Bogaards (2013: 157), Zambia and Kenya fluctuated between "electoral authoritarianism" and "electoral democracy". This implies that democratic standards remain seriously poor. In this paper, it is not agreed on the qualification of the three cases assessed as "electoral authoritarian" regimes. Authoritarianism is incompatible with government changes. Holding elections under an authoritarian regime is today the norm, but authoritarian regimes do not change because elections unless they are pressed to do so by more serious events. That was not the case of the three countries under scrutiny which remain democracies notwithstanding the poor standards.

As far as the last elections in the cases selected are concerned, the impact of two factors on the electoral results should be ascertained. These two factors attracted considerable attention in the local press and if confirmed, they could imply a break from the dominant ethnic preferences of voters (Bratton, Mattes and Gyimah-Boadi 2004; Posner 2005), with strong potential of improvement of the democratic standards. First, the economic issue. In particular the debt burden reached rampant figures in the last decade with profoundly serious effects in Nigeria and Zambia with impacts in terms of inflation and jobs. Second, the growing activism of young people. The African voter is young and the continuous rejuvenation of voters, who have an ambiguous relation with ethnicity, has an adverse impact on the ethnic vote. This growing disconnection between voters and their ethnic profile is again more apparent in the case of Zambia, the less ethnicized case among the three, but shows encouraging signs of change also in the other two cases. If the importance of the ethnic/regional dimension is diminishing, this development will have a positive impact also on the responsiveness and signify a departure from elections as ethnic headcounts (Hoffman and Long 2013), making government changes more likely.

Zambia 2021: Towards a Two-Party System?

The Zambian 2021 general elections mark the most outstanding government change recorded throughout Africa during that year, with the exception of Cape Verdean presidential election. The 2021 elections are the second major government change after that occurred in 2011 when the PF (Patriotic Front) of Michael Sata put an end to the twenty-year dominance of the MMD (Movement for Multi-Party Democracy). This time was up to the PF to cede to the emerging UPND (United Party for National Development) of Hakainde Hichilema but now the difference between the two main candidates was the largest since the return to multiparty politics in 1991. About one million votes on a total of less than five million votes casted. The difference is captured by the percentage of votes obtained by the two main runners. Table 1 resumes the last five general elections held in Zambia covering twenty years of electoral history, with the exclusion of the Presidential elections of 2008 and 2015 which were not held as general elections owing to the premature death of the incumbent.

Table 1 – Zambian Electoral Results in the last five General Elections (2001-2021)

	2001	2006	2011	2016	2021
Winner (Party)	Mwanawasa (MMD)	Mwanawasa (MMD)	Sata (PF)	Lungu (PF)	Hichilema (UPND)
Percentage	29.2%	43.0%	42.8%	50,4%	59.0%
Runner-up (Party)	Mazoka (UPND)	Sata (PF)	Banda (MMD)	Hichilema (UPND)	Lungu (PF)
Percentage	27.2%	29.4%	36,2%	47,6%	38,7%
MPs first party	69 MMD	72 MMD	60 PF	80 PF	82 UPND
MPs s.nd party	49 UPND	43 PF	55 MMD	58 UPND	60 PF
Total MPs	150	150	150	156	156

The first remark to make is that since 2016 the process of transition towards a two-party system seems to be confirmed. If we sum up the percentages obtained by the first two candidates since 2016, the main two candidates cumulated more than 95% and a second round was not held.[2] The process of transition towards a two-party system started with the col-

[2] Between 2001 and 2011, the winner was elected with less than 50% of the votes. The electoral rules were changed after the 2015 presidential election into a two-round system.

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lapse of the MMD after 2011 and was strengthened by the introduction of the two-round system for the presidential election in 2015.[3] It is premature to exclude a future collapse of the PF, but no serious signs of this has emerged so far, unlike it happened during by-elections held between 2011 and 2012 for the MMD when members of this party abandoned it for the PF and the UPND.[4] The transition towards a two-party system is further stressed by the fact that since 2016 the winner party has been able to reach an absolute majority in the National Assembly (NA) without recurring to the support of independents (thirteen were elected in 2021), to small parties' MPs (only one was elected in 2021; they were four in 2016), to the appointed MPs (the President has the power to appoint eight MPs) or benefitting from floor crossing. The consolidation of the party system around to two main parties would furtherly strengthen the sustainability of democracy and the FGC approaching the case of Ghana (three FCG in thirty years) (Abdulai and Crawford 2010). It must be stressed indeed that after 2016 the Zambian democracy came under observation after some illiberal measures were adopted by the Lungu government against the opposition, the freedom of press, and of campaigning (Allison 2017). All these measures did not impede the UPND to win the confidence of most of the electors. The electoral result was so unambiguous that Lungu was forced, after some hesitations, to congratulate his opponents and concede defeat.[5] This is enough to say about the consolidation of the democratic process in Zambia notwithstanding the opposite view of many observers (Fraser 2017). A consolidation which is far from reaching the upper echelons of democratization, but still within the group of democracies. In 2021, it was up to the mobilization of citizens to ensure that elections were still the legitimate and unique rule accepted for selecting the government despite the illiberal measures adopted by the incumbent government[6] and the usual flaws of the electoral commission (ECZ).

The consolidation of the two-party system is due to other reasons. First, the growing importance of the economic factor for the electors. If it is true that ethnicity still drives an important number of voters, especially in rural areas, it is also true that the Zambian voter appears growingly emancipated from such a factor. He/she is moving out from Posner's ethnic voter model (Posner 2005) and moving towards Resnick's populist model voter centred around

[3] The MPs elected on an MMD ticket dropped from 55 in 2011 to three in 2016. None was elected in 2021.

[4] The MMD actually still exists and heavyweights of this party decided either to support the PF or the UPND locally in 2021 (Siachiwena 2021).

[5] *Africa Confidential*, "President Lungu dithers then concedes after challenger Hakainde Hichilema's landslide victory", 16th August 2021.

[6] Illiberal measures by the government were important but limited to some restrictions to public meetings based on COVID-19 regulations and the usual public broadcaster coverage in favour of the ruling party.

economic benefits or a combination of the two (Resnick 2010).[7] Still, ethnicity matters, albeit in a lesser measure, and, as we will see, less than in the Kenyan elections. In particular, what is clear is the consolidation of an urban/rural cleavage, which is not ethnic in nature, and the division of rural areas into those that benefit more from those in government (the PF in this case) and those that benefit less. That rural constituencies are mainly divided along ethnic lines explains why the rural voter is also an ethnic voter. In this sense, ethnicity is strengthened by patronage and vice versa (Chandra 2004) and the PF invested heavily in crucial infrastructures to the benefit of some rural areas but not all (Hallink and Siachiwena 2023).[8] This may strengthen and reinforce politicised ethnicities as the perception of ethnic preferences by the government grows (Kapesa, Sichone and Bwalya 2020). However, at the same time, PF lost the support of urban areas which had counted so much for its victory in 2011. Its defeat in 2021 is similar to that of the MMD in 2011: it lost the urban constituencies and maintained its core support in co-ethnic rural areas to its most important leaders (most of the Eastern, Northern and Muchinga provinces). The opposite happened to the UPND. A party largely and for long confined to the mostly rural Southern province, which embraced a strategy similar to that of PF during 2011, winning the confidence of the urbanized Copperbelt and Lusaka in 2021. Table 2 shows local trends (constituencies are regrouped into provinces) since 2011 by counting the number of constituencies won by parties.

Table 2 – Zambian Electoral Results for the NA since 2011
(first party in the province: no. of constituencies won on total constituencies in the province)

Provinces	**2011**	**2016**	**2021**
Central	9/14 MMD	8/16 UPND	10/16 UPND
Copperbelt	18/22 PF	18/22 PF	9/22 UPND; 9/22 PF
Eastern	15/19 MMD	13/18 PF	11/18 PF
Luapula	13/14 PF	13/15 PF	13/15 PF
Lusaka	8/12 PF	8/13 PF	9/13 UPND
Muchinga*		11/11 PF	11/11 PF
Northern	15/21 PF	11/12 PF	8/12 PF
North-Western	9/12 MMD	12/12 UPND	12/12 UPND
Southern	17/19 UPND	18/18 UPND	18/18 UPND
Western	8/17 MMD	18/19 UPND	18/19 UPND

*Muchinga was created as a province after 2011 elections by aggregating four districts of the Northern province and one from the Eastern.

[7] Jöst et al. (2023) working on the Zambian case demonstrates as well the relevance of partisanship as a driver of political participation.

[8] See also *Africa Confidential*, "Betting the farm on winning", 10th June 2021.

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These trends demonstrate the ability of the UPND to inherit much of the MMD vote after the collapse of the latter between 2011 and 2016 and to penetrate urban areas in 2021, winning five on seven constituencies in the Lusaka urban area and gaining important inroads in the Copperbelt. The vote in this province was indeed highly disputed: the UPND equalized the number of elected MPs with those of the PF, but of the 19 urban constituencies, the PF managed to maintain nine against the six won over by the UPND and the four by independent candidates, some of whom had lost the primaries in the PF and decided to run as independent. The overall picture of MPs distribution by province depicts a polarization east-west (Muchinga, Northern and Luapula lie in the eastern part of the country) which is however nuanced by the inroads the UPND was able to make especially in the Northern province. This trend is matched even more in the presidential election since the SMP electoral system multiplies the chances to elect MPs with simple majorities. In the Northern province, Lungu actually won, albeit narrowly. with a difference of less than 20,000 votes, while in the Copperbelt Hichilema won with a difference of 120,000 votes. At the end, it was the electoral mobilization (VTO) which impacted on the presidential result, while having a minor effect on the election of MPs in the constituencies. Nationally, the VTO reached 71%, but the provinces which supported Hichilema performed better (the maximum was reached in the Southern province with about 84% of VTO compared to the lowest 63% in the Eastern). This despite the obstacles posed by the PF government to the electoral campaign. Crucially, the highly contested elections in the Copperbelt impacted on the VTO, which reached there around 73%. As in the other two cases, disaffection, therefore, impacted first on the likelihood of voting and only secondarily as a swing in terms of support. If we look back at the table, indeed, only Lusaka swung in terms of party dominance and partially the Copperbelt, but the difference of one million votes came out from the mounting disaffection in the PF strongholds and the better mobilization in the UPND strongholds. Ethnic mobilization also counted but less than many observers expected. So, if it is true that the Southern province, whose ethnic profile is Tonga like Hichilema, voted overwhelmingly for him (602,000 votes against 36,000) in both Copperbelt and Lusaka, so important for the political career of Lungu, he recorded a defeat, and in the Eastern province, the Nyanja-speaking province where his family come from, he obtained only a marginal victory (290,000 votes against 198,000) over his challenger. It was at last the need for a political change amid dark economic prospects for the young that worried new voters, compelling them to make the difference (Resnick 2022).[9]

[9] See also *Africa Confidential*, "Betting the farm on winning", 10th June 2021.
Government debt to GDP reached the peak of 91.9% in 2019 (source: Bank of Zambia). In 2021, Zambia's economy bounced back, with real GDP growing at 4.6% from a contraction of 2.8% in

Kenya 2022: Shifting Alliances amid Change and the Crystallization of Ethnic Constituencies

While the Zambian party system is moving toward a two-party system, the same cannot be said about Kenya. If it is true that at least since 2002 Kenyan electors are confronted with two main challengers for the presidency – one of them, Raila Odinga, has been since 2007 the eternal loser – the party system has failed to become a two-party system, rather elections oppose two main coalitions. Confusion between parties and coalition is furtherly strengthened by coalitions which are named as "parties" before being real as such, and vice versa. This indeed masks an important fragmentation and incoherence since both coalitions and parties are marred by continuous entering and exiting of sub-groups (parties) and important politicians. If coalition politics helps in maintaining national cohesion (Kadima and Owuor 2014), contrary to these authors' argument, coalitions politics weakens also biggest parties as these are highly dependent on the popularity of some party bosses. Party name recurrent changes do not help, indeed, to portray the real picture. It is better to concentrate on party bosses which are rather still the same since the return to multiparty politics in the 1990s. At that time, they were young rampant, mostly ex-KANU (Kenya African National Union) cadres, at around their forties, now they have become older politicians around their sixties if not seventies (Raila is 77). Table 3 is similar to table 1 and tries to capture these changes and the performances of parties during elections. Parties are treated separately and regrouped into the alliances (in brackets; second and third rows). Rows includes party leaders just to understand better the schemes electors were finding on the ballots.

2020. Post-election market confidence played an important role in this recovery (source: World Bank's Overview on Zambia)

Table 3 – Kenya: Electoral alliances and General elections' result (since 2007).

	2007	**2013**	**2017***	**2022**
Winner (Party/*Alliance*)	Kibaki (PNU)	Kenyatta (*Jubilee*)	Kenyatta (Jubilee/*Jubilee*)	Ruto (*Kenya Kwanza*)
Percentage	46.4%	50.5%	54.2%	50.5%
Runner-up (Party/*Alliance*)	Odinga (ODM)	Odinga (*CORD*)	Odinga (*NASA*)	Odinga (*Azimio*)
Percentage	44.1%	43.7%	44.9%	48.9%
MPs first party (alliance)	43 PNU (78)	88 TNA (164)	171 Jubilee (190)	143 UDA (161)
MPs s.nd party (alliance)	99 ODM (102)	96 ODM (135)	76 ODM (127)	89 ODM (173)
Total MPs	210	349	349	349

*In 2017 Kenyatta was reelected in a second election boycotted by Odinga since the first has been annulled by the Supreme court. Results in the column are referred to the Presidential election annulled (Parliamentary election was considered valid).

As the table shows, regrouping parties into alliances reduced party fragmentation. Combined together, the two main parties obtained the best score in 2017 when Jubilee and ODM (Orange Democratic Movement), coupled together, obtained 71% of the MPs. At that time, Jubilee as a party failed to obtain the absolute majority, which however obtained as a coalition (of 11 parties) with the same name. The third party in the NA was the WDM-K (Wiper Democratic Movement – Kenya) led by Kalonzo Musyoka, a weighty political boss since the late 1990s, but *NaSA* (National Super Alliance), the coalition gathered by Odinga as vehicle for his 2017 campaign, which included WDM-K (Musyoka was at that time running mate of Odinga), failed to obtain the majority. This was not the case in 2022. While it is correct that Ruto (*Kenya Kwanza* alliance) won the presidential elections with a narrow margin of about 250,000 votes, his coalition failed to obtain the absolute majority in the NA after election. This time it was the opposition – *Azimio* – to obtain the relative majority. *Azimio* was, however, a coalition of 13 parties. In *Azimio*, Kenyatta's Jubilee obtained 28 MPs (Kenyatta this time sponsored the election of Odinga and entered his coalition) and WDM-K 26. In 2022, therefore the UDA (United Democratic Alliance), the party led by Ruto, was the first party in the NA, obtaining a large majority within the *Kenya Kwanza* coalition (143 MPs on 161). By November 2022, some parties abandoned *Azimio* to

join the government side which hence obtained the majority in the NA and was able to elect the Speaker.[10]

Kenya Kwanza and *Azimio* are the last two coalitions that were created around strong candidates. If we concentrate on candidates before approaching coalitions and parties, we find finally what are the pillars of electoral stability in Kenya. Politics revolves around candidates and less around parties. By concentrating on Odinga, one thing is noticeable which distinguishes this candidate from his rivals: while it is true that the coalitions created around Odinga have changed name in the last four elections, the backbone of these coalitions has remained always the same: the ODM party. This one in 2007 gave his name also to the coalition and thereafter has become a stable party, actually the most important and stable party in the NA, despite having not yet developed the ability to move beyond a core vote of about a quarter of total voters. In other words, contrary to what happened in Zambia, where the growing reduction of significant parties produced a certain swing of constituencies from one party to another with very few exceptions, in Kenya constituencies have demonstrated a voting continuity with very few changes. The electoral volatility that seems so apparent by looking at table 3 is therefore misleading. Table 4 tries to match the real condition of the party system in Kenya. It disaggregates votes according to former provinces (provinces were suppressed and divided into counties in 2010 and these were created out from the existing districts) and takes into consideration NA elections since 2013, when constituencies were elevated from 210 to the current 290.[11]

[10] Together with those who jumped on the bandwagon after the elections was Alfred Mutua the founder Maendeleo Chap Chap Party who was awarded the prestigious Ministry of Foreign and Diaspora Affairs.

[11] MPs in the NA are actually 349. To those elected directly in the constituencies (290) must be added 47 elected women (one for each county) plus 12 appointed by parties.

Table 4 – Kenyan Electoral Results for the NA since 2013 (first party in the province: no. of constituencies won on total constituencies in the province)

Provinces	**2013**	**2017**	**2022**	
Central	31/34 TNA	32/34 Jubilee	32/34 UDA	
	Kenyatta	Kenyatta	Gachagua?	**Provincial (ethnic) bosses**
Nairobi	10/17 TNA	10/17 Jubilee	9/17 ODM	
Eastern	15/44 WDM-K	18/44 Jubilee	16/44 WDM-K	
	Musyoka	Musyoka	Musyoka	**Provincial (ethnic) bosses**
North-Eastern	9/18 URP	6/18 Jubilee	5/18 ODM; 5/18 Jubilee	
Coast	13/26 ODM	15/26 ODM	13/26 ODM	
Rift Valley	44/76 URP	57/76 Jubilee	58/76 UDA	
	Ruto	Ruto	Ruto	**Provincial (ethnic) bosses**
Nyanza	30/42 ODM	24/42 ODM	29/42 ODM	
	Odinga	Odinga	Odinga	**Provincial (ethnic) bosses**
Western	12/33 ODM	11/33 ANC	16/33 ODM	
	Mudavadi; Wetangula	Mudavadi; Wetangula	Mudavadi; Wetangula	**Provincial (ethnic) bosses**

Of the eight existing provinces in 2010, four were dominated by a single ethnic group: the Gikuyu in the Central, the Somali in the North-Eastern, the Luo in the Nyanza and the Luhya in the Western province. However, with the exception of the Central and Nyanza provinces, the other two never experienced a dominant party in the province. The URP (United Republican Party) approached this condition during the 2013 election in the North-Eastern and in the Rift Valley provinces. Its victory in the latter was not by chance. William Ruto – the current president – was among its founders, after having broken up with the ODM and becoming the running mate of Uhuru Kenyatta, joining the Jubilee coalition. The URP was indeed strictly identified by Kaleenjin voters, who make up the majority of voters in the province, as 'their' party, as it happened again with the Jubilee party in 2017 and in 2022 with UDA. In these two cases the strengthening of the Jubilee party and UDA respectively compared to the URP have to do with the ability of these two parties to sum up the

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Kaleenjin vote with the Gikuyu one in the same province (Gikuyu make the second ethnic group in the province). The big change in the 2022 elections was indeed the ability of Ruto to sum up his core constituents – the Kaleenjin voters – with the Gikuyu's vote abandoned by Kenyatta, who was prevented from running for the presidency by the second term limit. Kenyatta's support towards Odinga was not followed by his former electors, who preferred to reward Gikuyu candidates in the UDA. Jubilee won in only two constituencies out of a total of 34 of the former Central province – the core area of Gikuyu vote – while Odinga obtained a meagre 20% of votes in the same province.[12] The decline of Kenyatta's power in the province is noticeable and it coincides with the two-term limit. It could be understood as a political retirement. So, if it is true that patronage does count so much in African politics, it is also true that clients are eager to abandon their patrons once they perceive they no longer possess the key to the safe. Jubilee party collapse followed that of its master. It still maintains 28 seats in the NA, which makes it the third party in the NA and the second in *Azimio*, but it lost all but a single stronghold as it lost any credible future perspective unless it will be used as a vehicle for a powerful politician in the future elections. This is the usual destiny of Kenyan parties with the exception of the ODM.

ODM has still Odinga as its leader. However, also Odinga's trajectory is going to be eclipsed after four consecutive presidential defeats. The party still managed well in Nyanza, its stronghold, where it won in 25 Luo (Odinga is a Luo) constituencies on 27. ODM is a multiethnic party with important bastions in Luhya areas (Kakamega and Busia) and on the coast and with a certain appeal in the Greater Nairobi, given the leftist and populist program, where it got eight seats out of a total of 17.[13] The possibility for the ODM of sinking after the gradual eclipse of its leader is not to be excluded since the Luo vote accounts for only a quarter of the total vote gained. It remains to be seen who will be able to inherit a charismatic leadership, whether a Luo politician or someone else.[14]

UDA on the contrary, is going certainly to endure, at least this legislature. It obtained 143 seats out of a total of 161 of the *Kenya Kwanza* coalition, of which it was a part. Of these, 34 from the Gikuyu vote of the former Central province, thanks to the organizational ability of Gachagua,[15] the run mate of Ruto, and the new Gikuyu provincial boss and national deputy leader of the party and of the Republic after Ruto. He followed Ruto in the UDA after serving Kenyatta's Jubilee in the NA between 2017 and 2022. The other UDA

[12] Gatundu South, the constituency of Kenyatta was also won over by UDA.

[13] Compared to the rest of the country Nairobi is less but still fragmented. Jubilee obtained there four seats and UDA three.

[14] The most active against Ruto's government is now Kalonzo Musyoka, the vibrant leader of the WDM-K, the second party in the *Azimio* coalition (see, https://www.instagram.com/p/C16RvdYMlML/).

[15] *Africa Confidential*, "Martha Karua and Rigathi Gachagua make the cut as running mates", 16th May 2022.

stronghold is the Kaleenjin vote in what was once the Rift Valley province. There, UDA obtained 32 seats out of 37 in Kaleenjin-dominated constituencies.

UDA is therefore multiethnic as the ODM. That does not mean that the vote is no longer driven by ethnicity. The cohesion of vote for one candidate/party within ethnically dominated constituencies is not only confirmed in Luo, Kaleenjin or Gikuyu areas but also in Ukambani – the area inhabited by Kambas – where WDM-K led by Musyoka won 16 on 22 constituencies dominated by Kambas. This was not the case of Luhya-dominated areas, although this is one of the four major ethnic groups in the country, where the vote is quite more fragmented. The reason for this fragmentation of the Luhya vote is not well established (Battera 2012), but the most solid evidence points to an inner competition for the leadership.[16] Therefore, in what was once the Western province, ODM managed well obtaining 16 out of 33 constituencies but was far from becoming the dominant party, given the ability of elderly local leaders such as Moses Wetangula (FORD-Kenya; Forum for the Restoration of Democracy) or Musalia Mudavadi (ANC; Amani National Congress) to drive votes in favour of the *Kenya Kwanza* Coalition.[17] Ethnicity, therefore, still does count as much as patronage does, and they mutually strengthen. Income, measured as GDP per capita, did also count – the UDA manifesto was considered pro-business and ODM pro-poor – and out of the 19 richest counties,[18] only six voted for ODM/*Azimio*. Six of those 19 counties that voted for UDA are dominated by the Gikuyus. In this case, ethnicity and economic interest go together. The same fragmentation of votes in the Nairobi county has partially to do with the ethnic profile of the constituencies.

The relevance of the ethnic vote in the Kenyan case has therefore an impact on the resilience of coalitions. Coalitions are built around those who benefit from controlling power as opposed to those who do not benefit from it. In this sense, the incumbent coalition tends to be stronger than the coalitions that oppose it. The 2022 election results demonstrated the ability of the incumbent coalition built around the Kaleenjin-Gikuyu vote to

[16] Differences in terms of income may count – Busia county is far richer than Vihiga (Source: Kenya National Bureau of Statistics) – if similar differences were not as important as in the Kaleenjin areas.

[17] The two were granted respectively the post of Speaker of the NA and as Prime Cabinet Secretary (the third executive position), the latter created to reward Mudavadi. Wetangula was part of the *CORD* coalition centred around Odinga in 2013.
In 2022, the vote in the Luhya country rewarded Odinga with the exception of the Bungoma county. Bungoma is the home of Wetangula. Vihiga, the county of Mudavadi voted for Odinga, but the ODM candidates badly performed in the county. On the Odinga campaign in Luhya country see, *People Daily*, "ODM leader says Luhya nation to play critical role in his government", 22th March 2022). On political rivalries in the same region, see *The Star*, "Elections to shutter or build political careers of top Luhya leaders", 8th August 2022).

[18] Kenya is divided into 47 counties. The 19 counties are those that overcame 3,000 USD GDP per capita (PPP) in 2017 (source: Kenya National Bureau of Statistics).

survive Kenyatta's departure and the volatility of the power of the latter once out of the game because of the second-term limit. The following crisis of *Azimio*, given the age limit of Odinga, confirms how fragile is staying at the opposition.[19] However, also the incumbent coalition could be made fragile in case of economy decline since the control of economic resources strengthens the will to stay together. Public debt almost doubled during the Kenyatta-Ruto tenure (from 36 to 69% of GDP) and because of the debt crisis that followed the new Ruto government is forced to cut public spending now,[20] as required by the IFIs (International Financial Institutions), before the end of this electoral cycle.

Nigeria 2023: The Weak Impact of Youth Vote and the Importance of Gubernatorial Bosses

Nigeria holds general elections every four years. In February 2023, electors were called to vote for the President of the Republic, the Senate, the House of Representatives (HoR), and for gubernatorial elections – Nigeria is a federal state made of 36 states – together with elections for the Houses of Assembly for all the 36 states. Here are discussed the results of the presidential election, the HoR, and the gubernatorial ones in order to understand trends (with respect to the previous elections) and whether differences between the three elections were of certain importance. Data are disaggregated according to the states. These are further regrouped into macro-regions. The 2023 results are compared with those of 2019 which have already been discussed in a previous paper (Battera 2020).[21]

[19] The coalition was furtherly weakened as Ruto started to court ODM's Governors of the former Coast province (*Africa confidential*, "Six months after its defeat in national elections, the Azimio coalition hasn't agreed on strategy or a new leader",10th January 2023). Jubilee MPs too have started a rapprochement to Ruto's coalition (*Africa Press*, "Sifuna lands deputy whip role in Senate as Azimio lash rebels", 15th February 2023).

[20] *Africa Confidential*, "Cutting public spending and reforming state companies, Ruto keeps $2.34bn IMF deal on track", 14th November 2022.

[21] Macro-regions have been created by the author by aggregating states according to their historical and cultural affinity and consistent with dominant electoral partisanships. Southeast states are those states which were part of the Eastern region in 1963 plus Delta (which at that time was part of the Mid-Western region). Southwest states are those that were part of the Western region plus Edo, Kwara and Kogi (the last two were part of the Northern region). Both Sharia states and Middle Belt in 1963 were part of the Northern region. The Southeast therefore roughly coincides with the Biafra area with a majority of the population of Igbo ethnicity. Most of the oil production concentrates here. The Southwest is dominated by the Yoruba ethnic group. Sharia states are dominated by the Hausa/Fulani and by Islam, while the Middle Belt regroups several smaller ethnic groups mostly non-muslims.

The APC (All Progressives Congress) was again able to win all the elections. Bola Tinubu was elected President with 36.6% of votes cast – a simple majority is needed when the candidate is able to win at least 25% of the vote in at least 24 states – and the party obtained 176 seats in the HoR (-26 compared to the 2019 elections), less than the majority needed (the HoR is composed of 360 MPs), but a government swore in in May 2023. State elections followed in March. This year electors were called to vote in 31 states. Of these 19 went to the APC, while 12 were secured by the PDP (People's Democratic Party). At first look, these elections seem to confirm the trend towards a two-party system, at least if not were for the exploit at the presidential election of Peter Obi, which risked blowing up the equilibrium reached so far.

Peter Obi, a Biafran politician, who served as Governor of Anambra state (from 2006 to 2014), had a past both in the PDP, which dominated Nigeria politics up to 2015, and the opposition APGA (All Progressives Grand Alliance). He was in the APGA when he served as Governor. However, in the 2019 Presidential election, he ran as the running mate of Abubakar for the PDP, just to lose. In 2022, defected from the party to jump into the Labour (LP) by alleging to corruption and mismanagement of primaries in the PDP. The LP was in 2022 an uninfluential party with only one seat in the HoR, although it had strong connections with the unions.[22] During the campaign for the 2022 elections, Obi, a sixty-year-old man, was able to present himself as the youngest challenger and the man of change gaining a wide support from young new urbanized voters via social media (the so-called "Obidient movement"). As the result of the election came out Obi (25.4%) and Abubakar (29.1%) did not recognise the results on accounts of alleged rigging, and filed formal petitions to the Nigerian Supreme Court (NSC).[23]

Obi's third position in the presidential election is not reflected in the numbers of LP in the HoR (only 35 MPs elected on the Labour ticket) in part thanks to the FPTP electoral system which magnifies those parties better anchored in the constituencies.

Table 5 resumes the regional anchorage of Nigerian parties.[24] Note that in the column related to the HoR, it was considered only the party with a majority of MPs in the state, with the exception of the performances of the LP, which was interesting to underline.

[22] Affiliated with the NLC (Nigeria Labour Congress) were estimated to be around 4 million beginning of the 2000s (Erapi, 2005).

[23] In May 2023, the NSC dismissed both lawsuits.

[24] MPs as resulted from data delivered by the INEC (Independent National Electoral Commission) on March 7.

Table 5 – Regional parties' anchorage in Nigeria according to 2019 and 2023 electoral results

STATE	**PRESIDENTIAL**		**HoR**		**GUBERN.**
	2019	**2023**	**2019**	**2023**	**2023**
(SHARIA STATES)					
SOKOTO	Buhari (APC)	Abubakar (PDP)	APC 9/11	APC 8/11	APC
KEBBI	Buhari (APC)	Abubakar (PDP)	APC 8/8	APC 3/8 PDP 3/8	APC
ZAMFARA	Buhari (APC)	Tinubu (APC)	APC 7/7	APC 4/7	PDP
NIGER	Buhari (APC)	Tinubu (APC)	APC 0/10	APC 7/10	APC
KATSINA	Buhari (APC)	Abubakar (PDP)	APC 5/15	APC 10/15	APC
KANO	Buhari (APC)	Kwankwaso (NNPP)	APC 4/24	NNPP 17/24	NNPP
KADUNA	Buhari (APC)	Abubakar (PDP)	APC 13/16	PDP 10/16 LP 2/16	APC
JIGAWA	Buhari (APC)	Tinubu (APC)	APC 11/11	APC 7/11	APC
YOBE	Buhari (APC)	Abubakar (PDP)	APC 6/6	APC 4/6	APC
BAUCHI	Buhari (APC)	Abubakar (PDP)	APC 9/12	PDP 7/12	PDP
GOMBE	Buhari (APC)	Abubakar (PDP)	APC 6/6	PDP 5/12	APC
BORNO	Buhari (APC)	Tinubu (APC)	APC 10/10	APC 9/10	APC
(MIDDLE BELT)					
FCT	Abubakar (PDP)	Obi (LP)	PDP 2/2	LP 1/2 APC 1/2	
PLATEAU	Abubakar (PDP)	Obi (LP)	PDP 4/8 APC 4/8	PDP 5/8	PDP
NASSARAWA	Buhari (APC)	Obi (LP)	APC 3/5	APC 3/5	APC

BENUE	Abubakar (PDP)	Tinubu (APC)	PDP 6/11	APC 10/11	APC
TARABA	Abubakar (PDP)	Abubakar (PDP)	PDP 3/6	PDP 3/6	APC
ADAMAWA	Abubakar (PDP)	Abubakar (PDP)	PDP 4/8 APC 4/8	PDP 7/8	PDP
(SOUTHWEST)					
KWARA	Buhari (APC)	Tinubu (APC)	APC 6/6	APC 6/6	APC
KOGI	Buhari (APC)	Tinubu (APC)	APC 8/9	APC 5/9	
OYO	Abubakar (PDP)	Tinubu (APC)	APC 9/14	APC 8/14	PDP
OSUN	Buhari (APC)	Abubakar (PDP)	APC 6/9	PDP 9/9	
EKITI	Buhari (APC)	Tinubu (APC)	APC 6/6	APC 6/6	
OGUN	Buhari (APC)	Tinubu (APC)	APC 6/9	APC 9/9	APC
LAGOS	Buhari (APC)	Obi (LP)	APC 21/24	APC 18/24 LP 5/24	APC
ONDO	Abubakar (PDP)	Tinubu (APC)	APC 4/9	APC 8/9	
EDO	Abubakar (PDP)	Obi (LP)	APC 5/9	APC 6/9 LP 2/9	
(SOUTHEAST)					
DELTA	Abubakar (PDP)	Obi (LP)	PDP 9/10	PDP 7/10 LP 2/10	PDP
ANAMBRA	Abubakar (PDP)	Obi (LP)	PDP 6/11	LP 5/10 APGA 5/10	
ENUGU	Abubakar (PDP)	Obi (LP)	PDP 8/8	LP 7/8	PDP
EBONYI	Abubakar (PDP)	Obi (LP)	PDP 6/6	APC 3/6 LP 1/6	APC

IMO	Abubakar (PDP)	Obi (LP)	PDP 6/10	APC 5/10 LP 2/10	
ABIA	Abubakar (PDP)	Obi (LP)	PDP 5/8	LP 6/8	LP
CROSS RIVER	Abubakar (PDP)	Obi (LP)	PDP 7/8	APC 5/8 LP 1/8	APC
BAYELSA	Abubakar (PDP)	Abubakar (PDP)	PDP 3/5	PDP 4/5	
RIVERS	Abubakar (PDP)	Tinubu (APC)	PDP 13/13	PDP 9/13 LP 1/13	PDP
AKWA IBOM	Abubakar (PDP)	Abubakar (PDP)	PDP 10/10	PDP 7/10	PDP

Looking at the table, at a first glance the regional profile of the three main candidates confirms their regional (and ethnic) anchorage. Tinubu, a man of the Southwest won in six over nine states; Abubakar a man of the Middle Belt with however an ethnic and religious profile in line with most of the Sharia states won seven states of this group out of 12; Obi a Southeasterner won seven out of 10 Southeast states plus three out of six Middle Belt states (Middle Belt vote is generally in accordance with that of the Southeast). However, is not that simple. First, there is not always congruence between the vote for the Presidency and that for the MPs in the states. In two cases – Yobe and Rivers – the PDP presidential candidate won albeit most of the elected MPs in the state went to the APC and vice versa. Second, the LP underperformed in the elections for the HoR. Obi came first in 12 states, but his party came first only in Enugu and Abia (in other two, the FCT and Anambra shared the victory with other parties).

The APC or the PDP generally won the majority of the MPs in the states won by Obi, even in Igbo-dominated states such as Ebonyi and Imo. Reasons for this dyscrasias must be found in the weaker local anchorage of the LP. It must not be excluded that gubernatorial elections, when held, drove votes for the HoR much more than presidential elections, given the important powers transferred to the states (see the last column of the table).[25]

[25] Gubernatorial elections were held the 18 March in 28 states, three weeks after the presidential elections. The PDP won in nine, the APC in 17 and both the NNPP and the LP won 1. In three "Igbo states" – Anambra, Ebonyi, Imo – incumbent governors supported presidential candidates other than Obi. In all these states the LP was unable to win the majority of elected MPs even if Obi was able to win over the majority of electors' confidence. In these three states only in Ebonyi gubernatorial election was held. The APC retained the state and the former governor, Dave Umahi was awarded with the Ministry of Works.

However, differences can be observed also between the vote for the presidential, the HoR and the gubernatorial elections as far as the two major parties, the PDP and the APC, are concerned. For example, Bola Tinubu, who is from the Southwest and is a Muslim, won only in four out of a total of 12 states in the Sharia states region in the presidential election. The presidential election in the Sharia states rather rewarded Abubakar, who is also Muslim from Adamawa, which is a state that has been included in the Middle Belt with an important Muslim vote but not a state that adopted sharia. Bola Tinubu better performed in the Southwest where he won in six out of nine states. As far as the vote for the HoR is concerned, in the Sharia states, the APC, the party of Tinubu outperformed the PDP and the same happened in the gubernatorial elections (the APC won nine against two of the PDP). Curiously, in Zamfara, the PDP won the gubernatorial elections, while in this state Tinubu won the presidential election as his party – the APC – won the majority of MPs.[26] But this could be an exception to a general rule, according to which HoR elections are generally more consistent with the presidential ones, unless the party has poor grassroots, or, in the alternative, elections both for the president and the HoR are driven by Governors when their seats are not under elections. If we look indeed to results in those states that did not held elections for the gubernatorial seats, we find the importance of controlling the gubernatorial seat for the electoral result, especially for electing the MPs (see the table below).

Table 6 – 2023 electoral results (presidential and HoR elections) in states where the gubernatorial seat was already controlled*

	Presidential	**HoR**	**Governor**
KOGI	APC	APC 5/9	APC
OSUN	PDP	PDP 9/9	PDP
EKITI	APC	APC 6/6	APC
ONDO	APC	APC 8/9	APC
EDO	LP	APC 6/9; LP 2/9	PDP
ANAMBRA	LP	LP 5/10; APGA 5/10	APGA
IMO	LP	APC 5/10; LP 2/10	APC
BAYELSA	PDP	PDP 4/5	PDP

*FCT excluded (ruled by a Minister of the National gvmt.).

[26] Zamfara returned to PDP, which had been lost by this party in 1999. The elected governor, Dauda Lawal, had lost the APC primary in 2018.

This last rule may explain the poor performances of the LP in the HoR and difficulties in winning over gubernatorial seats, both, in particular the latter, associated with patronage potentials. The attention of some electors – urban, young and southeasterners – was driven by the Obi profile but less by his mates who ran for the HoR or as governors, given the poor record of the LP as a party in government. Feelings of exclusion may have also had an important effect on the southeastern vote. The last southeaster president, Goodluck Jonathan ended his term in office in 2015, in team with a northerner – Namadi Sambo. During that time, Jonathan was able to rally the southeaster vote together with that of Southwest and the Middle Belt. However, since Buhari's first term in office (2015-2019), Southeast has been profoundly neglected in terms of crucial positions within the government.[27]

In a previous paper (Battera 2020), it was argued that the Nigerian party system could be likely to evolve into a two-party system as in Ghana and Zambia. This figure must be nuanced, but not completely. If it is true that other parties appear as locally important – the NNPP performance in Kano, the APGA in Anambra and the LP in Enugu and Abia must be noted – nationally, the party system remains solidly divided into two. The NNPP, APGA and LP could in perspective exploit the eventual crisis of the two main parties, as it happened in Zambia with the UPND but not yet. In the Nigerian case, the programs of the two main parties indeed resemble each other (Omilusi 2020), being both mild forms of conservatism, and the key to success is a skilful combination of the regional profile of candidates and patronage generously lavished locally. Floor-crossing is frequent and both parties are marred by inner factionalism (Omodia 2010; Kura 2011; Ekundayo 2016). This excludes chances of change for outsiders with a weaker patronage profile. The result has been rather a decline of the VTO nationally. This ranged from a minimum in Bayelsa (16.4%) in the South to 40.8% in Jigawa in the North. Lagos, the most urbanized state and one which brought more votes to Obi, scored a poor 18.9% of votes cast.[28]

These data demonstrate the difficulty of moving out from an ethnic block voting pattern in the Nigerian case (Isiaq *et al*., 2018), notwithstanding the novelty which surrounded the vote for Obi, who however drove also ethnic resentment. This happened despite the major expectations that surrounded the 2023 Nigerian elections.

[27] However, development data (HDI) of 2021 are still more favourable for the entire south compared to the Sharia states. With the exception of Lagos, which is the richest state in Nigeria (0.681 HDI), Ogun (Southwest) ranks second (0.671), Anambra (Southeast) third (0.662), Kebbi (Sharia states) the last (0.335) (source: Subnational HDI; https://globaldatalab.org/shdi/shdi/?interpolation=0&extrapolation=0&nearest_real=0).

[28] Together with Anambra, it was the state where Obi obtained more than half million votes.

In particular, the poor state of the economy,[29] which worried the electors, the novelty of Obi's candidature with a minor party but supported by the unions, and the impact of his profile on a movement led by young and urbanized people had seemed to make possible some major innovation in the Nigerian vote which did not realize, despite the favourable polling by some institutes.[30] Politics as usual prevailed. A lower turnout in urban realms demonstrates that electors of urban areas less mobilized by patronage stayed out from the polling station while a major turnout was recorded in rural areas like Jigawa, Plateau and Adamawa.[31]

Beyond the Ethnic Vote? The Promising Case of Consolidation in Zambia

Moving away from ethnic/regional allegiances is not easy for voters even when disillusionment grows, and policies fail to deliver what politicians pledged to their electors. As Chandra (2007: 90) argues, as far as these democracies are founded on patronage – "patronage democracies are those where elected officials enjoy significant discretion in allocating the jobs and services controlled by the state" –, the vote remains instrumental and founded on the expectations to get access to resources provided by kin.

However, differences among the cases analysed must also be underlined. While the Nigerian and Kenyan cases seem to match the ethnic vote pattern, the Zambian case does not fit very well. This does not mean that electors, especially those in rural areas, are not mobilized along ethnic lines, but that vote is less predictable, shifting with an uncommon frequency for African standards. This trend makes the institutionalization of the democratic process more likely in Zambia than in the other two cases, which, on the contrary, are more likely to suffer from electoral violence. What has been called by Sishuwa (2023) the "failure of incumbent advantage" makes alternation in Zambia more likely and democratization more robust. There is a sort of historical continuity which makes this output more challenging in the other two cases and gives an advantage to Zambian democracy with respect to the other two cases. Both Nigeria

[29] *Africa confidential*, "Grim outlook for the new president", 15th December 2022

[30] Last but not least that of Redfield & Wilton Strategies of February 16 (https://redfieldandwiltonstrategies.com/peter-obi-leads-decisively-in-nigeria-polling/). The SBM Intelligence report was more equilibrated but still predicted a better result for Obi (https://www.sbmintel.com/wp-content/uploads/2023/02/202302_EiE-SBM-Election-2023-Survey-Abridged-Report_v2.pdf). SBM Intelligence polled together with Enough is Enough which is a civil organization which advocates for the youth vote and registration.

[31] Osun state made an exception (38.7% of turnout) as it is largely urbanized. Osun rewarded Abubakar and the PDP. The Governor, Ademola Adeleke is from the PDP.

and Kenya have records of electoral and ethnic violence which has no equivalent in Zambian history and date back to independence in one case and accompanied recent electoral history in the other. The same transition to democracy was less dramatic in the Zambian case than in the other two and Kaunda's legacies are less controversial than that of Arap Moi.[32]

What was therefore the impact of the last elections in Nigeria, Kenya and Zambia on the processes of democratic consolidation?

According to Lindberg (2006: 34), regular free and fair elections strengthen democratization. Political participation (VTO) is one required quality (Lindberg 2006: 37), the others being "competition" and "legitimacy". According to the same author, "turnover of power" (i.e. FGC) could be considered as an indicator of the degree of competition. We can assume that sufficient levels of VTO may be also considered as an indicator of legitimacy and that in these cases elections have been generally held regularly (with some delays in the case of Kenya) and have ensured an adequate level of freedom and fairness (generally less about the fairness).[33]

Table 7 gives an idea of electoral participation since the return to multiparty politics. One preliminary consideration must be done when dealing with VTO in Africa. Decline of VTO between one election to the following is sometimes due to the poor records of voter registration. For example, voter registration in Zambia recorded an unrealistic decline of about 650,000 voters between 1991 and 1996 – 1996 elections were internationally judged as particularly unfair – in a country characterized by high rates of demographic growth. Between 2006 and 2016, more efficient registration recorded increments of more than a million voters every five years. Problems arose again before the 2021 elections (which registered an increment of only 320,000 voters), but this did not impede the opposition to win.[34] However, the table records data for about two and three decades. Enough to make important observations.

[32] *Voa News*, "Kenyans Remember Mixed Legacy of Moi", 4th February 2020 and *New African Magazine*, "Kenneth Kaunda: A legacy divided in two", 2nd July 2021.

[33] Two presidential elections in Kenya recorded serious flaws: that of December 2007 and August 2017. However, results of concurrent parliamentary elections were judged regular by international observers.

[34] Less serious flaws occurred in Kenya, while Nigeria experienced flaws similar to that of Zambia (a decline of about five million voters between 2011 and 2015 in the face of more than 10 million new voters entering the record every four years since 2015).

Table 7 – Trends (%) in Voter Turnout (VTO in General elections) in the selected countries (since the return to multiparty politics)

	I election	II election	III election	IV election	V election	VI election	VII election	mean
Nigeria	52 (1999)	69 (2003)	57 (2007)	54 (2011)	44 (2015)	36 (2019)	27 (2023)	48
Kenya	69 (1992)	68 (1997)	57 (2002)	69 (2007)	86 (2013)	80 (2017)[1]	65 (2022)	71
Zambia	45 (1991)	58 (1996)	68 (2001)	71 (2006)	54 (2011)	56 (2016)	71 (2021)	60

[1] August 2017 Presidential election was annulled and postponed to October, but the results of the Parliamentarian elections were judged regular. The data refers to the latter.

If we consider the sequence, Nigeria records a serious decline which date back to 2015. The democratic process appears exhausted although the important government change that occurred in the 2015 elections (see tab. 8 below). This decline questions seriously the sustainability and the legitimacy of democracy in Nigeria (Fasakin 2023). Such "disillusionment" has nothing to do with that expected for mature democracies (Huntington 1991: 265), since higher VTO levels are important for keeping on the democratic track poor responsive democratic regimes as those of Africa. Differently from Nigeria, Kenya still maintains a good level of VTO, despite the important decline registered during the last elections. This means that ethnicity remains an important tool of mobilization. Elections are a highly competitive field where expectations from electors remain high.[35]

Table 8 finally resumes the impact of elections on government changes (FGC).

Table 8 – FGC (Frequency of Government Change) (since the return to multiparty politics)

	I election	II election	III election	IV election	V election	VI election	VII election	FGC
Nigeria	YES (1999)	NO (2003)	NO (2007)	NO (2011)	YES (2015)	NO (2019)	NO (2023)	2
Kenya	NO (1992)	NO (1997)	YES (2002)	NO (2007)	YES (2013)	NO (2017)	NO (2022)	2
Zambia	YES (1991)	NO (1996)	NO (2001)	NO (2006)	YES (2011)	NO (2016)	YES (2021)	3

[35] The highest VTO nationally were recorded in counties dominated by Luos (Odinga) and Kaleenjins (Ruto), well above 70% in the former counties and above 75% in the latter. In Luo-dominated counties Odinga obtained an average score above 90% (the top score was recorded in Homa Bay [98.4%]); in Kaleenjin-dominated counties, Ruto scored between 62.8% in West Pokot up to 96.1% in Elgeyo-Marakwet. In an ethnically mixed county such as Mombasa, VTO was the lowest (43.9%).

Evaluating the FGC is complicated by the incidence of change of the names of the parties and the shorter sequence of Nigeria in terms of years. Changing the name of the parties occurred rather frequently in the case of Kenya. For this reason, the 2022 elections have not been considered a real change. William Ruto had been the incumbent vice-President in 2022 and the coalition which supported him was more or less the same as that which had supported Uhuru Kenyatta since 2013, with the notable exception of Kenyatta himself who this time had decided to support his arch-rival Raila Odinga.

FGC is clearer in the Zambia case. Both the three major changes, in 1991, 2011 and 2021, led to governments which clearly broke with the previous. The constituencies which supported the government change were not the same. Less perhaps in Nigeria. The 2015 elections indeed brought Buhari into power. a longstanding rival of the PDP (Peoples Democratic Party), which had dominated Nigeria since 1999, but his party, the APC (All Progressives Congress) was full of ex-PDP bosses who had jumped onto his bandwagon. Differences between the three cases are therefore again important. Not only Zambia has a better FGC compared to the other two, but the FGC of Nigeria could be further reviewed if we consider that the 1999 change was also a regime change between a military government and a civilian elected government.

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Helping my Friends: Rethinking Disaster Diplomacy in the Wake of 1999 and 2023 Seismic Events in Turkey, Syria and Greece

Aiutare gli amici: ripensare la *disaster diplomacy* sulla base degli eventi sismici del 1999 e del 2023 in Turchia, Siria e Grecia

Massimo D'Angelo

Abstract

This article focuses on the intricate dynamics between seismic events and diplomatic relations, challenging a more conventional perspective on disaster diplomacy. Through a comparative analysis of the earthquakes in 1999 and 2023 involving Turkey, Greece, and Syria, the study's findings unveil that seismic disasters result not in a transformative catalyst but as integral components reinforcing pre-existing foreign policy strategies. The analysis of the disaster management and the diplomatic interplay, elucidated through the case studies, enriches our understanding of the multifaceted nature of global interactions during and post-catastrophe. Finally, the study initiates an exploration of disaster empathy versus disaster diplomacy suggesting a potential framework for further investigation, also in light of even more occurring catastrophes.

Questo articolo si concentra sulle intricate dinamiche tra eventi sismici e relazioni diplomatiche, sfidando una prospettiva più convenzionale sulla diplomazia dei disastri. Attraverso un'analisi mirata dei terremoti del 1999 e del 2023 che hanno coinvolto Turchia, Grecia e Siria, i risultati dello studio rivelano che i disastri sismici non sono un catalizzatore trasformativo, ma componenti integrali che rafforzano strategie di politica estera preesistenti. L'analisi della gestione del disastro e dell'interazione diplomatica, delineata attraverso i casi di studio, arricchisce la nostra comprensione della natura sfaccettata delle interazioni globali durante e dopo le catastrofi. Infine, lo studio avvia un'esplorazione dell'empatia nei confronti delle catastrofi e della diplomazia delle catastrofi, suggerendo un quadro potenziale per ulteriori indagini, anche alla luce di catastrofi ancora più frequenti.

Keywords

Turkey, Greece, Syria, Earthquake, Earthquake diplomacy, Disaster diplomacy
Turchia, Grecia, Siria, terremoto, diplomazia dei terremoti, diplomazia dei disastri

Introduction

In the realm of international relations, seismic events constitute peculiar types of disaster, which can trigger complex diplomatic dynamics among states. This study looks at the intersection of catastrophes and diplomatic relations, specifically exploring how earthquakes have shaped the interaction between nations. Focusing on two distinct cases—the earthquake of 1999 involving Turkey and Greece, and the seismic event of 2023 impacting Turkey and Syria—the research will investigate what forms of disaster diplomacy these three states have put in place. Contrary to a more traditional narrative according to which common catastrophic events might foster cooperation among nations, this analysis reveals a nuanced interplay where seismic occurrences either amplify existing diplomatic trajectories or expose the absence of diplomatic structures.

For example, the study will reveal how the earthquake of 1999, simultaneously affecting Turkey and Greece, served as an additional event for the development of the diplomatic relations. Indeed, rather than being a catalyst for a new diplomatic era, the seismic event accelerated an already existing process of rapprochement initiated by shifting geopolitical landscapes. Greece's had already altered its stance, attributed to a new wave of intending its relations with its neighbour, Turkey. This new approach resulted into a new strategy consisting of mainly 'Europeanising' the tensions with Turkey. The earthquake, while fostering mutual assistance during the disaster and post-disaster phases, acted within the contours of this pre-existing strategy to rebuild ties between the two states.

In stark contrast, the seismic incident of 2023, striking amidst non-existent diplomatic relations between Turkey and Syria, shows the complexities of disaster diplomacy. Furthermore, the complete absence of established diplomatic structures and the willingness of smoothing the existing tensions, had immediate consequences for post-disaster management. Unlike its predecessor in 1999, the 2023 earthquake concurrently impacted both Turkey and Syria, presenting additional challenges in the mutual assistance to each other. The lack of communication and coordination hindered aid corridor establishment, with mistrust between nations complicating the already delicate process. The earthquake, in this context, did not register effective assistance during both the disaster and post-disaster phases.

Guided by Kelman's analytical framework (2011) on disaster diplomacy, this study poses critical questions to assess the validity of the literature for these cases under analysis when applied to transboundary episodes. As the study navigates whether disaster-related activities lead to diplomatic relations, new diplomacy emerges, or if seismic events are strategically used within existing diplomatic strategies, a comprehensive understanding of the seismic and diplomatic interplay emerges.

In sum, the analysis of the two cases demonstrate that the seismic events emerge not as isolated catalysts for diplomatic change, but rather as instruments within the broader context of nations pursuing specific foreign policy goals. Disaster diplomacy, in this nuanced lens, becomes a tool employed by governments to build positive images and project trustworthiness. The lasting impact of seismic events on diplomatic trajectories reveals a complex frame, where catastrophes resonate differently across nations. In essence, this study unveils the multifaceted relationship between earthquakes and diplomacy, offering fresher insights into the intricate interplay of international relations in the wake of disasters.

What is a disaster diplomacy?

According to scientific scholarship, literature on 'disaster diplomacy' addresses the question on "how and why disaster-related activities do and do not yield diplomatic gains, looking mainly at disaster-related activities affecting diplomacy rather than the reverse" (Gaillard et al. 2008: 511-512). Additionally, it investigates whether disaster-related activities, pre-disaster, and post-disaster, can positively affect relations amongst states which would not normally be prone to such cooperation (Keleman 2020: 13). This seems of great relevance for the cases under analysis in this article, as both the relations in 1999 between Turkey and Greece, and between Turkey and Syria in 2023 had been historically compromised when the two seismic events took place in the Levantine region.

According to this study, the term 'earthquake diplomacy' falls under the umbrella of 'disaster diplomacy' specifically denoting seismic disasters that extend beyond national boundaries, thereby altering the course of bilateral relations (Mustafa 2006). Furthermore, according to Kelmen (2020) the examination of diplomatic consequences following the 1999 earthquake between Turkey and Greece have played a pivotal role in the inception and evolution of this field. Callaway *et al*. (2012) delineate disaster diplomacy through two primary lenses: the conservative perspective, centred on diplomatic collaboration among conflicting national governments in the context of natural disasters; and the broader viewpoint, encompassing engagement from non-state actors such as academics and NGOs to foster cooperation during such crises. Examining the involvement of non-state actors might become particularly insightful, offering valuable insights into how civil society organisations may either advocate or refrain from advocating for improved diplomatic relations between conflicting countries. However, while acknowledging the significance of this aspect, the focus of this article remains on the response of state-level institutions. This study adopts a distinctive approach by

focusing on the examination of social, economic, and political dynamics at the state level (DiMaggio and Powell 2000).

As stated above, the concept of 'earthquake diplomacy' is a distinct subset within the broader realm of 'disaster diplomacy'. However, using different labels conducts to different semantics. Indeed, the word earthquake would lead back to the idea of a natural inevitable disaster; on the other side, talking about disaster brings the analysis back to the social dimension, thus recalling a reflection on the unnatural dimension of the disaster. Furthermore, more recent literature broadly agrees on the fact that the utilisation of natural disaster is a misleading term. Indeed, natural hazards lead to deaths and damages – i.e. disasters – because of human acts of omission and commission rather than because of a natural process itself (Chmutina and von Meding 2019). In the context of this study, earthquake diplomacy is positioned within the broader framework of disaster diplomacy. This classification is supported by scholarly research, which establishes earthquake diplomacy as a significant contributor to the evolution of the broader field. Notably, the examination of the 1999 earthquake in Turkey, as explored by Keleman (2020), substantiates its role in shaping and advancing the discourse on disaster diplomacy.

Can a diplomatic disaster cycle management exist?

The aim of this article is to look at the ways in which the national governments of Turkey, Greece and Syria have operated after those seismic disasters occurred in 1999 and 2023. Additionally, it wants to investigate whether this has facilitated a diplomatic rapprochement between countries which were suffering diplomatic tensions. To achieve this goal, the study has recurred to the comparison of two case studies, the earthquake in 1999 which affected Turkey and Greece and the more recent 2023 earthquake, mainly involving Turkey and Syria. But what kind of operations can states conduct to help affected populations and ease tensions with their counterparts? To answer this question, it might be helpful to benefit from literature on disaster risk reduction or disaster cycle management.

The concept of 'disaster risk reduction' refers to the process of lowering risks by conducting methodical efforts to identify and control disaster-causing elements, including by lowering the vulnerability of people and property, managing land and the environment wisely, and improving preparedness for unfavourable occurrences (UNISDR 2009). Conversely, literature on the disaster cycle indicates a cyclical process of actions which always involves a disaster and the efforts to reduce disaster potentially. The disaster cycle generally includes a) mitigation/prevention, which is the structural and non-structural measures undertaken to limit the adverse impact of hazards and threats; b) preparedness – the series of activities taken to ensure an effec-

tive response to disasters; c) disaster impact – which consists in the realisation of the consequences of a hazard; d) the response, which is characterised by high levels of altruism among both survivors and emergency responders. This phase is made of search and rescue missions, aiding people, and letting resources arrive. The main goal of this phase is to prevent loss of lives and to minimise property damage; finally, there is e) the recovery phase: this phase takes place after the emergency responders leave and people start adjusting to the new context and take steps to gradually re-establishing the functionality of their space (Bosher and Chmutina 2017).

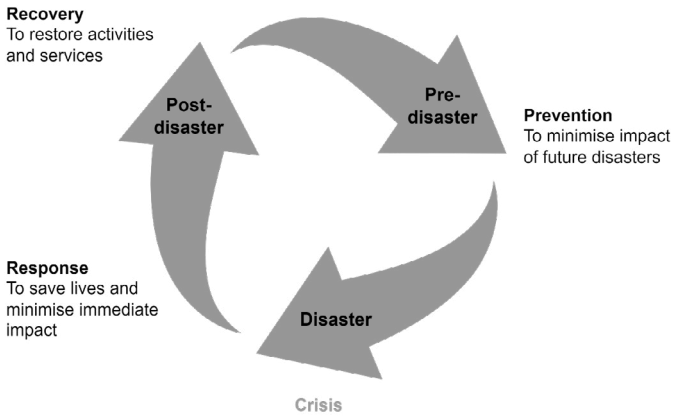

Figure 1. Disaster Cycle (author elaboration)

Thus, the primary objective of this paper is to examine the actions that nation-states can undertake at the governmental level during phases c) and d), namely in the immediate aftermath of a disaster and throughout the response phase. By drawing a comparative analysis between the seismic events of 1999 and 2023, impacting nations such as Turkey, Greece, and Syria, the study seeks to explore whether the effective management of these disasters has the potential to foster reconciliation or, at the very least, alleviate tensions among international actors.

According to the existing literature, the response phase often sees a high involvement of the international community. For example, Wisner *et al*. (2004: 50) contend that the success of this phase is "unlikely without external aid". The European Civil Protection and Humanitarian Aid Operations was precisely established to generally support in preparation for or in the immediate aftermath of a disaster in Europe and worldwide. Conversely, the second phase of recovery is generally seen as a more domestic process.

On many occasions, national governments pretend they possess the domestic capability to deal with a disaster or are afraid of international influences on the national agenda (Keleman 2012).

This article is grounded in a theoretical synthesis of the literature on both disaster diplomacy and disaster cycle management. By examining the cases of 1999 and 2023 earthquakes, it assesses whether seismic events can serve as catalysts for restoring diplomatic relations among nations experiencing tensions, or they simply reinforce or confirm pre-existing strategy. Thus, the concept of 'disaster diplomacy' is construed as a series of disaster-related activities, spanning the pre- and post-catastrophe periods, with a focus on understanding how these activities can positively influence relations between states that may not typically engage in such cooperative efforts. The primary emphasis is on disaster-related activities shaping diplomacy, reversing the conventional perspective. Specifically, this research will centre on the response of state-level governments. The disaster cycle model, embracing mitigation, preparedness, response, and recovery phases, can serves as the appropriate benchmark for examining actions taken to mitigate disaster risks and manage consequences. Thus, the article explores the potential impact of earthquake diplomacy during the response and recovery phases on the cases under analysis.

The two earthquakes

A. The 1999 İzmit and Athens earthquakes

On the 17th of August 1999, Turkey was hit by a devastating natural event with tragic consequences. In the Kocaeli Province of Turkey, located at the easternmost end of the Sea of Marmara around the Gulf of İzmit, a catastrophic earthquake measuring magnitude 7.6, resulting in immense devastation and an estimated death toll ranging from 17,127 to 18,373 individuals (BBC 2019). Commonly known as the İzmit earthquake due to its proximity to the north-western city of İzmit, it is also referred to as the 17th August Earthquake or the 1999 Gölcük Earthquake. Occurring at 03:01 local time, and originating from a shallow depth of 15 km, the earthquake reached a maximum Mercalli intensity of X (Extreme) and persisted for 37 seconds, leaving behind significant seismic damage. The 1999 calamity stood as one of the deadliest natural disasters in modern Turkish history (Barka 1999). In the aftermath of the earthquake, efforts were made to address the needs of those affected, resulting in the establishment of an earthquake tax aimed at providing assistance to the impacted communities (Said-Moorhouse et al. 2023). In terms of international assistance, numerous foreign

countries aided the rescue operation. In particular, Greece promptly pledged aid and support, taking the lead in extending a helping hand. Shortly after the earthquake struck, the Greek Ministry of Foreign Affairs swiftly established communication with their Turkish counterparts, and the minister dispatched personal envoys to Turkey. Responding with urgency, the Ministry of Public Orders sent a dedicated rescue team comprising 24 skilled personnel and two trained rescue dogs (ERA 1999).

When the earthquake occurred, the diplomatic relations between Turkey and Greece were extremely tense. Starting at least from the 1980s, the two countries engaged in a series of security disputes, which included – *inter alia* – the detection of sovereignty rights and control over the Aegean Sea, military fortification of the Greek islands in the Eastern part of the Aegean Sea, and the never solved Cyprus-dispute (Turhan 2012: 122). Furthermore, while the disputes over the Aegean had long roots, the Cyprus problem gained popularity more recently, when the socialist party PASOK took the government of the country in 1993 and stayed in power till 2000. According to Güvenc (1998), PASOK's strategy was to internationalise the Cyprus problem. Additionally, the Greek PM Papandreou put strong emphasis on the connection between the resolution of the conflict with the Greek support for the successful progression of Turkey's negotiations with the European Union (EU) (Turhan 2012: 123). Lastly, the Greek socialist leadership was keen to ease the diplomatic relations with its neighbour, after Greece's suspected implication in the so called 'Öcalan's fiasco'. In 1999, the Greek National Intelligence Agency executed a risky operation that jeopardised its relations with several countries, including the United States and Turkey. The objective was to relocate Abdullah Öcalan, the fugitive leader of the Kurdistan Workers Party (PKK), from Greece to a country in Africa to prevent his capture by Turkish authorities. Greece planned to conceal Öcalan in its embassy in Nairobi temporarily before moving him elsewhere (Hooper, Bates and Smith 1999; Varouhakis 2009).

Within this context, the 1999 earthquake inserted as a factor of détente between Turkey and Greece. Furthermore, only some weeks later, in September 1999 another magnitude 5.9 seismic event hit the region, this time 18 km from Athens. About 40 buildings collapsed, causing 143 casualties and more than 800 people injured. Furthermore, during the first days after the earthquake, about 100000 people had to abandon their homes (Elenas 2003: 77). As previously mentioned, although being NATO allies, Greece and Turkey had been locked in a series of tensions and disagreements fraught with historical baggage. Since fighting each other over Cyprus in 1974, they have come to the brink of war on separate occasions (Çoşkun 2023). However, according to Grigoriadis (2020: 616), the two quakes painfully reminded both Turkey and Greece "of their geographic proximity and common human security threats". The two disasters impressively accelerated a rapprochement between the two countries

which was, however, already started. For example, Greece had consented in 1996 to the establishment of the EU-Turkey's customs union on the condition that Cyprus would have obtained the EU candidacy status (Nas and Özer 2017). Thus, when the first quake hit Turkey in August, a swift response arrived from Greece (Tsakonas 2010). Indeed, the Greek reaction "changed the mood and led to a similar Turkish reaction after the Athens earthquake" (Tsakonas 2010: 75). The two countries were able to offer each other assistance and help either from official state channels or throughout private initiatives. In response, medical supplies, equipment, and rescue teams were promptly dispatched to alleviate the distress of those affected by the earthquake in Greece and Turkey (Tsakonas 2010).

As Ker-Lindsay (2007) points out, Greece was the first country offering assistance to and then concreting helping Turkey in August 1999. An hour after the quake, Greek foreign affairs minister George Papandreou was on the phone with his Turkish counterpart İsmail Cem. As Greece had established an emergency rescue team (EMAK), this was sent to Turkey within hours to assist the country. Furthermore, a group of Greek seismologists had been grouped to assist Turkey in the aftermath of the events. Two mobile hospitals were made available, together with nurses and doctors. A delegation of fifteen Greek MPs with medical training were sent as well (Ker-Lindsay 2007). All the Greek ministers let the Turkish government know that further help was available in case of necessity. Similarly, the Greek public as well started to get to work raising money and collecting food, medicines, and other needed items to help the victims. Public donations were collected, as well as donations from civil society organisations. The Orthodox Church, a "bastion of anti-Turkish sentiment in Greece" launched appeals for funds and help (Ker-Lindsay 2007: 59). Local governments and municipalities also played an important role in relieving the sufferance.

Similarly, when the earthquake affected Athens, the Turkish foreign affairs minister Cem immediately offered his country's help. In the end, little assistance was needed as the scale of the tragedy was far smaller than the one in Turkey. However, it should not be diminished the significant diplomatic benefits. The Turkish government showed a swift response and offer of assistance which helped to smooth the relations. Similarly, an overwhelming number of goodwill messages were sent from ordinary Turkish citizens to the Greek consulate in Istanbul, reporting that people wanted to build a new relationship (Ker-Lindsay 2007: 69). Despite some popular support here demonstrated, the initiatives undertaken by both the Greek and Turkish governments were certainly courageous, especially considering that particular national media outlets continued to advocate for antagonistic behaviours towards their neighbouring country. (Ker-Lindsay 2007).

Scholarship agrees that the earthquake constituted one of the most compelling causes for the change in the diplomatic relations between the two countries, but not

the principal one. According to Nas and Özer (2017), the earthquake diplomacy facilitated Greece in lifting its veto on Turkey's EU candidacy. This new style of diplomacy was conducted by the respective foreign ministers of the two states. By ensuring mutual assistance to each other, they helped a new round of talks brought at the EU level and aimed at resolving all outstanding bilateral disputes between the countries and adopting practices of good neighbourliness (Economides 2020: 602). However, as stated above, the arrival of PASOK in 1993 changed the Greek approach towards Turkey. For example, in 1996 it conceded the establishment of a Turkey-EU customs union. The rationale for that was to try to 'Europeanise' the long-standing crisis with Turkey (Nas and Özer 2017). According to Grigoriadis (2020), the 'earthquake diplomacy' developed in 1999 surely favoured a further rapprochement between Turkey and Greece so that the latter ultimately lifted its veto against Turkey's candidacy, thus securing a path for the resolution of their bilateral disputes. Thanks to this new political strategy, Turkey became in December 1999 a new candidate country for the EU, and the resolution of the Cyprus issue would not be a precondition for the membership anymore. Regarding the bilateral disputes, "both sides were invited to conduct bilateral negotiations. If these failed to produce a result by the end of 2004, the issues would have to be referred to the International Court of Justice" (Grigoriadis 2020: 616). However, while the positive effect in smoothing the relationship is undeniable, the process had started before the 1999 earthquakes.

B. The 2023 Earthquake in the Northern Levantine

On 6th February 2023, at 04:17 Turkish time, a Mw 7.8 earthquake struck southern and central Turkey and northern and western Syria. The epicentre was 37 km (23 mi) west–northwest of Gaziantep. The earthquake had a maximum Mercalli intensity of XII (Extreme) around the epicentre and in Antakya. It was followed by a second Mw 7.7 earthquake at 13:24. The seismic event was centred 95 km (59 mi) north-northeast from the first. There was widespread damage and tens of thousands of fatalities (USGS 2023). The magnitude 7.8 earthquake represents Turkey's most significant seismic event since the 1939 Erzincan earthquake of equivalent magnitude and is collectively the second most powerful quake ever documented in the nation's history, following the 1668 North Anatolia earthquake (Bohnhoff et al. 2016). It was also one of the strongest earthquakes ever recorded in the Levant. It was felt as far as Egypt and the Black Sea coast of Turkey (Michaelson 2023). There were more than 10,000 aftershocks in the three weeks that followed. The seismic sequence was the result of shallow strike-slip faulting.

Widespread damage was documented in an area of about 350,000 km2 (140,000 sq. mi), about the size of Germany (England et al. 2023). An estimated 14 million people, or 16 percent of Turkey's population, were affected. Development experts from the United Nations estimated that about 1.5 million people were left homeless (Hinshaw et al. 2023). According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA 2023), the earthquake resulted in over 50,000 confirmed deaths, with 45,968 fatalities in Turkey and 7,259 in Syria. This makes it the deadliest earthquake in what is now present-day Turkey since the 526 Antioch earthquake and the deadliest disaster in its modern history. It is also the deadliest in present-day Syria since the 1822 Aleppo earthquake; the deadliest worldwide since the 2010 Haiti earthquake; and the fifth deadliest of the 21st century (Imbach 2023; Said-Moorhouse et al. 2023) Damages were estimated at US$ 104 billion in Turkey and US$ 14.8 billion in Syria, making them the fourth-costliest earthquakes on record (Mondesert and Delany 2023; Doyle 2023). Damaged roads, winter storms, and disruption to communications hampered the Disaster and Emergency Management Presidency's rescue and relief effort, which included a 60,000-strong search-and-rescue force, 5,000 health workers and 30,000 volunteers (Özdemir and Kirby 2023). Following Turkey's call for international help, more than 141,000 people from 94 countries joined the rescue effort. For example, the EU mobilised search and rescue teams with a total of more than 1000 emergency workers through the EU Civil Protection Mechanism (European Civil Protection and Humanitarian Aid Operations 2023).

The 2023 earthquake arrived at a time when diplomatic relations between Turkey and Syria were at an extreme low point. However, this had not always been the case. For example, when Recep Tayyip Erdoğan was elected Prime Minister of Turkey in 2003, he built strong ties with the incumbent rulers of the region, including Bashar al-Assad. In August 2008, famously he vacationed with his wife Emine, Bashar and his wife Asma in Bodrum (de Bendern 2008). Nevertheless, as protests spread in 2010/2011 in some Arab cities such as Tunis, Cairo, Benghazi, and subsequently in Syria, the Turkish government was faced with a clear decision between the revitalised crowds, demanding fairness, responsibility, and improved opportunities in life, and the existing situation. The then Turkish Minister for Foreign Affairs Ahmet Davutoğlu declared: "we either could maintain ties to these oppressive rulers, or we could support the popular uprisings to secure basic democratic rights" (Davutoğlu 2013). According to Bechev (2022), it was Davutoğlu who believed that ignoring the popular upheaval shaking the region was the wrong call. Erdoğan, conversely, had a more cautious approach, in order to safeguard the national interest. Until summer 2011, Turkey still believed that it could defuse tensions with Syria. It was in July 2011 when – amidst its civil war – the Syrian Arab Army murdered more than 2,000 people in the city of Hama (Bechev 2022: 103).

Ankara responded suspending trade and diplomatic relations in September 2011. The then President of the Republic declared: "we cannot remain silent and accept a bloody atmosphere" (Gül 2011). The civil war profoundly affected Turkey and its political landscape, making it one of the largest hosts of refugees and asylum seekers, with nearly 4 million Syrians residing within its borders (Levkowitz 2024). Consequently, the discussion surrounding Syrians in Turkey evolved into a central topic of daily discourse, serving as "the main focus of political conflicts and one of the main instruments of domestic politics, which is fed by polarization" (Törenli and Kıyan 2022: 205).

Between 2011 and 2020, Turkey's relationship with Syria endured considerable strain. Tensions heightened due to events such as the Turkish pilgrim bus attack, during which Syrian soldiers targeted Turkish buses, and the downing of a Turkish reconnaissance jet by Syria (Hurriyet Daily News 2013; BBC 2013; BBC Türkçe 2014; Hacaoglu and El Baltaji 2013). Incidents of border clashes and accusations persisted, culminating in military interventions like Turkey's assault on Syrian troops following a mortar shell episode. The situation deteriorated as car bombs rocked Reyhanlı, claiming numerous lives. Additionally, Turkey became embroiled in conflicts against both ISIS and Syrian forces, notably through the Euphrates Shield operation. Leaked recordings unveiled Turkish intelligence contemplating rocket strikes from Syria, while 2020 witnessed Operation Spring Shield against the Syrian army (Deeb 2016; Kirbi 2020; Reuters 2018).

The February 2023 earthquake could have potentially marked a turning point in the region as it happened for the Turkish-Greek case. At that time, diplomatic contacts between the two governments were minimal. In Autumn 2021, the former Foreign Affairs Minister Çavuşoğlu met with his Syrian counterpart Faisal Mekdad in Belgrade. During discussions with journalists, Çavuşoğlu revealed that the Turkish and Syrian intelligence services had initiated communication, signalling a warmup in relations after a period of discord over the Syrian conflict. The then minister declared that Turkey's main objective was to "prevent the division of Syria" and wished for "a strong administration" in the country (Soylu 2022). Indeed, according to Yıldız (2021) the standstill in Idlib[1] - in north-western Syria - against Assad's regime and inconclusive policies towards the Kurdish-led administration prompted Ankara to reconsider its strategy.

Furthermore, in January 2023, a month before the earthquake occurred, Çavuşoğlu suggested a potential meeting with Syrian counterpart Mekdad in early February, testifying an initial diplomatic rapprochement between Turkey and Syria since the conflict's

[1] The Turkish military operation in Idlib province by Turkey is an operation by the Turkish Armed Forces which started in October 2017. According to the Turkish authorities, it was carried out to prevent the spread of conflicts and refugees in its state territory (Karasapan 2021).

started in 2011. According to Kucukgocmen *et al*. (2023), it was Russia urging Ankara to reconcile with Syria. The two countries' defence ministers recently held talks in the Moscow. While the Syrian conflict persists into its second decade, Assad's government has regained most of its territory, with Turkish-backed opposition and US-supported Kurdish fighters holding pockets of control. According to Milliken and Cafiero (2023), Turkey's relationship with the Muslim Brotherhood and Syria has evolved amidst shifting dynamics. Turkey backed the opposition movements against Assad, cementing its position as a defender of Sunni Islamist causes. However, with Assad's regime maintaining power, Turkey's focus shifted to fighting the PKK/YPG. Recent signs of a thaw between Turkey and Syria suggest potential rapprochement, raising concerns for Syrian rebel groups supported by Turkey. While Turkey's foreign policy changes, its ties to the Muslim Brotherhood in the region could shift, impacting regional dynamics. A decade after the emergence of neo-Ottoman influence, Turkey has been unable to effectively reshape its strategic influence in the Arab region, encompassing both Syria and the entire Arabian Peninsula.

At the time the earthquake occurred, border restrictions had been imposed, impeding search and rescue efforts in northwest Syria. More specifically, on the day of the seismic events, there was only one cross-borders access, who was damaged and could not have been re-opened until three days after the disaster occurred (Reuters 2023). Under the United Nations (UN) oversight, some coordination between the two actors in responding to the crisis were launched. The use of border crossings for relief efforts was established but limited, and there's a call for extended and increased access to ensure essential health and humanitarian assistance reaches those in need (Cinar et al. 2023). According to a UK Parliament Report (Loft 2023), three cross-border accesses were subsequently opened. However, one of the major reasons why additional corridors to send aid where not opened, was also because the Assad's regime did not want to open borders to non-controlled areas of the country. Indeed, while the Assad regime "controls most of the country, but the northern regions are controlled by a variety of armed and opposition groups" (Loft 2023: 12). Differently from what had happened with Greece, there were no reports of contacts between the two governments at their highest levels. Presidents Erdoğan and Assad did not directly talk to offer each other or coordinate assistance. Nor were found reports of contacts between the Turkish foreign minister Çavuşoğlu with his Syrian counterpart Mekdad. A regime of opening borders between Turkey and Syria was put in place under the UN. This entailed the authorisation and operational terms of specific border crossings to facilitate critical aid delivery and humanitarian assistance in response to crises (Albam 2023).

A possible modification in their relations arrived in July 2023, when President Erdoğan expressed his willingness to meet Syrian President Assad but rejected the

precondition of withdrawing Turkish troops from Syrian territory. Erdoğan suggested a potential four-party summit involving Syria, Russia, and Iran. However, he declared that Assad's demand for a complete withdrawal of Turkish forces before a meeting was deemed 'unacceptable'. Erdoğan then recalled ongoing terrorism threats along the border (Hayatsever and Kucukgocmen 2023). On May 10th, 2023, the Foreign Ministers of Russia, Iran, Syria, and Turkey – Sergey Lavrov, Hossein Amir-Abdollahian, Faisal Mekdad, and Mevlüt Çavuşoğlu, respectively – convened in Moscow for high level discussions. The meeting focused on re-establishing interstate relations between Turkey and Syria across various dimensions. Notably, the joint statement did not reference the February 2023 earthquake or its reconstruction efforts. In alignment with UNSC Resolution 2254 and the 'Astana format' official statements[2], the ministers reiterated their commitment to Syria's sovereignty, territorial integrity, and the collective fight against terrorism. Emphasising the importance of increased international aid to Syria, they aimed to support the voluntary, safe, and dignified return of Syrians to their homeland and contribute to post-conflict reconstruction. The ministers agreed to task deputy foreign ministers with formulating a roadmap to advance Turkey-Syria relations, coordinating with defence ministries and special services of the four nations. There was no mention of the earthquake in the meeting. At the end of the discussion, while releasing a joint statement, the ministers acknowledged a positive and constructive atmosphere, committing to maintain high-level contacts and technical discussions in this quadripartite format in the future. However, despite this first meeting, the tensions soon re-emerged. As Erdoğan declared himself available in July 2023 for meeting Assad, the latter responded in August saying that "Terrorism in Syria is made in Turkey" (Al Arabiya 2023). According to Ciddi (2023), Assad has only a precondition for meeting Erdoğan, which is that Turkey gets its troops out of Syria, a condition that Turkey will hardly allow without guarantees near is southern-eastern borders. Therefore, although rebuilding relations remains a significant diplomatic challenge for Syria and Turkey (Ciddi 2023), the earthquake has quickly faded from public attention. Assistance in relief operations was notably limited, and expressions of sympathy between the two states for the shared tragedy were never publicly conveyed.

[2] The Astana Process is a peace initiative for the Syrian civil war implemented since December 2016 by the diplomatic efforts of Russia, Turkey, and Iran, acting in complement to the official UN-led Geneva process. The United Nations plays an observational role in this initiative. The peace process, initiated through negotiations held in the Kazakh capital, Astana, marked the first involvement of the Syrian opposition with al-Assad.

Findings

Disaster diplomacy is described by Kelman as the discipline that "investigates how and why disaster-related activities do and do not induce cooperation amongst enemies" (Kelman 2020: 13). Thus, by comparing the 1999 and 2023 earthquakes involving Turkey, Greece and Syria, the article aimed to better unpack whether those catastrophes have triggered any form of diplomatic rapprochement among those states. However, the analysis of the events induces us thinking that in both the 1999 and 2023 the earthquakes have had limited consequences in the modification of the diplomatic courses between Turkey and Greece and Turkey and Syria.

Indeed, the earthquakes occurred in 1999 which affected both Turkey and Greece accelerated a process that had already started before the catastrophic events. As Nas and Özer (2017) correctly point out, a changing in the approach had already started since 1996 when Greece conceded the establishment of a Turkey-EU customs union. The earthquake thus simply "brought to the fore" the process of rapprochement (Nas and Özer 2017: 57). Furthermore, the authors argue that the change in the approach of Greece was due to the diplomatic fiasco occurred when the PKK's leader Öcalan was captured in Kenya with a Cypriot passport inside the Greek embassy. This led to the resignation of the then minister of foreign affairs and the search for a restoration of Greece's international image. The new strategy was to 'Europeanise' the dispute with Turkey, bringing the discussion on a more, formal diplomatic level rather than over an overly militaristic or fundamentalist approach (Nas and Özer 2017). Thus, when the catastrophe occurred, Turkey and Greece assisted each other in the disaster and post-disaster phases (figure 1) of the disaster cycle. However, this mutual help was inserted within an already existing strategy of rebuilding ties between the two states. On the Turkish side, the Greek good willingness in reapproaching with its neighbour could have been strategically used to gain advantages, for example in terms of progression of the negotiations for the Turkish official candidacy to the EU. Indeed, Turkey became an official EU candidate country in December 1999, four months after the first earthquake. According to Tocci (2003), the Greek-Turkish rapprochement in the aftermath of the August-September 1999 earthquakes [...] provided a propitious atmosphere for a policy shift" so that in December 1999 at the Helsinki Council of the EU, "the Simitis government was willing to accept Turkey's EU candidacy" (Tocci 2003: 222).

In contrast, the seismic incident of 2023 impacting Turkey and Syria revealed a starkly different approach. This happened during a period of virtually non-existent diplomatic relations between the two nations. The article has highlighted how the absence of diplomatic structures had immediate implications for the management

of the post-disaster aftermath. Notably, while the 1999 earthquake comprised distinct events sequentially affecting Turkey and Greece, the 2023 event concurrently impacted both countries. This simultaneity may have implications for the states' ability to assist or coordinate with each other. Despite this, no official communications at the ministerial level were reported between the two countries. Moreover, the lack of communication and coordination translated practically into challenges in opening corridors for delivering aid and services to the affected population. As a result, the first corridor was only established three days after the catastrophic event occurred (Loft 2023). Additionally, the complete mistrust between the two countries over each other made the passage of aids in the Northern region (hardly controlled by the government) extreme careful. In this sense, referring to Figure 1, during the 2023 seismic event neither the disaster nor the post-disaster phase registered an effective help from the two states. Subsequently, once the emergency phase reduced and the first more dramatic events end, the arguments were soon reconducted to the areas of tensions that have surrounded the debate between the two international actors: the refugee crisis, terrorism, the withdrawal of the Turkish troops from the North of the country (Ciddi 2023). Rarely the earthquake has been mentioned by the Turkish and Syrian leaderships as a field in which starting cooperating. Moreover, Levkowitz (2024) highlights the repercussions of the February 2023 earthquakes, which ravaged southern Turkey and northern Syria, exacerbating a surge in previously unprecedented anti-refugee sentiments and policies. A pertinent example is the abrupt expulsion of displaced Syrians from dormitories in Mersin, a city on the Mediterranean coast, to accommodate displaced Turks. Additionally, Levkowitz (2024) highlights NGO reports revealing a bias in the distribution of containers, with Turks receiving priority over Syrians. This heightened apprehension regarding potential new waves of refugees likely influenced discussions aimed at fostering cooperation between the two nations. Significantly, these events unfolded against the backdrop of the 2023 presidential elections, during which Erdoğan's opposition notably adopted a staunchly anti-migrant stance (Michaelson and Narlı 2023).

Kelman (2011; 2006) has developed a framework of analysis for examining the disaster-diplomacy activities. In particular, he has provided a checklist of four yes/no questions that should be asked for each case study to determine whether or not it is possible to talk about disaster diplomacy. These questions are whether a) the disaster-related activities lead to diplomatic relations; b) whether a new diplomacy emerge; c) whether the parties involved were seeking rapprochement rather than just using disaster related activities for public relations, or the disaster was used to

bail out the diplomatic process; finally, d) whether the diplomatic process lasted or not (Kelman 2011: 15). Other authors have then developed other questions to examine the quality of disaster diplomacy (see, for e.g., Gaillard *et al*. 2008; Gaillard *et al*. 2009). In the context of this study, the focus will remain on addressing the four questions.

Regarding the first inquiry, it is noteworthy that while the 1999 earthquake heightened diplomatic relations between Turkey and Greece, the 2023 earthquake did not yield similar outcomes in the Turkey-Syria relationship. In this sense, some scholars even argue against the application of the term 'disaster diplomacy' in this context (Gaillard et al. 2009). Addressing the second aspect, it is challenging to assert that these catastrophic events led to new diplomatic approaches between the involved states. Rather, it appears that the earthquakes expedited processes already initiated in the first case (1999) and affirmed an existing cautious dynamic between Turkey and Syria in the second case (2023). Thus, the response to the second question is less straightforward. Differently, the third question provides intriguing insights. The study of the events suggests that the earthquakes were strategically utilised to affirm the pre-existing diplomatic strategies that the countries had developed before the occurrence of the catastrophe. Thus, it appears that – as well as for other cases of public diplomacies[3] – disaster diplomacy in this case was an additional tool at the hands of the governments "in the context of pursuing foreign policy goals through building a positive image of an aid provider and trustworthy partner" (Kobierecka and Kobierecki 2021: 940). This was to the detriment of any form of diplomatic empathy, intended as the "individual or a nation's capability to sympathize with other individuals or nations [...] wants and needs" (Su *et al.* 2021: 6). Lastly, discussing the lasting impact of the disaster and its influence on the subsequent diplomatic trajectory proves challenging. While there is little doubt about the outcome of the more recent events in 2023, where no forms of disaster diplomacy were evident, determining the aftermath of the 1999 earthquakes affecting Turkey and Greece is less straightforward. Initially, a reconciliation occurred, but tensions resurfaced, notably by 2004 when Cyprus became a new EU member state, thanks to the Greek support (Nas and Özer 2017). In summary, the analysis suggests that the two seismic events affecting the three countries merely affirmed pre-existing diplomatic strategies. Forms of diplomatic empathy seemed missing in favour of diplomatic strategies which deliberately aimed at achieving specific foreign policy goals.

[3] See, for e.g., vaccine diplomacy or health diplomacy.

Conclusions

The examination of the earthquakes in 1999 and 2023 involving Turkey, Greece, and Syria reveals a nuanced narrative within the realm of disaster diplomacy. Contrary to conventional expectations, seismic incidents do not necessarily act as transformative catalysts in diplomatic relations. Instead, they unfold within the context of pre-existing political strategies, either accentuating ongoing diplomatic trajectories or laying bare the inadequacies of diplomatic structures. The earthquake of 1999, shared by Turkey and Greece, served as an accelerant rather than an initiator in the process of rapprochement. Mutual assistance during the disaster and post-disaster phases operated within the contours of a strategic shift initiated by Greece since 1996. The seismic event merely brought to the fore an already evolving process, unveiling the intricacies of international relations in the face of natural disasters.

Conversely, the seismic incident of 2023 between Turkey and Syria unfolded amid the absence of diplomatic relations. The starkly different approach to disaster diplomacy, marked by non-existent diplomatic structures, highlighted immediate consequences for post-disaster management. The lack of communication and coordination, coupled with mutual mistrust, complicated aid delivery during both the disaster and post-disaster phases. Unlike the 1999 earthquake, the 2023 seismic event did not serve as a platform for effective assistance or the initiation of diplomatic dialogue. Guided by Kelman's analytical framework (2011), the exploration of disaster diplomacy unveiled critical questions surrounding diplomatic relations, the emergence of new diplomatic approaches, and the strategic use of seismic events within existing diplomatic strategies. Rather than being transformative agents, seismic incidents emerge as tools within the broader context of nations pursuing foreign policy goals, potentially at the expense of genuine diplomatic understanding. Additionally, comparing these two case studies underscores the importance of openness and willingness for reconciliation on both sides. In the aftermath of the 1999 earthquakes, there was an inclination towards reconciliation, with Greece expressing intentions to improve relations with Turkey and Turkey showing interest in joining the EU. However, following the 2023 earthquake, additional factors complicated matters. Concerns over a potential surge in migration from Syria to Turkey and Syria's demand for the withdrawal of Turkish troops from the North added complexity. Neither party demonstrated a firm commitment to address these issues, thus affecting the dynamics of disaster diplomacy.

In summary, this study has provided some updated perspectives on the intricate dynamics between disastrous events and diplomacy. It has unveiled earthquakes as integral components within the complex frame of international relations, their impact intricately shaped by nuanced contexts. The earthquakes and diplomatic interplay, as

illustrated through the two case studies, enhances our comprehension of the multifaceted nature of global interactions in the aftermath of catastrophe. These insights pave the way for potential future research avenues, particularly considering recent impactful events in the nearby region, such as the 2023 earthquake in Morocco and the devastating floods in Libya in September 2023. Furthermore, the article lays the groundwork for an initial exploration of disaster diplomacy versus disaster empathy, a distinction that could be further investigated in the light of the more recent scholarship on public health diplomacy and vaccine diplomacy, as for example discussed by Kobierecka and Kobierecki (2021) and Su et al. (2021).

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Integrity of Public Functions as the Cornerstone of Good Governance. The Evolution of the Principle over Three Seasons

L'integrità delle funzioni pubbliche come pietra miliare del buon governo. L'evoluzione del principio in tre stagioni

Francesco Merenda

Abstract

Understanding public integrity is nowadays an essential pillar of modern democracies. The evolution of integrity has been characterised by a gradual transition, from a 'meta-legal' to a legal space, until the recent 'enhancement' of the principle, which regulates the good conduct of public officials, as well as good governance in the public sector. The evolution of this principle is also due to the adoption of many national laws, that have significantly affected the public sector. Indeed, some core values such as good administration in public law and, more recently, the concept of 'good governance' in the international dimension have encouraged several reforms, which have questioned the traditional conceptualisation of the public sector and its founding principles. Currently, integrity carries a twofold meaning: it refers both to its individual dimension (each single public employee), and to the institutional and organisational dimension (the office as a whole). The paper deals with the evolution of the concept of integrity through the philosophical, legal, political and administrative perspectives.

La comprensione dell'integrità pubblica è oggi un pilastro essenziale delle democrazie moderne. L'evoluzione dell'integrità è stata caratterizzata da una graduale transizione da uno spazio "metagiuridico" a uno spazio giuridico, fino al recente "potenziamento" del principio, che regola la buona condotta dei funzionari pubblici e la buona governance nel settore pubblico. L'evoluzione di questo principio è dovuta anche all'adozione di molte leggi nazionali che hanno influenzato in modo significativo il settore pubblico. Infatti, alcuni valori fondamentali come la buona amministrazione nel diritto pubblico e, più recentemente, il concetto di "buon governo" nella dimensione internazionale hanno incoraggiato diverse riforme che hanno messo in discussione la tradizionale concettualizzazione del settore pubblico e i suoi principi fondanti. Attualmente, l'integrità ha un duplice significato: si riferisce sia alla dimensione individuale (ogni singolo dipendente pubblico), sia alla dimensione istituzionale e organizzativa (l'ufficio nel suo complesso). Il documento affronta l'evoluzione del concetto di integrità attraverso le prospettive filosofiche, legali, politiche e amministrative.

Keywords

Public integrity, good governance, ethics, anticorruption policies, public sector
Integrità pubblica, buon governo, etica, politiche anticorruzione, settore pubblico

Integrity through an interdisciplinary perspective

The context of this study considers the relationship between ethics and law, i.e., the one that defines law as a reality that is shaped and interacts through moral values.

Legal theory has always dealt with the question of morality, tracing the differences and meeting points between these two concepts.

Ethics and integrity are often used individually or in an interchangeable manner. Indeed, many definitions of integrity are based on the idea that acting with integrity is the same as acting ethically or morally (De George 1993).

On the other hand, some scholars emphasise some differences between the two terms. First of all, ethics and integrity can be seen as two separate phenomena or as a single concept, e.g., 'ethics and integrity', 'integrity ethics', 'ethics and integrity for public administration', or 'ethical integrity'.

According to other studies, ethics is seen as a subset of integrity (Jacobs 2004), or rather integrity is defined as a public service ethics consisting of a set of values. Other authors have even defined 'integrity discourse' as a system designed to explain the concept of public ethics (Becker and Talsma 2015).

In other cases, however, it has been theorised that ethics and integrity are linked (Petrick and Quinn 1997), since individuals and organisations have moral standards and principles (ethics), and since their behaviour may be more or less in line with their ethics (individual or organisational integrity). Other scholars, although they claim that integrity and ethics go hand in hand, there are certain qualities of integrity that are different from ethics (Menzel 2015).

The concepts of ethics and integrity deal with the deontology of the civil service. Indeed, ethics and integrity, although variously understood, concur to define public deontology as a sphere with its own domain, where a clear distinction is drawn between these concepts, in their public dimension and personal morality (Vigouroux 1995). Deontology closely links principles, ethical standards and integrity with the rules of conduct of civil servants, thus defining a kind of 'common box' made up of principles and duties deriving from those moral qualities deemed necessary.

So, what is the connection between public ethics and integrity? If ethics deals with the rules and standards that define good conduct (Lewis 1991), how does integrity contribute to this aim?

There is no doubt that a widely shared view implies that high levels of integrity and ethics foster good levels of legitimacy for institutions (Dobel 2005).

There are not many legal theories that deal with the ethics-integrity relationship; however, the topic has been recently approached from the governance perspective.

Starting from the acknowledgement that integrity concerns the ethics of all actors involved in the governance process, it has been argued that the integrity perspective is not an alternative to ethical theory and neither its opposite (Huberts 2018; Menzel 2015).

Meanwhile, the hypothesis that integrity is a 'basic ethical value' validates the concept of individual responsibility, which is central to ethical behaviour, and is both a starting and an end point on the integrity route in public service (Lewis and Gilman 2011).

Until recently, several authors regarded ethical values as the core of personal integrity, while others regarded it as a necessary ethical requirement in the public sector, in particular as one of the 'qualities of a good administrator' (Appleby 1952). On the one hand, the concept of public ethics includes and defines the principle of integrity; on the other hand, this principle seems to have an autonomy of its own, although it is still linked to the concept of public ethics.

However, we must clarify that, although a certain similarity between the two concepts can be inferred, they were not (and are not) used as if they represented the same content. In fact, today, even if integrity is very recurrent, the concept of public ethics is not outdated. Indeed, at European level, integrity is placed within the broader concept of public ethics and is defined as: 'the duty of officials to put public service obligations before the interests of private persons in the performance of their duties' (European Committee on Democracy and Governance 2020).

The substantive integrity refers both to being intact and whole, and to the purity and rightness of actions. Therefore, the semantic roots evoke the perception of wholeness and the reconstruction of something that is no longer whole, but rather fragmented and/or divided. Thus, this term is commonly used to define something that is solid, whole or has its original constitutive fullness (Merloni and Pirni 2021; Montefiore and Vines 1999).

In the literature on ethics and integrity, it is possible to distinguish at least eight perspectives using the keywords wholeness and coherence; professional responsibility; moral reflection; value(s) like incorruptibility, laws and rules; moral values and norms; and exemplary behaviour (Huberts 2018).

The are also three main perspectives often refer to the Latin definition of *integritas*: wholeness, fullness and quality or state of being of a sound moral principle (Dudzinski 2004).

The first definition is based on the relationship between the whole and its parts, i.e. it is based on the idea that integrity is a totality; the second does not differ much from the first, except for the fact that it links integrity with the notion of 'functional perfection', in which purpose fits need; the last is merely normative and refers exclusively to actual human action, i.e. integrity indicates certain specific moral virtues such as honesty, uprightness and sincerity.

The term integrity is, moreover, associated with responsibility in the professional sphere, while certain other perspectives focus on one or more specific values such as incorruptibility, honesty, impartiality and accountability. One of these views relates integrity to some types of virtues such as wisdom, justice, courage and temperance (Becker and Talsma 2016).

Integrity is also seen as a person's constant fidelity to those commitments that confer identity (McFall 1987). Indeed, this principle is also associated with the concept of trustworthiness: in particular, integrity is regarded as one of the various dimensions of trustworthiness or as a subset of it (Mayer, Davis and Schoorman 1995).

In opposition to this latter conception is the one that regards integrity as a value that, however, does not have the same 'utilitarian perspective' (Harcourt 2004). Other scholars consider this principle under two meanings: a restricted one, that refers to the virtuous character, and a broader one, that refers to its identification with one's own life and the components that characterise it (Harris 1989).

Many other authors, however, examine the distinction between different types of integrity regarding commitment to specific ends, principles and ideals (Halfon 1989). One of these theories considers integrity to be important, as it contributes to creating communities in which we can trust one another in order to be able to deal with a range of more difficult problems (Walker 2003).

Another theory defines integrity as a social virtue, characterised by the relationships that a person has with others (Calhoun 1995). In this perspective, the social component of integrity is based on respect for one's own judgement. However, people can only be regarded as having integrity if they stand for something and do not merely act in accordance with their own commitments.

One of the most widely accepted perspectives is based on the relationship between integrity and morality, summarised by the concept of 'moral integrity' (Davion 1993), which can be expressed as follows: what is right and wrong, good or bad (Carter 1996). The link between morality and integrity is certainly due to the broader relationship between morality and ethics. Emblematic is the view that: 'governments originate from the moral identity of men' (Emerson 1844) and this is exactly why some authors define ethics as 'the morality of the third millennium' (Maffettone 2001), as an element considered essential for the whole public sector. The civil servant must know the duties related to the function, just as the ordinary citizen must understand the real moral obligations, since he or she cannot be morally wrong (Ashford 2000).

However, morality and integrity, while having several points in common, also have some substantial divergences on a practical level: people of integrity may act immor-

ally, even though they usually do not realise they are doing so. Thus, a person has integrity despite having wrong moral opinions. Furthermore, according to some scholars, integrity cannot even be considered a moral virtue, since it does not hold two central components of moral virtues, namely characteristic thinking and motivation (Sherkoske 2012). The concept of integrity can also be considered without the moral qualities that are usually linked to it but believing that the person who possesses integrity is the one who 'keeps his deepest self-intact', whose life is 'in one piece', whose self is whole and integrated (Taylor and Gaita 1981).

Acting with integrity is also considered as the accomplishment of a true evaluative discrimination (Frankfurt 1971), which must necessarily take place between first order and second order. Consequently, a real hierarchy between these two planes derives from this. On the contrary, others claim that this relationship: 'is more like a network than a hierarchical structure, too static and rigid to take into account the way individuals live their lives and maintain moral coherence' desires (Dobel 1990).

Another theory consider integrity as part of a 'universal set of moral standards' (Schwartz 2022) among which are: trustworthiness, which is interpreted as integrity, honesty and loyalty; respect for human rights; some responsibilities; fairness, which includes impartiality; caring and citizenship.

One final thesis is based on the link between integrity and exemplarity (Ferrara 2018), which consists of the idea that the implementation of the first principle should be seen as a way to project a good image inside and outside the public sector, in order to instil trust in citizens-administrators.

The legal meaning of the principle: rules, tools and measures

There is a more strictly legal perspective that is based on the primacy of laws and rules, with a focus on constitutional principles (Rohr 1989), and which considers integrity as a concept made up of specific values that the public official must respect.

However, it is necessary to affirm that within many constitutional texts the term 'integrity' is primarily understood as personal integrity, i.e., in relation to the moral and physical component of individuals[1], but also psychic[2] and ethical.[3] In many other

[1] See for example Article 1(2) of the Basic Law for the Federal Republic of Germany, Article 7 of the Constitution of Finland, Article 3 of the Constitution of Sweden and Article 24 of the Constitution of the Portuguese Republic of 1976.

[2] See Article 10 of the Federal Constitution of the Swiss Confederation.

[3] The ethical integrity of individuals is mentioned in Article 74 of the Constitution of the Republic of Paraguay.

cases, 'territorial integrity' is enshrined,[4] consisting in the defence of the borders, independence and territories that constitute a nation.

Noteworthy is also the famous legal theory of Ronald Dworkin who, in giving centrality to integrity, defines it as a fundamental and distinctive political value (Dworkin 1986).

For these reasons, it is necessary to establish a demarcation line on the dual meaning of the principle: personal and public. The former has a purely 'private' meaning, which does not have a general scope and is based on being firm and consistent with one's convictions and translates into the quality of being honest and having strong moral principles; the latter, on the other hand, has a more general meaning and is configured when public functions are entrusted to a man or a woman and from this particular status derive rights and duties, responsibilities and the manner of carrying out them. By way of example, paragraph 2 of Article 54 of the Italian Constitution enshrines the 'aggravated duties' of discipline and honour associated with the special status of public official.

Thus, the 'personal dimension' is restricted to the private sphere of individuals and is linked to the acceptance of conventional norms that are not universal; moreover, they are based on an individual's loyalty to his or her commitments and have no legally binding value. Within this individual dimension, we can distinguish at least two types of integrity: a psychological one, which concerns the wholeness of the individual in relation to inner conflicts, which are capable of affecting one's integrity to a greater or lesser degree; and a practical integrity, understood as fidelity to one's commitments.

In the second case, on the other hand, it is not the individual who establishes the values that determine the effectiveness of the concept, but rather there are very specific legal principles and rules that do so. In both cases, however, there is a common point: to be in integrity, one must respect and recognise some values, norms and principles.

The difference between the two dimensions, private and public, however, is not only determined by the fact that the latter has legal value and produces legal effects and duties, but also by the specific and objective character of its principles. This means that for a person being whole may mean something whose value is the opposite of another individual's conception. Integrity in the public realm, however, is based on very specific principles and rules, which are given by the legal system as they are considered essential for the right execution of functions and the pursuit of the public interest. Integrity in this sense, therefore, is based on a true standardisation of conduct in respect of which individual morality is not enough to satisfy and ensure the general interest.

[4] See Articles 5 and 16 of the French Constitution, subparagraph (c) of paragraph 3 of Article 14 of the Greek Constitution.

According to the public perspective, integrity can be individual/subjective if it refers to the individual civil servant; organisational[5]/institutional if it refers, for instance, to an institution, a ministry, any public administration or an internal office of a municipality.

In order to consider the legal framework of integrity, it is necessary to consider the anti-corruption framework. This element supports the thesis that there is a very strong relationship between the two topics, integrity and anti-corruption, mainly due to the crucial contribution that anti-corruption policy has made in relation to the development of the principle of integrity.

The 2003 United Nations Convention against Corruption of Mérida (UNCAC) is the only legally binding treaty against corruption. This is characterised by both a change of strategy and the presence of preventive standards and measures.

The main reference in this regard is Article 1(c) of the Convention, which states: 'the purpose of this Convention is to promote integrity, accountability and good faith in the management of public affairs and public property'.

In the text of the Convention, indeed, integrity is not only found in Article 1, as it already appears in the preamble where it refers to: 'the need to safeguard integrity and to foster a culture of rejecting corruption'.

The 1996 Inter-American Convention against Corruption,[6] on the other hand, does not give integrity the value of a legal principle, but in paragraph 1 of Article 3 on preventive measures it states that: 'these measures will contribute to preserving confidence in the integrity of public officials and public administration'.

Regarding the European legal framework, there is no direct reference to integrity in the European Treaties,[7] although there could be some linkage of this principle with Article 41 of the Charter of Fundamental Rights of the European Union, which sets out the duties of officials linked to the right to good administration.[8] According to some scholars, in fact, this concept could represent the normative reference of integrity in the framework of European primary law, i.e., the set of all the duties of officials, which are in line with ethics (Pupion 2015). Thus, good administration, understood in the

5 Organisational integrity is also present in the private sector.

6 It should be pointed out, however, that this Convention is not as legally binding as the Uncac Convention, nevertheless it serves as a concrete reference for states that have ratified it.

7 In the Lisbon Treaty, integrity is primarily understood as territorial integrity, as well as in Art. 3a.

8 Principles of good administration require officials in self-reflection to implement all the principles that concern them in D. Paraskevas (Eds.), 'The European Code of Good Administrative Behaviour', www.ombudsman.europa.eu/it, 2013.

European context, could certainly be seen as a link between ethics and performance, which overcomes the dichotomic conception between these two concepts that has been widespread by the culture of New Public Management, consisting of a one-way view of performance from an exclusive economic and efficient perspective.

However, at the European level, this principle is often appearing both in anti-corruption documents and in some codes of conduct for the staff of EU institutions.

The legal meaning of this principle can refer to both the organisational and the individual dimension. If the individual dimension is quite understandable, how does public administration comply with organisational integrity? Integrity in public organisations, then, is the result of a series of measures: establishing open, transparent, efficient and fair systems to guarantee the highest standards of competence, promoting impartiality in the civil service, safeguarding fair and adequate compensation (Adroniceanu 2009).

We can identify at least two types of integrity in the public sector: institutional integrity and the integrity of the public employee. The former understood as the disposition of an institution to achieve its results efficiently, respecting the limits of legality, and in line with its commitments; while the second as the strong disposition of an official to uphold the integrity of his institution, in the exercise of his functions, to the best of his ability (Kirby 2020).

As far as public administrations are concerned, the link between administrative discretion and integrity is very important. The notion of administrative discretion consists in the power of the public administration to make a decision that considers a primary public interest with secondary public, private or collective interests. The link between the concept of ethics and the concept of administrative discretion has always been considered in the literature, as ethics is regarded as the art and science of making wise choices and thus enhancing the wisdom of administrative choices (Lewis 2018).

When dealing with the relationship between administrative discretion and the prevention of corruption, two opposing views are argued: some claim that discretion should not be sacrificed for prevention measures in order not to undermine the efficiency of choice; on the contrary, others argue that it is preferred to limit the administration's margin of choice in order to reduce the possibilities of choices where malpractice lurks to a minimum.

In the case of the integrity-administrative discretion relationship, on the other hand, this kind of problem does not arise: rules and measures of integrity consider the impartiality of administrative action in the same way as rules and measures of administrative efficiency and performance.

However, recent studies identify the uncontrolled exercise of discretion as one of the main causes of corruption (Kurniawan 2022; Vannucci 2011).

Therefore, integrity is an essential element, since the discretionary choice must be impartial, effective, transparent and efficient: the decision must be 'integrity-based'.

The integrity framework encompasses all tools, processes, structures and elements, both inside and outside public sector organisations, that affect the integrity of the organisation's members.

According to some scholars, strengthening and safeguarding integrity requires a set of integrity measures and tools, such as: a code of conduct, an integrity office, integrity training, risk analysis, integrity regulations, ethical leadership, whistleblowing procedures, trusted persons, policies employed to prevent misconduct, and pre-employment screening, this latter point is also referred to as the 'pre-employment integrity test' (Barrett 2001).

Concerning the tools that should be adopted to promote integrity in the public sector, there is no uniform legal reference. Certainly, we can argue that the integrity approach includes confidence-building measures, which go beyond the detection and punishment of corruption offences (Huss et al. 2023).

The 2003 Convention does not define in detail actions and tools that States must take with regard to integrity. The Convention links integrity to codes of conduct, regulation of conflicts of interest and corruption prevention measures, but without specifying precisely the kind of measures that these acts and instruments must take. This is due to compliance with the fundamental principles of each legal system. However, this aspect contributes to making the principle very vague, unlike other principles whose implementation is clearly associated with a series of actions and measures to be taken.

In the field of integrity violations, several scholars have identified a number of cases that include typical violations of corruption, abuse of power, misuse of information, indecent treatment, fraud, and private misconduct (Huberts 2018). We can therefore argue that integrity violations do not constitute an autonomous category, since these types of violations are already regulated by various legal sources (criminal code, special laws, codes of conduct) and concern different legal situations, which are corresponding to specific types of liability (criminal, civil, administrative, disciplinary, managerial).

In the national legal orders, legal references to the principle of integrity are not enshrined in the same way in the sources of law: in some states, it is even present in the constitution; in other cases, it is found in laws and regulations, in others only in soft law acts.

In legislative acts, integrity is mainly found in laws regulating public employment, in those combating and preventing corruption, in some laws on the promotion of ad-

ministrative transparency and, last but not least, in codes of conduct that regulate the activities of public officials.

In the Italian legal system, integrity as a principle is only found in paragraph 2 of Article 3 of the Code of Conduct for Public Employees (Presidential Decree No. 62/ 2013); in the Netherlands it is found widely within the 2016 Code of Conduct for Integrity and in Art. 125 of the Civil Service Act; in Spain in Art. 1 of the Law on Public Contracts; in Montenegro in Article 72 of the Anti-Corruption Law; in Lithuania in Article 3 of the Civil Service Law; in Article 1 of the Law on Transparency and Good Governance of the Valencian Community No. 1 of 2022; and finally among the key principles (1.4) of the guidelines of the French Anti-Corruption Agency (AFA).

Lastly, what are the main principles and values with which integrity relates? What is the relationship between integrity and the other principles? In order to describe this relationship, we could use the pyramid metaphor (Ulmann 2013, 2015) at the base of which is legality, then there is transparency, then impartiality, then efficiency, then public accountability and finally integrity. Fulfilling each level of this pyramid requires, first of all, having satisfied the previous one. For this reason, public integrity cannot be fully satisfied without first ensuring legality, transparency, impartiality, efficiency and public accountability.

The seasons of integrity: the development of the principle through three distinct phases. From "meta-legal" to the concept of public integrity

Despite the concept of integrity being widespread worldwide, there is currently no shared definition (Nieuwenburg 2014; Kerkhoff and Overeen 2021) within international and European documents on this topic. Regarding the development path of this principle, there has been a significant and gradual spread from the 1960s until today.

The evolution of integrity has been marked by a divergent approach of institutions dealing with good governance: the definition and the value given to the principle have never followed a linear evolution in line with the legislative process that has gradually developed.

Until the early 2000s, the main international and supranational organisations mostly used the term 'public ethics', in fact, they often discussed the strengthening of ethics in the public sector, with particular regard to public administrations.

Integrity has long been discussed and analysed in academia, so much so that it was considered one of the core values of public administration.[9] However, the value attributed to the principle was very approximate and was not comparable to today.

Nowadays, there is a broad diffusion of the use of integrity, both as a principle and as a concept, at international level (OECD above all), in contrast to the European and some national contexts where both concepts (public ethics and integrity) are used: In EU documents, the term 'ethics' is often used when referring to the duties of conduct of staff of institutions (e.g. of the European Commission);[10] while integrity came to the fore later, in particular thanks to some joint initiatives between the OECD and the European Union,[11] and also due to the recent activism of the European Commission and its President Ursula Von der Leyen.[12]

Over the years, the OECD has also changed its approach on the subject: its recommendations on the subject have been updated and the main feature has been the shift from ethics to integrity, which has not been immediate, with the aim of extending the organisation's reach to the whole of society (Wickberg 2018).

At the international level, the United Nations (UN) over the years has given a prominent role to the principle of integrity. In fact, the Statute governing the duties of United Nations personnel contains an interesting definition, which states: 'the concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status'(United Nations 2016).

Indeed, in the early 2000s, integrity had taken on a relevance in the United Nations field, precisely with reference to the subjective dimension of the civil servant: 'the integrity of civil servants has a direct impact not only on their performance, but also on the public's perception of their credibility' (United Nations 2000). The latter definition links integrity to the concept of accountability: integrity is not only the 'pivotal principle' governing the conduct of officials within organisations, but it is also the basis for the accountability of the officials' conduct external to the public administration. This

[9] 2000 'Integrity alongside impartiality, legality, efficiency and accountability in OECD, Trust in Government Ethics Measures in OECD Countries'

[10] In the 'Personnel and Ethics' section of the European Commission website, rules for EU employees can be found, in particular conflict of interest rules. Furthermore, standards of integrity are mentioned in Article 3 in Recommendation No. R (2000) 10 of the Committee of Ministers to Member states on codes of conduct for public officials.

[11] This refers to the Sigma initiative, chttps://www.sigmaweb.org/

[12] See European Commission, '2022 State of the Union Address by President von der Leyen', ec.europa.eu, 14 settembre 2022; 'The European Commission asks for the public's view in the fight against corruption', europa.eu, 2023.

element is very relevant because it constitutes the core of the officials' conduct outside, from which derives the level of public trust in the officials' administrative activity.

In the current European dimension, the principle of integrity is omnipresent in anti-corruption documents, although there is no clear definition of the principle and the measures used to realise it.[13]

Analysing the main European acts, in fact, integrity is defined as one of the highest standards, whereas ethics is used as a kind of 'umbrella concept' that includes various issues, rules and actions.[14]

In 1997, the Council of Europe promoted the formation of a body, the Group of States against Corruption (GRECO), consisting of a joint action to promote reform and action in the field of anti-corruption and integrity. In GRECO's reports, assessments and evaluation cycles, there is a distinction between the concepts of ethics and integrity, despite the fact that these concepts are almost always considered together and in connection with the topic of corruption prevention.[15]

In a first phase, therefore, the concept of integrity was more developed in some common law jurisdictions and in the international sphere, although later it also became part of the European 'institutional vocabulary' and of several national legal systems.

Recently, the 'integrity of civil servants' (SIGMA 2023) has also been defined as one of the main requirements for assessing the level of adequacy of EU candidate states.

The integrity of public institutions in this framework is considered crucial for the rule of law. Integrity and the other values of the public sector are considered essential not only to ensure good governance, but primarily to respect for the rule of law (Pacilli et al. 2021).

However, there is a discordance between European action, both from an internal and an external perspective: within the EU, there is a particular focus on regulating the conduct of European institutions and staff, whereas in the external dimension, there is less regulation of this area with regard to the Member States.

[13] For instance, in the 2008 Code of Conduct for Officials of the European Parliament in the section "general obligations" it is stated that: "Officials or other servants must conduct themselves in the manner required by the independence of their position and by the principle of integrity". In the text, however, there is no concrete definition of integrity, it is only defined as one of the main standards.

[14] This can be seen, for example, in the European Parliament Resolution of 16 September 2021 on 'Enhancing transparency and integrity in the EU institutions by creating an independent European ethics body' (2020/2133(INI)).

[15] See Greco, Fourth evaluation round. Corruption prevention in respect of members of parliament, judges and prosecutors. Second interim compliance report Bosnia and Herzegovina, GrecoRC4(2023)9, 2023.

The European approach has been changed recently, following the corruption scandal known as 'Qatargate'. Following this, the European institutions launched an action of historic proportions in the fight against corruption. This is based on the importance of maintaining a culture of integrity and this principle is seen as a safeguard against corruption.[16]

Until almost twenty years ago, the concept of ethics still prevailed in the public service of the EU Member States, while integrity was defined in an indistinct manner and sometimes as a behavioural precept without legal effectiveness.

In conclusion, the process of codifying ethics was the period that preceded and created the conditions for the subsequent period characterised mainly, but not exclusively, by public integrity. The 1980s, in particular, represented the turning point: after the initial experiences of some common law legal systems in the 1960s and 1970s, there was a significant proliferation of ethical laws and policies.

Only in more recent times, therefore, has a strong emphasis been placed on the concept of 'integrity' rather than 'public ethics', as the former was considered 'more appropriate to the times' and in line with the evolving needs of the public sector than the latter. The expansion of the principle had a 'filiation relationship' with public ethics and has gone through three distinct seasons: a preliminary starting point can be identified as early as the 1960s, but a real expansion took place between the 1970s and the 1990s; a second phase that coincided with the large-scale development of anti-corruption policies, thanks to the impulse from the international and European Conventions of the 2000s; and finally a more recent phase where, mainly due to the OECD's efforts on the subject, the principle of integrity has become a cornerstone for good governance, anti-corruption policies and codes of conduct for public officials (Hussmann, Hechler and Peñailillo 2009).

The main features of the three seasons of integrity are briefly outlined in the following section.

- *Season 1: Integrity as a core value of the ethics reforms and public sector*

The first phase took place between the 1970s and around the first half of the 1990s, although there had already been a reform movement in the previous decade that significantly influenced the following years.

[16] See European Commission, 'Joint communication to the European Parliament. The Council and The European Economic and Social Committee on the fight against corruption', europa.eu, 2023.

During this period, there was a prosperous phase of ethics reforms, especially in some common law legal systems, followed by the implementation of a series of public policies aimed at addressing the ethical issue of the public sector through a more systemic approach.

The reforms of those years took concrete form through the enactment of rules incorporated in laws and codes of ethics,[17] but also through the establishment of agencies and committees (De Sousa 2010; Pope 1999), whose function was to promote standards of good conduct for public servants.

During this season there was a strong need to expand and "update" the core values that had been consolidated until then. The intention was to bring new principles into line with the existing ones, as a consequence of the processes in the public sector (Silicani 2007).

This season was not only determined by episodic and circumstantial events (scandals, crises, reforms), but was mainly influenced by the historical-political period of reference.[18]

The academic debate on these issues had started to develop in the years before this phase, but between the 1970s and 1990s there was a greater intensification of scholarly production, which would gradually increase from then on.

Indeed, back in the 1950s, ethics in government was at the centre of debate in the major committees of the United States Congress, in particular in a specific 1951 Act,[19] which mentioned 'systems of integrity' and often used the term 'basic integrity' in relation to government and public servants, although the meaning was not quite clear.

A few years later, the thirty-sixth US President Lyndon B. Johnson, through the adoption of an executive order, promulgated a set of standards of ethical conduct for officials, called *'Executive Order 11222. Prescribing Standards of Ethical Conduct for Government Officers and Employees'*. In this Act, therefore, integrity referred to both the government and individual officials and, moreover, was directly linked to the concept of citizen 'trust' (Part I).[20]

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[17] Specifically, reference is made to Executive Order 12674 of April 12, 1989, approved by the 41st President of the United States G. H. W. Bush for central officials.

[18] For example: administrative modernization after World War II; the adoption of special laws on public employment; the promotion of a more modern bureaucratic body based on other premises than the Weberian model.

[19] See Establishment of a Commission on Ethics in Government, Hearings Before a Subcommittee to Study Senate Concurrent Resolution 21 of the Committee on Labor and Public Welfare, United States Senate, Eighty-second Congress, First Session, U.S. Government Printing Office, 1951.

[20] Indeed, Section 101 stated that: "Where government is based on the consent of the governed, every citizen is entitled to have full confidence in the integrity of his government. Each and every officer,

In 1961, US President J. F. Kennedy, in a speech to Congress on 2 April, stated: 'There can be no dissent from the principle that all officials must act with unwavering integrity, absolute impartiality and complete devotion to the public interest. This principle must be followed not only in reality but in appearance. For the basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter'.[21] This statement is relevant for several reasons. First, the President recognised the importance of integrity and distinguished it from impartiality. Furthermore, he identified the risk that this principle might not be implemented effectively.

The more systemic development of the subject began in the United States of America, following the 1972 Watergate scandal (Roberts and Doss jr. 1997). It is no coincidence that the development of the study of administrative ethics, in fact, took place in the early 1970s, when a truly systemic and evolving approach to the subject was being shaped.

Following the 1972 scandal, the *Ethics in Government Act* was adopted in 1978. However, before this law, the issue had been extensively addressed in the 1977 *Public Official Integrity Act*, a report of the US Senate Committee on Governmental Affairs, which aimed to preserve and promote the integrity of public officials and institutions.[22]

The Ethics in Government Act is composed of a regulatory and an organisational part. The normative part consisted of a series of rules of conduct, often gathered in codes; while the organisational part was based on the establishment of offices and agencies such as the federal *Office of Government Ethics* and other state and local government offices, with the functions of drafting regulations, disseminating ethical standards, advising and supervising (Mattarella 2007). In the text of this law, the concept of integrity was used, precisely stated: 'to preserve and promote the integrity of public officials and institutions, and for other purposes'. This shows how integrity was already present in a federal law in the United States of America at the end of the 1970s and well in advance of the international and European dimension. Thus, at that time, it was realised, not only in the US, that public ethics was a different thing from private ethics (Cassese 1992), and that as such it was an objective of primary importance for the whole public sector.

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employee, or advisor of the government must help earn and honour that trust by their integrity and conduct in all official actions."

[21] The President's News Conference, 1 PUB. PAPERS 60, 62, 65, 1989.

[22] In the text of the Public Official Integrity Act of 1977, a very interesting element is the macro-areas of regulation indicated to strengthen and promote integrity.

The *Ethics in Government Act* also highlights an interesting element: the respect for integrity and other principles was addressed to both political institutions and administrative officials. Thus, integrity was defined from the earliest definitions as a set of rules and principles for both political and civil servants.[23]

As the rules of conduct on integrity were being adopted in the United States, due to a number of scandals, the United Kingdom also supported several initiatives aimed at fostering the ethics of civil service (Pinto-Duschinsky 1977).

In 1974, the Royal Commission on Standards of Conduct in Public Life was established following the 'Poulson affair'. This Commission was headed by Lord Salmon, whose main mission was to conduct an enquiry into standards of conduct in central government.[24]

In 1984, with the publication of the *'Starr-Sharp Report'* on conflict of interest, there was also a spread of activism in Canada regarding the management of public employees' behaviour. Indeed, after this, a series of policies on conflict of interest in public administration were approved, namely the *'Conflict of Interest and Post-Employment Code for Public Office Holders*', while the 1987 Committee on Governing Value was set up to identify common values to the whole public sector.

Another example of codification of ethics rules dates back to the 1988 *State Sector Act* in New Zealand, where one of the main purposes of this law was to: 'maintains appropriate standards of integrity and conduct'.

In Europe, a greater expansion of integrity at the institutional level is due to the United Kingdom, in particular with the establishment of the 1994 *Committee on Standards in Public Life*. This is an independent advisory body that has the task of advising and making recommendations to the Prime Minister on ethical standards in public life; it also carries out surveys to assess institutions, policies and practices.

This committee was responsible for drafting the guide *'The Seven Principles of public life'*, in which one of the first and most comprehensive definitions of integrity was provided.[25] Through the Committee's work and initiatives, in 1995 the Government adopted a new '*Code of Conduct for Civil Servants'*, which was subsequently amended

[23] This specification is relevant since it anticipates one of the main features of the latest concept of public integrity, which does not only refer to the activity carried out by civil servants but is extended to all those working in the public sector.

[24] See Royal Commission on Standards of Conduct in Public Life, 1974-1976, London, HMSO, 1976.

[25] Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

and supplemented up to the 2004 '*Civil Service Management Code*', which gathered the legislation on the matter.[26]

A certain level of attention was also being focused on the subject in France in the early 1990s. First, with the work carried out by the 1993 Bouchery Commission on the prevention of corruption, then with the adoption of the 1993 Sapin Law (Law. no. 122/1993) and the establishment of the 1991 Deontology Commission on public function. Actually, France had already passed an important law in 1983 enshrining the rights and obligations of civil servants, known as the 'Le Pors law' (Law no. 634/1983). In the text of this law, the principle of integrity was enshrined in Article 25 and represented one of the four principles for the proper execution of the public functions.

A further impact on the evolution of integrity was exerted by the 'New Public Management', which became widespread in OECD countries as early as the 1980s, and whose programme emphasised the importance of results and managerialism in public administration. For these reasons, some scholars wondered whether and how much this reform would produce negative effects in the field of public integrity (Kolthoff et al. 2006; Maesschalck 2004). Some scholars have even argued that 'integrity management', consisting of a bureaucratic body specialised in ethics, is actually a strategy to fill precisely the gaps left by the doctrines of New Public Management (Demmke 2022).

However, in the early 1990s, there was also a debate on the creation of the first integrity systems to deal with the growing episodes of corruption. Thus, integrity systems in those years were mainly understood as a system associated with the fight against corruption, whose first interventions were basically based on criminal repression (De Sousa 2002).

The interest in ethics and related measures has intensified significantly since 1994.

This first phase ended with the need for states to take a common path, based on the first good practices of Anglo-Saxon countries and the decision to tackle corruption and pursue integrity through a global approach.

- Season 2: The age of the anti-corruption Conventions and their link with integrity (Mid-1990s 2017)

During the second half of the 1990s, several documents were approved at international level: the 1996 *International Code of Conduct for Public Officials* and the

[26] Title IV, which is dedicated to the principles of 'conduct and discipline', includes among its main criteria compliance with the principle of integrity.

Implementation of the International Code of Conduct for Public Officials[27] of the United Nations, as well as many acts in the OECD. In 1996 and 1997 the OECD Public Management Committee (PUMA) carried out several surveys on ethics and conduct management in the public sector. These studies had identified both factors influencing standards of conduct in the public service and initiatives taken by governments to strengthen ethics management systems. The 1996 survey, in particular, identified a set of tools for governments to promote integrity and prevent corruption, called the 'ethical infrastructure', where integrity is considered a high standard in the public sector.

In 2000, integrity, corruption and ethics have become very important issues in both the practice and theory of politics, public administration, economics, law and society. In particular, corruption and integrity represented significant topics for law enforcement (Fijnaut and Huberts 2002).

The path of evolution of integrity was mainly determined by external impulses, but a strong influence is also undoubtedly to be found in certain national events. Indeed, this phase was also marked by a strong degree of public dissatisfaction with governments and the bureaucratic body due to inefficiencies and significant levels of maladministration (Caiden 1991).

During the 1990s and early 2000s, an innovative path of convergence began, both at international and European level, based on the sharing of common good governance aims.

After the first ethical reforms, moreover, some scholars carried out the first assessments of the existing practices and identified two macro-models: a 'classic' model, which was based on rules that prescribed forbidden and lawful behaviour; the modern model, on the other hand, was based on the use of training methods and processes useful for achieving expected behaviour, which would have avoided the adoption of strict regulations. The risk associated with the implementation of an 'old management' model was that it would have the reverse effects from the desired ones (Anechiarico and Jacobs 1996); the new model, on the other hand, would have allowed for the creation of individual and organisational training courses oriented to public values and an integrity-driven public ethic.

In summary, some scholars dealing with integrity management have distinguished two types of strategies: the compliance or rule-based strategy (compliance based) and the value-based strategy (Paine 1994).

An essential milestone in the global legitimisation of integrity is represented by an OECD report in 2000, which for the first time stated that: "integrity has become the

[27] In this document, the principle of integrity was distinguished from impartiality and considered to be central in terms of the content of codes of conduct.

fundamental condition for governments to provide a reliable and effective framework for the economic and social life of citizens"(OECD 2000).[28] Previously, the OECD had merely defined the integrity of public officials as 'a fundamental ingredient of democratic society', although this principle did not enjoy any centrality and autonomy with respect to the concept of public ethics.

In the 2000 Report, integrity was not only given greater autonomy and relevance, but was also distinguished from the principles of impartiality and legality. Moreover, the principle was considered in connection with the principles of efficiency and transparency, and integrity measures were placed within an integrated management framework.[29] The latter point is very meaningful, as it promoted the evolution of the integrity principle towards the principle of public integrity, which has recently become accepted at the international level.

The spread of corruption episodes as well as the widespread dissatisfaction in the 1990s were answered by the activism of international bodies (OECD, United Nations, World Bank, Council of Europe, European Commission) and non-governmental organisations (Transparency International above all), which created a true international integrity policy. During these years, the main European and international conventions on corruption were adopted, which led to the following national legislative efforts to implement the standards and best practices enshrined in these acts.

Since the second half of the 1990s, anti-corruption conventions drawn up within the Organisation for Economic Cooperation and Development (OECD), Council of Europe (CoE) and European Union (EU) have been approved. Specific instruments were also adopted, supported by the establishment of anti-corruption policy monitoring mechanisms such as Greco at the CoE and the OECD Working Group on Bribery (WGB).

Integrity plays a very important role in the 2003 UN Convention against Corruption. Indeed, in the text of this Convention, integrity acts as a 'common thread' between the

[28] «Ensuring integrity means that: public servants' behaviour is in line with the public purposes of the organisation in which they work; daily public service operations for businesses are reliable; citizens receive impartial treatment on the basis of legality and justice; public resources are effectively, efficiently and properly used; decision-making procedures are transparent to the public, and measures are in place to permit public scrutiny and redress».

[29] In fact, on p. 19 it is stated that: «Integrity measures should not be considered as a separate and distinct activity, but rather as an integral part of all management systems. This also creates an understanding about the necessary consistency between a strict and centralised compliance-based ethics management framework in a rules and process-based public management system on the one hand, and an ethics framework built on unenforceable aspirations and incentives in devolved results-based management systems on the other hand. Naturally, countries should draw their own conclusions taking into account their individual political and administrative traditions».

rules concerning the prevention of corruption, rules of conduct and the regulation of conflicts of interest. In fact, this principle is represented as a necessity for the States Parties to the Convention, moreover, 'the promotion of integrity' is also one of the three main objects of the Convention. Integrity is one of the guiding principles for corruption prevention policies (Art. 5) and codes of conduct for public officials (Art. 8).

With the adoption of the UN Convention against Corruption in 2003, a structural-institutional, organisational and functional model of corruption prevention was outlined. This model was proposed to domestic legal systems at universal, regional and continental levels as an unavoidable source of inspiration. The 2003 Convention contributed to strengthening the link between anti-corruption policies and integrity, in particular through the emphasis placed on prevention as an essential component of integrity systems.

In line with these patterns, the OECD efforts of those years went in the same direction as the 2003 Convention. Indeed, a 2005 document on public sector integrity stated that integrity systems should be designed to prevent corruption before it occurs (OECD 2005).

In this phase, the European dimension has further strengthened integrity and linked it to the field of anti-corruption. This is particularly reflected in the 2014 European Commission Anti-Corruption Report, in which integrity is not understood as a principle, but is defined in its subjective, institutional and cultural dimensions.

During and after the 'convention period', many countries passed domestic reforms to bring their national legislation in line with the conventions, both through specific laws on the fight against and prevention of corruption and by gathering all the duties of public officials into a single text.[30]

- Season 3: The concept of public integrity in the perspective of good governance (2017 – present)

The most recent phase begins exactly in 2017, when the OECD Council approved the 2017 Recommendation on Public Integrity. This recommendation should be un-

[30] Examples are the following: UK: Civil Service Management Code of 2004; Bribery Act of 2010; Australia: Bribery of Foreign Officials Act of 1999 and establishment of the Australian Public Service (APS); Germany: Anti-Corruption Act of 1997 and the Interdisciplinary Department for Bribery and Environmental Crimes of 2004 ; Denmark: Public Sector Code of Conduct of 2008; Portugal: Act no. 58/2008 Estatuto Disciplinar dos Trabalhadores Que Exercem Funções Públicas; France: the Act of 30 June 2000; the Act of 4 July 2005; the Sapin II Act No. 2016-1691; Romania: Law no. 78/2000 on the prevention, discovery and punishing of corruption acts; the Anti-Corruption Act of 2000 and the Anti-Corruption Act of 2008 in Sierra Leone; the Anti-Corruption Law of 2004 in Azerbaijan; the Anti-Corruption Act on 13th June 2000 in Nigeria.

derstood as the culmination of the development process that led to the modern concept of 'public integrity', at the same time this also influenced the use and definition of the principle within national anti-corruption legislation.[31]

The 2017 Recommendation also represents the further development of the OECD in this area. The role of this international organisation began in the early 1990s, and its contribution gave integrity a certain autonomy from the concept of public ethics and other similar principles. This has consequently led to a significant shift in OECD policies from ethics to integrity, through a change in the general approach, the tools adopted, and the role assigned to society (Wickberg 2018).

The core of the 1998 Recommendation was the concept of an 'ethics infrastructure' based on a set of high standards of public sector behaviour to promote integrity and prevent corruption, through the three pillars of guidance, management and control. The main instruments to achieve these goals were a set of guidance on ethical management in the public service and the adoption of codes of conduct.

In the current version, however, public integrity is at the heart of the Recommendation and: 'refers to the consistent alignment and adherence to shared values, principles and ethical standards to uphold and prioritise the public interest over private interests in the public sector'. The first change is the shift in the use of the term integrity towards the concept of public integrity. The change, however, is not only semantic, but also in terms of content and scope.

The 2017 Recommendation brings together, in a single concept, those actions and strategies that are necessary to create a solid integrity system: developing a strategic approach; adopting and communicating high standards of conduct (codes of conduct and conflict of interest discipline); promoting a culture of integrity through the involvement of society; supporting ethical leadership; training and developing an open organisational culture; control mechanisms and applying an internal control and risk management system. The value of integrity has been shifted entirely to the institutional level, compared to the past when the principle was declined also in relation to the individual dimension and therefore referred to the individual public official.

The link between public integrity and corruption is present, since reducing corruption in the public sector is regarded as one of the key objectives to be achieved. Starting from the knowledge that the concepts of corruption and integrity themselves are very complex, the OECD concludes that promoting integrity and reducing corrup-

[31] For example, the principle of integrity is defined as a fundamental value of the public sector in Agency for Modernisation Local Government Denmark Danish Regions, Code of conduct in the Public Sector, 2017, p. 7.

tion requires a combination of policies and measures that, together, can achieve the required effects (OECD 2021).

The main innovation is that corruption prevention interventions are designed within the broader framework of public management and governance. This is due to the fact that in many countries, the implementation of integrity systems has mainly consisted of the establishment of anti-corruption policies, without linking these interventions with other policies.

An important element concerns the new 2018 *Code of Conduct for the Members of the European Commission*. In this act it is stated that: 'when entering upon their duties, Members of the Commission give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity'. So, in this case integrity has even taken on the value of a legal duty and not a mere principle or concept.

In academia, a certain 'expansion' of the meaning of integrity had already taken place in the years before the 2017 Recommendation. The main example is the development of the Public Integrity Index of 2016 (Mungiu-Pippidi and Dadasov 2016), the purpose of which is to assess the capability of a society to control corruption and to ensure that public resources are spent without corruptive practices. However, this approach shows, once again, that the concept of integrity is essentially seen as a tool for controlling corruption.

A remarkable difference between the third season and the others is certainly due to the fact that the concept of public integrity has taken on a wider meaning than in the first definitions, but also because anti-corruption legislative acts have expanded the principle's scope. Indeed, the laws passed in the wake of the 2017 Recommendation did not merely include integrity among the reference principles, but better defined the meaning of the principle and in some cases specified the measures and prescriptions to be adopted.[32]

Indeed, most laws on the prevention of corruption, codes of conduct for public employees and other soft law acts (action plans or integrity plans) contain the integrity principle.[33] A particular development can be known in the South American Countries,

[32] An example is the recent Code of Ethics and Professional Conduct for Civil Servants of Greece 2022, which states that it is a key instrument to promote the commitment of civil servants to the values of integrity.

[33] Code of Conduct in Greece 2022; Serbia's 2019 Law on Prevention of Corruption and Integrity Plans; UK Anti-Corruption Strategy 2017-2022 and in the 2021 report of the Committee on Standards in Public Life; Portuguese Government's 2019 Code of Conduct; The French Anti-Corruption Agency's 2020 Guidelines; Ley 5/2017 de Integridad y Ética Públicas de la Comunidad Autónoma de Aragón; Ley

where many code of conducts and laws concerning with integrity, starting from the titles of this documents.[34]

During the first phase, integrity as a legal principle was only present in legal systems where the ethical reforms of the public sector had spread; in other European and Western countries, integrity was hardly ever present in domestic legislation (except in France) and its value was 'meta-legal'.

In the next phase, however, the development of anti-corruption laws, based on the recommendations of the conventions, fostered a greater development of integrity both as a concept and as a legal principle. The third phase, on the other hand, is characterised by both the linking of the concept of public integrity with the concept of good governance as well as a further development of the integrity principle within the positive law of national systems. Although integrity as a principle is more present at this stage in contrast to previous seasons, there are still examples where it is affirmed as a concept.

Conclusions

Trying to grasp the legal meaning of integrity contributes to understanding that this principle is not only a moral value for the public sector. On the contrary, its comprehension is crucial not only to strengthen the conduct of public officials, but also to preserve the role that public administrations play within democratic regimes. Institutions and public officials dedicated to integrity are the guarantee that the public sector will continue to uphold the principles and norms that underpin the rule of law.

The development path of integrity from the 1960s to the present allows us to understand several dynamics and transformations of ethical management in the public service.

The considered years were marked by many approaches on the topic of integrity, but also by an increased conviction of states to seriously regulate ethics in the public sector, in connection with the modernisation process of public administration.

This process has gone through different phases: phases where national legislators preferred to adopt more 'efficiency-based' reforms and other more legalistic phases,

General del Sistema Nacional Anticorrupción en Mexico; Integrity and Prevention of Corruption Act of Slovenia (Law. 158/20); The 2016 Civil Service Code of Standards and Behaviour of Ireland.

[34] Ley de Integridad y Ética Publica en Argentina de 2017; Lineamientos para la implementación de la función de integridad en las entidades de la Administración Pública en Peru de 2019; Código de Integridad del Servicio Público Colombiano de 2019; Plan Nacional de Integridad Transparencia y Anticorrupción 2021-2025 en Paraguay; Código de Integridad Institucional de la República Dominicana de 2019.

especially in Italy. Despite this, however, this area of legislation and public policy may not stop developing. In fact, one of the main reasons why this policy has 'survived' over time, and indeed expanded in subsequent seasons, is due to the fact that the focus on integrity was also considered essential for the implementation of other policies, such as the fight against corruption from an international perspective (second season), but also as part of the evolution of the concept of good governance that has emerged in the last decade (third season).

The presence of solid integrity systems is necessary to safeguard the role that public administration plays in a democratic state, especially today that we are facing new and more intense challenges. Investing in integrity measures does not mean that public administrations are stuck in the face of the digital revolution, the Recovery Found challenge and improvements in administrative efficiency. On the contrary, integrity is a protection and not an obstacle for future reforms.

Public actors must first understand what integrity is and then they must comply with the rules and implement the measures. Therefore, it is necessary to focus on clear rules, effective controls and to invest in training and dissemination of integrity values. What is needed is not more rules, but more integrity in practice.

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FORUM

Violenza di genere: stereotipi e percezioni in alcune indagini sociologiche

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Gender-based Stereotypes and Secondary Victimisation in Italian Trials for Rape: Deconstructing Rape Myths

Stereotipi di genere e vittimizzazione secondaria nei processi per stupro italiani: una decostruzione dei miti dello stupro

Selena Mariano

Abstract

The primary objective of this paper is to analyse how secondary victimisation is carried out by Italian judges in the reasons of judgement of their verdicts, particularly in trials for rape. Secondary victimization has long aroused interest in the scientific landscape, especially when referring to women victims of gender-based violence (Shoham et al. 2010); and has been extensively studied in the forms of rape myths (Brownmiller 1975; Estrich 1976; Bohner et al. 1998; Thornton 2022) and genderized stereotypes (Smith 2018). But little or no research is present looking at how language is used by judges in the legal context of a judgement, especially in the Italian sociological landscape. The second aim of this work is, therefore, to fill the literature gap applying Membership Categorization Analysis to two Italian appeal verdicts in trials for rape. By doing so, it is shown how the victim is characterised by the judges through language pertaining rape myths and gendered stereotypes, and how these discriminating elements are used as evidence to evaluate the presence of a crime – therefore making legal a moral judgement on the victims, and not a lawful one towards the defendants.

L'obiettivo primario di questo articolo è quello di analizzare come la vittimizzazione secondaria è portata avanti dai giudici italiani nelle ragioni di giudizio dei loro verdetti, in particolare nei processi per stupro. La vittimizzazione secondaria ha da tempo suscitato interesse nel panorama scientifico, soprattutto quando si riferisce alle donne vittime di violenza di genere (Shoham et al. 2010); ed è stata ampiamente studiata nelle forme di miti sullo stupro (Brownmiller 1975; Estrich 1976; Bohner et al. 1998; Thornton 2022) e stereotipi di genere (Smith 2018). La letteratura è, però, alquanto scarsa – se non nulla – sullo studio dell'uso del linguaggio da parte dei giudici all'interno di una sentenza, soprattutto nel panorama sociologico italiano. Il secondo obiettivo di questo lavoro è, quindi, quello di colmare questa lacuna applicando l'Analisi delle Categorie di Appartenenza a due sentenze di appello italiane all'interno di due processi per stupro. In questo modo, è possibile osservare come la vittima è categorizzata dai giudici attraverso un linguaggio che evoca i miti dello stupro e gli stereotipi di genere, e come questi elementi discriminanti sono usati come prova per valutare la presenza di un crimine, pertanto rendendo legale un giudizio morale sulle vittime, e non uno obiettivo sulle prove fornite.

Keywords

Secondary victimisation, gender-based violence, gender studies
Vittimizzazione secondaria, violenza di genere, studi di genere

Introduction

Since the first drafting of the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (2011) – the so called "Istanbul Convention" – European Union has widely recognised secondary victimisation[1] not only as a phenomenon, but first and foremost as a social problem, particularly regarding women victim of gender-based violence. In fact, in art. 15, sec. 1, the Convention states that the signing Countries "shall provide (...) appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by (...) this Convention, (...) on how to prevent secondary victimisation". And, in art. 18, sec. 3: "Parties shall ensure that measures taken pursuant to this chapter shall (...) aim at avoiding secondary victimisation".

Despite this document having been initially signed by the Council of the European Union as early as 2011, establishing significant guidelines for legislators and institutional operators legally involved in criminal proceedings pertaining to gender-based violence (police forces, judges, magistrates, public prosecutors), Italy has been found lacking in adhering to the aforementioned principles, at times facing actual sanctions, as well as reprimands. As mentioned in the *GREVIO*[2]*'s (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)* about Italy (2020),

> "*They* [Italian authorities] *should furthermore follow an approach based on the safety and respect for the human rights of the victim, as well as a gender-equality perspective, and aim to prevent secondary victimisation and challenge professionals' own prejudices and assumptions which stand in the way of delivering effective support and protection for women victims of violence".*

Following this evaluation, in the same report, GREVIO indicates that: "(...) [Italian] criminal courts often discriminate against women, underestimate the consequences and risks of gender-based violence, harbour sexist prejudices and stereotypes and expose women to secondary victimisation".

Indeed, Italy has been sanctioned by the European Court for Human Rights (ECHR) with a provision regarding the case of J.L. against Italy (appeal no. 5671/16), partic-

[1] Secondary victimisation, as defined by Shoham et al. (2010), encompasses the additional harm inflicted upon victims after the crime initially suffered, arising – among other factors – from discriminatory treatment within the justice system (p. 236).

[2] Group of Experts on Action against Violence against Women and Domestic Violence.

ularly for the violation committed by Florence Court of Appeal of the 8th article of the Charter of Fundamental Rights of the European Union, enshrining the principle of protection of personal data. J.L. is an alleged victim of group rape, and after her alleged abusers were convicted at first instance, they appealed to the Florence Court of Appeal, which sentenced them as innocent. In this matter, the European Court has found that, in the reasons of judgment of the appeal verdict, various aspects of the victim's personal life were brought upon to evaluate if the facts had happened or not, using the moral judgement of the victim's private life as a probative aspect of the evaluation. Specifically, the elements highlighted by the ECHR were the references to J.L.'s underwear and her attitude towards her sexual life, as much as her sexual orientation; all of which was described by the ECHR as "deplorable and out of place".[3] Italy was therefore sentenced to pay almost €14.000 in J.L.'s favour, for moral damage and legal costs.

This was not the only case where international authorities have found Italian Courts guilty of morally judging in a verdict a sexual abuse alleged victim. In fact, a little more than a year later than the prior ECHR judgement, UN's Committee on the Elimination of Discrimination against Women (CEDAW), regarding the communication no. 148/2019, ruled that Italy provided "appropriate compensation commensurate with the gravity of the violations of her [the victim's] rights".

In this event, the author of the communication, A.F., alleged victim of rape, found herself in the same position as J.L. In fact, after a first sentence convicting her alleged abuser, the latter appealed to the Regional Court, who found him innocent. As in J.L. case, though, the innocence was provided not by probative elements, but by rape myths and victims stereotypes, such as "how should a rape victim behave", and that the reason behind A.F. accusing her alleged abuser was because she was "worried about her reputation being compromised by a casual sexual relationship with a younger man".[4]

These two cases are not the only ones where a gender discriminatory pattern is present in the form of secondary victimisation. In fact, only in 2023, in Italy at least three verdicts – issued both in first instance and appeal – have caught the public opinion's eye for their contents, especially for the presence of rape myths and victim stereotypes in the reasons of judgement.

The aim of this paper is therefore to study how, in sentencing for sexual assault trials, Italian judges use a moral evaluation on the alleged victim's private life as a probative element to reach a legal decision, even if prohibited by international law (art. 54, Istanbul Convention), national law (art. 499, sec. 4, Code of Criminal Procedure), and Italian magistrates code of conduct (art. 12).

[3] J.L. against Italy, appeal no. 5671/16, sec. 136, author's translation.

[4] CEDAW/C/82/D/148/2019, p. 18.

Data and methodological approach

The data analysed in this work consists of two appeal verdicts issued by two different Courts. These verdicts are part of a larger collection that will be thoroughly explored in the author's doctoral thesis.

Since the main tool for writing a judgement is language, the analysis will focus on how language is used in creating this kind of discrimination. In this framework, it is of the utmost importance to consider Drew's position that social conduct and relations constitute accountable phenomena, constructed by "reporting, describing, and reasoning", highlighting "the central role that language plays in constructing social reality" (Drew 1998). Moreover, Drew argues that "any consideration of the accountability of social conduct brings directly into focus moral dimensions of language use" (Drew 1998: 295). Indeed, according to Stokoe, the moral order and values are in "participants' descriptions of activities and what they treat as legitimate or illegitimate warrants for certain sorts of action ascriptions" (Stokoe 2003: 319).

Furthermore, Goodwin (1997) notes that when individuals share stories about themselves and others they are engaged in the process of shaping and reshaping the social and moral order. This act serves to establish a particular version of events as a social 'fact', the 'correct' interpretation of the world, or as defining common knowledge about what constitutes appropriate and moral behaviour. Since the evident role and consequences of language use, particularly in choosing certain words to describe events as they happened, in this work will be applied an ethnomethodological[5] approach, specifically the Membership Categorization Analysis (MCA, Sacks 1972, 1992).

The central notion which MCA revolves around is that people (i.e., members) use categories (namely, ordinary words) to describe other people and events. The categories that can be used to do so are potentially infinite, therefore members select the one more relevant to convey the meaning of their interest. This is possible because categories are inference rich, that is "a great deal of the knowledge that members of a society have about the society is stored in terms of these categories" (Sacks 1992). This knowledge is mostly conveyed in categories by particular actions (category-bound activities) and characteristics (natural predicates), such that there are "conventional expectations" (Stokoe 2003) about each category. Furthermore, categories' meaning de-

[5] Ethnomethodology (EM) line of inquiry is focused on showing the ordinary practices of the society members in conducting the social life, that in this perspective ceases to be something objective, and is seen as accomplished by local and interactional processes by members (Garfinkel 1967). Starting from EM, Sacks developed two analytics methods: conversation analysis (CA), and membership categorization analysis (MCA), both aimed at analysing the same methods used by members through language (Clayman and Maynard 1995, Hester and Eglin 1997).

pends heavily on the context of their use (i.e., indexicality). Consequently, categories can also carry 'motivational implications' such that "the categorization 'nigger' may be said to carry the motive 'racial hatred'" (Hester and Eglin 1997).

Because of these listed features, MCA seems particularly appropriate to study the morality in talk, enabling to see how "moral concepts come to life" (Jayyusi 1991). In fact, "categorization is bound up with moral and hierarchical structures such that, in the ongoing construction of MCDs [Membership Categorization Devices], there are 'morally flavoured' activities that both constitute and reflect social and cultural divisions" (Stokoe 2003: 322).

'Categorising' establishes a frame of reference through which the actions and behaviours of others are interpreted. Referring to a woman as a 'slut', for instance, inferentially induces a 'relevant category environment' (Jayyusi 1984), providing a context within which her actions and those of others are comprehended. Such categorisations play a crucial role in the continuous creation and sustenance of 'facts' about social life, encompassing aspects like gender identities and relations. Consequently, MCA emerges as an appropriate methodology for investigating the role of interaction in constructing 'social reality'.

Rape myths and gendered stereotypes

When talking about secondary victimisation, two key concepts are to be considered: rape myths and gendered stereotypes, both used to depict and elicit a specific image of how an average victim of sexual assault should behave.

The term 'rape myths' was firstly used in the 1970s by Brownmiller (1975) and Estrich (1976), in reference to assumptions about sexual violence and what was considered as a 'real' rape (Smith 2018). This expression was furthermore developed and, among others, Lonsway and Fitzgerald (1994) distinguished between myths and stereotypes, arguing that both "involve ascribing generalised assumptions to specific offences" (Smith 2018: 54), but myths assume a cultural function, while stereotypes do not. Rape myths, in particular, look to maintain the status quo in relation to gender norms, prescribing 'appropriate' behaviour for man and women (Thornton 2022). Moreover, according to Smith (2018: 55), "(...) rape myths combine stereotypical beliefs with the cultural function of myths". In other words, "(...) rape myths are 'prescriptive or descriptive beliefs about rape that serve to deny, downplay or justify sexual violence'" (Bohner *et al.* 1998: 14, in Smith 2018: 55), and create assumptions that all survivors will have the same response to rape. Bohner *et al.* (2009) have organised in four categories the most common myths found in literature and NGOs surveys, distinguishing

them in: beliefs blaming the survivor, beliefs casting doubt on allegations, beliefs excusing the alleged abuser, and beliefs assuming that rape occurs only in specific situations and people. These myths can be observed in various settings, particularly in the legal one and in media outlets (Smith 2018), with the broader intent to diminish the alleged victim or the survivor's credibility and trustworthiness.

Referring to gendered stereotypes, it will be adopted Smith (2018: 129) definition of "inferences about a witness based on common cultural representations of their gender". Also gendered stereotypes have found a place in the legal setting, particularly in trials – such as rape myths. In this regard, Smith argues: "On the basis of identifying one characteristic, namely gender (…), jury were left to infer other characteristics, such as untrustworthiness" (Smith, 2018: 129).

The main difference between rape myths and gendered stereotypes is mainly that myths are not necessarily rooted in reality and are used as a starting point for action. On the other hand, stereotypes are used to interpret reality, but they do not strictly reflect in the behaviour of who believes in them.

Finally, MCA is a perfect tool to describe how myths and stereotypes are elicited by judges in verdicts as probative elements to evaluate the truthfulness of the allegations, therefore judging the alleged victims' private life and behaviour, instead of taking into account the evidence brought upon the stand.

Deconstructing rape myths and gendered stereotypes

Ancona Court of Appeal

The first verdict considered in this analysis is from Ancona Court of Appeal (case no. 2408/17). The alleged female victim accused two male acquaintances of hers of engaging in multiple non-consensual intercourses during a night where there was massive drinking. After being convicted, the defendants appealed, and were found innocent by the Court. It is important to underline that, while on the truthfulness of allegations it is not possible to inquire, the appeal judge – in the reasons of judgement of the verdict – has used rape myths as evidence to exculpate the alleged perpetrators.

The following extracts from the judgment are translated in English by the author from Italian. Granting the privacy of the parties involved, the two defendants will be called D1 and D2, and the alleged victim V.

The appeal judge found D1 innocent. Particularly, as it is stated in the sentence, the judge claimed that "contrary to what was stated by the Court of Ancona, it is reiterated that the sexual relations between D1 and V were not characterized by violence or co-

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ercion, but happened with the consent of the 'victim'".[6] Four were the reasons cited by the judge to substantiate this position, two of which will be now analysed.

First of all, the judge writes:

EXTRACT 1
the absence of any bruising or external injury outside the genital organ of the V, and not even in neighbouring areas such as hips and thighs (as shown by the medical reports in the acts - E.R. certification), signs that generally reveal attempts to overcome the resistance of the victim;[7]

The E.R. certification is presented as evidence that there was "absence of any bruising or external injury" near the "genital organ" (line 1), with the 'bruising' being a relevant category in this proceeding, belonging to the membership categorisation device[8] (MCD) 'evidence used in a trial for rape'. Moreover, it belongs also to another MCD, that is 'evidence of resistance', as the judge makes evident by reporting it in the text (line 4). In turn, 'resistance' is used by the judge as belonging to the MCD 'evidence for rape'. This proffers a possible reading, namely that – according to the judge – rape only occurs if the victim resists, procuring herself physical injury. Therefore, in this perspective, if there was no resistance, V was actually consenting to the sexual intercourse, and no violence occurred. That survivors need to physically resist or get injured is, though, a rape myth (Ellison and Munro 2013), falling under the category of 'beliefs blaming the victim'.

The second extract from the reasons of judgement cites as follows:

EXTRACT 2
the integrity of the clothes worn by the girl, who certainly undressed and dressed herself;[9]

[6] Original text: "contrariamente a quanta affermato dal Tribunale di Ancona, si ribadisce che i rapporti sessuali avvenuti tra il D1 e la V non sono stati caratterizzati né da violenza né da costrizione, bensì avvenuti con il consenso della "vittima"".

[7] Original text: "l'assenza di qualsivoglia ecchimosi/lesione esterna all'organo genitale della V, e nemmeno nelle zone limitrofe quali anche e cosce (come risulta dai referti medici in atti - certificato P.S.), segni che generalmente rivelano i tentativi di vincere la resistenza della vittima".

[8] The Membership Categorization Device is a tool in MCA firstly theorised by Sacks (1972) to explain how members can hear categories as linked together. His classical example to explain how an MCD works is the sentence 'The baby cried. The mommy picked it up' (Sacks 1972). In this example, according to Sacks, a link between 'mommy' and 'baby' is hearable, because the MCD 'family' allows the two categories to be collected together.

[9] Original text: "l'integrità degli indumenti indossati dalla ragazza, la quale certamente si è svestita e rivestita da sola".

V's clothes are here treated as belonging as well to the MCD 'evidence used in a trial for rape', in particular the integrity is used to prove of D1's innocence. This account is created by describing the undressing with a high degree of certainty ("*certainly* undressed and dressed herself") the willingness of V in getting her clothes off. One category belonging to the MCD 'evidence used in a trial for rape' is the 'unwillingness' of the victim to participate to the intercourse. Consequently, in the judge's perspective, the presence of some degree of willingness must mean that she is consenting to the sexual intercourse, thus making D1 innocent. But this would be another rape myth (belonging to 'beliefs casting doubts on allegations'), strictly related to the one cited before, since torn clothing is a sign of struggle and violent behaviour by the alleged abuser.

The judged ruled innocent also D2, mainly accused of grievous bodily harm and helping D1 rape V by looking out for him. In her reasons, the judge listed various elements casting doubt on the truthfulness of V's testimony, deeming more credible D1 and D2 ones. One of the reasons why V's statement was not plausible, according to the judge, was that:

> EXTRACT 3
> *Another circumstance in evident contrast with the state of unconsciousness denounced by V is what happened after the sexual intercourse. In fact, she returned home walking for about a kilometre of road without being supported by anyone and, moreover, being accompanied by the subject accused of having watched* [D2] *while D1 abused her.*[10]

While this is not the place to decide whether or not it would be possible for an intoxicated person to walk by him or herself for a kilometre, it seems of great importance for the judge, who finds this action out of the possible category-bounded activities pertaining to 'unconsciousness'. Moreover, another discrepancy in V's behaviour (according to the judge), is that she was "being accompanied by the subject accused of having watched" (lines 3 and 4) the abuse. Pairing the category 'accused' with the activity 'accompanied' creates a double contrast: firstly, to accompany someone (i.e., the victim) is not a normative category-bound activity expected to be carried out from an 'accused'; furthermore, is not a normative category-bound activity as well – in this perspective – for the victim to continue having contact with her perpetrator. This same inference is the basis of one of the most common rape myths (in the category of 'beliefs

[10] Original text: "Altra circostanza in evidente contrasto con lo stato di incoscienza denunciato dalla V è quanto avvenuto dopo il rapporto sessuale. La stessa, infatti, faceva rientro a casa percorrendo circa un chilometro di strada senza essere sorretta da nessuno e, per di più, facendosi accompagnare dal soggetto accusato di aver sorvegliato [D2] mentre il D1 abusava di lei".

casting doubts on the accusations'), namely that having contact with the perpetrator means that it was not rape (Smith and Skinner 2012).

Furthermore, it is possible to deduct from the last five pages of the reasons of judgement, a general negative attitude from the judge towards V, who did not consider her a reliable witness. This antagonism is given by the presence of numerous "barbs" and allusions in parenthesis, and the use of terms to indicate V such as "Peruvian shrewd" ("scaltra peruviana") to denote V not as a victim, but as the perpetrator of a false allegations, since in the category 'shrewd' is not stored any inferred meaning about being a victim.

Finally, it seems necessary to highlight this last part of the verdict:

EXTRACT 4

Ultimately, it is not possible to exclude that it was the V to organize the "goliardic" night, finding an excuse with the mother, drinking like the others, and then start to provoke D1 (who did not even like the girl, so much so that he had registered her phone number on his mobile phone with the name "REDACTED" – as noted by J.P. in acts –, with allusion to a personality anything but feminine, rather masculine – that the photograph in the case file appears to confirm –), inducing him to have sexual relations (probably never resulting in orgasm), for a challenge (that D2 alluded to) to play around (…).[11]

V is depicted here as "drinking like the others" (line 2). V is also a woman, and the others are men. Common knowledge about the category 'men', when paired with the action 'drinking', is that men usually drink very high quantities of alcohol. On the contrary, when a 'woman' is paired with the same action, common knowledge is either that she would drink a little, or not at all. Therefore, a woman drinking like men does, makes this woman deviant in a certain extent (Smith 2018), since it is not a normative behaviour. Not only, 'people who get voluntarily intoxicated are at least partly responsible for their rape' is a common rape myth (Rose *et al.* 2006). Also "provoke" (line 2) and "inducing him" (line 6) are natural predicates pertaining to victims in victim blaming rape myths, whereby women 'provoke' rape by the way they behave and dress (Amnesty International 2005).

V's untrustworthiness is also inferred by the specification that D1 "did not even like the girl" (line 3). Having an intercourse with someone that a person does not like, is not

[11] Original text: "In definitiva, non è possibile escludere che sia stata proprio la V a organizzare la nottata "goliardica", trovando una scusa con la madre, bevendo al pari degli altri, per poi iniziare a provocare il D1 (al quale la ragazza neppure piaceva, tanto da averne registrato il numero di cellulare sul proprio telefonino con il nominativo "REDATTO" – come da annotazione di P.G. in atti –, con allusione ad una personalità tutt'altro che femminile, quanto piuttosto mascolina – che la fotografia presente nel fascicolo processuale appare confermare –), inducendolo ad avere rapporti sessuali (verosimilmente mai sfociati nell'orgasmo), per una sorta di sfida (alla quale ha alluso il D2) nata per gioco (…)".

a normative category-bounded activity. Thus, in describing the relationship between D1 and V this way, the judge is inferring that a rape could not have occurred. Moreover, the judge shows her affiliation with D1's lack of sexual interest in line 5 describing V as "anything but feminine, rather masculine – that the photograph in the case file appears to confirm", hence making even more improbable the occurrence of any kind of intercourse and implying that the accuse of rape was a false allegation.

Turin Court of Appeal

The second judgment under examination concerns another appeal case, issued by the Turin Court of Appeal (sentence no. 2277/2022). In this case, CZ (female alleged victim) accused XY (male defendant) of sexual abuse in the restroom of a bar. After being convicted, XY appealed the case, and the Court then found him innocent. The following extracts have been translated by the author from Italian to English.

Once again, before conducting the analysis, it is paramount to specify that the aim of this work is not to argue whether the accused is guilty or not, being that the judge's job after having thoroughly examined the evidence presented during the trial. Rather, the aim of this study is to demonstrate that the evidence considered by the judge in reaching their decision often includes elements irrelevant to establish the occurrence of the event, such as rape myths and stereotypes that arise from moral judgments about the behaviours, the past, and the private life of the alleged victim. These elements are erroneously assigned probative value, which, in an ideal legal context, should be considered null.

Starting from the very beginning of the reasons of judgement, while recollecting what CZ said happened, there is written as follows:

EXTRACT 5

The meeting between the two youngsters on the afternoon of May 7, 2019, occurred by mutual agreement and followed previous occasions in which there had been minimal display of affection between the two. Therefore, XY was a boy not a stranger to CZ, who indeed recalls having agreed to go out with him that afternoon to maintain contact. It is equally undisputed that on that afternoon, the two stayed at a bar, not far from where the defendant had worked, and they had several alcoholic aperitifs. It is surprising that after spending an entire afternoon in a bar, CZ suddenly felt the physiological need, just as they left the bar where they had spent a good part of the afternoon; it was then that XY, who had worked at [REDACTED] *and knew of a bathroom available there, asked for the favour of receiving the restroom key, to allow the young lady to use it. It should be noted, the occasion to enter the squalid bathroom*

> *photographed in the records, did not originate from XY, but from the young lady. And this is the initial fact. Not only that, it was CZ herself who said she entered the bathroom, which can be seen in the photographs as very cramped, after which she realized she did not have tissues and asked XY to hand them to her, after retrieving them from her purse that she had left in his custody. Once again, it was not XY who sought a pretext to enter the bathroom.*[12]

The first relevant category here used by the judge is "two young people" (line 1), that carries inferences about having fun and being more impulsive (Sacks 1992). This characterisation gives room for excusing XY of any 'reckless' behaviour, being XY a 'boy' (line 3) and as such there are normative inferences recklessness, which is seen as ordinary. At the same time, this category discredits CZ as a victim, since being young carries also 'inexperienced' and 'immaturity' as natural predicates. Moreover, XY is described just once as a 'boy' – for the remainder of the judgment is indeed identified as XY – while CZ is categorised as a 'young lady' – and then as 'girl' – more often.

The relationship between CZ and XY, furthermore, is identified as being characterised by 'minimal displays of affection' in 'previous occasions' (lines 2 and 3), thus establishing XY as 'not a stranger' to CZ (line 3). Depicting XY as such, the first inference that can be drawn is that CZ trusted him, and the second one is that they had a relationship of some kind. By creating a trustworthy character around CZ, the judge is therefore casting doubts to a possible 'rapist nature' of the man. Not only that, but it makes inferentially available one of the most common rape myths, that is 'rape only occurs between strangers' (Waterhouse *et al.* 2016).

In line 6, CZ's "physiological need" is described as "surprising", implying that it was a rather odd occurrence that the need only emerged when leaving the bar where they spent the afternoon, as if the judge would think that there was more to it. In line 10 another interesting category catches the eye, namely "squalid" referred to the re-

[12] Original text: "L'incontro tra i due giovani, il pomeriggio del 7 maggio 2019, avvenne di comune accordo e dopo precedenti occasioni, in cui vi erano state scarse effusioni tra i due. Dunque XY non era un ragazzo estraneo alla CZ che in effetti ricorda di aver accettato di uscire con lui in quel pomeriggio, per mantenere i contatti. È altrettanto indiscusso che in quel pomeriggio i due si trattennero presso un bar, non lontano dalla dove aveva lavorato l'imputato e che i due si fecero somministrare più aperitivi a base alcoolica. È sorprendente che dopo avere passato tutto un pomeriggio in un bar, alla CZ sia insorto il bisogno fisiologico, non appena si allontanarono dal bar dove avevano sostato una buona parte del pomeriggio; fu così che XY che aveva lavorato presso la [REDACTED] e sapeva della presenza di un bagno in dotazione al locale, chiese il favore di ricevere la chiave del bagno, per consentire alla giovane di accedervi. Si badi, l'occasione di accedere nello squallido bagno fotografato in atti, non partì dal XY, ma dalla giovane. E questo è il primo dato di partenza. Non solo, è la stessa CZ che disse di essere entrata nel bagno, le cui dimensioni si possono apprezzare in fotografia come molto anguste, dopo di che si accorse di non avere i fazzoletti e chiese a XY di sporgerglieli, dopo averli prelevati dalla sua borsetta che gli aveva lasciato in custodia. Ancora una volta non fu XY ad aver cercato un pretesto per introdursi nel bagno".

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stroom used by CZ. Giving the place where the alleged assault happened such connotations, another rape myth is inferred, that is 'rape only happens in degraded places', being rape a criminal act and the common knowledge associated to criminality is that it only happens in city slums (Wilson and Kelling 1982). Furthermore, giving to CZ the full responsibility of the restroom choice (line 11), the judge can be heard as implying that any criminal conduct damaging CZ was her responsibility. Moreover, a gendered stereotype is inferred by the category "squalid", requiring women to not be associated to filthy and poorly curated environment. This means that CZ is a 'normative deviant' woman, that in turns makes CZ a lesser victim.

Finally, the reconstruction in lines 12-16 is operational to another responsibility given to CZ, and removed from XY ("Once again, it was not XY who sought a pretext to enter the bathroom", line 16). "Once again" is used to reinforce the concept that XY was not responsible in entering the restroom, but CZ was. In fact, the missing tissues (line 15) have been now characterized as a "pretext" by the judge, maybe implying that CZ purposefully forgot the tissues to invite XY in the restroom with her. This characterization reflects both a rape myth (the aforementioned 'provoking the rape with behaviour'), and a gendered stereotype that sees women as not directly initiating sex, but rather, passively, in a wider gendered sexual script (Reece 2013); altogether implying that any intercourse happened was sought by CZ, making her not a victim, but instead in charge of the event, maybe even more than XY himself.

Going on in the reasons of judgement, the judge describes CZ's statement. From her perspective, after XY handed her the tissues, he entered once again in the restroom, assaulting CZ, breaking the zipper of her pants, and causing her a panic attack. Since CZ's altered conditions, she did not remember exactly how the assault was carried out, but only that she screamed, and no one heard them outside the restroom. Then, the judge proceeds to write CZ's testimony as follows:

EXTRACT 6

When the young lady was struck by bouts of vomiting and panic, XY did not abandon her; instead, he first tried to help her fix the zipper of her pants at her request, even though she had supposedly just been abused by him. He then accommodated all her requests, both to look for her sister and to call her aunt and uncle. Furthermore, XY got a chair and a sweater to make the girl comfortable and warm her up, not before helping her wash her face and hair, which had ended up in the pool of vomit. Additionally, when the aunt and uncle arrived, he went to meet them to lead the way and take them to where the young lady was waiting. The young woman's relatives described the defendant as a kind young man, who even helped them cover the car seats on which CZ was transported, to prevent it from being stained with vomit.

Thus, it is behaviour that seems far removed from that which characterizes a rapist, and this reality must be taken into account in interpreting the individual steps that mark this story.[13]

The first thing to note is that also in this extract, CZ is characterized as a "young lady" (lines 1 and 7) two more times, and as "girl" (line 5), carrying the same implications explained above. Then, the judge proceeds to describe what XY did. In doing so, the judge uses the verbs "not abandon" (line 1), "tried to help" (line 2), "accommodated" (line 3), "get her comfortable" (line 5), "helping her" (line 5), "meet them" (line 7), "helped them" (line 9), all of which are referred to XY behaviour. These verbs, tough, are not category-bounded activities pertaining to a rapist (line 11) nor to someone who is characterised as abusing someone else (line 3). In creating this juxtaposition, the judge casts doubt on the veracity of CZ testimony, enabling a stereotype – in this case not gendered – about 'how average rapists should behave' in order to be defined as such. An abuser does not normatively help their victim, nor accommodates her requests (in this regard, the category 'request' to describe CZ asking for help solicit inferences about the demanding tone implied in a request), nor meets her relatives; instead, they usually leave the crime scene. This is corroborated by CZ's aunt and uncle's description of XY cited by the judge in lines 8 and 9, which pairs the category "kind" with the intensifier "even", implying that he was more kind than necessary or expected. This description of XY conflicts with the rape myth that 'rapists are monsters', therefore someone perceived as a 'nice man' cannot be a rapist (Lees 1997).

Going on, the verdict states:

EXTRACT 7

Therefore, although the young CZ is a girl with a difficult past, but without any psychological disorder, it is certain that at the time of the events she was under the influence of excessive alcohol consumption. It is thus highly probable that she was not fully aware when she requested to use the bathroom, which led to the approach of XY who was indeed waiting for her (by his own admission) behind the door, guarding her purse; not only that, but she stayed in

[13] Original text: "Quando la giovane fu colta da crisi di vomito e di panico, XY non l'abbandonò; anzi dapprima cercò di aiutarla per rimettere in asse la cerniera dei pantaloni, su richiesta della giovane che in teoria era stata da lui poco prima abusata, poi assecondò tutte le sue richieste, sia di ricercare la sorella, sia di chiamare gli zii. Non solo, XY si fece dare una sedia ed una felpa per fare accomodare e riscaldare la ragazza, non prima di averla aiutata a lavarsi la faccia ed i capelli che erano finiti nella pozza di vomito. Ancora, quando gli zii arrivarono egli andò loro incontro per fare strada e condurli sul luogo ove la giovane li stava attendendo. Gli stessi zii della giovane descrissero l'imputato come un ragazzo gentile, che li aveva addirittura aiutati a ricoprire i sedili dell'auto su cui venne trasportata la CZ, onde evitare che li macchiasse con il vomito. Dunque trattasi di comportamento che sembra molto lontano da quello che caratterizza lo stupratore e tale realtà deve essere tenuta in conto per interpretare i singoli passaggi che connotano questa vicenda".

the bathroom without closing the door, thereby giving XY the impression that this was the auspicious occasion the young woman was offering him. An opportunity he did not miss, to the extent of entering the squalid restroom, approaching the young woman, pulling down her pants to the point of breaking the zipper, and engaging in a very quick sexual act with her, which CZ herself was unable to describe due to her altered state (as she herself admitted to the emergency room doctors). Once this unfortunate encounter was concluded, CZ did not expel XY; rather, she involved him in the search for the piece of the zipper that had been lost and which XY still had in his hand, and which he handed to her, helping her to fix her pants. Not only that, she invited him to call her relatives and did not at all disdain his being close to her, until the arrival of her uncles.[14]

In this passage, CZ's characterization changes from "young woman" to "a girl with a difficult past" (line 1), with the word "girl" to imply the belonging to 'young people', with the same inferences explained above. Moreover, it seems important for the judge to notice her "difficult past". A victim described as a "girl with a difficult past" solicits inferences about her state of mind, which is deemed "without any psychological disorder" therefore implying that she would be a 'normal' member of society understanding any social practice and behaviour, yet a person with a 'difficult past' carries inferences about the risk of being and individual who can create problems.

Starting from line 4, then, two blame-pertaining predicates are used, namely "led to the approach", and "giving XY the impression", culminating in in describing the sexual intercourse as a "favourable occasion the young woman was offering him". A victim described by these predicates (and mostly offering intercourse) is therefore stripped of their status as victim, since a victim does not provoke harm to herself. Blame-pertaining predicates, though, are the main characteristics of victim blaming rape myths, therefore giving CZ the sole responsibility of what happened.

Four lines later, this rape myth is repeated by the judge, who in the sentence writes:

[14] Original text: "Dunque per quanto la giovane CZ sia ragazza con un passato difficile, ma senza alcun disturbo a livello di psiche, è certo che al momento dei fatti era alterata per un uso smoderato di alcool. È quindi altamente probabile che non fosse pienamente in sé quando richiese di accedere al bagno, provocò l'avvicinamento del XY che invero la stava attendendo (per sua stessa ammissione) dietro la porta, custodendo la sua borsetta; non solo, ma si trattenne nel bagno, senza chiudere la porta, così da fare insorgere nel XY l'idea che questa fosse l'occasione propizia che la giovane gli stava offrendo. Occasione che non si fece sfuggire, tanto da essere entrata nella squallida latrina, essersi accostato alla giovane, tirandole giù i pantaloni, così da romperle la zip ed aver consumato con lei un rapidissimo atto sessuale, di cui la stessa CZ non è stata in grado di descrivere, a causa del suo stato di alterazione (per sua stessa ammissione ai medici del PS). Una volta concluso questo infelice accostamento, la CZ non cacciò XY, anzi lo coinvolse nella ricerca del pezzo di cerniera che era andato smarrito e che XY aveva ancora tra le mani e che le consegnò, aiutandola a rimettere a posto i pantaloni. Non solo, lo invito a chiamare i suoi familiari e non disdegnò affatto che lui le stesse vicino, fino all'arrivo dei suoi zii".

EXTRACT 8
It cannot be ruled out that the young woman may have given XY some hopes by having him accompany her to the bathroom, having him hand her tissues, and keeping the door slightly ajar. These actions were certainly interpreted by the defendant as an invitation to dare, an invitation that XY did not need to be repeated, but which the girl then could not handle, being a bit drunk and overcome with panic.[15]

CZ is now depicted as "have given XY some hopes" (line 1), therefore becoming once again accountable for any act XY has put in place, since a person that gives hopes to somebody knows what is doing. Furthermore, CZ's intentions are depicted as uncertain ("may", line 1), but at the same time are impossible to misunderstand ("certainly interpreted", line 3), giving CZ responsibility of the events with no reasonable doubt. CZ is therefore in charge of inviting XY "to dare" (line 3), but without accounting the consequences (lines 4 and 5). This responsibility ascription becomes consequently a blaming allocation, putting CZ as the sole 'guilty' of her distress related to the sexual intercourse.

Concluding the verdict, the following is reported:

EXTRACT 9
The only indicative evidence of the alleged abuse could be considered the broken zipper, but XY did not deny having unzipped the young woman's pants, which is why nothing can rule out that, in the heat of the moment, the zipper, being of modest quality, deteriorated under force.[16]

The breaking of the zipper is here firstly introduced as a probative element of "alleged abuse" (line 1), yet it is juxtaposed to the probability that "in the heat of the moment, the zipper, being of modest quality, deteriorated under force" (lines 3 and 4), giving room to doubt the probative value of the first interpretation of the broken zipper as evidence, and demeaning the same value by excusing the event by judging the quality of the clothing worn by CZ. Finally, describing the fact firstly as an "abuse" (line 1) is downplayed as a sexual intercourse happened in "the heat of the moment" (line 3).

This particular passage has shaken Italian public opinion, specifically in media outlets and feminist associations, because it evoked the infamous 'Jeans Verdict' of 1999, in which the Rome Court of Appeal "overturned a rape conviction, saying the supposed

[15] Original text: "Non si può affatto escludere che al XY la giovane abbia dato delle speranze, facendosi accompagnare in bagno, facendosi sporgere i fazzoletti, tenendo la porta socchiusa, aperture lette certamente dall'imputato come un invito ad osare, invito che XY non si fece ripetere, ma che poi la ragazza non seppe gestire, poiché un po' sbronza ed assalita dal panico".

[16] Original text: "L'unico dato indicativo del presunto abuso potrebbe essere considerato la cerniera rotta, ma XY non ha negato di aver aperto i pantaloni della giovane, ragione per cui nulla può escludere che sull'esaltazione del momento, la cerniera, di modesta qualità, si sia deteriorata sotto forzatura".

victim must have agreed to sex because her jeans could not have been removed without her consent" (BBC News February 1999).

Conclusions

In this work, an overview of Italy's violation of the *Council of Europe Convention on preventing and combating violence against women and domestic violence* and the *Charter of Fundamental Rights of the European Union* has been given. Particularly, it has been highlighted that two reprimands (CEDAW and GREVIO's) have been issued towards the Italian government, inviting the interested agencies to provide for necessary education in legal, medical, and social assistance fields, still lacking for the necessary instruments to safeguard alleged victims of sexual assault from this kind of gender-based discrimination.

Two appeal verdicts have then been analysed with Membership Categorisation Analysis (MCA), showing how, when choosing categories to describe the course of events, secondary victimisation is carried out by judges in their verdicts, especially in the reasons of judgment. In fact, it has been proven that many rape myths and gendered stereotypes, drawn by the judges into the verdicts, are inferred by them from the alleged victims' behaviour, history (both sexual and not), and private lives, thus giving a moral (and personal) judgment about the victims a probative value, which should not occur in an ideal legal system.

What has not emerged, though, but has been recognised in other studies, is that judges do not act alone. In fact, whether the system is inquisitorial or adversarial, either way they require parties' defendants to conduct the witnesses' examinations, as much as giving closing statements. It is particularly defence attorneys who invoke rape myths and, as Dinos *et al.* (2015) found out, these myths impact trial outcomes and juries' opinion, with larger effects found in Europe (where the inquisitorial system is more common) than in the U.S. (characterised by an adversarial system, that is thought to be more competitive and, therefore, more unfair towards the victims' rights). *De facto*, as suggested by Ellison and Munro (2009), defence attorneys tend to invoke rape myths to lower the credibility of the alleged victims.

Nonetheless, even if during the trial myths and stereotypes find their way, it should be the judge's duty to be *super partes*, and therefore evaluate the truthfulness of events by the evidence presented in court, rather than using elements with null probative value. As it has been showed in this work, though, this does not always happen, resulting in a violation of the victims' rights to due process, for starters.

What this work has found is that, alongside with CEDAW and GREVIO's recommendations, education is lacking in Italian institutions in charge of taking care of sexual

assault proceedings and victims. Moreover, in a research perspective, particularly applying a feminist approach (Weatherall 2015), the field is fertile to corroborate this position, given the scarcity of literature so far.

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Shifting Paradigms of Care: A Qualitative Study on Childbirth Professionals' Perception of Obstetric Violence

Paradigmi di cura in evoluzione: uno studio qualitativo sulla percezione della violenza ostetrica da parte dei professionisti del parto

Giuditta Mitidieri

Abstract

The concept of obstetric violence has recently gained prominence in both public and scientific discourse, despite the fact that the phenomenon it denotes – the mistreatment of birthing mothers by healthcare professionals responsible for their care – has longstanding roots. Surprisingly, scientific literature has given scant attention to the perspectives of professionals on the topic. In this article, we will explore how the category of obstetric violence has evolved through a grassroots movement of digital activism and we will examine its reception among various birth attendants: midwives, gynaecologists, anaesthesiologists. Our analysis draws on data from 32 semi-structured interviews conducted with professionals across three different birth care settings: two university hospitals, a private birthing house, an alongside birth centre. We will show how the development of the category of OV is part of a broader process of transformation of the caregiver-patient relationship.

La categoria di violenza ostetrica è emersa nel dibattito pubblico e scientifico negli ultimi quindici anni, sebbene il fenomeno che identifica – quello del maltrattamento delle partorienti da parte dei professionisti responsabili della loro assistenza – sia antico. Nella letteratura sul tema, ancora poca attenzione è stata riservata alla prospettiva dei professionisti del parto. In questo articolo mostreremo come la categoria di violenza ostetrica si è formata attraverso un movimento di attivismo digitale e analizzeremo come tale categoria viene recepita dai diversi operatori del parto: ostetriche, ginecologi, anestesisti. L'analisi si baserà sui dati raccolti in 32 interviste semi-strutturate condotte con operatori afferenti a tre diversi ambienti di assistenza al parto: due ospedali universitari, una casa maternità privata e un centro nascita *alongside*. L'articolo propone di inquadrare la categoria di violenza ostetrica in un più ampio movimento di trasformazione del rapporto curante-curato e di disintermediazione dei processi di cura.

Keywords

Obstetric Violence, Health Social Movement, Digital Activism, Childbirth, Reproductive Health, Gender Violence
Violenza ostetrica, Movimento per la salute, Attivismo digitale, Parto, Salute riproduttiva, Violenza di genere

Introduzione

La ricerca storica che ha analizzato le condizioni delle partorienti nel corso del Novecento (Filippini 2017; O'Brien and Rich 2022), ci mostra come un approccio prevaricante ed esplicitamente violento (contenimento fisico, aggressione fisica e verbale) fosse più diffuso nei decenni passati rispetto ad oggi. Tuttavia, è solo nell'ultimo ventennio che la categoria di "violenza ostetrica" (d'ora in avanti anche VO) è entrata nel dibattito pubblico e scientifico. In questo articolo cercheremo di dare significato a questo apparente paradosso, collocando la costruzione della categoria di VO in un più ampio processo di disintermediazione della cura, che sta mettendo in discussione la logica della delega a favore di una centralità dell'autonomia individuale e in particolare della nuova autonomia del soggetto-donna (Antonelli 2016). Il processo che ha portato alla formazione della categoria di VO, infatti, può essere inquadrato tra i movimenti sociali di denuncia e attivismo sul tema della cura che sono emersi negli ultimi decenni. In particolare, tra tali movimenti spiccano quelli legati alla salute femminile, che puntano il dito, più o meno consapevolmente, verso lo strutturale *gap* di genere di cui la scienza medica è portatrice (Baggio *et al.* 2013). L'inedito accesso a conoscenze, risorse e rappresentanza politica di cui gode oggi la popolazione femminile ha fatto sì che le asimmetrie di potere, anche in ambito di cura, vengano sempre meno tollerate.

In questo articolo analizzeremo la percezione che diversi professionisti del parto hanno della nascente categoria – legale, sociale e politica – di violenza ostetrica e mostreremo come l'emergere di tale categoria sia sintomatico di un processo in atto di trasformazione profonda dell'interazione tra professionista sanitario e "paziente". Lo stesso termine "paziente", un tempo neutro, inizia ad apparire inadatto nell'era del ruolo attivo del soggetto curato (Newman and Tonkens 2011; Vedelago 2016), che non si limita a ricevere passivamente una cura ma desidera ingaggiare una negoziazione collaborativa con il curante.

Violenza Ostetrica: definizione e percorso normativo

Il termine "violenza ostetrica" è stato coniato in ambito giuridico nel 2007,[1] nella "Ley Orgánica sobrie Derecho de las Mujeres a una Vida Libre de Violencia"

[1] "Se entiende por violencia obstétrica la apropiación del cuerpo y procesos reproductivos de las mujeres por personal de salud, que se expresa en un trato deshumanizador, en un abuso de medicalización y patologización de los procesos naturales, trayendo consigo pérdida de autonomía y capacidad de

del Venezuela.[2] Tale legge definisce la violenza ostetrica come la prevaricazione, da parte del personale sanitario, sul corpo e sui processi decisionali delle donne nell'ambito della salute riproduttiva, in particolar modo al momento del parto. Le diverse espressioni di violenza ostetrica sono state classificate dalla letteratura (Bohren *et al.* 2015) e comprendono tanto l'aggressione fisica e verbale nei confronti della partoriente quanto il mancato rispetto della *privacy*, il ricorso a procedure mediche eseguite senza consenso o senza adeguata informazione e il rifiuto ad offrire una terapia del dolore. Le pratiche più comuni riconducibili a violenza ostetrica includono: taglio cesareo praticato senza consenso e/o effettiva necessità medica; abuso di perfusione di ossitocina sintetica per l'induzione o velocizzazione del travaglio senza consenso e/o effettiva necessità medica; manovra di Kristeller[3] eseguita in condizioni non emergenziali; episiotomia[4] praticata senza consenso e/o in assenza di ipossia fetale; esecuzione di pratiche mediche dolorose, quali il raschiamento e l'episiorrafia,[5] senza anestesia; impossibilità di decidere autonomamente la posizione per partorire e di muoversi liberamente.

L'uso del termine "violenza ostetrica" non è da ritenersi neutrale ed è stato contestato, tanto in Italia quanto in ambito internazionale, dai medici ostetrici (Scambia e Viora 2018; Chervenak *et al.* 2024). I motivi della contestazione sono legati al fatto che questa espressione implicherebbe un'accezione "volontaristica" del fenomeno, connotando negativamente la professione ostetrica in quanto tale. Come emerso anche nel corso di questo studio, molti operatori sanitari – in particolare medici – percepiscono la categoria di VO come una minaccia per la rappresentazione sociale del ruolo di professionista sanitario, nel momento in cui tale categoria associa a un ruolo tradizionalmente legato alla cura un fenomeno sistemico di prevaricazione e abuso. Tra gli enti sovranazionali, l'OMS si è riferito al fenomeno con i termini "*mistreatment*", "*abuse*"

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decidir libremente sobre sus cuerpos y sexualidad, impactando negativamente en la calidad de vida de las mujeres". Cfr. "Ley Orgánica sobrie Derecho de las Mujeres a una Vida Libre de Violencia", articolo 15 comma 13. Disponibile su "UNFPA Venezuela", www.venezuela.unfpa.org.

[2] Da un punto di vista normativo, l'America Latina è stato apripista nella codifica del fenomeno. Oltre alla già citata legge venezuelana, infatti, si è legiferato sul tema a Porto Rico e in Argentina. Questo dato è comprensibile alla luce della repentina e radicale crescita della medicalizzazione dell'evento parto nei paesi a medio reddito negli ultimi decenni (Miller *et al.* 2016).

[3] Pressione del fondo uterino praticata mediante una spinta sul basso addome in direzione del canale del parto durante la contrazione. La manovra è controversa e non ha passato il vaglio di una rigorosa analisi basata sull'evidenza per via dei gravi effetti collaterali sulla partoriente. Oggi il suo uso varia enormemente a seconda dell'area geografica. (Youssef *et al.* 2019; Habek, Cerovac and Mikuš 2022).

[4] Incisione chirurgica del perineo eseguita al fine di allargare l'apertura vaginale durante il parto.

[5] Sutura delle lacerazioni dell'orifizio vulvare prodottesi, artificialmente o spontaneamente, durante il parto.

o "*disrespect*" (WHO 2014), mentre l'ONU ha adottato l'espressione "*obstetric violence*" nelle sue risoluzioni (Šimonović 2019). In questo articolo useremo l'espressione "violenza ostetrica" per denotare il fenomeno dei maltrattamenti sulla scena del parto. Tale scelta è legata al fatto che la categoria di VO è oggi la più comune e la più nota, tanto in letteratura quanto nel dibattito pubblico. Pur non mancando di problematizzare tale espressione, riconosciamo inoltre il ruolo che tale categoria ha giocato per il riconoscimento epistemico e politico del fenomeno (Quattrocchi 2019).

La violenza ostetrica viene collocata dalla letteratura e dalla normativa all'intersezione tra violenza di genere (Quattrocchi 2019) e violenza negli ambiti di cura. La prima è definibile, secondo la Convenzione di Istanbul, come ogni forma di violenza che colpisce maggiormente le donne o che è diretta contro una donna in quanto tale. La seconda riguarda invece una degenerazione del rapporto di cura in senso autoritario e paternalistico, per cui il soggetto curato perde ogni ruolo attivo nel suo percorso di cura e viene trattato come incapace di comprendere o psico-emotivamente instabile (D'Gregorio 2010; Cannone 2019). Nell'assistenza alla nascita questo si traduce nella generale tendenza ad abusare dell'intervento medico per guidare, controllare e sorvegliare il processo del parto, anche quando fisiologico, non avendo fiducia nelle capacità della donna di condurlo.

Il Consiglio d'Europa ha adottato nell'ottobre 2019 (Blondin 2019) una risoluzione che chiede agli stati membri di affrontare il problema e sanzionare gli operatori che commettono questo tipo di abusi, sottolineando come il fenomeno non riguardi solo, come si riteneva, i paesi a basso o medio reddito, ma sia capillarmente diffuso anche negli ospedali occidentali. La risoluzione adotta il termine "*obstetric violence*", indicandone la causa prevalente nelle diseguaglianze di genere e inquadrando il fenomeno come "violazione dei diritti umani e manifestazione della discriminazione di genere". Sempre nell'ottobre del 2019, durante l'assemblea generale ONU tenutasi a New York, la relatrice speciale sulla violenza contro le donne, Dubravka Šimonović, ha presentato il proprio rapporto annuale dal titolo *A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence* (Šimonović 2019). Il rapporto offre una visione globale sulla questione, comparando studi e relazioni sul tema provenienti da diverse nazioni – tra cui lo studio DOXA condotto in Italia (Ravaldi *et al.* 2018).

Nel rapporto, che ha l'obiettivo di spronare gli stati membri a sviluppare una legislazione per prevenire e denunciare gli abusi, la violenza ostetrica viene inserita nel contesto dell'ineguaglianza strutturale di genere e della violazione dei diritti umani. Leggiamo infatti che "stereotipi di genere pericolosi nel contesto della salute riproduttiva circa la capacità delle donne di prendere decisioni, il ruolo naturale della donna nella società e la maternità, limitano l'autonomia e l'agentività delle donne".

Šimonović si è richiamata alla *Dichiarazione sull'eliminazione della violenza contro le donne* adottata dall'assemblea generale delle Nazioni Unite con la risoluzione 48/104 del 20 dicembre 1993, nel cui art.1 si afferma che è violenza contro le donne ogni atto fondato sul genere che abbia come risultato una sofferenza fisica, sessuale o psicologica, incluse le minacce, la coercizione o la privazione della libertà. Il rapporto, inoltre, definisce la violenza ostetrica come violazione dei diritti umani, denunciando la mancanza di un reale consenso informato nei confronti delle partorienti, le quali vengono spesso escluse dalle decisioni sui trattamenti sanitari a loro praticati. Nel 2021, il report delle Nazioni Unite *Sexual and reproductive health rights: challenges and opportunities during the COVID-19 pandemic* ha sottolineato come il periodo pandemico abbia segnato un incremento degli episodi di abusi al momento del parto (Sadler, Leiva and Olza 2020).

Metodi

L'impianto metodologico della ricerca è di tipo qualitativo, i dati sono stati raccolti tramite interviste semi-strutturate e analizzati con analisi tematica. Le interviste sono state condotte in videochiamata tramite piattaforma Zoom tra l'autunno del 2021 e l'estate 2023 e hanno avuto una durata media di un'ora. I dati raccolti fanno parte di una ricerca più ampia, volta ad esplorare i diversi modelli di assistenza al parto presenti oggi in Italia. Per questo articolo sono stati intervistati 32 professionisti del parto tra ostetriche, ginecologi/he e anestesisti/e (si veda tab.1). Questi ultimi, seppur in piccolo numero, sono stati inclusi per via del sempre maggior protagonismo che ha oggi l'anestesia peridurale nell'assistenza al parto. Le interviste, videoregistrate, sono state trascritte *verbatim* e l'analisi tematica (Clarke and Braun 2021) è stata condotta con il supporto del software per l'analisi qualitativa MAXQDA.

Gli operatori intervistati afferiscono a diversi ambienti di nascita e dunque a diversi modi di intendere e praticare l'assistenza al parto: una casa maternità privata in Emilia-Romagna, un centro nascita *alongside* in Toscana e due ospedali universitari, rispettivamente in Lombardia e Toscana. Le case maternità sono spazi privati extraospedalieri dove è possibile partorire con l'assistenza delle sole ostetriche in caso di gravidanze fisiologiche; la filosofia di cura è qui orientata verso la demedicalizzazione dell'evento parto (Quattrocchi 2018). I centri nascita *alongside* – al momento due in tutta Italia – sono ambienti in cui l'assistenza è gestita in completa autonomia dalle ostetriche in un setting confortevole e "familiare"; tali centri, afferenti al SSN, sono collocati all'interno di un ospedale, così da velocizzare i trasferimenti in caso di complicazioni (Rocca-Ihenacho *et al.* 2018; Stevens and Alonso 2021). I due ospedali uni-

versitari selezionati sono di terzo livello – ovvero dotati di terapia intensiva neonatale e adeguati alla gestione della grave patologia materna e neonatale; l'ospedale toscano è la struttura che ospita al suo interno il centro nascita *alongside*. I setting considerati sono dunque tutti situati nel Centro e Nord Italia: per quanto riguarda la casa maternità e il centro nascita *alongside* – e dunque l'ospedale che lo ospita – la scelta è stata obbligata, visto che queste strutture non sono presenti in Sud Italia o nelle Isole. Di conseguenza, anche la seconda struttura ospedaliera è stata individuata al Centro Nord, al fine di ottenere una parziale uniformità con gli altri modelli per quanto riguarda il contesto socio-economico e lo stato del sistema sanitario regionale.

In 17 su 32 delle interviste condotte è stata usata la vignetta come tecnica elicitativa (Jenkins *et al.* 2010) per facilitare la discussione sul tema della violenza ostetrica. La vignetta è una breve storia – sotto forma di immagine o narrazione – verso la quale, nel corso di un'intervista, il ricercatore può chiedere all'intervistato di interagire o rispondere in diversi modi, con lo scopo di facilitare l'emersione delle chiavi interpretative di quest'ultimo (Hughes and Huby 2004; Jenkins *et al.* 2010). In letteratura le vignette sono note per la loro utilità nel trattare temi sensibili o controversi e sono per questo largamente usate in ricerche qualitative con professionisti della salute o operatori sociali (Tremblay *et al.* 2022). La vignetta è infatti uno spazio neutro di cui l'intervistato diventa osservatore esterno, potendo così scegliere se e quando introdurre nella risposta la sua esperienza privata (Schoenberg and Ravdal 2000), senza dover necessariamente coinvolgere il proprio vissuto e il proprio ambiente lavorativo.

La scelta di uno strumento metodologico che facilitasse il dialogo è stata motivata dalle resistenze e reticenze incontrate nel trattare il tema della violenza ostetrica nelle prime interviste condotte. Non tutti i partecipanti, infatti, si sentivano a loro agio nel discutere di "violenza ostetrica" e questo comportava risposte brevi e scarsa disponibilità alla condivisione. Come mostreremo nel §5, le categorie professionali italiane hanno accolto negativamente la categoria di violenza ostetrica, che metterebbe in discussione il capitale simbolico degli operatori sanitari (Bourdieu 1986). Tuttavia, la prospettiva dei professionisti è fondamentale se si vuole indagare compiutamente un fenomeno sociale così complesso come quello dei vissuti traumatici legati alla nascita. Per questo motivo si è scelto di adottare uno strumento metodologico che permettesse di superare parzialmente le resistenze degli operatori e agevolare la loro riflessione sul tema.

Tipicamente le vignette sono costruite *ad hoc* dal ricercatore (Morrison 2015). In questo caso, invece, le vignette consistevano in alcune testimonianze di violenza ostetrica, tratte da *community* Facebook legate al tema della maternità (fig.1, fig.2, fig.3). Tre testimonianze, opportunamente anonimizzate, sono stata individuate in una fase precedente della ricerca in cui è stata condotta un'etnografia digitale (Kozinets and Gambetti 2020) su alcuni gruppi *social* legati al tema della nascita e scelte sulla base di

tre criteri: (1)la chiarezza lessico-grammaticale dello scritto, (2) la completezza della narrazione e (3) la tipicità della storia. Le vignette, usate a rotazione nelle interviste, si sono confermate estremamente utili anche per comparare il sentire di gruppi differenti su uno stesso tema (Barter and Renold 1999), agevolando la comparazione tra le diverse professionalità che assistono al parto. Infine, l'uso della vignetta ha facilitato la raccolta di dati relativi alla percezione che gli operatori sanitari hanno dell'attivismo digitale come strumento di denuncia della violenza ostetrica.

Tabella 1 - Partecipanti allo studio

	Casa Maternità	Cento Nascita alongside	Ospedale universitario lombardo	Ospedale universitario toscano
Ostetriche	4 + *3*	3 + *5*	2 + *3*	2 + *1*
Ginecologi/he	-	-	1 + *2*	1 + *2*
Anestesisti/e	-	-	1	1 + *1*

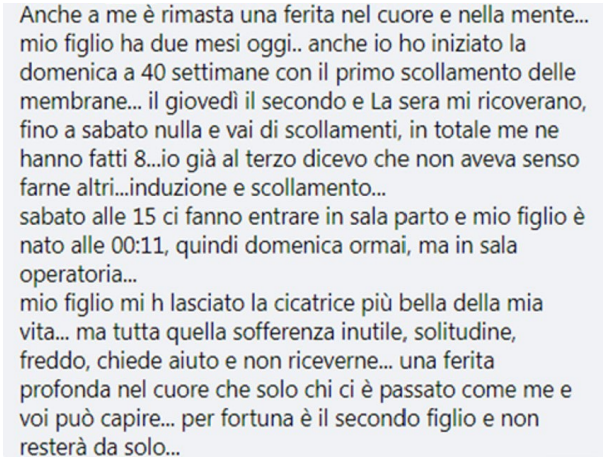
Note: in corsivo, il numero di interviste per cui si è usata la tecnica della vignetta
Fonte: elaborazione dell'autrice

Figura 1 - Prima vignetta

Buonasera a tutte! Ho partorito la mia bimba 6 mesi e mezzo fa. Ho un ricordo bruttissimo del mio parto che per me è stato traumatico. Ho avuto un travaglio abbastanza veloce ma il parto in se è durato più di 2 ore. Ero sfinita e mi è stato effettuato la manovra di kristeller (più volte) senza episiotomia e ho avuto lacerazione di 3 grado. L'ostetrica che mi ha seguito è stata brava e soprattutto umana ma non posso dire lo stesso per il ginecologo che era di guardia quella sera. Era scocciato perché voleva andare a dormire e non aveva molto voglia di intervenire. Mi veniva detto che non stavo facendo il massimo per partorire mia figlia quando ero da più di 2 ore che spingevo. Cosi la soluzione è stata la manovra di kristeller, la cosa più dolorosa che io abbia mai provato nella mia vita. Ho avuto tantissimi punti ma non so quanti perché mi hanno detto che loro non contano i punti ma so solo che sono stati più di 1 ora a cucirmi. Sono stata molto male fisicamente e ho preso antidolorifici per 2 settimane dopo il parto ma sono stata peggio psicologicamente perché il latte mi è arrivato dopo 6 giorni probabilmente perché ero molto debilitata fisicamente ma a questo punto la mia bimba era già abituata al biberon. Cosi sono riuscita ad allattare pochissimo solo per 5 mesi e questa cosa mi fa stare ancora male perché ci tenevo moltissimo. Adesso ho una leggera incontinenza urinaria quando starnutisco e dolore ai rapporti.[redacted]

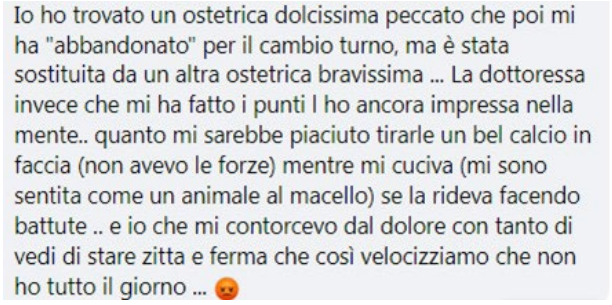
Fonte: commento su gruppo pubblico Facebook

Figura 2 - Seconda vignetta



Fonte: commento su gruppo pubblico Facebook

Figura 3 - Terza vignetta



Fonte: commento su gruppo pubblico Facebook

Violenza ostetrica e attivismo digitale: un esempio di Health Social Movement

La diffusione del discorso sui maltrattamenti al momento del parto e la popolarizzazione del termine "violenza ostetrica" sono avvenute in Italia prevalentemente tramite i *Social Network*, che hanno permesso la creazione di reti sociali di dimensioni finora inedite e la condivisione di esperienze di massa. Il primo passo di questa mobilitazione social è stata la campagna *#BastaTacere: le madri hanno voce*, lanciata su Facebook e su Twitter nell'a-

prile del 2016 da un gruppo di associazioni. Il nome #bastatacere richiamava l'opuscolo di un collettivo femminista ferrarese del 1972, *Basta tacere! Testimonianze di donne,* in cui erano state raccolte storie di abusi legati al parto, alla gravidanza e all'aborto (Picchio e Pincelli 2019). La campagna del 2016, analogamente, ha chiesto alle donne di raccontare la propria storia e di condividerla con il tag #bastatacere a partire dal 4 e fino al 19 aprile 2016. L'iniziativa ha raccolto in quindici giorni 1.136 testimonianze e l'interazione di 700.000 utenti al giorno, portando nel dibattito pubblico il fenomeno. La campagna digitale era volta a sostenere la proposta di legge n. 3670 "Norme per la tutela dei diritti della partoriente e del neonato per la promozione del parto fisiologico", depositata l'11 marzo 2016 da parte dell'Onorevole Adriano Zaccagnini e successivamente decaduta. Tale provvedimento proponeva l'introduzione del reato di violenza ostetrica, punito con pene detentive fino ai 4 anni. Oggettificazione, invasività, prevaricazione decisionale e assenza di relazione sono i temi ricorrenti nelle storie raccolte dalla campagna social. I seguenti estratti, risalenti alla campagna del 2016, sono stati selezionati su Twitter (ora X), ricercando il tag #bastatacere.

> Obbligata a spingere solo quando lo dicevano loro e sgridata se non lo facevo; mentre travagliavo ero circondata da chi puliva la stanza e parlava al telefono. Mi hanno rotto le acque e fatto l'episiotomia senza consenso, portato via la bambina senza neanche darmela in braccio per poi rivederla dopo ore.

> Mi hanno amputato per errore il piccolo labbro destro, giustificandosi dicendo "tanto signora gli uomini non se ne accorgono".

> Trentasette ore di travaglio, ignorata dal personale dell'ospedale, senza nessun tipo di analgesico per venti ore, senza cibo né acqua e senza ecografia. Finita con cesareo d'urgenza ed endometrite contratta in sala parto.

> Il mio parto è stato un trauma di cui ho avuto incubi per mesi. Mi sono sentita violentata. Visitata da mille mani senza nessun tatto. Sempre costretta a stare ferma per i tracciati. Parto indotto con ossitocina, Kristeller, episiotomia che mi ha resa incontinente a 30 anni, bambina portata subito via. Ho combattuto contro la depressione post partum.

> Obbligata a stare sdraiata nonostante le suppliche per cambiare posizione, mai ascoltate. Ossitocina senza il mio consenso, visitata ogni dieci minuti violentemente "La smetta di urlare!"; infine cesareo non necessario. [...] Non riesco ad allattare, non ho più fiducia nel mio corpo.

Quella italiana non è un'iniziativa isolata ma rientra in una nuova – dopo quello degli anni '70 e '80 – ondata di attivismo e interesse mediatico sul tema, suscitata anche dalla già citata dichiarazione OMS del 2014. Movimenti dal basso analoghi a

quello italiano sono fioriti in tutta Europa e hanno sempre avuto nei *Social Network* il loro fulcro: #PayeTonUtérus in Francia nel 2014, #Genoeggezwegen nei Paesi Bassi nel 2016, #Másállapotot in Ungheria nel 2017, #Prekinimošutnju in Croazia nel 2018, #MinaMyosSynnyttajana in Finlandia nel 2019. Tutte le campagne si sono espresse contro un modello di cura ostetrica e ginecologica percepito come violento dalle donne e sono state rese possibili dalla comunicazione digitale su larga scala, che ha permesso alle donne di riconoscersi nelle storie altrui e superare l'isolamento e la personalizzazione dell'esperienza vissuta, dando al privato una dimensione pubblica. Negli stessi anni, sulla scia di queste campagne, anche molte testate si sono occupate di violenza ostetrica: in Europa "The Independent", "Le Figaro", "El País"; in Italia "L'Espresso", "La Repubblica", "La Stampa", "Il Corriere della Sera".[6]

Phil Brown, Stephen Zavestoski e colleghi (2004) hanno coniato l'espressione *Health Social Movement* (HSM) per riferirsi alle nuove forze politico-sociali che sollevano questioni e richieste in ambito di salute. Tali gruppi mettono al centro il vissuto corporeo dei singoli, mettendo in questione le pratiche e le conoscenze scientifiche *mainstream* che non darebbero risposte alla loro esperienza incarnata[7]. Brown e colleghi definiscono questi movimenti *boundary movement,* perché provano a ridefinire i limiti tra cosa può e non può essere considerato buona pratica medica. I limiti rinegoziati riguardando anche chi è legittimato a esprimere giudizi su un certo argomento "tecnico" e chi non lo è (Gieryn 1983). Tali gruppi, infatti, facendosi forti di una *expertise* costruita attraverso l'esperienza vissuta (Collins, Evans 2007), portano a sfumare i confini tra professionisti della cura e pazienti, tra esperti e "profani".

Peter Conrad e Cheryl Stults (Conrad and Stults 2010) hanno analizzato il ruolo giocato da internet nella nascita e diffusione degli HSM. L'interazione digitale, aumentando esponenzialmente facilità e quantità di informazioni accessibili ai non professionisti, ha reso più labile il confine tra sapere esperto e sapere profano, facendo breccia nel principio di autorità dei professionisti sanitari. Madeleine Akrich (Akrich and Pasveer 2004; 2010) ha riflettuto sul ruolo delle *community* online nate come gruppi di condivisione e discussione da cui possono emergere fenomeni di attivismo, con

6 Rebecca Grant, *Ethics of the Deliery Room: Who's in Control When You're Giving Birth*, "The Independendent", 18.12.2017; Caroline Piquet, Cecile Thilbert, *Quand l'accouchement se vit dans la violence*, "Le Figaro", 18.04.2017; Meritxell Freisa, *El silenciado abuso que hay detras da las cesareas*, "El País", 31.08.2017; Valentina Arcovio, *La storie delle donne vittime di violenza ostetrica*, "La Stampa", 6.10.2017; Rita Rapisardi, *Violenza ostetrica: quegli abusi in corsia vissuti dalle donne italiane*, "L'espresso", 27.04.2016; Simone Valesini, *Violenza ostetrica: il parto diventa un trauma per due donne su dieci*, "La Repubblica", 24.05.2018; *"Durante il parto mi sono sentita violentata", al via la campagna contro la violenza ostetrica #Bastatacere*, "Il Corriere della Sera", 08.04.2016.

7 Un esempio è quello dei gruppi che hanno portato avanti una sofisticata negoziazione politico-sociale per il riconoscimento della sindrome da fatica cronica nel Regno Unito (Quaranta, 1999).

particolare riferimento a quelli dedicati all'esperienza del parto. Per Akrich, questi gruppi possono comportarsi come comunità di pratica (Wenger 1998) nel momento in cui, oltre a tenere assieme individui legati da un sentire comune circa un dato tema, diventano piattaforme di condivisione e costruzione di conoscenza. Come avviene per i gruppi di auto-mutuo aiuto (Borkman 1999), il motore iniziale delle *community* è un'esperienza personale dolorosa in cui si è percepito uno scollamento tra il proprio vissuto e il mondo medico *mainstream*.

Quanto avvenuto in Italia sul tema della violenza ostetrica risponde alle dinamiche descritte in letteratura per gli HSM. Il tema è stato infatti portato nel dibattito pubblico da un gruppo di associazioni fondate da donne e famiglie con un vissuto personale doloroso relativo alla nascita, poi riunitesi nell'Osservatorio Violenza Ostetrica (OVO Italia). Tale gruppo ha riconosciuto e sfruttato le potenzialità del digitale con la già citata campagna #BastaTacere. Il gruppo si è poi comportato come una comunità di pratica, impegnandosi in prima persona nella produzione di sapere scientifico commissionando a DOXA un'indagine statistica, che resta ad oggi l'unico studio su larga scala condotto sul fenomeno in Italia (Ravaldi *et al.* 2018). L'indagine DOXA, condotta su un campione rappresentativo di 5 milioni di donne che hanno partorito tra il 2003 e il 2017, ha riportato, tra le altre cose, che il 21% delle madri dichiara di aver subito una forma di violenza durante il parto, il 33% afferma di non essersi sentita assistita in modo adeguato e il 40% sostiene di aver subito pratiche lesive della propria dignità. Sei donne su cento hanno scelto di non avere altri figli a causa del vissuto traumatico legato al parto.

Violenza ostetrica come fenomeno sociale: la percezione dei professionisti del parto

L'indagine DOXA ha suscitato sin da subito una reazione fortemente difensiva da parte delle categorie professionali di medici ostetrici ed ostetriche (AGOI, FNOPO, SIGO, AGUI; si veda (Scambia e Viora 2018) hanno criticato non solo la modalità – sostenendo che il campionamento non fosse rappresentativo – ma anche i presupposti dell'indagine e la stessa esistenza dell'oggetto di ricerca. Le associazioni professionali hanno criticato la presupposta arbitrarietà di cosa, all'interno dello studio, è stato definito "violenza", ritenendo poco obiettivo l'approccio basato sulla percezione materna. Il comunicato dell'AOGOI,[8] in particolare, ha insistito sull'attacco all'onorabilità e alla reputazione della categoria e del SSN.

[8] Associazioni Ostetrici e Ginecologi Ospedalieri Italiani

> Invero le parole "violenza ostetrica", nel momento della comunicazione, diventano già da sole e nell'immediatezza, strumento di offesa della reputazione dei professionisti sanitari, trascendendo in palese attacco e aggressione della sfera morale altrui, che certo non costituisce un generico e lecito contenuto valutativo o espressione di un giudizio rispettoso della correttezza del linguaggio e consentito dal nostro ordinamento giuridico. [...] inducendo nella mente del lettore una ingiusta ed intollerabile completa distorsione della realtà sanitaria italiana ed in particolare dell'assistenza ostetrica e al parto**,** conseguendo un risultato gravemente diffamatorio e lesivo della reputazione dei professionisti. [...] Il discredito gettato sulla intera classe sanitaria, sul SSN ed in particolare sul personale presente nelle sale parto dei nostri ospedali, al loro decoro e alla loro reputazione, le infondate affermazioni descrittive di un contesto assistenziale al parto, torvo, disumano, barbaro e tirannico, si appalesa censurabile e riprovevole e non può essere alcuna esimente o accampata giustificazione sotto il pretesto di qualsivoglia utilità sociale o doverosa informativa della collettività.
>
> Comunicato AOGOI in seguito alla pubblicazione dello studio Doxa, disponibile nell'Archivio del sito AOGOI

Nel corso delle interviste condotte in questo studio, le opinioni degli operatori sono state più sfumate e variegate rispetto a quelle fortemente negative espresse dalle categorie professionali, con forti differenze tra ostetriche e personale medico. Le ostetriche intervistate, sia libere professioniste che dipendenti ospedaliere, hanno mostrato una certa cautela verso l'affidabilità delle testimonianze online ma hanno sostanzialmente fatto propria la categoria di VO e condiviso la richiesta di una assistenza più "umana" al parto.

> Ho letto anche delle cose "mi hanno messo la flebo e mi hanno fatto venire una flebite" e che cazzo! cioè la flebo te la devo mettere, la flebite può essere una conseguenza, non è perché io sono cretina! non parliamo di violenza ostetrica per questo! però in tanti casi sì, soprattutto quando ti vengono fatte delle cose e non ti vengono spiegate.
>
> Vanessa, Ostetrica, Casa Maternità

Le ostetriche hanno messo in luce inesattezze e ingenuità che possono emergere nelle *peer community* digitali usate dalle donne come strumento di denuncia e auto-informazione; hanno tuttavia ritenuto tali movimenti utili per aumentare la consapevolezza degli operatori sui bisogni delle partorienti. Tutte le ostetriche più giovani (<30) intervistate erano entrate in contatto con testimonianze di VO condivise online e hanno affermato che questa esposizione ha cambiato la loro postura relazionale durante l'assistenza, rendendole più riflessive verso le proprie pratiche lavorative.

> Se entri nella chat delle mamme ci sono delle robe che tu dici... una donna diceva "ero dilatata di 20 cm e nessuno mi guardava!" [ridono] e le altre [nella chat] rispondevano

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> "questa è violenza ostetrica!" quindi capisci, c'è anche questo. [...] C'è maggiore consapevolezza, forse anche la faccenda dei social ha... secondo me dà un'informazione, per quanto spesso un'informazione incompleta o sbagliata, però il post su Facebook della violenza ostetrica lo legge anche quella che si è diplomata ieri e che deve scegliere cosa fare quando si trova in sala parto.
>
> Aurora, Ostetrica, Centro Nascita

Le ostetriche partecipanti hanno mostrato in generale una reazione empatica e meno difensiva verso le testimonianze delle vignette. Hanno inoltre indicato la dimensione strutturale del problema, criticando alcuni aspetti intrinsechi al modello di assistenza ospedaliero come la spersonalizzazione, la standardizzazione delle cure, il poco tempo da dedicare alla relazione e al sostegno emotivo alla partoriente, la scarsa inclusione del partner: caratteristiche che genererebbe un vissuto traumatico anche in assenza di *malpratice*. Le ostetriche della Casa Maternità sono state le più decise a condannare non solo la scarsa "umanità" dell'approccio ospedaliero ma anche l'uso inadeguato di certe pratiche come episiotomia, manovra di Kristeller e perfusione ossitocica.

Tra le ostetriche, infine, è emersa la narrazione dell'ostetrica come "protettrice" della partoriente dal personale medico, descritto come meno attento ai bisogni emotivi e meno disposto all'ascolto.

> Sono devastata, più di una volta mi è capitato di assistere a... racconti di donne che hanno avuto questo tipo di esperienza, e ho *osservato* gli esiti, le cicatrici fisiche e emotive, come sono state traumatizzate. Come si può commentare una cosa di questo tipo? [...] *Noi* [ostetriche n.d.r.] sappiamo benissimo come muoverci in senso protettivo verso le donne quando ci sono degli operatori, un medico che sappiamo essere troppo entrante... e riuscire a trovare degli strumenti per proteggere le donne.
>
> Caterina, Ostetrica, Ospedale Universitario Toscano

> Loro non si mettono *mai* in discussione, mi sembra brutto fare questa differenza medico-ostetrica però è così, [...] è un errore che viene fatto nella loro formazione secondo me... è *insito* in loro questo distacco che hanno col paziente [...] non esiste nel 2022, siamo andati tanto avanti su tante cose e su questa cosa no, e quindi sì te lo dico da ostetrica che la violenza ostetrica esiste eccome. [...] Tante di quelle manovre che vengono fatte e sembrano barbare sono fatte per il benessere del neonato, però ci perderesti *un* minuto a... in quei momenti siamo in tanti, due ginecologi, tre specializzandi, due ostetriche, tre Oss, il neonatologo e... che nessuno parli con la donna e il compagno? non esiste! questa cosa non deve succedere e invece succede su 10 volte 4 succede. [...] solamente parlando il vissuto della donna cambia. [...] Spesso i motivi per fare un'episio o mettere un vacuum ci sono, però se non glielo spieghi la signora lo vive come una violenza, non lo può che non vivere in quel modo!
>
> Franca, Ostetrica, Centro Nascita

Il personale medico ha risposto alle vignette in modo più difensivo, ponendo l'accento sul proprio ruolo di responsabilità, anche in ottica medico-legale. La retorica di questa categoria professionale si è incentrata dunque sul tema della sicurezza come priorità assoluta. Nella prospettiva dei medici intervistati, al momento del parto sarebbe necessario mettere tra parentesi i bisogni emotivi e psicologici per dare priorità alla salute fisica. In generale le ostetriche hanno manifestato una lettura più olistica dell'assistenza, in cui il rispetto per i bisogni della persona e la sua autonomia decisionale non può essere scisso dal prendersi cura del corpo. Nelle parole delle ostetriche è inoltre ricorsa spesso l'idea che lo stato emotivo influenzi profondamente l'esito del parto e che dunque la cosiddetta umanizzazione della cura non sia da perseguire solo per motivi etici ma anche perché sarebbe la più adeguata ed efficace in termini di esiti. Tra i medici prevale invece un'ottica sostanzialmente dualistica, per cui la salute emotiva e psicologica può, e in alcuni casi deve, essere messa da parte per agire sul corpo fisico.

> La violenza ostetrica ci può essere ma io devo portare a casa l'*outcome* positivo per mamma e bambino, quindi, se quello porta alla velocità e alla mancanza di comunicazione non c'è niente da fare… sì ok episiotomia o altre manovre che sono abituati a fare i ginecologi anche senza necessità, posso dire parliamone, però in quel momento…
>
> Vincenzo, Anestesista, Ospedale Universitario Toscano

> Se purtroppo ho dovuto fare una ventosa o siamo dovuti andare in sala per un cesareo urgente e non ho avuto il tempo di spiegarlo alla donna e per lei magari questo è stato traumatico, però se in quel momento la mamma e il bambino stanno bene io mi sento a posto con me con la coscienza, per me è un parto che è andato bene.
>
> Rebecca, Ginecologa, Ospedale Universitario Lombardo

Per quanto riguarda la dimensione digitale del fenomeno, il personale medico intervistato ha mostrato molto scetticismo verso le testimonianze condivise online. Tali condivisioni non sono state ritenute attendibili perché, oltre a non essere verificabili, le neomadri non sono state ritenute competenti per discutere e valutare l'evento del parto. Tra i medici, in particolare, molti hanno sostenuto che l'ambiente digitale non è adeguato ad affrontare la questione dell'eventuale *malpratice* ostetrica, che dovrebbe semmai essere gestita all'interno di un contesto professionale.

> Queste cose partono sempre dai media no? invece di parlarne all'interno dell'ambiente fra i professionisti, parte sempre da una campagna Twitter, da una mozione, un # su Instagram o da un gruppo di mamme su Facebook 'ste cose, sì…
>
> Marina, Ginecologa, Ospedale Universitario Lombardo

> Le cose che una paziente riferisce sono da prendere non con le pinze di più! quando leggo tutti questi racconti di, diciamo così, "violenza ostetrica", nella maggior parte dei casi sono racconti distorti dalla paziente che riferisce in maniera inesatta [...] ci sono mille storie che la gente ti può raccontare e di solito sono molto pompate [...] poi ovviamente quando vengono fuori sti discorsi si attacca la categoria in generale che siano ostetriche che siano medici, ma soprattutto i medici figurati! [ride] però poi alla fine sono cose che vengono dette da persone che non ne sanno nulla.
>
> Luca, Ginecologo, Ospedale Universitario Toscano

> Si vabbè [tono un po' scocciato] che ti devo dire guarda, sì può darsi, cioè anzi sicuramente 'ste cose succedono, o è probabile... cioè penso che succedono [pausa] Internet però ha anche sdoganato tanti imbecilli che poi dicono... e non lo so che cos'è vero e che cosa non è vero.
>
> Elia, Anestesista, Ospedale Universitario Toscano

I medici partecipanti hanno razionalizzato e "normalizzato" tanto la vignetta proposta quanto il fenomeno in generale, affermando che molto di quello che viene percepito dalle pazienti come traumatico in realtà rientrerebbe nella *norma* della pratica. Di conseguenza il "problema" della percezione traumatica viene scaricato primariamente sulla donna, che dovrebbe essere in grado di adeguare le proprie aspettative alla "realtà" dell'evento parto.

> Oppure che è andato effettivamente così, però semplicemente era diverso, guarda un po', dalle sue aspettative... però nel senso, è la normalità. [...] Le storie che ho sentito io di violenza ostetrica... più che altro non riesci a oggettivarle, oppure se dici "mi ha messo le dita in vagina la ginecologa, l'ostetrica tre volte e lo specializzando per imparare" ma anche quella è la normalità! se poi tu l'hai vissuta così probabilmente non è neanche un problema dell'équipe, è un problema tra virgolette tuo.
>
> Luca, Ginecologo, Ospedale Universitario Toscano

Un tema che è emerso in tutte le interviste e condiviso da tutte le categorie professionali è quello della violenza ostetrica come problema comunicativo. L'idea condivisa è che una corposa parte del problema – se non, per alcuni, la sua totalità – sia legata ad una errata o mancata comunicazione tra sanitario e paziente. Con tale chiave interpretativa l'operatore, pur riconoscendo l'esistenza di un problema, mette al riparo dalle critiche l'*expertise* propria o della categoria: la violenza ostetrica appare riconducibile ad un "semplice" problema di incomprensione comunicativa mentre è da escludersi la malafede o incompetenza dell'operatore o l'inadeguatezza del modello assistenziale in sé. Ad essere oggetto di critica non dovrebbero essere dunque le pratiche ostetriche in sé ma solo il modo in cui queste vengono comunicate.

> Secondo me è ancora presente purtroppo [la VO n.d.r.], ma la riporto molto, quasi tutta, sul piano della comunicazione [...] a volte si fanno cose necessarie e basterebbe veramente poco per evitare di farle diventare atti di violenza, è molto evidente che si potrebbe veramente fare di più dal punto di vista comunicativo [...] una ventosa che in certi momenti può salvare un bambino se non è ben comunicata è assolutamente un atto di violenza, secondo me il gap è la comunicazione.
>
> Anna, Ostetrica, Centro Nascita

Solo tra ginecologi e anestesisti, invece, è emersa una critica anche all'interpretazione "comunicativa" della violenza ostetrica. Secondo alcuni, infatti, la comunicazione è comunque un elemento secondario nella cura e il medico non sarebbe tenuto ad occuparsene, perché sua responsabilità primaria è la sicurezza dei pazienti. Per raggiungere questo obiettivo, il vissuto negativo o traumatico è un effetto collaterale accettabile. Il concetto di "sicurezza" viene dunque ricondotto completamente al piano della sopravvivenza di madre e neonato mentre poca o nessuna attenzione viene posta sulla salute mentale ed emozionale o sull'autonomia decisionale. In tema di sicurezza, nessuno tra i medici intervistati ha fatto riferimento alla iatrogenesi legata all'abuso di procedure mediche non necessarie (Liese *et al.* 2021; Smith-Oka 2022). Per i medici intervistati, la partoriente non sarebbe nelle condizioni di prendere decisioni sul proprio parto poiché non competente in merito. In alcune interviste è emersa l'immagine della donna che "sragiona" e che, per la propria sicurezza e quella del bambino, deve essere guidata e controllata dal medico, anche con l'uso della forza.

> Se vai dal meccanico e il meccanico dice "ti devo cambiare la frizione" e poi dopo mi dà un conto di 1.000 € perché alla fine valuta che erano da cambiare anche le pasticche... e che faccio parlo della violenza del meccanico? cioè non lo so, tu non ne capisci niente e quindi paghi e basta, perché se vai a partorire ti aspetti che ti fanno partorire bello tranquillo e sistemato? pure senza pagare!
>
> Vincenzo, Anestesista, Ospedale Universitario Toscano

> Nel momento dell'urgenza ci sta adrenalina e ci sta l'urlo del medico che dice "SIGNORA ORA DEVE ASCOLTARE ME!" [...] se questa perde il capo ci sta che devi alzare la voce, ci sta che non sia bello, ci sta che poi venga preso dalla paziente come "mi hanno urlato in faccia" ma non ti puoi permettere in quei momenti una donna che urla e che si dimena, certe volte si esce un pochino dai binari ma va bene così.
>
> Filippo, Ginecologo, Ospedale Universitario Toscano

> A volte perdono *to tal men te la testa* e visto che il tuo obiettivo è tirar fuori il bambino *vivo* ci sono delle volte in cui oggettivamente sei quasi... o meglio sì! ci sentiamo legittimati a fare tutto, nel senso che se la donna perde la testa noi ci sentiamo legittimati ad

> essere aggressivi per salvare quel bambino ok? a volte veramente devi essere duro per riportarle all'*hic et nunc*.
>
> Giada, Ginecologa, Ospedale Universitario Lombardo

Molti medici hanno invece interpretato l'aspetto comunicativo non tanto come strumento per migliorare il vissuto o l'autodeterminazione delle partorienti quanto come mezzo protettivo in ambito medico-legale. Tale urgenza difensiva è legata ad una importante pressione medico-legale per i dipendenti del SSN che vede il suo picco proprio in ambito ostetrico[9]. L'ansia degli operatori verso eventuali ritorsioni legali è emersa trasversalmente agli operatori ospedalieri mentre non è stata riscontrata nelle ostetriche che lavorano in ambiti extra-ospedalieri. Il modello assistenziale delle Case Maternità, infatti, basato sulla continuità assistenziale e sulla personalizzazione della cura, agevola l'istaurarsi di una relazione terapeutica di conoscenza e fiducia reciproca.

> È importante la comunicazione, le cause vengono fuori da errori di comunicazione. A me capita di dire alla paziente "si prova a fare questa cosa, non è detto che funzioni, ha dei rischi", importante è comunicare e informare anche in maniera scritta questa cosa dei rischi così nel momento in cui poi questi rischi avvengono erano stati detti quindi tu non hai colpa.
>
> Luca, Ginecologo, Ospedale Universitario Toscano

> La comunicazione è *fondamentale*, è la prima cosa, spiegare quello che fai, perché lo fai, perché tutto… la comunicazione è fondamentale perché la gran parte delle cause medico legali vengono da una mancata comunicazione, non da un danno che uno fa.
>
> Elia, Anestesista, Ospedale Universitario Toscano

> La difficoltà relazionale e comunicativa non è da caricare solo sugli operatori ma riguarda anche i pazienti. C'è una questione di resistenza al personale sanitario e la violenza in questo caso non è ostetrica ma è una violenza contro gli operatori. Spesso è difficile la relazione quindi è inutile continuare sul percorso. Tante volte ci sono i mariti con il cellulare che sono lì a farsi i fatti loro e poi quando arrivi ti aggrediscono "ma perché questa cosa, ma perché mia moglie, la flebo, l'epidurale…".
>
> Vincenzo, Anestesista, Ospedale Universitario Toscano

Discussione e conclusioni

Il medico "novecentesco" aveva una relazione direttiva, fortemente asimmetrica e unidirezionale verso la partoriente – così come verso gli altri operatori sanitari non medici. Tale approccio incarnava il modello assistenziale che Ezekiel e Linda

[9] Cfr. *Medicina difensiva*, dal sito "Ministero della Salute", URL: www.salute.gov.it.

Emanuel (1992) hanno definito paternalistico. Oggi tale schema è stato messo profondamente in discussione da una nuova sensibilità, culturale e legislativa, circa il principio di autodeterminazione e i diritti della persona in cura. In Italia, ad esempio, la legge 219/2017 recante *Norme in materia di consenso informato e disposizioni anticipate di trattamento* prospetta esplicitamente una "pianificazione condivisa delle cure" tra medico e paziente. Il modello di cura che si profila, sempre usando le categorie di Ezekiel e Linda Emanuel, è quello informativo, in cui il sanitario si comporta idealmente come esperto informatore e suggeritore mentre al soggetto in cura, che a tratti si avvicina alla categoria dell'utente-cliente, è lasciato il potere di scelta (Cardano, Giarelli e Vicarelli 2020). L'inedito ribilanciamento dei poteri nell'interazione curante-curato è ancora più evidente quando questo coinvolge una donna, come nel caso dell'assistenza al parto. In questo caso, infatti, le dinamiche di relazione profondamente trasformate non sono solo quelle dei ruoli di cura ma anche quelle dei rapporti di genere.

Nel corso delle interviste è emerso con molta chiarezza come il passaggio dal modello paternalistico a quello informativo non sia scevro da conflitti e resistenze né avvenga per tutte le categorie coinvolte alla stessa velocità. Per i medici partecipanti, quello che la partoriente percepisce come VO è prevalentemente il frutto di uno scarto tra le sue aspettativa e la "realtà" dell'evento parto. Anche se la maggior parte degli intervistati ha riconosciuto l'utilità di migliorare l'aspetto comunicativo, la comunicazione è stata presentata come strumento per facilitare l'adeguamento della partoriente al modello di assistenza, mentre non si è posta la possibilità di modificare le modalità dell'assistenza per incontrare i bisogni degli utenti. In generale, il personale medico intervistato ha presentato come dato fortemente negativo il fatto che le "pazienti" abbiano perso la totale fiducia verso il personale sanitario e mettano sempre più in campo strumenti difensivi e tentativi di negoziazione delle pratiche di cura. Ginecologi e anestesisti hanno sottolineato come questo possa diventare un intralcio allo svolgimento del loro lavoro e un problema di sicurezza per le assistite.

> Non è che devono avere loro il controllo su quello che sta succedendo, che è un grosso problema delle mamme del nostro tempo, mi rendo conto che uno fa fatica ad affidarsi ma sei lì con degli esperti e devi avere fiducia.
>
> Giuliana, Ginecologa, Ospedale Universitario Lombardo

> In generale è cambiato proprio il rapporto medico-paziente, anche a livello dell'ostetricia, e non sempre con un buon risultato… percepisco sempre una reticenza e una difficoltà nell'affidarsi a quelle che sono le indicazioni mediche. Spesso molti pazienti sono sulla difensiva […] stanno lì e ti chiedono più volte per quale motivo viene fatta una cosa, perché hanno letto su Internet che alcune donne hanno fatto un'altra cosa,

> oppure… per me l'estremismo è il piano del parto[10] […] molte donne che arrivano lì con una lettera in cui è scritto quello che loro vorrebbero. […] in quel momento mi sento io svilita come medico, quasi offesa non so come dire.
>
> Rebecca, Ginecologa, Ospedale Universitaria Toscano

Dal punto di vista delle ostetriche, invece, l'accento è stato posto sul rispetto della libertà di scelta, dei bisogni e delle preferenze della paziente, con l'idea che tale rispetto non sia solo giusto ma porti a migliori *outcome* materni e neonatali. Se le ostetriche ospedaliere hanno sottolineato come questo non sia sempre possibile nel contesto ospedaliero, una maggior libertà è stata riportata dalle ostetriche che lavorano in Casa Maternità e Centro Nascita, che gestiscono in completa autonomia le nascite fisiologiche.

> "io sono un medico e so io qual è la cosa giusta per te" ecco alla fine degli anni '90 era ancora molto intrisa di tutto questo la struttura pubblica e ancora adesso un po' è rimasto…
>
> Sara, Ostetrica, Ospedale Universitario Toscano

> Si crea una relazione più alla pari più… poi è ovvio che io sono "il" professionista e vengo ad assistere la tua nascita […] ovviamente ci sono dei vincoli che sono i vincoli di sicurezza… sempre con l'obiettivo finale che la mamma e il bambino stiano bene. Però c'è più margine in una gestione delle cose che tenga conto dell'aspetto emotivo.
>
> Veronica, Ostetrica, Centro Nascita

> L'atteggiamento dei medici è quello di dire "tu non sei nessuno per dirmi come devo lavorare" ed è un atteggiamento profondamente sbagliato, perché ovviamente […] più vado vicino a quello che vorresti e più quel parto va verso una dimensione di fisiologia e umanità.
>
> Maria, Ostetrica, Casa Maternità

Sebbene non fosse il focus di questa ricerca, degno di nota è il ruolo del genere del professionista nel suo posizionamento verso il tema della VO. Per quanto riguarda le ostetriche, non è possibile scindere il genere dalla professione, essendo l'ostetricia un'attività *de facto* a monopolio femminile; tutte le ostetriche intervistate per questo studio, infatti, erano donne. Per i medici (ginecologi e anestesisti), in questo studio la variabile del genere non sembra essere in correlazione con l'atteggiamento che il professionista mostra nei confronti del tema della VO. Tuttavia, è significativo segna-

[10] Documento che la donna in gravidanza può redigere e consegnare prima del parto al punto nascita scelto, per fare presenti bisogni, aspettative e necessità a cui si chiede di tener fede, compatibilmente con la necessità medica.

lare che le dottoresse che hanno partecipato allo studio non avevano mai partorito. Le ostetriche intervistate – la maggior parte delle quali aveva almeno un figlio – hanno descritto la propria esperienza di parto come un punto di svolta nella capacità di entrare in empatia e comprendere il vissuto della partoriente. Questo suggerisce che non sarebbe tanto, o almeno non solo, il genere in sé a influenzare il posizionamento verso il tema della VO, quanto piuttosto l'aver vissuto sul proprio corpo l'esperienza del parto. Per indagare tale aspetto è necessaria ulteriore ricerca sul tema, con un campione di professionisti più variegato in termini di genere e esperienze genitoriali.

In conclusione, la creazione della categoria di VO ci dimostra che donne e famiglie chiedono oggi una cura diversa rispetto a quella ricevuta dalle loro madri. Si aspettano una presa in carico olistica – che tenga conto anche dei loro bisogni emotivi e psicologici – e sono meno disposte ad accettare atteggiamenti prevaricanti, siano o non siano frutto di necessità medica. Le ostetriche, pur con alcune differenze legate al setting di cura, sembrano voler assecondare e sostenere tale richiesta. Dall'altro lato, il personale medico reputa questa tendenza problematica perché metterebbe a repentaglio la sicurezza di madre e neonato e vorrebbe continuare ad esercitare un potere *absolutus* – nel senso di sciolto da vincoli – sulla scena del parto. Il processo di passaggio dal modello paternalistico a quello informativo è dunque tutt'altro che concluso e non possiamo sapere se in futuro sarà compiuto o piuttosto invertito. Ad oggi, i conflitti tra professionisti e partorienti appaiono inevitabilmente legati alle diverse aspettative degli attori sociali sulla scena del parto.

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