THE AMBIGUOUS ATTENTION GIVEN TO THE VICTIM: REFLECTIONS STARTING FROM THE DIRECTIVE 2012/29/EU. WHAT ABOUT ITALY?

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ABSTRACT

The process of rediscovering the victims of crime, which has concerned the whole of the Western world, has become concrete through some fundamental steps which have allowed a gradual recognition of the victim. The authors focus attention on the need for victimological knowledge which is not abstract and impermeable to the real situations which increasingly involve the people to whom the actions are addressed in the decision-making process.

In this sense, the article aims to focus attention on the ways through which Italy has implemented EU Directive 2012/29 on establishing minimum standards on the rights, support and protection of crime victims. Therefore, the authors propose reflecting, four years after the implementation of the Directive, on the ways how, in the daily life of the judicial offices and courtrooms, it is applied, in particular in terms of promptness and completeness of the information to provide, as well as the suitability of the instruments of protection to use.

Keywords: victims of crime, information, support, criminal proceedings, protection, training

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1. Introduction: Protection of the victim and the need for social solidarity

The article aims to focus attention on the need for victimological knowledge which is not abstract and impermeable to the real situations that increasingly involve the people to whom the actions are addressed in the decision-making process. In particular, there will be a reflection on how Italy implemented EU Directive 2012/29 on establishing minimum standards on the rights, support and protection of crime victims, and replacing Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings. This replacement became necessary in order to "revise and supplement the principles set out in Framework Decision 2001/220/JHA and to take significant steps forward in the level of protection of victims throughout the Union, in particular within the framework of criminal proceedings".

Italy, like all the other Member States, had to implement this Directive by 16/11/2015 and, with a few days delay, it was enacted through Legislative Decree no. 212 of 15th December 2015.

From the temporal point of view, this action is the last step in a process of rediscovery of the crime victim, which has concerned the whole Western world, and which became concrete through a number of fundamental steps allowing gradual recognition of the victim. A fundamental role in this process was played by some legislative documents, adopted first by the Council of Europe and then by the European Union.

The fundamental motivation for dealing with victims' rights at European level comes from the gradual development of the freedom of movement and residence for citizens. The need to extend European integration in this field was reinforced by the Lisbon Treaty, which gave the European Union the explicit competence to establish the minimum measures on the rights both of the subjects involved in criminal proceedings

and the victims of crime. This opened up the path for the adoption of a "packet of rights for victims".

On the one hand, Recommendation (85)11 on the position of the victim in criminal law and criminal proceedings and the European Convention on the Compensation of Victims of Violent Crimes have highlighted the need for social solidarity, on the other hand, Framework Decision 2001/220/GAI on the position of victims in criminal proceedings and Directive 2204/80/EC have transformed the rules into binding laws for European States.

The European Union has committed itself to protect the victims of crime and establish minimum rules in this context and the Council adopted the Framework Decision 2001/220/GAI, of 15th March 2001 on the position of victims in criminal proceedings. Subsequently, in Italy, with Legislative Decree no. 212 of 15th December 2015, Directive 2012/219 on the rights, assistance and protection of victims of crime was implemented. This is indisputably a decisive step as far as the recognition of the status of crime victim and the adoption of instruments necessary for the protection, assistance and conscious participation in the criminal proceedings are concerned.

Directive 2012/29/EU is one of the most important pronouncements at European level. Its stated objective is to guarantee for the victims of crime information, assistance and suitable protection as well as ensuring participation in the criminal proceedings. Ultimately, it is an instrument of harmonization that establishes the measures to be applied throughout Europe. However, it is true that there are substantial discrepancies concerning the application of these principles in practice. If, on the one hand, full recognition can be acknowledged on the right of information and assistance, on the other, the full right of participation in the criminal proceedings cannot also be confirmed. The text includes notes and reservations in relation to the legal system of

reference in which the measures are to be applied and on which the intervention of Europe can be limited to a mere indication aimed at harmonizing the actions of the Member States, but without being able to exercise an intervention of a compulsory and irrevocable nature, effectively stopping before any choice, at national level, of containing or in any case reducing the role of the offended party in the criminal proceedings. The right of participating in the proceedings in its different parts, therefore, remains a prerogative of the Member States that can choose how to guarantee the objectives set by the Directive (Luparia, 2015).

2. Recognition and protection of the victims

Directive 2012/29 introduces a perspective which for many aspects is 'revolutionary' in the Italian criminal system which, traditionally, although to a good extent for comprehensible reasons of guarantee with regard to the accused, has relegated the persons offended by the crime (this is the category which is used by Italian criminal law and which, moreover, does not fully coincide with the definition of 'victim' shown in article 2 of the Directive, as will be stated below) to a marginal role. It requires the recognition and the satisfaction, to be evaluated on a case by case basis, of the needs for assistance, support and protection of victims, inside and outside the criminal proceedings, paying special attention to the most vulnerable people, such as: victims of human trafficking, terrorism, organised crime, violence in close relationships, sexual violence or exploitation, gender-based violence, hate crime, victims with disabilities and child victims. In this sense, Directive 2012/29 allowed Italy to widen its legal framework, making it recognise a special legal status and offer due assistance to other types of victim, and not only those of organised crime and terrorism as was mainly the case previously. This Directive is important because it aims to contribute to modifying

the culture of the Member States, fostering a change of mentality made possible by an increased sensitivity with regard to the topics of victimology and developing the protection of crime victims, in order to contribute to improving our societies.

In general, the condition of vulnerability, according to the Italian legislation implementing the Directive, must be presumed from subjective and objective characteristics and i.e. more than from the age and any state of infirmity or psychic deficiency of the victim, the type of crime and the ways and circumstances of the fact. In addition, to verify the existence of this condition, it has to be evaluated whether the crime was committed with violence against the person or with racial hatred, if it can be traced back to areas of organised crime, terrorism or the trafficking of human beings, if it is characterised by purposes of discrimination and if the victim is affectively, psychologically or economically dependent on the perpetrator of the crime.

Again with reference to the definitions of "victim" listed in art. 2 of the Directive, Italy has also implemented those referring to the application of this concept to the "family members", extending the trial rights and the faculties, originally only for the close relatives of the victim, to those who are linked to the latter by an affective relationship or who live with them on a stable basis, thus recognising the de facto family at a legislative level (Caboni, 2016).

In addition, again according to art.2, the exclusion of legal entities from the area of application of the Directive in favour of natural persons only is reiterated, considering their significant and greater vulnerability and the nature of the interests that only violations committed against natural persons can compromise.

Thanks to the action of guidance by the European Union on the topic of the protection and help for the victim, numerous Italian authorities of social control (the police force

and the criminal judicial system) have tried to build up over time a method based on listening and on the correct way to receive a victim.

To this end, especially after the implementation of Directive 2012/29, circulars were issued by the Public Prosecutors, addressed to the main local authorities of social control (Head of Police, Provincial Commander of the Carabinieri, Provincial Commander of the Guardia di Finanza, magistrates), with the aim of publicising rules and reporting the use of new ways to comply with the dictates of the new article 90bis of the Code of Criminal Procedure, introduced by Legislative Decree no. 212/2015, on the information to give the victim from the first contact with the authorities. In some of these circulars, the addresses of the local services the "victim" can turn go are given, such as the Ordine degli Avvocati (equivalent of the Law Society), to appoint a defence counsel, the hospitals and the healthcare facilities to receive free medical treatment, and the anti-violence centres to obtain support and assistance in the case of sexual violence, stalking and crimes committed within the family.

In addition, police stations and Carabinieri stations throughout Italy are gradually setting up, thanks also to the financial contribution of charities and associations, "safe rooms", where women and minors, witnesses or victims of violence can be heard. Evoking "A Room of One's Own" by Virginia Woolf, these rooms are furnished so that they are welcoming and comfortable for these people, also guaranteeing a reassuring climate from the point of view of how they are furnished. There are toys for children and sound and video recording systems.

It is to be remembered however, that the Italian government, in enacting the Directive, did not uphold the proposal of the Justice Commission of the Chamber of Deputies to establish an office for the protection of victims of crime, chaired by a magistrate, which would have the function of assisting, advising and informing the victims. The rationale

for this suggestion from the Justice Commission came from the fact that in Italy there were (and still are) many services protecting the different types of victims (women who are the victims of violence, ill-treated or abused minors, victims of terrorism, organised crime, usury, of the call of duty or of road accidents), but that there are still few services that operate independently of the criminal offence or the condition of the victim.

Before the implementation of this Directive, the scope of the recognition of the rights and assistance for the victims of crime was fairly fragmentary, as can also clearly be seen from the results of a search in archives by the Italian Society of Victimology[2] on the bills of law presented to the two branches of the Italian parliament during the 14th Legislature (2001-2006), therefore in a period after the Council Framework Decision 2001/220/JHA had been issued. In particular, 75 bills were found in the data base of the Senate, using the following classification in the search engine: "victims of criminal actions" and "violence and threats". The division into tables of the information retrieved allows, at a glance, realizing the very many types of victims in which the Italian legislator showed an interest over time as well as listing their heterogeneity. Merely by way of example, some can be recalled here: victims in the call of duty, victims of serious crimes of violence, victims of terrorism and eversion, victims of the Mafia and the Camorra, victims of Fascism and Nazism, enslavement, victims of torture, the elderly, victims of common crimes of particular special alarm, victims of mobbing, victims of violence at sporting events, minors who are victims of abuse and sexual exploitation etc..

Starting from this situation and thanks to the implementation of Directive 2012/29, the Inter-institutional Board of Coordination for the creation of an integrated network of assistance services for the victims of crime was established on 29th November 2018, coordinated by the Directorate-General of Criminal Justice of the Ministry of Justice,

with the Prime Minister's Office (the State-Regions Conference), the Ministry for Internal Affairs, the State-Regions Conference, the law (National Legal Council), academia (Conference of the Rectors of Italian Universities; University Roma Tre) and the third sector (Dafne Network). The Board supports the principle of all-round protection of the victim of crime and suggests setting up an organic system of national assistance, with coordination at central level and a homogenous and widespread network at local level, which guarantees that victims are completely taken care of, offering them the psychosocial support necessary and helping them to obtain adequate and due compensation. In particular, great effort is put into supporting the construction of an integrated network of assistance that can accompany the victim, from the first contact with the authorities until all their needs have been met, and can spread awareness and knowledge of the rights of victims with operators and in the public opinion. The integrated local network must involve institutions with specific competences, the social and health services, the police, judicial offices, the law, academia and the third sector and must ensure the presence of at least one office in each region.

The last aim of the Board is to establish a fully-fledged national coordination of services for the assistance of victims to completely and homogeneously implement, in a short time, the international recommendations throughout Italy. This Coordination must have wide and reinforced competences and must be not only the element of national connection, but also the point of reference both with respect to the European Union and the individual Member States for all transnational situations.

3. Pending better compensation for victims

Although the measure of implementing the Directive, at the time of its issue, appears to have been dictated, in our opinion, by the need to avoid opening a procedure of infraction by the EU against Italy, and although it is, in many cases, a simple transposition of the text, omitting a discipline of the subject in terms that are really concrete, the initiatives analysed above, which are being developed as time passes, are encouraging.

Nevertheless, Italy, in implementing the Directive, has not taken full account of the definition of the victim shown in art. 2 ("victim means a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence") and, therefore, the criminal legal system continues to refer to the victim as the "person offended by the crime" or as the "damaged party", i.e. the person who has suffered damage (financial or otherwise) due to a criminally significant fact. The "damaged" party is a person who can be the same as the "person offended by the crime" or not and, in the latter case, using the terminology of victimology, this figure is the same as that of the indirect victim.

It is interesting to stress here that, by doing so, the Italian legal system continues to use a description to designate the victim that is closely connected to the criminal proceedings and, therefore, only within this sphere will it take on a certain consistency and recognition (Conz, 2016). This situation, therefore, "may also limit the rights of the victim" (Scherrer, Kiendl Kristo, 2017, p. 51) and this may happen, for example, when the trial ends without a guilty party or in the cases in which the trial does not even start due to the lack of an accused (as in crimes by unknown parties).

At European level, the lack of a shared definition of victim remains evident as in other laws (Directive 2004/80/EC of 29th April 2004 on the indemnity of victims of crime),

the reference is to "any other person affected by the crime", therefore identifying a definitely much wider notion of victim if compared with that in Directive 2012/29.

In addition, this Directive, in art. 3, has the objective of guaranteeing for victims the right to understand and to be understood through communications "in simple and accessible language" and that they take into account "the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood." However, the Italian Legislative Decree, in this regard, has not clarified how this should take place in practice (Scherrer, Kiendl Kristo, 2017) and it has previously been highlighted how many Public Prosecutors have acted on their own initiative, issuing different information circulars. Furthermore, again relative to this right for the victim to obtain information in a language comprehensible to them, article 90bis of the Code of Criminal Procedure mentions only interpreting, while it would have been more appropriate to include also the right to intercultural mediation. Even though Directive 2012/29 does not mention it, the reference to intercultural mediation would have been particularly important in this sector, considering the fact that it has already been considered, since 2010, by the "Plan for the integration in safety. Identity and encounter – Italy 2020", with reference to the areas of work and the essential services which include foreign citizens. As is generally known, the mediator acts as a bridge, between the needs of the citizen-user (in this case the crime victims), "who do not understand or speak the language of the competent authority" (art. 5, Directive 2012/29), and the answers of the judicial authority. Therefore, the purpose of recourse to an intercultural mediator would be that of establishing a real dialogue between foreign citizens and operators of services of public utility, such as that represented by the justice system, as, in addition to the translation of the words, deciphering ideas and behaviour[3] is necessary, especially at such a particular time in the life of a person which

is the fact of being recognised as the victim of a crime and claiming this role, publicly reporting this condition to the authorities.

In connection with the individual evaluation of the particular vulnerability of the victim, according to the Directive, this must be done immediately (promptly) and through special measures, but the Italian law of enactment does not specify which body is designated to perform this verification (the Public Prosecutor, the Public Prosecutor's office, only the judge, but which one?) and how to do it (consultancy, expertise?) (Visconti, 2017). In order to carry out actions on behalf of vulnerable victims, some Public Prosecutors' offices, such as the one at the Court of Milan, have signed, of their spontaneous will, memoranda of agreement with the local institutions (councils and Prefectures) for the involvement and collaboration of the services in the area (hospitals, police, charity associations, social services). Others (such as the Public Prosecutor's office at the Court of Enna) have looked specifically at minors and have signed memoranda of understanding with the competent judicial authorities (Public Prosecutor's office and Juvenile Court) with the aim of encouraging the widest possible coordination between the offices involved for formalizing the methods of conducting the investigations and to ensure a homogeneous cover at local level with reference to, for example, the communications to the minor accused of a crime, establishing the presumed age of a minor who is a victim of crime, listening to the minor who is a victim of crime and examinations of a legal-medical nature.

Let us return to the aspect concerning the International Board of Coordination for the creation of an integrated network of services of assistance for the victims of crime, the objectives of which include, as has been seen earlier, providing the victim with the necessary help to be able to obtain compensation. It is worthwhile stating that in the document establishing this Board, there is no mention of reparation, while Directive

2012/29 deals both with compensation and reparation services, making (implicit) reference to that model of justice which involves the victim, the offender and the community in the quest for solutions to the effects of the conflict generated by the crime, for the purpose of supporting the reparation of the damage, the reconciliation between the parties and the strengthening of the sense of collective safety. In this regard, it can be recalled that on 11th March 2019, on the 15th European Day of Commemoration of the Victims of Terrorism, the European Commission favourably upheld the report by Joëlle Milquet (2019), special adviser for the indemnity of victims of crime appointed by the then President Jean-Claude Juncker, relative to strengthening the victims' rights based on the shift from compensation to reparation. This document stresses "the need for a EU Victims' Right Strategy" and, in this context, the objectives for a European Strategy for victims of intentional violent crimes include that of recommending that the Member States make a change of paradigm in taking charge of the victims, going from recognising the needs of the victims to being compensated to a more ambitious and fairer approach based on victims' rights to reparation for the harm suffered. This change of paradigm "implies an evolution from a mere financial assistance 'compensation' to the concept of 'reparation' covering the compensation for the personal, physical, psychological and financial harm suffered (and not via lump sums) but also elements of recognition, reparation (as much as possible), rehabilitation and building resilience" (Milquet, 2019, p. 36). This is, as is now generally known, a far more complex approach than that of simple compensation as the reparation schemes require "analysis and expertise of the different damages, the short and long term personal assessment of the victims' situation in order to try to fully repair what happened and to place the victim to the closest position possible of his/her previous life" (Milquet, 2019, p. 37).

A last suggestion for the works of this Interinstitutional Board is fundamental regarding the question of the telephone numbers for harmonized European services with a social value and, in particular, for the number 116006 "Direct telephone line for victims of crimes." Although the resolution establishing these numbers was issued on 13th January 2015 by the Italian Authority for Guarantees in Communications[4], the telephone line 116006 has still not been activated. In this regard, it is necessary to recall here that the recommendations made by Victims Support Europe (2012) to the Member States, and in particular that relative to the creation of "a special fund for, at least, the initial implementation of the helpline within the Ministry of Justice (or other more suitable in the national context) and to include a specific sum for awareness raising. This is a number of social value required by the European Commission and that can guarantee wider assistance to victims, setting their rights as a priority (following the EC's initiative in the latest years) and consequently also allowing a smoother course of judicial proceedings".

It is stressed above how the modest appropriations allocated each year to comply with the new laws, equal to Euro 1,280,000 (art. 3 of Legislative Decree no. 212/2015), show how much work there is still to be done for an effective protection of victims in Italy.

The situation will therefore have to be monitored to understand whether, a few years after the measure enacting the Directive, its provisions are effectively and concretely implemented in the everyday life of the judicial offices and courtrooms, especially in terms of promptness and completeness of the information to be provided, as well as the adequacy of the instruments of protection to be given. In particular, the daily professional practice of all those operators who have to do with the victims of crime, such as, for example police, members of the judiciary (lawyers and judges), operators with associations and local services, has to be analysed, nationwide. For this, it would

be useful to identify good practices[5] on the ways through which victims of crime are guaranteed the rights according to the Directive and understand how (and to what extent) these operators recognise a positive effect on their daily life, identifying a before and an after.

Lastly, it would be necessary to understand if and how Italy can succeed in finding the right balance between the pre-eminent interest of the State in correctly administering justice and the protection of vulnerable subjects, i.e. protecting the defence of the accused but without forgetting the interest of the victim. Being "on the victim's side" is believed as not necessarily meaning being "against the accused" (Piancastelli, 2013, p. 26). This is a prejudice which can still be linked to the great success in Italy of the theories of the Positive School, which deemed it fundamental to determine the type or the types predisposed towards criminal behaviour without any connection with the victim and maintained that the victim was to be protected through criminal policies of social defence of the preventive-repressive type. Therefore, it would be interesting to analyse to what extent this "prejudice" is still rooted in the mentality of operators.

4. Victimological awareness and consciousness of responsibility

The notion of victim, a typically criminological concept which crosses over to meanings extraneous to the more properly juridical topics, definitely lays down the need to reflect on its juridical importance as the subject of the procedure. As observed earlier, it does not have an autonomous juridical meaning in Italy except to the extent that the victim's participation is allowed for in the criminal proceedings. In addition, in Italian legislation, for example, the term 'victim' is used only in art. 498 section 4-ter of the Code of Criminal Procedure, with reference to the examination of the minor who is a victim of crime, or the adult with mental infirmity, this way highlighting their capacity

as weak subjects, in need of assistance and protection. The faculty of bringing civil action in criminal proceedings, a situation which most of the continental European systems have in common, is certainly decisive to be able to define the procedural subject.

In addition, particular attention, with specific consideration for the documents signed in Istanbul and Lanzarote[6], is paid to the processes of victimisation concerning women and minors, both deemed vulnerable victims.

The criminal protection of the victim in a European context remains a priority and this Directive is direct evidence of the will, already intrinsic in the Framework Decision of 2001, to protect the rights and guarantees of the person offended by the crime with the difference that, while considering some objective obstacles to a total harmonization of the provisions at the level of the individual Member States, "the passage from the 'Framework Decision' model to the 'Directive' model follows (…) a substantial increase in the force of penetration of the European legislative act in the national systems" (Luparia, 2015, p.5).

The provisions contained in the Directive lead to continuing the reflection, as recalled earlier, on restorative justice as well, even though none of its five chapters is explicitly devoted to it. In actual fact, reatorative justice appears in the Directive under preamble 46 when reference is made to victim-offender mediation, to dialogue extended to the family groups and advice on commensuration, recalling that they can be of great benefit for victims but, at the same time, require guarantees aimed at avoiding secondary and repeated victimisation, intimidation and retaliation. It is therefore opportune that these services put the interests and the needs of the victim, the reparation of the damage they have suffered and avoiding further damage, at the centre. In entrusting a case to the services of restorative justice and in carrying out a process of this kind, it is opportune

to take into account factors such as the nature and gravity of the crime, the level of trauma caused, the repeated violation of the physical, sexual or psychological integrity of the victim, the imbalances of power, the age, the maturity or the intellectual capacity of the victim, that could limit or reduce the faculty of making aware decisions or that could prejudice the positive outcome of the proceedings followed. In principle, the proceedings of restorative justice ought to be held confidentially, unless agreed otherwise by the parties or requested by national law for preeminent reasons of public interest. In art. 2 chapter 1 (General provisions) there is the definition of "restorative justice" which means: "any proceeding which allows the victim and the author of the crime to take part actively, if they freely consent, to settling the questions resulting from the crime with the help of an impartial third party."

With reference to the Italian criminal punishment system, the introduction of such a mechanism is particularly complex as the Italian system is by tradition little inclined to recognise that the victim plays a central role in the criminal proceedings.

It can be maintained that the Italian criminal system lacks a victimological awareness and, even when it happens, the central role of the victims has had little impact on the stage of the proceedings. In other words, when the emergencies do not allow alternatives, something is done, but often in terms of material indemnity which, moreover, means that the victim has to move in a bureaucratic maze where very rarely they receive an indemnity corresponding to the loss suffered and, in addition, these are often procedures applied to a minority of victimised subjects.

Considering the loss suffered by the victim in merely economic terms is very reductive as it is clear that the emotional impact causing severe damage to the self-esteem of the person is far greater than the economic loss. In short, the question of compensation is not without interrogatives: it can take on a very different importance if it is approached

according to criteria aimed at excluding from assistance subjects who are in economic conditions other than poverty or if, on the other hand, it is approached as reimbursement for damage caused due to lack of protection by the State, regardless therefore of the conditions of need of the parties concerned. Consequently, it is a terrain with strong tensions which, however, cannot be ignored and underestimated if we want to avoid the initiatives of help for the victims fuelling in them the feeling of a doubly betrayed social trust.

Victimology is then asked to measure itself up against a surrounding reality with differentiated tensions, with different origins and motives, which are contradictory and cannot always be traced back to linear patterns. The evolution of victimology has had the effect of reaching a greater understanding of the complexity of the process of victimisation together with an improvement in the services offered to the victims. However, despite this unquestionable progress, the tendency to blame the victims is a fairly widespread response which can be encountered even inside the bodies the institutions that have as their primary purpose that of helping the victim, as in the case of violence against women.

In order to be able to reach an effective action of protecting and safeguarding the victim, strictly juridical responses are perhaps indispensable, but also, and perhaps above all, it is necessary to have an awareness of the responsibility and duties that call for the mind and heart of men.

It is only through the desire to settle something and to work out various expectations that it is possible to act to try and find solutions for a specific problem. In this regard, other components have to be included, such as the participation with others to reach objectives, the awareness of one's own resources together with the courage to explore new possibilities.

Therefore, the problem that is always topical for work in the sphere of victimology probably concerns not so much the correctness or not of the theoretical settings as the behaviour to make them work. Hence the importance of victimological knowledge that is not abstract and impermeable to the real situations that increasingly involve the people who are the recipients of the actions in the decision-making process. The reference is to the action-research of Kurt Lewin (Burnes, 2004, pp. 977-1002) which can be considered as the study of a social situation to improve the quality of the action. The methodological choices of the action-research have their motivation in the need not only to study the issues in question, observing them as they constantly evolve, but also to implement flexible strategies that can be modulated to the search for adequate resolutions. This approach is of crucial importance as the Lewinian theory and methodology are based on the presumption that the relationship between the actor and his context is not of mere adaptation, but rather of change, i.e. of transformation of all the psychic, behavioural, institutional and organizational elements that are produced in a given field of social relations.

The action-research, in its widest meaning, is the production of knowledge linked to the variation of a given social reality with the active participation of all those concerned. In participatory research, the questions on the formulation of the purposes and deductions are higher and, therefore, this implies greater commitment and attention to building up trust. The application of this methodology requires care in the presentation and formulation of thoughts, suggestions, points of view and experiences in such a way that they do not represent a threat for anyone but, at the same time, the information and the fundamental messages have to remain intact.

To do this, it is also necessary to have a close relationship with the people in the field and an in-depth knowledge of the practical problems faced by the participants. Only

with knowledge and trust is it possible to be able to clarify and show their arguments and their statements.

This way of operating can allow, including for the studies and projects on victimology, defining questions, collecting information/resources, making hypotheses, analysing facts/data, interpreting phenomena and drawing conclusions that will be used as a starting point for new hypotheses. In this scenario, victimology can represent, using a pragmatic attitude oriented towards operative definitions, the falsifiability and verifiability of the hypothesis and the functional analysis of the phenomena, one of the possible strategies to take to use methodologies that are useful for the purpose of producing concrete results.

Trying to reflect further on the concept of the victim, we can state that a victim is a person who suffers due to another's behaviour and who undergoes damage, the existence of which is recognised by all and of which, at times, the victim is not aware. This clarification is important because it tells us that the recognition of the victimisation suffered by the victim is neither necessary nor sufficient, while recognition by another or others becomes of primary importance. Thinking, for example, of violence against women, we can naturally say that the fear of rape is rooted in the female memory, in a memory that can be defined collective, cultural, of gender; it is a fear that accompanies women throughout their lives, from adolescence, and which can condition their lives. It is a terror which is at its height in particular situations, such as during conflicts, but which is nevertheless present even in peacetime. There are characteristics that follow on one another and are repeated, distinguishing these events: attitudes of society, of the rapist, of the female victim which are presented over and over again over the years, in different contexts and in different places.

However, it has only been since the last decades of the 20th century that the relationship with the body, especially with women's bodies, has leapt to the centre of the political, economic juridical, social and cultural debate, fuelling very complex questions, with a high rate of sensitivity. *Having* a body and *being* a body: these are two fundamental objectives which in the course of time women have tried to attain for their complete realization. While the former is concentrated on the personal sphere, on the need to regain the anatomical body to explore the hidden self, the second shows the realisation of relations with others, in the light of a new awareness of socio-political rights that let women live in the world as historical subjects, capable of making their voices heard and in this way contributing to modifying customs and habits.

However, we have to admit that mentalities are hard to change, and prejudices even more so, especially where women are concerned. The data of the Italian National Institute of Statistics (ISTAT), published on the International Day for the elimination of violence against women in 2019, are a sad confirmation of this: almost 40% of the Italian population (39,3%) think that a woman can avoid having sexual intercourse if she really does not want to. It is more often men (41.9% against 36.7%) and people with a low and medium-low level of education who believe this. Between the two sexes, the differences are accentuated amongst the youngest: 41.4% of men aged 18-39 believe that "women who do not want sexual intercourse can avoid it", against 32.4% of women of the same age and amongst the more highly educated (37.9% of male university graduates against 28.9% of female university graduates). This is absolutely not true, considering the situations of physical inferiority, stress and fear in which a woman can be. This is not the only surprising element of the report: 23.9% think that women can cause sexual violence with their way of dressing, thus effectively justifying the aggression, while 7% "accept the slap by the person who feels betrayed" (ISTAT,

2018). These data show how much work still has to be done to protect women, even from themselves, because the sample includes people of both sexes aged between 18 and 74. Clearly there are mothers, wives, girlfriends and single women who believe they are safe and agree with the prejudice of many men, according to whom an emancipated woman who undergoes violence "was looking for it." Many others undergo abuse in silence, without finding the strength to rebel and others still believe that jealousy and passiveness by their partner are synonymous with love.

5. Conclusion: Setting up paths of concertation and listening

Listening, and more in general attention to the other, are to be deemed essential components to build up good relationships. We are thinking about living in the world not just to be in it, but to learn. We are thinking about building up the psychological bases of the man: his capacity to feel esteem for himself and for others. In a world full of assertions, in which asserting is preferred to asking, then the services that deal with victims together with other educational agencies and these certainly include schools, ought to teach how to give importance to the dimension of the question and that interrogative dimension as a possibility to get to know the other's world better.

Appearing as an actor in the social network, who facilitates and mediates the relationship between individuals and local services means in the first place dialoguing with the professionals in other services, according to a multiagency approach which, by presuming clear and shared languages and objectives, avoids interventions overlapping, which would otherwise risk becoming iatrogenic. These considerations also allow reflecting on the juridical order which, according to Lévinas, comes not from limiting the freedom of an individual, but the responsibility of each individual in relation to the other. Starting from this reversal of perspective, Lévinas thinks of two alternatives and

states his theory, maintaining that: "We have to ask the question: is the original semantic situation in which the human individual receives meaning or takes on law, perhaps equivalent to the local gender/individual pattern where, from one individual to another, otherness remains reciprocal and in which the notion of the human Individual is fixed through the objectivation of any individual of the gender, as each is the other of the other? (Lévinas, 2012, p.228). This is the possibility that has been most practised in Western thought and which has led to a substantial forgetting of otherness, while Lévinas glimpses another possibility: "Or – the second term of the alternative – the original access to the individual as a human individual, instead of being reduced to a simple objectivation of one individual amongst others – is a characteristic access in which he who accedes also belongs to the concreteness of the encounter without being able to take the distance necessary for the objectivizing gaze, without being able to be freed from the relationship" (Lévinas, 2012, p.228). The only right of which Lévinas speaks is precisely that of the other, because it is the only one that can protect the irreducible uniqueness of each one.

All this can perhaps take on the meaning that it is not so important to meet someone who tells us exactly how we can solve our problem, at times even offering empty and illusory promises, but rather to meet someone who recognises us and is willing to go with us on a path which winds beyond the reassuring certainties.

This implies, on the one hand, the abandonment of the illusion that all problems can be solved with an act of will and, on the other, the acquisition of the awareness that the absence of solutions is not synonymous with the absence of actions. Hence the importance that the process of listening to an existence marked by suffering takes on in help for the victims: picking up from the writings of Jean-Luc Nancy on the subject of listening, Borgna states that "listening takes place […] *at the same time* as the sonorous

event (of the words, or music listened to); and this is a disposition which is radically different to that of vision: in the latter, the visual presence is already *there,* available before it is seen; while the sonorous presence *arrives*: it implies an *attack* as musicians say (Borgna, 2005, p. 201).

It is precisely from this "attack" that it is perhaps possible to think of building up concrete actions and project development for victims that are distinguished by a specific attention of relational reinforcement, organisation and coordination of the social resources present locally without ever forgetting that the recipients have a subjectivity often marked by a tangle of emotions which at times explode and at times dry up but which always require the respect of their secrets, their silences and their weaknesses.

By operating this way, we can perhaps think of being able to help the Other to have a reparative experience of the damage that the various experiences have caused. It becomes important to understand, in other terms, what happened between the Other and the surrounding context. Understanding beyond and something else with respect to what had already been understood, even though it is not painless, is a good experience because it changes things, it opens up new paths for doing, it becomes a realisation that implies a reorganisation of the operative field. And in this way, after having, precisely, understood that having understood beyond and something else with respect to what had been understood in the past, we can perhaps really think of changing the past: not the facts in themselves, as what happened cannot be changed, but it is possible, at least in part, to change the experience with respect to those facts.

Moreover, our past, for each of us, is what we remember here and now and that can now take on the form of great nostalgia or fear that that time can return. Once again, our past is a story, our story, for how we can and are able to tell it in the here and now to someone else. Obviously this story can be transformed into many different stories

and, in this sense, the past can be changed almost by doing something magical, whether or not it is large or small, for their future (Adami Rook, 2007, p. 23).

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Endnotes

[1] This article is the result of shared reflections: specifically, paragraphs 1, 4 and 5 were written by Roberta Bisi and paragraphs 2 and 3 by Raffaella Sette.

[2] Published on the institutional website of the association www.vittimologia.it

[3] http://www.integrazionemigranti.gov.it/Attualita/Approfondimenti/approfondimento/Pagine/Mediazione/QUADRO_NAZIONALE.aspx#4

[4] https://www.agcom.it/documents/10179/1615548/Delibera+8-15-CIR/570b0bb9-15b3-41db-abc2-d607111576e0?version=1.1

[5] Identifying "good practices" means bringing out procedures, actions and innovative experiences which allow obtaining the best results in this context, starting from the involvement and the active participation of operators for the purpose of their becoming responsible.

[6] Convention of the Council of Europe of 2007 on the protection of children against sexual exploitation and sexual abuse. Lanzarote, 25th October 2007; Convention of the Council of Europe on preventing and combating violence against women and domestic violence. Istanbul, 11/05/2011.