

# Laws and sexual prejudices in the Italian positivist culture: murderous mothers and the education to infanticide

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**Abstract.** The aim of this specific work is to locate the Italian debate about the “infanticide honoris causa” within the positivist culture of the end of 19th century. First of all, the paper will make the reader familiar with the debate concerning the objectivity of human sciences by studying how these sciences faced the issue of female sexuality; it will also describe the patriarchal definition of the relationship between gender and social roles. In order to accomplish this task, the paper will report on the studies of Italian scholars and scientists such as Paolo Mantegazza, Cesare Lombroso, Giuseppe Sergi etc. The paper also tackles the issues of the female sexual sensitivity, dealing with the old prejudice of women’s inferiority together with the cultural perception of motherhood as traditionally intended by the Italian culture. This research study shows how the social relationship between men and women can be seen under different perspectives. Finally, the main purpose of the present paper is to bring to light the different social cultural perception of the infanticide mother as it is well exposed by the gynecologist Muzio Pazzi together with the lawyer Vincenzo Mellusi, two personalities with a deep expertise on the study of this specific crime.

**Keywords.** History of female sexuality; Gender education; “Honoris causa” infanticide; Vincenzo Mellusi; Muzio Pazzi

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## 1. On the objectivity of human sciences in the study of women

Between the Nineteenth and the Twentieth century human sciences started to investigate upon the definition of the women’s nature, both in its normal and abnormal condition. According to a widespread methodological approach that inferred the moral qualities of individuals from an innate and immutable psycho-physical constitution, most of the positivist sciences assigned sexually diversified social competences to men and women. Hence, the emergence of a form of a bijective determinism: the social and cultural role of women, and at the same time that of men, was seen as determined by – and consequent to – her/his anatomical conformation. Consequently, confusing and often superimposing the psychological-moral level with the anatomical-biological one, the positivist culture had led to a vision of science as a place completely devoted to discovery and promotion of values<sup>1</sup>.

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<sup>1</sup> Cf. V. P. Babini, *L’infanticida tra letteratura medica e letteratura giuridica*, in P. Rossi (a cura di), *L’età del*

However, even if now we might consider this positivistic stance as imbued of different sorts of prejudices, it is better to reconsider it carefully in that specific context, taking into account how scientists like Paolo Mantegazza, Cesare Lombroso, Giuseppe Sergi, Muzio Pazzi etc. actually thought and formulated their theories<sup>2</sup>.

According to the lesson of the historian and philosopher of science, Thomas Kuhn, the objectivity of science is inscribed in a complex system of beliefs, called 'paradigm' that considers as 'normality' what from a different paradigmatic perspective might not be seen as "normal", but could be rather intended as absurd and not valid<sup>3</sup>. As Fernanda Minuz says, we must consider science as an activity conducted by men within social contexts conditioned by systems of belief and of codified and often shared values<sup>4</sup>.

Valeria Babini has eventually formulated the rhetoric hypothesis according to which cultivated men and scholars of the Nineteenth/Twentieth century «unconsciously» applied in their discourses, categories that were the product of their own way of being. Therefore, their hypothesis and theories ended up more as «expressions of the spirit of an author, of a culture, and of an era, than products of a scientific and verified elaboration»<sup>5</sup>. Also Giuseppe Mazzini held that position. In his exaltation of the role and dignity of what he defined as the angel of the family, the woman as mother / spouse / sister, he wrote, addressing the Italian men:

amate, rispettate la donna. [...] Cancellate dalla vostra mente ogni idea di superiorità: non ne avete alcuna. Un lungo pregiudizio ha creato, con una educazione disuguale e una perenne oppressione di leggi, quell'apparente inferiorità intellettuale dalla quale oggi argomentano per mantenere l'oppressione. [...] Davanti a Dio Uno e Padre non v'è uomo né donna; ma l'essere umano [...]»<sup>6</sup>.

Notwithstanding this position, the prejudice of the inferiority of women played a crucial role in the medicalizing function of women's body and psyche. Thus, with the creation of a scientific stereotype of a sound and healthy femininity – that brought forth a normative definition of what a woman should be – human sciences contributed to the creation of a mechanism that established a sort of socio-cultural control of the male sphere over the female<sup>7</sup>.

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positivismo, Bologna, Il Mulino, 1986, pp. 453-474, p. 473; cf. Ead., *Un altro genere. La costruzione scientifica della «natura femminile»*, in A. Burgio (a cura di), *Nel nome della razza. Il razzismo nella storia d'Italia, 1870-1945*, Bologna, Il Mulino, 1999, pp. 475-489, p. 477.

<sup>2</sup> In this paper I will focus on different discourse by the lawyer Vincenzo Mellusi and the gynecologist Muzio Pazzi. I will consider their works as inscribed in the historical and conceptual frame of the culture of the Nineteenth Century, especially as far as the scientific and cultural perception of women is concerned. As I will eventually show in this paper, the aim of this section is not that of discrediting the hypothesis according to which different prejudices could be at the base of scientific research; rather I show to what extent scientists were conscious of the real nature of such prejudices.

<sup>3</sup> Cf. T.S. Kuhn, *Le rivoluzioni scientifiche* (1987), trad. it., Bologna, Il Mulino, 2008.

<sup>4</sup> Cf. F. Minuz, *Femmina o donna*, in V. P. Babini, F. Minuz, A. Tagliavini (a cura di), *La donna nelle scienze dell'uomo: immagini del femminile nella cultura scientifica italiana di fine secolo*, Milano, Franco Angeli, 1986, pp. 114-160, p. 117.

<sup>5</sup> V. P. Babini, *Il lato femminile della criminalità*, in V. P. Babini, F. Minuz, A. Tagliavini (a cura di), *op. cit.*, pp. 25-77, p. 28: «più espressioni dello spirito di un autore, di una cultura e di un'epoca che concetti e prodotti di un'elaborazione scientifica controllata».

<sup>6</sup> G. Mazzini, *I doveri dell'uomo*, Torino, L'Impronta, 1944, pp. 51-52.

<sup>7</sup> Cf. A. Tagliavini, *Il fondo oscuro dell'anima femminile*, in V. P. Babini, F. Minuz, A. Tagliavini (a cura di), *op. cit.*, pp. 78-113, p. 83.

More in general, the ideal that the human sciences defended was that of the «male, white, heterosexual, adult», seen as the normal-type, and exploiting it as a standard measure through which to determine – by subtraction – the anomaly, the abnormal, the criminal behavior, etc.<sup>8</sup> At the same time, in contrast to the figure of the pre-dominant male, there was, by contrast, that of the woman who «had to be a mother and a wife, prudent to direct her sexuality to procreation and to ask men for their protection for her weakness»<sup>9</sup>.

Most of the Italian positivist scientists moved on this ground; starting from this cultural *habitus* they gave substance to their scientific research and theories (or presumably such). The Genoese gynecologist Luigi Maria Bossi, founder in 1908 of the journal of obstetrics and gynecology «Modern gynecology» («La ginecologia moderna»), had recommended and proposed a collaboration «of the Italian psychiatrists with the Italian gynecologists»<sup>10</sup> and his disciple Muzio Pazzi, free lecturer in gynecology at Bologna had reported on the intention to hold a «referendum between gynecologists and psychiatrists»<sup>11</sup> (though always admitting the pre-eminence of the physiologic on the psychic). Notwithstanding the above-mentioned examples, a methodological orientation tending to enhance disciplinary autonomy prevailed among the scholars of human sciences. In particular, psychiatry, anthropology, gynecology, etc. all these disciplines tried to bring the study of women back to their normal field of study and to their observation criteria. Thence, the emergence of categories and definitions as the *uterine woman* in gynecology, the *female animal* in anthropology, the *hysteric* in psychiatry<sup>12</sup>.

Consequently, while gynecologists like Bossi or Pazzi had identified in the genital lesions and physiological changes of the female body (pregnancy, childbirth, puerperium etc.) the first cause of psychic anomaly and of some criminal manifestations<sup>13</sup> – though with some obvious differences – anthropologists like Mantegazza, Lombroso and Sergi had identified in the human being an object of study to be investigated with the method of zoology<sup>14</sup>. As for psychiatry, scholars had *identified* in the female desire to escape from the normative reality, and therefore in the rejection of *naturally* imposed roles of wife and mother, the main cause of female madness. In the morbid manifestations of such madness «the dark background of femininity, made of fantasy and eroticism, could freely come to the surface»<sup>15</sup>.

<sup>8</sup> M. Filippi, *L'invenzione della specie. Sovvertire la norma, divenire mostri*, Verona, Ombre Corte, 2016, p. 12. «maschio, bianco, eterosessuale, adulto».

<sup>9</sup> F. Minuz, *La norma del femminile nell'antropologia*, in P. Rossi (a cura di), *op. cit.*, pp. 439-452, p. 449: «doveva essere madre e moglie, pudica indirizzare la sua sessualità alla procreazione e richiedere dall'uomo la protezione per la sua debolezza».

<sup>10</sup> L. M. Bossi, *A proposito di malattie utero-ovariche e psicopatie: urgenza di riforme nel sistema manicomiale*, Varese, Premiata Tipografia Cooperativa Varesina, 1912, p. 6: «degli psichiatri stessi coi ginecologi italiani».

<sup>11</sup> M. Pazzi, *Concetto giuridico e scientifico dell'infanticidio e dell'aborto criminoso e considerazioni critiche relative pel Prof. M. Pazzi*, «Rassegna d'Ostetricia e Ginecologia», Napoli, Cav. N. Jovene e C., 1913, p. 21. «referendum fra ginecologi e psichiatri».

<sup>12</sup> Cf. V. P. Babini, *Un altro genere*, cit., p. 486.

<sup>13</sup> Cf. Ead., *L'infanticida*, cit., p. 465.

<sup>14</sup> Cf. F. Minuz, *La norma del femminile*, cit., pp. 442-443.

<sup>15</sup> A. Tagliavini, *Il fondo oscuro*, cit., p. 102: «poteva liberamente venire in superficie il fondo oscuro della femminilità, fatto di fantasia ed erotismo».

As for this aspect, apparently the morbid phenomenon (such as the hysterical crisis) was to be interpreted as the symptomatic expression of a woman's rejection of a *diminished* female identity perceived as minority. It is as if all the women living in such uncomfortable condition – “chose” the disease as a stratagem and showed their suffering, almost a claim of it, through pathological manifestations ending up in alterations of the somatic spheres<sup>16</sup>. Karen Horney defined this condition as an “escape from femininity”. It consists in the refusal of that identity historically and culturally recognized as inferior, that started to be perceived as a burden for existence<sup>17</sup>.

Furthermore, the idea of a female inferiority had been so well introjected into the socio-cultural body that from being a prejudice, it had turned into custom to the point that, as the French sociologist Pierre Bourdieu claimed, the same women could not have done anything other than confirming, with their daily attitudes and practices, the prejudice of male domination<sup>18</sup>. Reading of the relationship between the sexes according to the categories of compensation/complementarity, on the one hand, and attributing sexually differentiated social roles, on the other, fostered the already widespread idea of a conflicting relationship between the sexes.

Thus, from the theorized male fear of the feminine, as well as from an original perception by man of a biological inferiority due to the impossibility of *naturally* generating something new (an offspring), it is possible to see the progressive development of a different hypothesis of interpretative history on the role and orientation of positivist sciences and medicine.

Between the nineteenth and the twentieth century, both in the medical-scientific field and in the moral and religious sphere, an attempt was made to develop an image of female *eros* that was even more charged with prejudices and fears than in the past; this responded to the demand of a male culture fearing that through emancipation women might search and claim for a new subjectivity<sup>19</sup>. Therefore, there is a contrast between the image of science (or pseudo-science) consciously oriented and the image of an alleged objectivity and intellectual honesty (at least in the intent of scientists and doctors). It was almost inevitable to pass from this considerations to the condemnation of all those forms of sexuality considered unnatural, as well as illegal – such as the pursuit of pleasure outside the marriage bond (the only natural, legitimate and approved bond for traditional morality), as the multiple forms of marital onanism (and the most varied means and methods of contraception), as a generalized fear of sex, to the condemnation of any form of non-normatively repressive sex education.

<sup>16</sup> Cf. *ivi*, p. 82.

<sup>17</sup> Also, interesting and within the same disciplinary orientation is Gregory Zilboorg's interpretation (that for many reasons can be compared with that of Karen Horney). In his essay dated 1944, Zilboorg claimed that the rationalism of the Eighteenth Century and the biology of the Nineteenth century had done nothing but «validate, providing new evidence, that men had always been right when he wanted to claim his own superiority». G. Zilboorg, *Il maschile e il femminile: alcuni aspetti biologici e culturali* (1944), trad. it., in Jean Baker Miller (a cura di), *Le donne e la psicoanalisi*, Torino, Bollati Boringhieri, 1976, pp. 93-121, p. 99: «convalidare, con le nuove 'prove', la tesi che l'uomo è sempre stato pienamente giustificato nel rivendicare la propria superiorità».

<sup>18</sup> Cf. P. Bourdieu, *Il dominio maschile* (1998), trad. it., Milano, Feltrinelli, 2017, pp. 42-43.

<sup>19</sup> Cf. F. Borruso, *Il discorso sul piacere: obblighi riproduttivi e controllo sociale dei corpi tra Otto e Novecento*, in G. Seveso (a cura di), *Corpi molteplici. Differenze ed educazione nella realtà di oggi e nella storia*, Milano, Guerini e Associati, 2017, pp. 55-68, p. 55.

The function of these preliminary considerations is to provide a wide cultural and conceptual context to the issue at stake. A first consequence to such premises can be Angela Putino's hypothesis; she says that it is necessary to consider bodies simply as "sexed" and not as "sexual". In other words, the concepts of femininity and masculinity must not be considered bound to the corporeality of the subjects but the product of multiple, and changing, socio-cultural constructions (and constrictions)<sup>20</sup>. Starting from this consideration, I will describe how in Italy, in the nineteenth and twentieth century a predominant image of the mother-woman was imposed; it is an image which involved, among other things, the cultural construction of the concept of sexual honor.

After defining some of the causes that led to a stereotyping of this prescriptive ideal of *normal* femininity, I will now focus on a representation of women that was widespread among scientists of the time and I will describe a form of crime most of the time ascribed to women delinquency: infanticide. In doing so, particular attention will be paid to the work of Vincenzo Mellusi, a lombrosian lawyer from Puglia and professor of the American Institute of Higher Studies, and to the aforementioned Genoese gynecologist Muzio Pazzi. In this regard, although Mellusi represents a scholar still anchored in the predominantly patriarchal culture, what emerges from his reflection is the tendency to a sincere, but perhaps still naive, form of *emancipationism*. So much so that in the preface to the second edition of the little book focusing on the feminine question, his friend Salvatore Favitta ascertained how the author had succumbed to the "literary vulgarity" in wanting to spoil the social mission of women "through the emancipatory education"<sup>21</sup>. I think that both emancipationists or pseudo-emancipationists aimed at a re-appropriation for women of a arendtian human dignity: the recognition of the right to personal identity<sup>22</sup>. That is to say, the right to be a person with an autonomous existence and whose function, beside the natural prerogatives of wife and mother, would have its own importance and its specific weight in the cultural and social world, traditionally the prerogative of men only.

## 2. Culture, education, genre: the invention of the woman mother

As it has been said, the *scientific* studies on women had strengthened that pre-existent and co-existent corpus of ideas that had generated a set of prescriptive social and educational norms, differently binding as for men and for women. Furthermore, as the body in its interactions with the psyche was among the privileged objects of study of human sciences, the Italian society witnessed an increasing consolidation of a system that aimed at fulfilling the function of socio-sexual control through the process of medicalization. In this sense, the researches of doctors, psychologists and anthropologists had precisely the function of defining a prescribed "normality". And in this context,

<sup>20</sup> Cf. A. Putino, *op. cit.*, pp. 81-82.

<sup>21</sup> Cf. S. Favitta, *Prefazione*, in V. Mellusi, *Femminilità*, Trani, Eduardo Paganelli, 1893, pp. VII-XIV, pp. X-XIV. The first issue of this book was published by the publisher Vecchi in 1890; it was titled *Questione femminile*. On its cover instead of Mellusi we read Vincenzo Melluso. However, it is the same book. The second edition was published in 1893, the same year as the book *La donna delinquente, la prostituta e la donna normale* that is reviewed in the book itself; «mercé l'educazione emancipatrice».

<sup>22</sup> Cf. H. Arendt, *Prologo* (1975), trad. it., in Ead., *Responsabilità e giudizio*, Torino, Einaudi, 2004, pp. 3-12, p. 11; cf. P. Bourdieu, *op. cit.*, pp. 36-39.

the study of “peripheral sexuality” enabled to distinguish norm from deviance<sup>23</sup>; it also brought forth<sup>24</sup> a prescriptive characterization of roles according to sex, and this led to the identification in the corporeity of a normative device in the definition of social relations between men and women<sup>25</sup>.

What I want to demonstrate in this paragraph it is that the identification in the female body of a place destined exclusively to receive the virile member and to contain the fruit of the sexual intercourse, would induce some of those women who felt oppressed by their physiological functionality, to see motherhood not as a privilege, but as an obligation from which they sought to escape. Contraception, abortion and infanticide would therefore represent the tools to pursue emancipation from a predetermined and often not freely chosen life path. It is possible to see an interesting picture of the perception of women, for example, in Massimo Bontempelli’s book (published in 1923) *Eva ultima*. In the text, which depicts a woman falling in love with an android, we read that the woman is a “devilish” human being: even theology has denied her the soul, and her nature is that of a sorceress: «Your filters – Evandro tells Eva – are your eyelashes and pupils, and every gesture of yours and every movement is a spell»<sup>26</sup>.

Notwithstanding the widespread stereotype of a female sexual activity limited to the seductive and procreative capability, significantly the scientific community often debated on women sexual sensitivity. For Cesare Lombroso and Giuseppe Sergi, for example, male sexuality can be fulfilled in the pleasure experienced during the sexual intercourse, while, on the other hand – and as a consequence of a naturalistic instance that saw in the woman the container and incubator of the seed – women sexuality consisted in the fulfillment of a natural task: motherhood. The “normal woman”, therefore, whose sexual destiny should coincide with her social destiny, was that inscribed in the category of passivity and in the fulfillment of the privileged conservative function of the species. This belief was so deeply rooted that any intense female orgasm was also interpreted as a morbid phenomenon<sup>27</sup>.

In this regard, Sergi defines as a “normal woman” a woman who «loves to be courted and loved, but who also gives in as a victim to man’s sexual desires». At the same time, he states that «one needs many caresses and a lot of tickling to induce a woman to give in with pleasure and make her feel sexual pleasure; without these means she remains cold, and she neither gives, nor gets satisfaction»<sup>28</sup>. Also the already mentioned Lombroso and Ferrero described women supposed natural frigidity, almost as scientific evidence. They

<sup>23</sup> Cf. B. P. F. Wanrooij, *La carne vedova. Immagini della sessualità femminile*, «Belfagor», a. XLII, 1987, n. 4, pp. 454-466, p. 465.

<sup>24</sup> Cf. *ivi*, p. 455.

<sup>25</sup> Cf. C. Covato, *Corporeità, educazione e studi di genere*, in G. Seveso (a cura di), *op.cit.*, pp. 9-13.

<sup>26</sup> M. Bontempelli, *Eva ultima*, Milano-Roma, Mondadori, 1924, p. 89: «i vostri filtri – dice a Eva Evandro – sono le vostre ciglia e pupille, e ogni vostro gesto e ogni movenza è un incantesimo».

<sup>27</sup> Cf. B. P. F. Wanrooij, *La carne vedova*, cit., pp. 454-455; F. Minuz, *Femmina o donna*, cit., pp. 136-143; P. Sorcinelli, *Storia e sessualità. Casi di vita, regole e trasgressioni tra Ottocento e Novecento*, Milano, Bruno Mondadori, 2001, pp. 133, 147.

<sup>28</sup> G. Sergi, *Sensibilità femminile*, «Archivio di psichiatria, scienze penali e antropologia», XIII, fasc. 1, 1892, pp. 1-8: «ama di esser corteggiata e amata dall’uomo, ma cede come una vittima alle di lui voglie sessuali»; «bisogna far molte carezze e molto solletico per indurre la donna a cedere con piacere ed a farle sentire il piacere sessuale; senza questi mezzi rimane fredda, né dà, né ha soddisfazione».

stated that women «have less eroticism and greater sexuality» than man<sup>29</sup>. As for Muzio Pazzi, «normally women's sexual sensitivity is much lower than men's»<sup>30</sup>.

In this sense, the theory of infantilism acquired a very specific meaning, as the equivalence between the constitutionally more natural sensibility of women and that of children was justified with pseudo-scientific theories. Yet, according to Lombroso, children were those humans whose development had stopped at a primitive and inferior evolutionary stage; for Mantegazza, the nature of the child was characterized – in a sense that we could define Rousseauian – by a relationship not mediated with the environment and therefore by a greater spontaneity and affectivity<sup>31</sup>.

Therefore, for Mantegazza women's sexual sensitivity was even more intense than men's; moreover, women (passive) sexuality was lived with greater transport because it was teleologically subservient to the maternal function<sup>32</sup>. However, due to physiological reasons, women had been forced to translate their biological destiny into a prison that would allow them to fulfill their social mission: being a mother and educating children<sup>33</sup>.

In such context the definition of women's social identity had obtained its legitimacy from an original biological nature; on a scientific – but also more generically cultural – ground, the recognition of the superiority of the feminine biological destiny entailed the emergence of the idea of compensatory relationship between the peculiarities of the sexes, featuring on the one hand, strength, intelligence and masculine creativity, and on the other, meekness and the educational abilities of women, who were considered, however, intellectually inferior. After claiming that notable men prefer good women to talented women, Mantegazza wrote:

gli amori più spontanei, più naturali, più gagliardi sono quelli che si completano a vicenda, cercando ciascuno ciò che gli manca, per cui non v'ha per noi seduzione maggiore, che quella di associare il genio alla perfezione delle forme e di raddolcire il ferro dell'energia virile nel bagno voluttuoso della mansuetudine e della tenerezza<sup>34</sup>.

Sergi considered the fact that women were less intelligent than men as a fortunate circumstance, because this would prevent a competition and a social struggle between the two sexes<sup>35</sup>. Conversely, Vincenzo Mellusi proposed what can be defined as a proto-emancipationist discourse:

<sup>29</sup> C. Lombroso, G. Ferrero, *La donna delinquente, la prostituta e la donna normale*, Torino-Roma, L. Roux e C., 1893, p. 57. «Ha minore erotismo e maggiore sessualità».

<sup>30</sup> M. Pazzi, *Per la profilassi dell'aborto criminoso e dell'infanticidio*, «Lucina», n. 2-3, Bologna, Stabilimento Poligrafico Emiliano, 1913, p. 6: «in via normale la sensibilità sessuale della donna è di gran lunga inferiore a quella dell'uomo»

<sup>31</sup> Cf. V. P. Babini, *Un altro genere*, cit., pp. 482-483; B. P. F. Wanrooij, *La carne vedova*, cit., p. 457; C. Covato, *L'educazione sentimentale. Teorie, norme, esperienze*, in F. Borruso, L. Cantatore, C. Covato (a cura di), *L'educazione sentimentale. Vita e norme nelle pedagogie narrate*, Milano, Guerini e Associati, 2014, pp. 17-42, p. 26.

<sup>32</sup> Cf. P. Mantegazza, *Igiene dell'amore* (1877), Firenze, Bemporad, 1930, p.153. Id., *Fisiologia del piacere* (1854), Milano, Bernardoni, 1867, p. 55.

<sup>33</sup> Cf. F. Borruso, *Ritratto di famiglia in un interno. L'educazione sentimentale della famiglia borghese fra Otto e Novecento nella letteratura e nel cinema*, in F. Borruso, L. Cantatore, C. Covato (a cura di), *op. cit.*, pp. 43-63, p. 48.

<sup>34</sup> P. Mantegazza, *Igiene dell'amore*, cit., p. 297.

<sup>35</sup> Cf. V.P. Babini, *Un altro genere*, cit., p. 478.

Io credo invece che gli uomini si spaventino delle donne colte [...] L'educazione intellettuale delle donne è manchevole; esse arrivano all'età nubile con iscarsa suppellettile di cognizioni, non solo scientifiche e letterarie, ma altresì e principalmente morali intorno allo scopo e ai doveri del matrimonio; sono abituate a maritarsi senza conoscere abbastanza né sé, né il compagno della loro vita [...] talché il matrimonio [...] si trasforma in una società di reciproco inganno [...] e gli uomini dal canto loro si abituano insensibilmente a considerare le donne come esseri inferiori a loro, e a trattarle piuttosto come cortigiane che come mogli eguali, in dignità e diritti. Per rimediare a questi mali bisogna rigenerare la donna con l'istruzione. [...] Quale interesse può avere l'uomo a sposare una donna che non sappia nulla, a meno che non sia egli medesimo in questo caso?<sup>36</sup>

Mellusi's criticism underlines the male intent to keep women confined into a state of perpetual ignorance, justifying this with the need to sacrifice their whole life to motherhood. This attitude was meant to replicate the same sexual habits «that simulate the characteristics of a right, while perpetrating an unjustified violence»<sup>37</sup>.

This is why I here talk about the construction of the idea of woman-mother, almost a socio-cultural invention. Since the Nineteenth century, the century in which father figures were dominant<sup>38</sup>, the exaltation of motherhood and of the educational and curative function of women had helped foster the *innate* intellectual and cultural superiority of men. Giulia Di Bello's words are highly significant: the maternal role «is built upon a supposed women's inferiority»<sup>39</sup>. In such context the refusal of motherhood, seen as a refusal of an external and forced imposition, becomes a concrete form of *emancipationism*, though sometimes questionable.

Voluntary termination of pregnancy, conscious birth limitation and infanticide became the main tools through which women tried to emancipate their own condition of female mammary socially recognized as mother only<sup>40</sup>. Furthermore, though different in the practices and consequences, abortion, contraception and infanticide were often intended as equivalent in function of that common purpose women sought to achieve.

However, all this set of knowledge, prejudices and prescriptions reverberated through the collective unconscious, within that educational paradigm that, being sexually differentiated, seemed to confirm the hypothesis of an alleged inferiority and passivity of women – mother and assistant of men – and of the equally presumed superiority of men-workers, active and producers of culture<sup>41</sup>. Thus, from the purpose of creating «an authentic and good housewife, as well as an educated and polite young lady»<sup>42</sup>, originated the ideal of femininity according to the principles of «weakness, intellectual inferiority»

<sup>36</sup> V. Mellusi, *Femminilità*, cit., pp. 7, 13-14.

<sup>37</sup> *Ivi*, p. 15. Cf. C. Covato, *Educare bambine nell'Ottocento*, in S. Ulivieri (a cura di), *Le bambine nella storia dell'educazione*, Bari-Roma, Laterza, 1999, pp. 215-246, p. 227: «dove simulano più le sembianze di un diritto, nascondono la più ingiustificata violenza».

<sup>38</sup> Cf. C. Covato, *Pericoloso a dirsi*, Milano, Unicopli, 2018, pp. 103-121.

<sup>39</sup> G. Di Bello, P. Meringolo, *Il rifiuto della maternità. L'infanticidio in Italia dall'Ottocento ai giorni nostri*, Pisa, ETS, 1997, pp. 15-118, p. 29.

<sup>40</sup> Cf. D. Visca, *Il sesso infecondo. Contraccezione, aborto e infanticidio nelle società tradizionali*, Roma, Bulzoni, 1977, pp. 33-39.

<sup>41</sup> Cf. L. Cantatore, *Un'identità femminile moderna. L'autobiografia di Ida Baccini*, «Espacio, Tiempo y Educación», vol. 1, 2014, n. 1, pp. 31-54, p. 34; S. Ulivieri, *Educare al femminile* (1995), Pisa, ETS, 2016.

<sup>42</sup> M. Cavanna Viani-Visconti, *La fanciulla istruita e buona massaia*, Milano, Paolo Carrara, 1887: «una vera e buona massaia, al tempo stesso che una signorina istruita ed educata».



rity, coquetry, docility, and loving availability»<sup>43</sup>.

The characterization of the female category as *naturally* subordinated led to the definition of an unequal morality. Furthermore, the theories on a lower sexual sensitivity and the widespread consideration of the female body as men's property, had led to consider the limits of women sexuality as a mitigating circumstance, if not a real trick for male libertinism. As we can read in *L'immoralità del matrimonio*, a pamphlet translated from French into Italian by the socialist Fortunato Serantoni, and reprinted in 1920 by the Società editoriale Neo-Malthusiana, institutions like the Church and the State were responsible for this situation: recognizing all right to men and denying the same rights to women, both the Church and the State silently allowed men to «keep one, or even ten lovers, if he wants, and as long as he does not lead them into the marital bed, the bride cannot object». On the other hand, «the woman's adultery [...] is punished with prison. It is unbelievable»<sup>44</sup>.

Funny, and rather indicative of such habit is the case told by Umberto Notari: Lorenza, a woman who represents the emancipationist ideals of the first years of the twentieth century, hurts the pride of the marquis Olinto Baglia, her husband. Once the marquis was caught while «laying in a condition of unequivocal interpretation [...] with a person who was not his legitimate wife»<sup>45</sup>, Lorenza decides to demolish the presumption of male superiority, choosing to leave her husband unpunished.

This reference to the economist and novelist Umberto Notari, who was culturally far different from Mellusi, a jurist, and Pazzi, a gynecologist, is particularly significant here: it is meant to show how that male culture, fearing that an economic and social emancipation of women would lead to a loss of male authority, reproduced diachronically women and men identities as immutable.<sup>46</sup> The validity and the immutability of such categories – that positivism tried to describe as scientifically proven – would reside in the original and natural anatomical and biological constitution of the individuals.

Furthermore, together with a legislation that blamed that «devilish» woman, despite her intellectual inferiority, and acquitted men for the same crimes, we have the figure of Don Giovanni and of a man potentially master of all women. As Mellusi wrote, for

<sup>43</sup> C. Covato, *Educare bambine*, cit., p. 220: «debolezza, inferiorità intellettuale, civetteria, docilità e amorevole disponibilità».

<sup>44</sup> R. Chaugui, *L'immoralità del matrimonio. Per la liberazione della donna e per la moralità sessuale*, Firenze, Società Editoriale Neo-Malthusiana, 1920, pp. 18-19. Cf. B. P. F. Wanrooij, *Storia del pudore. La questione sessuale in Italia 1860-1940*, Venezia, Marsilio, 1990: «Di tenersi un'amante, dieci amanti se vuole. Purché non le conduca a sollazzo nel letto matrimoniale, la sposa non ha nulla da dire»; «l'adulterio della donna [...] è punito con la prigione. Par di sognare».

<sup>45</sup> Cf. U. Notari, *Signora "900"*, Milano, Società Anonima Notari, 1929, pp. 153 segg.: «giaceva, in condizione d'inequivocabile interpretazione [...] in compagnia di una persona che non è quella della propria legittima consorte».

<sup>46</sup> On the issue of the scientific perception of femininity and on the position held by Umberto Notari, and with specific reference to the social and economic emancipation of women in the first thirty years of the twentieth century, see my article *Umberto Notari e il confronto tra tradizione ed emancipazione*, «Intersezioni», 2/2018, pp. 169-188. As for this specific issue, Sandro Bellassai claims that a higher degree of civilization and of involvement in the social and economic spheres of society led to the development of a form of male pessimism. This was due to the male fear that the new and irreversible social and economic change could mine the supremacy of men, who were until then in a position of power. See also S. Bellassai, *The masculine mystique: antimodernism and virility in fascist Italy*, «Journal of Modern Italian Studies», 10: 3, pp. 315-316, DOI: 10.1080/13545710500188338.

this Don Giovanni «women are creatures [...] that exist for other creatures; they are real women only when they show a complete dedication to a man»<sup>47</sup>.

As for this issue, it is worth quoting Rodolfo Bettazzi, president of the central committee of «Leghe per la moralità pubblica»: from a Marian perspective of femininity of abnegation and self-sacrifice, Bettazzi strongly disapproved of the corruption of sexual habits and of the persistence of a double moral standard:

Finché si crede che vi sia un diritto maschile all'amore pagato, e che non vi sia obbligo di rispettare la donna anche se scesa a patti coll'onore; finché si gridi allo scandalo per la donna che cade e si sorrida invece [...] alle conquiste amorose dell'uomo; [...] sarà vana, o quasi, ogni lotta contro il mal costume. Bisogna che sia tolta la ingiusta differenza che regna fra i due sessi a riguardo della moralità [...] dicendo disonorato anche l'uomo che contravviene alle leggi dell'onestà, egoista se vuole il piacere a ogni costo, vile se seduce e abbandona una donna [...]<sup>48</sup>.

As women were confined in the ideal of virginity, while men were allowed to pursue sexual libertinism, the Italian culture kept on being trapped into one of the most impressive contradictions of sexual moral: the social plague of prostitution was condemned while the State regulated it. The ideal of an education to sex which did not imply feelings, somehow concealed under the illusion of a sanitary and police regulation, gave birth to a regime of political control on society through the institution of a sexual control that favored men only (and not women)<sup>49</sup>.

Nevertheless, as Ferrero and Lombroso had written, «further evidence of the minor genetic activity in women is prostitution; this indicates much greater needs in men, and in fact male prostitution is much less common»<sup>50</sup>. The same could be applied to the marital institution. The so called «matrimonio di riflessione» (marriage of convenience) was a common practice. It excluded the individual choice as other interests were at the base of the marriage; both the State and the Church had legitimated such marriage, that «was a public rape perpetrated as an orgy». Governments had turned love «into something that had to be classified in registers, that could be obtained as an official stamped paper or a hunting license»<sup>51</sup>. Therefore, as a conclusion René Chauqui courageously wrote:

[...] una donna la quale si abbandoni nelle braccia d'un uomo per tutt'altro motivo di quello del piacere, si prostituisce; la ragazza che fa un matrimonio «di riflessione» ossia per calcolo, si prostituisce; la moglie che subisce il marito per «dovere» si prostituisce. La grandissima maggioranza delle «donne oneste» sono prostitute<sup>52</sup>.

<sup>47</sup> V. Mellusi, *Delinquenti dell'amore. Donne passionali*, Roma, Athenaeum, 1924, p. 46: «la donna è un essere che [...] esiste per un altro essere. Donna ella è compiutamente solo nell'attimo della dedizione all'uomo».

<sup>48</sup> R. Bettazzi, *Onore femminile*, in Id., *Moralità*, Roma, Buffetti, 1914, pp. 430-475, p. 442.

<sup>49</sup> Cf. L. Azara, *Educare al sesso senza sentimenti. Il mito delle case chiuse*, in F. Borruo, L. Cantatore, C. Covato (a cura di), *op.cit.*, pp. 113-137; Ead., *L'uso "politico" del corpo femminile. La legge Merlin tra nostalgia, moralismo ed emancipazione*, Roma, Carocci, 2017; Ead., *I sensi e il pudore. L'Italia e la rivoluzione dei costumi (1958-68)*, Roma, Donzelli, 2018. Cf. anche P. Sorcinelli, *Storia e sessualità*, cit., p. 174.

<sup>50</sup> C. Lombroso, G. Ferrero, *op. cit.*, p. 56: «un'altra prova della minore attività genetica [femminile] è data dal meretricio, che indica bisogni ben maggiori nei maschi, ed a cui non corrisponde che in piccola parte [...] il meretricio maschile».

<sup>51</sup> R. Chauqui, *op. cit.*, pp. 15, 23: «non è che uno stupro pubblico preparato con l'orgia»; «qualche cosa da catalogare sui registri, da ottenersi con un foglio di carta bollata come una licenza di caccia».

<sup>52</sup> *Ivi*, p. 17.

In such morally degenerated context, dominated by the social devaluation of women and by a masculine ideal of sexuality, the current prescriptive and normative ideology had imposed and established the criteria for female honor. In brief, according to this ideal, the only respectable woman who deserved the love of a man was a woman who did not escape her natural functions of wife and mother, and who had deliberately chosen to be a victim of male dominance and of his injustices. This will be extremely relevant when dealing with those infanticides *honoris causa*. It is here worth concluding with a visionary quote from Mellusi:

[...] siamo sulla soglia di un'epoca, che vedrà modificarsi radicalmente le condizioni e la mentalità della donna. Essa reclama il diritto di non essere né una schiava né un idolo: vuol essere compagna e eguale all'uomo, e rigetta la facoltà di vivere anche nel matrimonio come una *mantenuta*, nutrita in cambio delle entrate di favore nel suo letto. Vuole acquistare un valore sociale, aspira alla libera disposizione del suo corpo e dei suoi beni, si applica a formarsi una coscienza, a sostituire al duello sessuale un contratto franco e dignitoso, nel quale la vigliaccheria maschile venga giudicata e bollata da una società veramente equanime, senza falsi pudori e senza amorali restrizioni mentali<sup>53</sup>.

### 3. Infanticide *honoris causa*: a discussion between law and gynecology in a criminal case

What do we talk about, when we talk about “educating to infanticide”? As for the word “education” I mean that process that in a specific socio-cultural climate, fosters a specific way of behaving. That is to say, that cultural system full of contradictions and based upon the inequalities of the above mentioned double moral standard contributed to foster the conflict between a wounded female identity and a dominant and marginalizing masculinity.

What I want to demonstrate here it is that the conflict between men and women it was often at the origin of the infanticide due to honor. Yet, not as direct cause a but as a predisposing factor. *One* of the possible causes that led many women to commit this crime might be the reaction of female pride wounded by the oppression of a male-chauvinist culture.

Studying these “murderous mothers”, I will try to shed light on the condition of women and on the perception of illegitimate motherhood between the end of the Nineteenth and the first years of the Twentieth century, with specific reference to the considerations of Muzio Pazzi and Vincenzo Mellusi.

First of all, as the anarchist Pietro Gori reminds us, in the study of criminal phenomena it is necessary to establish an experimental research methodology that precludes the risk of incurring in metaphysical conjectures. Following a Spinozian and Diderotian materialism and still recognizing the merits of Lombrosian criminal anthropology which sought in the body the causes of moral and psychic alteration and of criminal behavior, Gori also recognized the impossibility to consider such anthropology as exhaustive, since it meant to consider delinquency into a conceptual monolith that could be studied according to a single methodological approach<sup>54</sup>. «The science of social life [...] must be

<sup>53</sup> V. Mellusi, *Delinquenti dell'amore. Donne passionali*, cit., p. 52.

<sup>54</sup> Cf. P. Gori, *Gli ideali della scienza e la criminalogia*, «Il Pensiero», Roma, a. III, 1° Giugno 1905, num. 11,

[...] the common ground upon which [...] criminal anthropology, psychiatry, psychophysiology, and all the other ramifications of the study can cooperate»<sup>55</sup>.

As for infanticide, one of the main concerns of this crime science was that of establishing an *objective* cause for this crime; a cause that seemed to be positivistically not determinable. Furthermore, for criminal law identifying the cause and the intentionality of the criminal to perpetrate the crime entailed another question: to what extent is it possible to talk about imputability and of punishment of the murderous mother?

Although both Pazzi and Mellusi on several occasions had talked about the unconsciousness of the infanticide mother, they provided far different explanations. The former with a normative and moralizing spirit had stressed that the physiological purpose of women is motherhood, «for this reason nature has endowed women with all the prerogatives of sentiment and of the heroisms of sacrifice»<sup>56</sup>. He was interested in women as female beings, and he was determined to conduct an anatomical and pathological study of femininity. This is why he claimed that an organic cause was the main factor to explain the birth of a criminal behavior. In brief, the physical alteration due to the pains suffered during pregnancy and labor (*'mania puerperale'*) caused such a discombobulation in the female body that it could lead to a psychic alteration, that, in turn, might produce an unconscious state and that might even induce mothers to suppress the cause originating such unease (the child).

Pazzi claimed that «it is only for a natural instinct that mothers do not want the suppression of maternity». In case they want a suppression of maternity it is due «first to pregnancy and then to the moral conditions of the woman, to preexisting psycho-moral or psycho-physical conditions, to pathological conditions. All of these conditions might lead to criminal effects especially in connection with the condition of pregnancy, as this latter condition [...] can modify the functional state of the whole organism, including the psyche». These factors may induce to hate one's own life in the form of suicide «and to hate the product of conception that is in one's womb», in the form of infanticide<sup>57</sup>. Only a clear definition of the juridical and scientific concept of infanticide will allow the legislator to determine the possible insanity and/or the unconscious state of the pregnant woman as a factor to consider the murderer not responsible for the crime<sup>58</sup>.

Pazzi implies that infanticides, whose anti-natural acts produce immoral and anti-

pp. 164-165; Id., *Il problema della delinquenza*, in *ivi*, a. III, 1-16 Dicembre 1905, num. 23-24, pp. 358-360; Id., *L'evoluzione della sociologia criminale*, in *ivi*, a. III, 1° Aprile 1905, num. 7, pp. 99-101; Id., *L'evoluzione della sociologia criminale*, in *ivi*, a. III, 1° Maggio 1905, num. 8-9, pp. 115-119.

<sup>55</sup> Id., *L'evoluzione della sociologia criminale*, cit., p. 117: «La scienza della vita sociale [...] deve essere [...] il terreno vasto sul quale posson cooperare, come sorelle di fatica [...] la antropologia criminale, la psichiatria, la psico-fisiologia e tutte le altre ramificazioni dello studio».

<sup>56</sup> M. Pazzi, *Misure preventive contro l'aborto criminoso e l'infanticidio*, estratto dalla «Rassegna d'Ostetricia e Ginecologia», Napoli, Cav. N. Jovene e C., Napoli, 1913, p. 4: «per la cui funzione natura l'ha dotata di tutte le prerogative del sentimento e di tutti gli eroismi del sacrificio».

<sup>57</sup> Id., *Concetto giuridico*, cit., p. 5: «È per istinto naturale che la madre non vuole la soppressione della funzione della maternità»; «prima alla gravidanza e poscia alle condizioni morali della donna cooperanti con la gestazione, a condizioni psico-morali o psicofisiche preesistenti, a condizioni patologiche concomitanti, che però hanno bisogno dell'elemento gravidanza agli effetti criminosi, essendochè questa funzione [...] è capace di modificare lo stato funzionale di tutto l'organismo, compresa la psiche»; «e per il prodotto del concepimento, chiuso nelle proprie viscere».

<sup>58</sup> Cf. *ivi*, p. 6.

social effects as they prevent the preservation of the species, commit this crime in a state of morbid unconsciousness. The origin of such state is to be found in an anatomical and physiological alteration caused by an alteration of the genital apparatus. And hence, the conundrum: «either the woman who commits such crimes is unaware of the duties of motherhood [...] or she is perfectly aware of her conscience, that is, however, compromised by a physiological and a pathological process; [...] consequently she cannot be legally responsible for what she has done»<sup>59</sup>. At a congress of gynecology held in Genoa in 1908 Pazzi had already given an answer to this question and to the question whether the infanticide is to be considered as legally responsible and punishable:

per unanime accordo dei psichiatri e dei ginecologi nello stato di gravidanza, puerperio ed allattamento, la donna è in modo particolare esposta alla follia. [...] La donna che trovasi nello stato puerperale ha legata la libertà morale, e giuridicamente deve essere considerata irresponsabile. Poiché il delitto di persona, compiuto dalla puerpera sul prodotto del proprio seno, sfugge ad ogni pena (*reclusione, manicomio criminale*) almeno cerchiamo di prevenire la recidiva istituendo speciali *ginecomi correzionali* o di separazione e modificando il codice penale<sup>60</sup>.

Pazzi had proposed a preventive intervention in the treatment of women committing infanticides, entrusting them to specific rehabilitation centers called *Sanatori Materni*, for a variable span of time depending on the specific case<sup>61</sup>. It is possible to notice this enhancement of prevention to the detriment of repression also in Pazzi's observations on the necessity to modify the cultural system through pedagogical interventions. This would be done through «sex pedagogy both for men and for women and devoting more attention to that intended for the latter»<sup>62</sup>.

This project would have to take place through the institution of «schools of sex pedagogy meant to look after – since adolescence in both men and women – the awareness of one's personal responsibility towards future generations», and enhancing protective measures for abandoned or abused children and focusing not only on «research of motherhood for biological children, but also for fatherhood, compelling the medical officer to report any case of abortion, and establishing an inspectorate for the natural and mercenary nursing and so on»<sup>63</sup>.

In a culture that had among its prerogatives that to keep the woman in a state of systematic ignorance, Pazzi's exhortation to engage publicly in order to guarantee a joint education of men and women is somewhat contradictory (though innovative). Yet, in order not to run into any sort of misinterpretation, the gynecologist had immediately

<sup>59</sup> Id., *Per la profilassi*, cit., p. 7: «o la donna che compie questi reati non conosce i doveri della maternità [...] o la donna ha il dominio della propria coscienza pregiudicata dallo stesso processo fisiologico, o patologico [...] ed allora non può essere responsabile giuridicamente de' suoi atti».

<sup>60</sup> Id., *La responsabilità giuridica della donna nello stato puerperale*, in *Comunicazioni individuali lette e discusse alle sedute del Congresso*, «La Ginecologia Moderna», Genova, anno 1, 1908, fasc. 10, p. 639.

<sup>61</sup> Id., *Concetto giuridico*, cit., pp. 12, 29-30.

<sup>62</sup> Id., *Misure preventive*, cit., p. 13: «la pedagogia sessuale dell'uomo e della donna. Col riservare alla donna una maggiore intensità educativa».

<sup>63</sup> Id., *Concetto giuridico*, cit., p. 29: «scuole di pedagogia sessuale che sorvegliano fino dall'adolescenza, nell'uomo e nella donna, il sentimento di responsabilità personale e di responsabilità verso le generazioni future»; «non solo sulla ricerca della maternità per i figli naturali, ma bensì della paternità, obbligando la denuncia all'ufficiale sanitario di tutti i casi di aborto, istituendo un ispettorato dell'allattamento naturale e mercenario e così via».

stated that all feminine education should be founded on a sacred principle, namely that «the woman is an enigma the solution of which is motherhood»<sup>64</sup>. Furthermore, although Pazzi hoped for a more generic preventive system, he also promoted a strict and repressive regulation, through the institution of an outright socio-sexual control system.

Although the preventive and anti-repressive methods proposed by Mellusi coincided with those Pazzi had proposed<sup>65</sup>, the gynecologist and the jurist used different methodologies in the study of the crime of infanticide. Moreover, if on the one hand Mellusi had manifested signs of clear proto-emancipationism, on the other hand he never abandoned the common idea of motherhood seen as a unavoidable and highly moral function of female nature.

This is demonstrated by Mellusi's political involvement as he decided to dedicate his book *La madre folle* (1935) to Benito Mussolini, who had already pursued the policy for raising the birth rate: Mellusi refers to Mussolini as «supporter of the divine maternal purity full of hope and love of outrage and tears, and against false habits»<sup>66</sup>. His exaltation of motherhood followed the Lombrosian ideal that defined it as a «a moral vaccine against crime and evil, and that operates with an anti-criminal influence also on children; motherhood is a physiological phenomenon while crime is pathological; therefore only rarely they can be combined»<sup>67</sup>. So, how is it possible to conceive motherhood with the existence of a crime like infanticide *honoris causa*?

[...] gran numero degli infanticidi a causa di onore hanno per origine una passione intensa di amore, che trascina la fanciulla a trascurare il rispetto per gli usi sociali; il che ci spiega, perché quasi tutte le infanticide per passione siano cadute in amori irregolari dal punto di vista sociale, senza che per questo si possa dir nulla sul conto della loro purezza<sup>68</sup>.

The main element in the etiology of crime is the alleged violation of the feeling of sexual honor. For Pazzi crime derived from an alteration of the body of women that produced a psychic state of unconsciousness that led to infanticide as a consequent that was at the same time *natural* and anomalous, and that was not attributable to the murderous mother. For Mellusi, follower of the theories of degeneration and atavism<sup>69</sup>, it was the false civilization («*falsa civiltà*») that, imposing a completely masculine conception of honor, placed women in a position of incapability to escape dishonor; the only possibility to escape it would be by destroying the proof of guilt, that is to say of the illegitimate or extramarital relationship through abortion or infanticide<sup>70</sup>.

<sup>64</sup> Id., *Misure preventive*, cit., p. 13: che «la donna è un enigma la cui soluzione è la maternità».

<sup>65</sup> Cf. V. Mellusi, *L'inconscienza morbosa della madre infanticida. Studio di psicopatologia del delitto*, Trani, Vecchi e C., Trani, 1894, p. 47; Id., *La madre delinquente*, Roma, Loescher e C., 1897.

<sup>66</sup> Cf. Id., *La madre folle*, Padova, Zannoni, 1935: «Assertore contro la menzogna del costume, della divina purezza materna fulgente di speme e d'amore, soffusa di pianto e di oltraggio».

<sup>67</sup> Id., *Donne che uccidono*, Torino, Fratelli Bocca, 1924, p. 177: «vaccino morale contro il delitto e il male [che] reagisce con una influenza anticriminosa anche sul figlio [...] la maternità è un fenomeno fisiologico, mentre la criminalità è patologico; quindi, raramente possono fondersi».

<sup>68</sup> *Ibid.*

<sup>69</sup> Cf. Id., *Quelli che amano e uccidono*, Torino, Fratelli Bocca, 1924, pp. 69-70. As for this issue, see also M. Gibson, *La criminologia prima e dopo Lombroso*, in S. Montaldo (a cura di), *Cesare Lombroso. Gli scienziati e la nuova Italia*, Bologna, Il Mulino, 2010, pp. 15-32; A. La Vergata, *Lombroso e la degenerazione*, in *ivi*, pp. 55-93. See also my book: M. Loconsole, *Storia della contraccezione in Italia tra falsi moralisti, scienziati e sessisti*, Bologna, Pendragon, 2017, pp. 37-46.

<sup>70</sup> Cf. Id., *La madre folle*, cit., pp. 207-334; cf. P. Sorcinelli, *Storia e sessualità*, cit., p. 74.

In other words, due to the psycho-physical alterations of pregnancy and the fear of being disregarded by her own family and dishonored by society, a seduced, made pregnant, and abandoned woman would be inevitably led to a condition of morbid psychic unconsciousness. Following this interpretation, infanticide would be nothing but the unconscious effect of an uncontrolled psychic drive not attributable to the woman<sup>71</sup>. As Mellusi wrote referring to the psycho-pathological genesis of crime:

questa condizione psichica eccezionale si trova spesso nelle fanciulle illecitamente madri, nelle quali la vergogna, la preoccupazione dell'avvenire, lo spavento all'apparire dei sintomi precursori del parto, i cattivi trattamenti fatti dalle persone che la circondano, l'abbandono dell'amante, l'angoscia materiale e la disperazione, agiscono in modo potente e producono nella coscienza lotte, di cui nessuno potrebbe vantarsi di riuscire vincitore, e ciò tanto più, ch  in quei momenti il sistema nervoso   inoltre indebolito ed irritato dai dolori del parto<sup>72</sup>.

Consistent with the disciplinary and methodological pluralism mentioned at the beginning of the present essay, Mellusi had stated that «a criminologist turning into a psychologist, will be able to see into the soul of the accused, and to understand [...] the drive that pushed him/her to commit a crime: he will be able to find out the most intimate reality through the morbid manifestation that disobeys to the penal law»<sup>73</sup>.

And yet again, Mellusi, for illustrative purposes, reported some information regarding a survey he had personally conducted in the prison of Trani. After questioning 25 infanticides *honoris causa* out of the 32 women imprisoned there, Mellusi had found confirmation both of the hypothesis of morbid and momentary unconsciousness of the murderer and of the fact that «especially infanticides *honoris causa*, showed [...] a highly developed sense of sexual modesty»<sup>74</sup>.

While for Mellusi the violation of honor is a cause that contribute to explain crime, for Pazzi the «reason of honor to be saved» exists, for illegitimate pregnancies, «more for the fact that the honor to be saved is considered by the penal code as an extenuating circumstance [...] than as a physiological necessity»<sup>75</sup>. In order to understand this statement a historical-legal digression is necessary.

As early as 1764 Cesare Beccaria apparently wanted to remove the responsibility from the infanticide mother and hoped for policies of crime prevention rather than of punitive repression. Especially thanks to the influence exerted by Pestalozzi's work on infanticide (1783), the Italian legislation had started to consider the infanticide mother more as a victim of society and of culture, than as a criminal<sup>76</sup>.

<sup>71</sup> Cf. Id., *L'incoscienza morbosa*, cit., p. 23; Id., *Delinquenti dell'amore. Donne passionali*, cit., pp. 100-101. On the condition of illegitimate and abandoned mothers cf. D. De Rosa, *Il baule di Giovanna. Storie di abbandoni e infanticidi*, Palermo, Sellerio, 1995.

<sup>72</sup> V. Mellusi, *L'incoscienza morbosa*, cit., pp. 23-24.

<sup>73</sup> Id., *Delinquenti dell'amore. Erotomani psicosessuali*, Roma, Athenaeum, 1932, p. XV: «il criminologo, trasformandosi in psicologo, potr  vedere nell'anima dell'imputato, interpretare [...] l'impulso che lo spinse al delitto: scoprire l'intima realt  attraverso la manifestazione morbosa, che viola la legge penale».

<sup>74</sup> Id., *L'incoscienza morbosa*, cit., p. 28: «specialmente le infanticide *honoris causa*, mostravano [...] un sentimento sviluppatissimo del pudore sessuale».

<sup>75</sup> M. Pazzi, *Concetto giuridico*, cit., p. 10: «causale dell'onore da salvare»; «pi  per il fatto che viene contemplato [l'onore da salvare] dal Codice Penale, come ragione di diminuzione di pena [...] che come necessit  fisiologica».

<sup>76</sup> Cf. P. Sorcinelli, *Storia e sessualit *, p. 124; G. Di Bello, P. Meringolo, *op. cit.*, pp. 69-84; J.H. Pestalozzi, *Del-*

Also in Italy, following the example of the Napoleonic civil code of 1804, in 1865 the first civil code after the unification of the nation, named *codice Pisanelli*, unlikely the previous civil codes preceding the unification, prohibited the search of paternity: in so doing it admitted the perpetration of a different perception of male and female responsibilities<sup>77</sup>.

The Italian civil code protected women, families and children considered worthy of honor, that is, only the legitimate. Thus, the Italian legislation had ratified and approved the implicit principle of an asymmetrical social relationship between sexes and social classes<sup>78</sup>. Therefore, natural and biological motherhood were considered differently, as only a legitimate motherhood could be shown in public and was worthy of honor; similarly, as the civil code recognized as legitimate only children born after a regular marriage, all the other children could not have social dignity to the extent that biological birth ended up being different from social birth<sup>79</sup>.

As for the penal law, these concepts had an impact on the formulation of the *Codice Zanardelli* (the Italian penal code of 1890). The article 364 defined the infanticide committed in order to save sexual honor as a mitigating factor of the intentional murder.<sup>80</sup> In this regard it is interesting that when the *Codice Zanardelli* was still in use, and following what the criminal lawyer Alessandro Stoppato had claimed, Muzio Pazzi thought that infanticide had to be judged as «a peculiar form of crime» and that «must be judged differently and repressed with different measures»<sup>81</sup>.

This distinction became law with the entry into force of the new penal code, known as Codice Rocco (1930). The article 578 considered infanticide for reason of honor not as a mitigating factor of the intentional murder, but as a different crime<sup>82</sup>. Whether it was recognized as a mitigating circumstance or as an autonomous crime – in any case with a less severe punishment than that given for the crime of voluntary homicide – the indulgence shown towards those women assumed the form of a self-indulgence for the benefit and protection of the male world only: «They are punished less because fathers are not punished at all»<sup>83</sup>.

The inequalities between men and women were once again legally ratified. This ideological system and the prejudices that were born also with the support of positivist sciences, had by now become part of the culture and mentality of the Italians and continued to exert their influence on the Italian society.

To conclude, a final clarification is necessary. First, the main aim of the present paper is not that of questioning the moral judgment upon the crime of infanticide. The

la legislazione e dell'infanticidio. *Verità e sogni, inchieste e rappresentazioni* (1783), Firenze, La Nuova Italia, 1999, pp. XXXIII-XXXVIII. Cf. W.L. Langer, *Infanticidio: una rassegna storica*, in T. McKeown, *Laumento della popolazione nell'era moderna*, Milano, Feltrinelli, 1979, pp. 225-238.

<sup>77</sup> Cf. P. Guarnieri, *Forzate analogie. L'infanticidio nel discorso giuridico*, in Ead. (a cura di), *In scienza e coscienza. Maternità, nascite e aborti tra esperienze e bioetica*, Roma, Carocci, 2010, pp. 47-61, p. 51; M. Iacob, *L'impero del ventre. Per un'altra storia della maternità*, Verona, Ombre Corte, 2005.

<sup>78</sup> G. Di Bello, P. Meringolo, *op. cit.*, pp. 32-36.

<sup>79</sup> Cf. *ivi*, pp. 10, 15, 90.

<sup>80</sup> Cf. *ivi*, pp. 87-90; E. M. Ambrosetti, *L'infanticidio e la legge penale*, Padova, CEDAM, 1992, pp. 26-27; T. Pedio, *La soppressione del neonato per causa di onore*, Milano, Giuffrè, 1954, pp. 19-23.

<sup>81</sup> M. Pazzi, *Misure preventive*, cit., p. 8; cf. Id., *Concetto giuridico*, cit., pp. 9-10: «una forma di reato *stante di per sé*» che «deve essere giudicato diverso dagli altri e represso con misure proprie».

<sup>82</sup> Cf. T. Pedio, *op. cit.*, pp. 24-26.

<sup>83</sup> P. Guarnieri, *op. cit.*, p. 51: «Vengono punite meno perché i padri non sono puniti affatto».



cause of honor has been presented as a determining and mitigating factor simply in terms of one of the explanatory possibilities we have to take into consideration in order to understand the dynamics of this specific crime and not to justify infanticide.

Furthermore, dealing with this crime and reporting on the scientific or pseudo-scientific argumentations of the positivist Italy on such issue has been useful to introduce the theme of the double moral standard and of the necessity to establish a concrete sex pedagogy that aims to educate people to a relationship between men and women based on mutual respect.

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