

A study on intra-family sexual abuse and incest: criminological, victimological, legal and medico-legal profiles

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Abstract: This study addresses the delicate issue of sexualized relationships in the family, with particular reference to the phenomenologies of sexual abuse and incest, as well as to the role and stages of scientific investigation of forensic medicine in their detection. If, from a legal point of view, incest refers to situations in which family morality is violated (which is the object protected by Article 564 of the Italian Criminal Code) through the performance of sexual acts that cause 'public scandal', in social perception the notion of incest is referred to all those cases in which sexual violence is performed between subjects belonging to the same family. Recent scientific contributions suggest the transversality of this phenomenon, which in fact occurs in all countries, as well as the high percentage of boys and girls who are victims. It should be pointed out that the available data on the incidence of the phenomenon are an underestimate, since the submergence of such serious sexual conduct often falls within the dark number (crimes committed and deliberately not reported to the judicial authorities).

Index terms: society, minors, sexual abuse, incest, violence, forensics

I. Introduction

Fergusson and Muller (2004) argue that a child's contact with deliberate acts of sexual violence tends to confront him or her with "the intentionality of the creator of the trauma" that breaks the links between psychic events and universes of reference, creating in the victim a sense of loss due to the fact that he or she no longer recognises the world in which he or she lives and does not even know if that world ever really existed or if it will ever exist again. From a strictly forensic point of view, incest, according to Bakacs & Condorelli (2021) is defined as "carnal conjunction between persons of different sexes, bound by ties of kinship, or affinity, such as to constitute an impediment to marriage such as brother and sister, parents and children, grandparents and grandchildren" and is strictly condemned with the penalty of imprisonment. If, on the one hand, the legislation seems to leave no room for additional uncertainties, on the other hand, the flood of journalistic accounts, scientific articles, essays and some statistical research on the subject show, on the contrary, large areas of shade. Undoubtedly, the science that best enables us to think of incest in a more elastic and less threatening way, as an event whose motivational roots are intimately linked to subjective sexual development, is psychology. The classic experience of the 'incest victim', as well as of sexual abuse in the context of paedophilia, is that of being a survivor, overwhelmed by something unpredictable and unnatural, in response to which he or she was unable or unable to resist (Giordano 2016). The theme of incest in the family context is fully part of the broader issue of child abuse and maltreatment, whose roots lie in cultural, historical, environmental and even biological factors, the consequences of which affect the child as a whole, severely testing, and unfortunately often overwhelming, his or her adaptive capacities as well as those of resilience, leading to consequences that are expressed with different levels of severity and at different stages of his or her life, from childhood to adulthood (Musil & Raciti 2021). The definition of the phenomenon, as is almost always the case with complex events, has varied over time, in response to the various social and cultural changes that define the horizon of admissibility or otherwise of certain facts. Recent scientific contributions suggest the transversality of this phenomenon, which, in fact, occurs in all countries, as well as the high percentage of boys and girls who are victims. It should be pointed out that the available data on the incidence of the phenomenon are an underestimate, given that the submergence of such serious sexual conduct often falls within the dark number (crimes committed and deliberately not reported to the judicial authorities), and taking into account that most of them take place in the privacy of the home, by those who should be the guardians of children and that, unfortunately, very often these cases are not even recognised as such (Racamier 2021). In this context, forensic medicine provides an indispensable contribution in the fact-finding

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phase. A particularly effective definition is that proposed by Goodwin (1985), who indifferently uses the expressions "incest" and "intra-familial sexual abuse" to indicate "any sexual act committed on a child by an adult acting as a parent". From a theoretical, criminological and legal point of view, conflating incest with intra-familial sexual abuse may appear arbitrary. However, any distinction proves to be secondary when one moves in the perspective dictated by the needs of operational intervention (legal, social or psychological) in the interest of minors. In fact, regardless of the degree, duration and stability of the child's involvement in the incestuous relationship, the same needs for protection, investigation and treatment by institutions are activated. For the purposes of the choice of intervention, the distinction appears irrelevant. It is only at a later stage that the distinction becomes fully important, when it comes to reconstructing the dynamics of incest in order to define the appropriate treatment or to ascertain the degree of responsibility (psychological and criminal) of the parent and other family members (Montecchi 2005). The clinical concept of sexual abuse as elaborated in sociological, psychological, criminological and medico-legal literature is therefore broader than the conduct that constitutes a criminal offence at the judicial level. In Law No. 66 of 1996 et seq. the definition of the offence implies coercion of the subject-victim to 'perform or undergo sexual acts with violence, threats or by abuse of authority', although many corrections make this violent component presumed in situations where it is not explicitly exercised (with regard to the age of the victim and the type of perpetrator) (Franco 2021). However, it remains excluded from this definition, for example, the occurrence of sexualised relationships between minors with an age difference of three years or less if these subjects are older than thirteen, regardless of the relationship that binds them; furthermore, they cannot be other situations in which the child is exposed to a psychological climate that is decidedly negative and misleading for the proper development of his or her own sexual identity and personality, or is involved as a more or less complicit spectator in erotic games between people to whom he or she is strongly attached. According to several authors, such situations do not differ, at least qualitatively, from experiences coded as sexual violence, since the harmful consequences they can produce could be the same. It can therefore be said that there is an important difference between the clinical and the legal definition of sexual abuse. In the former, the protected legal asset is the integrity of the child as a person, who can be damaged by any sexual act he or she undergoes, whoever the agent may be (Ortolani 2021). Law no. 66/96, in Italy, on the other hand, provides protection for the development of the child's sexuality and foresees, depending on his or her age or on the relationship with the agent, sexual intangibility or his or her ability to self-determine in the sexual sphere (provided that he or she is at least thirteen years old and the difference in age with the peer is no more than three years). Therefore, while in the clinical definition the operational intervention of protection and treatment must be activated regardless of the degree, duration or manner of the sexual act performed or the age of the child, because his integrity as a person will have been compromised in any case, in the legal definition these elements qualifying the fact are important in order to assess the degree of responsibility of the agent and the type of trauma inflicted (Cartei & Grosso 2021).

II. Sexual abuse and incest: the legal framework

Incest draws a degrading intra-familial picture that is established between the child and the abuser, and the latter exploits the bond of kinship and affection that binds him/her to the child to force him/her to undergo sexual acts in silence (Onofri & La Rosa 2017). A typical case is that of the abusive parent who tries to construct a scenario of 'normality' for the conduct carried out and who blackmails the minor by ordering him not to talk about the affair with anyone, because otherwise the family would risk being destroyed and it would be 'all his fault' (Gambineri 2005). (Gambineri 2005). In recent years, there has also been a progressive increase in the number of verified cases, even if it is uncertain whether this indicates an increase in the phenomena of abuse or simply in complaints. Sgroi, Blick and Porter (1986) define incestuous sexual abuse as 'any form of sexual activity between a child and its parent, whether natural, acquired, extended family member or substitute parental figure'. According to these authors, incestuous conduct takes place through various stages: the grooming of the child, the phase of vigorous sexual intercourse, the phase of discovery of the abuse and the subsequent denial of it. From this point of view, rather than the importance of blood ties, it is the affective ties and the way in which the child looks at and approaches the adult that are of paramount importance. Incest is described in Article 564 of the Italian Criminal Code and, first of all, it is necessary to clarify its relationship with other types of crime such as sexual violence and sexual acts with a minor. This is a necessarily multi-subjective offence, i.e. the sexual act must be voluntarily carried out by both persons united by family ties or affinity. If one of the two persons does not consent, Article 546 of the Criminal Code does not apply. (Italian Criminal Code) but that of Article 609-bis (Italian Criminal Code), which governs sexual violence. If the subject is a minor, the aggravating circumstance of the family relationship set out in Article 609-ter(1) and (5) of the Italian Criminal Code would also apply. If the passive subject is under fourteen years old - despite the lack of recourse to force, threat or deception - the conduct is punishable under Article 609-quater (Italian Criminal Code); the same if he is fourteen but not yet sixteen (or even sixteen up to the age of majority in the case of abuse of the powers inherent in the position) and the sexual acts are carried out with the persons listed in paragraph 1(2) of Article 609-quater of the Criminal Code. (Italian Criminal Code). In such cases, the doctrine is divided between those who consider a concurrence between the offences of sexual acts and incest admissible and those who exclude it (infra). Under the Criminal Code, incest is the offence of committing a carnal act with a descendant or ascendant, with a relative in the direct line or with a brother or sister (Masarone 2019). If it is not an isolated act but an incestuous relationship, there is an aggravating circumstance. Another important aspect is the 'public scandal', which is necessary for the offence to be deemed to have been committed. The public scandal is considered by a minority of the doctrine as an event that as such must be desired and foreseen by the subject, while the predominant orientation is instead to evaluate it as an objective condition of punishability provided by the legislator to avoid that through the process one ends up giving publicity to an unpleasant situation that until then had remained confined within the walls of the home (Guidorizzi 2007).

III. Personological characteristics of incestuous figures

With regard to the aetiological causes of incest, a distinction is made between paternal incest, fraternal incest and maternal incest. To explain the dynamics of paternal incest, i.e. incest perpetrated by the father, various theories have been proposed, none of which are completely exhaustive. Mantovani (1998) distinguishes the following abuser figures: 1) psychopathic father, for whom incestuous conduct is linked to mental illness or abnormal personality traits that, however, rarely prevent the subject from perceiving the disvalue of his actions and are often used as forms of justification to minimise his own responsibility. Among the mental disorders normally associated with paedophilia are: psychopathy, narcissistic personality disorder and borderline personality disorder; 2) hypersexualised father: a category that is particularly criticised because, even assuming that the subject is particularly conditioned by these strong sexual instincts, it is not clear why he should vent them against his son and not against other subjects; 3) endogamic father, for whom incest is the consequence of an inability to live normal adult relationships. The family would be a closed one, with poor relations with the outside world and with such marital problems that the father ends up seeing his daughter as a valid alternative to the mother; 4) socio-economically deprived father, for whom incest would be linked to the socio-economic conditions of the context in which the family lives, tending to develop in cases of cohabitation, geographical isolation, promiscuity. 5) Inhibited father, for whom incest is the consequence of a strong feeling of male inadequacy that translates into an attempt to take revenge on the child. This is the case of the shy husband, who is dependent on his wife, who is independent and perhaps economically strong. The father, in this case, seeks the attention denied him by his spouse in his offspring, with whom he can satisfy his need to feel superior; 6) the master father, who is characterised by his rigidity, authoritarianism and continuous search for absolute dominion over the family and all its members. The mother, on the other hand, is passive and weak, often the victim of mistreatment and abuse; 7) the rationalising father, for whom the causes of the phenomenon are based on justification mechanisms used by the perpetrator such as love for his daughter, her consent, freedom to do what one wants in one's own home, and so on. In the case of paternal incest, the role of the mother is also worthy of particular attention (Merzagora 1986). As we have seen, the mother is a victim on a par with the child, subject to her husband's domination. Nevertheless, there are also cases in which the mother claims not to have noticed - or perhaps more correctly not to have wanted to notice - the abuse of her children. The fact of denying what was happening in front of her eyes would be a defensive mechanism, aimed at trying to save the family unity and the image of her husband or life partner for as long as possible (Bal Filoramo 1996). This is why in many circumstances the mother tends not to listen to the first complaints of the son and sometimes even to blame him, accusing him of being the reason for the father's behaviour. This is often the case when it is the daughter who is abused, because in this case, even if unconsciously, a sense of rivalry operates on the mother, together with the fear of having lost her attractiveness and therefore feeling rejected by her husband (Mendorla 2010). Nor is it easy to give an aetiological explanation for incest between brother and sister. One possible cause could be the abandonment of the children, who are forced to fend for themselves and create a kind of 'marital subsystem'. Among the various forms of incest, this is the one evaluated less severely (to the point of defining it as "small incest") both because of the situation of substantial equality between the subjects involved (obviously provided that the relationship is consensual for both and one brother has not abused the other by using force) and because of the minor psychic repercussions on the development of the minors (Berti & Martello 1995). Maternal incest seems to be much less frequent than the other two forms. Although some doubt arises with reference to the dark number, i.e. the difficulty of ascertaining these types of abuse, given the familiarity that the mother usually has with the child's body, which would easily allow 'masked' sexual acts to be carried out. The source of abuse when talking about maternal incest is generally traced back to a psychopathology (Stupiggia 2007). With regard to the victims of incest, it has been noted that girls are most affected by this phenomenon. In such subjects, a pseudo-maturity or a latent feeling of rivalry with the mother can often be found. As for the types of families where incest tends to occur, a distinction is made between two categories: a) families with classic incest: where it is more difficult to ascertain incest because it appears to be a family like any other, without problems or other forms of child abuse. This type of family tends to be nuclear, with little relationship with the outside world; b) family with incest with multiple problems: where incest is only one of the many problems of the family, normally already reported to the social services for alcohol, drug use, abuse, and so on (Di Gregorio 2016).

IV. Incest: Risk factors and victimisation processes

Studies and research have identified risk factors that could lead to incestuous behaviour (Angot 2000): a) role confusion between mother and daughter, for example due to the mother's illness or absence, or more frequently due to problems between the couple. The mother tends to step aside, isolate herself and leave the management of the family in the hands of the daughter, who is often led to join forces with the father, in a relationship that for the latter could turn into a condition of substitution of the wife for the family and the beginning of sexual activities; b) the abandoned environment where the sexual relationship is experienced as a way to bind the child to himself and prevent him from seeking elsewhere, with people outside the family, an outlet for his sexual instincts; c) isolated rural subcultures where social control is weaker, living conditions are often influenced by poverty, ignorance and promiscuity; d) the sexualised family, characterised by the number of members and overcrowding. According to Joulaine (2019), sexual abuse within the family can be further distinguished into: 1) incest/sexual abuse between father and daughter. This is the most frequently occurring case and has been the focus of the scientific literature; 2) incest/sexual abuse between father and son. According to the majority of scholars, the dynamics of this situation present similarities with those of father/daughter incest, including the collusive attitude of the mother; 3) incest/sexual abuse between mother and daughter, even if there are no frequent reports. Within the family, sexual abuse may be carried out by other relatives, whether cohabiting or present with particular

assiduity, such as grandparents or uncles. Often the sexual assault is carried out by substitute figures for the father (absent because he is dead or separated from his wife) such as the stepfather or the mother's partner or even an older brother of the victim. When this is carried out by the cohabitant or second spouse of the parent, it is called 'paraincesto'. 4) Incest/sexual abuse between mother and child. The debate on whether incestuous/abusive mothers exist or not is still open. There are those who maintain that mothers never abuse their children, but there are also those who believe that they are perpetrators of sexual abuse.

V. Physical and sexual violence and incest: medical and medico-legal methods and investigations

The medical procedure for minors who are victims of violence must always aim at a timely and accurate diagnosis, by means of anamnesis, objective examination and the performance of diagnostic tests that are indispensable for providing adequate treatment and guaranteeing the child's future development and, in some cases, even survival. According to the guidelines drawn up by the Italian Society of Child and Adolescent Neuropsychiatry (S.I.N.P.A 2007), the damage will be all the greater if the abuse remains submerged, is repeated, if the response in favour of the victim is delayed, if the child's traumatic experience remains unexpressed and unprocessed, and if there is a family tie between the victim and the abuser. The medico-legal assessment evaluates the diagnostic and therapeutic medical pathway carried out and the relevant residual permanent consequences on the victim's health, in order to ascertain the damaging conduct that is the object of a crime and/or offence in criminal proceedings and for compensation purposes in civil proceedings. The medico-legal intervention in child abuse consists of several phases (Di Luca, Feola & Marinelli 2021):

a) *anamnesis*

In the medical discipline, the term anamnesis refers to the cognitive investigation of a patient's physiological and pathological, individual and family history. The anamnesis is the basis for any medical and forensic assessment, especially in cases of suspected child abuse. At this stage, alarming elements such as 'red flags' may emerge, which should lead the physician to the possible suspicion of child abuse. First of all, through the family anamnesis, including the evaluation of the economic, social and housing conditions, it is possible to verify the presence of: a) hereditary pathologies (haemorrhagic disorders) or predisposition to fractures (genetic pathologies) or sudden deaths of previous children (hereditary pathologies) not related to abuse; b) risk factors favouring maltreatment (moral, economic, cultural degradation, etc.); (c) presence of depressed, aggressive, drug-addicted, alcoholic or psychiatrically ill parents; (d) particularly important triggering life events such as job loss, bereavement in the family, divorce/separation, etc.; (e) other children in the family with disabilities or growth disorders. According to statistics from the World Health Organisation, most violence against children occurs within the home for punitive purposes. In addition, the family history can be used to support or exclude specific elements that constitute offences under the Italian Criminal Code (Barbieri & Gentilomo 2021): art. 564 c.p. 'incest' (art. 566 c.p.); 'supposition or suppression of state' (art. 567 c.p.); 'concealment of the state of a child' (art. 568 c.p.); 'violation of family assistance obligations' (art. 570 c.p.); 'abuse of means of correction' (art. 578 c.p.); 'abuse of the right to life' (art. 578 c.p.); "abuse of means of correction or discipline" (Article 571 of the Criminal Code); "ill-treatment against family members and cohabitants" (Article 572 of the Criminal Code); "consensual abduction of minors" (Article 573 of the Criminal Code); "serving alcoholic beverages" (Article 573 of the Criminal Code); "serving alcoholic beverages to minors or the mentally ill" (Art. 689 of the Criminal Code); 'serving poisonous or harmful substances to minors' (Art. 730 of the Criminal Code); 'failure to comply with the obligation of elementary education of minors' (Art. 731 of the Criminal Code). With the remote pathological anamnesis, then, one investigates health problems, previous traumas and/or injuries. The aim, both in medical assessment and in medico-legal evaluation, is to exclude injuries and/or impairments resulting from congenital and/or acquired pathologies that may simulate or interfere with the signs of abuse. Through the remote pathological anamnesis a differential diagnosis of abuse is made, unrelated to any previous pathological conditions. A pathological history is used to investigate how the traumatic injuries occurred. The story of the trauma told by the child and/or adolescent, either directly or reported by a reference figure (usually the mother), as well as the exposition, the interventions and the meaning of the speeches, deserve great attention even if they may seem confused or contradictory. The child's account must be carefully examined and documented in order to verify its compatibility with the injuries found, the possible discrepancy between the story of the trauma reported by the child and the clinical seriousness of the injuries reported and noted during the objective examination. In cases of suspected abuse, where possible, the history should be collected separately from the parents, trying to perform the anamnestic examination first on the child and then on the parents. In cases of infants and/or children who do not yet speak correctly, the anamnesis is supplemented by the account of parents or legal guardians, or even of baby sitters, bearing in mind, however, that in cases of abuse by these subjects, the latter will give justifications relating to accidental trauma, vague and/or incomplete memories or still plausible (Di Luca, Feola & Marinelli 2021).

b) *general physical examination: detection of injuries*

As a rule, the anamnesis is followed by the "general physical examination", which must contain an accurate description of any injuries that can be detected macroscopically (Pelotti, Fallani & Cicognani 2019). It is essential that the various manoeuvres are explained to the child beforehand, who must not have the feeling of being attacked during the medical examination. Injuries resulting from typical physical violence (hitting, beating, slapping, shaking, biting, strangling, suffocating) often with natural means of offence (hands, feet, nails, teeth) are of particular importance. Such violent behaviour can cause injuries to the victim that are just as typical according to the expression coined by Kempe et al. (1962) of "Beaten child syndrome" such as, for example, ecchymoses

(the figurative or typed ones and the vibes), haematomas, lacerated and/or lacerated contused wounds, dislocations, fractures, visceral injuries. In addition, lesions in body locations not compatible with an accidental event such as suspected ecchymoses in atypical locations (lips, oral cavity, inner face of the thighs, orbital regions bilaterally, etc.). There may also be signs of gagging, burns, scalds and/or poisoning, abdominal trauma with duodenal, intestinal and mesenteric injuries and also immersion burns of the extremities (hands and/or feet). Another category of injuries are those 'in the mould' such as nails, bites, cigarette burns usually on the palms of the hands and chest, or belting or whipping with the imprint of the vehicle used. Unfortunately, most lesions do not have precise characteristics and are atypical. Therefore, for objective and diagnostic purposes, the overall topographical distribution and the different stage of evolution are evaluated. However, skin lesions disappear after a short time even without leaving scarring, which, if present, will be detected by the physician and forensic scientist. Fractures and/or skeletal lesions, on the other hand, remain detectable for a long time and the relative outcomes, including functional ones, should be well researched on objective examination and assessed by the medical examiner. The medical assessment in the peculiar case history knows certain types of bone fractures typically suspected of child maltreatment: multiple skeletal lesions; skeletal lesions associated with skin lesions; fractures that are not compatible with the child's degree of motor autonomy, e.g. fractures of the long bones (femur and humerus); fractures involving the diaphysis and metaphysis of the long bones, more rarely involving the epiphysis, resulting from strong twisting, stretching and/or shaking that usually cannot be caused by an accidental fall; rib injuries, especially posterior or multiple rib injuries in varying degrees of healing, in children under 4 years of age; avulsions of the clavicle or acromial process; fractures of the sternum, scapula or vertebral spinous process; angular or bucket-handle metaphyseal fractures. The same suspicion of physical abuse of children may arise in the presence of possible cranial fractures, which in frequency follow skeletal fractures, resulting from direct trauma by blunt instrument or rigid surface, or the 'shaken child syndrome', first enunciated by Carey (Caffey 1972), which, through the lesive dynamics typical of shaking, causes cerebral traumas, due to the strong accelerations and decelerations to which the encephalon is subjected; cranial traumas, such as subdural hematoma, associated with retinal haemorrhages, mostly bilateral, and multiple fractures if the shaking is accompanied by a direct impact of the child's head against a surface. As already mentioned, any discrepancy between the clinical severity of the injuries and the trauma history reported by the child should always raise suspicion. In this sense it is easy to understand the necessity of the contribution of diagnostic imaging to reach both a correct diagnosis and a correct medical-legal evaluation. Further injuries can result from omissive violence. We talk about omissive violence when the parents do not adequately provide for the physical and psychic needs of the child according to his/her age: these concern neglect, negligence and over-care with reference respectively to children neglected or with attention not adequate to their age or administered in excess. In relation to the omissive type of violence, the objective examination may reveal typical lesions: dental caries, failure to comply with compulsory vaccination schedules, untreated visual and/or auditory disorders, poor schooling and equally poor performance, poor personal hygiene leading to relapsing dermatitis, scabies and pediculosis, clothing unsuitable for age, gender or the current season, distortion of eating habits with malnutrition or overnutrition, early use of alcohol and/or drugs, behavioural disorders such as asthenia, hyperactivity and attention disorders or psychological outcomes such as isolation, lack of social interaction, personality disorders that compromise the child's psychophysical health. There is a classification of physical abuse based on the severity of the injuries (not always evident and most often hidden by clothing): "mild abuse" where injuries do not require hospitalisation; "moderate abuse" when hospitalisation is required (burns, fractures, head trauma); "severe abuse" when the child is admitted to intensive care with serious neurological consequences up to death (Zagra & Argo 2018). Suspected injuries of sexual abuse (including incest) deserve a separate consideration: sexual abuse is defined as the involvement of a child in sexual acts, with or without physical contact, to which he or she cannot freely consent because of the age and predominance of the abuser, or the sexual exploitation of a child or adolescent, child prostitution and child pornography (Turillazzi, Neri & Riezzo 2007). Article 609 of the Criminal Code punishes "Anyone who, with violence or threat or by abuse of authority, forces someone to perform or undergo sexual acts shall be punished by imprisonment of from six to twelve years. The same punishment shall apply to anyone who induces someone to perform or undergo sexual acts: 1) by abusing the physical or mental inferiority of the offended person at the time of the act; 2) by misleading the offended person by substituting himself for another person. The subsequent Article 609 ter entitled 'Aggravating circumstances' states, inter alia, that the penalty laid down in Article 609-bis shall be increased by a third if the acts are committed against a person of whom the perpetrator is the ascendant, parent, including adoptive parent, or guardian; if the conduct is committed against a person who has not attained the age of eighteen years if the conduct is committed against a person of whom the offender is the spouse, including a separated or divorced spouse, or a person who is or has been bound to the same person by a relationship of affection, including without cohabitation (incest); if the offence is committed by means of serious violence or if serious harm is caused to the child as a result of repeated conduct. ". The same Article 609-ter of the Criminal Code also provides that the penalty laid down in Article 609-bis shall be increased by half if the acts referred to therein are committed against a person who has not reached the age of 14, while the penalty shall be doubled if the acts referred to in Article 609-bis are committed against a person who has not reached the age of 10". Article 609-quater of the Criminal Code, entitled "sexual acts with minors", provides for the same penalty as the above-mentioned Article 609-bis of the Criminal Code for anyone who commits such acts. Article 609c of the Criminal Code for anyone who, apart from the cases provided for in the latter Article, performs sexual acts with a person who, at the time of the act: 1) is under the age of fourteen; 2) is under the age of sixteen, when the perpetrator is an ascendant, a parent, including an adoptive parent, or his/her cohabitant, a guardian, or another person to whom, for reasons of care, education, instruction, supervision or custody, the minor is entrusted or who has a cohabiting relationship with the minor. The same Article 609 quater c.p. Article 609-quater (2) provides that, except in the cases provided for in Article 609-bis, an ascendant, a parent, including an adoptive parent, or his/her cohabitant, a guardian, or any other person to whom, for reasons of care, education, supervision or custody, the child is entrusted, or who has a cohabiting relationship with the child, who, by abusing the powers connected with his/her position, performs sexual acts with a person under the age of 16, shall be punished with imprisonment from three to six years. The penalty is increased if the sexual acts with the minor who has not reached the age of 14 are carried out in exchange for money or any other benefit, even if only promised. On the other hand, according to the provisions of Article 609-

quarter of the Criminal Code, a minor who, outside the cases provided for in Article 609-bis, performs sexual acts with a minor who has reached the age of thirteen is not punishable if the difference in age between the subjects is no more than four years. Articles 600 bis and 600 ter of the Criminal Code obviously also punish conduct that can be classified as child prostitution and child pornography. The forms of child sexual abuse reported in Italy are contained in the survey (1 June 2020) on the forms of violence among minors and against children and adolescents by the National Institute of Statistics in favour of the Parliamentary Commission for Childhood and Adolescence (Rome-Italy). The most reported crimes were: sexual acts with minors (31.5%), sexual violence against minors under 14 years of age (28.0%), child pornography (17.4%), corruption of minors (10.2%), possession of child pornography (7.3%), exploitation of and aiding and abetting child prostitution (5.6%). With reference to traumatic injury, the minor is a victim unable to defend himself, both because of his physical characteristics and because of his complete dependence on the adult of reference, therefore, both with reference to child maltreatment in general and even more so in cases of sexual abuse of minors, we are dealing with criminal conduct and related injuries and impairments whose emergence may take time. Even in cases of sexual abuse, a thorough objective examination must be carried out and cannot be limited to inspection of the genitals and perineal region. Criminal sexual abuse of minors (including incest) can result in the following: signs of vaginal/anal penetration with bleeding lesions (immediately); presence of semen (immediately). Other typical lesions that are appreciable in the medium to long term can also result from child sexual abuse: condylomata, herpes, lue or other signs of sexually transmitted diseases in chronic abuse; pregnancy in chronic abuse. The term sexual activity refers both to actual sexual intercourse (e.g. mutual masturbation between adults and children; oral intercourse; vaginal or anal penetration; sexual exploitation). It is therefore understandable that in these cases, right from the time of the objective examination, a gynaecological specialist is needed to carry out a standard examination of the hymenal membrane and in general of the genital and perineal area and to collect any secretions that may be useful for tracing the abuser by means of DNA testing. Other physical signs that can be detected in the medium to long term are: bruises; scratches or other skin lesions in atypical locations such as breasts, genital organs, buttocks, lower abdomen, thighs, throat, lips; difficulty walking or sitting; recurrent infections of the urinary tract. However, typical macroscopic physical injuries evident in sexual abuse are very rare (Dobosz 2013). One thinks of any sexual activity between an adult and a child who, for reasons of psychological and/or emotional immaturity, or because of conditions of dependence on adults (or because he or she is under the influence of adults), is deemed unable to make informed choices or to have adequate awareness of the meaning and value of the sexual activities in which he or she is involved. The term sexual activity also refers to forms of erotic contact (e.g., touching in the genital area or other parts of the body) and other acts that do not involve direct contact (e.g., exhibitionism, encouraging and coercing children to view sexual acts; exhibition). Atypical physical injuries may therefore also result from the same typical criminal conduct of child abuse (including sexual abuse) or other criminally relevant behaviour. In such cases, the multidisciplinary approach by the various medical specialisations that intervene already at the diagnostic and objective stage can determine the prerequisites for a diagnosis of child maltreatment and/or sexual abuse. The forensic medical assessment in the diagnostic phase can interpret a plurality of atypical injuries as a whole in the context of child maltreatment or child sexual abuse. In the case of typical or atypical physical injuries, therefore, the need arises first of all for an accurate medical assessment, through an objective examination of the injuries sustained by the child also through the contribution of other medical specialities (radiology, orthopaedics, gynaecology, forensic medicine, etc.) and the relative documentary certification in order to arrive at a targeted therapy, ex post the forensic medical assessment will be essential to detect the damage resulting from the abuse for criminal and civil purposes. It is also necessary to take into account: a) the age of the child (the younger the child, the less we can consider the justifications provided by adults on accidental traumatism caused by the child); b) any atypical localisation of the injuries, such as the area behind the ear, lips, neck, chest, back, genital or perianal area, soles of the feet, etc.; c) the location of the injuries in time, with reference to the period, the scarring of soft tissues and fractures. The same typical criminal conduct of child abuse, including sexual abuse, or other atypical behaviour that does not involve physical contact can also cause psychological injuries, regardless of the presence of physical injuries. To this end, particular behavioural signs must be noted during the objective examination: hostility to authority; aggressiveness and hyperactivity; violence accompanied by relational difficulties; passivity, submission, isolation; high difficulty in concentrating; sudden and abrupt changes in mood and/or school performance; indiscriminate and adhesive attachment to strangers; delays in psychomotor development, sphincter control, reasoning skills; self-injurious and destructive attitudes; disturbed behaviour towards food (anorexia, bulimia, compulsive eating); refusal to do physical activity at school; absence on doctor's appointment days. Such particular behavioural signs may indicate psychic injuries that, both in the medical assessment and in the subsequent medico-legal evaluation of biological damage, require diagnosis and treatment plans by specific psychology and psychiatry professionals. In any case, typical and/or atypical injuries, physical and/or psychic, however resulting from child abuse must be shown by specialist medical examinations and prescriptions to be the basis of the subsequent medico-legal evaluation (Caenazzo & Gino 2020).

c) further investigations

As already pointed out, following the anamnesis and the objective examination, the doctor may order diagnostic tests that he/she deems indispensable to reach a full diagnosis of the lesions resulting from child abuse and prepare the indicated therapies, just as the forensic doctor may deem it indispensable to carry out further diagnostic tests to identify the permanent impairments resulting from the crime and subject to the assessment of biological damage. As mentioned above, in the case of suspected sexual abuse of a recent child (last contact with the alleged abuser less than 72 hours ago), a timely gynaecological consultation is useful (with a detailed objective examination of any appreciable traumatic lesions) as well as an ultrasound scan of the lower abdomen to detect any trauma to the intra-abdominal organs. X-ray and CT scans of the traumatised areas are usually required, and the radiologist's report is essential. The detection of injuries through imaging is, in fact, the responsibility of the radiology specialist with his own expertise in discerning the images and the diagnostic evaluation of traumatic injuries detected, especially fractures, thanks to the

study of the mineralization of skeletal segments (to go back to the time of ossification), therefore, useful to determine the location, nature, extent of trauma and approximately also the time and mode of injury. The backdating of a trauma has a relative value in the medical field for diagnosis and therapy, while it can assume a direct value in forensic medicine for the assessment of injuries and impairments resulting from abuse for criminal and/or compensation purposes. In case of reported symptomatic abdominal trauma, an ultrasound of the abdomen is required to check for internal injuries or impairments, and if necessary, level II examinations such as radiography and/or CT scan of the abdomen. In the event of a thoracic trauma with respiratory difficulties and significant symptoms, a chest X-ray should be requested in order to certify the possible presence of lesions or impairments from sternum and/or rib fracture, while for anatomical anomalies of the limbs with pain and functional limitation an X-ray of the limbs will be essential (Feola, Arcangeli & Nardecchia 2014).

(d) diagnosis and treatment

The medical history, physical examination and any further diagnostic tests are used by the doctor to reach a definite diagnosis. Diagnosis and treatment plans by psychiatric and psychological specialists may also be necessary to alleviate any psychological problems caused by the abuse. Diagnosis is essential in order to provide the appropriate therapy aimed at complete recovery if possible. Faced with a diagnosis of child abuse, including sexual abuse, there is an obligation to report the person in charge of a public service, therefore also the doctor or other health personnel, which is essential to preserve as much as possible the health of the child and to reach a criminal trial through, depending on the offence, ex officio proceedings or a complaint filed by the offended person (De Ferrari, Palmieri 2013).

e) medical-legal examinations

As a result of recovery, the medico-legal technical assessment, through the objective examination of the impairments resulting from the injuries suffered by the minor, the contribution of other medical specialties (radiology, gynaecology, psychology, psychiatry, etc.), the study of health records provided on diagnostic and therapeutic indications, evaluates the diseases and treatments administered, in addition to the permanent impairments resulting from said injuries of child abuse. The assessment of the medical-legal diagnosis concerning cases of child abuse takes into account the duration and the type of therapies carried out for the treatment of the injuries and the relevant permanent outcomes relevant to the assessment of biological damage. Therefore, the forensic medical assessment cannot be ignored since the various physical and/or psychic traumas are always followed by specialist medical diagnosis and treatment. The information on treatment and therapy contained in the medical documentation is of exclusive medico-legal interest. The first medical-legal approach is based on the medical documentation concerning the medical assessment of the injuries, the consequent cures and therapies sustained by the minor; this is followed by: the anamnesis in order to exclude possible injuries and impairments deriving from previous and/or different health problems as well as to clarify the modalities of the trauma under investigation, the examination of the patient, the objective examination that describes in detail the impairments identified in the latter. In the presence of more than one injury, the forensic medical approach can identify typical child abuse and/or child sexual abuse lesions, bring back to a unicum several atypical lesions, but also help legal operators to reconstruct the modalities of mistreatment and/or abuse underlying the lesions found of mild, severe or very severe degree. In criminal proceedings, the forensic medical assessment of injuries and impairments resulting from child abuse, including sexual abuse, is essential for the declaration of a crime beyond reasonable doubt. For compensation purposes, on the other hand, the forensic medical assessment identifies the damage to the child's person directly attributable to the abuse suffered. The damage to the person, called biological damage, of a non-asset nature, may be temporary or permanent. We talk about temporary disability (T.I.) with reference to the period of treatments and therapies needed because of the psychophysical injuries and permanent disability (P.I.) corresponding to the impairments left in the child as a result of such psychophysical injuries. Thus, for example, while hospital stays, operations, the use of crutches and/or braces, specialist visits, therapies and physiotherapy constitute temporary invalidity, permanent invalidity is based on the impairments resulting from fractures, dislocations, infractions, distractions, skin wounds, etc., assessed according to the reference tables in use in Italy (Macchiarelli, Arbarello & Di Luca 2005).

VI. Conclusions

Sexual interactions with children result in true sexual aberrations, where clinical experience has amply demonstrated that those who sexually assault children seek, through sexual behavior, to satisfy needs that have more to do with the search for feelings of power, control and domination over weaker subjects than with sexual pleasure. The possibility of involving a minor in a sexual relationship is determined, in fact, by the position of superiority and power that the adult has over the child, who is instead in a position of dependence and subjection. It is through this authority that the aggressor, implicitly or explicitly, forces the child to submit to the sexual relationship. Rarely does "incest" end in a single episode; the duration of the relationship is on average two years, but can continue for more than five. In addition, the sexual attentions of the parent (especially in the case of father-daughter incest) are frequently directed to more than one person and when there are more than one child, it is carried out against all of them, although perhaps at different times. Among scholars, there is broad agreement that "incest" causes negative consequences and that these are

often serious and long-lasting, especially on the psychological level. In addition to immediate reactions, abuse has long-term effects on children, so much so that this type of violence has been called a "time bomb. The reaction of children to this type of violence is not immediately one of rejection and defense, because they do not yet possess a strong and consolidated personality such as to be able to oppose the sexual desires of their parents; more often they are dumbfounded by the authority of parental figures and by the confusion generated in them by the act committed. It is also necessary to remember that to the consequences of the sexual violence itself, one must add, when the fact is discovered, the further effects deriving from the worsening of family disintegration, from social discredit and from the institutional intervention on the minor. Even years later, the victims present states of anxiety, depression, insecurity, sometimes increased aggressiveness, school difficulties and, in interpersonal relationships, guilt complexes and sexual problems. In some cases, the incestuous experience can lead to the onset of anorexia in the victims after a certain period of time. One of the most serious consequences of intra-familial sexual abuse is the long-term confusion of the cognitive, emotional and sexual levels generated in the child. In fact, during the period of abuse, the child finds himself to be a "pseudo-partner" and at the same time is structurally dependent, as a child, on the parent. All this leads to an inability of the child, also due to the threats of violence and secrecy, to orient himself in a meaningful way, cognitively, emotionally and socially. In addition, the long-term effects on the psychological state of the victims, in adolescence and early adulthood, are often manifested in increased delinquency, drug and alcohol abuse, promiscuity and prostitution, social isolation, increased suicide attempts, and significantly increased indices of depressive symptoms. However, psychological consequences may vary depending on the manner in which the incest was enacted. For example, if the victim has suffered a violent sexual abuse by a parent, the consequences will be aggravated by the strong psychological trauma due to the negative transformation of the parental figure, which suddenly passes from a protective role to that of aggressor. The situation is different if the parent has acted without apparent violence, assuming a seductive attitude, exploiting the naivety of the son or daughter and implementing emotional blackmail. In this case, participation in incest may lead the victim (especially after the end of the relationship and with the onset of full awareness of the incident) to develop a deep sense of guilt and self-loathing, together with instances of self-punishment and revulsion towards the opposite sex. Consideration must also be given to the victim's feelings of guilt, who may feel that she has betrayed the abusive parent, feeling that she is responsible for his incarceration and the breakdown of the family. In addition, it should be remembered that the sudden and unexpected absence of this parent is still for the child a trauma resulting from the loss of the parental figure, even if it is the one who has damaged him by abusing him: for some children it is even the most important adult in their lives. While in the clinical definition the operational intervention of protection and treatment should be activated regardless of the degree, duration or mode of the sexual act committed or the age of the child, because his integrity as a person will have been compromised anyway, in the legal definition these elements qualifying the fact are important to assess the degree of responsibility of the agent. The suspicion of intra-familial sexual abuse often finds its confirmation in the field of medico-legal investigations that mark a turning point by revealing harmful conduct, related injuries and permanent impairments in the child.

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