Max Planck Institute
for Social Anthropology
Department 'Law & Anthropology'

The Distinction between Bride Price/Bride Wealth and the Sale of Women by the Italian Courts

Question(s) at stake:

Whether the Roma cultural practice of "bride price" can be distinguished from the selling/trafficking of women.

Outcome of the ruling:

Conviction of members of a Roma family (mother, father, and eldest son) for the crime of human trafficking and the crime of enslavement for having purchased a 14-year-old girl in Serbia from her parents, brought her to Italy and arranged for her to marry their youngest son, and then forced her to have sexual intercourse with him and carry out begging activities.

Topic(s):

- Crime and Punishment under State Law
- Personal Status, Family and Inheritance

Keywords:

- Trafficking
- Human dignity
- Gender related violence
- Cultural defense
- Forced marriage

Tag(s):

- Bride price
- Bride wealth
- Gipsy marriage

- Purchase of a wife

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Country:

Italy

Official citation:

Court of Assizes of Appeal Naples, Decision of 23 June 2015, No. 58 (Corte d' Assise di Appello di Napoli, Sentenza del 23 giugno 2015, n. 58)

Link to the decision:

No link available.

ECLI:

No ECLI number / ECLI number unknown

Date:

23 June 2015

Jurisdiction / Court / Chamber:

Court of Assizes of Appeal of Naples

Remedy / Procedural stage:

Appeal

Previous stages:

Preliminary hearing at the Trial Court of Naples, 3 July 2014 ("not publicly available") GUP (giudice per l'udienza preliminare) del Tribunale di Napoli, 3 luglio 2014

Subsequent stages:

None

Branches / Areas of law:

Criminal Law, Constitutional Law, Fundamental Rights

Facts:

A 14-year-old Romanian minor girl, was entrusted by her father, who was in a situation of economic hardship, to a Roma Cergat family in Italy on the basis of an agreement between the two families, which included the marriage of the minor girl. The agreement involved an economic exchange: the Roma Cergat father of the future groom and his eldest son paid a sum of 1,700 euros to the Romanian father of the minor bride, whereupon the girl was given in marriage to the youngest son of the Roma family (who was also a minor at the time).

In January 2012, after spending a few months with her future father-in-law and brother-in-law in Serbia, the girl was taken to Italy, to a Roma camp near the city of Naples (Secondigliano locality). There she met her mother-in-law and the youngest son of the family, whom she married according to the traditional Roma ceremony. The young woman was then forced to have sexual relations with her husband, to do all the housework, and to beg all day in the public street. The victim was also deprived of her passport, which had been confiscated by her in-laws, was denied food and clothing, and was beaten and threatened that if she did not bring home at least 50 euros from begging every day, she would be forced into prostitution in order to recover the sum of 1,700 euros given to her father in connection with the marriage.

In May 2012, the girl, still a minor, managed to report the facts to the authorities, who opened a criminal proceeding against her in-laws and her older brother involved in the exchange. In the first instance, the in-laws were convicted of the offences of enslavement (Art. 600 Italian Criminal Code) and trafficking in human beings (Art. 601 Italian Criminal Code); the brother-in law, on the other hand, was only convicted of the offence of trafficking (Art. 601 Italian Criminal Code), having taken part only in the economic exchange. In the second instance, the public prosecutor requested confirmation of the sentences imposed in the first-instance judgment, while the appellants maintained their innocence: the mother-in-law

asserted that she had nothing to do with the facts and that the girl had made the whole thing up; the father-in-law stated that it was the girl's father who had insisted that they bring her to Italy, and that once they arrived in the camp the girl had received adequate assistance; the victim's brother-in-law had invoked cultural considerations in defence of his family's behaviour, stating that in the Roma Cergat culture, it was normal to marry very young and that the sum given to the girl's father had not been aimed at making a real purchase. It was rather due as part of the wedding celebrations.

The defendants also requested that the offences ascribed to them be at least reclassified as the less serious offence of ill treatment in the family (Article 572 Italian Criminal Code).

Ruling:

The Court of Assizes of Appeal of Naples accepted the requests of the public prosecutor and confirmed all the sentences imposed in the first instance. All three defendants were convicted of conspiracy (Art. 110 Italian Criminal Code) to commit the crime of trafficking in human beings (Art. 601 Italian Criminal Code) for having bought the girl from her parents in exchange for a sum of 1,700 euros and then taken her to Italy. The two in-laws were also convicted of the crime of enslavement (Art. 600 Italian Criminal Code) for forcing the minor to work, to have sexual intercourse with their son, and to beg; and for exploiting and beating her up on a daily basis, without even providing her with basic means of subsistence such as food and clothing. The aggravating circumstance of acting against a minor (Art. 602-ter Italian Criminal Code) was found to apply to all the defendants, while the general extenuating circumstances were not. The sentence for the brother-in-law involved in the exchange was confirmed at three years and eight months' imprisonment, and that of the father and mother-in-law at five years and eight months.

The appeal judges confirmed that all three defendants had committed the crime of trafficking in human beings. They found that, by virtue of an economic exchange, the minor had been brought to Italy as if she were a material thing,

and that the defendants took advantage of the state of subjection that prevented the victim from opposing the exchange and transfer. Furthermore, as reported by the judges on the basis of the young girl's statements, her family of origin was in a severe state of destitution and poverty. This had prompted the girl not to oppose the transfer, in the belief that the money was necessary for her family to survive and that in any case it was impossible to oppose her father's will or to defy a fate that was predetermined. This impression was reinforced by the fact her older sister had previously been given in marriage in exchange for money.

The in-laws, on the other hand, were charged with enslavement for the harassment of the young girl once she arrived at the camp in Naples, consisting in: forcing her to have sexual intercourse with their son and to beg, confiscating her identity card, and leaving her in a state of severe subjection and vulnerability.

The judges denied the possibility of charging the two in-laws with the less serious crime of ill treatment, as they had requested. This offence, in fact, could only have existed in the absence of a condition of complete subjugation and if the girl had been exclusively used for the purpose of economic exploitation resulting in moral and material suffering. In this case, however, the situation went beyond mere economic exploitation and involved a condition of continuous subjugation in several respects, resulting in the violation of the victim's dignity and freedom.

The judges also rejected the cultural defence raised by the defendants, who claimed that the practice of wife/bride price is part of the Roma Cergat tradition to which they belonged. Firstly, the court ruled out the possibility that the cultural traditions referred to by the defendants could be taken into account in this case. In fact, according to the judges, since the family of the young victim did not belong to the same ethnic group as the defendants (they were Romanian and not Roma), there had not been a concurrence of wills between the two groups based on a common cultural tradition, but rather an actual purchase of the minor, carried out by giving money to her family and taking advantage of their state of need. Precisely in relation to the conviction for the crime of enslavement, the judges reiterated that there was no connection with the tradition of the Roma Cergat or with the cultural aspects of the practice of "buying a wife" practiced

among them, since the purchase of the young girl had taken place in order to have not a daughter-in-law but a slave at their disposal, to be forced into marriage and compelled to beg.

Secondly, the judges stated that any tradition that violates human rights cannot be recognized under any circumstances.

Main quotations on cultural or religious diversity:

“Nor can the circumstance that the purchase of a wife is part of the tradition and culture of the gypsies (Cergat), the ethnic group to which the defendants’ family belongs, lead to different considerations, for two reasons:

- firstly because the family of the young victim was certainly not of the same ethnic group as the defendants, but of Romanian nationality, so that it certainly cannot be said that there was a meeting of converging wills, based on a common cultural tradition [… but rather] an actual purchase of a (14-year-old) girl carried out by giving money to the family of the same, of different territorial origin and culture from that of the purchasers, moreover taking advantage of the state of need of the girl;

- secondly because whereas it is true that it is always necessary to pay attention to real situations in order not to criminalize conduct that is part of the cultural tradition of a people, it is equally true that if certain practices, perhaps even customary and traditional practices, jeopardize the fundamental rights of the individual guaranteed by our Constitution or conflict with the criminal laws that seek to protect those very rights, criminal repression is inevitable”. (p. 11)

“Né a considerazioni diverse può portare la circostanza che l'acquisto di una moglie rientri nella tradizione e nella cultura degli zingari (Cergat), etnia cui appartiene la famiglia degli imputati, e ciò per due ordini di motivi:

- in primo luogo perché la famiglia della giovane vittima non era certo della stessa etnia degli imputati, ma di nazionalità rumena, per cui non può certo dirsi che vi sia stato un incontro di convergenti volontà, fondate su di una comune tradizione culturale [… ma piuttosto] un vero e proprio acquisto di una ragazza

(quattordicenne) operato dando denaro alla famiglia della stessa, di provenienza territoriale e di cultura diversa rispetto a quella degli acquirenti, per altro approfittando dello stato di bisogno della medesima;

- in secondo luogo perché se è vero che è sempre necessario prestare attenzione alle situazioni reali al fine di non criminalizzare condotte che rientrino nella tradizione culturale di un popolo, è però altrettanto vero che se determinate pratiche, magari anche consuetudinarie e tradizionali, mettano a rischio diritti fondamentali dell'individuo garantiti dalla nostra Costituzione o confliggano con norme penali che proprio tali diritti cercano di tutelare, la repressione penale è inevitabile […]".

"And also with reference to this second offence (enslavement), the culture and tradition of the [Roma] Cergats has nothing to do with it, since it has been proved (in the light of all the above-mentioned considerations) that the 'purchase' of S. was aimed at having less a daughter-in-law than a real 'slave' to be exploited to make money; beyond, in short, any cultural aspect related to the 'purchase of a wife', in the case at hand, there was absolute contempt for the person of the young victim, who experienced the 'marriage' with D. as a real imposition and who was forced to beg also in order to reimburse the money spent for her purchase, which undoubtedly contributed to reinforce that condition of her continuous subjection mentioned above." (p. 17)

"Ed anche con riferimento a tale secondo reato (riduzione in schiavitù) non c'entra per nulla la cultura e la tradizione dei Cergat, essendosi dimostrato (alla luce di tutte le considerazioni suesposte) che "l'acquisto" della S. era finalizzato ad avere, più che una nuora, una vera e propria "schiava" da sfruttare per far soldi; al di là insomma di ogni aspetto culturale relativo all'"acquisto di una moglie", nella fattispecie vi è stato un assoluto disprezzo per la persona della giovane vittima, che ha vissuto il "matrimonio" con D. come una vera e propria imposizione e che è stata costretta all'accattonaggio anche per rimborsare i soldi spesi per il suo acquisto, il che ha contribuito senza dubbio alcuno a rafforzare quella condizione di assoggettamento continuativo della stessa di cui si è detto".

Main legal texts quoted in the decision:

- Italian Criminal Code Art. 600, Reduction or maintenance in slavery or in servitude
- Italian Criminal Code Art. 601, Trafficking in persons
- Italian Criminal Code Art. 602-ter, Aggravating circumstances

Cases cited in the decision:

None

Commentary

The Distinction between Bride Price/Bride Wealth and the Sale of Women by the Italian Courts

In the ruling under review, the Court of Assizes of Appeal of Naples (section IV, 23 June 2015, no. 58) rejected the cultural defence raised by a Roma Cergat family. The Roma defendants claimed that the 1,700 euros paid to the Romanian father of a 14-year-old girl had not been given to buy her, but rather were given as a “bride price” according to a gypsy marriage cultural tradition. This case brings out the differences between mechanisms of actual sale and trafficking of women and certain cultural practices that, like that of “bride price”, have nothing to do with the market in human beings.

In this case and in other Italian decisions that will be examined here, it is possible to identify some of the symptomatic elements of situations of abuse that can be traced back to trafficking and slavery and that guide the judge in distinguishing the two phenomena of bride price/bride wealth, on the one hand, and sale of human beings on the other hand.

First of all, it is important to recall that the practice of the “bride price” (also examined in Carta 2026) is typical of many cultures and is also widespread also in Europe among some Roma ethnic groups ((Ruggiu 2024). This cultural practice consists in the groom’s family giving a sum of money to the bride’s father on the occasion of the wedding. Its amount may vary according to the reference group, and its meanings and functions are different from those of a sale of a person. The money is rather aimed to express the value of the bride, to consolidate the new

social and kinship ties between the families involved, to give proof of economic stability, to assure the bride's family that she will have a comfortable life in the new family, to compensate for the loss of a family member, and to thank the family for raising the bride (Dalton 1966; Pamporov 2007; Anderson 2007).

For those reasons, anthropologists (Evans-Pritchard 1931; Dalton 1966) have long argued that it is better to refer to this cultural practice by the term "bride wealth" rather than "bride price", as the money expresses the value of the bride and the exchange is not a sale. In fact, the term "bride price" calls for the equation of this cultural practice to the sale of material objects and may give a distorted image of the cultural practice, feeding a prejudice that conceals its true function.

Nevertheless, it should be noted that the term used in the Italian jurisprudence is always "bride price" (*prezzo della sposa*) and never "bride wealth" (*valore della sposa*). Therefore, "bride price" is currently the judicial term for this cultural practice in Italy.

While as part of the Roma marriage tradition the bride price/bride wealth serves the positive functions mentioned above, which do not diminish the value of the woman, this practice may, particularly in the context of migration or extreme poverty, be used as a pretext to mask trafficking in women.

This was precisely what happened in the present case: the defendants declared that they belonged to the Roma Cergat ethnic group and tried to justify their criminal conduct by claiming that "bride buying" was a normal custom in their culture. The judges of the Court of Assizes of Appeal of Naples, faced with the cultural defence strategically raised by the parties, did not turn to a cultural expert, but acted as anthropologists themselves and distinguished the typical elements of "bride price"/"bride wealth" from cases of buying and selling. From the court's reconstruction of the facts, some elements emerged that clearly contrasted with the value-based component of the cultural practice: only the defendants belonged to the Roma ethnic group and not the victim, who was placed in a different cultural context; the "purchase" had taken place by exploiting the extreme economic need of the girl's family of origin, and marriage

was not the central element of the exchange. In fact, once they had arrived in Italy, the girl had been subjected to a series of abuses, forced to have sexual intercourse with her new husband and to beg in order to return the sum paid for her purchase, when in fact the bride price should never be returned.

All these elements led the judges of the Court of Assizes of Appeal of Naples to affirm that the defendants' behaviour was more aimed more at buying a real slave than finding a wife for their son.

In other cases, too, Italian judges have acted as careful anthropologists by rejecting false uses of the cultural defence regarding bride price.

In the decision of the Court of Cassation, criminal section V, 8 March 2019, no. 37315, the total lack of kinship between the girl and the person receiving the payment was held to be symptomatic of a pretextual reference to the practice of bride price/bride wealth. In this case, the defendants were four men, all convicted of enslavement: one of them had intercepted three women in Romania, one of whom was a minor, and after entering into a series of negotiations with three other men of Roma ethnicity living in Italy, had brought the girls to them and sold them as "brides", collecting large sums of money from the men. Also in this case, the judges pointed out that, among other motivations, the arrangement did not appear to genuinely adhere to the practice of bride price, since there was no evidence of the existence of contacts of any kind, much less of kinship ties, between the girls and the "seller" who had handled the negotiation (in the authentic traditional practice, the person who receives the money is the bride's father).

In other cases, the Italian courts struggled to recognize the absence of these symptomatic elements of slavery and selling, and to identify others that could clarify the true function of the "bride wealth" in the Roma marriage rite.

One of those difficult cases concerned an entire Roma family (mother, father, grandmother, and two other family members) that had concluded a special agreement with the family of a young woman from Kosovo in order to arrange her marriage to their son. They paid the girl's father a sum representing the bride

price or bride wealth on the occasion of the ritual and then took her to Italy.

The entire family was initially convicted of enslavement at first instance (Court of Assizes of Pisa, 15 March 2013). Before this court of first instance, a legal-anthropological expert report was presented by the defendants' counsel, in which the content and function of the practice of bride price was explained. The anthropologist called to testify on this practice had clarified that there was no "profit motive" and therefore no sale of the girl in the case under examination. The exchange of money, traceable to the practice of "bride price", had played a role in the families' decision, which had centred on non-economic values: this sum had in fact had a highly symbolic meaning, for instance that of "compensation" for the loss of one's own daughter or that of a demonstration of the groom's family's economic capacity (Pannia 2021: 157–159; Simoni 2019: 150). Despite this cultural expert testimony, the Court of Assizes of Pisa convicted the family of enslavement, arguing that the exchange of money amounted to enslavement.

The family appealed, and the Court of Assizes of Appeal of Florence (28 November 2014) denied the existence of the crime of enslavement, confirming only the crime of illegal entry into the Italian state (Art. 12, para. 3, lett. d) Legislative Decree no. 286 of 1998). The public prosecutor appealed this decision before the Court of Cassation on the grounds of a defect of reasoning: he argued that the practice of bride price had been incorrectly deemed to be a mere matrimonial custom and not a sale.

The Court of Criminal Cassation (section V, 5 May 2016, no. 23052) upheld the appeal of the public prosecutor. This court did not accept that the exchange of money between families on the occasion of a marriage had no criminal relevance. For these reasons, it annulled this decision and referred the case back to a different section of the same Court of Assizes of Appeal of Florence for a new trial, asking the judges for better reasoning on the issue.

The Court of Assizes of Appeal of Florence (8 February 2018) then re-examined the issues, reiterated that the crime of enslavement did not exist in this case, and

upheld the conviction only for the crime of illegal entry into the Italian state.

In a rare procedural step, the case went back to the Court of Cassation, as the defendants, once acquitted of the charge of enslavement, tried to use the cultural argument to be acquitted of the charge of illegal entry into Italy and requested the application of general extenuating circumstances. In the judgment of the Court of Criminal Cassation (section I, 27 May 2019, no. 28282), the link between bride price and slavery was no longer addressed. The reconstruction set out in the new section of the Court of Assizes of Appeal of Florence – according to which no slavery, and thus no sale, could be found in this case – was not contested. Therefore, this issue was only referred to at the beginning of the judgment for the purpose of reconstructing the facts.

After these various vicissitudes, this case ended with the acquittal of the defendants on the charge of enslavement and the recognition that, in this case, the cultural practice was performed without the intent to sell the girl. The practice of bride price was held to be a matrimonial custom and not a mere sale of human beings or the reification of a person (as was the case in Court of Cassation, criminal section V, judgment of 13 May 2021, no. 30538; analyzed in Carta 2026) thanks to the judge’s assessment of particular elements linked to the cultural practice: the father-daughter bond between the bride and the person who received the price, the agreement between the families, and their belonging to the same cultural group.

The cultural argument is not at the heart of these statements, but the anthropological data played a role in the judges’ reasoning and in the differentiation between the cultural practice and the mere sale of a woman.

From these analyses, it emerges that the practice of bride price/bride wealth is sometimes claimed as a cultural defence in Italian courts based on a genuine cultural element, while at other times it is used by the defendants instrumentally to justify situations of abuse and oppression against women and to facilitate their trafficking.

The Italian jurisprudence examined in this commentary shows that a careful anthropological analysis of the characteristics of the cultural practice allows the judge to move with more agility in the delicate operation of distinguishing abuses of the cultural defence from sincere performances of the cultural practice. By checking if the behavior actually corresponded to the bride price/bride wealth cultural practice and by paying attention to the existence of a family substratum and agreement, as well as to the structure of family relations and to the consent of the subjects involved, Italian judges guaranteed a more efficient protection of rights and impose more severe punishment for episodes of trafficking, sale, and exploitation within certain communities, sending a strong signal to internal minority communities, especially to women within the Roma community who are striving to improve their condition..

A last note should be made concerning the designation of the cultural practice. As mentioned above, the Italian judges always use the term “bride price” and, although they are able to discern when the bride price is a cultural practice and when it is not, they seem unaware of the other term used in anthropology: “bride wealth” (*valore della sposa* in Italian). As the designation of a cultural practice may influence its reception in a different culture, it would be important to use the term “bride wealth” in cases where the money is not given to traffick or sell women. This term better reflects the meaning of the exchange of money in the context of a Roma marriage, expressing the value of the woman and not her sale.

Literature related to the main issue(s) at stake:

Specific legal publications/comments addressing the case

- Carrelli, Lydia. 2022. “L’incerto rilievo del fattore culturale nella dogmatica del reato” (The Uncertain Role of the Cultural Factor within the General Crime Theory). *Cassazione Penale* 7–8: 2682.
- Motta, Vittoria Ilaria. 2022. “Il rapporto tra reati di cui agli artt. 558-bis e 600 c.p. e l’irrilevanza del movente culturale nel delitto di riduzione in schiavitù” (The Relation between the Crimes in Art. 558-bis and 600 of the Italian

Criminal Code and the Irrelevance of the Cultural Defence in the Crime of Enslavement). *Cassazione Penale* 62 (1): 204–209.

General legal literature on the topic that may not be directly connected with the case

- Carta, Silvia. 2026. "The Criminalization of the Roma 'Bride Price' as Enslavement in Italian Courts: A Missing Anthropological Investigation". *Cultural and Religious Diversity under State Law across Europe*, DOI: 10.48509/CUREDI092IT001.
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General literature on the topic from other disciplines

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- Pamporov, A. 2007, “Sold like a Donkey? Bride-Price among the Bulgarian Roma”. *Journal of the Royal Anthropological Institute* 13: 471–476.
- Piasere, L. 2018. *I rom d’Europa. Una storia moderna* (Roma in Europe. A Modern History). Laterza: Bari-Roma.
- Tosi Cambini, S. 2015, “Matrimoni romané e interpretazioni gagikané nello spazio pubblico, giuridico e scientifico dei gagé” (Roma Marriage and Gagikanè Interpretation in the Public, Legal and Scientific Space of Gagè). *L’Uomo Società Tradizione Sviluppo* 1 (gennaio-giugno).

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