

MASCULINITY ITALIAN STYLE

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I. INTRODUCTION: WHICH ITALIAN MASCULINITY?

Masculinity is a concept that underwent a profound evolution in the Italian society since the nineteenth century.¹ In order to get an accurate idea of this

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** Please note, all translations from the Italian language into the English language are made by the author, unless otherwise noted.

¹ For the historical evolution of this concept in the Italian context, see generally MASCOLINITÀ ALL'ITALIANA: COSTRUZIONI, NARRAZIONI, MUTAMENTI (Elena Dell'Agnese et al. eds., 2007); see also SANDRO BELLASSAI, LA MASCOLINITÀ CONTEMPORANEA (2004) [hereinafter BELLASSAI, LA MASCOLINITÀ CONTEMPORANEA]. From a more psychological point of view, see generally ALESSANDRO TAURINO, IDENTITÀ IN TRANSIZIONE: DALL'ANALISI CRITICA DELLE TEORIE DELLA DIFFERENZA AI MODELLI CULTURALI DELLA MASCOLINITÀ (2003).

evolution in the Italian context some clarifications are needed. First, from a linguistic point of view, the very concept that *mascolinità* receives in the Italian language various connotations that do not correspond to the English term “masculinity.”²

In English, masculinity is used to identify the trait of behaving in ways considered typical for men, in social or symbolic terms in the different historical and cultural contexts. We need to point out that in Italian, we can use the terms *mascolinità* and *virilità* as synonyms, although, generally, this last term is translated into English as “manliness” or “manhood.”³ When we analyze legal documents and other texts in Italian, in order to understand the evolution of this concept, it is therefore useful to understand that a literal translation might be misleading.

Second, when we speak about Italian masculinity, it is also important to recall that Italy was first unified in 1861 and that the first National Civil Code was enacted only in 1865.⁴ Nonetheless, even before that date, it is possible to identify some common characteristics in the way masculinity was conceived in the Italian peninsula.⁵ After that date, some regional ways of understanding masculinity have remained characteristic of some specific areas that have been represented and stereotyped by cinema and literature.⁶ As we will see, although private law was unified after 1865, some differences remained in the concrete application of specific code provisions intimately connected to the way of understanding masculinity at the local level.

Finally, understanding Italian masculinity today might vary significantly depending upon the perspective and the kind and depth of the analysis adopted. Madonna suggested, some years ago, that “Italians do it better.”⁷ It is far from me to refute or confirm such a perspective, which might correspond to the personal beliefs of the great singer or to a stereotyped image that Italians are always very proud to feed.

Italian sociologists,⁸ psychologists,⁹ and historians¹⁰ have developed interesting analyses of the evolution of this concept of masculinity, which are very important for lawyers to achieve a better understanding of the cultural context

² See Elena Dell’Agnese, *Tu Vuo’Fa l’Americano: La Costruzione Della Mascolinità Nella Geopolitica Popolare Italiana*, in *MASCOLINITÀ ALL’ITALIANA: COSTRUZIONI, NARRAZIONI, MUTAMENTI*, *supra* note 1, at 17, 20.

³ See *Mascolinità, Virilità*, A NEW POCKET-Dictionary of the English and Italian and Italian and English Languages 212, 643, <http://hdl.handle.net/2027/nyp.33433075921498> (last visited Apr. 29, 2013).

⁴ See *infra* Part III.

⁵ See, e.g., GENDER, FAMILY AND SEXUALITY: THE PRIVATE SPHERE IN ITALY 1860–1945 (Perry Willson, ed. 2004) (a collection of essays discussing Italian gender studies and gender relations from the country’s unification to WWII); see also *infra* text accompanying note 65.

⁶ See *infra* notes 76–77 and accompanying text.

⁷ Nicholas Farrell, *Do Italians Do it Better?*, TAKI’S MAG. (June 9, 2012), http://takimag.com/article/do_italians_do_it_better_nicholas_farrell/print#axzz2I9g9XAyV.

⁸ See, e.g., *MASCOLINITÀ ALL’ITALIANA: COSTRUZIONI, NARRAZIONI, MUTAMENTI*, *supra* note 1.

⁹ See, e.g., TAURINO, *supra* note 1.

¹⁰ See BELLASSAI, *LA MASCOLINITÀ CONTEMPORANEA*, *supra* note 1.

in which legal norms have been embedded or on which the law has had an influence.

So, our perspective will be to identify the several ways by which masculinity has been conceived in the Italian context, taking into consideration the corresponding evolutions of the law that codified or changed the way by which relationships between genders were conceived, as well as the suggestions that we can receive from literature and cinema.

Beginning from the romantic hero of our Risorgimento¹¹ which led to the unification of Italy, we will try to investigate the first Italian Codification of 1865, which reflects the main characteristics of the Italian patriarchal society.

Things rapidly changed under Fascism, with the struggling for a new “Ideal Italian,” who would have inherited all of the good qualities of the traditional Italian patriarch, but with added strength, efficiency, and charm.¹² The clear predominance of men in public and private life with respect to their wives or partners was endorsed by legislation enacted in that period.¹³ The fall of the regime and the loss of World War II implied the need to revisit the understanding of masculinity. The enactment of the first Italian Republican Constitution in 1948¹⁴ gave rise to profound modifications in the way of understanding relationships between different genders. It was not until the 1970s and 80s, nonetheless, that Italian law was capable of making the last steps towards real equality between men and women, reshaping the concept of masculinity again.¹⁵

II. THE NINETEENTH CENTURY RISORGIMENTO AND THE STEREOTYPE OF THE “PATRIOT”

The history of Italy in the nineteenth century is profoundly indebted to the revolutionary events that characterized the Risorgimento.¹⁶ The ideal of man and, consequently, the masculine stereotype that accompanied it, were modeled on the romantic hero, who fought for the independence from the “stranger”—

¹¹ Risorgimento means literally “rebirth” or “resurgence” of Italy. See *Risorgimento*, OXFORD DICTIONARIES, <http://oxforddictionaries.com/definition/english/Risorgimento> (last visited Apr. 29, 2013).

¹² See Zina O’Leary, *THE SOCIAL SCIENCE JARGON-BUSTER* 90–91 (2007) (defining “fascism”).

¹³ See, e.g., Codice civile [C.c.] 1865 art. 131 (“Il marito è capo della famiglia; la moglie segue la condizione civile di lui, ne assume il cognome, ed è obbligata ad accompagnarlo dovunque egli creda opportuno di fissare la sua residenza.”).

¹⁴ See Cesare Pinelli, *The 1948 Italian Constitution and the 2006 Referendum: Food for Thought*, 2 EUR. CONST. L. REV. 329, 329 (2006).

¹⁵ See *infra* Part VII.

¹⁶ Literature on the Italian Risorgimento is very wide. For the recent debate, see generally LUCIO VILLARI, *BELLA E PERDUTA: L’ITALIA DEL RISORGIMENTO* (2009). For a more classical view, see ADOLFO OMODEO, *L’ETÀ DEL RISORGIMENTO ITALIANO* (9th ed. 1965). Some works appeared in the English language as well. See, e.g., LUCY RIAL, *THE ITALIAN RISORGIMENTO: STATE, SOCIETY AND NATIONAL UNIFICATION* 1 (1994); see also MARTIN CLARK, *THE ITALIAN RISORGIMENTO* 1 (1998).

that is to say, from the Habsburgs dominating Northern Italy—and for the unification of the Fatherland, *per la patria*.¹⁷

Giuseppe Mazzini¹⁸ and Giuseppe Garibaldi¹⁹ were men who became the heroes of everyday life, whether in exile or on the battlefield. Although profoundly different, Mazzini and Garibaldi shared a common masculinity stereotype, the one of the “patriot”—a mixture of noble qualities, sacrifice, moral strength, but also the capability of fighting for common ideals and for a common future of all Italian people—until then subdivided in many different political entities.²⁰

¹⁷ Even before the Risorgimento, the ideal of a common Italian Fatherland was pursued by the so-called *Carbonari* (literally: “charcoal burners”). The *Carboneria* was a secret society created in Italy at the beginning of the nineteenth century with the aim of removing the anti-liberal governments that characterized fragmented Italy during that period. See *Carbonari*, CHAMBERS DICTIONARY OF WORLD HISTORY (2005), available at <http://www.credoreference.com.ezproxy.library.unlv.edu/entry/chambdictwh/carbonari>. This period is characterized by the role of national heroes, like Silvio Pellico, who wrote *Le mie Prigioni* (My Prisons), in which the author tells about his imprisonment by the Austrians, first in Venice and then in the jail of Spielberg near Brünn (now “Brno” in the Czech Republic, but once belonging to the Habsburg Monarchy). *Pellico, Silvio 1789–1854*, ENCYCLOPEDIA OF LIFE WRITING: AUTOBIOGRAPHICAL AND BIOGRAPHICAL FORMS (2001), available at http://www.credoreference.com.ezproxy.library.unlv.edu/entry/routlifewrite/pellico_silvio_1789_1854. On the role of Silvio Pellico in the Italian literature, see Vittorio Spinazzola, *Il Motivo della Tentazione nell'Opera del Pellico*, in LA LETTERATURA ITALIANA 39 (Emilio Cecchi & Natalino Sapegno eds., 2005). Another important figure was Ciro Menotti, who had fought against the predominance of the Austrians in Northern Italy and was subsequently condemned to death by Francis IV, Duke of Modena. Menotti has been subsequently considered a patriotic martyr by the fighters of the Risorgimento. See LUIGI CARNOVALE, THE MOST TRAGIC STRUGGLE OF THE CENTURIES 35–38 (1929); see also *Ciro Menotti*, IL RISORGIMENTO (Mar. 6, 2011), <http://ilrisorgimento.myblog.it/archive/2011/03/06/la-penisola-dei-famosi-ciro-menotti-1798-1831.html#more>. On the role of secret societies during the Risorgimento, see Giuseppe Parlato, *Società Segrete e Moti del 1820–21 in Europa*, in LA STORIA: I GRANDI PROBLEMI DELL'ETÀ CONTEMPORANEA 107, 107–32 (Nicola Tranfaglia & Massimo Firpo eds., 1993).

¹⁸ For the recent debate, see generally NUNZIO DELL'ERBA, GIUSEPPE MAZZINI: UNITÀ NAZIONALE E CRITICA STORICA (2010). For a more classical approach, see GIUSEPPE MONSAGRATI ET AL., GIUSEPPE MAZZINI (1972); FRANCO DELLA PERUTA, MAZZINI E I RIVOLUZIONARI ITALIANI. IL PARTITO D'AZIONE, 1830–1845 (1974). On the role of Giuseppe Mazzini in the Italian literature of that period, see Spinazzola, *supra* note 17, at 105.

¹⁹ See generally CARMELO CALCI, GARIBALDI E I SUOI TEMPI: IMMAGINI DEI PROTAGONISTI (2008). On the “myth” of Garibaldi, see generally MARIO ISNENGHI, GARIBALDI FU FERITO: IL MITO, LE FAVOLE (2010).

²⁰ After the 1815 Congress of Vienna, Italy was subdivided in the Kingdom of Sardinia (*Regno di Sardegna*, which incorporated also the Republic of Genova) under the Savoy Real Family and—in particular—under Vittorio Emanuele I; the Kingdom of Lombardo Veneto, which included the previous territory of Venice, under the Emperor of Austria; the Duchy of Parma, Piacenza and Guastalla, under Marie Louise of Austria, daughter of the Austrian Emperor Francis I; the Duchy of Modena and Reggio, under Francis IV of Habsburg-Este; the Duchy of Massa and Carrara, given to Maria Beatrice D'Este; the Granduchy of Tuscany, under Ferdinand II of Lorraine, brother of the Austrian Emperor; the Duchy of Lucca, under Charles Ludwig Bourbons; the Church State, under Pius VII; the Republic of San Marino; the Kingdom of Naples (Kingdom of two Sicilies), under Ferdinand Bourbons; Trentino, Südtirol and Venezia Giulia were under direct dominion of the Austrian Empire. See MARCO MERIGGI, GLI STATI ITALIANI PRIMA DELL'UNITÀ: UNA STORIA ISTITUZIONALE (2002); Guido Ratti, *Egemonia Austriaca e Restaurazione Negli Stati Italiani*, in LA STORIA: I GRANDI PROBLEMI DELL'ETÀ CONTEMPORANEA, *supra* note 17, at 85, 85–106; see also

The most relevant feature of this period was that the Risorgimento was a man's issue,²¹ and that history was made by men.²² The centrality of the male role was also well portrayed in the literature of that period.²³ Many writers of the first part of the nineteenth century were personal witnesses of the emblematic events that followed the independence movements against the Austrians and the attempts to rouse the people of Southern Italy. Giuseppe Cesare Abba,²⁴ together with Amilcare Lauria,²⁵ Anton Giulio Barrili,²⁶ and Giuseppe Bandi²⁷ were leading figures of the *letteratura garibaldina*,²⁸ where a central role was played by Ippolito Nievo.²⁹

Recent research,³⁰ mostly published on the occasion of the 150th anniversary of the Italian Unification in 2011, pointed out the important role of women

MARJORIE BLOY, VICTORIAN WEB, <http://www.victorianweb.org/history/forpol/Vienna.html> (last visited Apr. 29, 2013).

²¹ See ALBERTO MARIO BANTI, *L'ONORE DELLA NAZIONE: IDENTITÀ SESSUALI E VIOLENZA NEL NAZIONALISMO EUROPEO DAL XVIII SECOLO ALLA GRANDE GUERRA* 228 (2005).

²² For example, Derek Beales and Eugenio F. Biagini openly admit that the role played by women during the Risorgimento remains one of the most neglected parts of Italian history in the nineteenth century. DEREK BEALES & EUGENIO F. BIAGINI, *IL RISORGIMENTO E L'UNIFICAZIONE DELL'ITALIA* 181 (2005).

²³ For an encompassing view of the Italian literature during the Risorgimento, see Spinazzola, *supra* note 17, at 1. On the role of women in Italian literature during the same period, see Cecilia Robustelli, *Donne che Scrivono tra Otto e Novecento: Dalle Carte Private ai Saggi Scientifici*, in *ITALIA LINGUISTICA: GLI ULTIMI 150 ANNI* 3, 3 (Elisabetta Benucci & Raffaella Setti eds., 2011).

²⁴ Giuseppe Cesare Abba fought side by side with Garibaldi and published different versions of his memories. The last edition is GIUSEPPE CESARE ABBA, *DA QUARTO AL VOLTURNO* (1891). The work has been re-edited by Luigi Cattanei. GIUSEPPE CESARE ABBA, *DA QUARTO AL VOLTURNO: NOTERELLE D'UNO DEI MILLE* (Luigi Cattanei ed., 1969). For a more recent edition, see GIUSEPPE CESARE ABBA, *STORIA DEI MILLE NARRATA AI GIOVINETTI* (2010).

²⁵ AMILCARE LAURIA, *LE GARIBALDINE* (1904).

²⁶ ANTON GIULIO BARRILI, *CON GARIBALDI: ALLE PORTE DI ROMA* (1895).

²⁷ Giuseppe Bandi's, *I MILLE: DA GENOVA A CAPUA*, first published in different installments on the Journals *Telegrafo* of Livorno and on the *Messaggero* of Rome in 1886, was finally collected in a volume after his death and published by Salani, Firenze. GIUSEPPE BANDI, *I MILLE: DA GENOVA A CAPUA* (Adriano Salani ed., 1903). The work was re-published in more recent years. GIUSEPPE BANDI, *I MILLE* (Campanella Collection 1955) (1903).

²⁸ For a review of the whole movement characterizing the *letteratura garibaldina*, see generally ANTOLOGIA DI SCRITTORI GARIBALDINI (Gaetano Mariani ed., 1960).

²⁹ The masterpiece by Ippolito Nievo is *Le Confessioni di un Italiano* (Confession of an Italian) written between December 1857 and August 1858. The work tells the story of Carlino Altoviti, a patriot and a man, who lives the transformation of his identity from a born Venetian to an Italian. The work begins with the following words: "Io nacqui veneziano ai 18 ottobre del 1775, giorno dell'evangelista san Luca; e morirò per la grazia di Dio italiano quando lo vorrà quella Provvidenza che governa misteriosamente il mondo" (I was born a Venetian on the eighteenth of October 1775, the day of St. Luke the Evangelist and I will die Italian, when Providence that mysteriously governs the world will decide.). The confessions were then published after his death. See 2 IPPOLITO NIEVO, *LE CONFESIONI DI UN OTTUAGENARIO* (1867). For a more recent edition, see IPPOLITO NIEVO & EMILIO CECCHI, *LE CONFESIONI D'UN ITALIANO* (2d ed., Einaudi 1964) (1867).

³⁰ Generally, on the role of women during the Risorgimento, see MICHELA DE GIORGIO, *LE ITALIANE DALL'UNITÀ A OGGI: MODELLI CULTURALI E CONPORTAMENTI SOCIALI* (2d ed. 1993); Simonetta Soldani, *Donne e Nazione Nella Rivoluzione Italiana del 1848*, 46 *PASSATO E PRESENTE* 75, 75–102 (1999). Some of this research was also published in English.

during this period³¹: most of them were invisible creatures, living and working in the shadow of great men.³²

Officially, only one woman participated in the *Spedizione dei Mille* (the “Expedition of the Thousand”), which organized a corps of Italian volunteers under Garibaldi in order to conquer Sicily and the rest of the South, still dominated by the Bourbons in 1860: Rosalie Montmasson, wife of Francesco Crispi, future member of the first Italian Parliament, and future prime minister of the unified Italian Kingdom.³³ Rosalie was of humble origins and followed Crispi everywhere in his exile: to Malta, where they got married, then to Paris and London, where he joined Mazzini.³⁴ Rosalie played an active role, helping the Italian patriot refugees in London to communicate among themselves. For these reasons, she was the only woman admitted to the Expedition by Garibaldi. Notwithstanding the important role that Rosalie played in the life of Crispi and of his comrades, Crispi eventually rejected her, contesting the validity of their marriage in order to marry the young and noble Lina Barbagallo, related to the prestigious Bourbon family,³⁵ the same family that Garibaldi and Crispi wanted out of Italy.

III. THE FIRST ITALIAN CIVIL CODE AND THE CELEBRATION OF THE PATRIARCHAL FAMILY

After having reached the political unification of the Italian Kingdom, one of the first needs felt at the political level was to unify private law according to the model of the French Civil Code established under Napoleon.³⁶ The new

See generally Simonetta Ortaggi Cammarosano, *Labouring Women in Northern and Central Italy in the Nineteenth Century*, in *SOCIETY AND POLITICS IN THE AGE OF THE RISORGIMENTO* 152, 152–83 (John A. Davis & Paul Ginsborg eds., 1991); Maura Palazzi, *Economic Autonomy and Male Authority: Female Merchants in Modern Italy*, 7 *J. MOD. IT. STUD.* 17, 19 (2002); *see also* Angela Groppi, *A Matter of Fact Rather than Principle: Women, Work and Property in Papal Rome (Eighteenth–Nineteenth Centuries)*, 7 *J. MOD. IT. STUD.* 37, 37–55 (2002).

³¹ *See generally* *DONNE DEL RISORGIMENTO* (Elena Doni et al. eds., 2011); MARINA CEPEDA FUENTES, *SORELLE D’ITALIA: LE DONNE CHE HANNO FATTO IL RISORGIMENTO* (2011). More specifically on the contribution of individual women see, for example, the vast bibliography on Cristina Trivulzio di Belgiojoso. *See, e.g.*, “LA PRIMA DONNA D’ITALIA” CRISTINA TRIVULZIO DI BELGIOJOSO TRA POLITICA E GIORNALISMO (Mariachiara Fugazza & Karoline Rörig eds., 2010); ARRIGO PETACCO, *LA PRINCIPESSA DEL NORD: LA MISTERIOSA VITA DELLA DAMA DEL RISORGIMENTO: CRISTINA DI BELGIOJOSO* (2009).

³² *See generally* BRUNA BERTOLO, *DONNE DEL RISORGIMENTO: LE EROINE INVISIBILI DELL’UNITÀ D’ITALIA* (2011).

³³ *See* CHRISTOPHER DUGGAN, FRANCESCO CRISPI: FROM NATION TO NATIONALISM 1, 14, 30, 187, 354 (2002); *see also* CHRISTOPHER DUGGAN, *CREARE LA NAZIONE: VITA DI FRANCESCO CRISPI* (G. Ferrara degli Uberti trans., 2000) (Italian translation).

³⁴ On the role played by Rosalie Montmasson see Claudia Galimberti, *Mille e una . . . Rosalie Montmasson*, in *DONNE DEL RISORGIMENTO*, *supra* note 31, at 179, 179. *See also* Elena Bevini, *Rose Montmasson*, *EMPATIA*, http://www.empatiadonne.it/index.php?option=com_content&view=article&id=177:rose-montmasson&catid=102:risorgimento&Itemid=240 (last visited Apr. 29, 2013).

³⁵ *See generally* ENZO CICONTE & NICOLA CICONTE, *IL MINISTRO E LE SUE MOGLI: FRANCESCO CRISPI TRA MAGISTRATI, DOMANDE DELLA STAMPA, IMPUNITÀ* 38–40 (2010).

³⁶ *See* MAURO CAPPELLETTI ET AL., *THE ITALIAN LEGAL SYSTEM* 215–18 (1967). On the process of unification of Italian private law see generally ALBERTO AQUARONE,

Italian Civil Code, enacted in 1865,³⁷ was aimed at substituting the various civil codes existing at the local level in the various pre-unitary states.

The Code of 1865 included a first book entitled *Of Persons*,³⁸ which is interesting to analyze to understand the central role played by men in family and society at that time. Indeed, the role of the man as father and as master of the family had already been at the core of a long-lasting debate in Italy. Giulio Vismara, a famous Italian historian who dedicated much of his attention to the study of the evolution of family law in the Italian context, suggests that in order to have an idea of what family ties were in the nineteenth century, it is instructive to look at the description of family by Cesare Beccaria at the end of the eighteenth century.³⁹ In his famous *Treaty Of Crimes and Punishments*, Beccaria wrote⁴⁰:

It is remarkable, that many fatal acts of injustice have been authorised and approved, even by the wisest and most experienced men, in the freest republics. This has been owing to their having considered the state rather as a society of *families* than of *men*. Let us suppose a nation composed of [a] hundred thousand men, divided into twenty thousand families of five persons each, including the head or master of the family, its representative. If it be an association of *families*, there will be twenty thousand *men*, and eighty thousand slaves; or if of *men*, there will be an hundred thousand citizens, and not one slave. In the first case we behold a republic, and twenty thousand little monarchies, of which the heads are the sovereigns: in the second the spirit of liberty will not only breath [sic] in every public place of the city, and in the assemblies of the nation, but in private houses, where men find the greatest part of their happiness or misery.⁴¹

As a famous leader of the Italian Enlightenment, Cesare Beccaria⁴² developed a harsh critique of the role and the powers of the master of the family, a patriarch with unlimited powers on the rest of the family.⁴³ Notwithstanding these critiques, a century later, the first Italian Civil Code of 1865 still reflected this hegemonic situation of the *pater familias* (father of the family) through the

L'UNIFICAZIONE LEGISLATIVA E I CODICI DEL 1865 (1960); CARLO GHISALBERTI, *UNITÀ NAZIONALE E UNIFICAZIONE GIURIDICA IN ITALIA: LA CODIFICAZIONE DEL DIRITTO NEL RISORGIMENTO* (2d ed. 1982); Giorgio Candeloro, *L'unificazione Italiana*, in *LA STORIA: I GRANDI PROBLEMI DELL'ETÀ CONTEMPORANEA*, *supra* note 17, at 341, 341–72. *See also Italian Civil Code*, BRITANNICA ONLINE ENCYCLOPEDIA, <http://www.britannica.com/EBchecked/topic/297187/Italian-Civil-Code> (last visited Apr. 29, 2012).

³⁷ Codice civile [C.c.] 25 June 1865, n. 2358 (It.) (approved by royal decree); *see also* CAPPELLETTI ET AL., *supra* note 36, at 215–18; THOMAS H. REYNOLDS & DAVID A. COMBE, *THE LLMC SOURCEBOOK* § 14, vii, http://www.llmc.com/Historical_Civil2.asp#page_1 (last visited Apr. 29, 2013).

³⁸ C.c. 25 June 1865, n. 2358 (Libro Primo, Delle Persone e Della Famiglia); *see also* VINCENZO FRANCESCHELLI, *DIRITTO PRIVATO* 67 (5th ed. 2011).

³⁹ *See* GIULIO VISMARA, *IL DIRITTO DI FAMIGLIA IN ITALIA DALLE RIFORME AI CODICI: APPUNTI* 2 (1978).

⁴⁰ CESARE BECCARIA, *DEI DELITTI E DELLE PENE* (1853). For an online edition, *see* CESARE BECCARIA, *OF CRIMES AND PUNISHMENTS*, http://www.constitution.org/cb/crim_pun26.htm (last visited Apr. 29, 2013) [hereinafter BECCARIA, *OF CRIMES AND PUNISHMENTS*].

⁴¹ BECCARIA, *OF CRIMES AND PUNISHMENTS*, *supra* note 40.

⁴² *Cesare Beccaria*, BIO. TRUE STORY, <http://www.biography.com/people/cesare-beccaria-39630?page=2> (last visited Apr. 29, 2013) (lauding Beccaria as “one of the greatest minds of the 18th Century.”).

⁴³ *See* BECCARIA, *OF CRIMES AND PUNISHMENTS*, *supra* note 40.

institution of the *patria potestas*.^{44 45} This institution, which Italian Law inherited from ancient Roman law,⁴⁶ gave to the master of the family wide powers over the wife and the children.

The subjugated role of the wife was clearly acknowledged by Article 131 of the Civil Code: "The husband is the head of the family; the wife follows his civil condition, assumes his family name, and is obliged to accompany him wherever he thinks appropriate to have his residence."⁴⁷ With the marriage, the married woman was limited in that she had to ask for special authorization from the husband in many cases.⁴⁸ So, for example, the married woman could not sell or donate immovable goods, nor could she stay in court to defend related rights without the consent of the husband.⁴⁹

The role of the father/husband was also very influential on the will of children. Sons who had not reached twenty-five years and daughters who had not reached twenty-one years could not marry without the consent of both parents. But if parents disagreed, the final word was with the father.⁵⁰

Divorce was not possible, though Italian law recognized the possibility of personal separation.⁵¹ Both spouses could ask for separation but only for reasons specified by law.⁵² Adultery was among these reasons, but Article 150 expressly provided that "adultery of the husband was not considered sufficient reason for the wife to ask for separation, unless he was maintaining the mistress as a concubine at home, or notoriously in another place."⁵³

Title VIII of Book II (Articles 220–39) was entirely dedicated to the institute of *patria potestà*, which had great influence on the relationships between

⁴⁴ On the role of this institution in Italian law prior to the Reform of 1975, see ANGELO CARLO PELOSI, *LA PATRIA POTESTÀ* (1965).

⁴⁵ This Essay uses the terms, *patria potestas* as well as *patria potestà*. "Patria potestas" is the Latin definition used everywhere in Europe. It makes reference to an institution that has Roman origin and was known in most European States. "Patria potestà" is, instead, the concept used in the Italian language (derived by Latin), that we were using in the Civil Code.

⁴⁶ Luigi Capogrossi Colognesi, *Patria Potestà (Diritto Romano)*, 32 *ENCICLOPEDIA DEL DIRITTO* 243, 243 (1982); Giannetto Longo, *Patria Potestà (Diritto Romano)*, 12 *NOVISSIMO DIGESTO ITALIANO* 575 (Antonio Azara & Ernesto Eula eds., 1957).

⁴⁷ C.c. 1865 art. 131 ("Il marito è capo della famiglia: la moglie segue la condizione civile di lui, ne assume il cognome, ed è obbligata ad accompagnarlo dovunque egli creda opportuno di fissare la sua residenza.").

⁴⁸ This *autorità maritale* was actually initially intended to protect the married woman. See VISMARA, *supra* note 39, at 73.

⁴⁹ C.c. 1865 art. 134 ("La moglie non può donare, alienare beni immobili, sottoporli ad ipoteca, contrarre mutui, cedere o riscuotere capitali, costituirsi sicurtà, né transigere o stare in giudizio relativamente a tali atti, senza l'autorizzazione del marito.").

⁵⁰ C.c. 1865 art. 63 ("Il figlio che non ha compiuto gli anni venticinque, la figlia che non ha compiuto gli anni ventuno non possono contrarre matrimonio senza il consenso del padre e della madre. Se i genitori sono discordi, è sufficiente il consenso del padre.").

⁵¹ See C.c. 1865 art. 148–50 (Capo X—Dello scioglimento del matrimonio e della separazione dei coniugi) (The dissolution of marriage and spousal separation).

⁵² C.c. 1865 art. 149.

⁵³ C.c. 1865 art. 150 ("La separazione può essere domandata per causa di adulterio o di volontario abbandono, e per causa di eccessi, sevizie, minacce e ingiurie gravi. Non è ammessa l'azione di separazione per l'adulterio del marito, se non quando egli mantenga la concubina in casa o notoriamente in altro luogo, oppure concorrano circostanze tali che il fatto costituisca una ingiuria grave alla moglie.").

parents and children, but also distributed power between spouses.⁵⁴ The word *potestà* refers, in the Italian legal system, to the allocation of power to a person in order to protect the interests of others and to exercise a specific function.⁵⁵ *Patria potestà* granted the father power to exercise all rights and duties for and on behalf of the minor children.⁵⁶ In concrete terms, the exercise of this power included the right/duty to correct the bad habits of the children,⁵⁷ to administer their rights and their goods,⁵⁸ and to represent them in court.⁵⁹ The children had to obey and could not leave the father's house without permission.⁶⁰

The chapter dedicated to this institution, in the Civil Code of 1865, began establishing a general duty of the children "to honour and respect their parents," independent of their age.⁶¹ But, in fact, all powers were delegated exclusively to the father, while the mother could only exercise the *patria potestà* if the father was physically or mentally absent.⁶² Even in the case where the father died, the mother had to follow the instructions for the education of the children that he might have left by testament.⁶³ The economic predominance of the husband was also clear as far as the rights on the dowry were concerned, which only the husband could administer.⁶⁴

The family ideal model that the Italian legislation of 1865 represented was not peculiar to Italian society. More or less, all European legislation in force in that period reproduced the model of a patriarchal family.⁶⁵ Legal historians have underlined the more liberal attitude of the Austrian Civil Code (*Allgemeines Bürgerliches Gesetzbuch*) of 1811, which was not followed in part because of patriotic reasons⁶⁶ as the unification wars were fought against

⁵⁴ C.c. 1865 art. 220–39.

⁵⁵ See *Potestà*, BABYLON TRANSLATOR, <http://translation.babylon.com/italian/to-english/potest%C3%A0/> (last visited Apr. 30, 2013).

⁵⁶ See, e.g., Stephen R. Arnott, *Autonomy, Standing, and Children's Rights*, 33 WM. MITCHELL L. REV. 807, 810 & n.19 (2007).

⁵⁷ The so-called *jus corrigendi* included, in extreme cases, the right of the father to remove the minor child from the family and obligate him to live within his own means, providing only strictly necessary alimony. See C.c. 1865 art. 222 ("Il padre che non riesca a frenare i travimenti del figlio può allontanarlo dalla famiglia, assegnandogli secondo i propri mezzi gli alimenti strettamente necessari . . .").

⁵⁸ This power was very wide, encompassing the right of usufructus on the inherited goods by the children. See, e.g., C.c. 1865 art. 225.

⁵⁹ C.c. 1865 art. 224.

⁶⁰ C.c. 1865 art. 221.

⁶¹ See C.c. 1865 art. 220.

⁶² C.c. 1865 art. 220 ("Durante il matrimonio tale potestà è esercitata dal padre, e, se egli non possa esercitarla, dalla madre").

⁶³ C.c. 1865 art. 235 ("Il padre può per testamento o per atto autentico stabilire condizioni alla madre superstite per l'educazione dei figli e per l'amministrazione dei beni.").

⁶⁴ C.c. 1865 art. 1399 ("Il marito solo ha, durante il matrimonio, l'amministrazione della dote."); see also 2 ALESSANDRO DOVERI, ISTITUZIONI DI DIRITTO ROMANO 267 (2d ed. 1866).

⁶⁵ This situation was analyzed by Italian lawyers of the time. See e.g., CARLO FRANCESCO GABBA, DELLA CONDIZIONE GIURIDICA DELLE DONNE: STUDI E CONFRONTI (Nabu Press 2011) (1880).

⁶⁶ See VISMARA, *supra* note 39, at 68.

the Austrians—in part because of the influences of the Catholic Church that tried to impose a more traditional view of family.⁶⁷

Although there were certainly common patterns among existing legislation at that time, the very limited power of Italian women inside the family reflected two aspects of a more wide range of patterns characterizing Italian society. According to the available statistics, eighty-one percent of Italian women were still illiterate at the end of the nineteenth century. Only women of the upper classes had the possibility of receiving an education.⁶⁸ It is no wonder the important issues had to remain in the hands of the man, the breadwinner, the one who received an education.⁶⁹

The interventions of the first Italian feminists, like Anna Maria Mozzoni, who fought all her life for the rights of women in Italy,⁷⁰ were the voices of a small *élite* that remained mostly unheard. Generally, however, the woman was conceived by certain scientific literature⁷¹ of those years as a childish human being,⁷² not completely developed in comparison with man.⁷³ It should not come as a surprise that, consequently, according to the Civil Code of 1865,

⁶⁷ See Mark Seymour, *Keystone of the Patriarchal Family? Indissoluble Marriage, Masculinity and Divorce in Liberal Italy*, 10 J. MOD. IT. STUD. 297, 298 (2005) (describing the modern influences the Catholic church has had on Italian politics); see also Frank A. Salamone, *Italy*, COUNTRIES AND THEIR CULTURES, <http://www.everyculture.com/Ge-It/Italy.html> (last visited Apr. 30, 2013) (noting that to this day, the Catholic Church serves as a “strong informal social control” in Italy).

⁶⁸ See BEALES & BIAGINI, *supra* note 22, at 185.

⁶⁹ On the education of women in Italy at the end of the nineteenth century, see the various articles collected in L'EDUCAZIONE DELLE DONNE: SCUOLE E MODELLI DI VITA FEMMINILE NELL'ITALIA DELL'OTTOCENTO (Simonetta Soldani ed., 1989). On the influence of Italian women on science, see Anna Barozzi & Vittoria Toschi, *Presenze Femminili nella Cultura Tecnico-Scientifica tra la Fine dell'Ottocento e gli Inizi del Novecento*, in ALMA MATER STUDIORUM: LA PRESENZA FEMMINILE DAL XVIII AL XX SECOLO 201, 201–14 (1988).

⁷⁰ Anna Maria Mozzoni, the pioneer of Italian Feminism, was born in 1837 to a bourgeois family and received a good education. See *Mozzoni, Anna Maria*, ENCYCLOPEDIA WOMEN SOC. REFORMERS, http://www.credoreference.com/entry/abcwst/mozzoni_anna_maria (last visited Apr. 30, 2012). She published two books where she claimed the equality of rights between men and women in the private law codification of 1865. See generally ANNA MARIA MOZZONI, *LA DONNA I SUOI RAPPORTI SOCIALI* (1864); ANNA MARIA MOZZONI, *LA DONNA IN FACCIA AL PROGETTO DEL NUOVO CODICE CIVILE ITALIANO* (1865). On a woman's role in Italian society, see 2 GIOVANNI CARAVAGGI ET AL., *LA DONNA E IL DIRITTO: DALL'INCAPACITÀ GIURIDICA AL NUOVO DIRITTO DI FAMIGLIA* (1976). On the birth of Feminism in Italy, see also FRANCA PIERONI BORTOLOTTI, *ALLE ORIGINI DEL MOVIMENTO FEMMINILE IN ITALIA, 1848–1892* (1963).

⁷¹ See, e.g., EMILIA SAROGNI, *LA DONNA ITALIANA: IL LUNGO CAMMINO VERSO I DIRITTI, 1861–1994*, at 23–25 (1995) (for the Italian context). But the Italians were not the only ones to think that the woman's brain was typical of an underdeveloped human being. See, e.g., LOUANN BRIZENDINE, *THE FEMALE BRAIN I* (2006) (for the general nineteenth century view on the female brain); LOUANN BRIZENDINE, *IL CERVELLO DELLA DONNE* 15 (Lorena Lanza & Patrizia Vicentini trans., 2007).

⁷² For example, Paolo Mantegazza, a famous physiologist and future Senator of the unified Kingdom, attributed to women the same characteristics of children, who—by nature—are naïve, spontaneous, and sensitive. PAOLO MANTEGAZZA, *IL SECOLO NEVROSICO* (1887). See also BELLASSAI, *LA MASCOLINITÀ CONTEMPORANEA*, *supra* note 1, at 49.

⁷³ See CESARE LOMBROSO & GUGLIELMO FERRERO, *LA DONNA DELINQUENTE, LA PROSTITUTA E LA DONNA NORMALE* 172 (1893); BELLASSAI, *LA MASCOLINITÀ CONTEMPORANEA*, *supra* note 1, at 49.

women could not appear as witnesses in proceedings in front of public officials⁷⁴ nor in cases of a last will and testament.⁷⁵ This vision of the patriarchal family was very well portrayed in some famous novels, like *I Malavoglia* by Giovanni Verga,⁷⁶ and *Il Gattopardo* by Giuseppe Tomasi di Lampedusa.⁷⁷

The wind began to change with the process of industrialization that characterized the *fin de siècle*,⁷⁸ with the new spirit of the *belle époque*,⁷⁹ World War I, and the rapid changes that happened to the geo-political scene in Europe.⁸⁰ This situation affected Italy in particular, where the towns of Trento and Trieste—the last to remain under the Austrian domination after unification—were finally annexed to the Unified Kingdom of Italy.

Some important reforms were introduced in this period that referred to the role of women in society. The first reform concerned the capacity of women to act as witnesses in court.⁸¹ When the first proposal of a law allowing women to

⁷⁴ C.c. 1865 art. 351 (“Gli atti e le dichiarazioni da farsi dinanzi agli ufficiali dello stato civile si riceveranno in presenza di due testimoni scelti dalle parti interessate, i quali siano di sesso maschile, abbiano compiuto gli anni ventuno e risiedano nel comune.”).

⁷⁵ C.c. 1865 art. 788 (“I testimoni nei testamenti devono essere maschi, maggiori di anni ventuno, cittadini del regno, o stranieri in esso residenti, e non aver perduto per condanna il godimento o l’esercizio dei diritti civili.”).

⁷⁶ GIOVANNI VERGA, *I MALAVOGLIA* (1881). *I Malavoglia* is one of the most famous novels by Giovanni Verga. The book, first published in 1881, was translated into English with the title *The House by the Medlar Tree* by Mary A. Craig and was published in 1890. The story tells about a family of fishermen in Sicily, in the town of Aci Trezza, and takes place just after the unification of the Italian Kingdom. A central role is played by *Padron 'Ntoni*, the patriarch of the large family that faces a series of misfortunes after the departure of the older son. See GIOVANNI VERGA, *THE HOUSE BY THE MEDLAR TREE* (Mary A. Craig trans., 1890).

⁷⁷ GIUSEPPE TOMASI DI LAMPEDUSA, *IL GATTOPARDO* (1958). *Il Gattopardo* was first published only in 1958 and was rendered world famous through the movie starring Burt Lancaster, Alain Delon, Claudia Cardinale, and directed by Luchino Visconti. *THE LEOPARD* (Titanus 1963). It tells the story of the authors’ family, depicting the life of Don Fabrizio—the Prince of Salina and the family’s great patriarch during the last phase of the Risorgimento. The author creates an interesting tension, juxtaposing the good qualities of the old noble prince with the evil characteristics of Calogero Sedara, a man of humble beginnings, who had become mayor of Donnafugata, the small town where the story is set. The book experienced enormous success in the United States and in Europe. An English translation by Archibald Colquhoun of *The Leopard* was originally published in 1960 by Collins (in the U.K.) and Pantheon Books (in the United States). See GIUSEPPE DI LAMPEDUSA, *THE LEOPARD* (Archibald Colquhoun trans., 1960) (1958).

⁷⁸ The *fin de siècle* refers to the “characteristic of the close of the 19th century and especially its literary and artistic climate of sophistication, world-weariness, and fashionable despair.” *Fin de siècle*, MERRIAM-WEBSTER.COM, <http://www.merriam-webster.com/dictionary/fin%20de%20si%C3%A8cle> (last visited Apr. 30, 2013).

⁷⁹ The *belle époque* refers to the “period of comfortable well-established life before World War I.” *Belle époque*, THEFREEDICTIONARY.COM, <http://www.thefreedictionary.com/belle+epoque> (last visited Apr. 30, 2013).

⁸⁰ The rapid changes that happened in this period, with the collapse of the Austrian-Hungarian Empire, the Russian Empire and the Ottoman Empire are well described in ERIC HOBSBAWM, *THE AGE OF EMPIRE, 1875–1914* (1987). Two autobiographical novels by Austrian authors are emblematic literature on this topic. See STEFAN ZWEIG, *IL MONDO DI IERI: RICORDI DI UN EUROPEO* (Lavinia Mazzucchetti trans., 1994) (first published in German in 1944 under the title *Die Welt von Gestern, Erinnerungen eines Europäers*, the novel was translated into Italian by Lavinia Mazzucchetti); FRANZ WERFEL, *NEL CREPUSCOLO DI UN MONDO* (Cristina Baseggio trans., 1980).

⁸¹ VISMARA, *supra* note 39, at 81.

act as witnesses in court was presented, the first and unanimous reaction by the Parliament was hilarity.⁸² Nonetheless, in eight months, Law n. 4167 of 1877, which allowed women to be witnesses in court as well as in front of public officials, was passed.⁸³

The rapid transformation of Italian economic structure and the entry of women into the workplaces, especially factories where women and children were most exploited, obliged the Italian government to reevaluate the situation from a legislative point of view.

With a special law passed in 1902,⁸⁴ strongly supported by the Socialist Party and by Anna Kuliscioff,⁸⁵ some specific provisions were introduced in order to guarantee working women the right to a maternity leave (at least one month),⁸⁶ a limit to working hours,⁸⁷ a weekly rest,⁸⁸ and a limit on night-shifts.⁸⁹ The various attempts proposed by progressive parliamentarians to introduce divorce in Italy, however, remained completely ignored.⁹⁰

A more ambitious reform took place in 1919 when a law was passed concerning the legal capacity of women,⁹¹ abrogating several articles of the Civil Code of 1865⁹² related to the *autorità maritale*.⁹³ That law, with a very important provision for the professional future of Italian women, permitted them to practice all professions.⁹⁴

Notwithstanding the indubitable impact that this reform had on the emancipation of women in Italy,⁹⁵ the role of men remained predominant in all professional sectors and in public life. Women, for example, were not admitted to the judiciary until 1963,⁹⁶ and all the movements in favor of extending the right to vote to women were unsuccessful until the end of World War II.

⁸² CARAVAGGI ET AL., *supra* note 70, at 11.

⁸³ Legge 9 dicembre 1877, n. 4167, in G.U. 10 dicembre 1877, n. 287.

⁸⁴ Legge 19 giugno 1902, n. 242, in G.U. 7 luglio 1902, n. 157 (“il lavoro delle donne e dei fanciulli” (on the work of women and children)).

⁸⁵ Anna Kuliscioff was born in Russia in a Jewish family and was one of the first women graduated in medicine in Italy. Her role and her influence on Italian Socialism have been at the core of various initiatives. See, e.g., MARIA CASALINI, *LA SIGNORA DEL SOCIALISMO ITALIANO: VITA DI ANNA KULISCIOFF* (1987); PAOLO PILLITTERI, *ANNA KULISCIOFF: UNA BIOGRAFIA POLITICA* (1986); see also Naomi Shepherd, *Anna Kuliscioff 1855–1925*, JEWISH WOMEN’S ARCHIVE (2005), <http://jwa.org/encyclopedia/article/kuliscioff-anna>.

⁸⁶ L. n. 242 art. 6/1902.

⁸⁷ L. n. 242 art. 7/1902.

⁸⁸ L. n. 242 art. 9/1902.

⁸⁹ L. n. 242 art. 5/1902.

⁹⁰ Seymour, *supra* note 67, at 298, 301–03.

⁹¹ Legge 17 luglio 1919, n. 1176, in G.U. 19 luglio 1919, n. 172 (“[N]orme circa la capacità giuridica della donna” (Norms concerning legal capacity of women)).

⁹² L. n. 1176 art. 1/1919 (articles 134, 135, 136, 137 of the Civil Code of 1865 were abrogated).

⁹³ See C.c. 1865 art. 134.

⁹⁴ L. n. 1176 art. 7/1919 (“Le donne sono ammesse, a pari titolo degli uomini, ad esercitare tutte le professioni ed a coprire tutti gli impieghi pubblici . . .” (All women are admitted, on equal footing with men, to exercise all professions and to all public offices.)).

⁹⁵ See CARAVAGGI ET AL., *supra* note 70, at 35; see also Francesca Marone & Valeria Napolitano, *Cecilia Mangini and Alina Marazzi: An Italian Story*, CINEMASCOPE: INDEP. FILM J., <http://cinemiz.net/cifj/?p=188> (last visited Apr. 30, 2013).

⁹⁶ Legge 9 febbraio 1963, n. 66 art. 1, in G.U. 19 febbraio 1963, n. 43.

Some authors have pointed out that it is exactly in this period, when the foundations of patriarchal society have been challenged, that misogyny begins to expand as a social phenomenon: not as the remains of an archaic society, but much more as a reaction to the innovations that took place in modern society and to the “new Italian woman” (*la donna nuova*).⁹⁷

IV. THE *Reshaping* of Italian Masculinity During Fascism

The partial erosion of the monopoly of men in all societal fields, that took place at the beginning of the twentieth century, had nonetheless to face a future enemy: the Fascist legislation that would characterize Italian society for twenty years.

On Benito Mussolini's initiative, Italian fascism was founded in March 1919 in Milan. The movement was called the *Fasci Italiani di Combattimento* (Fighting Italian Fasces). “The Fascist movement came to power after the so-called ‘March to Rome’ on 28 October 1923 and very soon under the dictatorial government of the Duce took complete control of society.”⁹⁸ Much has been written on the historical reasons for this success,⁹⁹ and recent literature has focused its attention on the impact that Fascism has had on the concept of masculinity.¹⁰⁰ Fascism presented an idealized version of masculinity with a specific purpose: to envisage a “New” Italian citizen in a “New” Italy.¹⁰¹ It is important to note that these ideals, though presented as new, found profound roots in the past of Italian history.

The value Fascism attributed to tradition, to patriarchal society, and to rural life, must indeed be recognized as part of Italian society, which had already existed in the nineteenth century. The very same idea of the need to create a new Italian can be traced back to a quote traditionally attributed to Massimo D’Azeglio, one of the most famous men of the *Risorgimento*: “We

⁹⁷ SANDRO BELLASSAI, *L’INVENZIONE DELLA VIRILITÀ: POLITICA E IMMAGINARIO MASCHILE NELL’ITALIA CONTEMPORANEA* 44 (2011) [hereinafter BELLASSAI, *L’INVENZIONE DELLA VIRILITÀ*]; BELLASSAI, *LA MASCOLINITÀ CONTEMPORANEA*, *supra* note 1, at 51.

⁹⁸ Gigliola Gori, *Model of Masculinity: Mussolini, the “New Italian” of the Fascist Era*, 16 *INT’L J. HIST. SPORT* 27, 27 (1999).

⁹⁹ See, e.g., ENZO COLLOTTI, *FASCISMO, FASCISMI* (2004); EMILIO GENTILE, *LE ORIGINI DELL’IDEOLOGIA FASCISTA, 1918–1925* (1996); GEORGE L. MOSSE, *IL FASCISMO: VERSO UNA TEORIA GENERALE* (1996); ANGELO TASCA, *NASCITA E AVVENTO DEL FASCISMO* (Sergio Soave ed., 2002); ROBERTO VIVARELLI, *STORIA DELLE ORIGINI DEL FASCISMO: L’ITALIA DALLA GRANDE GUERRA ALLA MARCIA SU ROMA* (1991). See also Renzo De Felice's extensive works on Mussolini. 1 RENZO DE FELICE, *MUSSOLINI IL RIVOLUZIONARIO: 1883–1920* (2d ed. 1965); 1 RENZO DE FELICE, *MUSSOLINI IL FASCISTA* (6th ed. 1966) (tome I: *La Conquista del Potere: 1921–1925*); 2 RENZO DE FELICE, *MUSSOLINI IL FASCISTA* (6th ed. 1968) (tome II: *L’organizzazione dello Stato Fascista: 1925–1929*); 1 RENZO DE FELICE, *MUSSOLINI IL DUCE* (1974) (tome I: *Gli Anni del Consenso: 1929–1936*); 2 RENZO DE FELICE, *MUSSOLINI IL DUCE* (1974) (tome II: *Lo Stato Totalitario: 1936–1940*); 1 RENZO DE FELICE, *MUSSOLINI L’ALLEATO: 1940–1945* (1990) (tome I(1): *L’Italia in Guerra: Dalla Guerra “Breve” alla Guerra Lunga (1940–1943)* (1990); tome I(2): *L’Italia in Guerra: Crisi e Agonia del Regime (1940–1945)* (1990)); 2 RENZO DE FELICE, *MUSSOLINI L’ALLEATO: 1940–1945* (1997) (tome II: *La Guerra Civile (1943–1945)*).

¹⁰⁰ See, e.g., Ruth Ben-Ghiat, *Unmaking the Fascist Man: Masculinity, Film and the Transition from Dictatorship*, 10 *J. MOD. IT. STUD.* 336 (2005).

¹⁰¹ See discussion *infra* notes 106–14.

have founded Italy, now we still have to create the Italians” (Abbiamo fatto l’Italia ora dobbiamo fare gli italiani).¹⁰²

One of the leading features of Fascism was anti-modernism, strongly connected with a “normative representation[] of masculinity and femininity.”¹⁰³ The way it presented itself as anti-modern was quite contradictory.¹⁰⁴ On the one side, the modern urbanized society was described as a feminized society, one of the most important causes of Italian virility’s decay, celebrating the idyllic beauty of the country.¹⁰⁵ On the other side, Fascism embraced the ideals of the Futurist movement,¹⁰⁶ a movement that declared that the magnificence of

¹⁰² See, e.g., Margot Masci et al., *Risorgimento: An Italian Turning Point?*, TRAIT D’UNION EDITORIAL OFF. (Feb. 28, 2012), <http://traitdunion-online.eu/margotmasci/2012/02/28/risorgimento-an-italian-turning-point/>. Although the origin of the phrase that traditionally has been attributed to Massimo D’Azeglio (“Fatta l’Italia, facciamo gli Italiani”), the phrase recently has become questioned as apocryphal. See Claudio Gigante, “Fatta l’Italia, facciamo gli Italiani.” *Appunti su una Massima da Restituire a d’Azeglio*, 26 INCONTRI RIVISTA EUROPEA DI STUDI ITALIANI 5, 9–10 (2011), available at <http://www.rivista-incontri.nl/index.php/incontri/article/view/18/>.

¹⁰³ Sandro Bellassai, *The Masculine Mystique: Antimodernism and Virility in Fascist Italy*, 10 J. MOD. IT. STUD. 314, 314 (2005) [hereinafter Bellassai, *The Masculine Mystique*].

¹⁰⁴ See *id.* (noting that the “Fascist regime never produced a coherent theory of antimodernism” in these terms). See also BELLASSAI, *L’INVENZIONE DELLA VIRILITÀ*, *supra* note 97, at 63 (pointing out that Fascism was an organic effort to modernize the country in an authoritative way).

¹⁰⁵ See BELLASSAI, *L’INVENZIONE DELLA VIRILITÀ*, *supra* note 97, at 63 (pointing out that Fascism was an organic effort to modernize the country in an authoritative way). The way Fascism was presenting itself was contradictory. The Fascists promoted the beauty of the country to show that tradition is to country as urban is to modern.

¹⁰⁶ On Futurism in general, see FILIPPO TOMMASO MARINETTI, *TEORIA E INVENZIONE FUTURISTA* (Luciano De Maria ed., 1990); GEORGE LACHMANN MOSSE ET AL., *FUTURISMO, CULTURA E POLITICA* (Renzo De Felice ed., 1988).

The *Manifesto of Futurism* was published in 1909 and states:

1. We want to sing the love of danger, the habit of energy and rashness.
2. The essential elements of our poetry will be courage, audacity and revolt.
3. Literature has up to now magnified pensive immobility, ecstasy and slumber. We want to exalt movements of aggression, feverish sleeplessness, the double march, the perilous leap, the slap and the blow with the fist.
4. We declare that the splendor of the world has been enriched by a new beauty: the beauty of speed. A racing automobile with its bonnet adorned with great tubes like serpents with explosive breath . . . a roaring motor car which seems to run on machine-gun fire, is more beautiful than the Victory of Samothrace.
5. We want to sing the man at the wheel, the ideal axis of which crosses the earth, itself hurled along its orbit.
6. The poet must spend himself with warmth, glamour and prodigality to increase the enthusiastic fervor of the primordial elements.
7. Beauty exists only in struggle. There is no masterpiece that has not an aggressive character. Poetry must be a violent assault on the forces of the unknown, to force them to bow before man.
8. We are on the extreme promontory of the centuries! What is the use of looking behind at the moment when we must open the mysterious shutters of the impossible? Time and Space died yesterday. We are already living in the absolute, since we have already created eternal, omnipresent speed.
9. We want to glorify war—the only cure for the world—militarism, patriotism, the destructive gesture of the anarchists, the beautiful ideas which kill, and contempt for woman.
10. We want to demolish museums and libraries, fight morality, feminism and all opportunist and utilitarian cowardice.

the “world has been enriched by a new beauty: the beauty of speed. A racing automobile [whose hood is] adorned with great tubes like serpents with explosive breath . . . a roaring motor car which seems to run on machine-gun fire, is more beautiful than the Victory of Samothrace.”¹⁰⁷

Notwithstanding the internal illogicality of his discourse (where the racing automobile, the splendor of rural life, tradition, and war were put together), the charismatic figure of Mussolini, acting as the new Italian Superman—with incessant propaganda—modeled a new stereotype of Italian virility.¹⁰⁸ The “New Italian Man” emphasized the importance of sports, with sport being an antidote to the lazy life of the urbanized bourgeoisie.¹⁰⁹

According to Giovanni Papini, who published in 1915 a book with the title *Maschilità*, “the New Man was required to be brutal and barbarous, and abandon his romanticism.”¹¹⁰ In this respect, in the 1928 book, *Il Libro dello Sport* (The Book of Sport),¹¹¹ Lando Ferretti presented sport as a new religion with the aim to serve the fatherland.¹¹² The idea that Italy needed very well trained, strong men was supported by Futurism as well as by the Imperialistic policy of Mussolini.

On one side, Filippo Marinetti—the founding father of this movement—supported the pre-eminence of gymnastics over books, and a certain view of virility. “Marinetti wrote: ‘Male children must, according to us, be trained far differently from female children, because their early games are clearly masculine ones—that is without affective morbidity, womanish sensibility—but lively, bellicose, muscular and violently dynamic.’ ”¹¹³ The influence of Futurismo, and its idea of legitimized violence on Italian society of that period, is not to be undervalued. One important feature that has been recently highlighted is that Futurists offered the theoretical framework to Squadristo—a movement organized to fight the Socialists that were opposing Fascists in Italy at that

11. We will sing of the great crowds agitated by work, pleasure and revolt; the multi-colored and polyphonic surf of revolutions in modern capitals: the nocturnal vibration of the arsenals and the workshops beneath their violent electric moons: the gluttonous railway stations devouring smoking serpents; factories suspended from the clouds by the thread of their smoke; bridges with the leap of gymnasts flung across the diabolic cutlery of sunny rivers: adventurous steamers sniffing the horizon; great-breasted locomotives, puffing on the rails like enormous steel horses with long tubes for bridle, and the gliding flight of aeroplanes whose propeller sounds like the flapping of a flag and the applause of enthusiastic crowds.

F.T. MARINETTI, THE FUTURIST MANIFESTO, <http://vserver1.cscs.lsa.umich.edu/~crshalizi/T4PM/futurist-manifesto.html> (last visited Apr. 30, 2013) (translation by James Joll).

¹⁰⁷ MARINETTI, *supra* note 106, at pt. 4. *See also* Gori, *supra* note 98, at 30–35 (discussing Futurism movement’s influence on Fascism).

¹⁰⁸ On the myth of Superman in Italy, *see* Gori, *supra* note 98, at 32–33.

¹⁰⁹ *See id.* at 32–33, 39.

¹¹⁰ *Id.* at 32 (citing GIOVANNI PAPINI, *MASCHILITÀ* 41 (1915)).

¹¹¹ LANDO FERRETTI, *IL LIBRO DELLO SPORT* (1928). Lando Ferretti had been the President of the National Italian Olympic Committee (CONI). *See* SIMON MARTIN, *SPORT ITALIA: THE ITALIAN LOVE AFFAIR WITH SPORT* 55 (2011). Ferretti’s book, *Il Libro dello Sport*, sold 55,000 copies. *See* Riccardo Grozio, *Mass-Media, Propaganda e Immaginario Durante il Fascismo*, in *SPORT E FASCISMO* 181, 185 (Maria Canella & Sergio Giuntini eds., 2009).

¹¹² *See* Grozio, *supra* note 111, at 185.

¹¹³ Gori, *supra* note 98, at 30, 41 (quoting MARINETTI, *supra* note 106).

time.¹¹⁴ Education of boys and men into the movement of masculinity was therefore considered “one of the most urgent and fundamental aims of the Regime.”¹¹⁵

On the other side, the expansionistic aims of Mussolini needed a militarized nation, well trained and obedient, so that “the collective . . . training was accentuated in view of anticipated future wars.”¹¹⁶ Connected with these ideals was the “cult of the physical beauty of the body,”¹¹⁷ and the athleticism of the Duce himself¹¹⁸ was promoted in books and posters, medals, and poster stamps.¹¹⁹ These ideals of course could not avoid having deep impact on the relationships between genders as the “cult of the virile male answered the consolidated instincts of an Italian society that was deeply sexist and strongly patriarchal.”¹²⁰

The legislation enacted in this period endorsed this vision of society. On one side, with a series of statutes passed during the 1920s and 30s, Italian women saw their professional lives greatly limited; while, on the other side, the role of women as wives and mothers was strongly supported and emphasized.¹²¹

A first reform, enacted in 1923 and called Riforma Gentile after the Minister of Education in charge,¹²² prohibited women from becoming directors of schools of higher education.¹²³ With a further law, enacted in 1926,¹²⁴ women were not allowed to teach philosophy, history, and economics in high

¹¹⁴ MIMMO FRANZINELLI, *SQUADRISTI: PROTAGONISTI E TECNICHE DELLA VIOLENZA FASCISTA, 1919–1922*, at 15 (2003).

¹¹⁵ These are the ideas expressed by Lando Ferretti in his book, *Il Libro dello Sport*. Gori, *supra* note 98, at 39 (quoting FERRETTI, *supra* note 111, at 189).

¹¹⁶ *Id.* at 40–41.

¹¹⁷ *Id.* at 39; see also C. Bianchi, *Il Nudo Eroico del Fascismo*, in GLI OCCHI DI ALESSANDRO: POTERE SOVRANO E SACRALITÀ DEL CORPO DA ALESSANDRO MAGNO A CEAUȘESCU 162, 162 (Sergio Bertelli & C. Grottanelli eds., 1990); SERGIO LUZZATTO, *THE BODY OF IL DUCE: MUSSOLINI'S CORPSE AND THE FORTUNES OF ITALY 16–17* (Frederika Randall trans., 2005).

¹¹⁸ Gori, *supra* note 98, at 43.

¹¹⁹ *Id.* at 47.

¹²⁰ *Id.*

¹²¹ On the role of women in the Fascist period, see generally PIERO MELDINI, *Sposa e Madre Esemplare: Ideologia e Politica della Donna e della Famiglia Durante il Fascismo* (1975); Enzo Santarelli, *Il Fascismo e le Ideologie Antifemministe*, in *LA QUESTIONE FEMMINILE IN ITALIA DAL '900 A OGGI* 75, 82 n.4 (Giulietta Ascoli et al. eds., 1977); ILVA VACCARI ET AL., *LA DONNA NEL VENTENNIO FASCISTA (1919–1943)* (1978); Stefania Bartoloni, *Dalla Crisi del Movimento delle Donne alle Origini del Fascismo: “L’Almanacco della Donna Italiana” e la “Rassegna Femminile Italiana”*, in *ESPERIENZA STORICA FEMMINILE NELL’ETÀ MODERNA E CONTEMPORANEA: ATTI DEL SEMINARIO 125* (Anna Maria Crispino ed., 1988) (cited in Perry Willson, *Italy, in WOMEN, GENDER AND FASCISM IN EUROPE: 1919–45* 11, 15 (Kevin Passmore ed., 2003)).

¹²² Regio Decreto [R.D.] 6 maggio 1923, n. 1054, in G.U. 2 giugno 1923, n. 129 (“relativo all’ordinamento della istruzione media e dei convitti nazionali. . . . Sulla proposta del Nostro Ministro, Segretario di Stato per la pubblica istruzione . . . Abbiamo decretato e decretiamo”).

¹²³ R.D. n. 1054 art. 12/1923.

¹²⁴ R.D. 9 dicembre 1926, n. 2480, in G.U. 29 marzo 1927, n. 73 (“Regolamento per i concorsi a cattedre nei Regi istituti medi d’istruzione e per le abilitazioni all’esercizio professionale dell’insegnamento medio”).

schools.¹²⁵ But, as a sort of compensation, only women could become *maestra giardiniera*, that is to say, “master gardener.”¹²⁶ These initiatives tended to bring women away from the workplaces and to restore their economic dependence on men. Ousting women from teaching certain subjects in higher education perpetuated the idea that women were inferior and incapable human beings and, simultaneously, put them at a culturally inferior level.¹²⁷

A statute that gave some women rights conferred a limited right to vote on women in the elections at local administrative levels. However, law n. 2125, of November 22, 1925, did not allow all women to vote, but restricted and conditioned their participation on the ground of merits achieved during the First World War or by the fact that they were widows or mothers to men who died during the war.¹²⁸ In order to participate in elections, moreover, women also had to prove that they were able to read and write.¹²⁹

Altogether, from the proceedings of the Italian Parliament it appears that the purpose of the Law of 1925 was not to gradually grant women the right to vote, but to compensate only those women who had contributed to the (men’s) war effort.¹³⁰ In the words of Mussolini: “The woman must obey . . . [she is] analytic and not synthetic . . . My view of the role of women in the state is opposed to feminism. Naturally, she does not have to be a slave; but if I gave her the right to vote, she would deride me. In our state she simply does not count.”¹³¹ Interestingly, the impact of such law was null anyway, given the fact that the right to participate in elections was ultimately abolished for every citizen in Italy.¹³²

Fascism also promoted a population growth campaign,¹³³ sustained by legislative initiatives in which married men with children were to receive the

¹²⁵ R.D. n. 2480 art. 11/1926.

¹²⁶ *Id.* (“Ai concorsi e agli esami di abilitazione sono ammessi indistintamente gli uomini e le donne, fatta eccezione dei concorsi delle classi IV, V (limitatamente ai concorsi per l’istituto tecnico) VI e VII (limitatamente ai concorsi per il liceo classico e il liceo scientifico) di cui all’annessa tabella, che sono riservati agli uomini, e dei concorsi e degli esami di abilitazione per *maestra giardiniera* negli istituti magistrali, che sono riservati alle donne.”).

¹²⁷ See CARAVAGGI ET AL., *supra* note 70, at 39.

¹²⁸ Legge 22 novembre 1925, n. 2125, in G.U. 9 dicembre 1925, n. 285:

Che siano decorate di medaglie al valore militare o della croce al merito di guerra;

Che siano decorate di medaglie al valore civile, o della medaglia dei benemeriti della Sanità pubblica o di quella dell’istruzione elementare o di quella dell’istruzione elementare o di quella per servizio prestato in occasione di calamità pubbliche, conferita con disposizione governativa;

Che siano madri di caduti in guerra;

Che siano vedove di caduti purchè non siano state private del diritto alla pensione a termini e per effetto dell’art. 23 del R. decreto 12 luglio 1923, n. 1491.

¹²⁹ *Id.* (“Che abbiano l’effettivo esercizio della patria potestà o della tutela e sappiano leggere e scrivere; Che abbiano, se nate antecedentemente al 1894, superato l’esame di promozione della 3^a elementare.”).

¹³⁰ See CARAVAGGI ET AL., *supra* note 70, at 39–41.

¹³¹ TRACY H. KOON, *BELIEVE, OBEY, FIGHT* 25 (1985); see also MARIO BESSONE, *La Famiglia nel Nuovo Diritto: Dai Principi della Costituzione alla Riforma del Codice Civile* 11 (1977).

¹³² See CARAVAGGI ET AL., *supra* note 70, at 39.

¹³³ See generally GIAMPIERO DALLA ZUANNA, *NUMERI E POTERE: STATISTICA E DEMOGRAFIA NELLA CULTURA ITALIANA FRA LE DUE GUERRE* (2004); see also CARL IPSEN,

maximum support in the workplace. Mussolini launched his demographic campaign in a speech on the Ascension day in May 1927,¹³⁴ and then re-elaborated it in a writing *Il numero come forza* ("The number as power") that was published as a preface to the translation of the work by a German author, Richard Korherr, called *Regresso delle Nascite: Morte dei Popoli*.¹³⁵

The growth of the Italian population did not have to remain a slogan, but indeed needed to be promoted by effective legislative initiatives. By Law n. 1024 of June 6, 1929, the principle was introduced that in all selections of public employees, where there was equal merit, married men were to be preferred over non-married men, and married men with children had to be preferred over married men without children.¹³⁶ Families with many children were also promoted by the Royal Decree of 1931, which prohibited any kind of family planning and, in particular, any act to

produce, import, buy, possess, export or anyway let circulate any drawings, pictures or any other object that divulges, even in an indirect or simulated way, with the pretext of therapeutical or scientific purposes, means aimed at preventing procreation, or procuring abortion, or that illustrate the employment of such means, or way by which these means can be achieved.¹³⁷

Thus, maternity had to be protected. In this perspective the most important initiative was the foundation of the *Opera Nazionale Maternità ed Infanzia* (ONMI)¹³⁸ by a law passed in December of 1925.¹³⁹ The ONMI was conceived

DICTATING DEMOGRAPHY: THE PROBLEM OF POPULATION IN FASCIST ITALY 1–49, 145–215 (1996).

¹³⁴ See 9 GIORGIO CANDELORO, *STORIA DELL'ITALIA MODERNA: IL FASCISMO E LE SUE GUERRE* 196 (1986); Bellassai, *The Masculine Mystique*, *supra* note 103, at 328.

¹³⁵ RICHARD KORHERR, *REGRESSO DELLE NASCITE: MORTE DEI POPOLI* (1928). The original version of the book appeared in Munich in the same year under the title, *Geburtenrückgang*, with the original introduction exclusively by Oswald Spengler. RICHARD KORHERR, *GEBURTENRÜCKGANG* (1928).

¹³⁶ L. 6 giugno 1929, n. 1024, art. 1, in G.U. 28 giugno 1929, n. 150 ("A parità di merito, gli impiegati e salariati coniugati con prole devono essere sempre preferiti a quelli coniugati senza prole e questi ultimi a quelli non coniugati.").

¹³⁷ R.D. 18 giugno 1931, n. 773, art. 112, in G.U. 26 giugno 1931, n. 146 ("E' vietato fabbricare, introdurre nel territorio dello Stato, acquistare, detenere, esportare, allo scopo di farne commercio o distribuzione, o mettere in circolazione scritti, disegni, immagini od altri oggetti di qualsiasi specie contrari agli ordinamenti politici, sociali od economici costituiti nello Stato o lesivi del prestigio dello Stato o dell'autorità o offensivi del sentimento nazionale, del pudore o della pubblica decenza, o che divulgano, anche in modo indiretto o simulato o sotto pretesto terapeutico o scientifico, i mezzi rivolti a impedire la procreazione o a procurare l'aborto o che illustrano l'impiego dei mezzi stessi o che forniscono, comunque, indicazioni sul modo di procurarseli o di servirsene. E' pure vietato far commercio, anche se clandestino, degli oggetti predetti o distribuirli o esporli pubblicamente. L'autorità locale di pubblica sicurezza ha facoltà di ordinare il sequestro in via amministrativa dei predetti scritti, disegni e oggetti figurati.").

¹³⁸ See Gori, *supra* note 98, at 39; CARAVAGGI ET AL., *supra* note 70, at 44. Vast is the literature on ONMI during the Fascist Period. See, e.g., SILENO FABBRI, *L'OPERA NAZIONALE PER LA PROTEZIONE DELLA MATERNITÀ E DELL'INFANZIA* (1933); SILENO FABBRI, *L'ASSISTENZA DELLA MATERNITÀ E DELL'INFANZIA IN ITALIA* (1933); ATTILIO LO MONACO-APRILE, *LA PROTEZIONE DELLA MATERNITÀ E DELL'INFANZIA* (1934).

¹³⁹ L. 10 dicembre 1925, n. 2277, in G.U. 7 gennaio 1926, n. 4.

primarily to prevent illness and enhance hygienic conditions, as well as to promote a specific social model.¹⁴⁰

One of the most effective measures to keep women out of the workplace was a legislative initiative that took place in 1938 that limited women in public and private employment to ten percent of the total number of employees.¹⁴¹ Public employers could decrease such percentages in a discretionary way.¹⁴² It was further established that public and private enterprises with fewer than ten employees could choose not to hire *any* women.¹⁴³

In this cultural and legislative context, the reform of the penal and civil codes took place.¹⁴⁴ The new penal code, enacted in 1930 (called the *Codice Rocco*, after the name of the Fascist Minister who led the preparatory works¹⁴⁵), was deeply influenced by Fascist ideologies.¹⁴⁶ To cite but a few examples in the code, sexual violence was not considered a crime against the person but, instead, it was categorized as a crime against the “public moral.”¹⁴⁷ Further, an individual could be convicted and imprisoned under the code for committing a crime “against the health and integrity” of a decent society by engaging in an act of abortion, procured impotence, or by knowingly spreading venereal diseases such as syphilis or gonorrhea.¹⁴⁸

The new Civil Code was enacted on April 21, 1942, the anniversary of the foundation of Rome,¹⁴⁹ in order to symbolize the solemnity of the event and the ideal thread that connected ancient Roman law with Fascist legislation. Besides the various innovations introduced, it is important to underline that family law remained inspired by a patriarchal model¹⁵⁰ and by the predominant role of the husband/father and the inferiority of the wife.¹⁵¹ For some authors,

¹⁴⁰ Gori, *supra* note 98, at 39.

¹⁴¹ R.D. 5 settembre 1938, n. 1514, art. 1, in G.U. 5 ottobre 1938, n. 228 (“L’assunzione delle donne agli impieghi presso le Amministrazioni dello Stato e degli altri Enti od Istituti pubblici, ai quali esse sono ammesse in base alle disposizioni in vigore nonché agli impieghi privati, è limitata alla proporzione massima del dieci per cento del numero dei posti.”).

¹⁴² *Id.* (“E’ riservata alle pubbliche Amministrazioni la facoltà di stabilire una percentuale minore nei bandi di concorso per nomine ad impieghi.”).

¹⁴³ *Id.* (“Le pubbliche Amministrazioni e le aziende private che abbiano meno di dieci impiegati, non possono assumere alcuna donna quale impiegata. E’ fatta eccezione nei riguardi nelle aziende private per le parenti od affini sino al quarto grado del titolare dell’azienda.”).

¹⁴⁴ These two codes are still in force but with enormous changes. For the reforms, see *supra* Part VII.

¹⁴⁵ See BARTOLOMÉ CLAVERO, GENOCIDE OR ETHNOCIDE 1933–2007: HOW TO MAKE, UNMAKE, AND REMAKE LAW WITH WORDS 20 n.21 (2008); see also L’ALTRO DIRITTO: CENTRO DI DOCUMENTAZIONE SU CARCERE, DEVIANZA E MARGINALITÀ, <http://www.altrodiritto.unifi.it/ricerche/law-ways/musio/cap1.htm> (last visited Apr. 30, 2013).

¹⁴⁶ Stephen Skinner, *Tainted Law? The Italian Penal Code, Fascism and Democracy*, 7 INT’L J.L. CONTEXT 423, 425–33 (2011).

¹⁴⁷ Codice penale [C.p.] tit. IX.

¹⁴⁸ C.p. arts. 545–55.

¹⁴⁹ See Natalie Aldern, *Auguri! Rome Turns 2764*, ITALY (Apr. 21, 2011), <http://www.italymag.co.uk/Italy/ancient-rome/auguri-rome-turns-2764>.

¹⁵⁰ See BESSONE, *supra* note 131, at 10.

¹⁵¹ See PIETRO RESCIGNO, INTRODUZIONE AL CODICE CIVILE 11, 70 (1991).

“the 1942 codification appears to take a position toward wives and children that is even more conservative and discriminatory than that of its predecessor.”¹⁵²

The family’s social function was emphasized¹⁵³ as a keystone in the Fascist social order more than an institution in the interest of the spouses and children.¹⁵⁴ The husband remained the master of the household.¹⁵⁵ The wife had a generic duty of obedience toward the husband, and—according to some interpreters—the husband maintained a *jus corrigendi* (a right to correct) the wife.¹⁵⁶

The provisions contained in the new Civil Code of 1942, which have been considered “reactionary antidemocratic” as far as family relationships are concerned,¹⁵⁷ had to undergo a profound change in future years. With the collapse of Fascism and the Italian defeat in the War, the structure of family and society would have to face radical transformations. A new concept of masculinity would emerge out of the ashes.

V. THE POSTWAR PERIOD AND THE NEW EQUILIBRIA DICTATED BY THE NEW ITALIAN CONSTITUTION

Even before the end of World War II, a rapid succession of events brought the enactment of a law that finally introduced universal suffrage.¹⁵⁸ By Legislative Decree n. 23 on February 2, 1945,¹⁵⁹ all women were given the right to vote and they exercised—concretely—this right at the referendum concerning the choice between monarchy and republic that took place on June 2, 1946. On the same occasion, members of the *Assemblea Costituente* took aim to draw up a new republican constitution.¹⁶⁰

In 1948, the first republican Parliament was elected: forty-five women were elected to the *Camera dei Deputati* (7.1% of the Members of the Chamber), while only four were elected to the *Senato della Repubblica* (1.2% of the Members of the Senate).¹⁶¹

¹⁵² Valerio Pocar & Paola Ronfani, *Family Law in Italy: Legislative Innovation and Social Change*, 12 LAW & SOC’Y REV. 607, 608 (1978).

¹⁵³ See generally ANTONIO AZARA, DIRITTO DELLE PERSONE E DIRITTO DI FAMIGLIA NEL PROGETTO DI RIFORMA DEL CODICE CIVILE (1935); FRANCESCO DEgni, IL DIRITTO DI FAMIGLIA NEL NUOVO CODICE CIVILE ITALIANO (1943).

¹⁵⁴ See Roberto Sani, *Per una Storia dell’Educazione Familiare nell’et? Moderna e Contemporanea. Itinerari e Prospettive di Ricerca*, in RICERCA PEDAGOGICA ED EDUCAZIONE FAMILIARE: STUDI IN ONORE DI NORBERTO GALLI 3, 4–5 (Luigi Pati ed., 2003).

¹⁵⁵ Pocar & Ronfani, *supra* note 152, at 608.

¹⁵⁶ See, e.g., MARINO BIN, RAPPORTI PATRIMONIALI TRA CONIUGI E PRINCIPIO DI EGUAGLIANZA 15 (1971).

¹⁵⁷ Pocar & Ronfani, *supra* note 152, at 609.

¹⁵⁸ See Barbara Pozzo, *Italy*, in ELGAR ENCYCLOPEDIA OF COMPARATIVE LAW 453, 455–56 (Jan M. Smits ed., 2d ed. 2012) (discussing the succession of events that led to the addition of women’s suffrage in Italy).

¹⁵⁹ Decreto Legge [D.L.] 2 febbraio 1945, n. 23.

¹⁶⁰ Pozzo, *supra* note 158, at 456.

¹⁶¹ Emilio Folcher, *Donne e Costituzione: Tra Principi Formali e Diritti Sostanziali*, KILA (Jan. 7, 2009), <http://www.kila.it/archivio-il-tema-del-mese/donne-e-costituzione-tra-principi-formali-e-diritti-sostanziali-2.html>.

The new republican constitution redesigned the relationships between men and women, introducing the principle of equality in various contexts. Article 3 of the Italian Constitution, establishes a general principle of equality and non-discrimination: “All citizens have equal social dignity and are equal in front of the law, regardless of differences of sex, race, language, religion, or political opinions.”¹⁶²

In the same article, the principle of equality received a positive interpretation: “It is the duty of the Republic to eliminate economic and social obstacles, that limit the citizens’ freedom and equality, prevent the full development of the individual and the real participation of all workers to the political, economic and social organization of the country.”¹⁶³

The principle of equality was further specified in various dispositions of the Constitution. Equality was affirmed in Article 29 of the Constitution, which refers to the value of family in society: “Marriage is based on the moral and legal equality of the spouses within the limits laid down by law to guarantee the unity of the family.”¹⁶⁴

Article 37 specifically referred to working women, stating, “Working women are entitled to equal rights and, for comparable jobs, equal pay as men. Working conditions must allow women to fulfill their essential role in the family and ensure appropriate protection for the mother and child.”¹⁶⁵

Finally, as far as political rights and duties were concerned, Article 51 established that “[a]ny citizen of either sex is eligible for public offices and elected positions on equal terms, according to the conditions established by law.”¹⁶⁶

Notwithstanding these very vast and general provisions, Italian society in 1947 was hardly characterized by equality between men and women. It would take more than thirty years to see the principle of equality have any impact on family law and social life.¹⁶⁷ Many authors, in fact, commented on the role of such constitutional principles as mere “programmatic” rules, with no direct impact on private law.¹⁶⁸

Between 1942, when the Civil Code was enacted, and the 1970s, when Parliament accomplished the reforms, an important role was played by case law (especially by the Court of Cassation¹⁶⁹) and, in particular, by the Constitutional Court.¹⁷⁰ It is important to note that even in a civil law country, like

¹⁶² Art. 3 Costituzione [Cost.].

¹⁶³ *Id.*

¹⁶⁴ Art. 29 Cost. The first paragraph of Article 29 declares, “The Republic recognizes the rights of the family as a natural society founded on marriage.”

¹⁶⁵ Art. 37 Cost.

¹⁶⁶ Art. 51 Cost.

¹⁶⁷ See Pocar & Ronfani, *supra* note 152, at 609.

¹⁶⁸ See, e.g., *id.*; Bin, *supra* note 156, at 19.

¹⁶⁹ Located in Rome, the Corte di Cassazione [Court of Cassation] is the Italian Supreme Court and the court of last instance for non-constitutional controversies. See Pozzo, *supra* note 158, at 459.

¹⁷⁰ Pozzo, *supra* note 158, at 456–57 (“The [Italian] Constitution of 1948 is a ‘rigid’ constitution: it provides for a Constitutional Court with the power of judicial review of legislation (Arts 134–7 Const.). Only the Constitutional Court can pass judgment on the constitutionality of national laws, regional laws and government Acts having the force of law. It cannot pass judgment on administrative regulations, whose constitutional legitimacy is left to ordi-

Italy, judges have an enormous influence in shaping social life and feeding stereotypes.

VI. THE ROLE OF CASE LAW IN SHAPING AND RESHAPING ROLES AND STEREOTYPES

Sociologists and historians have pointed out that after the Italian defeat in the war, the humiliations suffered in the prison camps, and the fall of the myth of the Superman, the Italian concept of masculinity underwent a profound crisis.¹⁷¹ Movies¹⁷² and literature¹⁷³ offer a wide field of analysis in this perspective.

The radical changes in Italian society that followed the so-called “economic boom,” with a strong urbanization, the mass migration from the poorer South to the industrialized North, and the marginalization of the peasant culture undoubtedly brought the abandonment of traditional shared values.¹⁷⁴ From the legal viewpoint, however, it took a long time to rid society of many stereotypes.

One of the most obvious examples concerned the long debate on the evolution of a specific tort called the “seduction under the promise of marriage.”¹⁷⁵ Article 526 of the 1930 Penal Code provided for a special crime

nary and administrative judges.”). For a discussion on the impact of the Court of Constitution on Italian family law, see RESCIGNO, *supra* note 151, at 70.

¹⁷¹ See, e.g., BELLASSAI, *LA MASCOLINITÀ CONTEMPORANEA*, *supra* note 1, at 99; BELLASSAI, *L'INVENZIONE DELLA VIRILITÀ*, *supra* note 97, at 97.

¹⁷² See, e.g., Ben-Ghiat, *supra* note 100, at 338 (“The study of shifting Italian masculinities as represented in film offers a window on these and other issues proper to the transition period, such as the erosion of trust in private and public life; the need for new ethical and civic codes; the difficulties of rebuilding affective ties within families; and the necessity of models of manhood that would replace the militarized masculinities embraced by the fascist regime.”); Barbara Bracco, *Belli e Fragili: Mascolinità e Seduzione nel Cinema Italiano del Secondo Dopoguerra*, in *MASCOLINITÀ ALL'ITALIANA: COSTRUZIONI, NARRAZIONI, MUTAMENTI*, *supra* note 1, at 65; Dell'Agnese, *supra* note 2, at 3, 12.

¹⁷³ Ezio Sinigaglia, *Quel Gusto Aspro: Grandezze e Miserie della Figura Maschile nel Romanzo Italiano di Resistenza e di Guerra*, in *MASCOLINITÀ ALL'ITALIANA: COSTRUZIONI, NARRAZIONI, MUTAMENTI*, *supra* note 1, at 35.

¹⁷⁴ See BELLASSAI, *L'INVENZIONE DELLA VIRILITÀ*, *supra* note 97, at 97. See also JONATHAN DUNNAGE, *TWENTIETH CENTURY ITALY: A SOCIAL HISTORY* 148 (2002) (discussing the post-war economic boom of northern Italy).

¹⁷⁵ See Dominique Feola, *Illecito Abbandono della Fidanzata Sedotta*, in 60 *RESPONSABILITÀ CIVILE E PREVIDENZA* 951 (1995); see also Alessandra Ciauri, *Seduzione con Promessa di Matrimonio e Risarcibilità del Danno Ingiusto Subito dalla “Sedotta e Abbandonata”*, in *IL NUOVO DIRITTO* 1121 (1994); Barbara Pozzo, *In Tema di Seduzione e di Illecito*, 6 *GIURISPRUDENZA ITALIANA* 1109 (1992); Massimo Dogliotti, *La Seduzione con Promessa di Matrimonio e le Ideologie della Giurisprudenza*, 3 *GIURISPRUDENZA DI MERITO* 622 (1984); Adriano De Cupis, *In tema di Seduzione con Promessa di Matrimonio*, 1983 *GIURISPRUDENZA DI MERITO* 937; Maria Antonietta Troncone, *Seduzione con Promessa di Matrimonio, Costume Sociale e Mediazione del Giudice*, 4 *DIRITTO E GIURISPRUDENZA* 858 (1980); see also Domenico Referza, *Donna Oggetto, Pregiudizio Risarcibile, Seduzione con Promessa di Matrimonio*, 3 *RIVISTA TRIMESTRALE DI DIRITTO E PROCEDURA CIVILE* 1332 (1978); Michele Tamponi, *La Tutela Civile della Donna Sedotta con Promessa di Matrimonio*, 11 *GIURISPRUDENZA ITALIANA* 2001 (1977); see also Francesco Finocchiaro, “*Seduzione con Promessa di Matrimonio*” e *Giurisprudenza Pseudo-progressista*, 1 *GIURISPRUDENZA ITALIANA* 47 (1977); see also Maria Vita De Giorgi, *Seduzione con Promessa di Matrimonio*, 9 *GIUSTIZIA CIVILE* 130 (1971).

called “seduction under promise of marriage committed by a married person,” stating: “Anyone who, with a promise of marriage, seduces a woman under age, inducing in her a mistake concerning his marital status shall be punished with imprisonment from three months to two years. There is seduction when there has been sexual intercourse.”¹⁷⁶ In these cases the victim could also ask for damages. But from a private law point of view where there was no specific provision on this matter, Italian case law developed a particular tort for those cases in which the victim was not underage and the man was not married.

It is worth emphasizing that the Italian legal system does not provide for a series of typical torts as in the common law countries. But, as in France,¹⁷⁷ the Civil Code of 1865 and of 1942,¹⁷⁸ provided a general clause for civil liability. For example, the 1942 code stated, “Any fact, committed either with negligence or fraud, which causes unjust damage to others, obliges the one who committed it to pay damages.”¹⁷⁹

Out of this very general provision, Italian judges developed the possibility for unmarried women, who had been induced to have sexual intercourse under the promise of marriage, to recover damages for their lost virginity and, therefore, for the decreased chance to get married.¹⁸⁰ The damages were founded either on economic grounds, that is to say in the diminished possibility of contracting a good marriage, or on moral grounds—for example the social devaluation that the girl would encounter after having had sexual intercourse without getting married.¹⁸¹

In order to ascertain the existence of negligence or fraud, required by Article 2043 of the Civil Code in order to claim damages, it was sufficient to show that the man had committed a “negligent evaluation of the circumstances that would have allowed or prevented the implementation of the promise.”¹⁸²

¹⁷⁶ C.p. art. 526, *repealed* by L. 15 febbraio 1996, n. 66.

¹⁷⁷ The French Civil Code is the main source of inspiration for the Italian Civil Code of 1865. See Paolo Carozza, Mary Ann Glendon & Max Rheinstein, *Civil Law*, ACADEMIC ROOM, <http://www.academicroom.com/topics/what-is-civil-law> (last visited May 1, 2013). As far as the liability clause is concerned, Italian Civil Code of 1865's art. 1151 was simply translating the French archetype of Code Napoléon's art. 1382. Compare C.c. 1865 art. 1151 (“qualunque fatto dell'uomo che arreca danno ad altri, obbliga quello per colpa del quale è avvenuto a risarcire il danno”), with C. NAPOLÉON [C. civ.] art. 1382 (“Tout fait quelconque de l'homme, qui cause à autrui un dommage, oblige celui par la faute duquel il est arrivé à le réparer.”). Italy's clause was the literal translation of the relevant Napoléonic article. See Gianluca Pisano, *Il Dibattito Sulla Funzione della Responsabilità Aquiliana*, GIANLUCAPISANO.IT (Mar. 4, 2009, 6:53 PM), http://www.gianlucapisano.it/index.php?option=com_content&view=article&catid=43:la-responsabilita-extracontrattuale&id=68:il-dibattito-sulla-funzione-della-responsabilita-aquiliana.

¹⁷⁸ Pozzo, *supra* note 158, at 457 (“The main sources of inspiration for the Italian Civil Codes changed during the period from 1865 to 1942. The first Italian Civil Code (1865) corresponded to a transplant of French legal sources, while the second (1942) was strongly influenced by a shift towards German Pandectistic patterns as regards legal discourse and methodology.”).

¹⁷⁹ C.c. art. 2043.

¹⁸⁰ Case law is quite vast and dates back prior to the 1942 Code's enactment. See, e.g., Torino, 23 giugno 1899, 15 Il Filangieri 770.

¹⁸¹ See Pozzo, *supra* note 175, at 1109.

¹⁸² Cass., sez. tre, 27 novembre 1986, n. 6994; see also L'ATTUALITÀ DEL DIRITTO 174–79 (Giuseppe Cassano ed., 2008).

Finally, the injustice of the damage, also required by Article 2043, could be found in the “violation of woman’s sexual freedom” or in the “violation of woman’s sexual self-determination.”¹⁸³

On the tort for seduction under the promise of marriage, it is important to highlight at least the following aspects: First, one important aspect is the rhetoric used by judges in these cases. It is often possible, in fact, to find expressions, especially in Latin, that make specific reference to the delivery that women make of their body (*traditio corporis*)¹⁸⁴ in the hands of men, as if it were a precious object that they need to preserve in view of the future marriage. Judges highlight that in the case of a tort the so-called *traditio corporis ante nuptias* (literally: the delivery of the body before the celebration of the wedding) has to be committed in reliance of a future wedding.¹⁸⁵ In these decisions, women are characterized as childish human beings, who need to be protected from more sophisticated Italian men. Another possible interpretation could be the one of dividing women into two groups: virtuous on the one hand and morally corrupted on the other.¹⁸⁶ This, of course, is not a desirable interpretation of these decisions.

Second, it is important to highlight the chronological aspect. The criminal provision was abolished only in 1996,¹⁸⁷ while the last tort law case was decided by the Court of Cassation in 1993.¹⁸⁸ The persistence of these stereotypes is unfortunate.

Third, the decisions regarding the tort for seduction under the promise of marriage revealed a strong geographical diversity. So, for example, a decision of the Tribunal of Milan, delivered in 1950, stated that “nowadays it is impossible to say anymore that, merely for the reason of having had sexual intercourse before marriage, the economic future of the woman is compromised; because the idea that she could not find a husband in modern society is beyond reality.”¹⁸⁹ Most of the courts of first instance in northern Italy had followed that trend.¹⁹⁰ On the contrary, in Sicily, damages for seduction under the promise of marriage under Article 2043 of the Civil Code were awarded until the mid 1980s.¹⁹¹ This vision of a retrograde South has also often been emphasized in movies that elaborated a harsh critique against the old fashioned customs of

¹⁸³ This was the holding in Cass., 14 novembre 1975, n. 3831. See also Paolo Cendon & L. Gaudino, *La Seduzione con Promessa di Matrimonio*, in *LA RESPONSABILITÀ CIVILE: SAGGI CRITICI E RASSEGNE DI GIURISPRUDENZA* 323 (Mario Bussani & Paolo Cendon eds., 1988).

¹⁸⁴ See, e.g., Cass., 10 agosto 1991, n. 8733, *Giur. it.* 1991, I, 1, 1108. See also Gilda Ferrando, *Il Matrimonio*, in *GIURISPRUDENZA DEL DIRITTO DI FAMIGLIA* 1, 9–10 (Mario Besone et al. eds., 7th ed. 2007).

¹⁸⁵ See, e.g., sources cited *supra* note 184.

¹⁸⁶ Feola, *supra* note 175, at 951–57 & n.6.

¹⁸⁷ C.p. art. 526, repealed by L. 15 febbraio 1996, n. 66.

¹⁸⁸ Cass., sez. tre, 8 luglio 1993, n. 7493.

¹⁸⁹ Temi, 1951, 259, Trib. Milano, 15 giugno 1950.

¹⁹⁰ E.g., Foro. it., I, c. 961, Trib. Pisa, 3 febbraio 1976; *Diritto di famiglia* 1982, 1313, Trib. Verona, 29 gennaio 1982.

¹⁹¹ E.g., Trib. di Messina, 9 marzo 1980, appealed but confirmed before the Court of Appeal of Messina, 22 febbraio 1982, appealed and confirmed by the Court of Cassation, 27 novembre 1986, n. 6994. See also Cendon & Gaudino, *supra* note 183, at 323.

Sicilian people, like *Sedotta e Abbandonata* by Pietro Germi¹⁹² or Mario Monicelli's *La Ragazza con la Pistola*.¹⁹³

Fourth, it is necessary to highlight the role of judges of the Court of Cassation with regard to this geographical lack of homogeneity. One of the roles attributed by law to the Court of Cassation is to guarantee the uniform application of national law.¹⁹⁴ Given this task, theoretically, it would still be possible to share the vision laid down by the Court of Cassation even in recent cases: that it is necessary to evaluate damages suffered by the victim in concrete terms and especially, as far as it concerns the social devaluation that the woman may suffer, taking into account the local circumstances. Practically, it became very difficult to do it in those cases that were decided in the 80s, where the local first-instance court and the local appellate court had denied the possibility of awarding damages, given the evolution of social customs. So, in conclusion, instead of guaranteeing the uniform application of the law, the Court of Cassation remained anchored to old schemes that corresponded with the popular representation of Italian men as great seducers. It is worth noting that this trait of Italian masculinity—reflected historically in some classic icons like *Casanova* or *Rodolfo Valentino*—appears also to be geographically bound: for Italians, the classical seducer is in fact much more connected to the sensuality of southern Italy than to the qualities of men of the North.¹⁹⁵

Finally, the evolution of this tort reflected the evolution of sexual education in Italy. Until 1959, the State administered brothels, the so-called *Case chiuse* ("closed houses" or "shuttered houses").¹⁹⁶ These closed houses had remained, for years, the emblem of the difference existing in sexual education and initiation between men and women: men had a sexual initiation before the marriage in brothels, while women had to arrive at the altar a virgin. It was only on the initiative of Lina Merlin, a socialist member of the Italian Parliament, that Law n. 75 of 1958 (called the Legge Merlin) was passed, abrogating the old system.¹⁹⁷ Even here, it is difficult to eradicate prejudices, even among the most cultivated men.

¹⁹² The movie was released in 1964. The title can be literally translated as "Seduced and Abandoned." It describes—in Pietro Germi's typical sarcastic and tragicomic way—the story of Agnese who is seduced by her sister's fiancé and—especially—the ensuing reaction by the father of the two girls. See *SEDOTTA E ABBANDONATA* (Lux Films 1964).

¹⁹³ *La ragazza con la pistola* (literally: "The girl with the gun") tells the story of Assunta Patané, who is kidnapped and seduced by a boy from her small village in Sicily. As there are no men left in her family, in order to save her honor and the honor of her sisters, she travels to Great Britain with a gun in order to kill her seducer—who had escaped before marrying her. The movie is a hilarious comedy that compares Sicilian customs of the 1960s with the much more modern British attitudes of the 1960s. See *LA RAGAZZA CON LA PISTOLA* (Documento Film 1968).

¹⁹⁴ *Ordinamento giudiziario* (The Law on the Judiciary), promulgated with Regio Decreto [R.D.], 30 gennaio 1941, n. 12. Art. 65, provides in particular that the "duties of the Supreme Court of Cassation" are "to ensure the exact observance and uniform interpretation of the law and the unity of national substantial law." R.D. 30 gennaio 1941, n. 12, Art. 65.

¹⁹⁵ Dell'Agnese, *supra* note 2, at 22.

¹⁹⁶ See PASQUALE ROMEO, *MASCHIO ADDIO* 93 (2010).

¹⁹⁷ Legge 20 febbraio 1958, n. 75 ("Abolizione della regolamentazione della prostituzione e lotta contro lo sfruttamento della prostituzione altrui").

Another field where Italian judges elaborated solutions that had an important impact on redesigning the roles of men and women in family and society is adultery law. According to the Italian Penal Code, adultery was a crime but only if committed by the wife. Article 559 of the Italian Penal Code stated that “[t]he adulterous wife shall be punished with imprisonment up to one year”¹⁹⁸ As far as the husband was concerned, Article 560 of the Italian Penal Code introduced the crime of concubinage, establishing that “[t]he husband who takes a concubine in the marital home, or known to be elsewhere, shall be punished with imprisonment of up to two years.”¹⁹⁹

Various cases challenged the constitutionality of these provisions, asking for a more coherent application of Article 3 and Article 29 of the Constitution.²⁰⁰ Initially, the Constitutional Court rejected these claims, pointing to the more serious consequences of adultery by the wife as opposed to adultery by the husband.²⁰¹

It was not until 1968–1969 that the Italian Constitutional Court, with a series of decisions,²⁰² established that Article 559 and Article 560 of the Italian Penal Code opposed the principle of equality contained in Article 3 and Article 29 of the Constitution, finally stating that “the discrimination that these norms were establishing, far from being useful, is—to the contrary—against the concord and the unity of the family.”²⁰³

VII. THE LEGISLATIVE REFORMS OF THE 70s: TOWARD REAL EQUALITY

In order to see a real change in equality, the subsequent reforms arrived only in the 1970s on the initiative of the Italian Parliament.

¹⁹⁸ C.p. art. 559.

¹⁹⁹ C.p. art. 560.

²⁰⁰ See *supra* notes 162 & 164 and accompanying text (defining Arts. 3 and 29).

²⁰¹ Corte Cost. 23 novembre 1961, n. 64 (where the judges were stating that the principle of fidelity was the same for both spouses, but the gravity of the adultery of wives was related to the consequences that arise out of social life and of common experience). This rendered the different treatment by the legislator legitimate:

Indubbiamente, secondo una pura valutazione morale, alla quale, a parte le leggi, è auspicabile che idealmente si ispiri la vita della famiglia, il principio della fedeltà coniugale è unico, e non soffre discriminazioni di carattere quantitativo. Tuttavia, l'ordinamento giuridico positivo non può del tutto prescindere, e di fatto non prescinde, dalle valutazioni che si affermano, spesso imperiosamente, nella vita sociale. Ora, che la moglie conceda i suoi amplessi ad un estraneo è apparso al legislatore, in base, come si è detto, alla prevalente opinione, offesa più grave che non quella derivante dalla isolata infedeltà del marito. Al di fuori di ogni apprezzamento, che non spetta alla Corte di compiere, trattasi della constatazione di un fatto della vita sociale, di un dato della esperienza comune, cui il legislatore ha ritenuto di non poter derogare. Da solo esso è idoneo a costituire quella diversità di situazione che esclude ogni carattere arbitrario e illegittimo nella diversità di trattamento.

²⁰² See, e.g., Corte Cost., 16 dicembre 1968, n. 126; Corte Cost., 3 dicembre 1969, n. 147. For a comment, see LUCIO V. MOSCARINI, *PARITÀ CONIUGALE E GOVERNOR DELLA FAMIGLIA* 68 (1974).

²⁰³ Corte Cost., 16 dicembre 1968, n. 126. See also BESSONE, *supra* note 131, at 22.

A. *The Introduction of Divorce Law in 1971*

It was only with the action taken by two deputies of very different political affiliations, the Socialist Fortuna and the Liberal Baslini, that approval of the law on divorce took place.²⁰⁴ Although the initiative was immediately supported by public opinion, in Parliament, the Christian Democrat, the Monarchist, and the Neo-Fascist parties opposed it.²⁰⁵ It was only by a vote of 325 to 283 in the Chamber and 164 to 150 in the Senate that Law n. 898 of December 1, 1970 was approved.²⁰⁶

The system of Law n. 898 of 1970 provided that dissolution of marriage was permitted only for objective causes, like a long sentence of imprisonment, imprisonment for defined offenses against the spouse or the children, or—finally—separation for a period of five or seven years, depending on the circumstances.²⁰⁷ Termination of marriage by mutual consent was therefore possible—but conditioned—by a long separation.

The law of 1970 was subsequently revised by two laws passed in 1978 and 1987, aimed at, inter alia, shortening the periods to get divorced.²⁰⁸

B. *The Family Law Reform of 1975*

A comprehensive reform of family law was introduced by Law n. 151 of 1976.²⁰⁹ In practice, the reform law has rewritten a large part of Books I and II of the Italian Civil Code, finally giving effectiveness to the provision of Article 29 of the Constitution.

The main characteristic of this reform was “the abolition of every residual trace of the husband’s marital authority.”²¹⁰ Article 143, which provided that the husband is the head of the family, was completely rewritten in the following terms: “In marriage husband and wife acquire the same rights and assume the same duties; both spouses are bound, in relation to their respective assets and capacity to work whether professionally or at home, to contribute to the needs of the family.”²¹¹

The *patria potestà* is further substituted with the *autorità genitoriale*, that is with a reference to both parents.²¹² Other provisions of the reform provided that economic rights of the spouses follow the same principle.

²⁰⁴ Pocar & Ronfani, *supra* note 152, at 618.

²⁰⁵ *Id.* at 618–19.

²⁰⁶ Just after the promulgation of the law on divorce, it was challenged by an abrogative referendum supported by the Catholics. The referendum was defeated on May 12, 1974, and since then the Law has remained in force. Alberto Marradi, *Italy’s Referendum on Divorce: Survey and Ecological Evidence Analyzed*, 4 EUR. J. POL. RES. 115, 115–17 (1976).

²⁰⁷ Pocar & Ronfani, *supra* note 152, at 619.

²⁰⁸ Legge 1 agosto 1978, n. 436; Legge 6 marzo 1987 n. 74.

²⁰⁹ On the Reform, see generally ALFIO FINOCCHIARO & MARIO FINOCCHIARO, *RIFORMA DEL DIRITTO DI FAMIGLIA* (1975); BESSONE, *supra* note 131, at 28; CARAVAGGI ET AL., *supra* note 70, at 77; IL NUOVO DIRITTO DI FAMIGLIA (Claudio Delitala & Giulia Minoli eds., 1976).

²¹⁰ Pocar & Ronfani, *supra* note 152, at 631.

²¹¹ For a comment on the new Art. 143, see generally FINOCCHIARO & FINOCCHIARO, *supra* note 209.

²¹² S. Rodotà, *La Riforma del Diritto di Famiglia alla Prova: Principi Ispiratori e Ipotesi Sistematiche*, in IL NUOVO DIRITTO DI FAMIGLIA, *supra* note 209, at 3.

The regime of separate property, which was in force before the reform, was substituted by a regime of common property. Under the previous regime, assets acquired during marriage were the property of the spouse who had concretely acquired them; so, basically, they belonged to the husband. After the reform of 1975, goods acquired after marriage were property of both spouses, who have the same rights over them. The regime of separate property became the exception: it required an explicit expression of intention by the spouses at the time of marriage.²¹³

Another important new disposition was the one connected with the family name. Until the reform, the married woman changed her own family name to the family name of her husband. With the new Article 143-bis introduced by the Reform of 1975, the wife simply added the family name of her husband to her own family name.²¹⁴

C. *The Abolition of Honor Killings and the “Shotgun” Marriage*

The last legislative initiative taken by the Italian Parliament to redesign the relationship between genders and to render positive law in line with the Constitutional principles and the changed social perception of the role of women in society was to abrogate the provisions still in force on honor killings and “shotgun” marriages.

Article 544 of the 1930 Italian Penal Code established that in the case of kidnapping and rape, if the perpetrator married the victim, the marriage would have been considered sufficient grounds to extinguish the offense. Even when the perpetrator had already been condemned, the marriage would have cancelled all the effects of the sentence.²¹⁵ Article 587 of the same Code established that

anyone who causes the death of his spouse, daughter, or sister, when he discovers an unlawful carnal connection and he is in a state of anger caused by the offence made to his honor or the one of his family, is punished with imprisonment from three to seven years. The same penalty is applicable to the murderer when he causes the death of the person who is in the unlawful carnal relationship with the spouse, the daughter or the sister.²¹⁶

²¹³ Pocar & Ronfani, *supra* note 152, at 632.

²¹⁴ On the reform of family names, see Rodotà, *supra* note 212; FINOCCHIARO & FINOCCHIARO, *supra* note 209, at 261.

²¹⁵ The old version of Art. 544 of the Codice penale stated: “[I]l matrimonio, che l’autore del reato contragga con la persona offesa, estingue il reato, anche riguardo a coloro che sono concorsi nel reato medesimo; e, se vi è stata condanna, ne cessano l’esecuzione e gli effetti penali.” C.p. art. 544 (1930).

²¹⁶ The old version Art. 587 of the Codice penale established:

Omicidio e lesione personale a causa di onore. . . .

Chiunque cagiona la morte del coniuge, della figlia o della sorella, nell’atto in cui ne scopre la illegittima relazione carnale e nello stato d’ira determinato dall’offesa recata all’onore suo o della famiglia, è punito con la reclusione da tre a sette anni. Alla stessa pena soggiace chi, nelle dette circostanze, cagiona la morte della persona, che sia in illegittima relazione carnale col coniuge, con la figlia o con la sorella. Se il colpevole cagiona, nelle stesse circostanze, alle dette persone, una lesione personale, le pene stabilite negli articoli 582 e 583 sono ridotte a un terzo; se dalla lesione personale deriva la morte, la pena è della reclusione da due a cinque anni. Non è punibile chi, nelle stesse circostanze, commette contro le dette persone il fatto preveduto dall’articolo [581].

Both norms had been applied, especially in the South, and had been at the center of harsh critiques over the course of time. In particular, the application of Article 544 was challenged in 1965 by the refusal of a young Sicilian girl, Franca Viola, to marry her kidnapper and by his subsequent jail sentence.²¹⁷ Franca Viola became the symbol of a new social conscience of the South: her story was told in a 1970 hit movie *La Sposa più Bella* by Damiano Damiani.

The perverse effects of the application of Article 587 have inspired Italian film-makers: *Divorzio all'italiana* (*Divorce Italian Style*), a 1961 movie directed by Pietro Germi, reached international fame when the movie won the *Academy Award for Best Writing, Story and Screenplay*.²¹⁸ The movie unveils the hypocrisy of Southern people, when Ferdinando Cefalù (interpreted by a fabulous Marcello Mastroianni) plans to make his wife have an affair so he can catch her with her lover, murder her, and receive the light sentence allowed by Article 587 of the Penal Code. In a situation characterized by the absence of the divorce, this was the only way to get rid of the boring wife and to marry the young and beautiful cousin Angela (played by a fourteen-year-old Stefania Sandrelli): a *Divorce Italian Style* indeed!²¹⁹

Finally, by Law n. 442 of August 5, 1981, these articles were abrogated.²²⁰ It is interesting to read the report that accompanied the approval of this law at the Senate.²²¹ On the one side, it was underlined that such a reform “accompanies an evolution of social conscience, although not yet in a homogeneous way in all parts of the country.”²²² On the other side, it was pointed out that during the last twenty years, the Parliament had discussed numerous proposals of abrogation of these norms, and that honor killing seemed but “a historic wreck.”²²³ The Senate finally declared that “[t]hirty years after the enactment of the republican constitution, which enshrines equal rights for all citizens, Article 587 must be considered a foreign body that should be removed as soon as possible.”²²⁴

C.p. art. 587 (1930).

²¹⁷ KWAME ANTHONY APPIAH, *THE HONOR CODE: HOW MORAL REVOLUTIONS HAPPEN* 143–44 (2010).

²¹⁸ *DIVORCE ITALIAN STYLE* (Lux Film 1961).

²¹⁹ *Id.*

²²⁰ The law, “Abrogazione della rilevanza penale della causa d’onore,” consists of only one, very short, article: Art. 1 Codice Penale, “Gli articoli 544, 587 e 592 del codice penale sono abrogati.” Legge 5 agosto 1981, n. 442, in G.U. 10 agosto 1981, n. 218.

²²¹ See *Discussione e approvazione del disegno di legge: “Abrogazione della rilevanza penale della causa d’onore,” d’iniziativa del senator Ravaioli Carla e di altri senatori*, 131^a Seduta Pubblica, Senato Della Repubblica, 8th Legislatura 6966 (1980), <http://www.senato.it/service/PDF/PDFServer/BGT/332284.pdf> (Presidenza Del Vice Presidente Ferralasco, indi Del Vice Presidente Carraro).

²²² *Id.* (“È un provvedimento di una importanza notevole, in quanto nell’ordinamento si recepisce uno svolgimento della coscienza sociale che ormai è maturata, anche se non ancora in maniera omogenea nell’articolata varietà nazionale, nel nostro paese.”).

²²³ *Id.* at 6967.

²²⁴ *Id.* at 6968.

D. Abortion Law

Deserving of a separate discussion is the introduction of the Abortion Act, by Law n. 194 of May 22, 1978.²²⁵ Although the law on abortion often has been presented as a victory for Italian feminism, it must also be remembered that this law was enacted after a particular catastrophic event.²²⁶ On the one side, it is true that important leaders of the Italian feminist movement, like Adele Faccio and Adelaide Aglietta, fought a long battle in order to achieve the legalization of abortion in Italy.²²⁷

But the context in which the law on abortion saw the light was strongly influenced by events that took place in Northern Italy and in the town of Seveso in particular. There, on July 10, 1976, the reactor of a Swiss factory (ICMESA) exploded and released a toxic cloud of dioxin. Dioxin is a highly teratogenic substance capable of creating serious malformations in fetuses. As a consequence, although abortion was still illegal in Seveso in 1976, the women of the town who were pregnant at the time of the accident were allowed to abort. The emotional wave that followed this event was considered grounds to speed up the approval of the bill on abortion that was pending in Parliament for a long while.²²⁸ The rapid process of approval of the law should therefore be understood in this perspective.

All these reforms were able to put the equality principle into action and the positions of men and women in society have been at least partially rebalanced in the last decades.

VIII. MASCULINITY ITALIAN STYLE ON THE MOVE

It is nevertheless only very recently that a serious debate on the meaning of masculinity in current Italian society has emerged. It is possible to identify various perspectives of analysis.

A. Does Mr. Berlusconi Embody the New Italian Masculinity Model?

One is certainly focused on the role that former Prime Minister Berlusconi has developed in this regard, representing at the national and international level a perverse kind of old-fashioned Italian concept of masculinity. It is indeed difficult to avoid the subject for a variety of reasons. The first reason is that he presented himself as a model of masculinity, or better, as “the only virile boss,” explaining that this is the anagram of his own name (SILVIO BERLUS-

²²⁵ Legge 22 maggio 1978, n. 194, in G.U. 22 maggio 1978, n. 140. (“Norme per la tutela sociale della maternità e sull’interruzione volontaria della gravidanza.”).

²²⁶ See generally GIAMBATTISTA SCIRÉ, *L’ABORTO IN ITALIA: STORIA DI UNA LEGGE* (2008); see also CARLO CASINI & FRANCESCO CIERI, *LA NUOVA DISCIPLINA DELL’ABORTO* (1978).

²²⁷ See SCIRÉ, *supra* note 226, at 68–69; see also Barbara La Rosa, *Maria Adelaide Aglietta*, EMPATIA DONNE, http://www.empatiadonne.it/index.php?option=com_content&view=article&id=130:maria-adelaide-aglietta&catid=105:politiche&Itemid=176 (last visited May 1, 2013).

²²⁸ See LAURA CENTEMERI, *RITORNO A SEVESO: IL DANNO AMBIENTALE, IL SUO RICONOSCIMENTO, LA SUA RIPARAZIONE* 66 (2006).

CONI=L'UNICO BOSS VIRILE).²²⁹ The second reason is that it is very difficult to get away from a model of masculinity (and by contrast also of femininity) proposed by the president of the government, owner of multiple TV networks, various newspapers and magazines, department stores, and so on, who is therefore able to have an influence on public opinion that few others can.

The communicative strategies developed by Berlusconi often have been analyzed, especially with regard to the style used when speaking *of* women, or *to* women.²³⁰ In particular, a group of scholars have studied the semantic register used in his speeches prepared for the parliamentary elections of 1999 and aimed at an audience consisting entirely of women, the so-called *Azzurre*, supporters of his movement.²³¹

In this analysis it is possible to note that when he speaks to women, he deliberately uses a simplified register, similar to the one used in teaching, in particular, to highlight the logical connections of the speech and keep the attention of the public, thus revealing the assumption by the speaker that the listener has limited mental capacity.²³² When he doesn't talk *to* women, but *of* the women who support his movement, it is also interesting to note that he always emphasizes their role as wives, mothers, and daughters, and never as distinct individuals.²³³

In the words of Berlusconi himself, this is what he expects from women: "From you, from the women's world, *Forza Italia* (his party) has received, receives, and will receive that sensitivity that is yours alone, the sensitivity of those who understand the issues before making a rational study, by instinct, your ability to sacrifice yourself, to dedication, to love, to give to others."²³⁴

The contribution of women then should materialize in the spirit of sacrifice, the capacity to love, and the generosity toward others, juxtaposing rationality—typically male prerogative in accordance with Berlusconi—the feminine sensibility, conceived almost as an alternative to the reasoning and the ability to make a contribution in terms of ideas.

In Berlusconi's rhetoric, women are the object of appreciation in regards to their physical appearance, praised more than their intellectual gifts. Even the most casual observer will immediately see that the lexicon of Berlusconi proposes overwhelmingly old (and outdated) stereotypes of women, whose role is

²²⁹ See Stefano Fanetti & Barbara Pozzo, *Il Linguaggio di Berlusconi*, 8 REVISTA GENERAL DE DERECHO PÚBLICO COMPARADO part III (2011); see also Filippo Ceccarelli, *Unico Boss Virile e Ripetitivo*, LA REPUBBLICA.IT (Dec. 17, 2010), <http://ceccarelli.blogautore.repubblica.it/2010/12/17/unico-boss-virile-ma-ripetitivo/>.

²³⁰ See, e.g., AMEDEO BENEDETTI, *IL LINGUAGGIO E LA RETORICA DELLA NUOVA POLITICA ITALIANA: SILVIO BERLUSCONI E FORZA ITALIA* (2004); ANDREA COLOMBO, *LE DUE CROCIATE DEL CAVALIERE: IL FILO NERO DELLA SECONDA REPUBBLICA* (2005); M.V. DELL'ANNA & P. LALLA, *MI CONSENTA UN GIROTONDO: LINGUA E LESSICO DELLA SECONDA REPUBBLICA* (2004); Donatella Campus, *La Comunicazione Politica di Berlusconi: Percorsi di Lettura*, 5 COMUNICAZIONE POLITICA 179 (2004); Nora Galli de' Paratesi, *La Lingua di Berlusconi*, MICROMEGA, Jan. 2004, at 85.

²³¹ See Sergio Bolasco, Nora Galli de'Paratesi & Luca Giuliano, *PAROLE IN LIBERTÀ, UN'ANALISI STATISTICA E LINGUISTICA DEI DISCORSI DI BERLUSCONI* 121 (2006).

²³² *Id.* at 123.

²³³ *Id.* at 128.

²³⁴ *Id.* at 129.

relegated to the “eye candy.”²³⁵ The image of the “seducer” reappears in the lexicon of Berlusconi on several occasions, as highlighted in international news.²³⁶

Another example of the way by which Berlusconi handles women occurred years ago when Finland and Italy both tried to get the seat for the EU Agency for Food Safety. On that occasion, Berlusconi reported to all newspapers that in order to get the seat, he had to put into practice his “playboy charms” against Tarja Halonen, the female president of Finland.²³⁷ Can you imagine?

In the language of Berlusconi, he insists upon the image of women as objects of sexual desire of the Italian male. Federica Rossi Gasparrini, president of the Italian housewives association *FederCasalinghe*, recalls that when she asked Berlusconi if the government really cared about housewives and their needs, Berlusconi replied, laughing: “Of course we are interested in housewives, provided they are younger than twenty-five and wear a double-D.”²³⁸

B. Woman-Object, but also Man-Object: The World of Fashion Advertisement in Italy

The age of Berlusconi has once again proposed an old-fashioned way to understand masculinity and relationships between men and women, where the men are the hunters and the women the object of the hunt. These stereotypes have been particularly emphasized by Berlusconi’s television network and have been at the core of harsh critiques.²³⁹

It is also necessary to emphasize that, more recently, men’s bodies have been objectified. This is particularly true when we look at the world of fashion advertisement in Italy. Without pretending to examine the issue here, which would require the analysis of semioticians more than lawyers, it seems important to point out that fashion has always had an influential impact on Italian society²⁴⁰ and that advertisements, especially of products of the fashion industry, play an important role in defining models of masculinity and femininity. If we look to Armani’s effeminate male models or to the last advertisement of Marc Jacobs *Bang* Perfume, it appears clear that something is changing: men’s bodies are now treated as objects as well.

²³⁵ This is the point of view of a Swedish journalist Kristina Kappelin in her article *Berlusconi och Kvinnorna* (“Berlusconi and the women”). Kristina Kappelin, *Berlusconi och Kvinnorna*, DAGENS NYHETER (Nov. 14, 2010, 8:43 AM), <http://www.dn.se/kultur-noje/berlusconi-och-kvinnorna>.

²³⁶ See, e.g., John Follain, *Seducer Silvio Berlusconi to Shower Women with Cabinet Jobs*, SUNDAY TIMES (Feb. 3, 2008), http://www.thesundaytimes.co.uk/sto/news/world_news/article79968.ece.

²³⁷ “Playboy” Berlusconi Irks Finland, BBC NEWS (June 23, 2005, 10:00 AM), <http://news.bbc.co.uk/go/pr/ft/-2/hi/europe/4122596.stm>.

²³⁸ Kappelin, *supra* note 235 (this is a rough translation, the Italian version reads: “Certo che ci interessano le casalinghe . . . A patto che abbiano meno di 25 anni e portino la quarta.”).

²³⁹ See, e.g., LORELLA ZANARDO, *IL CORPO DELLE DONNE* (2010).

²⁴⁰ See Emanuela Mora, *La Moda Italiana e l'uomo Integrato*, in MASCOLINITÀ ALL'ITALIANA: COSTRUZIONI, NARRAZIONI, MUTAMENTI, *supra* note 1, at 103; see also ROSITA LEVI PISETZKY, *IL COSTUME E LA MODA NELLA SOCIETÀ ITALIANA* (1978).

C. *The Father's Rights Movement*

Another very different, but important aspect of the evolution of the concept of masculinity that has brought important legislative changes is the father's rights movement,²⁴¹ which arose out of diverse pressure groups, like *Pari diritti per gli uomini* (Equal Opportunities for Men), *Associazione padri separati* (Divorced Fathers Association), and *Papà separati* (Divorced Fathers).²⁴²

The link between masculinity and paternity has certainly changed in Italy in recent years, although recent analysis emphasizes that Italian women, though working full time, spend most of their free time taking care of children and doing housework.²⁴³

Nonetheless, the recent legislative changes highlight that more and more fathers are ready and willing to participate in the education of children in a more meaningful way. One of the most important reforms introduced in this regard concerns the new shared custody regime that has been adopted by Law n. 54 in 2006,²⁴⁴ which introduced some relevant developments as far as fathers' rights over children during the phase of separation, breaking from the pre-existing culture of mono-parenting.

After the promulgation of the Law on Divorce in 1971, the mother was practically always named the custodian of children. The new legislation, instead, has completely modified Article 155 of the Civil Code, introducing joint custody as a general rule, while sole custody has remained an exception—granted by the judge only in cases where it guarantees the welfare of the child.²⁴⁵

In concrete terms, under a shared custody regime, both parents share physical placement of the children. It allows the children to live with each parent fifty percent of the time during the year. In this case, parenting plans are established to determine when each parent has the children living with them.²⁴⁶

Another recent development that acknowledges the new role of men in Italy, and a new concept of masculinity, is the reform concerning paternity leave. According to Italian law, mothers were granted five months of compulsory maternity leave (fully paid), and up to three years of unpaid leave, main-

²⁴¹ The father's rights movement is embodied by an interesting novel by Gianni Biondillo. This novel appears emblematic of the problems connected with the father's rights movement. See GIANNI BIONDILLO, *NEL NOME DEL PADRE* (2009).

²⁴² See, e.g., Irene Beltrani, *La Realtà Sommersa Dei Padri Separati Senza Diritti*, LA VERA CRONACA (Jan. 31, 2011, 6:33 PM), <http://www.laveracronaca.com/index.php/approfondimenti/826-la-realta-sommersa-dei-padri-separati-senza-diritti>. See also PARI DIRITTI PER GLI UOMINI, <http://digilander.libero.it/uomini/> (last visited May 1, 2013); ASSOCIAZIONE PADRI SEPARATI, <http://www.padri.it/> (last visited May 1, 2013); PAPÀ SEPARATI, <http://www.papaseparati.it/> (last visited May 1, 2013).

²⁴³ Giuseppe A. Micheli, *Paternità Inceppata Vuol Dire Paternità in Ceppi: Le Gabbie che Tengono una Rivoluzione in Stallo*, in *MASCOLINITÀ ALL'ITALIANA: COSTRUZIONI, NARRAZIONI, MUTAMENTI*, *supra* note 1, at 189, 201.

²⁴⁴ Legge 8 febbraio 2006, n. 54, in G.U. 1 marzo 2006, n. 50 ("Disposizioni in materia di separazione dei genitori e affidamento condiviso dei figli").

²⁴⁵ *Id.*

²⁴⁶ *Id.*

taining the right to return to their job. According to a new law passed in 2003, these rights have been extended to fathers.²⁴⁷

IX. SOME PRELIMINARY CONCLUSIONS

It is always interesting, when we observe a phenomenon, to also look at it from an outsider's perspective.

If we look at the titles that prestigious British newspapers, including *The Times*, have dedicated to Italian men in the last ten years, we can find all the traditional stereotypes on the matter: they hate their mother-in-law,²⁴⁸ they are peacocks,²⁴⁹ they are passionate,²⁵⁰ they are male chauvinists,²⁵¹ they are mummy's boys,²⁵² and they don't want to do housework.²⁵³ Considering all this, Churchill's famous description representing Italians as "Latin-lovers, spaghetti-eaters, and mandolin-players," will die hard.²⁵⁴

Things are changing, anyway. Not rapidly, but they are changing. And, in any case, hope is the last to die . . . we are the country of the women's foil dream team after all!²⁵⁵

²⁴⁷ Decreto Legislativo 26 marzo 2001, n. 151, in G.U. 26 aprile 2001 n. 96—Supplemento Ordinario n. 93 ("Testo unico delle disposizioni legislative in materia di tutela e sostegno della maternità e della paternità, a norma dell'articolo 15 della legge 8 marzo 2000, n. 53").

²⁴⁸ Richard Owen, *Italian Man Granted Divorce Because of Terrible Mother-in-Law*, *TIMES* (London) (Nov. 13, 2008, 10:24 AM), <http://www.thetimes.co.uk/tto/news/world/Europe/article2598184.ece>.

²⁴⁹ James Collard, *How to Get Dressed: In Praise of the Italian Peacock*, *TIMES* (London) (Aug. 7, 2010, 12:28 PM), <http://www.thetimes.co.uk/tto/life/fashion/article2669997.ece>; Luke Leitch, *How to: Dress like an Italian: The Art of Sovrapposizioni*, *TIMES* (London) (Nov. 7, 2009, 11:37 AM), <http://www.thetimes.co.uk/tto/life/fashion/mensstyle/article1858225.ece> ("Italian men lack the synapse that makes British men cautious about colour and so reluctant to take pride in our dress for fear of appearing vain.").

²⁵⁰ See, e.g., Colin Adamson, *Italian Passion Leads to Drama in Mid-Air*, *EVENING STANDARD* (London), Feb. 4, 2002.

²⁵¹ Sarah Vine, *Berlusconi's Italy Shows a Strange Type of Feminism*, *TIMES* (London) (June 23, 2009, 12:00 AM), <http://www.thetimes.co.uk/tto/life/article1750491.ece>.

²⁵² Richard Owen, *Mamma's Boys*, *TIMES* (London) (Jan. 8, 2008, 12:00 AM), <http://www.thetimes.co.uk/tto/life/fashion/mensstyle/article1857793.ece>; see also Francesca Steele, *Mamma Mia! Men Who Make Pasta Say Basta!*, *TIMES* (London) (Jan. 25, 2008, 12:00 AM), <http://www.thetimes.co.uk/tto/life/fashion/mensstyle/article1857810.ece>.

²⁵³ See Martin Penner, *Italian Men Are Warming to Housework*, *ITALY* (Sept. 15, 2006), <http://www.italymag.co.uk/italy/italian-men-are-warming-housework> (noting that for years Italian men have been "accused of shunning household chores").

²⁵⁴ See Anna Masera, *An Economic Rivalry: The "Sorpasso" of the Euro Has Delighted Italians, But Will It Convince Britain to Abandon the Pound?*, *GUARDIAN* (Dec. 20, 2008, 4:30 AM), <http://www.guardian.co.uk/commentisfree/2008/dec/20/italy-euro>.

²⁵⁵ This reference is made to the fact that in the 2012 Olympics, the gold, silver, and bronze medal for foil fencing were won by Italian women. The gold medal was also awarded to the Italian team. *Women's Individual Foil*, *LONDON 2012*, <http://www.london2012.com/fencing/event/women-foil/index.html> (last visited May 1, 2013).